

112th Congress }  
1st Session }

JOINT COMMITTEE PRINT

{ S. Prt.  
112-30 }

# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2010

VOLUME I

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS  
US SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS  
US HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE  
FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED



MAY 2011

Printed for the use of the Committees on Foreign Relations of the U.S.  
Senate and Foreign Affairs of the U.S. House of Representatives respec-  
tively

**COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2010  
VOLUME I**

112th Congress }  
1st Session }

JOINT COMMITTEE PRINT

{ S. Prt.  
112-30 }

# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2010

VOLUME I

---

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS  
US SENATE

AND THE

COMMITTEE ON FOREIGN AFFAIRS  
US HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE  
FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED



MAY 2011

Printed for the use of the Committees on Foreign Relations of the U.S.  
Senate and Foreign Affairs of the U.S. House of Representatives respec-  
tively

---

U.S. GOVERNMENT PRINTING OFFICE

66-165 PDF

WASHINGTON : 2010

## COMMITTEE ON FOREIGN RELATIONS

JOHN F. KERRY, Massachusetts, *Chairman*

BARBARA BOXER, California	RICHARD G. LUGAR, Indiana
ROBERT MENENDEZ, New Jersey	BOB CORKER, Tennessee
BENJAMIN L. CARDIN, Maryland	JAMES E. RISCH, Idaho
ROBERT P. CASEY, JR., Pennsylvania	MARCO RUBIO, Florida
JIM WEBB, Virginia	JAMES M. INHOFE, Oklahoma
JEANNE SHAHEEN, New Hampshire	JIM DEMINT, South Carolina
CHRISTOPHER A. COONS, Delaware	JOHNNY ISAKSON, Georgia
RICHARD J. DURBIN, Illinois	JOHN BARRASSO, Wyoming
TOM UDALL, New Mexico	MIKE LEE, Utah

FRANK G. LOWENSTEIN, *Staff Director*

KENNETH A. MYERS, JR., *Republican Staff Director*

## COMMITTEE ON FOREIGN AFFAIRS

ILEANA ROS-LEHTINEN, Florida, *Chairman*

CHRISTOPHER H. SMITH, New Jersey	HOWARD L. BERMAN, California
DAN BURTON, Indiana	GARY L. ACKERMAN, New York
ELTON GALLEGLY, California	ENI F.H. FALEOMAVAEGA, American Samoa
DANA ROHRBACHER, California	DONALD M. PAYNE, New Jersey
DONALD A. MANZULLO, Illinois	BRAD SHERMAN, California
EDWARD R. ROYCE, California	ELIOT L. ENGEL, New York
STEVE CHABOT, Ohio	GREGORY W. MEEKS, New York
RON PAUL, Texas	RUSS CARNAHAN, Missouri
MIKE PENCE, Indiana	ALBIO SIRES, New Jersey
JOE WILSON, South Carolina	GERALD E. CONNOLLY, Virginia
CONNIE MACK, Florida	THEODORE E. DEUTCH, Florida
JEFF FORTENBERRY, Nebraska	DENNIS CARDOZA, California
MICHAEL T. McCAUL, Texas	BEN CHANDLER, Kentucky
TED POE, Texas	BRIAN HIGGINS, New York
GUS M. BILIRAKIS, Florida	ALLYSON SCHWARTZ, Pennsylvania
JEAN SCHMIDT, Ohio	CHRISTOPHER S. MURPHY, Connecticut
BILL JOHNSON, Ohio	FREDERICA WILSON, Florida
DAVID RIVERA, Florida	KAREN BASS, California
MIKE KELLY, Pennsylvania	WILLIAM KEATING, Massachusetts
TIM GRIFFIN, Arkansas	DAVID CICILLINE, Rhode Island
TOM MARINO, Pennsylvania	
JEFF DUNCAN, South Carolina	
ANN MARIE BUERKLE, New York	
RENEE ELLMERS, North Carolina	

YLEEM D.S. POBLETE, *Staff Director*

RICHARD J. KESSLER, *Democratic Staff Director*

# CONTENTS

---

	Page
LETTER OF TRANSMITTAL .....	ix
PREFACE .....	xi
OVERVIEW AND ACKNOWLEDGMENTS .....	xiii
INTRODUCTION .....	xvii

## VOLUME I

Africa	
Angola .....	1
Benin .....	20
Botswana .....	30
Burkina Faso .....	41
Burundi .....	51
Cameroon .....	72
Cape Verde .....	92
Central African Republic, The .....	98
Chad .....	122
Comoros .....	137
Congo, Democratic Republic of the .....	143
Congo, Republic of the .....	186
Cote d'Ivoire .....	196
Djibouti .....	218
Equatorial Guinea .....	227
Eritrea .....	240
Ethiopia .....	257
Gabon .....	284
Gambia, The .....	292
Ghana .....	305
Guinea .....	320
Guinea-Bissau .....	335
Kenya .....	344
Lesotho .....	368
Liberia .....	384
Madagascar .....	395
Malawi .....	408
Mali .....	419
Mauritania .....	429
Mauritius .....	444
Mozambique .....	452
Namibia .....	465
Niger .....	479
Nigeria .....	493
Rwanda .....	525
Sao Tome and Principe .....	544

	Page
Africa—Continued	
Senegal .....	549
Seychelles .....	565
Sierra Leone .....	571
Somalia .....	589
South Africa .....	610
Sudan .....	628
Swaziland .....	655
Tanzania .....	670
Togo .....	692
Uganda .....	702
Zambia .....	728
Zimbabwe .....	744
East Asia and the Pacific	
Australia .....	783
Brunei Darussalam .....	794
Burma .....	801
Cambodia .....	823
China (includes Tibet, Hong Kong, and Macau) .....	843
Tibet .....	882
Hong Kong .....	891
Macau .....	906
Fiji .....	914
Indonesia .....	928
Japan .....	949
Kiribati .....	961
Korea, Democratic People's Republic of .....	966
Korea, Republic of .....	979
Laos .....	989
Malaysia .....	999
Marshall Islands .....	1026
Micronesia, Federated States of .....	1032
Mongolia .....	1038
Nauru .....	1050
New Zealand .....	1054
Palau .....	1061
Papua New Guinea .....	1066
Philippines .....	1076
Samoa .....	1093
Singapore .....	1101
Solomon Islands .....	1116
Taiwan .....	1123
Thailand .....	1132
Timor-Leste .....	1160
Tonga .....	1169
Tuvalu .....	1175
Vanuatu .....	1180
Vietnam .....	1187
Europe and Eurasia	
Albania .....	1213
Andorra .....	1224
Armenia .....	1229
Austria .....	1261
Azerbaijan .....	1270

	Page
Europe and Eurasia —Continued	
Belarus .....	1295
Belgium .....	1332
Bosnia and Herzegovina .....	1340
Bulgaria .....	1358
Croatia .....	1371
Cyprus .....	1389
Czech Republic .....	1415
Denmark .....	1433
Estonia .....	1441
Finland .....	1449
France .....	1460
Georgia .....	1472
Germany .....	1515
Greece .....	1530
Hungary .....	1547
Iceland .....	1565
Ireland .....	1573
Italy .....	1581
Kosovo .....	1594
Latvia .....	1615
Liechtenstein .....	1626
Lithuania .....	1631
Luxembourg .....	1643
Macedonia .....	1648
Malta .....	1663
Moldova .....	1673
Monaco .....	1699
Montenegro .....	1703
Netherlands .....	1730
Norway .....	1741
Poland .....	1750
Portugal .....	1766
Romania .....	1773
Russia .....	1796
San Marino .....	1840
Serbia .....	1844
Slovakia .....	1861
Slovenia .....	1877
Spain .....	1885
Sweden .....	1896
Switzerland .....	1907
Turkey .....	1917
Ukraine .....	1939
United Kingdom .....	1965

## VOLUME II

Near East and North Africa	
Algeria .....	1979
Bahrain .....	1996
Egypt .....	2009
Iran .....	2027
Iraq .....	2061
Israel and the occupied territories .....	2089

	Page
Near East and North Africa —Continued	
Jordan .....	2139
Kuwait .....	2157
Lebanon .....	2169
Libya .....	2188
Morocco .....	2203
Oman .....	2222
Qatar .....	2230
Saudi Arabia .....	2243
Syria .....	2266
Tunisia .....	2288
United Arab Emirates .....	2305
Western Sahara .....	2317
Yemen .....	2324
South and Central Asia	
Afghanistan .....	2347
Bangladesh .....	2372
Bhutan .....	2395
India .....	2403
Kazakhstan .....	2437
Kyrgyz Republic .....	2457
Maldives .....	2472
Nepal .....	2485
Pakistan .....	2505
Sri Lanka .....	2541
Tajikistan .....	2560
Turkmenistan .....	2573
Uzbekistan .....	2586
Western Hemisphere	
Antigua and Barbuda .....	2609
Argentina .....	2614
Bahamas, The .....	2630
Barbados .....	2640
Belize .....	2646
Bolivia .....	2655
Brazil .....	2668
Canada .....	2688
Chile .....	2702
Colombia .....	2713
Costa Rica .....	2742
Cuba .....	2754
Dominica .....	2768
Dominican Republic .....	2775
Ecuador .....	2794
El Salvador .....	2812
Grenada .....	2827
Guatemala .....	2833
Guyana .....	2850
Haiti .....	2859
Honduras .....	2873
Jamaica .....	2892
Mexico .....	2904
Nicaragua .....	2923
Panama .....	2940

	Page
Western Hemisphere —Continued	
Paraguay .....	2957
Peru .....	2970
Saint Kitts and Nevis .....	2987
Saint Lucia .....	2991
Saint Vincent and the Grenadines .....	2997
Suriname .....	3003
Trinidad and Tobago .....	3011
Uruguay .....	3020
Venezuela .....	3028
Appendixes	
Appendix A: Notes on preparation of Report .....	3061
Appendix B: Reporting on Worker Rights .....	3069
Appendix C: Selected International Human Rights Conventions .....	3071
Appendix D: Description of International Human Rights Conventions in Appendix C .....	3079
Appendix E: FY 2010 Foreign Assistance Actuals .....	3081
Appendix F: United Nations General Assembly's Third Committee Coun- try Resolution Votes 2010 .....	3107
Appendix G: United Nations Universal Declaration of Human Rights .....	3115



## LETTER OF TRANSMITTAL

---

DEPARTMENT OF STATE,  
*Washington, DC, April 8, 2011.*

Hon. John F. Kerry,  
*Chairman, Committee on Foreign Relations.*

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2010*, prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

We hope this report is helpful. Please let us know if we can provide any further information.

Sincerely,

MICHAEL H. POSNER,  
*Assistant Secretary, Bureau of Democracy,  
Human Rights, and Labor.*

Enclosure.



## PREFACE

---

Today, the eyes of the world are focused on the Middle East and North Africa, where people are demanding that their governments live up to the guiding principle of the Universal Declaration of Human Rights, that all people are “born free and equal in dignity and rights.” The promise of this principle is the driving power behind every movement for freedom, every campaign for democracy, every effort to foster development, and every struggle against oppression. We are inspired by the courage and determination of these activists, and we see in their struggles the true manifestation of a universal yearning for dignity and respect. We stand with them and with all citizens, activists, and governments around the world who peacefully work to advance the causes of democracy and human rights.

As President Obama has said, we are guided by a simple idea, “. . . freedom, justice and peace for the world must begin with freedom, justice, and peace in the lives of individual human beings.” This idea represents values we cherish in the United States, but they are not ours alone. Our belief in the universal principles of freedom, justice, and peace guides us on a daily basis as we work to make human rights a human reality. The world has witnessed that without meaningful steps toward representative, accountable, and transparent governance, the gap between people and their leaders will only grow. We will continue to promote, support, and defend democracy, in its many forms, knowing that it is the best political system for allowing individuals to enjoy their human rights.

The 2010 *Country Reports on Human Rights Practices* provide a record of the state of human rights in the world and raise awareness of the progress made in 2010, the ground lost, and the work that remains. This year marks the thirty-fifth year we have reported to Congress on human rights around the world. These reports were initially envisioned as a tool to help guide the United States in its foreign policy, but they have grown to be something much greater. Other governments, individuals, and organizations now use the human rights reports as essential sources of information about conditions in countries around the world. For activists, many of whom confront a shrinking space in which to operate and do so at great personal risk, these reports also provide evidence that the world is being made aware of their struggle.

As I travel the world, I make a point of meeting with those people working to advance the cause of human rights within their own countries. I am consistently impressed by the power of the human spirit, and the unwavering commitment of these brave individuals.

Their work inspires us and confirms the importance of holding governments, including our own, accountable for the treatment of their citizens.

Once each year we submit the Country Reports on Human Rights Practices to Congress, but advancing freedom and human rights is a daily priority for the men and women of the Department of State, both in Washington and in our embassies overseas. Through these reports, through our diplomacy, and through our example, we will continue to press for the universal human rights of all individuals. Now is the opportunity for us to support all who are willing to stand up on behalf of the rights we cherish.

In that spirit I hereby transmit the Department of State's Country Reports on Human Rights Practices for 2010 to the United States Congress.

HILLARY RODHAM CLINTON,  
*Secretary of State.*

## OVERVIEW AND ACKNOWLEDGMENTS

---

### WHY THE REPORTS ARE PREPARED

This report is submitted to the Congress by the Department of State in compliance with Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate by February 25 “a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act.” We have also included reports on several countries that do not fall into the categories established by these statutes and thus are not covered by the congressional requirement.

In the early 1970s the United States formalized its responsibility to speak out on behalf of international human rights standards. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. Legislation also requires that U.S. foreign and trade policy take into account countries’ human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis.

### HOW THE REPORTS ARE PREPARED

The Department of State prepared this report using information from U.S. embassies and consulates abroad, foreign government officials, nongovernmental and international organizations, and published reports. The initial drafts of the individual country reports were prepared by U.S. diplomatic missions abroad, drawing on information they gathered throughout the year from a variety of sources, including government officials, jurists, the armed forces, journalists, human rights monitors, academics, and labor activists. This information gathering can be hazardous, and U.S. Foreign Service personnel regularly go to great lengths, under trying and sometimes dangerous conditions, to investigate reports of human rights abuse, monitor elections, and come to the aid of individuals at risk, such as political dissidents and human rights defenders whose rights are threatened by their governments.

Once the initial drafts of the individual country reports were completed, the Bureau of Democracy, Human Rights and Labor, in cooperation with other Department of State offices, worked to corroborate, analyze, and edit the reports, drawing on their own

sources of information. These sources included reports provided by U.S. and other human rights groups, foreign government officials, representatives from the United Nations and other international and regional organizations and institutions, experts from academia, and the media. Bureau officers also consulted experts on worker rights, refugee issues, military and police topics, women's issues, and legal matters, among many others. The guiding principle was to ensure that all information was assessed objectively, thoroughly, and fairly.

As has proven the case in the past, we anticipate that the reports will be used as a resource for shaping policy, conducting diplomacy, and making assistance, training, and other resource allocations. They will serve also as a basis for the U.S. Government's cooperation with private groups to promote the observance of internationally recognized human rights.

The Country Reports on Human Rights Practices cover internationally recognized civil, political and worker rights, as set forth in the Universal Declaration of Human Rights. These rights include freedom from torture or other cruel, inhuman or degrading treatment or punishment, from prolonged detention without charges, from disappearance or clandestine detention, and from other flagrant violations of the right to life, liberty and the security of the person.

Universal human rights seek to incorporate respect for human dignity into the processes of government and law. All persons have the right to nationality, the inalienable right to change their government by peaceful means and to enjoy basic freedoms, such as freedom of expression, association, assembly, movement, and religion, without discrimination on the basis of race, religion, national origin, or sex. The right to join a free trade union is a necessary condition of a free society and economy. Thus the reports assess key internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, the prohibition of forced or compulsory labor, the status of child labor practices, the minimum age for employment of children, and acceptable work conditions.

With this 2010 edition of the country reports, DRL expanded the use of hyperlinks from these reports to other key human rights documents produced by the Department of State. Specifically, readers are asked to follow hyperlinks for complete information on religious freedom issues by consulting the 2010 International Religious Freedom Report, the 2010 Trafficking in Persons Report, if applicable, and the several current publications produced by the Department's Consular Affairs Bureau on international child abductions, if applicable to the country in question.

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: Editor in Chief Stephen Eisenbraun; Office Directors: Eric Falls, Robert Boehme, Jeffrey Hawkins, Douglas Kramer, Jessica Lieberman, Mark Mittelhauser, Susan O'Sullivan; Senior Editors: Jonathan Bemis, Douglas B. Dearborn, Daniel Dolan, Jerome L. Hoganson, Patricia Meeks Schnell, Marc J. Susser, and Julie Turner; Editors: Naim Ahmed, Cory Andrews, Sarah Buckley-Moore, Laura Carey, Elise Carlson-Rainer, Della Cavey, Eric Concha, Sharon Cooke,

Susan Corke, Stuart Crampton, Kathleen Crowley, Frank Crump, Bonnie Daley, Tu Dang, Mollie Davis, Mort Dworken, Sindbad Fennimore, Karen Gilbride, Joan Garner, Carrie George, Safiya Ghorri-Ahmad, Patrick Harvey, Caitlin Helfrich, Matthew Hicks, Alexandra Hoey, Kimberly Holbrook, Victor Huser, Jill Hutchings, Stan Ifshin, Dianna James, Sarah Johnston-Gardner, David T. Jones, Simone Joseph, Malac Kabir, Yelda Kazimi, Mancharee Junk, Min Kang, Katharine Kendrick, Orly Keiner, Stephen Kopanos, Alyson Kozma, Douglas Kramer, Sarah Labowitz, Gregory Maggio, Stacey May, Stephen Moody, Sarah Morgan, Perlita Muiruri, Sandra Murphy, Daniel L. Nadel, Genevieve Parente, Blake Peterson, Meredith Ryder-Rude, Peter Sawchyn, Robert Schlicht, Monica Sendor, Wendy Silverman, Marissa Smith, Rachel Spring, Jason Starr, Leslie Taylor, Jennifer Terry, James C. Todd, David Wagner, Micah Watson, Chanan Weissman, Mareham Youssef, Sarah Yun, Rachel Waldstein, Bernadette Zielinski; Editorial Assistants: Carol Finerty, Stephanie Martone, James McDonald, and Regina Waugh.



## INTRODUCTION

---

This report provides encyclopedic detail on human rights conditions in over 190 countries for 2010. Because we are publishing this report three months into the new year, however, our perspectives on many issues are now framed by the dramatic changes sweeping across countries in the Middle East in 2011. At this moment we cannot predict the outcome of these changes, and we will not know the lasting impacts for years to come. The internal dynamics in each of these countries are different, so sweeping analysis of the entire region is not appropriate. In places like Tunisia and Egypt, we are witnessing popular demands for meaningful political participation, fundamental freedoms, and greater economic opportunity. These demands are profound, they are homegrown, and they are being driven by new activists, many of them young people. These citizens seek to build sustainable democracies in their countries with governments that respect the universal human rights of their own people. If they succeed, the Middle East region, and with it the whole world, will be improved.

The United States will continue to monitor the situations in these countries closely, knowing that the transition to democracy is not automatic and will take time and careful attention. In Egypt, we await the lifting of the state of emergency, which the Supreme Council of the Armed Forces has promised to do prior to parliamentary elections. In Tunisia, we are encouraged by the creation of a fact-finding committee to investigate human rights abuses that took place during the uprising.

While we address these and other short-term repercussions, historians will have the benefit of time and perspective to help us understand what triggered these popular movements. But three trends clearly contributed to their development and to other changes that occurred throughout the world in 2010. The first is the explosive growth of nongovernmental advocacy organizations focused on a wide range of democracy and human rights issues and causes. Fifty years ago, when Amnesty International was created, few countries outside of North America or Western Europe had any locally based human rights organizations. Today, local nongovernmental organizations (NGOs) exist in almost every country in the world. The growth of these organizations has been dramatic, and in many countries such citizens' organizations have been created against great odds and only because individual human rights activists were willing to face great personal risk. Secretary Clinton highlighted the importance of these organizations in a speech she gave in July 2010 in Krakow, Poland, to the Community of Democracies. As she said, "societies move forward when the citizens that

make up these groups are empowered to transform common interests into common actions that serve the common good.”

In closed societies, where repressive governments seek to control and stifle the debate on sensitive political and social issues, governments view these independent local citizens’ organizations as a threat rather than a resource, and democracy and human rights defenders are singled out for particularly harsh treatment. For example, in Belarus, over 700 prodemocracy activists, including seven presidential candidates, were arrested during public demonstrations following the flawed December 2010 presidential elections. In the weeks that followed, the offices and homes of civil society representatives, independent journalists, and political activists were raided as part of an effort to stifle independent political activity and free expression.

In the last several years, more than 90 governments have sought to pass restrictive laws and regulations, hampering the ability of organizations to register, operate freely, or receive foreign funding. A proposed NGO law in Cambodia, introduced in December, is emblematic of these efforts. The law would impose burdensome reporting requirements on NGOs, erect significant barriers to the registration of foreign NGOs, require foreign NGOs to collaborate with the government, and outlaw unregistered NGOs. In Ethiopia, a new civil society organization law entered into force in February, following a one-year grace period. The law prohibits charities, societies, and associations that receive more than 10 percent of their funding from foreign sources from engaging in activities that promote human rights and democracy; the rights of children and persons with disabilities; equality among nations, nationalities, people, genders, and religions; conflict resolution or reconciliation; and the promotion of justice. During the grace period, Ethiopia’s leading human rights defender organizations adjusted by re-registering either as local charities, meaning that they could not raise more than 10 percent of their funds from foreign donors, or as “Resident Charities,” which allowed donations but prohibited activities in the enumerated areas. There were 3,522 registered organizations before the civil society organization law was adopted; after the law only 1,655 remained.

Secretary Clinton acknowledged these troubling restrictions on civil society in her speech in Krakow, when she identified a “group of countries where the walls are closing in on civic organizations” and cautioned that when “governments crack down on the right of citizens to work together, as they have throughout history, societies fall into stagnation and decay.” As we have seen in the Middle East and elsewhere, governments cannot suppress civil society indefinitely, and they can never suppress it legitimately.

A second important trend is the dramatic growth of the Internet, mobile phones, and other connective technologies that allow instantaneous communications to billions of people across the globe. As Secretary Clinton observed in a recent speech on Internet freedom, the Internet has become the town square of the 21st century. Much has been said and written about the effects of these connective technologies in allowing Egyptians and Tunisians to mobilize in the weeks and months before demonstrations actually began. While it is the courage of the people themselves that led the way and was

the driving force, the amplifying impact of these new technologies, coupled with the power of television stations and the Internet to broadcast videos obtained by citizens using these mobile phones, cannot be denied.

Today there are more than two billion people with Internet access spread across most countries of the world, and around five billion mobile phone subscriptions. These numbers are projected to grow dramatically in the next 15 years. And as more people gain access to these remarkable technologies, and use them both to gather and impart information on human rights and to communicate with other activists, an increasing number of governments are spending more time, money, and attention in efforts to curtail access to these new communications outlets. More than 40 governments are now using a combination of regulatory restrictions, technical controls on access to the Internet, and technologies designed to repress speech and infringe on the personal privacy of those who use these rapidly evolving technologies.

In Saudi Arabia in 2010, the government restricted access to the Internet and interfered with citizens' privacy while online. The official Communications and Information Technology Commission (CITC) improperly monitored e-mail and Internet chat rooms and blocked sites, including pages about Hinduism, Judaism, Christianity, and certain forms of Islam deemed incompatible with Sharia law and national regulations. In Sudan, the government monitored Internet communications and, during the elections, blocked access to the Sudan Vote Monitor Web site. The Government of China tightly controlled content on and access to the Internet and detained those expressing views critical of the government or its policies. In Vietnam, the government orchestrated attacks against critical Web sites and spied on dissident bloggers. Police arrested 25 dissidents over the course of the year and forcibly entered the homes of a number of others to remove personal computers, cell phones, and other material.

A third trend, and one that points in a negative direction, was the continuing escalation of violence, persecution, and official and societal discrimination of members of vulnerable groups, often racial, religious, or ethnic minorities or disempowered majorities. In many countries this pattern of discrimination extended to women; children; persons with disabilities; indigenous; lesbian, gay, bisexual, and transgender (LGBT) persons; and members of other vulnerable groups who lacked the political power to defend their own interests. Often members of these groups were denied economic opportunity or the ability to abide by their social or cultural traditions or practices or were restricted in their ability to speak freely, to assemble peacefully, or to form associations or organizations.

In Pakistan, religious freedom violations and violence and discrimination against religious minorities continued. The blasphemy laws were used to harass religious minorities as well as vulnerable Muslims or Muslims with minority views. (In the first two months of 2011, two senior government officials who publicly challenged these laws were brutally killed.) In Saudi Arabia, there were severe restrictions on religious freedom and discrimination on the basis of religion was common. In China, the government continued to demonize the Dalai Lama and harshly repress Uighur Muslims in

Xinjiang and Tibetan Buddhists. There were reports of increases in anti-Semitic acts around the world, including the desecration of cemeteries, graffiti, and blood-libel rhetoric, as well as Holocaust denial, revisionism, and glorification. There have also been spikes in expressions of anti-Semitism during events in the Middle East.

Persons around the world continue to experience discrimination and intimidation based on their sexual orientation or gender identity. Honduras saw an upsurge in killings of members of the LGBT community by unknown perpetrators. Meanwhile, in many African, Middle Eastern, and Caribbean nations, same-sex relations remain a criminal offense, and through such laws and other measures the state reinforces and encourages societal discrimination and intolerance. In Uganda, for example, intimidation and harassment of LGBT individuals worsened during the year, and some government and religious leaders threatened LGBT individuals.

Exploitation of laborers was also a problem in many countries, often compounded by threats against workers for attempting to unionize. Again in 2010, the government of Uzbekistan mobilized thousands of adults and children as forced laborers during the annual cotton harvest. In Bangladesh, poor working conditions caused needless deaths, notably in the garment industry. Bangladesh was also the site of frequent and at times deadly labor unrest during the year, particularly in the Ready-Made Garment Sector and Export Processing Zones.

These trends are further illustrated below by the thumbnail sketches of 27 countries (listed alphabetically by region). The section on country highlights provides illustrative examples of the human rights trends in 2010. In some of these countries there have been negative developments or the human rights record has been a mix of positive and negative developments. In other countries highlighted below, we reflect on positive trends in 2010. The body of this report is a much more detailed examination of these and an additional 167 countries.

2010 marks the 35th year that the State Department has produced the annual Country Reports on Human Rights Practices. This year's report covers human rights conditions in 194 countries. What began as the response to a Congressional mandate to report on the human rights situation in those countries that were receiving U.S. assistance in the mid 1970s has blossomed into a detailed analysis of human rights conditions in all countries that are members of the United Nations. The country reports provide an overview of the human rights situation around the world as a means to raise awareness of human rights conditions, in particular as these conditions affect the well-being of women, children, racial and religious minorities, trafficking victims, members of indigenous groups and ethnic communities, persons with disabilities, sexual minorities, refugees, and members of other vulnerable groups.

As the scope of the State Department's reporting has increased, so has the use of these reports around the world. In addition to providing data to Congress to inform their funding and policy decisions, these reports are used throughout the U.S. government and by many foreign governments. And, importantly, they are increasingly being used by individual citizens and NGOs as critical sources of information on what is happening in the world. To facili-

tate the sharing of this information, reports are translated into over 50 languages and made available online.

The U.S. government compiles the human rights report because we believe it is imperative for countries, including our own, to ensure that respect for human rights is an integral component of foreign policy. We provide these reports as a form of comprehensive review and analysis.

The reports do not cover human rights in the United States, although this Administration has made a commitment to take a close and critical look at our own performance on these issues even as we cast a spotlight on the practices of other countries. In November, the United States presented its first report on human rights in the United States to the UN Human Rights Council (UNHRC) in Geneva through the Universal Periodic Review. In preparation for that report we conducted extensive consultations in the United States with a wide range of civil society organizations and Native American leaders. Last month we appeared again at the UNHRC meeting in Geneva to report our response to the recommendations made to us by other governments.

We also continually report on our human rights record pursuant to our treaty obligations. In January 2010, we submitted periodic reports on our implementation of the Optional Protocols to the Convention on the Rights of the Child. In 2011 we will be submitting periodic reports regarding implementation of the International Covenant on Civil and Political Rights, the Convention Against Torture, and the Convention on the Elimination of Racial Discrimination. In 2010, for the first time, a section on the United States was included in the State Department's Trafficking in Persons Report, and the United States was ranked based on the same standards to which we hold other countries.

A final word about the production of these reports. These 194 country reports are comprehensive, if not exhaustive. Their production is a Herculean endeavor requiring extra-ordinary efforts by a team of talented and committed human rights officers at U.S. Embassies around the world, and by their counterparts in Washington, D.C., including the dedicated staff in the Bureau of Democracy, Human Rights and Labor. Each country team collects, analyzes, and synthesizes information from a variety of sources, including domestic and international human rights organizations, other governments, multilateral organizations, and members of civil society. Once the reports are drafted, they are rigorously edited, reviewed, and fact-checked, to ensure accuracy and objectivity.

#### COUNTRY HIGHLIGHTS

In 2010, governments around the world continued to commit severe human rights violations and abuses. The paragraphs below describe the human rights situation and key trends in specific countries where abuses were especially serious. We also highlight Ukraine, where in 2010 there was backsliding after positive developments in previous years. The section begins with a discussion of several countries—Colombia, Guinea, Indonesia—that are highlighted for notable positive human rights developments in 2010.

Colombia is a country where there were notable improvements in the human rights situation in 2010. Soon after taking office in Au-

gust, President Santos and his administration strengthened the government's relationship with civil society and human rights defenders, holding high-level consultative sessions, publicly expressing support for human rights defenders and engaging them in dialogue, and supporting efforts to increase penalties for threats and violence against human rights defenders. The government advanced a Land and Victims' Law to provide for land restitution and victims' reparations. Extrajudicial executions decreased substantially from 2008 and 2009, and several senior military officers were convicted of human rights abuses. Some human rights abuses continued, such as some threats against human rights defenders and trade unionists. The Ministry of Defense began implementing an agreement with the office of the UN High Commissioner for Human Rights to monitor ministry measures to improve adherence to human rights.

In December 2010, Guinea inaugurated its first democratically elected president since independence from France in 1958. The people selected longtime opposition leader Alpha Conde, the candidate of the Rally of the Guinean People Party, as their president following two rounds of elections. Although there was some violence following the second round, the elections generally were regarded as free and fair.

Respect for human rights in Indonesia continued to improve in 2010, 12 years after the country's transition to democracy. While weaknesses in the justice system persisted, President Susilo Bambang Yudhoyono, democratically reelected in July 2009, remained a strong proponent of the rule of law and accountability and civil society, and the media remained among the most vibrant in Asia. Professionalization of the military continued, although some serious human rights abuses by military personnel occurred, particularly in Papua, and punishments, when imposed, were often not commensurate with the crimes committed.

### *Africa*

Cote d'Ivoire ended 2010 in a standoff over the presidency, following October elections in which incumbent President Laurent Gbagbo, candidate of the Ivoirian People's Front, and opposition party leader Alassane Ouattara, candidate of the Rally for Republicans, advanced to the November 28 presidential run-off. On December 2, the Independent Electoral Commission declared Ouattara the winner with 54.1 percent of the vote as compared with 45.9 percent for Gbagbo. The election was declared fair and democratic by the UN and international and domestic observer missions. Gbagbo refused to accept the results, alleging voter fraud and intimidation in several regions, and both Ouattara and Gbagbo took oaths of office on December 3. At year's end, President Ouattara operated his government from the Golf Hotel in Abidjan under a blockade from pro-Gbagbo forces. Gbagbo retained control of state resources including the national television station, the security forces, and the treasury. There were credible reports of human rights abuses during this time. On December 16, security forces fired on supporters of President Ouattara during a demonstration march. At least 20 persons were killed, many wounded, and hundreds arrested. In the one week period from De-

ember 15-22, the UN Operation in Cote d'Ivoire human rights division reported 173 persons killed, 90 subjected to torture and ill-treatment, 471 others arbitrarily arrested and detained, and 24 persons missing. The overwhelming majority of these cases of extrajudicial killings, torture, detention, and disappearance, were committed by security forces loyal to Gbagbo. Human rights violations which took place after December 31 are not documented in the 2010 report.

Serious human rights abuses continued throughout the Democratic Republic of the Congo (DRC), particularly in the mineral rich, conflict-affected eastern and northeastern regions, where state authority remained non-existent or extremely weak. Human rights defenders have been intimidated, beaten, and, as in the case of prominent activist Floribert Chebeya, even killed. Armed entities—including elements of state security forces—perpetrated abuses with impunity and engaged in the illegal exploitation and trade of natural resources, particularly minerals. Revenues derived from the illicit trade in minerals, some of which supported armed conflict, fueled the continued insecurity in eastern DRC, aggravating an already precarious human rights situation. Rebel and militia groups in eastern DRC continued to engage in rape and looting campaigns in efforts to control communities residing near lucrative mining areas, and to reap mining-related profits that sustained the conflict and attendant abuses. Credible sources such as the UN Group of Experts on the DRC presented information indicating that some Congolese and international corporations' supply chains originated with suppliers who traded with armed entities—including elements of the state security forces—that committed serious human rights abuses.

Nigeria continued to be plagued by serious human rights abuses during the year. Security services personnel, including police, military, and State Security Service officers, committed extrajudicial killings and tortured, beat, and abused demonstrators, criminal suspects, detainees, and convicted prisoners. The Joint Task Force, formed in 2003 to address the instability in the Niger Delta and consisting of military, police, and security services, conducted raids on militant groups and criminal suspects, resulting in numerous deaths and injuries to both alleged criminals and civilians. Corruption was pervasive at all levels of government and throughout the security forces. Ethno-religious violence also resulted in deaths and displacement during the year. Jos and the surrounding farmlands were the site of two major attacks in January and March. Up to 1,000 individuals, mostly women, children, and the elderly, were murdered, hacked to death, or burned alive.

Violence continued in Sudan throughout 2010. Nationwide elections held in April were not deemed fair and free by the international community, and observers noted numerous problems throughout the process. In Darfur, fighting involving government, government-aligned militias, rebel groups, and ethnic groups continued to kill, injure, and displace civilians. This violence killed 2,321 persons during the year, according to the UN, an increase compared with the 875 persons killed in 2009. The government continued to conduct aerial bombardment. Gender-based violence, the use of child soldiers, and the obstruction of humanitarian orga-

nizations and the United Nations-African Union Hybrid Mission in Darfur continued to be problems. The government harassed, arrested, and beat civil society members in the north. In Southern Sudan, interethnic fighting and Lord's Resistance Army attacks continued to kill and displace civilians. According to UN estimates, violence in the south resulted in an estimated 986 deaths and the displacement of 223,708 persons during the year. Registration for the 2011 Southern Sudan self-determination referendum occurred in November and December. Lack of progress on preparations for a separate referendum on whether the border region of Abyei should be part of the north or the south led to sporadic violence and rising tensions in the area.

In Zimbabwe, security forces, police, and Zimbabwe African National Union-Patriotic Front (ZANU-PF)-dominated elements of the government continued to commit numerous, serious human rights violations with impunity, including torture, against non-ZANU-PF political activists and party members, student leaders, and civil society activists. ZANU-PF's dominant control and manipulation of the political process through trumped-up charges and arbitrary arrest, intimidation, and corruption effectively negated the right of citizens to change their government. Although there were fewer incidents in the first half of 2010, expectations that elections would be held in 2011 led to an increase in the number of cases of harassment and intimidation of civil society organizations and members of the media toward the end of the reporting period. The government continued to use repressive laws to suppress freedom of speech, including for members of the press, assembly, association, and movement. Military forces and other government agents also continued abuses in the Marange diamond fields.

#### *East Asia and the Pacific*

Despite the release of Aung San Suu Kyi, over 2,100 political prisoners remained in custody in Burma at the end of 2010. Many civil society activists were detained indefinitely and without charges, and regime-sponsored organizations engaged in harassment and abuse of human rights and prodemocracy activists. The government routinely infringed on individual privacy and restricted the freedoms of speech, press, assembly, association, religion, and movement. The government did not allow domestic human rights NGOs to function independently, and international NGOs encountered a difficult environment. The fall 2010 elections were neither free nor fair. The government continued its tight control of the activities of Buddhist clergy. Military forces in Burma continued to commit egregious abuses and violations against civilians in ethnic minority regions. These abuses included rape, torture, forced relocation, and forced labor. Violence and societal discrimination against women and minority religious communities continued, as did unlawful recruitment of child soldiers and trafficking in persons, particularly of women and girls. Workers' rights remained restricted and forced labor, including that of children, also persisted.

In Cambodia, members of security forces, acting with impunity, committed arbitrary killings. Human rights monitors reported arbitrary arrests and prolonged pretrial detention, underscoring a weak judiciary and denial of the right to a fair trial. Restrictions contin-

ued on freedom of assembly and expression, including for members of the press, and there was a growing abuse of defamation and disinformation lawsuits targeting opposition voices. Civil society expressed significant concern that the draft Law on Associations and NGOs could, if adopted, seriously constrain the ability of NGOs to operate. The draft law released in December included provisions that would impose burdensome reporting requirements on NGOs, prevent associations with fewer than 21 (later reduced to a still-onerous 11) members from attaining legal status, erect burdensome barriers to the registration of foreign NGOs, require foreign NGOs to collaborate with the government, and outlaw unregistered NGOs. Anti-union activity by employers and weak enforcement of labor laws continued, and exploitative child labor in the informal sector remained a problem.

In China, the negative trend in key areas of human rights continued. The government stepped up restrictions on lawyers, activists, bloggers, and journalists; tightened controls on civil society; and increased attempts to limit freedom of speech and control the press, the Internet, and Internet access in 2010. Authorities also increased the use of extralegal measures, including forced disappearances, strict house arrest, arbitrary detention in “black jails,” and other forms of “soft detention” to silence independent voices and punish activists and their families. Legal activist Chen Guangcheng, along with his wife and child, remained under house arrest, as did other released political prisoners. Public interest lawyers, who operated within China’s legal framework, were disbarred, beaten, or “disappeared” for taking on the defense of clients and issues deemed sensitive by the government. Bloggers and Web masters have been arrested and charged with “subverting state power” for re-tweeting a post or operating a Web site where others posted comments. The government also continued its severe cultural and religious repression of ethnic minorities in the Xinjiang Uighur Autonomous Region and Tibetan areas.

In North Korea, the human rights situation remained grim. During the year, the government maintained tight control over the flow of information into and out of the country. The government denied its citizens the right to due process and arbitrarily arrested and detained individuals, including for political crimes. Defectors and NGOs indicated that severe and systematic human rights abuses occurred throughout the country’s extensive network of prisons and detention centers. In addition, the government continued to enforce rigid controls over the freedoms of speech, press, assembly, association, religion, and movement and worker rights. There were no independent domestic human rights monitoring organizations, and the government denied international organizations and foreign NGOs access, making it impossible to assess accurately the true scope of the abuses occurring in the country or the validity of these reports.

The government of Vietnam continued to suppress dissent, tightened controls over the press, and limited the freedoms of expression, assembly, movement, and association. Individuals were arbitrarily detained for political activities and denied the right to fair and expeditious trials. The government arrested at least 25 political activists, convicted 14 dissidents arrested in 2008, 2009, and

2010, and denied the appeals of another 10 dissidents convicted at the end of 2009. The judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. Freedom of religion continued to be subject to uneven interpretation and protection, particularly at the provincial and village levels. Internet freedom was further restricted as the government orchestrated attacks against critical Web sites and spied on dissident bloggers. The government limited workers' rights to form and join independent unions.

### *Europe*

Authorities in Belarus arbitrarily arrested, detained, and imprisoned prodemocracy activists, journalists, and civil society representatives. In the wake of December 2010's flawed presidential election, authorities initiated a broad crackdown against demonstrators, detaining close to 700 persons and raiding offices and apartments belonging to members of independent media, NGOs, and the political opposition. Over 40 individuals, including several presidential candidates, now face up to 15 years in jail. Through its detentions and trials, the government of Belarus continually is creating new political prisoners. The judiciary lacked independence and suffered from corruption, inefficiency, and political interference; trial outcomes were often predetermined, and many trials were conducted behind closed doors. Official corruption throughout the government continued to be a problem.

In Russia, the government infringed on freedom of expression, assembly, and association, detaining certain demonstrators and continuing to pressure select NGOs, independent media, some religious minorities, independent labor unions, and political opposition. Attacks on and the murder of journalists and activists continued. There were reports of physical abuse by law enforcement, military hazing deaths, and harsh prison conditions. Rule of law and due process violations remained a problem, and government corruption was widespread. Xenophobic, racial, and ethnic attacks and hate crimes continued to be a significant problem. The conflict between the government and insurgents, Islamist militants, and criminal forces in the North Caucasus led to numerous human rights violations by all parties, which reportedly engaged in killing, torture, abuse, violence, and politically motivated abductions.

In Ukraine, despite beginning with free and fair presidential elections, the overall trend for 2010 was negative due to problematic local elections, intimidation of the media, and perceived selective prosecution of opposition figures. International and domestic observers found the October local elections did not reach the same standards of the presidential election, citing the registration of fraudulent opposition candidate lists, government pressure against election monitors and candidates, and election officials selectively barring or removing candidates from ballots- all prompting concern about the government's planned next steps for election reform. In addition, there were numerous reports that authorities attempted to direct media content and intimidate journalists. Although the government took steps in 2009 to better combat corruption, the international community expressed concern that politics motivated the new government's 2010 criminal investigation of 30 members

of the previous government for alleged corruption; several of these people were detained and subsequently charged.

*Near East*

Political tensions flared in the weeks preceding the October elections in Bahrain. The government arrested more than 200 Shia men it accused of inciting or involvement in street violence. Those arrested included some, but not all, of the leaders of two groups, Haq and Wafa', which reject the monarchy and had called for a boycott of the elections. The government charged 23 of those arrested with involvement in a "terror network" pursuant to the 2006 counterterrorism law. The electoral process also was marred by the government's banning of the two main legal opposition parties' Web sites and newsletters. The government did not allow international observers to monitor the elections. The government also continued to restrict freedom of assembly and association. Security forces intervened in demonstrations and limited and controlled political gatherings during the year. NGOs and civil society groups were required to register with the government and provide membership lists. In September, the Ministry of Social Development effectively shuttered a local human rights organization, Bahrain Human Rights Society, when a ministerial decree ordered the dissolution of the society's board of directors and appointed a ministry employee to be the group's interim head.

According to multiple sources, the Government of Iran executed approximately 312 persons in summary executions during the year, many after trials that were conducted in secret and/or did not provide due process. In many cases, persons executed supposedly for criminal offenses such as narcotics trafficking were actually political dissidents. Authorities held political prisoners and continued to crack down on women's rights reformers, ethnic minority rights activists, student activists, and religious minorities. There was little judicial independence and few fair public trials. The government severely restricted the right to privacy and civil liberties, including freedoms of expression, including for members of the press, assembly, association, and movement, and it placed severe restrictions on freedom of religion. Vigilantes continued to attack young persons considered "un-Islamic" in their dress or activities, invade private homes, abuse unmarried couples, and disrupt concerts. Violence and legal and societal discrimination against women, children, ethnic and religious minorities, and LGBT persons persisted.

While the credible and legitimate national parliamentary elections in all 18 provinces on March 7 reflected a significant achievement in advancing the exercise of human rights, extremist violence, coupled with weak government performance in upholding the rule of law, resulted in widespread and severe human rights abuses in Iraq. There were reports that the government or its agents committed numerous arbitrary or unlawful killings, arbitrary detentions, and acts of torture connected to its security operations, often with impunity. Attacks by al-Qaida in Iraq and other extremists continued against Iraqi Security Forces (ISF), government officials, and civilians, often targeting urban areas, Christian churches, Shia markets, and mosques. On May 10, coordinated bombings and shootings resulted in at least 119 fatalities, including ISF and law

enforcement personnel. On August 17, a suicide bomber blew himself up in a crowd of army recruits in Baghdad, killing 61 persons. During the year, 962 Ministry of Interior personnel were killed and 1,347 were injured. Police officers, in particular, were targeted.

In Libya, Colonel al-Qadhafi and his close associates monopolized every aspect of decision-making in the government. Continuing human rights problems included torture, arbitrary arrest, official impunity, and poor prison conditions. A large but unknown number of persons remained in detention or prison for engaging in peaceful political activity or for belonging to an illegal political organization. The government significantly restricted media freedom and continued to restrict freedom of expression, and routinely monitored telephone calls and Internet usage, including e-mail communication with foreign countries. There also was physical surveillance of political activists and foreign organizations. The government owned and controlled virtually all print and broadcast media, and government-controlled media neither published nor broadcast opinions inconsistent with official policy. The Internal Security Organization routinely harassed journalists, and overly broad provisions of the penal code served as the basis for frequent charges of criminal defamation. The government severely restricted freedom of assembly and permitted public assembly only with advance approval. The government restricted the right of association and generally only allowed institutions affiliated with the government to operate; no NGOs functioned in the country. In the early months of 2011, protests erupted across Libya. Because they occurred outside of the reporting period, they are not documented in the 2010 report.

In Syria, security forces committed unlawful killings, detained political and human rights activists, and tortured and physically abused prisoners and detainees with impunity. The government also imprisoned several high-profile members of the human rights and civil society communities, in addition to the estimated 2,500–3,000 political prisoners previously detained. Lengthy pretrial and incommunicado detention remained a serious problem, and the courts systematically used “confessions” extracted under duress as evidence. Defendants’ claims of torture were almost never investigated. The government severely restricted universal freedoms of expression, assembly and association, religion, and movement.

#### *South and Central Asia*

An increasingly difficult security situation in Afghanistan resulted in a number of serious human rights abuses. Civilians continued to suffer from intensified armed conflict as conflict-related deaths increased by 15 percent during the year compared to 2009. Government and progovernment international forces were responsible for civilian deaths, specifically 16 percent of total civilian deaths. Human Rights Watch reported that timely and transparent inquiries or accountability of forces in the event of wrong-doing were often lacking when civilians were hurt or killed. Taliban and insurgent attacks, including politically targeted killings, escalated in both number and intensity. At least 30 individuals were killed on September 18, the day of parliamentary elections, and the Taliban claimed responsibility for killing three candidates during the campaign period between July and August. In August, five

campaign workers supporting Fauwzia Gilani in Herat were abducted and killed. There were also attacks on election officials. The elections themselves were marred by electoral fraud and widespread irregularities, including the establishment of a special tribunal to investigate the election results and complaints; low voter turnout; and insufficient conditions for participation by women. The government was plagued by official impunity and corruption and often failed to conduct effective investigations of human rights abuses committed by local security forces. Arbitrary arrest and detention remained a problem, and the judiciary lacked independence. Freedom of religion, including the right to change one's religion, was severely restricted. Women continued to face pervasive human rights abuses, including violence, insurgent attacks on girls' education, limited access to justice, and other limitations on their rights.

In Pakistan, allegations of extrajudicial killings and detention of civilians by the security forces were reported by several media outlets and NGOs. During the year, there was a significant increase in the total number of reported torture and rape cases of individuals in custody, almost double as compared to 2009. The Society for Human Rights and Prisoners' Aid reported 72 civilian deaths after encounters with police and 168 deaths in jails, an increase from the previous year. Militant and terrorist bombings in all four provinces and in Federally Administered Tribal Areas continued to result in deaths and injuries. According to the report, terrorist and extremist attacks and operations to combat terrorism and extremism resulted in 7,400 deaths, of which nearly 1,800 were civilians, over 450 were security forces, and over 5,100 were terrorists or insurgents. There were numerous reports of politically motivated killings in Karachi and Balochistan. According to a report by Dawn, 1,981 persons were killed in political violence in Karachi, of which 748 were targeted killings. According to Human Rights Watch, the targeted killing and disappearance of Baloch leaders, activists, and civilians increased in 2010. Religious freedom violations and violence and discrimination against religious minorities continued. Some people accused of blasphemy against Islam were sentenced to life imprisonment or capital punishment. One of them was Aasia Bibi, a Christian woman, who was sentenced to death in November, becoming the first woman to receive such a harsh sentence for blasphemy.

Uzbekistan continued to incarcerate individuals on political grounds. While one political prisoner, human rights activist Farhad Mukhtarov, was released during the year, 13 to 25 political prisoners remained in custody, and family members reported that many prisoners were tortured. Human rights activists, their family members, and members of certain religious groups reported harassment and arrest by police and other members of the security forces. Freedom of expression was severely limited and harassment of journalists increased during the year. Police and security services subjected print and broadcast journalists to arrest, intimidation, and violence, as well as to bureaucratic restrictions on their activity. The criminal and administrative codes imposed significant fines for libel and defamation and the government used charges of libel, slander, and defamation to punish journalists, human rights activists, and others who criticized the president or the govern-

ment. Freedom of association also was restricted. The government tightly controlled NGO activity and regulated Islamic and minority religious groups with strict legal restrictions on the types of groups that could be formed and registered. Forced adult and child labor was used during the cotton harvest.

#### *Western Hemisphere*

The government of Cuba released more than 40 political prisoners during the reporting period, including many notable human rights activists arrested in 2003, although most were released on the condition that they leave the country. Cuba continued to hold dozens of other political prisoners. The government suppressed human rights and fundamental freedoms, including freedom of speech, the press, assembly and association, movement, and religion. Human rights groups noted a marked increase in the use of short-term detentions designed to disrupt the work of civil society and harass activists. In addition, the government continued to stage public protests to harass and abuse activists and their families, particularly the Damas de Blanco (“Ladies in White”). Although the government characterized the mobs as spontaneous, participants frequently arrived in government-owned vehicles or were recruited by local Communist Party leaders from nearby workplaces or schools. In extreme cases, government-orchestrated mobs assaulted these individuals or damaged their homes or property. Members of the security forces monitored, harassed, and sometimes physically assaulted human rights and prodemocracy advocates, dissidents, independent journalists, detainees, and prisoners, and did so with impunity. The government did not recognize independent journalism, and subjected some independent journalists to travel bans, detentions, harassment, equipment seizures, and threats of imprisonment. Unauthorized assemblies of more than three persons can be punished by up to three months in prison and a fine, although these meetings were more likely to be broken up than prosecuted.

Respect for human rights and democratic institutions deteriorated over the past year in Nicaragua. Protesting opposition party members were denied freedom of assembly. March 2010 regional elections on the Caribbean coast were marred by allegations of widespread irregularities, and credible domestic NGOs were denied permission to monitor the election. Other issues include politicization of the judiciary and other government organs, substantial government interference with media freedom, and harassment of NGOs and journalists. Police did not protect demonstrators who protested government policies and allowed progovernment groups to engage in violent activities. The government continued to criticize religious leaders who expressed concerns about government practices and policies that affected public participation and democratic freedoms. Government officials publicly excoriated Catholic Church officials who denounced the manipulation of the electoral process.

In Venezuela, the government used the judiciary to intimidate and persecute individuals and organizations that criticized government policies or actions, including peaceful protesters, journalists, a judge, members of opposition political parties, NGOs, union and

business leaders, and ordinary citizens. Government officials also restricted freedom of expression, harassing and intimidating privately owned television stations, media outlets, and journalists through threats, property seizures, targeted regulations, and criminal investigations and prosecutions. In late December the National Assembly adopted a package of laws that further undermined democratic principles and practices in Venezuela, including a law delegating legislative authority to the executive that extended beyond the term of office of the outgoing National Assembly, in violation of the shared values of the Inter-American Democratic Charter, and laws imposing new restrictions on the independent media, the Internet, political parties, and NGOs.



## AFRICA

---

### ANGOLA

Angola is a constitutional republic with an estimated population of 17.3 million. The ruling Popular Movement for the Liberation of Angola (MPLA), led by President Jose Eduardo dos Santos since 1979, has been in power since independence in 1975 and exercised tight, centralized control over government planning, policymaking, and media outlets. In 2008 the Government held the first legislative elections since 1992. Domestic and international observers reported that polling throughout the country was peaceful and generally credible, despite a ruling party advantage due to state control of major media and other resources and serious logistical failures that marred polling in the capital of Luanda. Security forces reported to civilian authorities.

Human rights abuses included: the abridgement of citizens' right to elect officials at all levels; unlawful killings by police and military forces; torture, beatings, and rape by security forces; harsh and life-threatening prison conditions; arbitrary arrest and detention; lengthy pretrial detention; impunity for human rights abusers; judicial inefficiency, lack of judicial independence, and lack of due process; infringements on citizens' privacy rights and forced evictions without compensation; restrictions on freedom of speech, press, assembly, association, and movement; official corruption; restrictions on nongovernmental organizations (NGOs); discrimination and violence against women; abuse of children; trafficking in persons; discrimination against persons with disabilities, indigenous people, and persons with HIV/AIDS; limits on workers' rights; and forced labor.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings. However, human rights activists and domestic media sources reported that security forces arbitrarily killed an unknown number of persons during the year. In 2009 security forces arbitrarily killed 61 persons.

The Government made some progress prosecuting police officers responsible for human rights violations. However, impunity remained a problem, and the results of investigations into security force abuses were seldom released.

Domestic media and local human rights activists reported that police use of excessive force resulted in killings.

For example, on January 19, police in Luanda were accused of killing three male youths. Witnesses reported that a group of masked men entered the victims' homes without a warrant and abducted the individuals. According to the families' testimony, the three victims were shot and killed in a field adjacent to the Special Transit Police Station. Subsequently, police delivered the bodies to the local morgue.

On May 9, police allegedly killed three persons in custody for their involvement in crimes, including armed robbery. The National Police commander promised to follow leads and arrest the perpetrators, but there were no developments by year's end.

In January 2009 police shot and killed Joaquim Manuel Machado during a confrontation with a group of youths in Sambizanga, Luanda. Jose Inacio Rene, the police officer identified as Machado's killer, had not been tried by year's end.

In August 2009 police officer Sebastiao Andre killed his son, Jeronimo Sebastiao, in Sambizanga, Luanda. No investigation had taken place by year's end.

In September 2009 members of the Armed Forces of Angola (FAA) buried alive 45 persons in a tunnel in Lunda Norte after determining they were illegal diamond miners. No investigation had taken place at year's end.

There were no developments in September 2009 cases: the case of Luandan police who tortured a citizen accused of selling drugs, while he was under arrest; he later died when police denied him medical assistance; and the arrest and torture by police of a man in Porto Amboim who died from serious contusions and cuts.

In 2008 there were multiple media reports in Luanda that police deliberately targeted and killed persons suspected of gang-related violence and other criminal activity.

On March 22, seven officers were sentenced to 24 years in prison and fined approximately 72,000 kwanzas (\$800) each for shooting and killing eight teenagers in 2008. The judge also ordered each family of the victims to receive approximately 705,600 kwanzas (\$7,840). The officers claimed to be part of a special gang task force tasked with ridding neighborhoods of gang members, but the National Police denied the existence of the task force and relieved the police officers of duty.

On April 27, three National Police officers were sentenced to eight years in prison for the 2006 killing of Manuel Domingos in Talatona, Luanda.

The FAA carried out counterinsurgency operations against the Military Position (MP) faction of the Front for the Liberation of the Enclave of Cabinda (FLEC), which reportedly resulted in at least three deaths. The FAA responded to at least three attacks against civilian targets for which FLEC-MP claimed responsibility.

On January 4, FLEC claimed responsibility for an attack on a Togolese national soccer team, which had been en route to Cabinda to participate in the African Cup of Nations. Three persons were killed and nine were injured in the attack. Six persons were arrested for tangential involvement, and another two were arrested for direct involvement. Of the latter two, one person had been sentenced by year's end. The six arrested for tangential involvement were released, and the remaining one person was still being tried at year's end.

In May FLEC claimed responsibility for an attack on Chinese workers in Cabinda; one worker was killed and another was wounded.

Land mines placed during the long civil war remained a threat. According to the National Commission for Demining and Humanitarian Assistance, land mine and other explosive remnants of war (ERW) accidents killed 12 and injured at least three individuals during the year. The Government continued to strengthen and expand national demining capacity during the year, and it partnered extensively with international NGOs on demining operations and mine-risk education.

On October 3, four children were killed in Malange Province after finding a rocket propelled grenade, which exploded when they played with it. The accident occurred in an area that was not suspected to contain explosive remnants of war.

On October 8, a 42-year-old woman was severely injured in Malange Province when she detonated an unexploded object.

On October 19, two deminers were killed and two others injured when a land mine detonated. The four individuals were clearing ERW from a known hazard area.

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances. Also unlike in the previous year, there were no media reports that persons taken into police or military custody disappeared.

In May 2009 the president of a local movement for autonomy and independence, Jota Malakito, was taken into police custody and held incommunicado. On October 8, he was transferred from Viana Penitentiary Center to Dundo, Lunda Norte, where he was tried with 33 other persons accused of crimes against state security and instigating a rebellion. As of year's end, Malakito remained in prison.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, government security forces tortured, beat, and otherwise abused persons. Reports of beatings and other abuses in police stations during interrogations were common.

According to Novo Jornal, on May 28, the Association for Justice, Peace, and Democracy (AJPD), a local NGO, reported that police intimidated citizens, used excessive force and guns against them, and used torture and cruel and degrading treatment against detainees. AJPD's publication documented examples of prisoners and detainees tortured while in police custody between 2006-09. The same NGO reported that cases of torture continued during the year.

Police and other security forces rarely were held accountable for torture. Although the Government punished some violators administratively, few prosecutions occurred during the year.

On March 24, a lawyer reported that several civilians awaiting trial for alleged participation in a FLEC attack in Cabinda showed visible signs of torture.

The Government continued to conduct operations throughout the country to identify, detain, and expel illegal immigrants, particularly in the diamond-rich provinces of Lunda Norte and Lunda Sul. Between September and December, police expelled

approximately 12,000 illegal immigrants, most of them diamond workers in Lunda Norte and Lunda Sul. NGOs and the media reported acts of violence and degrading treatment, including rape and sexual abuse, associated with these operations. Based on an assessment mission among those returned to the Democratic Republic of Congo (DRC), a UN report cited 117 victims of sexual violence in October. The victims, illegal immigrants from the DRC, reported being detained and raped by military or police officers before being forcibly expelled into the DRC. The Government claimed that the allegations were unfounded and that its border police respected procedures to return illegal immigrants. The Government reported uncovering one case of rape, and was working to prosecute the alleged perpetrator at year's end (see section 1.d.).

Police and immigration officials at border checkpoints and provincial airports extorted money from travelers and harassed returnees and refugees.

In April three police officers were sentenced to eight years in prison for severely beating a citizen, leaving him partially blind.

In October 2009 the media reported that seven former agents from the National Police claimed that they were tortured while undergoing interrogation in prison.

Abuses by the army continued. In Cabinda FAA troops tortured, beat, and illegally detained citizens suspected of FLEC collaboration during anti-insurgency operations, according to human rights NGOs.

In January 2009 a local NGO reported that security forces arrested three citizens in Cabinda for crimes against the state and collaboration with FLEC. Security forces beat and tortured them with cigarette burns, prolonged sun exposure, heavy weights tied to their testicles, and flogging until they bled from their ears, noses, eyes, and mouths. There were no updates on the case by year's end.

In November 2009, according to Human Rights Watch (HRW), approximately 60 soldiers arrived in the village of Sassa Zau Velho and severely beat two elderly men. The soldiers pillaged the men's houses and stole money. Villagers reported that the military commander of the northern region in Cabinda later apologized. He also reportedly stated that if victims could identify the perpetrators, the soldiers would be punished. However, the victims were unable to identify the soldiers, and the FAA neither restored the stolen goods nor paid damages to cover the medical and hospital bills.

Reports of abuses by private security companies continued, especially in Lunda Norte and Lunda Sul. According to reports from human rights activists, private security contractors hired by diamond companies to protect their concessions from illegal exploitation were responsible for most of the violence.

Land mine and other ERW-related injuries continued during the year, as infrastructure improvements made possible increased movement of persons and goods in rural, war-affected areas. At least 12 persons were killed by unexploded ordnance (see section 1.a.) and at least three were injured.

*Prison and Detention Center Conditions.*—Prison conditions were harsh and life threatening. NGOs reported that prison officials routinely beat and tortured detainees.

Overcrowding and lack of medical care, sanitation, potable water, and food caused some prison deaths. It was customary for families to bring food to prisoners, but guards demanded bribes as a precondition for food delivery. Some prisoners died of disease, especially in provincial prisons. Prison conditions varied widely between urban and rural areas. As of September 2009 there were 16,183 inmates in prison.

During the year foreign government officials visited a model prison in Bengo that had sanitation, ventilation, lighting, medical care, potable water, and sufficient food for the number of prisoners.

On August 14, Amnesty International (AI) reported that 34 prisoners in Lunda Norte suffered from a lack of sanitation, drinking water, and food. The same prisoners also suffered from vomiting, diarrhea, blood loss, malaria, and pneumonia, for which they received no medical treatment. No information was available at year's end on whether the prisoners eventually received medical treatment.

Most prisoners were allowed visitors, and the law provides for prisoners to practice freedom of religion. The Government allowed prisoners to submit complaints to judicial authorities and to request investigation of conditions. The Government investigated and monitored prison and detention center conditions.

The Government opened one new prison in Bengo Province during the year. Two facilities were under construction in Lunda Norte and Zaire provinces to alleviate the overcrowding that sparked riots in 2007 in which at least two persons were killed.

According to a March 24 article in the *Jornal de Angola*, the N'dalatando prison in Kwanza Norte held 378 prisoners, 305 of whom had been sentenced; 73 were in pretrial detention.

On May 1, the weekly independent newspaper Folho 8 reported that more than 2,000 prisoners either were being held nationwide in prolonged pretrial detention or were not being released after having completed their sentences.

On June 1, the Kuando prison director reported that the prison, which originally was built for 36 prisoners, currently held 565 inmates, of whom 350 prisoners were in pretrial detention. The prison reportedly lacked running water, electricity, a health clinic, and educational facilities. Female and male prisoners were housed together.

Kwanza Sul's jail in Sumbe held 1,144 prisoners, 428 of whom were in pretrial detention.

Chronically underpaid prison officials supported themselves by stealing from prisoners and extorting money from inmates' family members. Prison guards continued to demand that prisoners pay for weekend passes to which they were entitled. There were continued reports of prison officials operating an informal bail system, releasing prisoners until their trial dates for a fee.

Female inmates informed the UN Working Group on Arbitrary Detentions that prison guards regularly raped them.

On March 20, the progovernment newspaper Jornal de Angola reported that Jean Pierre Kindudi and another inmate, both residents of the DRC, had been imprisoned since 2007 in Kwanza Norte Province without contact with representatives of their home country.

On April 17, Folho 8 reported that inmate Beatriz Antonia became pregnant while in prison and prison officials encouraged her to have an abortion. When she refused, she was placed in solitary confinement.

Authorities at provincial prisons regularly housed juveniles, often incarcerated for petty theft, together with adults, and subjected the children to abuse by guards and inmates; however, authorities in urban prisons often separated juveniles from the main prison population. Juvenile detention centers existed in Luanda but were severely overcrowded.

Authorities frequently held pretrial detainees with sentenced inmates and held short-term detainees with those serving long-term sentences for violent crimes, especially in provincial prisons. On April 30, prison officials released 41 prisoners who were held in pretrial detention.

The Government permitted visits by independent human rights observers. The Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during the year. In April a foreign diplomatic delegation visited the prison in Bengo Province. Diplomats reported that they were allowed to speak to the prisoners, who reported difficulty accessing justice. Some had completed their sentences but remained incarcerated because a magistrate had not reviewed their cases.

An ombudsman existed to help ensure cases reached the justice system. The office addressed some human rights issues.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, police legally can detain an individual under reasonable suspicion for six hours without evidence of a crime. Security forces often did not respect these prohibitions in practice.

According to a local NGO, police arbitrarily arrested individuals without due process. For example, on September 11, five heavily armed police officers entered Mateus Manuel da Cunha's residence in Rangel, Luanda, without an arrest warrant. They accused the suspect of being a "dangerous antisocial element" and detained him. No further information was available at year's end.

An investigation continued at year's end into the February 2009 case in which police arbitrarily detained two youths at police headquarters when they delivered an obituary notice about the youths' cousin, a victim of a gang killing in Luanda.

Local human rights NGOs reported that authorities detained family members of individuals wanted by the police.

During the year 24 Cabindans were detained for supposed crimes against the state, compared with 30 detained in 2009. HRW reported that 40 individuals have been arbitrarily arrested in Cabinda since 2007.

On August 21, the Cabinda Supreme Court freed four citizens, Joao Paulo Mombo, Joao Baptista Maiele, Zacarias Joao Zau, and Marcos Lubuca Malila Tovo, who were sentenced to 24 months in prison in 2008 for crimes against state security. The four were detained in 2008 by FAA soldiers, who accused them of involvement in a FLEC attack.

*Role of the Police and Security Apparatus.*—The National Police, controlled by the Interior Ministry, are responsible for internal security and law enforcement. The Internal Intelligence Service reports to the presidency and investigates sensitive state

security matters. The FAA is responsible for external security but also has domestic security responsibilities, including border security, expulsion of illegal immigrants, and small-scale actions against FLEC separatists in Cabinda.

Other than personnel assigned to elite units, police were poorly paid, and the practice of supplementing income through extortion of civilians was widespread. Corruption and impunity remained serious problems. Most complaints were handled within the National Police by internal disciplinary procedures, which sometimes led to formal punishment, including dismissal. However, the Government did not establish mechanisms to expedite investigations and punish alleged offenders, and it rarely disclosed publicly the results of internal investigations.

The Government's closure of the UN Human Rights Office (UNHRO) in 2008 hampered the Ministry of Interior's efforts to train police and army recruits. However, police participated in professional training with foreign law enforcement officials from several countries in the region.

*Arrest Procedures and Treatment While in Detention.*—Prior to an arrest, the law requires a judge or magistrate to issue a warrant, although a person caught committing a crime may be arrested immediately without a warrant. However, security forces did not always procure arrest warrants before detaining persons. Police did not obtain warrants before conducting searches for illegal vendors and making sweeps of public markets. A local NGO estimated that as many as 75 percent of searches were conducted without a warrant.

The constitution provides the right to prompt judicial determination of the detention's legality, but authorities often did not respect this right in practice.

The law mandates that detainees be informed of charges against them within five days, or the prosecutor may permit the suspect to return home and provide a warrant of surveillance to local police. This generally occurred in practice.

If the crime is a misdemeanor, the suspect may be detained for 30 days before trial. If the crime is a felony, the prosecutor may prolong pretrial detention up to 45 days. Pretrial detention may be prolonged by court order while officials build their case. The requests are not in the public domain, which made it difficult to determine whether authorities exceeded the limits.

A functioning but ineffective bail system, widely used for minor crimes, existed. Prisoners and their families reported that prison officials demanded bribes to release prisoners. Prisoners are allowed access to a lawyer.

Unlawful arrest and detention continued to be serious problems. NGOs continued efforts to secure the release of persons detained illegally. Detainees should not be held longer than 24 hours, but many are held for days. In 2009 NGOs reported more than 500 cases of illegal detentions.

On August 11, AI reported that the 34 persons held in Dundo Prison for crimes against state security had been waiting nine months for a trial. The individuals participated in an NGO active in Lunda Norte to promote administrative and financial federalism for the province.

In mining provinces such as Lunda Norte, Lunda Sul, and Bie, international organizations reported that government security forces detained illegal immigrants and their families in transit centers, where the security forces subjected them to systematic rape and body cavity searches, as well as depriving them of food and water.

For example, between September and December, police expelled approximately 12,000 illegal immigrants, most of them diamond workers in Lunda Norte and Lunda Sul. NGOs and the media reported acts of violence and degrading treatment, including rape and sexual abuse, associated with these operations.

Security officials arbitrarily arrested members of the opposition. On September 23, the online independent news source Club-K reported that police in Bie Province detained one person for attending a UNITA meeting. However, UNITA member Alcildes Sakala reported that the police detained 11 persons over two days for belonging to UNITA.

Cabinda residents continued to report that security forces detained persons suspected of FLEC activity or collaboration.

Between January 8 and 17, police arrested six individuals, Francisco Luemba, Belchior Lanso Tati, Raul Tati, Jose Benjamin Fuca, Andre Zeferino Puati, and Barnabe Paca Peso in Cabinda for "Crimes against state security" for collaborating with FLEC. The six individuals were formally charged in March. Andre Zeferino Puati was convicted for armed rebellion and homicide allegedly committed on January 8 and sentenced in early June to three years in prison for possessing documents calling for protest against the Government. On August 23, four of the detainees were convicted of "other acts" under the state security law, sentenced to between three and six years' imprisonment, and required to pay \$600 to \$1,200 fines. They were arrested for possessing documents about FLEC and for allegedly intellectually

supporting the FLEC movement. Barnabe Paca Peso was acquitted in September. Luemba, Lanso Tati, Tati, Fuca, and Puati were released in late December.

In early April, Felix Sumbo was detained for possessing T-shirts with the names of six detainees and the phrase, "The truth will set them free" printed on them. Sumbo was held for three days before being released.

Also in early April, police raided Antonio Paca Pemba Panzo's residence to search for the same T-shirts. Although police did not find the T-shirts, they arrested and detained him for seven months. Panzo reported that police mistreated him while in prison. He was released in November after charges against him were dropped.

The law mandates access to legal counsel for detainees and states that indigent detainees should be provided a lawyer by the state. These rights often were not respected, in part due to the shortage of legal professionals. The law also allows family members prompt access to detainees; however, this occasionally was ignored or made conditional upon payment of a bribe.

Excessively long pretrial detention continued to be a serious problem. An inadequate number of judges and poor communication among authorities contributed to it. Police beat and then released detainees rather than prepare a formal court case. In some cases, authorities held inmates in the prison system for up to two years before their trials began. NGOs reported that more than 50 percent of inmates were pretrial detainees, most of whom had not been formally charged. The Government did not release detainees who had been held beyond the legal time limit, claiming that previous releases of pretrial detainees had resulted in an increase in crime.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary remained understaffed, inefficient, corrupt, and subject to executive and political influence (see section 4).

The president appoints Supreme Court justices for life terms without confirmation by the National Assembly. The Supreme Court generally heard cases concerning alleged political and security crimes. The Ministry of Defense also tried civilians in military courts.

There were long trial delays at the Supreme Court level. Criminal courts also had a large backlog of cases, which resulted in major delays in hearings.

Informal courts remained the principal institutions through which citizens resolved conflicts in rural areas. Traditional leaders also heard and decided local cases. These informal systems did not provide citizens with the same rights to a fair trial as the formal legal system. Instead, each community in which they were located established local rules.

Most municipalities did not have prosecutors or judges. Local police often served as investigator, prosecutor, and judge. Both the National Police and the FAA have internal court systems that generally remained closed to outside scrutiny. Although members of these organizations can be tried under their internal regulations, cases that include violations of criminal or civil laws can also fall under the jurisdiction of provincial courts.

*Trial Procedures.*—The law provides for the right to a fair trial; however, the Government did not always respect this right. Suspects must be in the presence of a judge and defense attorney when charged. Defendants are presumed innocent until convicted. By law trials are usually public, although each court has the right to close proceedings. Juries are not used. Defendants have the right to be present and to consult with an attorney in a timely manner. The law requires that an attorney be provided at public expense if an indigent defendant faces serious criminal charges. Outside of Luanda, the public defender was generally not a trained attorney due to shortages in qualified personnel. Defendants do not have the right to confront their accusers. They may question witnesses against them and present witnesses and evidence on their own behalf. The Government did not always respect these rights in practice.

Defendants and their attorneys have the right to access government-held evidence relevant to their cases. In addition defendants have the right to appeal. Lawyers and prosecutors can appeal if the sentence is unsatisfactory, but only a higher court can modify the sentence. However, the Government did not always respect these rights in practice.

The law extends to all citizens. A separate court under the Ministry of Justice is designated for children's affairs. It functions as part of Luanda's provincial court system. The Luanda juvenile court hears cases of youth under the age of 18 who are victims of a crime. The juvenile court also hears cases of minors between the ages of 12 and 16 who are accused of committing a criminal offense. Minors over the age of 16 accused of committing a criminal offense are tried in the regular court system. In many rural provinces, there is no provision for juvenile courts, so offenders are tried as adults.

*Political Prisoners and Detainees.*—There were reports of political prisoners. On September 23, an independent, online news outlet Club-K reported that police in Bie Province detained one person for attending a UNITA meeting. UNITA member Alcides Sakala additionally reported that police detained 11 persons over two days for belonging to UNITA.

In May 2009 the president of a local movement for autonomy and independence, Jota Malakito, was taken into police custody and held incommunicado. On October 8, he was transferred from Viana Penitentiary Center to Dundo, Lunda Norte, where he was tried with 33 other persons accused of crimes against state security and instigating a rebellion. As of year's end Malakito remained in prison.

*Regional Human Rights Court Decisions.*—On May 12, the African Commission on Human Rights found the country in violation of several articles in the African charter in relation to a 2004 case in which 14 Gambians were deported along with approximately 126,250 other foreigners, under a government program called Operacao Brillhante, a campaign whose aim was to rid the mining areas of foreigners. The commission recommended that the Government establish a commission of inquiry to investigate. Foreign Minister Assuncao dos Anjos responded that the country was being unjustly criticized, likely due to a misunderstanding of its law.

*Civil Judicial Procedures and Remedies.*—Although the law provides for an independent and impartial judiciary in civil matters, the judiciary was subject to political interference. Civil courts functioned in some provinces but faced severe backlogs. In 2009 Luanda's civil courts had more than 2,000 pending civil suits. The Ministry of Justice continued work with national and international partners to improve court clerk training and technical capacity in provincial and municipal civil courts. Damages for human rights violations could be sought in court, but no cases were tried during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not always respect these prohibitions in practice. For example, citizens widely believed that the Government maintained surveillance of certain groups, including government critics, opposition parties, and journalists.

During the year the National Assembly approved a law dictating that citizens could not be relocated without being provided a fair indemnification. In practice, more than 6,000 persons were relocated during the year; most did not receive a fair indemnification. Under the new constitution, all land belonged to the state. The state claimed many of the former residents did not have clear title to the dwellings, which were constructed illegally.

During the year there were numerous instances in which the Government exercised the right of eminent domain to destroy private homes. The former homeowners were not compensated at fair market value for the loss of their residences or land. The Government demolished housing in Cabinda, Benguela, Lubando, Malange, and Huila provinces and sometimes forcibly relocated residents to vacant sites.

For example, on January 25, 12 houses in Benguela were destroyed and the residents were relocated to a nearby vacant area.

On March 6, the Huila provincial government destroyed the homes of more than 3,000 persons. Seven persons were killed during the destruction, including one child. The individuals were relocated to a field in Tchavola approximately six miles outside of Huila. Initially, they were provided with tents in a muddy field although eventually the Government gave them food, water, medical services, and transportation. However, the individuals were not provided fair compensation for their homes.

In August the Huila provincial government also destroyed the homes of more than 1,800 persons in Matala and Quipungo municipalities. Huila Governor Isaac dos Anjos told the weekly independent newspaper Novo Jornal on October 22 that he was following instructions when he ordered homes destroyed to make way for the Mocamides railway.

On September 29, the Benguela provincial government destroyed 1,557 houses in Lubango. The Government had originally earmarked 320 houses for demolition, but it had not warned residents about when the demolitions would begin. Residents also were not given land in compensation nor materials to construct another house. The new site was located four miles from Lubango, making it difficult for residents to work.

During the year officials from the Jardims de Eden housing project threatened residents of Luanda's Baghdad and Iraq neighborhoods attempting to displace them from profitable building land. Residents successfully organized a campaign to resist attempts at intimidation and insist on receiving fair indemnification.

In April 2009 the Government relocated approximately 1,500 families (9,000 persons) from downtown Luanda to Zango, 10 miles away. At year's end, according to the families' resident's association, only 24 families had received land. Some individuals were given basic but insufficient construction material, resulting in poor quality dwellings. Most residents continued to live in tents with no running water, health clinics, sanitation services, education, transportation, or electricity.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, government regulations and minimal independent media outside of Luanda limited these rights in practice. Human rights activists and journalists practiced self-censorship.

For example, journalist Antonio Freitas stated in a May 15 interview with the BBC that a culture of self-censorship exists among journalists.

Individual citizens reported practicing self-censorship but were generally able to criticize the Government without fear of direct reprisals. The Government engaged in subtle repression and economic coercion, often in the form of withdrawing business or job opportunities, to discourage criticism. For example, an NGO reported that citizens often curtailed their support of an opposition political party because they would suffer reprisal from MPLA supporters.

There were 12 privately owned weekly newspapers and four Luanda-based commercial radio stations. All but three of these publications—*Folha 8*, *Angolense*, and *Agora*—were rumored to be owned by groups or individuals tied to the Government. The Government permitted state-owned *Radio Nacional* to broadcast nationally, but all other stations could only broadcast in provinces where they opened radio stations. Authorities did not allow independent stations to use repeaters to expand their signal reach. As a result, most private radio stations only broadcasted in Luanda. *Radio Mais*, whose ownership included individuals associated with the ruling party, also broadcasted in Huambo and Benguela.

On June 5, the firm *Media Investments* bought two major privately owned newspapers, *Semanario Angolense* and *Semanario A Capital*. According to a former owner of *Semanario Angolense*, he was forced to sell because the newspaper was no longer profitable, and advertising revenues had suddenly and suspiciously ceased. He suspected that government-linked officials objected to the newspapers' critical editorial line and forced or encouraged advertisers to end contracts with the newspaper.

In August government officials reportedly confiscated and burned all 3,500 copies of *Semanario Angolense* due to an article criticizing the president as well as the recent increase in the price of gasoline and diesel fuel. The following week the newspaper printed an explanation stating that there had been "technical issues" with the printing of the newspaper.

In October the new owner of the weekly newspaper *A Capital*, an alleged subsidiary of *Media Investments*, ordered copies to be burned at the press. According to some of the newspaper's editors, that week's edition criticized the president's project to build one million houses. The paper did not circulate for two weeks.

Independent radio and print media criticized the Government openly and at times harshly, but at their peril. Local journalists were not able to criticize government officials, particularly the president, without fear of arrest or harassment.

The Government also restricted nationwide independent broadcasting through licensing laws. However, despite such restrictive laws, *Radio Mais* broadcasted to three provinces outside Luanda. During the year *Radio Ecclesia* negotiated with the Ministry of Social Communication to expand its broadcast range to five provinces. Multiple community-based radio stations opened during the year, including the popular *Radio Cazenga*.

During the year authorities arrested, harassed, and intimidated journalists.

In January Jose Gimbi received death threats because of his reporting, specifically for VOA.

On September 5, Alberto Graves Chakussanga, a journalist for *Radio Despertar*, was shot and killed in his home in Luanda. It was unclear if his death was related to his role as a journalist. An investigation was ongoing at year's end.

In mid-September, there was a burglary at the home of Irene Mujoco, a reporter for the weekly newspaper *O Pais*. All his work-related equipment was stolen. A few days later the car of another *O Pais* reporter, Eugenio Mateus, was vandalized. All his belongings in the car were stolen.

On September 23, Norberto Sateco, a reporter for the independently owned TV *Zimbo*, was shot in the legs by unknown assailants in Luanda. Sateco had worked for the VOA in Luanda until its multipress office closed in 2007.

On September 30, three Luandan-based journalists travelling to Lubando, Huila Province, had their equipment confiscated by local police after reporting on the housing demolitions. A heavy police presence contributed to a climate of intimidation and hampered the media's normal activities at the demolition site.

On October 22, Antonio Manuel Da Silva, journalist for Radio Despertar, a station critical of the Government and linked to the opposition party UNITA, was attacked and stabbed on his way home from work. An investigation was pending at year's end.

There were reports that security forces interfered with journalists' attempts to take pictures or video during the year. In the period prior to the African Cup of Nations soccer tournament in Cabinda, journalists were detained for photographing the stadiums. Visitors were warned during the year not to take photographs of any government-affiliated buildings or persons because security forces might seize their cameras or detain them.

For example, in December 2009 reporters Jose Gimbi and Benoit Falcao were detained for photographing a stadium in Cabinda.

Defamation is a crime punishable by imprisonment or fine. Accuracy is not an acceptable defense against defamation charges; the accused must provide evidence proving the validity of the allegedly damaging material.

In 2009 journalist Armando Chicoca was accused of defamation. The president of the provincial court of Namibe Province, Antonio Vissandule, accused Chicoca of four accounts of defamation. Chicoca was tried and awaiting sentencing at year's end. Chicoca also reported receiving death threats in January, which he felt were linked to two legal cases pending against him.

The minister of social communications, the spokesperson of the presidency, and the national director of information, maintained significant decision-making authority over the media.

Official news outlets, including Angolan Public Television (TPA), favored the ruling party and largely ignored the opposition in their reporting. Opposition parties were given limited access to state-owned media and were requested to pay in exchange for coverage of their events and statements.

*Internet Freedom.*—Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Unlike in previous years, there were no reports that the Government monitored Internet chat rooms, Web sites, or pressed for the removal of defamatory material. Availability of Internet service and Internet cafes increased during the year, but the high cost of Internet service put it beyond the reach of most citizens.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for the right of assembly; however, the Government at times restricted this right. The police impeded peaceful demonstrations at least three times during the year.

The law requires written notification to the local administrator and police three days before public assemblies are to be held, but it does not require government permission for such events. However, the Government at times prohibited events based on perceived or claimed security considerations. Participants potentially were liable for "offenses against the honor and consideration due to persons and to organs of sovereignty." Police and administrators did not interfere with progovernment gatherings. However, groups intending to criticize the Government often met a heavy police presence and government excuses preventing them from carrying out the event. Usually the Government claimed that the timing or venue requested was problematic or that the proper authorities had not received notification.

On March 25, the NGO Omunga attempted to stage a peaceful demonstration in Benguela to protest housing demolitions. Authorities prevented the demonstration from taking place, citing various legal arguments. The demonstration eventually took place on April 10 but on a much smaller scale.

On May 22, activists in Cabinda attempted to stage a protest about the prolonged pretrial detention of six individuals in prison since January. Authorities used a strong police presence to intimidate the protesters and prevent the demonstration.

On November 3, two NGOs, "Plataforma Mulheres em Accao" and Open Society Institute, walked to the National Assembly to encourage the legislature to vote on a law against domestic and family violence. Five of the demonstrators were detained for five hours and later released. Police claimed that the public demonstration was not authorized. Organizers claimed they had notified authorities.

*Freedom of Association.*—The constitution and law provide for the right of association, and the Government generally respected this right in practice. Extensive and

unexplained delays in the NGO registration process continued to be a problem. For example, four civil society associations (AJPD, the Human Rights Coordination Council, Maos Livres, and Omunga) constituted between 200006 remained without certificates to operate from the Ministry of Justice at year's end. According to the Government, there were 329 national and 133 international NGOs active in the country.

The Government sometimes arbitrarily restricted the activities of associations it considered subversive by refusing to grant permits for organized activities. During the year opposition parties generally were permitted to organize and hold meetings; however, opposition officials continued to report minor obstructions to the free exercise of their parties' right to meet. For example, during the year local authorities in multiple provinces threatened to close UNITA's headquarters building as well as threatened members who attended meetings.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government at times restricted these rights in practice. During the year the Government improved the road network and decreased checkpoints between provinces. The Government cooperated with the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration, and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), returning refugees, asylum seekers, and other persons of concern.

Extortion and harassment at government checkpoints in rural areas and at provincial and international border checkpoints interfered with the right to travel. Extortion by police was routine in cities on major commercial routes. The Government and private security companies restricted access to designated diamond concessions. Citizens living near concession areas regularly were denied access for any purpose, including obtaining water.

For example, in November well-known journalist Rafael Marques reported that police detained him in Lunda Norte for no reason. After extricating himself from the situation, he later encountered another threatening road block.

In May the National Criminal Investigation Department (DNIC) investigated William Tonet, the publisher of the weekly newspaper *Folha 8*, for supposed crimes against the state; no trial had taken place by year's end. On May 9, authorities seized Tonet's passport when he attempted to visit Namibia. Police notified Tonet that he was on a list of persons forbidden to leave the country.

NGOs reported that security forces often used excessive force in expelling illegal artisanal miners and their families. In late October, NGOs in the DRC reported that Angolan officials had subjected more than 300 persons to lengthy detention in inhumane conditions in Angola, deprived them of food and water, and subjected them to sexual violence. Authorities then deported the refugees to the DRC and left them at the border naked. Angola expelled approximately 12,000 persons in the last three months of the year.

Land mines and other ERW remaining from the civil war continued to impede freedom of movement in rural areas.

The constitution prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons.*—Officially there were no IDPs. The majority of persons previously considered IDPs did not intend to return to their area of origin, as many considered their new locations to be home. Some of those yet to return to their homes stated that a lack of physical infrastructure and government services, such as medical care, and the presence of land mines, were major deterrents to their return.

The Ministry of Assistance and Social Reinsertion (MINARS) has primary responsibility for returnees and any remaining IDPs, as well as housing and resettlement programs; however, its efforts remained inadequate. MINARS delegated primary responsibility to provincial governments to ensure safe, voluntary resettlement in areas cleared of mines and with access to water, arable land, markets, and adequate state administration.

From January to November 2009, the Government forcibly expelled 85,000 illegal Congolese immigrants to Bas-Congo, and the DRC retaliated by forcibly returning approximately 52,000 recognized Angolan refugees. However, smaller expulsions along the entire border between the two countries continued throughout the year. The United Nations Organization Mission in the Democratic Republic of Congo verified that DRC authorities had conducted most of their expulsions in 2009 peacefully. Nonetheless, expelled Congolese entering the DRC reported that Angolan se-

curity forces committed abuses against them. According to the UNHRO, between January and February 2009, 9,205 Congolese allegedly were expelled from the country, including 1,943 women of whom 304 allegedly were raped.

By February all Angolan returnees who left the DRC in late 2009 had been settled in communities, mostly in Uige and Zaire provinces. Government officials and returnees reported in both February and September that they still needed legal assistance to regularize their status, supplies to restart their careers, education and language training, agricultural supplies, and housing materials.

The Government did not usually restrict aid efforts by international humanitarian groups. However, the International Organization for Migration and other international organizations reported that the Government sometimes denied them access to camps for returnees in Zaire and Uige provinces before the returnees were settled in communities.

*Protection of Refugees.*—The country's law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. There were 14 refugee settlement areas, 10,537 refugees, and 3,936 asylum seekers during the year.

The Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In October 2009 the Government and the UNHCR resumed joint efforts to repatriate thousands of refugees remaining outside the country since the civil war. These efforts continued during the year.

During the year Angolan refugees returned from Namibia, Zambia, the Republic of Congo, and the DRC. According to UNHCR statistics, approximately 85,000 Angolan refugees remained in neighboring countries at year's end.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully. Citizens were able to exercise the right to elect legislative representatives in 2008. The new constitution, adopted in February, designates the president as head of state, renamed the parliament the "National Assembly," and replaced the prime minister with a vice president. However, the right to elect local leaders remained restricted and elections did not occur at the provincial or municipal levels.

*Elections and Political Participation.*—After having postponed parliamentary elections for two years, the Government held the first postwar elections in 2008. The ruling MPLA won 81.6 percent of the vote. Domestic and international observers reported that polling throughout the country was peaceful and generally credible, although the ruling party enjoyed advantages due to state control of major media and other resources. Serious logistical failures marred polling in the capital, Luanda. Opposition parties criticized many aspects of the electoral process, including state control of the major media, late disbursement of public campaign funds, the National Electoral Commission's (CNE) failure to accredit some opposition and civil society electoral observers, and the CNE's last-minute decision to discard the legal requirement that a voter registry be used to verify a voter's identity and residence at polling stations. Despite these and other irregularities, election day was peaceful, and more than 87 percent of registered voters participated. Opposition parties generally accepted the electoral results.

Observers had expected a presidential election in 2009. However, elections did not occur due to a delay to accommodate constitutional reform. The new constitution calls for elections within five years of the previous elections. Voters will elect candidates from a party list, with the presidential candidate at the head of the list.

The new constitution calls for a "gradual" dissemination of power to the provincial and municipal level.

The ruling MPLA party dominated all political institutions. Political power was concentrated in the presidency and the Council of Ministers, through which the president exercised executive power. The council can enact laws, decrees, and resolutions, assuming most functions normally associated with the legislative branch. The National Assembly consists of 220 deputies elected under a party list proportional representation system. This body has the authority to draft, debate, and pass legislation, but in practice laws generally were drafted and proposed by the executive branch for the assembly's approval. After the 2008 legislative elections, opposition deputies held fewer than 20 percent of the parliamentary seats.

In August the president of the National Assembly issued a decree that curtailed the National Assembly's ability to question certain acts of the executive branch. The power to hold the executive branch accountable had not been restored by year's end.

There were five political parties represented in the National Assembly: the MPLA, UNITA, the National Liberation Front for Angola, the Social Renovation Party, and Novo Democracia. After the 2008 elections, any of the 96 parties that failed to obtain a legislative seat or 0.5 percent of the vote ceased to exist. Under the new constitution, at least two new parties could seek legalization to run in the next elections, scheduled for 2012.

Opposition parties stated that their members were subject to harassment, intimidation, and assault by supporters of the MPLA. UNITA continued to argue that the MPLA had not lived up to the terms of the 2002 peace accord, and former combatants lacked the social services and assistance needed to reintegrate into society. Former combatants also reported difficulties obtaining pensions due to bureaucratic delays or discrimination. UNITA headquarters buildings in at least three provinces were denied access to public utilities, including electricity and water. During the year UNITA reported that its flags were defaced and its buildings vandalized.

In July UNITA reported that a member was attacked and killed on the street while leaving a party meeting. The victim was wearing a UNITA T-shirt. Party representatives believed the attack was politically motivated.

On July 28, *Jornal de Angola* ran a full-page article titled, "The Coup-ist Thesis of UNITA's Youth Movement (JURA)." The article extracted statements from JURA's platform to portray the movement as trying to overthrow the Government. UNITA interpreted this article and two others highlighting the JURA youth conference as instances of intimidation and slander.

On August 2, a woman wearing clothes that identified her as a UNITA member was beaten and killed as she was leaving a UNITA meeting. UNITA members believe she was killed because of her party affiliation.

In September UNITA reported that one of its members, Soba Bernardo Samangomba, was detained by the Bie police for four days for attending a UNITA meeting.

Opposition party members and civil society leaders cited examples of political intolerance during the 2008 election process.

Of the 220 deputies in the National Assembly, 82 were women (38 percent), exceeding the UN-recommended quota of 30 percent. Women also held three of the 18 governorships (16 percent) and led nine of the 31 ministries (29 percent).

The country has three dominant linguistic groups: the Ovimbundu, the Mbundu, and the Bakongo, which together constitute approximately 77 percent of the population. All are represented in government. Other groups are also taking part in governing at the national level. There were six members of smaller ethnic groups in the National Assembly and one minority member in the cabinet who was Chokwe. Political parties must be represented in all 18 provinces; however, the majority of political parties had limited national constituencies. By law no political party could limit party membership based on ethnicity, race, or gender.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement these laws effectively, and local and international NGOs and media sources reported that officials engaged in corrupt practices with impunity. The Financial Court was the Government agency responsible for combating government corruption; however, the DNIC also investigated some cases.

The World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem.

Government corruption was widespread, and accountability was limited due to a lack of checks and balances, lack of institutional capacity, and a culture of impunity. Despite the widespread perception that government corruption at all levels was endemic, public prosecutions were rare.

In October the president fired both the minister of the interior and the vice minister for immigration for authorizing the illegal extradition of a Portuguese citizen from Sao Tome and Principe. The media reported that the Portuguese man was accused of embezzling funds from a local businessman, who also was a business partner of the interior minister. Despite a presidential statement declaring the extradition illegal, no charges were brought against any government officials involved in the case.

In March the National Assembly approved a new law on public probity, which required most government officials to declare their assets to the attorney general. However, the information was not made available to the general public during the year, and the president, vice president, and president of the National Assembly were exempt from the law's requirements.

The judiciary is corrupt and subject to political influence and conflict of interest.

In April five high-level immigration officials were convicted of embezzlement of public funds and accepting bribes. They were sentenced to prison terms of eight years. In September the Constitutional Court overturned the convictions. The court stated that the accused officials' right to due process and a fair trial had been violated. However, the press reported several conflicts of interest in the ruling; in particular, the president of court and one of its judges were both owners of the law firm that defended the accused and the lead defense lawyer had also worked as a consultant to the court.

The Government made progress in improving transparency in its economic operations, in large part due to the measures implemented under a loan agreement reached with the International Monetary Fund (IMF) in November 2009.

As a condition of the loan, the IMF required that the 2008 audit of the state-owned oil company, Sonangol, be completed by an audit firm of international reputation. The Government agreed to publish Sonangol's audited financial statements for 2007 and 2008 and to adopt this new transparency as part of normal standard practice for the future. In addition the Government committed gradually to phase out the quasi-fiscal activities of Sonangol to concentrate better such operations in the central government. The Government continued to publish online a detailed block-by-block accounting of the monthly revenues it received from Sonangol's oil production. The Government also published its proposed budget online, prior to adoption by the National Assembly. However, there continued to be a significant lack of transparency in the overall process of the Government's procurement and use of loans, taken from both private banks and foreign governments.

To monitor and control expenditures more effectively, the Ministry of Finance continued implementation of the Integrated Financial System, a system designed to record all central government expenditures.

Parastatals, most notably Sonangol, were required to report revenues to the central bank and the Ministry of Finance, but inconsistent accounting practices hampered transparency.

Audits of Endiama, the state diamond parastatal, were not made public. Serious transparency problems remained in the diamond industry, particularly regarding allocation of exploration, production, and purchasing rights.

The business climate continued to favor those connected to the Government. Government ministers and other high-level officials commonly and openly owned interests in companies regulated by or doing business with their respective ministries. There are laws and regulations regarding conflict of interest, but they were not widely enforced. Petty corruption among police, teachers, and other government employees was widespread. Police extorted money from citizens and refugees, and prison officials extorted money from family members of inmates (see sections 1.c., 1.d., and 2.d.).

There were credible reports of high-level officials receiving substantial bribes from private companies awarded government contracts.

The law provides for public access to government information; however, the information posted on most government Web sites remained limited. The Government's limited technical capabilities restricted its ability to provide information. Laws are made public by being published in the official gazette; this publication can be purchased for a small fee but is not available online.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups operated throughout the country. Some of those investigating government corruption and human rights abuses alleged government interference in their activities throughout the year.

More than 320 domestic NGOs and 133 international NGOs operated in the country. An estimated 100 NGOs worked on human rights issues, although only a few were considered effective. Local NGOs actively promoted and defended human rights during the year by documenting prison conditions, protesting forced evictions, providing free legal counsel, lobbying government officials, and publishing investigative reports.

The Law of Association requires NGOs to specify their mandate and areas of activity. The Government used this provision to prevent or discourage established NGOs from engaging in certain activities, especially those that were politically sensitive or related to election issues. Six NGOs did not have a registry certificate. Government officials threatened to ban those NGOs it determined to be operating outside their mandate or not effectively working on the specific issues they were created to address; however, NGO leaders suspected the motive was to silence their criticism. No new NGOs were banned during the year.

Problems with governmental delays in processing registration applications for NGOs continued. At least four NGOs remained unregistered. One local NGO, AJPD, having not received the registration certificate, filed a case against the Ministry of Justice to court. The case had been pending since 2002, and there was no resolution by year's end. Despite the lack of certification, all four organizations continued to operate under a clause in the registration law that automatically granted legal operating status if authorities did not reject a group's application within 150 days, and the group continued to work closely with some ministries.

The Government allowed local NGOs to exist and to carry out human rights-related work. However, many NGOs were forced to limit the scope of their work because they faced problems registering, were subject to subtle forms of intimidation, and risked more serious forms of harassment and closure.

The Government arrested and harassed NGO workers. On April 20, Omunga Director Jose Patrocinio was detained in Luanda's airport. Officials stated they had to verify the authenticity of his passport. Others believe his detention was in retaliation for protesting the destruction of houses.

Unlike in the previous year, the Government also criticized domestic and international NGOs.

There were reports of police or military presence at community meetings with international NGOs, especially in Cabinda.

Unlike in the previous year, there were no reports of foreign human rights workers or researchers being detained.

Mpalabanda, a civil society organization formerly based in Cabinda, remained banned. Its registration was rescinded in 2006 when it joined the Cabindan Forum for Dialogue, an umbrella organization that negotiated peace with the Government. The Government determined that Mpalabanda was acting as a political entity outside of its legal mandate as a civil society organization. Mpalabanda supporters continued to distribute statements through the Internet and to attend public forums throughout the year. Former leaders experienced low-level harassment and intimidation throughout the year. For example, four of the seven individuals detained in Cabinda for links with the attack on the Togolese team were previous members of Mpalabanda.

The Government did not refuse visas to international NGO observers or otherwise restrict their access to the country. However, some international NGOs reported long delays in obtaining visas, although the delays were not significantly longer than those experienced by other foreigners.

The Government cooperated with international governmental organizations and permitted visits by UN representatives; however, in 2008 the UNHRO closed its office following a government decision not to grant a full mandate to the office. The decision to close the office directly contradicted government commitments to work more closely with the UNHRO, which were made when Angola won a three-year term on the UN Human Rights Council in 2007.

The African Commission on Human Rights criticized the Government for the deportation of Gambian citizens (see section 1.e.).

The National Assembly committee on human rights ostensibly focused on human rights in the legislature; however, it did not issue any reports.

State Secretary for Human Rights Bento Bembe spoke frequently about human rights during the year. The position—a cabinet level minister dedicated to human rights—has helped focus attention on human rights in the country.

The Government denied allegations that the FAA perpetrated human rights abuses in the DRC from 1993-2003 as reported in a UN Mapping Report released during the year.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not effectively enforce these prohibitions. Violence and discrimination against women, child abuse, child prostitution, trafficking in persons, and discrimination against persons with disabilities and indigenous persons were problems.

*Women.*—Rape, including spousal rape, is illegal and punishable by up to eight years' imprisonment; however, limited investigative resources, poor forensic capabilities, and an ineffective judicial system prevented prosecution of most cases. The Organization of Angolan Women operated a shelter in Luanda that offered special services for rape victims. In 2009 the police commissioner in Luanda estimated that 10 cases of rape occurred daily nationwide, 40 percent in Luanda. The Ministry of Justice worked with the Ministry of Interior to increase the number of female police officers and to improve police response to rape allegations. Police in Benguela were

concerned with an increase in rape, especially rape of children, as reported in a November 7 article in the *Jornal de Angola*.

On May 1, the newspaper *Folho 8* reported that a police officer raped a 22-year-old woman.

Domestic violence against women, including spousal abuse, was common and pervasive, particularly in urban areas. Domestic violence is not illegal; however, the Government occasionally prosecuted it under the law as rape or assault and battery. A 2007 preliminary study on domestic violence in Luanda indicated that 78 percent of women had experienced some form of violence since the age of 15. Twenty-seven percent of women reported abuse in the 12 months preceding the study; among women living in the poor outskirts of Luanda, 62 percent reported abuse in the same time period. During the year police recorded 831 cases of domestic violence. The Ministry of Family and Promotion of Women (MINFAMU) registered 283 cases of domestic violence for 2008. Common-law husbands or boyfriends perpetrated the majority of violence. The MINFAMU maintained a program with the Angolan Bar Association to give free legal assistance to abused women; the ministry maintained counseling centers to help families cope with domestic abuse. Statistics on prosecutions for violence against women under these laws during the year were not available.

Religious leaders in Lunda Norte and Uige reported that societal violence against elderly persons and rural and impoverished women and children occurred occasionally, with most cases stemming from accusations of witchcraft. Some women were killed, beaten, or expelled from their families, or died from mistreatment and malnourishment. The religious leaders, who offered church-run shelters to the victims, reported that police did not take action due to fears that the women might practice witchcraft against them. According to an April 2009 article, priests killed more than 400 persons in "faith-based" cures that involve violent rituals, beatings, and poison.

Sexual harassment was common and is not illegal. However, such cases may be prosecuted under assault and battery and defamation statutes.

Information on government provisions for reproductive health services or diagnosis and treatment of sexually transmitted infections, including HIV, was not available. Couples and individuals may decide freely and responsibly the number, spacing, and timing of their children, and have access to the information and means to do so free from discrimination, coercion, and violence. Women have access to contraception. According to a 2009 study published during the year, 17.7 percent of women have used contraception. According to the same study, 47 percent of women who gave birth had four or more prenatal consultations. Approximately 67 percent of women saw a qualified person at least once, 49 percent of births were attended by a qualified person, and 42 percent gave birth in a medical center. There were no reports of coercive family planning practices, nor coercive sterilization. There were no legal, social, cultural, or other barriers that limit access to these services.

Under the constitution and law, women enjoy the same rights as men; however, societal discrimination against women remained a serious problem, particularly in rural areas. There were no effective mechanisms to enforce child support laws, and women generally bore the major responsibility for raising children. In addition the Ministries of Labor and Health published an executive decree that listed the types of jobs prohibited to women.

The law provides for equal pay for equal work; however, women generally held low-level positions in state-run industries and in the private sector or worked in the informal sector. In an interministerial effort spearheaded by the MINFAMU, the Government undertook multiple information campaigns on women's rights and domestic abuse and hosted national, provincial, and municipal workshops and training sessions during the year.

*Children.*—The Government was committed to protect children's rights and welfare but lacked the human and logistical resources required to provide necessary programs. The National Institute for Children (INAC) had primary responsibility for coordinating government action concerning children's affairs.

Citizenship is derived by birth within the country's territory or from one's parents. However, the Government does not register all births immediately, and activists reported that many urban and rural children remained undocumented. As many as 30 percent of children under five years old were undocumented, according to a 2009 study released during the year. The Government did not permit undocumented children access to the educational system, and fees for birth certificates and identification cards remained prohibitive for impoverished families. Although the official registration drive ended in 2004, the Government continued to partner with UN Children's Fund to identify and assist undocumented children and provided limited subsidies to cover fees for families with proven financial need. The Government im-

plemented a previous plan to provide birth certificates in health clinics and maternity wards during the year.

Education is free and compulsory for documented children until the sixth grade, but students often had significant additional expenses. The Ministry of Education had insufficient resources, and educational infrastructure remained in disrepair. There were insufficient schools and teachers to provide universal primary education. According to a study conducted during the year, 77 percent of children between the ages of six and 11 attended primary school. The same study reported that 21 percent of students between the ages of 12 and 17 attended secondary school. An independent study late in the year reported 18 percent of boys and 13 percent of girls enrolled in secondary or higher education. The same study reported that 25 percent of the school-age population did not attend school, and the drop out rate was 30 percent.

Children of any age in an urban area were more likely to attend school than children in a rural area. Children in rural areas generally lacked access to secondary education. Even in provincial capitals, there were not enough classroom spaces for all the children who needed school access. There were reports of families paying bribes to education officials to ensure their child got a place in a classroom. According to the UN Educational, Social, and Cultural Organization, enrollment rates were higher for boys than for girls, especially at the secondary level.

The Government provided free medical care for children with identity documents at pediatric hospitals and health posts throughout the country; however, in many areas, health care was limited or nonexistent. Where medical care was available, boys and girls had equal access.

Child abuse was widespread. Reports of physical abuse within the family were commonplace, and local officials largely tolerated abuse. Religion and superstitions played a role in child abuse. During the year abuse of children accused of witchcraft continued to be a problem. Children accused of witchcraft were subject to abuses such as isolation from their families, denial of food and water, ritualistic cuttings, and the placing of various caustic oils or peppers on their eyes or ears. Children were sometimes killed during “exorcism” rituals. Most cases of abuse relating to traditional beliefs occurred in Luanda, Uige, and Zaire provinces. Vulnerable children, such as orphans or those without access to health care or education, were more likely to be victims of practices involving witchcraft. Government and religious leaders called for an end to these practices, but the influence of these traditional beliefs remained strong.

In September 55 children in Sanza-Pombo, Uige Province, were accused of being witches. A Congolese priest chained and tortured 12 children for being witches and therefore dangerous to their families. Churches, many based in the DRC, convinced impoverished families living in rural areas and the outskirts towns that their children had supernatural powers—leading to allegations that these children were practicing witchcraft. According to the National Institute for Religion Affairs, some religious sects were closed last year because they endangered the health and welfare of citizens. Despite the lockout of these religious sects, sporadic information on children accused of practicing witchcraft continued especially in the northern provinces. However, INAC reports that incidents involving witchcraft have gone down 70 percent from 2003 through the end of the year. The INAC also reported that an unknown number of individuals had gone to jail for alleging children committed witchcraft.

In 2007 the Government created the National Children’s Council, an interministerial commission designed to define priorities and coordinate the Government’s policies to combat all forms of violence against children, including unlawful child labor, trafficking, and sexual exploitation.

The legal age for marriage, with parental consent, is 15 years old. The Government did not enforce this restriction effectively, and the traditional age of marriage in lower income groups coincided with the onset of puberty. Common-law marriage was regularly practiced.

Child prostitution is illegal; however, local NGOs expressed concern over child prostitution, especially in Luanda and Cunene provinces. In February 2009 media sources reported on child prostitution cases in Luanda. In March 2009 NGO leaders appealed to the Government for a response; however, they did not receive one by year’s end.

Sexual relations between an adult and a child under the age of 12 are considered rape. Sexual relations with a child between the ages of 12 and 15 may be considered sexual abuse, with convicted offenders liable for sentences of up to eight years in prison; however, limited investigative resources and an inadequate judicial system prevented prosecution of most cases. There were no known prosecutions during the year.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.)

*Anti-Semitism.*—There is a Jewish community of approximately 350 persons, primarily Israelis. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, and access to health care or other state services, but the Government did not effectively enforce these prohibitions. The constitution mentions persons with disabilities in articles 23 (principle of equality), 77 (health and social protection), 80 (childhood), 83 (disabled citizens), and 84 (ex-combatants and veterans). Article 83 of the constitution grants persons with disabilities full rights without restrictions. The constitution permits the state to adopt a national policy to prevent, treat, rehabilitate, and integrate persons with disabilities, provide support for their families, remove obstacles to mobility, raise awareness in society, and foster special education and training opportunities. A law to address specific issues for persons with disabilities was drafted in 2004, but never passed. The law would have included access to essential services, social protection, and physical access to buildings.

Persons with disabilities included more than 80,000 land mine victims. Persons with albinism were common victims of discrimination, although church groups worked to eliminate the abuse. The NGO Handicap International estimated that persons with disabilities constituted 10 percent of the population. However, an August study estimated that 2.6 percent of the population had a physical or mental disability. According to government statistics in 2005, there were 170,000 persons with disabilities, most of them between the ages of 25 to 44, and 56 percent were male. Only 30 percent of persons with disabilities were able to take advantage of state-provided services such as physical rehabilitation, schooling, training, or counseling.

There is no legislation mandating accessibility for persons with disabilities to public or private facilities, and it was difficult for such persons to find employment or participate in the education system. MINARS maintained an office to address problems facing persons with disabilities, including veterans with disabilities, and several government entities supported programs to assist individuals disabled by land mine incidents. During the 2008 election, the Government provided voting assistance to persons with disabilities. The country had not signed the United Nations Convention on the Rights of Persons with Disabilities by year's end.

*Indigenous People.*—An estimated 3,500 San people lived in small dispersed communities in Huila, Cunene, and Kuando Kubango provinces. The San are traditional hunter-gatherers who are linguistically and ethnically distinct from their Bantu fellow citizens. Their very limited participation in political life has increased, and Ocadec, a local NGO advocate for the San people, worked with provincial governments to increase services to San communities and to improve communication between these communities and the Government.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not criminalize homosexuality or sodomy, although discussing homosexuality in society was highly taboo. The constitution defines marriage as between a man and a woman, but the law does not differentiate between male to male or female to female sex. NGOs have reported a small but underground lesbian, gay, bisexual, and transgender community in Luanda. On June 25, the television station TPA broadcasted a program where a member of the gay community discussed discrimination and intimidation based on sexual orientation.

*Other Societal Violence or Discrimination.*—Discrimination against those with HIV/AIDS is illegal, but lack of enforcement allowed employers to discriminate against persons with the disease. Local NGOs reported cases of discrimination against professionals with HIV/AIDS. There were no reports of violence against persons with HIV/AIDS. The Government's National Institute for the Fight Against HIV/AIDS conducted HIV/AIDS awareness and prevention campaigns. Local NGOs worked to combat stigmatization and discrimination against persons living with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for the right of workers to form and join independent unions, and workers exercised this right in practice; however, government approval is required. The law provides for rights for trade unions. However, the Government admitted that unions were hampered by membership and legalization issues.

The law allows unions to conduct their activities without government interference, although the Government did not protect this right. Labor unions independent of the Government-run unions worked to increase their influence, but the ruling MPLA continued to dominate the labor movement due to historical connections between the party and labor. There were unions for journalists, teachers, and taxi drivers, among others.

Workers have the right to strike, although strict bureaucratic procedures must be followed for a strike to be considered legal, and the Government can deny the right to strike or obligate workers to return to work. According to the law all workers could strike, except government workers.

Construction workers reportedly went on strike in Luanda because they were not paid for many months.

In October taxi drivers marched to the Benguela government palace to protest an increase in fuel prices. The taxi drivers' association and government officials met on October 20 and reached an agreement. Subsequently, taxi drivers in Huambo, Huila, and Luanda provinces raised fares due to the increase in the price of fuel.

*b. The Right to Organize and Bargain Collectively.*—The constitution and law provide for the right of unions to conduct their activities without interference, but the Government did not always protect this right. The law protects the right to establish a union for the purpose of collective bargaining. The Government routinely thwarted union efforts at collective bargaining with long delays in processing.

There are no legal restrictions on collective bargaining, but bargaining was restricted in practice. The Government is the country's largest employer, and the Ministry of Public Administration, Employment, and Social Security (MAPESS) centrally mandated wages.

The law prohibits antiunion discrimination and stipulates that worker complaints be adjudicated in labor court. Under the law, employers are required to reinstate workers who have been dismissed for union activities; however, the judicial system did not enforce these provisions.

The constitution grants workers the right to engage in union activities, but the Government may intervene in labor disputes that affect national security, particularly strikes in the oil sector. The Ministry of Labor has a hotline for workers who believe their rights have been violated. The law does not effectively prohibit employer retribution against strikers, and it permits the Government to force workers back to work for "breaches of worker discipline" or participation in unauthorized strikes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but international NGOs reported that such practices occurred. The Ministry of Justice has effective enforcement mechanisms for the formal economic sector; however, most labor law violations occurred outside the formal economy and were not subject to legal sanctions. Men and boys were trafficked into the country for forced labor, especially in the construction sector. Forced labor occurred in the artisanal diamond mining sector. Migrant workers were employed in forced labor conditions in diamond mining areas, particularly in Lunda Norte and Lunda Sul. The Government took steps to eliminate illegal immigration and illegal diamond mining activities during the year.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor in the formal sector was restricted under the law; however, child labor, especially in the informal sector, remained a problem. The law clearly prohibits children under 14 years old from working. However, children could work from age 14 to 16 with parental permission. Children could not work if it interfered with schooling. MAPESS had oversight of formal work sites and determined the age of the workers in all 18 provinces. If they determined a business was using child labor, they transferred the case to the Ministry of Interior to investigate and possibly press charges. An unknown number of businesses have been warned or fined for using child labor. However, MAPESS cannot regulate the informal sector.

In 2007 in Kwanza Sul Province, independent newspaper journalists found children as young as 10 years old working full time on a plantation; they did not attend

school and stated that they were often paid with food. The local manager was fired, but no charges were filed against the local or general managers.

On October 30, the newspaper *Agora* published a study conducted in Benguela that found more than 70,000 children worked in the country. A living standards survey published during the year by *Inquerito Integrado Sobre o Bem Estar da Populacao* reported that 20.4 percent of children between the ages of five to 14 worked; however, more children worked in rural than in urban areas. The study also reported that boys and girls were equally likely to work.

Most work done by children was in the informal sector. Children engaged in wage-earning activities, such as agricultural labor on family farms and commercial plantations, fishing, charcoal production, domestic labor, and street vending. Exploitive labor practices included forced prostitution, involvement in the sale or transport of illegal drugs, and the offloading and transport of goods in ports and across border posts. Children reportedly were used as couriers in the cross-border trade with Namibia.

Street children were common, especially in the provinces of Luanda, Benguela, Huambo, and Kwanza Sul. Investigators found children working in the streets of Luanda, but many returned to some form of dwelling during the evening. Most of these children shined shoes, washed cars, carried water, or engaged in other informal labor, but some resorted to petty crime, begging, and prostitution.

The MAPESS inspector general is responsible for enforcing all labor laws, including complaints of child labor. The Ministry of Family and Women's Promotion and the National Children Institute (INAC) play a significant role in coordinating the response to a case of child labor and protecting possible victims. Ultimately, the Ministries of Interior and Justice investigated and prosecuted a case of child labor.

A separate court under the Ministry of Justice is designated for children's affairs. The Luanda juvenile court hears cases of youth under the age of 18 who are victims of a crime. The juvenile court also hears cases of minors between the ages of 12 and 16 accused of having committed criminal offenses. Regular courts hear the cases of minors between the ages of 16 and 18 who are accused of criminal offenses. There were no courts to hear cases involving children under the age of 12. In many rural provinces, there was no separate structure to work with children's crimes. In these cases, minors could be either tried as adults or the case was dismissed.

The Government, through INAC, worked to create, train, and strengthen child protection networks at the provincial and municipal levels in all 18 provinces. The networks reported cases in which they successfully identified and removed children from exploitative work situations, but no mechanism existed to track cases or provide statistics. The Government also dedicated resources to the expansion of educational opportunities for children.

*e. Acceptable Conditions of Work.*—The minimum wage was 9,604 Kwanza (\$106) per month, which did not provide a decent standard of living for a worker and family. Most wage earners held second jobs or depended on the agricultural or other informal sectors to augment their incomes. The majority of citizens derived their income from the informal sector or subsistence agriculture and therefore fell outside of government protection of working conditions.

By law the standard workweek is 40 hours with at least one unbroken period of 24 hours of rest per week. There is a limit on work of 54 hours per week. Required premium pay for overtime is time and a half for up to 30 hours of overtime and time and three-quarters from 30 to 40 hours. In the formal sector, there is a prohibition on excessive compulsory overtime, defined as more than two hours a day, 40 hours a month, or 200 hours a year. These standards were not enforced effectively unless employees lodged a formal complaint with MAPESS.

In September the MPLA-linked labor union, *Uniao Nacional dos Trabalhadores Angolana*, published a report on working conditions that highlighted high unemployment, poor living conditions, and inequality as continuing problems despite various economic measures and new laws. Workers found they did not have job stability, employers violated workers' rights, and workers unable to find employment in the formal sector had to work in the informal labor market.

The Government has set occupational health and safety standards; however, the Ministry of Labor's inspector general did not enforce these standards effectively. Inspections occurred, although rulings against labor violations found by inspectors were not effectively enforced. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, but the right was not exercised in practice.

## BENIN

Benin is a constitutional democracy with a population of 7.9 million. In 2006 President Boni Yayi was elected to a five-year term in multiparty elections. In the 2007 legislative elections, President Yayi's supporting coalition, Cowry Force for an Emerging Benin (FCBE), won 35 of 83 seats in the National Assembly and formed a majority with a group of 13 National Assembly members from minor political parties (G-13). Eventually President Yayi lost his parliamentary majority when the G-13 joined the opposition parliamentary group in reaction to unfulfilled political promises. International observers viewed both the presidential and legislative elections as generally free and fair. However, municipal and local elections held in April and May 2008 were marred by numerous irregularities, protests, and credible allegations of fraud. Security forces reported to civilian authorities.

Human rights problems in some areas continued. There were reports that police occasionally used excessive force. Vigilante violence resulted in deaths and injuries. Harsh prison conditions and arbitrary arrest and detention with prolonged pretrial detention continued. Violations of press freedom occurred. Impunity and corruption were problems. Women were victims of violence and societal discrimination, and female genital mutilation (FGM) was practiced. Trafficking and abuse of children, including infanticide and child labor, occurred.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings. Elements of security forces occasionally shot and killed armed robbers and claimed self-defense to justify the shootings. The police generally ignored vigilante attacks, and incidents of mob violence continued to occur, in part due to the perceived failure of local courts to punish criminals adequately. Such cases generally involved mobs killing or severely injuring suspected criminals, particularly thieves caught stealing. For example, on April 20, residents of Assanlin in the commune of Za-Kpota in central Benin killed two individuals who were said to be trying to “steal two school boys.” The head of the arrondissement was interrogating the two suspects in his office when a crowd broke in, brought out the two suspects, and burned them alive. The police did not investigate the killing or arrest those involved.

On May 8, individuals stabbed to death and burned two young men in Dilly, a village in the Commune of Abomey, central Benin. The two victims were well-known artists in the area. They were suspected of belonging to a ring that kidnapped children. The police investigated the murder and arrested nine suspects.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, the Government did not always respect these prohibitions. Beatings in custody reportedly were commonplace.

The Constitutional Court received complaints from citizens who were brutalized by the police. For example, on March 8, the Constitutional Court ruled that five elements of an Anticrime Brigade (BAC) violated provisions of the constitution prohibiting degrading treatment or punishment and the African Charter on Human and Peoples' Rights when five policemen severely beat, arrested, and detained a truck driver who refused to give them a bribe during a routine road security check in February 2009 in Adjarra, a suburb of Porto-Novo.

The Government completed payments to victims of torture under the previous military regime; however, a large group of citizens who had been detained and tortured under the previous military regime complained that the payments they received were discriminatorily insignificant compared with the payments that former political exiles received from the Government.

*Prison and Detention Center Conditions.*—Prison conditions continued to be extremely harsh. Overcrowding and lack of proper sanitation and medical facilities posed risks to prisoners' health. A Mediator of the Republic's (Ombudsman) July 6 report on the condition in the nine civil prisons indicated that prisons were overcrowded, and malnutrition and disease were common. Some prisoners suffered from mental illness. There were deaths due to lack of medical care and neglect. Prisoners at times died from lack of ventilation in cramped and overcrowded cells. Eight of the nine civil prisons were filled far beyond their capacity. The ombudsman published statistics in June indicating the total prison population (including pretrial detainees and remand prisoners) was 6,908; of that number, pretrial detainees and re-

mand prisoners totaled 5,174. No breakdown of the number of juvenile and women prisoners in all nine prisons was available.

In 2009 the Government increased prisoners' diet from one meal a day to two.

Juveniles at times were housed with adults. Pretrial detainees were held with convicted prisoners, although not with the most violent convicts or those convicted of crimes subject to the death penalty. According to the ombudsman's report, pretrial detainees outnumbered convicts three or four to one during the reporting period.

The Government permitted prison visits by human rights monitors. Nongovernmental organizations (NGOs) and religious groups continued to visit prisons. Organizations that visited prisons during the year included the International Committee of the Red Cross, Amnesty International, the local chapter of Prison Fellowship, Caritas, and Prisoners Without Borders.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, at times the authorities did not respect these prohibitions.

*Role of the Police and Security Apparatus.*—The police, under the Ministry of Interior, have primary responsibility for enforcing law and maintaining order in urban areas; the gendarmerie, under the Ministry of Defense, performs the same function in rural areas. The police were inadequately equipped, poorly trained, and ineffective in investigating gender-based crimes and preventing or responding to mob violence. The Government continued to respond to these problems by recruiting more officers, building more stations, and modernizing equipment during the year; however, serious problems remained, including widespread impunity.

*Arrest Procedures and Treatment While in Detention.*—The constitution requires arrest warrants based on sufficient evidence and issued by a duly authorized official and requires a hearing before a magistrate within 48 hours, but this was not always observed in practice; under exceptional circumstances the magistrate may authorize continued detention not to exceed eight days. Detainees have the right to prompt judicial determination; this was generally observed in practice. They have the right to prompt lawyer access after being brought before a judge, also generally observed. They are allowed to receive family visits, which were generally observed in practice. After examining a detainee, the judge has 24 hours to decide whether to continue to detain or release the individual. Defendants awaiting judicial decisions may request release on bail; however, the attorney general must agree to the request. Warrants authorizing pretrial detention were effective for six months and could be renewed every six months until the suspect was brought to trial. The Government provided counsel to indigents in criminal cases.

There were credible reports that gendarmes and the police exceeded the legal limit of 48 hours of detention in many cases, sometimes by as much as a week. Authorities often used the practice of holding a person indefinitely "at the disposal of" the public prosecutor's office before presenting the case to a magistrate. Approximately 75 percent of persons in prison were pretrial detainees. Inadequate facilities, poorly trained staff, and overcrowded dockets delayed the administration of justice.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, but the Government did not always respect this provision. The judiciary remained inefficient in some respects.

Military disciplinary councils deal with minor offenses by members of the military services; they have no jurisdiction over civilians. Civilian courts deal with crimes involving the military. The country has no military tribunal.

*Trial Procedures.*—The constitution provides for the right to a fair trial; however, judicial inefficiency and corruption impeded exercise of this right.

The legal system is based on French civil law and local customary law. A defendant is presumed innocent. Jury trials are used in criminal cases. A defendant has the right to be present at trial and to representation by an attorney; the court provides indigent defendants with counsel upon request. A defendant has the right to confront witnesses and to have access to government-held evidence. Defendants are allowed to present witnesses and evidence on their own behalf. Defendants can appeal criminal convictions to the court of appeals and the Supreme Court, after which they may appeal to the president for a pardon. Trials are open to the public, but in exceptional circumstances the president of the court may decide to restrict access to preserve public order or to protect the parties. The Government extends the above rights to all citizens without discrimination.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent, but not always impartial, judiciary in civil matters. If administrative or informal remedies are unsuccessful, any citizen may file a complaint concerning an alleged human rights violation with the Constitutional Court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions. The law requires police to obtain a judicial warrant before entering a private home, and they generally observed this requirement.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government did not always respect these rights. There were radio and television broadcasts in which citizens openly criticized the president's policy without reprisal; however, the Government occasionally inhibited freedom of the press.

For example, on October 13, the staff of the Governmental Office of Radio and Television (ORTB) sent a letter to the executive director of ORTB detailing numerous instances in which he had restricted broadcast of programs involving the opposition and/or which were counter to the Government's guidelines. ORTB's executive director denied those allegations.

On August 3 and 4, the Government blocked the FM signal of the French state-owned broadcaster Radio France Internationale for 14 hours after it reported that deputies in the National Assembly attempted to impeach President Yayi for his alleged involvement in the ICC Ponzi scheme that had defrauded investors of billions of CFA and announced the broadcast of an interactive program on the case. The High Authority of Audiovisual and Communication (HAAC) denied any involvement in the interruption.

On August 15, unidentified individuals bought thousands of copies of newspapers that published a former minister of finance's declaration on a high-profile corruption case (the CEN-SAD affair), disrupting the supply of those newspapers in Cotonou. Journalists alleged that the Government had ordered this maneuver.

The law criminalizes libel, and numerous journalists faced pending libel charges. The law prohibits private citizens and the press from declaring or predicting election results. Journalists practiced self-censorship.

A 2008 report published by the NGO Human Rights, Peace, and Development (DHPD-ONG) stated that the Government awarded communication contracts to private media for propaganda purposes, adversely influencing the exercise of freedom of the press.

The constitution provides for prison sentences involving compulsory labor for certain actions related to abuse of the right of free expression; penalties are for threats to public order or calls to violence, but the law is vaguely worded and susceptible to abuse. There were no reports that the law was invoked during the year.

The independent media were active and expressed a wide variety of views without restriction. Publications criticized the Government freely and frequently, but their effect on public opinion was limited due to restricted circulation and widespread illiteracy. A nongovernmental media ethics commission continued to censure some journalists during the year for unethical conduct, such as reporting falsehoods or inaccuracies or releasing information that was under embargo by the Government.

The Government continued to own and operate the most influential media organizations by controlling broadcast range and infrastructure. The majority of citizens are illiterate, live in rural areas, and generally receive their news via radio. The ORTB broadcast in French and local languages. There were an estimated 75 private, community, and commercial radio stations, and one government-owned and five private television stations. Rural community radio stations received support from the ORTB and broadcast several hours a day exclusively in local languages. Radio France International and the BBC broadcast in Cotonou. The Government granted 350 million CFA (\$78,000) in financial assistance to the private media during the year.

The 2007 "National Report on Press Freedom," released by DHPD-ONG, stated that judges were often lax in prosecuting libel cases. A judiciary source indicated that the court continued to receive libel cases against journalists during the year, but judges generally refrained from prosecuting them. Journalists continued to fight for the decriminalization of press-related offenses.

There were no reports that the Government penalized journalists who published items counter to government guidelines.

The HAAC oversaw media operations and required broadcasters to submit weekly lists of planned programs and publishers to submit copies of all publications; however, the media did not comply with these requirements in practice. The HAAC

claimed that the information was used for administrative purposes; however, some journalists complained that it was a form of harassment.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Internet access was widely available in cities, primarily in Internet cafes, but for many the cost of using the Internet was prohibitive. Due to a lack of infrastructure, Internet access was not available in most rural areas. According to the most recent International Telecommunication Union statistics, 1.66 percent of residents used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected these rights.

The Government requires permits for use of public places for demonstrations and generally granted such permits; however, the authorities sometimes cited “public order” to deny requests for permits from opposition groups, civil society organizations, and labor unions.

On September 30, security forces disrupted a demonstration of teachers at a training school in Abomey, Central Benin, and beat some of them while they were complaining about the delay in government payment of their allowances. On October 5, the Ministry of Secondary Education and Technical and Vocational Training declared that the Government would identify those responsible for the beatings and punish them, although there were no reports it had done so.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right. The Government requires associations to register and routinely granted registration.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State’s 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights; however, the presence of police, gendarmes, and illegal roadblocks impeded domestic movement. Although ostensibly meant to enforce vehicle safety and customs regulations, many checkpoints served as a means for police and gendarmes to exact bribes from travelers. The Government maintained previously implemented measures to combat such corruption at roadblocks, but they were not always effective, and extortion commonly occurred.

The Government maintained documentary requirements for minors traveling abroad as part of its continuing campaign against trafficking in persons. However, this was not always enforced, and trafficking of minors across borders continued.

The Government’s policy toward the seasonal movement of livestock allowed migratory Fulani (Peul) herdsman from other countries to enter and depart freely; the Government did not enforce designated entry points. Disputes sometimes arose between herdsman and local landowners over grazing rights.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The Government has established a system for providing protection to refugees. At year’s end there were approximately 7,300 refugees, with an estimated 6,000 coming from Togo. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The Government did not provide temporary protection during the year. If individuals do not qualify as refugees under the 1951 UN Convention relating to the Status of Refugees or its protocol, authorities direct them to the Immigration Office to apply for a residence permit.

The Government continued to permit Togolese refugees residing in local communities and refugee camps to participate in most economic activities and to enroll their children in local schools. In 2007 the UNHCR and the Governments of Benin and Togo signed a tripartite agreement to organize the voluntary repatriation of To-

golese refugees. In 2009 83 Togolese refugees returned to Togo through the program. There were no reported stateless populations in the country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and generally fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2006 President Boni Yayi was elected to a five-year term in multiparty elections. In the 2007 legislative elections, President Yayi's FCBE won 35 of the 83 seats in the National Assembly. A group of 13 National Assembly deputies from minor political parties (the G-13) joined the FCBE to form a majority of 48 seats in the assembly. In 2008 the G-13 dissolved the coalition amid political tension, and the FCBE was left with its initial 35 seats. The G-13 sided with opposition parties and formed a blocking majority. Opposition groups declined President Yayi's invitation to join his government.

International observers viewed both the presidential and legislative elections as generally free and fair. However, fraud allegations and irregularities marred the April and May 2008 local and municipal elections. Voters filed hundreds of appeals with the Supreme Court, which annulled results in a number of communes and ordered new elections and recounting of votes in constituencies where results were disputed.

Individuals and parties could freely declare their candidacy and run for election. There were no government restrictions on the political opposition. No single party or group has recently dominated politics.

There were nine women out of 83 members in the National Assembly and four female ministers in the 30-member cabinet. The Constitutional Court had two women among its seven justices.

The country has no majority ethnic group. Diverse ethnic groups were well represented in government agencies, the civil service, and the armed forces. In the National Assembly, 11 members were from the Nago and Yoruba ethnic groups; 24 from the Bariba, Somba, and Dendi ethnic groups; and 34 from the Fon, Goun, Adja, and other smaller groups. Nine cabinet ministers were from the Bariba, Somba, and Dendi ethnic groups; 15 were from the Fon, Goun, and Adja ethnic groups; and three were from the Yoruba and Nago ethnic groups.

*Section 4. Official Corruption and Government Transparency*

Official corruption remained widespread. President Yayi continued his 2006 anticorruption initiative.

On January 7, the president of the NGO Front for National Anti-Corruption Organizations (FONAC) listed 32 corruption cases involving civil servants from 2006 to 2009 that remained unresolved. The FONAC investigation at the Ministry of Civil Service in September 2009 found that no disciplinary committee had been established to handle these corruption cases and no sanctions had been applied.

On July 20, President Yayi reported to the president of the National Assembly, asking him to submit to parliamentarians for approval a request regarding the indictment of four former ministers involved in corruption cases. The opposition majority in the National Assembly rejected President Yayi's request.

In July 2009 the Government released a State Audit Office's report; it detailed alleged corrupt practices including illegal awarding of public contracts, overbilling, mismanagement, and misappropriation of public funds for the renovation of two conference centers in preparation for the June 2008 CEN-SAD summit. The Government confirmed the involvement of high-ranking officials, including the former minister of finance and economy and officials in charge of public procurement. The Government dismissed the officials and requested disciplinary action against them pending legal action.

Police corruption was widespread. Police continued to extort money from travelers at roadblocks.

The Watchdog to Combat Corruption (OLC), a governmental anticorruption agency, launched a nationwide effort to publicize the National Strategic Plan to Combat Corruption and conducted a survey to gauge the magnitude of petty corruption and bribery in the public administration. To build its capacity to fight corruption, the OLC held training sessions to familiarize its staff with the new public procurement law, which went into effect in September 2009, and to train them on the observation of voter registration to prevent electoral fraud. On April 12, the OLC released its 2008 White Paper on Corruption to show the prevalence of corruption in the public administration.

It was commonly believed, and acknowledged by some judicial personnel, that the judicial system at all levels was susceptible to corruption.

On July 6, President Yayi fired Chief Prosecutor George Constant Amoussou and placed him in custody because he allegedly blocked a court complaint filed by the Government against the ICC, a microcredit institution that swindled citizens out of their deposits.

The World Bank's most recent Worldwide Governance Indicators reflected that corruption continued to be a serious problem.

Public officials were not subject to financial disclosure laws.

There are no laws providing for public access to government information, and it was unclear whether requests for such access were granted.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views. The Government met with domestic NGO monitors through the Advisory National Human Rights Council and the Ministry of Justice, Legislation, and Human Rights' Department of Human Rights. The Ministry of Justice, Legislation, and Human Rights coordinated awareness campaigns to educate the populace on human rights.

The Government cooperated with international organizations. In 2009 representatives of the Committee for the Prevention of Torture (CPT) and of the UN Committee on the Elimination of Discrimination Against Women visited the country. Following its visit, the CPT made wide-ranging recommendations. In November 2009 the World Committee Against Torture and the International Federation of Action by Christians for the Abolition of Torture, in conjunction with the Ministry of Justice, Legislation, and Human Rights and local NGOs, held a follow-up seminar to consider the recommendations made by the CPT and to map out strategies for the implementation of these recommendations by the Government.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and laws prohibit discrimination based on race, gender, disability, language, and social status; however, societal discrimination against women continued. Persons with disabilities were disadvantaged. The Government did not take concrete measures to address those abuses.

*Women.*—The law prohibits rape, but enforcement was weak due to police ineffectiveness, victims' unwillingness to take cases to the police for fear of social stigma, and corruption. The penal code does not make a distinction between rape in general and spousal rape. Sentences for rape convictions range from one to five years' imprisonment. From January to October, civil society organizations reported 636 gender-based violence cases reported to courts and 1,316 cases to police stations and brigades in the framework of an international NGO's project to combat gender-based violence in the country. These statistics, however, did not cover gender violence in the whole country. Statistics were not available on prosecutions or convictions. Because of police lack of training in collecting evidence associated with sexual assaults and victims' ignorance of their rights and inability to present evidence in court, judges reduced most sexual offenses to misdemeanors.

Domestic violence against women was common. The penal code prohibits domestic violence, and penalties range from six to 36 months' imprisonment. However, NGO observers believed that women remained reluctant to report cases. Judges and police were reluctant to intervene in domestic disputes; society generally considered such cases to be internal family matters. The local chapter of a regional NGO, Women in Law and Development-Benin, the Female Jurists Association of Benin (AFJB), and the Women's Justice and Empowerment Initiative through Care International's Empower Project offered social, legal, medical, and psychological assistance to victims of domestic violence. The Office of Women's Promotion under the jurisdiction of the Ministry of Family and Solidarity is responsible for protecting and advancing women's rights and welfare.

Female genital mutilation (FGM) was practiced on girls and women from infancy up to 30 years of age (although the majority of cases occurred before the age of 13, with half occurring before the age of five), and generally took the form of excision. Approximately 13 percent of women and girls have been subjected to FGM; the figure was higher in some regions, especially the northern departments, including Alibori and Donga (48 percent) and Borgou (59 percent), and among certain ethnic groups; more than 70 percent of Bariba and Peul (Fulani) and 53 percent of Yoa-Lokpa women and girls had undergone FGM. Younger women were less likely to

be excised than their older counterparts. Those who performed the procedure, usually older women, profited from it. The law prohibits FGM and provides for penalties for performing the procedure, including prison sentences of up to 10 years and fines of up to six million CFA (\$13,000); however, the Government generally was unsuccessful in preventing the practice. Individuals who were aware of an incident of FGM but did not report it potentially faced fines ranging from 50,000 to 100,000 CFA (\$110 to \$220). Enforcement was rare, however, due to the code of silence associated with this crime.

In one example, in September 2009 police arrested a woman on the strength of a denunciation by a local NGO that accused her of excising seven girls in the area of Kouande in the North. The police referred the case to the court in Natitingou. In October 2009 the court sentenced the woman to one-and-one-half year's imprisonment.

NGOs continued to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities. A prominent NGO, the local chapter of the Inter-African Committee, made progress in raising public awareness of the dangers of the practice, and the Government cooperated with these efforts. The Ministry of Family continued an education campaign that included conferences in schools and villages, discussions with religious and traditional authorities, and displaying banners. NGOs also addressed this problem in local languages on local radio stations.

Prostitution, especially child prostitution, was a problem. There were credible reports that tourists visiting the Pendjari National Park in the far Northwest used the services of prostitutes, many of them minors. There is no specific law addressing sex tourism. It was not clear whether these tourists operated through a local or an international network, or whether they came to the region primarily for sex tourism. There was no evidence of government involvement or complicity. In March 2009 the Government, in conjunction with the UN Children's Fund (UNICEF) and a local bank, launched a seven-day campaign against sex tourism involving children ages eight to 17 to spread awareness of the dangers of sex tourism.

Sexual harassment was common, especially of female students by their male teachers. The law prohibits sexual harassment and offers protection for victims. Under the law persons convicted of sexual harassment face sentences of one to two years in prison and fines ranging from 100,000 to one million CFA (\$220 to \$2,200). The law also provides penalties for persons who are aware of sexual harassment and do not report it. Enforcement of these laws was lax due to law enforcement agents' and prosecutors' lack of legal knowledge and necessary skills to pursue such cases and victims' fear of social stigma. Although this specific law was not enforced, judges used other provisions in the penal code to deal with sexual abuses involving minors.

Article 26 of the constitution provides that the Government shall protect the family, particularly the mother and the child. The country's May 2006 Declaration on Population Policy promotes responsible fertility to reduce early and/or late child-bearing and to promote family planning through the distribution of contraceptives. Act No. 2003-04 of March 2003 on Sexual and Reproductive Health guarantees couples and individuals reproductive rights, including access to health care, freedom to give birth, freedom of marriage, rights to nondiscrimination, access to contraception, and equal access to health care for people living with sexually transmitted infections including HIV. Article 19 of Act No. 2003-04 provides penalties for the commission of all acts prejudicial to the enjoyment of sexual and reproductive health. The Government in general respected these rights. An estimated 30 percent of women had an unmet need for family planning. The 2006 Benin Demographic and Health Survey (EDS) reported the maternal mortality ratio to be 397 per 100,000 live births. According to the 2006 Benin Demographic and Health Survey, 88 percent of women benefitted from prenatal care given by health personnel (80 percent by nurses and midwives, 4 percent other, and 4 percent by physicians). The proportion of women who had access to prenatal care provided by physicians was higher in Cotonou (18 percent) and in other cities (5 percent), whereas the rate was lower in rural areas (3 percent).

Although the constitution provides for equality for women in the political, economic, and social spheres, women experienced extensive discrimination because of societal attitudes and resistance to behavioral change.

Women are no longer subject to customary law (*Coutumier du Dahomey*). The code of persons and the family abrogated customary law and other legislation unfavorable to women. The code of persons and the family bans all discrimination against women regarding marriage and provides for the right to equal inheritance.

In response to a complaint filed by a woman being prosecuted for adultery in July 2009, the Constitutional Court ruled that adultery-related provisions contained in

the penal code are unconstitutional on the grounds that these provisions discriminate against women.

In rural areas women traditionally occupy a subordinate role and are responsible for much of the hard labor on subsistence farms. In urban areas women dominated the informal trading sector in the open air markets. During the year the Government and NGOs continued to educate the public on the 2004 family code, which provides women with inheritance and property rights and significantly increases their rights in marriage, including prohibitions on forced marriage, child marriage, and polygamy.

In practice women experienced discrimination in obtaining employment, credit, and equal pay, and in owning or managing businesses. Women do not face legal restrictions with respect to the code of persons and the family but may face societal restrictions and discrimination. During the year the Government granted micro-credit to the poor, especially to women in rural areas, to help them develop income-generating activities. An estimated 675,000 women have benefited from these micro-credit projects since they began in 2007.

*Children.*—The Government has stated publicly its commitment to children's rights and welfare, but it lacked the resources to carry out that commitment. The Ministry of Family is responsible for the protection of children's rights, primarily in the areas of education and health. The National Commission for Children's Rights and the Ministry of Family have oversight roles in the promotion of human rights issues with regard to child welfare.

Citizenship is derived by birth within the country's territory and/or from one's parents. Particularly in rural areas, parents often did not declare the birth of their children, either out of ignorance or because they could not afford the fees for birth certificates. A 2001 survey indicated that a quarter of children under 18 were not registered at birth. This could result in denial of public services such as education and health care. Several donors have taken action to increase the number of registered children. Over the last two years, the NGO PLAN International has supported the free registration of children who need to take the primary school leaving exam. (Without a birth certificate, children may attend primary school but cannot take the exam.) UNICEF and the NGOs Catholic Relief Services and World Education also supported the Government's campaign to register every birth.

Primary education was compulsory for all children between six and 11 years of age. It became tuition free for all children starting with the 2007-08 school year; however, in some parts of the country girls received no formal education. Parents often voluntarily paid tuition for their children because many schools had insufficient funds. According to UNICEF the net primary school enrollment rate in 2007 was approximately 93 percent for boys and 83 percent for girls. The enrollment rate for secondary education was much lower for girls. Girls did not have the same educational opportunities as boys, and female literacy was approximately 18 percent, compared to 50 percent male literacy.

FGM was commonly practiced on girls (see section 6, Women.)

Child marriage or precocious marriage existed. The practice included forced marriage, barter marriage, and marriage by abduction. A 2008 gender-based violence survey conducted in 13 communes indicated that 23 percent of the 594 children interviewed were subjected to forced and precocious marriage.

Although the family code prohibits marriage under 18 years of age, the practice continued in rural areas. Underage (14 to 17 years of age) marriage was permitted with parental consent. As part of forced marriage, there is a tradition in which a groom abducts and rapes his prospective child bride. The practice was widespread in rural areas, despite government and NGO efforts to end it through information sessions on the rights of women and children. Local NGOs reported that communities concealed the practice.

Despite widespread NGO campaigns, the traditional practices of killing deformed babies, breech babies, babies whose mothers died in childbirth, and one of two newborn twins (because they were considered sorcerers) continued in some rural areas, and perpetrators acted with impunity.

Through the traditional practice of *vidomegon*, which literally means "placed child," poor, generally rural, families place a child in the home of a wealthier family. The child receives living accommodations but often faces long hours of work, inadequate food, and sexual exploitation. Sometimes the income generated by the child's activities is split between the child's parents and the urban family that raises the child. *Vidomegon* traditionally was intended to provide better educational opportunities and a higher standard of living for children of poor families; however, this practice has made children more vulnerable to labor exploitation and to trafficking. Up to 95 percent of the children in *vidomegon* were young girls.

Criminal courts meted out stiff sentences to criminals convicted of crimes against children, but many such cases never reached the courts due to lack of awareness about the law and children's rights, lack of access to the courts, or fear of police involvement.

Child prostitution was a problem. Some children, including street children, engaged in prostitution to support themselves without third-party involvement. The penal code prohibits child prostitution; however, enforcement was limited, and the commercial sexual exploitation of children was a problem. A 2009 report on the commercial exploitation of children in 11 communes indicated that 43.2 percent of surveyed children (ages 12-17) who engaged in prostitution were also subjected to commercial sexual exploitation.

The penal code provides penalties for rape, sexual exploitation, corruption of minors, procuring, and prostitution, and increases penalties for cases involving women and children under 15 years old. Under the penal code, individuals involved in child prostitution, including those who facilitate and solicit it, face imprisonment of two to five years and fines of 1,000,000 to 10,000,000 CFA (\$2,000 to \$20,000). The law does not specifically prohibit child pornography. The family code sets the age of marriage at 18 years. The de facto minimum age for consensual sex is 18 years.

Child labor, although illegal, remained a problem.

There were many street children, most of whom did not attend school and lacked access to basic education and health services.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There were no reports of societal abuses or discrimination against members of religious groups. There was no known Jewish community, and no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Discrimination against persons with physical and mental disabilities is not prohibited by law; however, the law provides that the Government should care for persons with disabilities. There were no legal requirements for the construction or alteration of buildings to permit access for persons with disabilities. The Government operated few institutions to assist persons with disabilities, and many such individuals were forced to beg to support themselves. The Office for the Rehabilitation and the Insertion of Persons with Disabilities under the jurisdiction of the Ministry of Family coordinated assistance to disabled people through the Aid Fund for the Rehabilitation and Insertion of Persons with Disabilities (Fonds Ariphe).

The labor code includes provisions to protect the rights of workers with disabilities, which were enforced with limited effectiveness during the year. The Office of Labor under the Ministry of Labor and Civil Service and the Ministry of Family are responsible for protecting the rights of persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no reports of overt societal discrimination or violence based on a person's sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of overt discrimination or violence based on HIV/AIDS status. Since 2006 it has been illegal to discriminate against a person, at any stage of hiring or employment, based on his or her HIV status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The labor code allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and the Government generally respected these rights. Workers have the right to strike, and they exercised it during the year. New unions must register with the Ministry of Interior, a three-month process, or risk a fine.

The labor force of approximately 3.2 million was engaged primarily in subsistence agriculture, with only a small percentage working in the formal wage sector. Although an estimated 75 percent of government workers belonged to labor unions, a much smaller percentage of workers in the private sector were union members.

Workers must provide three day's notice before striking; however, authorities can declare strikes illegal for reasons such as threatening social peace and order and can requisition striking workers to maintain minimum services. The Government may prohibit any strike on the grounds that it threatens the economy or the national interest. Laws prohibit employer retaliation against strikers, except that a

company may withhold part of a worker's pay following a strike. The Government enforced these laws effectively.

The merchant marine code grants seafarers the right to organize, but they do not have the right to strike.

*b. The Right to Organize and Bargain Collectively.*—The labor code allows unions to conduct their activities without interference, and the Government generally protected this right. There are no restrictions on collective bargaining. The labor code provides for collective bargaining, and workers freely exercised this right with the exception of merchant shipping employees. The Government sets wages in the public sector by law and regulation.

In December 2009 the Government created a National Consultation and Collective Bargaining Commission to facilitate collective bargaining and enhance social dialogue. The commission held sessions during the year to discuss workers' claims and propose solutions.

The labor code prohibits antiunion discrimination. Employers may not take union membership or activity into account in hiring, work distribution, professional or vocational training, or dismissal; however, the Government did not always enforce these provisions, and there were reports that employers threatened individuals with dismissal for union activity.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The labor code prohibits forced or compulsory labor, including by children; however, such practices occurred in the agricultural, fishing, commercial, and construction sectors, and trafficking in persons was a problem.

The law provides for imprisonment with compulsory labor, and during the year judges sentenced convicts to forced labor for various crimes.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, children between 12 and 14 years may perform domestic work and temporary or seasonal light work if it does not interfere with their compulsory schooling. Child labor remained a problem due in part to limited government enforcement of the law. To help support their families, children of both sexes—including those as young as seven—continued to work on family farms, in small businesses, on construction sites in urban areas, in public markets as street vendors, and as domestic servants under the practice of *vidomegon*. A majority of children working as apprentices were under the legal age for apprenticeship of 14. Children worked as laborers with adults in quarries in many areas. Forced child labor and prostitution by street children were problems. Children under 14 worked in either the formal or informal sectors in the following activities: agriculture, hunting and fishing, industry, construction and public works, trade/vending and food/beverage, transportation, and communication and other services, including employment as household staff.

Some parents indentured their children to “agents” recruiting farm hands or domestic workers, often on the understanding that the children's wages would be sent to the parents. In some cases these agents took the children to neighboring countries for labor. Many rural parents sent their children to cities to live with relatives or family friends to perform domestic chores in return for receiving an education. Host families did not always honor their part of the bargain, and abuse of child domestic servants was a problem. The Government drafted a list of hazardous occupations forbidden for employment of minors according to ILO Convention 182, but by year's end the Government had not approved it. An interministerial decree of 2000 provides that children under 18 are not allowed to work in the following fields: public and private slaughtering facilities, except for apprentices in their last year of apprenticeship; processing, handling, and transportation of toxic substances; processing and handling of engines or explosive devices; and work related to maintenance and surveillance of wild or venomous animals. The decree also prohibits employment of workers under 16 for the control and use of unprotected machinery powered by pedals, for digging wells, gas pipe works, and sewage-related works.

For information on child trafficking, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The Labor Office under the Ministry of Labor and Civil Service enforced the labor code ineffectively and only in the formal sector due to the lack of inspectors. The Government took steps to educate parents on the labor code and to prevent compulsory labor by children, including through media campaigns, regional workshops, and public pronouncements on child labor problems. These initiatives were part of the Labor Office's traditional sensitization program. The Government also worked with a network of NGOs and journalists to educate the population about child labor and

child trafficking. The Government began drafting a National Plan to Eliminate Child labor. A workshop was held in Porto-Novo from August 10 to 13 to discuss preparations. The Government undertook a nationwide awareness campaign as a key activity for the 2010 World Day of Action against Child Labor.

In November 2009 the Government issued the International Labor Organization's International Program on the Elimination of Child Labor-sponsored National Survey on Child Labor. The survey provided comprehensive data and was expected to help the Government complete its National Policy for the Elimination of Child Labor.

*e. Acceptable Conditions of Work.*—The Government set minimum wage scales for a number of occupations. The minimum wage was 30,000 CFA (\$66) per month; however, the minimum wage did not provide a decent standard of living for a worker and family. Many workers had to supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector earned more than the minimum wage; many domestics and other laborers in the informal sector earned less. The Office of Labor enforced the minimum wage; however, its efforts were impeded by the small number of labor inspectors. Significant parts of the work force and foreign workers were not covered by minimum wage scales.

The labor code establishes a workweek of between 40 and 46 hours, depending on the type of work, and provides for at least one 24-hour rest period per week. Domestic and agricultural workers frequently worked 70 hours or more per week, above the maximum provided for under the labor code of 12 hours per day or 60 hours per week. The labor code also mandates premium pay for overtime and prohibits excessive compulsory overtime. The authorities generally enforced legal limits on workweeks in the formal sector.

The code establishes health and safety standards, but the Ministry of Labor and Civil Service did not enforce them effectively. The law does not provide workers with the right to remove themselves from dangerous work situations without jeopardy to continued employment. The ministry has the authority to require employers to remedy dangerous work conditions but did not effectively do so. The Government did not effectively monitor or control foreign or migrant workers' conditions of work.

## BOTSWANA

Botswana, with a population of 1.84 million, has been a multiparty democracy since independence in 1966. Its constitution provides for indirect election of a president and popular election of a National Assembly. In October 2009 the ruling Botswana Democratic Party (BDP) won the majority of parliamentary seats in an election deemed generally free and fair. President Ian Khama, who has held the presidency since the resignation of President Festus Mogae in 2008, retained his position. The BDP has held a majority of National Assembly seats since independence. Security forces reported to civilian authorities.

Some human rights problems remained, including abuse of detainees by security forces, poor prison conditions, and lengthy delays in the judicial process. There were reports of restrictions on press freedom. Societal problems included discrimination and violence against women; child abuse; trafficking in persons; and discrimination against persons with disabilities, gays and lesbians, persons with HIV/AIDS, and persons with albinism. There was societal discrimination against the San people, and the Government's continued narrow interpretation of a 2006 high court ruling resulted in the majority of San who originally relocated from the Central Kalahari Game Reserve (CKGR) being prohibited from returning to or hunting in the CKGR. The right to strike was restricted, and child labor was a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings, and no unlawful killings by police or other security forces were reported during the year.

During 2009 eight incidents of shootings by police forces were reported, in which 11 civilians were killed, allegedly while being apprehended. Four persons were investigated for possible murder charges, and seven coroner's investigations were opened. The four murder cases were submitted to the Directorate of Public Prosecution (DPP) for further action. Six of the seven coroner's investigations were also forwarded to the DPP; two were subsequently closed due to lack of evidence.

In January 2009 a police officer mistakenly shot and killed Mothusinyana Moag, a 27-year-old man who fit the description of a man police were chasing. The victim

ran from police when confronted and was shot during the chase. The inquest determined that the police officer involved was negligent. He was charged with manslaughter and was expected to appear before the High Court in early 2011.

In March 2009 police fired shots while in pursuit of robbery suspects. One of the suspects, Edson Mark Gumbo, was killed. The inquiry into this case determined that the officers acted lawfully and the case was closed.

In May 2009 Tshepo Molefe was shot by police during a robbery. The victim, or other suspects in his group, allegedly fired shots at police, and the victim ran toward the police officers, who shot him. He was pronounced dead at the hospital. After investigations into the shooting, police determined that the officers acted lawfully and closed the case.

Also in May 2009, John Kalafitas was shot and killed by government security officers. Attorneys for the Kalafitas family alleged that he was killed by government agents while he sat in a parked car. The Government contended that Kalafitas was a wanted criminal who was killed during a lawful arrest. Four members of the Botswana Defense Force, Corporals Dzikamani Mothobi, Goitsewang Sechele, Ronny Matakoto, and Boitshoko Maifela, were charged with murdering Kalafitas, and the case was expected to be heard at the High Court in early 2011.

In August 2009 two men were shot and killed in Kasane. Police investigations established that offenders were of Zambian origin and elephant poachers; investigations were ongoing with the help of Zambian police.

During 2009 there were two reports of deaths of persons in police custody. In March 2009 a suspect, David Monggae, collapsed during interrogation related to accusations of cattle theft and subsequently died. Four police officers present during the interrogation were charged with murder and were awaiting trial at the High Court.

In July 2009 Italy Setlampoloka was arrested as a suspect in a series of robberies and break-ins. He was detained at the Mogoditshane Police Station and subsequently found dead by a passerby in an uninhabited area near Mogoditshane. Police officers present during the investigation were charged with murder; the case was ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that security forces occasionally beat and abused suspects to obtain evidence or elicit confessions. Investigations continued into the 2008 case in which Directorate on Intelligence and Security (DIS) personnel allegedly tortured four men, including two police officers and two soldiers, after a weapon in their possession went missing. The Directorate of Public Prosecutions was assessing evidence on the case at year's end.

*Prison and Detention Center Conditions.*—Conditions in the country's 22 prisons and two detention centers for illegal immigrants remained poor due to overcrowding. The prison system held approximately 5,063 prisoners as of December, exceeding the authorized capacity of 4,219. Overcrowding, which was worse in men's prisons, constituted a serious health threat due to the high incidence of HIV/AIDS and tuberculosis. Rape of inmates by inmates occurred. Mistreatment of prisoners is illegal; there were no reports of abuse during the year.

Mothers were allowed to bring their nursing babies under the age of two with them into the prison system, which lacked maternity facilities. In instances where a child is above two years in age, and no family is available to take care of the child, arrangements are made with nongovernmental organizations (NGOs) to care for the child until the mother is released. Juveniles were sometimes held with adults due to overcrowding in the two main juvenile prison facilities. In December 2009, 63 juveniles were incarcerated in adult prisons. Pretrial detainees and convicts were held together.

During 2009 officers of the courts, including magistrates and judges, conducted 13 visits to prisons to check on prison conditions. Government-appointed welfare and oversight committees visited prisons 30 times during the year. Reports on such visits were not made public. In previous years the Government permitted the International Committee of the Red Cross (ICRC) to visit prison facilities; however, the ICRC did not seek access to any prisoners during the year. Representatives of the Office of the UN High Commissioner for Refugees (UNHCR) and a foreign embassy visited the Center for Illegal Immigrants during the year.

Voluntary and free HIV testing and peer counseling were available to prisoners. In December the HIV infection rate was 5.5 percent for males and 10.4 percent for females. As of December, 106 prisoners were receiving antiretroviral (ARV) drug treatment. The Government did not provide ARV treatment to noncitizens in deten-

tion; however, those in long-term detention could receive such treatment without cost from a domestic NGO.

The prison commissioner had the authority to release terminally ill prisoners in the last 12 months of their sentences and to allow citizen prisoners with sentences of 12 months or less to complete their sentences outside the prison by completing an “extramural” work release program at government facilities. Eligible prisoners must have served short-term sentences with at least half of their sentence completed and must not have been previously incarcerated. Prisoners convicted of violent and other serious felonies were ineligible. By December, to ease overcrowding, 580 male and 73 female prisoners had been released to complete their sentences in the program. The president pardoned an additional nine prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The Botswana Police Service (BPS), under the Ministry for Presidential Affairs and Public Administration, has primary responsibility for internal security. The merging of the Local Police Service and the BPS was completed in August 2009. Previously customary or local police, under the Ministry of Local Government, had law enforcement responsibility in specified tribal areas. The army is responsible for external security and has some domestic security responsibilities.

During the year 72 BPS officers received human rights training at the International Law Enforcement Academy located in the country.

*Arrest Procedures and Treatment While in Detention.*—Police officers must produce an arrest warrant issued by a duly authorized magistrate upon the presentation of compelling evidence, except in certain cases, such as when an officer witnesses a crime being committed or discovers that a suspect is in possession of a controlled substance. In 2008 the Government established the Directorate on Intelligence and Security (DIS), a new intelligence agency with the power to enter premises and make arrests without warrants if the agency suspects a person has committed or is about to commit a crime. Elements of civil society continued to criticize the DIS, claiming that it was not subject to sufficient independent oversight and posed a potential threat to civil liberties.

Suspects must be informed of their rights upon arrest, including the right to remain silent, and must be charged before a magistrate within 48 hours. Authorities generally respected these rights in practice; however, there were allegations in the media and by defense attorneys that the right to an attorney was often denied during the first 48 hours after arrest, prior to the suspect being brought before a magistrate. A magistrate may order a suspect held for 14 days through a writ of detention, which he may renew every 14 days. The law provides for a prompt judicial determination of the legality of a person’s detention. However, this determination was occasionally delayed in practice. Authorities generally informed detainees of the reason for their detention, although there were some complaints that this did not always occur. There is a functioning bail system, and detention without bail was unusual except in murder cases, where it is mandatory. Detainees have the right to contact a family member and to hire attorneys of their choice; however, in practice most could not afford legal counsel. The Government provides counsel for the indigent only in capital cases, although attorneys are required to accept pro bono clients.

Pretrial detainees waited from several weeks to several months between the filing of charges and the start of their trials. As of December, 900 of the 5,063 persons in custody were pretrial detainees. Pretrial detention in murder cases sometimes lasted beyond one year. Such delays were largely due to judicial staffing shortages.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. The civil courts remained unable to provide timely trials due to severe staffing shortages and a backlog of pending cases.

In addition to the civil court system, a customary or traditional court system also exists. Small claims courts were established in 2009 in Gaborone and some surrounding areas; there were some reports of heavy case loads and new procedures impacting the courts’ effectiveness.

*Trial Procedures.*—Defendants enjoy a presumption of innocence. Trials in the civil courts are public, although trials under the National Security Act may be held in secret. There is no jury system. Defendants have the right to be present and consult with an attorney in a timely manner, but the state provides an attorney only in capital cases. Those charged with noncapital crimes are tried without legal representation if they cannot afford an attorney. As a result many defendants were not informed of their rights in pretrial or trial proceedings. Defendants can question

witnesses against them and have access to government-held evidence relevant to their cases. Defendants can present witnesses and evidence on their own behalf. Defendants have the right to appeal. The constitution asserts these rights extend to all citizens.

Several organizations, such as the Botswana Law Society and The Botswana Network on Ethics, Law, and HIV/AIDS, provided free legal services but had limited capacity. The University of Botswana Legal Assistance Center provided free legal services for some civil, but not criminal, matters.

While customary or traditional courts enjoy widespread support and respect on the part of citizens, they often did not afford the same due process protections as the formal court system. Defendants do not have legal counsel, and there are no standardized rules of evidence. Defendants can confront, question, and present witnesses in customary court proceedings. Customary trials are open to the public and defendants can present evidence on their own behalf. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. Many judges were poorly trained and ill equipped to make legal decisions. The quality of decisions reached in the customary courts varied considerably and often lacked a presumption of innocence. In some cases tribal judges may issue sentences that include corporal punishment such as lashings on the buttocks.

There is a separate military court system; military courts do not try civilians. Military courts have separate procedures from civil courts. Defendants in military courts are able to retain attorneys and see evidence that will be used against them.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—In the formal judicial system, there is an independent and impartial judiciary in civil matters, including for human rights cases, which includes a separate industrial court for most labor-related cases. Administrative remedies were not widely available.

Most civil cases were tried in customary courts. These courts handled land, marital, and property disputes and often did not afford due process.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, the Government's continued narrow interpretation of a 2006 High Court ruling resulted in the majority of San being prohibited from living or hunting in the CKGR. In 2002 the Government forcibly resettled the remaining indigenous San and other minority members living in the CKGR who had not voluntarily left to resettlement sites outside the reserve. Government officials maintained the resettlement program was voluntary and necessary to facilitate the delivery of public services, to provide socioeconomic development opportunities to the San, and to minimize human impact on wildlife (see section 6, Indigenous People).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected freedom of speech in practice. The Media Institute of Southern Africa (MISA) and other NGOs reported that the Government attempted to limit press freedom and continued to dominate domestic broadcasting. Individuals could generally criticize the Government publicly or privately without reprisal.

In 2008 Parliament passed the Media Practitioners Act, establishing a new Media Council to register and accredit journalists, promote ethical standards amongst the media, and receive public complaints. Some NGOs, including MISA, the independent media, and opposition members of parliament (MPs) continued to criticize the law, stating that it restricted press freedom and was passed without debate after consultations between the Government and stakeholders collapsed.

The Government owned and operated the Botswana Press Agency, which dominated the media through its free, nationally distributed newspaper, Daily News, and through two FM radio stations. State-owned media generally featured uncritical reporting on the Government and were susceptible to political interference. Opposition political parties claimed that state media coverage heavily favored the ruling party.

The independent media were active and generally expressed a wide variety of views, which frequently included strong criticism of the Government; however, members of the media stated they were sometimes subject to government pressure to portray the Government and the country in a positive light. It was sometimes more difficult for private media organizations than for government-owned ones to obtain access to government-held information.

Radio continued to be the most broadly accessible medium. Government-owned Radio Botswana and Radio Botswana 2 covered most of the country. Privately owned Yarona FM, Gabz FM, and Duma FM expanded their broadcasts from Gaborone to cover most of the major towns. They produced news and current affairs programs without government interference.

State-owned Botswana Television was the primary source of televised news and current affairs programs. The privately owned Gaborone Broadcasting Corporation broadcast mostly foreign programs. International television channels were available through cable subscription and satellite.

Some members of civil society organizations alleged the Government occasionally censored stories it deemed undesirable, and government journalists sometimes practiced self-censorship.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was most common in urban areas, but has begun to expand to smaller cities and some rural areas. According to International Telecommunication Union statistics for 2009, approximately 6.15 percent of the country's inhabitants used the Internet. However, there were some reports during the year that the actual figure was significantly higher as citizens increasingly accessed the Internet through both mobile telephones and home and office Internet connections.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government continued to restrict the freedom of indigenous San to return to the CKGR, despite a 2006 High Court ruling in a suit brought by 189 San declaring that the forced relocation of many San in 2002 had wrongfully deprived them of their property and that government prohibitions against their returning to the reserve and hunting there were unconstitutional. The Government interpreted the High Court ruling to apply only to the 189 plaintiffs in the case and their families, and permitted only them to hunt or live in the CKGR. A few San had never left the reserve, and some moved back to the CKGR after the High Court's decision. Many of the 189 did not return to live in the CKGR, as lack of water made the CKGR an extremely inhospitable environment, and some who initially returned left again. The Government was not required to provide water in the CKGR per the 2006 ruling (see sections 1.f. and 6). Visitors to the reserve, including relocated former residents not named in the 2006 case, must obtain a permit to enter the CKGR. During the year the San took the Government to the High Court, pleading for permission to use the borehole the Government disabled in 2002. The High Court dismissed their case. The Government continued to hold discussions with groups of San to reach an amicable solution regarding terms of CKGR residency.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The Government has established a system for providing protection to refugees. The Government granted refugee status or asylum. The Government's system for granting refugee status was accessible but slow. In practice the Government provided protection against the expulsion or return of persons to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN refugee convention or the 1967 protocol. During the year fewer than 100 persons were granted refugee status. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The Government held newly arrived refugees and asylum seekers, primarily from Zimbabwe, in the Center for Illegal Immigrants in Francistown until the Refugee Advisory Committee (RAC), a governmental body whose chairperson is the district commissioner of Francistown, made a status recommendation; the UNHCR was

present at RAC meetings in the status of observer and technical advisor. Once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation. Refugee applicants who were unsuccessful in obtaining asylum were nonetheless allowed to remain at Dukwe if they wished while the Government referred their cases to the UNHCR for possible resettlement. Refugees in Dukwe had access to education and health care. Although asylum seekers were housed separately from illegal immigrants, the UNHCR criticized the detention of asylum seekers at the Center for Illegal Immigrants on the grounds that asylum seekers should not be held in detention facilities. Conditions at the center were generally adequate, but children in the center did not have sufficient access to education during their detention, which in a few cases lasted many months.

In June 2009 the Government changed its 1997 policy that allowed some registered refugees to obtain special residency permits allowing them to live and work outside the camp for one year with the possibility of renewal. As of December only 19 of the country's 3,185 registered refugees were living and working outside Dukwe. The Government has stated that as a general policy all registered refugees must reside in the Dukwe camp, although it may permit residence outside the camp in a few exceptional cases, such as refugees enrolled at a university or with unique skills.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In October 2009 the ruling BDP won the majority of National Assembly seats in a general election deemed by international and domestic observers to be generally free and fair. President Ian Khama, who has held the presidency since 2008, when former President Festus Mogae resigned, retained his position. However, the BDP received preferential access to state-owned television during much of the campaign. The BDP won 45 of 57 competitive National Assembly seats, the Botswana National Front (BNF) won six seats, the Botswana Congress Party (BCP) won five seats, and an independent candidate won one seat. The BDP has won a majority of seats in the National Assembly in every election since independence. There are also four additional MPs who are nominated and elected by parliament.

In May the BDP split, with five of its MPs forming a new opposition party, the Botswana Movement for Democracy (BMD). Other MPs switched parties during the year, including among opposition parties, from the ruling party to opposition, and from the opposition to the ruling party. At year's end, the BDP held 45 seats in parliament, the new BMD party led the opposition with six seats, the BNF controlled five seats, and the BCP had five seats.

The House of Chiefs acts as an advisory upper chamber to the National Assembly on any legislation affecting tribal organization and property, customary law, and administration of the customary courts. It consists of eight paramount chiefs, five chiefs chosen by the president, and 22 elected chiefs from designated regions. The paramount chiefs are members of the House of Chiefs for life, while the chosen and elected chiefs serve five-year terms. The first election based on amendments made to the constitution in 2006 to expand the House of Chiefs was held later that year.

Political parties operated without restriction or outside interference.

There were four women in the 61-seat National Assembly, one of whom was the speaker; four in the 24-member cabinet; and four in the expanded 35-seat House of Chiefs.

While the constitution formally recognizes eight principal ethnic groups of the Tswana nation, amendments to the constitution also allow minority tribes to be represented in the expanded House of Chiefs. Under the law members from all groups enjoy equal rights, and minority tribes have representation that is at least equal to that of the eight principal tribes. There are members of minority tribes in the assembly, in the cabinet, and on the High Court.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of government corruption during the year. The minister of defense, justice and security resigned his cabinet position in August immediately preceding an official charge of corruption.

There are no formal financial disclosure laws; however, in October 2009 a presidential directive required all cabinet ministers to declare their interests, assets, and liabilities to the president. Critics contended the policy did not go far enough to promote transparency and that financial declarations by senior government officials should be available to the public.

In 2009 the Directorate on Corruption and Economic Crime (DCEC) initiated investigations into 39 suspicious transactions. Of these, 18 remained under investigation and 21 were concluded by year's end. Of the 21 cases, the directorate dismissed 18 after allegations of illegal conduct were disproved and found insufficient in three.

During the year police initiated investigations into 20 cases of police corruption. Police officials acknowledged that corruption was a problem in the lower ranks; some officers took advantage of illegal immigrants and traffic violators. During the year 29 police officers were arrested for criminal offenses, with 12 brought before the courts by year's end. Of the 24 officers who were charged in 2009 and remained under investigation during the year, 18 were dismissed, two were acquitted, two resigned, and two cases remained under investigation.

The security forces reported to civilian authorities, and the Government had effective mechanisms to investigate and punish abuse and corruption, including investigation by police and referral to the criminal court system.

In April portions of an anti-money-laundering law enacted in March 2009 came into effect. The act created a new Financial Intelligence Agency (FIA), but the agency was still being formed during the year. Until the FIA is fully functioning, the DCEC retains responsibility for investigating suspected instances of money laundering, including the authority to demand access to bank records during the course of an investigation.

The law does not provide public access to government information, and the Government generally restricted such access. Information that is made public is available for a fee from the Government Printing Office.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to domestic NGO views on most subjects but were considerably less open to the involvement of some international NGOs on the issue of the CKGR relocations. The Government interacted with, and provided financial support to, some domestic organizations. Independent local human rights groups included Childline, a child welfare NGO; Emang Basadi, a women's rights group; the Botswana Network on Ethics, Law, and HIV/AIDS; and DITSHWANELO.

Beginning in 2007 the Government required that certain foreign NGO workers obtain visas, a practice which continued during the year.

The Government worked cooperatively with international organizations, including the ICRC and UN, during the year. The Government allowed visits from UN representatives and representatives from human rights and humanitarian organizations such as the ICRC.

The UN Special Rapporteur on Indigenous Persons visited the country in March 2009, and the UN issued a report on his visit in February. The UN noted that although the Government had undertaken many initiatives to address the conditions of disadvantaged and marginalized peoples and to celebrate their cultures, it needed to increase its efforts to tackle the challenges faced by indigenous groups, such as land rights. According to the UN report, "Certain indigenous groups continue to suffer from a lack of secure land tenure, including access to and use of their ancestral lands and resources, in part due to the nonrecognition of these groups' customary land use practices."

An independent, autonomous ombudsman handled complaints of administrative wrongdoing in the public sector, and the Government generally cooperated with the ombudsman. The office suffered from a shortage of staff, and public awareness of the office and its services was low.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the Government generally respected these provisions in practice. As long as a job applicant is able to perform the duties of the position, he or she may not be discriminated against due to disability or language. However, the law does not prohibit discrimination by private persons or entities, and there was societal discrimination against women; per-

sons with disabilities; minority ethnic groups, particularly the San; persons with HIV/AIDS; persons with albinism; and gays and lesbians.

*Women.*—The law prohibits rape but does not recognize spousal rape as a crime. Laws against rape were effectively enforced when victims pressed charges; however, police noted victims often declined to press charges against the perpetrators. In some cases victims were afraid of losing financial support if perpetrators were found guilty and imprisoned. The number of reported rape cases decreased during the year from 1,539 as of December 2009 to 1,332 as of November 2010. The NGOs continued efforts to improve awareness of the crime. By law the minimum sentence for rape is 10 years in prison, increasing to 15 years with corporal punishment if the offender is HIV-positive, and 20 years with corporal punishment if the offender was aware of having HIV-positive status. Corporal punishment was used more often in the customary than in the formal courts and typically consisted of strokes to the buttocks with a stick. A person convicted of rape is required to undergo an HIV test before sentencing. However, police lacked basic investigative techniques in rape cases.

The law prohibits domestic and other violence, whether against women or men, and it remained a serious problem. The police reported the following statistics related to domestic violence: defilement, 389 cases; incest, 5 cases; indecent assault on females, 129 cases; common assault, 12, 367 cases; and assault occasioning bodily harm, 2,069 cases. There were 90 reported cases of passion killings and 834 of death threats. Greater public awareness resulted in increased reporting of domestic violence and sexual assault.

The law prohibits sexual harassment in both the private and public sectors. Sexual harassment committed by a public officer is considered misconduct and punishable by termination, with or without forfeiture of all retirement benefits, suspension with loss of pay and benefits for up to three months, reduction in rank or pay, deferment or stoppage of a pay raise, or a reprimand. However, sexual harassment continued to be a widespread problem, particularly by men in positions of authority, including teachers, supervisors, and older male relatives.

Couples and individuals have the right, and were able in practice, to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Contraception is widely available. According to the Population Reference Bureau, skilled attendance during childbirth averaged 94 percent across the country—with higher rates in urban areas. Obstetric and postpartum care was generally available, and women had equal access to testing and treatment for sexually transmitted diseases, including HIV/AIDS. The Government's program, Prevention of Mother-to-Child Transmission of HIV, has effectively curtailed mother-to-child transmission. According to the Ministry of Health, the maternal mortality rate was 198 deaths per 100,000 births.

By law women have the same civil rights as men, but in practice societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women's property rights and economic opportunities, particularly in rural areas. Marriages can occur under one of three systems, each with its own implications for women's property rights. A woman married under traditional law or in "common property" is held to be a legal minor and required to have her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under an intermediate system referred to as "in community of property," married women may own real estate in their own names, and the law stipulates that neither spouse can dispose of joint property without the written consent of the other. Women increasingly exercised the right to marriage "out of common property," in which they retained their full legal rights as adults. Polygamy is legal under traditional law with the consent of the first wife, but it was not common.

Skilled urban women had increasing access to entry- and mid-level white collar jobs. According to a 2007 Grant Thornton International Business Report, 74 percent of businesses employed women in senior management positions, and women occupied 31 percent of such positions. Women occupied many senior-level positions in government agencies, such as speaker of the General Assembly, governor of the Bank of Botswana, attorney general, minister in the Office of the President, minister of education and skills development, and numerous permanent secretary positions. However, a 2007 UN report found that women's political participation was not equal to that of men. In 2008 the Botswana Defense Force (BDF) began to allow women to serve in the military. In 2008 the first class of Botswana female officer candidates completed their training in Tanzania and joined the BDF. During 2009 women were included as officer candidates in the first integrated training class to

be conducted in the country and they continued to be inducted as officer candidates during the year.

The Women's Affairs Department in the Ministry of Labor and Home Affairs has responsibility for promoting and protecting women's rights and welfare. The department provided grants to NGOs working on women's issues. A local NGO reported that women were increasingly able to access credit markets and be paid as much as their male counterparts for similar work.

*Children.*—The law provides for the rights and welfare of children, and the Government respected these rights in practice. In general, citizenship is derived from one's parents, although there are very limited circumstances in which citizenship can be derived from birth within the country's territory. The Government generally registers births immediately; however, there were some delays in the most remote locations. Unregistered children may be denied some government services.

The Government continued to allocate the largest portion of its budget to the Ministry of Education. The Ministry of Local Government distributed books, food, and materials for primary education. Education was not compulsory. The Government reintroduced school fees in 2006. The fees could be waived for children whose family income fell below a certain amount. The Government also provided uniforms, books, and other fees for students whose parents were destitute. Students in remote areas received two free meals a day at school. Girls and boys attended school at similar rates.

No law specifically prohibits child abuse. Sex with a child younger than 16 is known as defilement and is prohibited and punishable by a minimum of 10 years' incarceration. Police reported that through the end of November there were 1,332 cases of rape, 389 cases of defilement, 129 cases of indecent assault on girls and five cases of incest. There were defilement investigations and convictions during the year. Sexual abuse of students by teachers was reported to be a problem. Children were sometimes sexually abused by extended family members with whom they lived. The law considers incest a punishable act only if it occurs between blood relatives.

Child marriage occurred infrequently and was largely limited to certain ethnic groups. Marriages that occur when either party is under the minimum legal age of 18 are not recognized by the Government.

Child prostitution and pornography are criminal offenses. Media and NGO reports claimed that prostituted children had been made available to truck drivers along the main road linking the country with South Africa and that many of the girls and boys were thought to be orphans.

There were reports of child labor. Of the children employed, approximately half were below the legal working age of 14. Two-thirds of employed children were working in rural villages, and more than 60 percent worked in the agricultural sector, mostly on a subsistence level on family cattle posts or farms.

In 2005 the UN Children's Fund estimated there were 150,000 orphans in the country, of whom approximately 120,000 had lost one or both parents due to HIV/AIDS. As of December the Government had registered 37,233 children as orphans. The discrepancy between the two estimates is due to the fact that the Government has a more restrictive definition of when a child is orphaned than the UN. The Government requires both parents of a child to have died before considering the child an orphan, except in cases where the child is raised by only one parent. Once registered, the children received clothes, shelter, a monthly food basket worth between 216 pula (approximately \$33) and 350 pula (\$54) depending upon location, and counseling as needed. Some relatives continued to deny inheritance rights to orphans.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There was no known Jewish community in the country, and no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in education, employment, access to health care, or the provision of other state services. The Government has an effective national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking. The Government mandated access to public buildings or transportation for persons with disabilities. There was some discrimination against persons with disabilities, and employment opportunities remained limited. The Government did not restrict persons with disabilities from voting or participating in civil affairs, and some accommodations were made during elections to

allow for persons with disabilities to vote. Although new government buildings were being constructed to assure access by persons with disabilities, most older government office buildings remained inaccessible. There is a Department of Disability Coordination in the Office of the President to care for persons with disabilities.

The Department of Labor is responsible for protecting the rights of persons with disabilities and investigating claims of discrimination. Individuals can also bring cases directly to the Industrial Court. The Government funded NGOs that provided rehabilitation services and supported small-scale projects for workers with disabilities.

*Indigenous People.*—An estimated 50,000-60,000 persons belong to one of the many scattered, diverse tribal groups known as San or Basarwa. The San represented approximately 3 percent of the population and were culturally and linguistically distinct from most other residents. The law prohibits discrimination against the San with respect to employment, housing, health services, and cultural practices; however, the San remained economically and politically marginalized and generally did not have access to their traditional land. The San continued to be geographically isolated, had limited access to education, lacked adequate political representation, and were not fully aware of their civil rights. In 2002 the Government forcibly resettled San who were living in the CKGR to the settlement areas of Kaudwane, New Xade, and Xere. The Government continued to maintain that the move was to enable the resettled San to have better access to education and health facilities.

While the Government respected the December 2006 High Court ruling on a suit filed by 189 San regarding their forced relocation, it continued to interpret the ruling to allow only the 189 actual applicants and their spouses and minor children, rather than all San affected by the relocations, to return to the CKGR. The court ruled that the applicants were entitled to return to the CKGR without entry permits and to be issued permits to hunt in designated wildlife management areas, which are not located in the CKGR. The court also ruled that the Government was not obligated to resume providing services within the CKGR, and the Government did not reopen water wells in the CKGR during the year. Many of the San and their supporters continued to object to the Government's narrow interpretation of this ruling. Government sources confirmed that negotiations between San representatives and government regarding residency, water, and hunting rights were ongoing at year's end. However, a small group of San also filed suit in November 2009 seeking to force the Government to open a water well at a specific location inside the CKGR. San contend that this location had previously been a well, while the Government argued that it had never been a well and had been used for geological exploration. In July the High Court ruled against the plaintiffs. Attorneys for the San filed an appeal, which remained under consideration by the court at year's end.

During the year there were no reports of the arrest of San for illegal hunting in the CKGR. In 2009 the Government made several arrests of San for illegally hunting in the CKGR. Although the law allows a fine or prison term for those found guilty of illegal hunting, none of the San arrested in 2009 were sanctioned.

During the year there were no government programs directly addressing discrimination against the San. With the exception of the 2006 court ruling, there were no demarcated cultural lands.

A number of NGOs made efforts to promote the rights of the San or to help provide economic opportunities. However, the programs had limited impact. The NGO Survival International, along with other independent organizations, continued to criticize the decision by the Government to allow mining exploration in the CKGR. The NGOs argued that diamond exploration in the CKGR would have a devastating impact on the life and environment of the San.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The country has no law criminalizing sexual orientation. However, what the law describes as "unnatural acts" are criminalized, and there is widespread belief this is directed toward gay, lesbian, bisexual, and transgender persons. The police do not target homosexual activity, and there were no reports of violence against persons based on their sexual orientation or gender identity during the year. However, there were reports of societal discrimination and harassment of gay, lesbian, bisexual, and transgender persons. An independent organization LEGABIBO (Lesbians, Gays, and Bisexuals of Botswana) attempted to register as an NGO to advocate for the rights of gay, lesbian, transgender, and bisexual persons, but the Government refused to allow it to do so.

*Other Societal Discrimination.*—Discrimination against persons with HIV/AIDS continued to be a problem, including in the workplace. The Government funded community organizations that ran antidiscrimination and public awareness programs.

The Botswana Network on Ethics, Law, and HIV/AIDS continued to advocate for an HIV employment law to curb discrimination in the workplace.

While persons with albinism were subject to some social discrimination, individuals were generally able to exercise their rights in practice.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without excessive requirements, and workers exercised this right in practice. Only police, military, and prison personnel are prevented from forming or joining labor unions. However, members of those professions are represented by employee associations, which serve as a means to communicate collective needs and concerns to their government employer. In March 357,919 persons were employed in the formal sector, of whom 51 percent worked in the private sector, 28 percent worked for the national government, 17 percent for local governments, and 4 percent for parastatal enterprises. Only 1.7 percent of formal sector employees worked in agriculture, 3 percent in mining, 13 percent in retail sales, and 10 percent in manufacturing. Exact statistics regarding union membership were not available, but analysts estimated that trade unions had approximately 70,000 members, which would represent 20 percent of the formal sector workforce. Unions were concentrated largely in the public sector, mineral extraction, and to a lesser extent in the railway and banking sectors. The law requires that an organization have more than 30 employees to form a trade union.

The law severely restricts the right to strike, and virtually all strikes are ruled illegal, leaving striking workers at risk of dismissal. Legal strikes theoretically are possible only after an exhaustive arbitration process. Sympathy strikes are prohibited.

The 2006 case regarding a copper mine's dismissal of 178 workers for striking concluded with a lower court dismissal of the case, which was based on procedural errors by the plaintiffs' attorney. The case was appealed and had not been heard by the Industrial Court by year's end.

In 2008 the Industrial Court dismissed a 2005 case in which 461 workers were fired in 2004 after a strike against their employer, Debswana, the joint government-DeBeers diamond mine venture. The court found the case was not tried in a timely fashion. The 461 former employees appealed the dismissal; the appeal was dismissed by the Industrial Court early in the year.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for collective bargaining for unions that have enrolled 25 percent of an organization's labor force.

Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners and, if not resolved, sent to the Labour Court. The average time to resolve a labor dispute dropped from 20 months to 11 months by year's end.

Workers may not be fired for legal union-related activities. Dismissals on other grounds may be appealed to civil courts or labor officers, which rarely ordered more than two months' severance pay.

The country's export processing zone (EPZ) exists on paper only. There are no special laws or exemptions from regular labor laws in the EPZ.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced and compulsory labor, including by children; however, there were reports of child labor in cattle-herding.

Some Zimbabwean women reported being exploited by employers for forced labor. Children were trafficked internally for domestic servitude and cattle herding.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for basic employment at 14 years. Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 14 may be employed in any industry without permission from the commissioner of labor. Children 14 years old who are not attending school may be employed by family members in light work that is not considered hazardous or as approved by the labor commissioner, but for no more than six hours per day or 30 hours per week. In industrial settings those under age 15 may only work up to three consecutive hours without the labor commissioner's approval, and those between ages 15 and 18 may work only up to four consecutive hours without such approval. Those under 18 may not be employed in work underground, at night, in work that is harmful to health and development, or that is dangerous or immoral. The law provides that adopted

children may not be exploited for labor and protects orphans from exploitation or coercion into prostitution.

According to the 2005-06 labor survey, slightly fewer than 38,000 children between the ages of seven and 17 were employed in the formal sector in 2006. Approximately half of those were under 14. More than 60 percent of employed children worked in agriculture, 20 percent in retail trade, and 4 percent in private homes. Children also worked as domestic laborers and in informal bars. Outside of supermarkets they sometimes assisted truck drivers with unloading goods and carried bags for customers. Many orphans also left school to work as caregivers for sick relatives. Most employed children worked up to 28 hours per week.

The Ministry of Labor and Home Affairs was responsible for enforcing child labor laws and policies in all sectors, and it was generally effective, despite limited resources for oversight in remote areas of the country. District and municipal councils have child welfare divisions, which are also responsible for enforcing child labor laws. Other involved government entities included offices with the Ministry of Education and the Ministry of Local Government. Oversight of child labor issues was facilitated through the Advisory Committee on Child Labor, which included representatives of various NGOs, government agencies, workers' federations, and employers' organizations. One child was found to be working illegally in the agricultural sector during the year. The employer was charged and fined and the child was assisted by the Department of Social Services.

The Government supported and worked with partners to conduct workshops to raise awareness of child labor. The Department of Labor partnered with the Department of Social Services to advocate against and raise awareness of exploitative child labor.

*e. Acceptable Conditions of Work.*—The minimum hourly wage for most full-time labor in the private sector was 3.80 pula (\$0.58), which did not provide a decent standard of living for a worker and family. The cabinet determined wage policy based on recommendations from the National Economic, Manpower, and Incomes Committee, which consists of representatives of the Government, the private sector, and the Botswana Federation of Trade Unions. The Ministry of Labor and Home Affairs was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector.

Formal sector jobs generally paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were provided, frequently paid below the minimum wage. The minimum wage for domestic workers was two pula (\$0.30) per hour. The minimum for workers in the agricultural sector was 408 pula (\$62) per month; however, the cost of feeding a worker who lived on the employer's premises could be deducted from the wages.

The law permits a maximum 48-hour workweek, exclusive of overtime, which is payable at time-and-a-half. The law does not specifically outline rest periods or prohibit excessive compulsory overtime. Most modern private sector jobs had a 40-hour workweek; the public sector, however, had a 48-hour workweek. The labor law applies to farm and migrant workers. The Department of Labor had inspectors to oversee and enforce labor regulations; however, the number was insufficient to allow for inspection of all relevant workplaces.

The Government's ability to enforce its workplace safety legislation remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, there are limited requirements for occupational safety contained in the Employment Act, and employers in the formal sector generally provided for worker safety.

The law provides that workers who complain about hazardous conditions may not be fired, and authorities in the Ministry of Labor and Home Affairs effectively enforced this right.

---

## BURKINA FASO

Burkina Faso is a parliamentary republic with a population of approximately 15.7 million. In November President Blaise Compaore was reelected to a fourth term with more than 80 percent of the vote. Observers considered the election free and transparent, despite minor irregularities, but not entirely fair due to the ruling party's control of official resources. The president, assisted by members of his party, the Congress for Democracy and Progress (CDP), continued to dominate the Government. The CDP won a majority in the 2007 legislative elections, which observers declared generally free and orderly despite irregularities, including fraud involving

voter identification cards. There were instances in which elements of the security forces acted independently of civilian control.

Human rights problems included security force use of excessive force against civilians, criminal suspects, and detainees; arbitrary arrest and detention; abuse of prisoners and harsh prison conditions; official impunity; judicial inefficiency and lack of independence; occasional restrictions on freedom of assembly; official corruption; societal violence and discrimination against women and children, including female genital mutilation; trafficking in persons; discrimination against persons with disabilities; and child labor.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on June 30, Da Arnaud Some died in police custody several hours after being arrested for alleged drug possession. Some died under unclear circumstances in Gaoua hospital after police arrested him on drug possession charges in Danyoro. Some tried to escape and sustained injuries falling down a steep ravine. He died a few hours later while in the hospital receiving treatment. Human rights organizations, including the Burkina Faso Movement for Human and Peoples' Rights (MBDHP), investigated the death and concluded that Some died as a result of a severe police beating and not because of an alleged fall. The MBDHP called for an independent investigation and the arrest of those responsible for Some's death. The Government took rapid disciplinary action, arresting the three policemen involved in Some's death and reassigning the entire police staff, including the chiefs of police in Danyoro and Gaoua, to other police stations. Although the Government promised legal action against the perpetrators, by year's end there had been no trial. This death triggered violent demonstrations on July 1 in Gaoua (see section 2.b.).

On July 1, security forces killed two young men in Gaoua after demonstrations organized to protest the June 30 killing turned violent. According to official reports, security forces used shotguns to restore order. Human rights associations collected empty cartridges after the incidents, and injuries were consistent with the use of live fire. Official post-incident reports referred to the causes of death as "accidental" (see section 1.c.).

In September 2009 prison guards shot and killed six prisoners and severely injured eight more while trying to quell prisoners protesting preferential treatment of wealthier prisoners. The Burkinabe Movement for the Emergence of Social Justice (MBEJUS) demanded an investigation; however, no action had been taken by year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such treatment, members of the security forces continued to abuse persons with impunity. Suspects reportedly were frequently subjected to beatings, threats, and occasionally torture to extract confessions. Government actions to prevent such treatment were weak, with only a few known cases when this behavior was punished.

*Prison and Detention Center Conditions.*—Prison conditions were harsh and could be life threatening. Prisons were overcrowded, and medical care and sanitation were poor. Diet was inadequate, and inmates often relied on supplemental food from relatives. Pretrial detainees were usually held with convicted prisoners.

Deaths from prison conditions or neglect occurred, according to human rights organizations. The MBEJUS stated that approximately 150 prisoners died during the year. Human rights activists believed that the majority of those deaths were the result of harsh prison conditions.

There were 5,238 persons incarcerated countrywide, including 112 women and 127 minors, of whom 2,519, including 73 women and 82 minors, were in pretrial detention. Generally juveniles and adults were not held together in Ouagadougou; however, in provincial prisons they were held together because no separate facilities existed there for juveniles.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Government investigated and monitored prison and detention center conditions. Prison authorities granted permission to visit prisons without requiring advance notice for representatives of local and international human rights groups, the media, foreign embassies, and the Inter-

national Committee of the Red Cross. The International Red Cross visited prisons as did members of local nongovernmental organizations (NGOs), foreign embassies, and the press.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, security forces did not consistently observe these prohibitions. The Government did not take steps to prevent such treatment and did not investigate and punish those responsible.

*Role of the Police and Security Apparatus.*—The National Police, under the Ministry of Security, and the municipal police, under the Ministry of Territorial Administration, are responsible for public security. Gendarmes, under the Ministry of Security, are responsible for restoring law and order during a disturbance, enforcing the penal code, and taking preventive action, such as checking if individuals are carrying required official documents.

Human rights organizations cite the climate of impunity created by the Government's inaction as the largest obstacle to reducing abuse.

Observers stated security forces were not very effective in preventing and responding to societal violence. The Human Rights Ministry did not conduct any seminars during the year to educate security forces on human rights because of a lack of funding. In addition, human rights organizations pointed to complicated government procedures for authorizing security forces to take action as hampering security forces from preventing and responding to societal violence.

For example, authorities were not effective in addressing incidents between Fulani herders and Mossi, Gourounchi, and Gourmanche farmers, or cases in which elderly women were expelled from their homes or villages following accusations of witchcraft.

*Arrest Procedures and Treatment While in Detention.*—By law, police must possess a warrant to search or arrest, arrests must be made openly, and warrants must be based on sufficient evidence and issued by a duly authorized official. However, authorities did not always respect this process. Detainees were not consistently informed of charges against them. The law provides the right to expeditious arraignment, bail, access to legal counsel after a detainee has been charged before a judge or, if indigent, access to a lawyer provided by the state after being charged; however, these rights were seldom respected. The law does not provide for detainees to have access to family members, although detainees generally were allowed such access.

The law limits detention without charge for investigative purposes to a maximum of 72 hours, renewable for a single 48-hour period; however, police rarely observed these restrictions. The law permits judges to impose an unlimited number of six-month preventive detention periods. The average time of detention without charge (preventive detention) was one week. However, defendants without access to legal counsel often were detained for weeks or months before appearing before a magistrate. Ombudsmen are permitted to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding.

Government officials estimated that 48 percent of prisoners nationwide were in pretrial status. In some cases detainees were held without charge or trial for longer periods than the maximum sentence they would have received if convicted of the alleged offense. A pretrial release (release on bail) system exists; however, the extent of its use was unknown. Human rights advocates stated that the justice system, including prisons, had unreliable mechanisms to track detainees and occasionally "lost" some of them.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, NGOs reported that the judiciary was corrupt, inefficient, and subject to executive influence. The president has extensive appointment powers and used them to influence the judiciary. Constitutionally, the head of state also serves as president of the Superior Council of the Magistrature, which nominates and removes senior magistrates and examines their performance. Other systemic weaknesses in the justice system included the removability of judges, corruption of magistrates, outdated legal codes, an insufficient number of courts, and excessive legal costs.

Military courts try cases only involving military personnel and provide rights equivalent to those in civil criminal courts. They hold public trials and publish verdicts in the local press. Traditional courts in rural areas were abolished in 1984 and no longer have legal standing.

*Trial Procedures.*—Trials are public, but juries are not used. Defendants are presumed innocent and have the right to legal representation and consultation. Defendants have the right to be present at their trials, to be informed promptly of charges

against them, to provide their own evidence, and to have access to government-held evidence. Defendants can challenge and present witnesses and have the right of appeal. If indigent, they have the right to a lawyer provided by the state. However, these rights were not generally respected, due in part to popular ignorance of the law and a continuing shortage of magistrates. There were serious court backlogs.

Formal law provides women with equal property and inheritance rights. In practice, however, many Burkinabe held widespread traditional views that do not recognize women's inheritance rights and regard women as property. In general in rural areas, for example, a wife's land is viewed as belonging to the family of her deceased husband.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent judiciary in civil matters; however, due to the corruption and inefficiency of the judiciary, citizens sometimes preferred to rely on the ombudsman (see section 5) to settle disputes with the Government. The law provides for access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation, and both administrative and judicial remedies were available for alleged wrongs. Several such court orders were issued during the year. There were problems enforcing court orders in sensitive cases involving national security, wealthy or influential persons, and government officials.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respects these prohibitions. In cases of national security, the law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. However, under normal circumstances, the law requires that the justice minister issue a warrant before homes may be searched.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal. During the year the Government did not attempt to impede criticism.

The official media, including the daily newspaper Sidwaya and the Government-controlled radio and television stations, displayed a progovernment bias, but allowed significant participation in their programming from those representing opposition views. There were numerous independent newspapers, satirical weeklies, and radio and television stations, some of which were highly critical of the Government. Foreign radio stations broadcasted without government interference.

All media are under the administrative and technical supervision of the Ministry of Culture, Tourism, and Communications, and the spokesman of the Government, which is responsible for developing and implementing government policy and projects concerning information and communication. The Superior Council of Communication (SCC), a semiautonomous body under the Office of the President, also regulates the media by overseeing the content of radio and television programs and newspapers to ensure they adhere to professional ethics standards and government policy on information and communication. The SCC ensured equal access to the media for all November presidential candidates. The SCC may summon a journalist to attend a hearing about his work, followed by a warning that it would not tolerate a repeat of "noncompliant behavior." Hearings may concern alleged libel, disturbing the peace, or violations of state security. Approximately five journalists received such summonses during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, poverty and the high rate of illiteracy limited public access to the Internet. According to International Telecommunication Union statistics for 2008, less than 1 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government did not always respect this right.

The Government did not make public information on any action taken against security forces responsible for injuring and killing demonstrators during demonstrations organized by the political opposition in 2008 against high fuel and food prices.

Political parties and labor unions may hold meetings and rallies without government permission; however, advance notification is required for demonstrations on the streets that might impact traffic or threaten public peace. Penalties for violation of the advance-notification requirement include two to five years' imprisonment. Denials or imposed modifications of a proposed march route or schedule may be appealed to the courts. Government agents sometimes infiltrated political meetings and rallies.

On July 1, violent demonstrations erupted in the city of Gaoua to protest the June 30 death of Da Arnaud Some (see section 1.c.). Angry demonstrators burned a police station and looted property. The MBDHP reported that in response, security forces, including police, gendarmerie, and army personnel, were deployed across the city. They used teargas and shotguns to disperse the mob. According to the MBDHP, security forces accidentally shot and killed 17-year-old Boureima Sie Kambou as they were trying to restore order. They also shot Etienne Da in the stomach. He later succumbed to his injuries in a Bobo-Dioulasso hospital. The Government responded by reassigning implicated police officers, but there had been no trial by year's end (see section 1.a.).

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right. Political parties and labor unions could organize without government permission.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The Government, in accordance with Economic Community of West Africa guidelines, required travel documents, such as identification cards, for regional travel.

The law prohibits forced exile, and there were no reports that the Government used it during the year.

*Protection of Refugees.*—In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government granted refugee or asylum status and also provided temporary protection to individuals who may not qualify as refugees under the 1951 Refugee Convention or its 1967 Protocol. Under law, refugees have equal access to employment, basic services, education, police, and court services. There were no reports that refugees were denied these rights during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully through multiparty elections; however, the ruling party's control of official resources and dominance in government severely disadvantaged the opposition from mounting a credible challenge.

*Elections and Political Participation.*—In November President Blaise Compaore won reelection with more than 80 percent of the vote. Opposition candidate Hama Arba Diallo, the runner-up, received 7.96 percent. Despite some irregularities, international observers considered the election to have been free and transparent despite the resource advantage held by the president.

Political parties operated freely. Individuals and parties may freely declare their candidacies and stand for election in presidential elections; however, individuals must be members of a political party to run in legislative or municipal elections.

In the 2007 legislative elections, the ruling CDP won 73 seats in the 111-seat National Assembly. Of the 38 non-CDP deputies, 25 belonged to parties allied with the Government. Election observers declared the elections free and orderly, except in four cities where they noted irregularities, including several cases of fraud involving voter identification cards. Opposition leaders denounced the elections.

CDP membership conferred advantages, particularly for businessmen and traders seeking ostensibly open government contracts.

There were 13 women in the National Assembly and seven women in the 34-member cabinet. One of the four higher courts was led by a woman, the national ombudsman was a woman, 18 elected mayors were women, and an estimated 40 to 45 percent of new communal councilors were women.

There were 17 minority members in the cabinet and 61 in the National Assembly.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials engaged in corrupt practices with impunity. Local NGOs denounced what they called the overwhelming corruption of senior civil servants. They reported that corruption was especially acute in the customs service, gendarmerie, taxing agencies, national police, municipal police, public health service, municipalities, the education sector, government procurement, and the Justice Ministry. In recent years, despite numerous instances of high-level corruption, no senior government officials were prosecuted for corruption.

Corruption was widespread, particularly among lower levels of the police and gendarmerie. The 2008 report by the NGO National Network to Fight against Corruption stated that the police and gendarmerie were among the most corrupt institutions in the country. Corruption and official impunity were also a problem in the military. The gendarmerie is responsible for investigating abuse by police and gendarmes, but the results of their investigations were not always made public. The military court held a number of trials in which civilians pressed charges against military personnel. These trials were public, and verdicts were reported in the press. The Government took no known judicial action against representatives of security forces accused by human rights groups of being responsible for abuses and took disciplinary action in only a handful of cases.

Some public officials are subject to financial disclosure laws, but those laws were not effectively enforced.

No laws provide for public access to government information. While government ministries released some nonsensitive documents, local journalists complained that ministries generally were unresponsive to requests for information, ostensibly for reasons of national security and confidentiality. They also criticized government spokespersons for strictly limiting the scope of questions that can be raised during official press conferences. There is no procedure to appeal denials of requests for information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were mostly cooperative and responsive to their views.

The Government permitted international human rights groups to visit and operate in the country; the International Red Cross visited during the year.

The Ministry of Human Rights is responsible for the protection and promotion of human rights and coordinates relevant efforts of other ministries. The minister of human rights reports to the prime minister. During the year the ministry conducted education campaigns and produced human rights pamphlets for security forces.

The ombudsman is appointed by the president for a nonrenewable five-year term and cannot be removed during the term. The public generally trusted the ombudsman's impartiality. In accordance with the law, the ombudsman presented its 2009 report to the president on November 25. During its 15 years of existence (1994-2010), the institution investigated 3,698 complaints related to conflicts between Burkinabe and non-Burkinabe nationals living in Burkina Faso and complaints involving government services. Approximately 3,500 cases, including 936 in 2009, were resolved.

The Governmental National Commission on Human Rights serves as a permanent framework for dialogue on human rights concerns and included representatives of human rights NGOs, unions, professional associations, and the Government. The MBDHP did not participate on the commission and continued to charge that the commission was subject to government influence. The commission, which has never issued any reports, was inadequately funded.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, the Government did not effectively enforce these prohibitions. Discrimination against women and persons with disabilities remained problems.

*Women.*—Rape is a crime. Although there were prosecutions during the reporting period; no official statistics were available on the number of rapes during the year. Article 417 of the Penal Code punishes rape with five to 10 years' imprisonment. Human rights associations reported that rape occurs frequently. There is no explicit mention of spousal rape in the law, and there have been no recent court cases. A number of organizations counseled rape victims, including Roman Catholic and Protestant missions, the Association of Women Jurists in Burkina, the MBDHP, the Association of Women, and Promofemmes (a regional network that works to combat violence against women). Once rape is reported, the police investigate the accusation and bring the case to court if the evidence warrants.

Domestic violence against women, especially wife beating, occurs frequently, primarily in rural areas. No law specifically protects women from domestic violence, and cases of wife beating usually were handled out of court. There were no available statistics on how many persons were prosecuted, convicted, or punished for domestic violence during the year. It is believed that such legal actions were infrequent, because women were ashamed, afraid, or otherwise reluctant to take their spouses to court. Cases that involve severe injury were usually handled through the legal system.

The Ministry for Promotion of Women, the Ministry for Social Action and National Solidarity, and several NGOs cooperated to protect women's rights. The legal section in the Ministry for the Promotion of Women has a legal affairs section that informs women of their rights and encourages them to defend those rights. It organized a number of workshops and led several sensitization campaigns to inform women of their rights. Although the fight to achieve effective rights for women is a longstanding process, increasing numbers of women, primarily in urban areas, voiced their demand for equal rights. The numbers of women occupying decision-making positions has increased, with many active in politics. There were no hotlines; however, NGOs operated shelters in Ouagadougou during the year. The Government provided counseling representatives at each of the 13 regional "Maison de la Femme" structures.

On occasion, childless elderly women with no support, primarily in rural areas and often widowed, were accused of witchcraft, banned from their villages, and often accused of eating the soul of a relative or a child who had died. These women sought refuge at centers run by governmental or charitable organizations in larger cities.

The Ministry of Social Action and National Solidarity has recorded a total of 718 women accused of being witches and who had fled their villages. During the year 18 women fled their villages and were rescued by NGOs.

The Roman Catholic-operated center Delwende housed approximately 350 persons (including six men) during the year, including the 18 women accused of witchcraft. The Government and traditional authorities worked together to help citizens understand the error of both witchcraft claims, and the abuse of those accused of being witches. In particular the Ministry of Social Action and National Solidarity initiated specific sensitization programs with villages and assisted with mediation efforts between suspected witches and village notables.

The labor code explicitly prohibits sexual harassment in the workplace, but such harassment was common and considered by many as culturally acceptable. The law prescribes fines of 50,000 to 600,000 CFA francs (\$101 to \$1,213) and prison terms varying from one month to five years for persons convicted of workplace harassment. There were no available statistics on how many persons were prosecuted, convicted, or punished for the offense during the year.

Couples and individuals are legally entitled to decide freely and responsibly the number, spacing, and timing of their children. They have the right to access reproductive and family planning information and may do so without facing discrimination, coercion, or violence. In practice, however, a lack of access to information and medical care constrained these rights, especially in remote areas. Cultural norms, especially in rural areas that tend to have a less educated population, also limited the availability and use of these resources. Reproductive rights were usually respected and available in urban areas and among more educated populations. According to the UN Population Fund (UNFPA), contraceptive use among married women ages 15-49 for modern methods was approximately 17 percent. However, women often were subject to their husbands' decision regarding birth control. In 2008 the UNFPA estimated that the maternal mortality rate was 580 deaths per 100,000 live births. A woman's lifetime risk of maternal death was one in 28, and only 31 percent of births were attended by skilled personnel, according to the Population Reference Bureau.

Both government and private health centers were open to all women for reproductive health services, including contraception, skilled medical assistance during childbirth (essential obstetric and postpartum care), and diagnosis and treatment of sex-

ually transmitted diseases, including HIV. However, remote villages often lacked these facilities or did not have adequate road infrastructure to permit easy access. To obtain specific treatment or deliver under medical supervision, women in rural areas sometimes had to travel to the closest large city for access to adequate health centers.

Women continued to occupy a subordinate position in society and often experienced discrimination in education, jobs, property ownership, access to credit, management or ownership of a business, and family rights. Polygyny is permitted, but both parties have to agree to it prior to a marriage. A wife may oppose further marriages by her husband if she provides evidence that he has abandoned her and her children. Both spouses may petition for divorce, and the law provides that custody of a child may be granted to either parent, based on the child's best interests. In practice, however, the mother retained custody until the child reached the age of seven, at which time custody reverted to the father.

Since 2007 women have been permitted to serve in the military as officers and noncommissioned officers, and have deployed on foreign peacekeeping missions. Women represented approximately 45 percent of the general workforce and were primarily concentrated in lower-paying positions. Although the law provides equal property rights for women and, depending on other family relationships, inheritance benefits, traditional law often denied women the right to own property, particularly real estate. For example, in rural areas, land owned by a woman becomes the property of the family of her husband after marriage. Many citizens, particularly in rural areas, clung to traditional beliefs that did not recognize inheritance rights for women and regarded a woman as property that could be inherited upon her husband's death.

The Government continued media campaigns to change attitudes toward women, but progress was slow. The Ministry for Women's Promotion is responsible for promoting women's rights, and the minister was a woman. During the year the Government established community banks to promote economic development of grassroots organizations, including women's groups. The banks provided micro loans to fund cereal mills, shea butter production, market gardening, animal fattening, and other small businesses. The Government sponsored a number of community outreach efforts and sensitization campaigns to promote women's rights.

*Children.*—Citizenship is derived either by birth within the country's territory or by blood. Not all births are registered immediately, particularly in rural areas where administrative structures are insufficient and rural parents do not know they are required. Such lack of registration sometimes resulted in denial of public services. To address the problem, the Government periodically organized registration drives and issued belated birth certificates.

The law calls for compulsory, free, and universal education until the age of 16. The Government paid tuition, books, and supplies for all students under 16 years of age, although uniforms were the responsibility of the student's family. Children over 16 years of age were responsible for paying all education costs, unless they qualified for tuition assistance from merit- and need-based programs. The overall school enrollment was approximately 78 percent for boys and 71 percent for girls.

The law prohibits the abuse of children under 15 and provides for the punishment of abusers. The penal code mandates a one- to three-year prison sentence and fines ranging from 300,000 to 900,000 CFA francs (\$606 to \$1,820) for inhumane treatment or mistreatment of children; however, light corporal punishment was tolerated and widely practiced in society, although the Government conducted seminars and education campaigns against child abuse.

Female genital mutilation (FGM) was practiced, especially in rural areas, despite being illegal, and usually was performed at an early age. According to a 2006 report by the National Committee for the Fight Against Excision (CNLPE), up to 81 percent of women age 25 and older, and approximately 34 percent of girls and women under 25, had undergone FGM. Although there has been no recent study on FGM, the CNLPE believed that the practice has decreased significantly. Perpetrators are subject to a significant fine and imprisonment of six months to three years, or up to 10 years, if the victim dies. During the year, security forces and social workers from the Ministry of Social Action arrested several FGM practitioners and their accomplices. In accordance with the law, they were sentenced to prison terms.

As part of the Government's campaign against FGM in West Africa, the first ladies of Burkina Faso and Niger presided over a 2008 meeting on FGM in Ouagadougou. Noting that girls were sometimes taken across national borders to countries where excision is legal or law enforcement was weak, participants called on governments to coordinate and enforce national laws against FGM. There were no reports of increased enforcement efforts resulting from this meeting. The Government, through the Regional Committees to Combat Excision, continued to work with

local populations to address FGM. These regional committees (presided over by government-appointed high commissioners) brought together representatives of the Ministries of Social Action, Basic Education, Secondary and Superior Education, Women's Rights, Justice, Health, the police and gendarmerie, and local and religious leaders; they actively campaigned against the practice.

Several NGOs stated that child marriage was a problem, primarily in rural areas. A 2008 study conducted by the UN Children's Fund (UNICEF) and the Government concluded that 23.5 percent of girls and women 15-19 years old were already married or living with a partner, with 30.9 percent residing in rural areas and 9.5 percent in urban areas. On the other hand, 59.6 percent of girls and women were married at the legal age for marriage of 17 or older. The law prohibits forced marriage and prescribes penalties of six months to two years in prison for violation. The prison term may be increased to three years, if the victim is less than 13 years of age; however, there were no reports during the year of prosecutions of violators. The Government collaborated with the Government of Cote d'Ivoire to search for and repatriate a child taken across the border to be married forcibly. In addition the Government worked with the UNICEF and the UNFPA to carry out a project called, "Putting a stop to early marriages in Burkina Faso." Five regions with high early-marriage rates were targeted for the pilot phase of the project.

There were no statistics on child prostitution; however, government services and human rights associations believed it was a problem. Children from poor families relied on prostitution to meet their daily needs and, at times, to help their needy parents. Trafficked children, primarily Nigerian nationals, were also subject to sexual abuse and forced prostitution.

The law prohibits the worst forms of child labor, including the commercial sexual exploitation of children, child pornography, and jobs that harm their health. The 2008 antitrafficking legislation provides for penalties of up to 10 years for violators and increases maximum prison terms from five to 10 years. The law also allows terms as high as 20 years to life imprisonment under certain conditions. The Government worked with local NGOs to monitor the opening of new gold mines to ensure no children were illegally employed there. There were numerous street children, primarily in Ouagadougou and Bobo-Dioulasso. Many children ended up on the streets after traveling from rural areas to find employment in the city or after their parents sent them to the city to study with a unregistered Qur'anic teacher or to live with relatives and go to school. Several NGOs assisted street children. Two directorates within the Ministry of Social Action also ran educational programs, including vocational training, for street children; funded income-generating activities; and assisted in the reintegration and rehabilitation of street children. Nevertheless, the number of street children far outstripped the capacity of these institutions.

The law prohibits female infanticide, and there were no reports of such cases. Newspapers reported cases of abandonment of newborn babies following unwanted pregnancies. The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.htm> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts. There was no known Jewish community in the country.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, the provision of other state services, or other areas; however, the Government did not effectively enforce these provisions. There was no government mandate or legislation concerning access to buildings, information, or communication for persons with disabilities. Advocates reported that persons with disabilities often faced societal and economic discrimination. Such persons who were able to work found it difficult to find employment, including in government service, because of deeply entrenched societal attitudes that persons with disabilities should be under the care of their families and not in the workforce.

Programs to aid persons with disabilities were limited. In 2009 and during the year, the National Committee for the Reintegration of Persons with Disabilities conducted sensitizing campaigns and implemented reintegration programs and capacity-building programs to manage income-generating activities better. High commissioners, teachers and NGOs worked together to inform citizens about the rights of

persons with disabilities, specifically the rights of children with disabilities. A number of NGOs schooled and provided vocational training to children with disabilities.

*National/Racial/Ethnic Minorities.*—In past years there have been incidents of conflict over trampled fields involving cattle farmers of the Fulani ethnic group and farmers of other ethnic groups. Such incidents were fueled by the scarcity of grazing lands and Fulani herders allowing their cattle to graze on farming lands of the other groups, making them territorial disputes more than ethnic conflicts (see section 1.d., Role of the Police and Security Apparatus).

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not discriminate on the basis of sexual orientation in employment and occupation, housing, statelessness, or access to education or health care. However, societal discrimination based on sexual orientation and gender identity remained a problem. Religious and traditional beliefs do not tolerate homosexual conduct, and lesbian, gay, bisexual, and transgender (LGBT) persons were reportedly occasional victims of verbal and physical abuse. There were no reports that the Government responded to societal violence and discrimination against such persons.

LGBT organizations had no legal presence in the country but existed unofficially. There were no reports of government or societal violence against such organizations.

*Other Societal Violence or Discrimination.*—Societal discrimination against persons with HIV/AIDS was a problem. During the year approximately 130,000 persons tested HIV-positive in the country, 1.8 percent of the population. Persons who tested positive were sometimes shunned by their families, and HIV-positive wives were sometimes evicted from their homes. Some landlords refused to rent lodgings to persons with HIV/AIDS. However, persons with HIV/AIDS were generally not discriminated against in employment practices or the workplace.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements; however, “essential” workers such as police, army, and other security personnel may not join unions. Approximately 86 percent of the workforce was engaged in subsistence agriculture and did not belong to unions. Of the remainder, an estimated 25 percent of private sector employees and 60 percent of public sector workers were union members. The law provides unions the right to conduct their activities without interference, and the Government respected this right.

The law provides for the right to strike; however, the law provides a very narrow definition of this right. For strikes that call on workers to stay home and that do not entail participation in a rally, the union is required to send an advance notice (eight to 15 days) to the Government. If unions call for a march, then the Government requires the same request and that a notice also is submitted to the city mayor. March organizers are held accountable for any damage or property destruction that occurs during the demonstration. Magistrates, police, military personnel, and gendarmes do not have the right to strike.

There were no reports of strikebreaking during the year.

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to bargain directly with employers and industry associations for wages and other benefits. There was extensive collective bargaining in the formal wage sector; however, this sector included only a small percentage of workers.

There were no reports of government restrictions on collective bargaining during the year.

The 2008 collective bargaining agreement included private sector and civil service workers who participated in negotiations with employers; the agreement that was reached addressed their concerns, including better working conditions and higher salaries.

There were no reports of antiunion discrimination during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Forced child labor is found in the country’s agricultural (particularly cotton), informal trade, domestic servitude, and animal husbandry sectors as well as in gold panning sites and stone quarries.

Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for employment at 16 and prohibits children under 18 years of

age from working at night except in times of emergency; however, child labor was a problem, and children worked in the informal, agricultural (particularly cotton), and mining sectors outside their own families for little or no pay.

The minimum age for employment was consistent with the age for completing educational requirements, which generally was 16 years. In the domestic and agricultural sectors, the law permits children under the age of 15 to perform limited activities for up to four and one-half hours per day; however, many children under the age of 15 worked longer hours. A 2006 study conducted by the country's National Institute of Demography and Statistics and the International Labor Organization-funded Program for the Elimination of Child Labor estimated that 41 percent of children worked, largely as domestic servants or under harsh conditions in the agricultural or mining sectors. Children commonly worked with their parents in rural areas or in family-owned small businesses in villages and cities. There were no reports of children under age 15 employed in either state-owned or large private companies.

The Ministry of Labor and Social Security, which oversees labor standards, lacked the financial and transportation means as well as a sufficient number of inspectors to enforce worker safety and minimum age legislation adequately.

Punishment for violating child labor laws included prison terms of up to five years and fines of up to 600,000 CFA francs (\$1,213); however, the Government did not adequately enforce this law, and there were no confirmed statistics regarding the number of convictions during the year.

The Government organized workshops during the year, and in cooperation with donors, undertook sensitization programs to inform children, parents, and employers of the dangers of exploitative child labor and sending children away from home to work.

*e. Acceptable Conditions of Work.*—The law mandates a minimum monthly wage of 30,684 CFA francs (\$62) in the formal sector; the minimum wage does not apply to subsistence agriculture or other informal occupations. The minimum wage did not provide a decent standard of living for a worker and family. Employers often paid less than the minimum wage. Wage earners usually supplemented their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector. The Ministry of Labor and Social Security was responsible for enforcing the minimum wage.

The law mandates a standard workweek of 40 hours for nondomestic workers and a 60-hour workweek for household workers, and it provides for overtime pay. There are also regulations pertaining to rest periods, limits on hours worked, and prohibition of excessive compulsory overtime, but these standards were not effectively enforced.

Government inspectors under the Ministry of Labor and Social Security and the labor tribunals are responsible for overseeing occupational health and safety standards in the small industrial and commercial sectors, but these standards do not apply in subsistence agriculture and other informal sectors. The Government's Labor Inspector Corps did not have sufficient resources, including sufficient numbers of inspectors and offices and financial and transportation means, to fulfill its duties adequately. There were no reports of effective enforcement of inspection findings during the year. Every company with 10 or more employees is required to have a work safety committee. If the Government's Labor Inspection Office declares a workplace unsafe for any reason, workers have the right to remove themselves without jeopardizing continued employment. There were indications that this right was respected, although such declarations by the Labor Inspection Office were rare.

---

## BURUNDI

Burundi is a constitutional republic with an elected government and a population of 8.6 million. From May to September, the country held elections for all public offices, including the first direct presidential elections since 1993. Following the May 25 Communal Council elections, which the international community characterized as generally free and fair, a coalition of 12 opposition parties alleged massive fraud and called for the annulment of the results and new elections. When the parties' demands were not met, they withdrew their candidates from the subsequent presidential, legislative, and "colline" elections. President Pierre Nkurunziza, of the ruling National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) party, ran unopposed in the June presidential election and was reelected to a second term. International observers characterized the elections as generally free and fair, although there were reports of political violence leading up

to and throughout the five-month election season. Security forces reported to civilian authorities. There were instances in which elements of the security forces acted independently of civilian control.

Human rights abuses during the year included security force killings, torture, and mistreatment of civilians and detainees; official impunity; societal killings and vigilante justice; harsh, life-threatening prison and detention center conditions; prolonged pretrial detention and arbitrary arrest and detention; detention and imprisonment of political prisoners and political detainees; lack of judicial independence and efficiency; official corruption; restrictions on privacy and freedom of speech, assembly, and association; sexual violence and discrimination against women and children; discrimination against gays and lesbians and persons with albinism; and restrictions on labor rights.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Human rights organizations and the media reported numerous cases in which the Government or its agents committed arbitrary or unlawful killings, including extrajudicial killings, some of which appeared to be politically motivated. The UN Office of the High Commissioner for Human Rights (OHCHR) in the country reported 35 killings by security forces during the year, including 25 perpetrated by police, nine by the military (FDN), and one by the national intelligence agency (SNR). Of these, the OHCHR reported 11 cases of extrajudicial killings.

Police officer Jackson Ndikuriyo was killed on August 26 while in the custody of Bubanza Province Police Commissioner Remegie Nzeyimana and four police officers. In December 2009 Ndikuriyo and seven police colleagues complained in a letter to Minister of Public Security Alain Guillaume Bunyoni that police were not receiving their housing allowances. On January 11, Ndikuriyo and Severin Misago, another of the complainants, were fired without explanation. When Ndikuriyo and Misago indicated that they planned to file a lawsuit, Ndikuriyo began receiving threats, including from Deputy Director General of Police Gervais Ndirakobuca. On August 26, police detained Ndikuriyo and Misago in Musigati Commune, Bubanza Province. Later that day Police Commissioner Nzeyimana picked up Ndikuriyo from Musigati police custody. En route between Musigati and Bubanza city, Ndikuriyo was killed. The police claimed that Ndikuriyo was shot by bandits during an ambush. The police acknowledged, however, that no bullets hit the vehicle or any of the police officers during the alleged attack. No arrests occurred by year's end. On September 27, Ndikuriyo's lawyer, Francois Nyamoya, was jailed (see section 2.a.).

On September 7, while executing a search warrant for presumed bandits in Buganda Commune, Cibitoke Province, police arrested and summarily executed Japhet Bigirimana (alias Kadura), Boniface Mahungu, Nsabiyaemye (alias Zairois), and Niyonkuru. Members of the police, including local Police Chief Eugene Bizindavyi, took the four men in a pick-up truck ostensibly to find their arms caches and accomplices. Instead, at approximately 5:30 p.m. the four men were taken to a manioc field and killed. By year's end no suspects had been arrested.

Also on September 7, soldiers shot and killed Fabien Mpfubusa, a member of the National Liberation Forces (FNL) party. Mpfubusa attempted to flee when the military encircled his home in the Kanyosha quarter, Bujumbura. Following the shooting the soldiers searched the house without providing a search warrant. They seized only medication. No investigation occurred by year's end.

Although not numbered among the extrajudicial killings, the following murders appeared politically motivated:

On January 10, a man armed with a Kalashnikov assault rifle shot and killed Sylvestre Niyonzima, a critic of the ruling CNDD-FDD party and the Bubanza Province financial manager for the Union for Peace and Development (UPD-Zigamibanga). Niyonzima, who had defected from the CNDD-FDD party and had just returned from opening a new UPD office, was shot eight times at close range. The killer departed without attempting to steal anything. Witnesses alleged that the killer was an ex-combatant from the CNDD-FDD's former armed wing. The killing occurred within five yards of a police station, but police did not respond to the shooting, and no arrests occurred by year's end.

On July 14, the first court hearing took place in the April 2009 political killing of Ernest Manirumva, vice president of the local nongovernmental organization (NGO) Observatory for the Struggle against Economic Corruption and Embezzlement (OLUCOME). During the preliminary hearing, the 11 men arrested in 2009 requested release on their own recognizance; the judges subsequently declared themselves unable to rule on the request because five other suspects, who remained

at large, had not been properly summoned to appear before the court. At year's end the 11 remained in jail, and the five remained at large. Local and international human rights organizations and the international community called on General Prosecutor of the Republic Elysee Ndaye to expand the case to include all suspects and to pursue all possible leads, including high-level officials in the security forces who allegedly arranged and carried out Manirumva's killing.

Beyond the political killings, security forces were responsible for other arbitrary killings during the year.

On June 10, a policeman killed six persons in the Kirundo Province police camp. The following week the High Court sentenced him to life imprisonment. He remained in prison at year's end.

During the year there were developments in the following 2009 killings by security forces:

- On August 10, five policemen, including local police commander Nestor Niyukuri, were sentenced to life imprisonment for the May 2009 shooting of boy scouts in Kayagoro, Makamba Province, which resulted in the death of one scout and the injuring of three. The policemen remained in prison at year's end. The court acquitted the Kayagoro communal administrator on the grounds that he did not have the authority to order police to shoot. The prosecutor appealed the administrator's acquittal; the appeal was pending at year's end.
- The three policemen accused of beating to death a man in Kayanza Province in October 2009 were acquitted on August 9. According to witnesses and police, Kayanza Governor Senel Nduwimana ordered the beating because the victim would not give him land for free. Nduwimana remained the governor of Kayanza after the killing and in July assumed a seat in the National Assembly.
- During the year a soldier was found guilty and sentenced to life imprisonment for the 2008 killing of two persons with a grenade in Ruyigi Province.

There were no developments in the 2008 killing of a civilian by a policeman in a bar in Ngozi Province; the policeman remained in prison, awaiting trial.

There were no further developments in the 2008 killing by FNL rebels of the head of a family in Muhuta, Bujumbura Rural Province.

Large quantities of arms circulated among the population, and general lawlessness prevailed in many areas, resulting in numerous deaths and injuries.

Election-related violence resulted in numerous deaths (see section 3).

Numerous persons involved in personal disputes died as a result of grenade attacks. For example, on January 3, in Itaba, Gitega Province, a grenade attack resulted in the death of Come Matama and his one-year-old child; Matama's wife was seriously injured. According to the Itaba communal administrator, the killing resulted from a land dispute with the victim's brother. Three persons were detained by local police but later released for lack of evidence. No further arrests occurred.

There were no developments in the following 2009 grenade attacks: the February grenade attack, reportedly due to a land dispute, that killed a man in Itaba, Gitega Province; and the September death of one person and serious injury of six others when a grenade was thrown into a cafe in Gihanga, Bubanza Province. No arrests were made in either case.

The two suspects arrested for the December 2009 grenade attack in Bujumbura's central market, which killed two and seriously wounded 10, were released after they provided alibis. No other suspects were arrested.

There were reports of killings usually perpetrated by unknown persons, of individuals accused of sorcery. For example:

- On May 3, a mob killed a man in Ruyigi Province; three suspects were arrested but later released for lack of evidence.
- On June 6, a mob with machetes killed a man in Cibitoke Province. By year's end no suspects had been arrested.
- On July 26, in Nyanza-Lac, Makamba Province, a mob beat to death Appollinaire Ngendabanka. By year's end no suspects had been arrested.

There were no arrests in the following 2009 killings of individuals accused of sorcery: the March killing of a woman from Gisuru and a man from Butaganzwa, Ruyigi Province; the May killing of three elderly women in Gishingano, Bujumbura Rural Province; and the May death of a man burned by a mob in Rumonge, Bururi Province.

There were no further developments in the 2008 sorcery-related death by mutilation of a 14-year-old girl in Muyinga Province.

There was no further development in the 2008 burning and killing of four persons in Ruyigi Province; those arrested were still awaiting trial at year's end.

Sporadic killings of persons with albinism, in which the victims' body parts were removed for use in witchcraft, continued.

On May 2, in Cendajuru, Cankuzo Province, approximately 10 persons armed with guns, grenades, and machetes attacked the household of a Mr. Vwegura, who lived with his daughter and grandson, both of whom were persons with albinism. The attackers went directly to the daughter and grandson's room, shooting Vwegura when he tried to protect his family. The attackers then killed the daughter and grandson, dismembered their bodies, and took the body parts. On May 3, nine suspects—eight Burundians and one Tanzanian—were arrested in connection with the killings. Following their trial two of the nine received life sentences; the others received sentences of 12, 10, and three years' imprisonment. All nine appealed. They remained in prison at year's end.

On September 30, five attackers raided the home of a widow in Nyamurenza, Ngozi Province, killed her eight-year-old son, and severed his hands and legs. At year's end one Burundian suspect was detained in the Ngozi prison and the investigation continued. Four Rwandan nationals remained at large; the country's authorities were working with their Rwandan counterparts on the case.

During the night of December 30, four unidentified assailants armed with rifles and machetes attacked a family with three children with albinism in Gahweza colline in Kiganda, Muramvya Province. According to the local official, the bandits cut off the left arm of the family's 12-year-old son, Ephraim Havyarimana, before they were forced to flee by the family's screams. Ephraim died before he could reach a hospital. No arrests were made by the end of the year.

During the night of December 31, a five-month-old girl with albinism was kidnapped from her family in Vumwe colline in Kinyinya, Ruyigi Province. Police arrested the girl's father and two other individuals; they remained in detention at year's end. According to the authorities, the father had never accepted his paternity of the girl with albinism.

Widespread public dissatisfaction with the security force's inability to control crime, or complicity in it, resulted in vigilante killings.

For example, on April 30, when three thieves armed with rifles attempted to rob a house in Mwiruzi, Cankuzo Province, the local population intervened. They pursued the thieves, caught one, and beat him to death. No one was arrested for the killing.

No arrests were made in the following 2009 cases of mob killings: the September stoning to death of two police officers suspected of theft by a mob in Muhindo, Ruyigi Province; and the September killing by a mob of a man caught stealing in the Cibitoke neighborhood of Bujumbura.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances.

As of the end of the year, more than eight families requested that the domestic NGO Association for the Protection of Human Rights and Detained Persons (APRODH) help them locate relatives arrested by security forces during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, UN human rights monitors, Amnesty International, and the APRODH reported that members of the police and the SNR tortured detainees during the year, the first reported cases of torture in two years. The UN Integrated Office in Burundi (BINUB) Human Rights and Justice Division (HR&J) reported that members of the police, SNR, and local administrations tortured 30 detainees during the year. Although the perpetrators were known in many cases, no action was taken against them by year's end.

According to BINUB HR&J, police tortured 14 detainees, the SNR 13, and local administration officials two; police and local officials together tortured one individual. All 30 cases occurred between June and November. Methods included forcing a gun into victims' ears and noses; whipping, beating their heads, feet, and buttocks; digging mock graves; and threatening the victims with machetes. While this occurred, the perpetrators demanded that victims confess to planning to "destabilize institutions" or "threaten state security." The OHCHR and international human rights organizations named the following individuals as perpetrators in some cases: SNR Internal Intelligence Director General Leonard Ngendakumana, Chief of Internal Security Jean Claude Sindayigaya, SNR Cabinet Chief Agricole Mwumba Ntirampeba, Western Region Police Commissioner David Nikiza, and Deputy Director General of the Police Gervais Ndirakobuca.

A police commissioner accused of torturing a detainee in the Bubanza provincial jail in 2008 remained in his position without any administrative sanctions.

In May the Muramvya Province High Court sentenced three policemen for the 2007 torture of more than 20 detainees in Rutegama. Desire Uwamahoro, Apollinaire Sindikubwayo, and Nestor Niyukuri received sentences of five, four, and three years of imprisonment, respectively, and fines of 10, six, and three million

francs (\$8,045, \$4,827, and \$2,413), respectively. Despite the sentences Uwamahoro and Sindikubwayo remained free and in the police force at year's end. Uwamahoro commanded the Second Quick Reaction Police Unit, an elite unit in Bujumbura that responds to urgent situations nationwide. Niyukuri was in prison, serving a life sentence for the May 2009 boy scout shooting (see section 1.a.). All three appealed their convictions in the Rutegama torture case.

BINUB HR&J and domestic NGOs also reported that members of the security forces and local administration officials often manhandled and beat civilians and detainees. The HR&J Division documented 105 cases of mistreatment during the year.

During the May to September election season, incidents of mistreatment increased particularly of detainees affiliated with political parties. The OHCHR reported 32 cases of such treatment between May and July, committed primarily by the SNR and police as well as one case perpetrated by FDN members. As of December there had been no arrests of perpetrators.

No disciplinary action occurred in the following 2009 incidents: the January beating of an 80-year-old woman by the local police commander in Kamenge, Bujumbura; and the June beating of a female police officer by a male police officer in Kibenga, Bujumbura.

The two policemen arrested in connection with knocking a pregnant woman off a bicycle taxi in Bujumbura in August 2009 were released and returned to duty.

During the year it was reported that in September 2009 the Bururi High Court sentenced a policeman to 20 years' imprisonment for firing live ammunition into an unruly crowd in Bururi Province in 2007. He remained in prison at year's end.

There were reports that security force members raped women and girls during the year. For example, according to the APRODH's statistics for June and September, police committed six cases of rape in June and four cases in September, and military personnel committed one case of rape in September.

There were no further developments in the August 2009 rapes of two 15-year-old girls in Mutimbuzi, Muramvya Province by two armed men in military uniforms.

There were no further developments in the following rape cases involving security forces from 2008: the 36 victims recorded by the UN; a 16-year-old girl at a cantonment camp in Randa; a nine-year-old girl at a camp for displaced persons in Buhiga; and a woman in Busoni.

Widespread public dissatisfaction with the security force's inability to control crime, or complicity in it, resulted in vigilante violence.

For example, 41-year-old Albert Muyeberi was caught in the act of raping an eighth-grade girl in Songa, Bururi Province in January. When local residents confronted Muyeberi, he admitted she was his fifth victim. Local elders prevented residents from lynching the man and burning him alive. After spending time in the hospital, Muyeberi was sent to pretrial detention in the Bururi prison. He remained in detention and awaiting trial at year's end.

On February 18, residents of Kikuza, in Rumonge Commune, Bururi Province, severely beat a man suspected of raping a young local girl. According to media reports, when a local APRODH representative condemned the act, local residents responded that incidents of rape were increasing and that the perpetrators were never punished.

*Prison and Detention Center Conditions.*—Prisons were overcrowded, and prison conditions remained harsh and sometimes life threatening. Physical abuse and prolonged stays in solitary confinement were problems. The director of prison administration in the Office of Penitentiary Affairs reported that as of December, 9,844 persons were held in 11 prisons built to accommodate a total of 4,050 inmates. According to government officials and human rights observers, prisoners suffered from digestive illnesses and malaria; some died as a result of disease. Families often had to supplement meager prisoner rations.

Each prison had at least one qualified nurse and at least a weekly visit by a doctor; however, prisoners did not always receive prompt access to medical care. Serious cases were sent to local hospitals. The International Committee of the Red Cross (ICRC) was the sole provider of medicines.

Conditions in detention centers and communal lockups were generally worse than in prisons. Torture and abuse occurred, the Government did not feed detainees in detention centers or communal lockups, and severe overcrowding was common. Proper sanitation and medical care were limited or nonexistent.

As of December there were 345 women in prisons and 77 children under three-years-old, some of whom were born there. There were 257 juveniles between 16 and 18 years old in pretrial detention and 115 convicted juveniles. Most women detainees and prisoners were held in the same facilities as men; however, as of September a separate area for female inmates had been established in each prison. A small prison in Ngozi Province was reserved for women only. Juvenile prisoners were held

in the same prisons as adults. Ten of the 11 prisons were rehabilitated during the year to accommodate juvenile prisoners in separate areas; however, adult prisoners were often allowed in those areas as well due to overcrowding. Juveniles were generally held together with adults in detention centers and communal lockups. Pre-trial detainees were often held together with convicted prisoners, and political prisoners were often held with convicted criminals.

There were unconfirmed allegations that the SNR maintained illegal detention centers across the country.

Prisoners were permitted religious observance without discrimination toward any religions or practices. Prisoners were permitted to submit complaints to judicial authorities without censorship; however, authorities rarely investigated prisoner complaints. No ombudsmen served on behalf of prisoners and detainees.

The Government monitored prison and detention center conditions.

During the year the Government permitted all visits requested by international and local human rights monitors, including the ICRC; visits took place in accordance with the ICRC's standard modalities.

In an effort to reduce prolonged pretrial detentions, on January 25, the then minister of justice Ndikumana granted release on their own recognizance ("provisional liberty") to certain categories of pretrial detainees: those who had spent 12 months or more in "preventive detention" for crimes with penalties no greater than five years in prison, pregnant or breastfeeding women, minors (less than 18 years old), those diagnosed with advanced incurable diseases, and those whose cases were before the court but had not been heard for three or more years. Persons detained for crimes such as murder, armed robbery, attacking state security, and similar crimes were ineligible for provisional liberty.

In an effort to reduce overcrowding in prisons, a March 24 presidential decree commuted life sentences to 20 years and all others to half the sentence given by the court with some exceptions (see below section 1.d., Amnesty).

To improve prison conditions, Penitentiary Affairs requested a budget increase from 3.068 billion francs (\$2.47 million) to 3.884 billion francs (\$3.12 million). In December parliament approved 3,436,734,950 francs (\$2.76 million) for Penitentiary Affairs.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, but security forces arrested and detained persons arbitrarily.

*Role of the Police and Security Apparatus.*—The national police are responsible for internal security, but the FDN may assume such responsibilities in time of war. The police deal with criminal matters, and the FDN fulfills external security and counterinsurgency roles. In practice the FDN also detains suspects. The Ministry of National Defense and War Veterans oversees the FDN; the Ministry of Public Security oversees the national police. The SNR, which gathers intelligence on domestic and international issues and has the authority to arrest and interrogate suspects, reports directly to the president.

Members of the security forces were poorly trained. Corruption, disregard for limits on detention, and mistreatment of prisoners and detainees remained problems. An internal affairs unit within the police force investigated only administrative violations committed by police and had no authority to discipline violators; punishment was rare. BINUB and NGOs provided human rights training to police. Impunity and lack of accountability for members of the security forces who committed human rights abuses remained problems.

*Arrest Procedures and Treatment While in Detention.*—In most cases the law requires arrest warrants issued by presiding magistrates. Police can make arrests without a warrant but are required to notify their supervisor before doing so. The police have seven days to finish their investigation and to transfer the suspect to the magistrate. The police can request seven more days if additional investigation time is required. However, police rarely respected these provisions in practice and routinely violated the requirement that detainees be charged and appear before a magistrate within seven days of arrest. A magistrate can order the release of suspects or confirm the charges and continue detention, initially for 14 days, then for seven more days as necessary to prepare the case for trial. Magistrates ignored this requirement and often detained suspects for longer. Police are authorized to release suspects on bail, but this provision was rarely exercised. Suspects are permitted lawyers at their own expense in criminal cases, but the law does not require, and the Government did not provide, attorneys for indigents at government expense. The law prohibits incommunicado detention, but reportedly it sometimes occurred. Authorities on occasion denied family members prompt access to prisoners.

Unlike in the previous year, security forces arbitrarily detained journalists (see section 2.a.) and political party members (see section 3), sometimes for prolonged periods of time.

Juvenal Rududura, the vice president of the Justice Ministry's administrative workers union, who was detained from September 2008 to July 2009, remained on "provisional liberty" (see section 7.b.).

Prolonged pretrial detention remained a problem; detainees were often held beyond the statutory limit. According to the director of Prison Administration, 56.4 percent of inmates were pretrial detainees held without charge. Lengthy legal procedures, large case backlogs, judicial inefficiency, corruption, and financial constraints often caused trial delays.

For example, the former director general of the state-owned tea company, Elysee Ntiranyibagira, was jailed in 2006 for embezzling public funds and fraudulent management. In 2007 the general prosecutor of the republic requested the Supreme Court schedule Ntiranyibagira's hearing. In December 2008 the case was heard and the judges entered into deliberation. Deliberation, which should last no more than 60 days according to the law, continued for 21 months until he was acquitted in October.

The law provides that detainees in the country's 400 communal lockups be held no longer than two weeks; however, many such detainees were held for months, particularly in provinces without prisons, such as Cankuzo, Cibitoke, Karuzi, Kayanza, Kirundo, Makamba, and Mwaro.

*Amnesty.*—On March 24, President Nkurunziza granted amnesty to prisoners sentenced for less than or equal to five years who also met one of the following conditions: pregnant or breastfeeding, diagnosed with an advanced stage incurable disease, 60 years or older at the date of the amnesty decree, or a minor (under 18 years old). The presidential decree excluded persons convicted for crimes such as rape, assassination, armed robbery, misappropriation of public funds, attacking state security, drug trafficking, and arson. It also excluded convictions for genocide, crimes against humanity, war crimes, voluntary homicide, sexual assault, and torture. By the end of July 1,350 prisoners were released due to the amnesty.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary was not independent in practice and was inefficient and corrupt. Political interference compromised judicial impartiality, and there were problems with enforcement of court orders.

For example, in July a court in Kinama, Bujumbura, ruled that eight members of the UPD and FNL opposition parties detained during election disputes on June 28 and 29 should be released. However, the prosecutor and the Mpimba Prison director refused to follow the court's ruling, and the eight remained in jail until December, when they were released among a group of 20 political prisoners. The charges against them were dropped.

The law provides for an independent military judicial system, which in practice was influenced by the executive and higher-ranking military officers. Military courts have jurisdiction over military offenders and over civilians accused of offenses implicating members of the military. Military courts provide the same rights as criminal courts.

The Government officially recognizes the traditional system of community arbitration known as "abashingantahe," which functions under the guidance of community members recognized for their conflict resolution skills. A "mushingantahe," or community mediator, presides over deliberations, and no lawyers are involved. The abashingantahe system was limited to civil and minor criminal matters.

*Trial Procedures.*—All trials are publicly conducted by panels of judges. In theory defendants are presumed innocent and have a right to counsel, but not at the Government's expense, even in cases involving serious criminal charges. Defendants have a right to defend themselves, including to question the prosecution's witnesses, call their own witnesses, and examine evidence against them. Defendants can also present evidence on their own behalf and did so in the majority of cases. Few defendants had legal representation because few could afford the services of one of the 131 registered lawyers in the country. Some local and international NGOs provided juridical assistance but could not assist in all cases. The law extends the above rights to all citizens.

All defendants, except those in military courts, have the right to appeal their cases to the Supreme Court. In practice the inefficiency of the court system extended the appeals process for long periods, in many cases for more than a year. This effectively limited the possibility of appeals, even by defendants accused of the most serious crimes.

Procedures for civilian and military courts are similar, but military courts typically reached decisions more quickly. Military trials, like civilian trials, generally failed to meet internationally accepted standards of fairness. The Government does not provide military defendants with attorneys to assist in their defense, although NGOs provided some defendants with attorneys in cases involving serious charges. Military trials generally are open to the public but can be closed for compelling reasons, including for national security or when publicity can harm the victim or a third party, such as in cases involving rape or child abuse. Defendants in military courts are allowed only one appeal.

*Political Prisoners and Detainees.*—The incarceration of political prisoners and detainees remained a problem. According to human rights observers, the number of political prisoners and detainees increased compared with the previous year, but specific numbers varied. BINUB HR&J reported 375 politically motivated arrests during the year, of which 202 individuals remained in detention at year's end. On December 30, the spokesperson of the political opposition coalition Alliance des Democratres pour le Changement-Ikibiri (ADC-Ikibiri) welcomed the release near the end of the year of 20 opposition party members but deplored the continued detention of an estimated 200 others. As of December 31, the APRODH reported 156 political prisoners and detainees.

The Government generally afforded international organizations and local human rights NGOs access to political prisoners.

*Civil Judicial Procedures and Remedies.*—The judiciary was neither independent nor impartial. Media reports alleged that the judiciary included many individuals beholden to the Government. The execution of court decisions, including payment of damages, was slow, sometimes taking years.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law provide for the right to privacy, but the Government did not always respect this right in practice. Authorities did not always respect the law requiring search warrants.

Warrants for searches of opposition figures' homes and opposition parties' offices appeared politically motivated (see section 3). Human rights observers were concerned that the Bujumbura prosecutor general issued politically motivated warrants during the year.

Sources in the media and civil society believed that security forces monitored telephone calls.

CNDD-FDD party membership was needed in some cases to obtain or retain employment, housing, education, and access to health services (see sections 2.b. and 3).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government generally did not respect these rights in practice.

The Government did not tolerate public criticism in the media or at public gatherings, particularly perceived insults to the president, security forces, and other high-level public officials. Individuals who criticized the Government publicly or privately sometimes faced reprisal.

In a radio talk show on September 19, attorney and Movement for Solidarity and Democracy (MSD) party spokesperson Francois Nyamoya claimed that SNR Chief Adolphe Nshimirimana and the deputy director of police should be removed from office for poor performance and not serving national interests. Nshimirimana filed a lawsuit for defamation, and on September 23 Nyamoya was served with a warrant to appear in the prosecutor's office. On September 27, the prosecutor questioned Nyamoya and then sent him directly to Mpimba Central Prison; he was released on his own recognizance on October 14 and was awaiting trial at year's end. The Burundi Bar Association questioned the use of preventive detention in this case since defamation is a misdemeanor that does not warrant pretrial detention.

The media consisted of print, broadcast, and Internet-based organizations. The Government controlled several of the major media outlets, including *Le Renouveau*, the only daily newspaper, and the National Radio and Television of Burundi. There were seven private weekly publications and 23 private Internet- and fax-based newsletters. Radio remained the most important medium of public information. The Government-owned radio station broadcast in Kirundi, French, and Kiswahili and offered limited English programming. There were 13 privately owned radio stations. There were two private television stations, including a station with primarily Muslim programming and strong ties to the ruling CNDD-FDD party.

Journalists were arrested during the year, and prominent members of the media reported being threatened and harassed by the SNR, police, and members of the ruling party. Journalists practiced self-censorship. The Government pressured media outlets for perceived association with opposition parties.

On November 5, two journalists of the investigative newspaper *Iwacu*, Elyse Ngabire and Dieudonne Hakizimana, were detained after visiting a prominent FNL party member in Mpimba Central Prison and allegedly accepting unauthorized items. Prisoners are prohibited from giving visitors documents, letters, or other items that are not authorized by prison administrators. The two journalists were reportedly interrogated for several hours without access to an attorney and then detained without formal charges by Bujumbura's municipal police chief until November 7. Ngabire, a breastfeeding mother, was not permitted access to her baby during her detention. The journalists were required to return on November 9 for further questioning by the police chief and released after two hours of interrogation.

On April 10, violence erupted between FNL and CNDD-FDD youth in Kinama, Bujumbura, after the FNL opened several local offices. CNDD-FDD supporters attacked Radio and Television Renaissance journalists covering the violence and the arrest of the FNL party members. The CNDD-FDD supporters chased the journalists, throwing stones and damaging the windshield of their vehicle. The media and NGOs expressed concern that police on the scene did not act quickly to protect the journalists from political violence perpetrated by ruling party's supporters.

On April 27, local police officers and CNDD-FDD supporters in Nyanza-Lac, Makamba Province, allegedly threatened Bonesha FM correspondent Eric Nzigamasabo for reporting that the CNDD-FDD was distributing arms to residents of Nyanza-Lac. Nzigamasabo, who remained in hiding for several weeks for fear of arrest, returned to work for the radio at the end of May.

The Government restricted media content during the year by preventing the broadcast of political debates. On March 18, Minister of the Interior Edouard Nduwimana sent a letter to the National Communications Council (CNC) president stating that the media synergy of independent and government news outlets formed for the elections could not broadcast political debates because it would allow parties to advertise their platforms outside campaign periods. Nduwimana's letter added that each synergy member would be fined from 40,000 to 200,000 francs (\$32 to \$161) if the broadcasts were aired on their stations. In a meeting on April 12, the CNC and political party leaders told the minister that prohibiting the broadcasts inhibited the freedom of expression; however, the minister reaffirmed the Government's position, and the debates were cancelled.

The law criminalizes certain media activities, such as defining criticism of political figures as defamation, and provides fines and criminal penalties of six months' to five years' imprisonment for insults directed at the president, as well as writings that are deemed defamatory, injurious, or offensive to public or private individuals. The crime of treason, which includes knowingly demoralizing the military or the nation in a manner that endangers national defense during a time of war, carries a criminal penalty of life imprisonment.

During the year the Government arrested journalists for defamation of public figures and treason. On August 10, police arrested Thierry Ndayishimiye, chief editor of the private weekly *Arc-en-Ciel* newspaper, on defamation charges related to an article on July 30 alleging embezzlement and the use of substandard materials at the state energy authority. The state prosecutor summoned Ndayishimiye to court in Bujumbura and then sent him to Mpimba Central Prison. Ndayishimiye was released after two days of detention when the charges were dropped.

The Government cited national or public security as grounds to arrest journalists who expressed views that were politically embarrassing. For example, on July 17, journalist Jean Claude Kavumbagu was arrested for treason and abuse of freedom of expression by the press after he published an article in his online newsletter *Net Press* that claimed security forces would be unable to prevent an attack by al Shabaab. On September 6, a panel of judges denied Kavumbagu's request for release on his own recognizance, claiming that detention assured Kavumbagu would remain available to the court; in Kavumbagu's previous court cases, however, he was not detained and appeared in court when required. Kavumbagu was previously jailed in 2008 on charges of insulting the president; he was cleared of those charges in March 2009. Kavumbagu remained in pretrial detention at year's end.

During the year the CNC dropped the 2009 defamation case against editing director of African Public Radio (RPA) Eric Manirakiza for defamation of the minister of planning and the case against RPA for allegedly endangering national security with a report on a border conflict with Rwanda. Manirakiza also agreed to drop countersuits against the CNC.

*Internet Freedom.*—There were no reports of government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by email. Jean Claude Kavumbagu was the only case during the year of government prosecution based on information distributed via the Internet or by email (see section 2.a., Freedom of Speech and Press). According to International Telecommunication Union statistics for 2009, less than 1 percent of the country's inhabitants used the Internet. Lack of infrastructure limited public access to the Internet.

*Academic Freedom and Cultural Events.*—There were no governmental restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government at times restricted this right. The Government requires political parties to notify local authorities before assembling. Failure to provide advance notice of political meetings to local officials can result in a fine but does not provide grounds for arrest. However, security forces arrested opposition members for holding meetings, and provincial governors and communal administrators disallowed and disrupted numerous meetings of opposition political parties.

Local NGOs reported that the police, SNR, Ministry of the Interior, and ruling party's youth league (the Imbonerakure) prevented and disrupted opposition party meetings. The OHCHR and international and local human rights organizations repeatedly expressed concern that the Government suppressed opposition parties and civil society during the election period, including by restricting their right to public assembly and peaceful demonstration.

On January 31, four MSD party members were arrested in the Mugoboka neighborhood of Bujumbura for holding "an illegal meeting." The MSD supporters were held in the Rohero commune jail overnight.

On May 26, Mayor of Bujumbura Evrard Giswaswa refused to permit a march organized by the Association for the Defense of Women's Rights (ADDF) to commemorate the death of Revocate Manishantse, a recent victim of domestic violence; the mayor claimed the demonstration would be inappropriate during the election period.

On June 6, the Ngozi provincial governor prevented 12 opposition parties from meeting in Gashikanwa to explain their motives for withdrawing from the presidential election. Government authorities argued that the new coalition ADC-Ikibiri was not registered with the Government and could not hold meetings. The member parties of the coalition were registered, and coalitions are not required to register. Two days later the interior minister claimed that only the CNDD-FDD had the right to hold meetings during the June 12 to 25 presidential elections since the CNDD-FDD was the only party with a presidential candidate. Local and international NGOs objected that it was undemocratic for the minister of the interior to forbid opposition parties from holding meetings.

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government sometimes restricted this right in practice.

Private organizations were required to present their articles of association to the Ministry of the Interior for approval. There were no reports that the Government failed to complete the approval process for private organizations whose purposes the Government opposed. During the year, however, the Ministry of the Interior investigated the articles of association of existing civil society associations and media outlets in an apparent attempt to harass or threaten those organizations with a perceived association with opposition parties or who advanced causes unpopular with the Government.

There were reports that some government officials denied national identity cards, employment, and access to social programs to members of opposition parties. For example, there were reports of fraud or abuse of power in the distribution of the identity cards that were required for citizens to participate in the 2010 elections. Opposition parties claimed that local administrators used their authority to deny the identity cards to members of opposition parties, but the Government denied there had been fraud or abuse of power in the distribution of the cards.

*c. Freedom of Religion.*—For a description of religious freedom, see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/](http://www.state.gov/g/drl/irf/).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government sometimes restricted these rights in practice. Government checkpoints, the

threat of violence by armed criminals, and possible regional terrorist threats restricted citizens' movements.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The Government continued to restrict movement into and out of Bujumbura and other cities at night. Restrictions heightened after al Shabaab claimed responsibility for the July 11 bombings in Kampala, Uganda, following Uganda's participation in the African Union Mission to Somalia.

According to local and international NGOs and opposition parties, the Government restricted the movement of prominent opposition party leaders after the ADC-Ikibiri coalition decided to boycott the June presidential elections. On June 27, Democratic Alliance for Renewal (ADR) leader Alice Nzomukunda was stopped at Bujumbura International Airport when boarding a flight to Nairobi; her travel documents and ticket were confiscated. Border police also stopped UPD leader Pascaline Kampayano and Charles Niyungeko, leader of the National Council for the Defense of Democracy (CNDD), a separate political party from CNDD-FDD, at land borders between the Democratic Republic of Congo (DRC) and the country and confiscated their passports.

The law does not provide for forced exile, and the Government did not practice it; however, many persons remained in self-imposed exile. Opposition political leaders including Agathon Rwasa of the FNL, Leonard Nyangoma of the CNDD, Pascaline Kampayano of the UPD, Alice Nzomukunda of the ADR, and Alexis Sinduhije of the MSD fled the country, alleging they felt threatened after their boycott of the presidential elections. They remained in self-imposed exile at year's end.

During the year the UNHCR facilitated the voluntary repatriation of approximately 3,400 refugees who had previously fled to neighboring countries. Among the returnees were 689 repatriated from Tanzania, 2,647 from the DRC, and 80 from Rwanda, South Africa, Lesotho, Zambia, and Europe. This brought the total number of returned refugees to 509,061 since 2002. The UNHCR and the Government Project for the Reintegration of War-Affected Persons (PARESI) assisted in the repatriation and reintegration of these returnees and internally displaced persons (IDPs). PARESI did not register any expelled persons during the year.

The UNHCR has returnee transfer centers in Muyinga, Ngozi, Bujumbura City, and Ruyigi, as well as two in Makamba Province. The UNHCR, the Government, and NGO partners provided repatriated individuals and families a six-month food ration and nonfood items that included domestic and hygiene goods, agricultural tools, and cash grants. Returnees also received school assistance in the form of school kits and language acquisition classes. In an attempt to increase voluntary repatriation from the Mtabila Camp in Tanzania, the UNHCR increased the cash grant from \$40 to \$150 for those who returned voluntarily between September 15 and December 31.

The repatriates, who returned mostly to the southern and eastern provinces, often found their land occupied. During the year there were still reports of disputes over land holdings between returnees, local residents, and the Government, particularly in Rutana and Bururi provinces. The Department for Territory and Land Management, along with the UNHCR, was responsible for the preparation of integrated village sites for refugees, IDPs, and other vulnerable groups. Seven integrated villages for more than 5,500 persons had been established in the provinces of Ruyigi, Makamba, and Rutana since 2008. Poor living conditions and a lack of food and shelter remained problems for some returnees.

*Internally Displaced Persons.*—According to a 2009 Ministry of National Solidarity, Human Rights and Gender (Ministry of Solidarity) provisional report, there were approximately 157,000 IDPs in the country. Despite improved security these IDPs remained in what appeared to be increasingly permanent settlements throughout the country. Most were Tutsi who fled their homes during internal conflict in 1993. Some attempted to return to their places of origin, but the majority relocated to urban centers. According to the UN Office for the Coordination of Humanitarian Affairs, most were living at 160 sites, the majority in Kayanza, Ngozi, Kirundo, Muyinga, and Gitega provinces.

During the year the Government took no action on behalf of the approximately 600 IDP families who were violently beaten and forcibly evicted from their land in 2008. The families attempted to integrate themselves into other IDP camps and local communities with little success.

The Government generally permitted IDPs to be included in the UNHCR's and other humanitarian groups' activities benefiting returning refugees, such as shelter and legal assistance programs.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. According to the UNHCR, by year's end the Government had granted refugee status and asylum to more than 40,000 persons. In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The UNHCR reported that the Government fulfilled its obligations to provide asylum and refugee protections and cooperated with international organizations involved in refugee issues.

As of December 1, according to the UNHCR, there were approximately 40,940 Congolese refugees and 800 Rwandan refugees in the country. The majority of the Congolese were sheltered in three UNHCR-run refugee camps: Bwagiriza in Ruyigi Province, Gasorwe in Muyinga Province, and Musasa in Ngozi Province. Approximately 250 Rwandans were sheltered in Butare camp in Rutana Province. The remaining 21,000 refugees and asylum seekers, who are overwhelmingly Congolese, were integrated into urban centers. During the year the UNHCR and the Government assisted in the voluntary return of 653 refugees to their country of origin, including 642 Congolese refugees. The National Office for the Protection of Refugees and Stateless Persons in the Ministry of the Interior formally took over all asylum-related tasks in March 2009; the office moved to the Ministry of Public Security during the year.

While the UNHCR and the Government reported no attacks on refugees or restriction of refugees' movement during the year, there was evidence of gender-based violence in camps, including rape or exploitation of refugee women and girls. The UNHCR reported that, despite some Congolese refugees' fears about moving to Bwagiriza camp in October 2009 due to security concerns related to the camp's proximity to the Tanzania border, no security incidents occurred during the year. Some school-age urban Congolese refugees reportedly changed their names to avoid discrimination and harassment in local schools.

Unlike in the previous year, there were no reports that national police organized raids to round up illegal immigrants from the DRC, Rwanda, Tanzania, and Uganda.

During the year a number of cases of vandalism, assault, and killings were associated with land conflicts, primarily in the provinces of Ruyigi, Muyinga, and Bururi. The National Commission for Land and Other Goods (CNTB) is responsible for resolving land and property disputes, including those resulting from the repatriation of more than 500,000 refugees since 2002, some of whom had been in Tanzania since 1972. According to the UNHCR, 9,976 of the 19,541 land disputes registered between January 2007 and August were resolved by year's end. However, some returnees were unable to reclaim their land or to find alternative farmland to support their families due to lack of cooperation from local judicial and administrative authorities. In February the Government suspended the CNTB's mediation of a conflict between residents with ties to the National Office of Palm Oil and returnees in Rumonge Commune, Bururi Province, and changed the commission's composition.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law and constitution provide citizens the right to change their government peacefully, and citizens exercised this right in practice through elections based on universal suffrage.

*Elections and Political Participation.*—Between May and September the Government held presidential, parliamentary, Communal Council, and local elections. Presidential elections in June resulted in the reelection of President Nkurunziza, the candidate of the ruling CNDD-FDD party. While the elections were generally described as free and fair by international observers and the election days themselves were peaceful, political parties engaged in intimidation and violence leading up to the elections. The ruling CNDD-FDD party and their affiliates were particularly active. In the run-up to the elections, there were widespread reports that the CNDD-FDD's Imbonerakure youth wing committed abuses, such as threatening and assaulting opposition party members, with impunity. A coalition of parties alleged massive fraud in the May 24 Communal Council elections; all six of the opposition parties that had registered for the June presidential election withdrew their candidates. Only a few parties participated in the July parliamentary elections, in which the president's CNDD-FDD increased its majority, winning 81 of the 106 seats in the National Assembly. The Union for National Progress (UPRONA) won 17 seats, the Front for Democracy "Genuine" (FRODEBU Nyakuri) won five seats, and the Twa ethnic group received three seats. In the Senate the CNDD-FDD won

32 of the 41 seats and UPRONA two. The Twa ethnic group received three seats; the four living former presidents of the country received the remaining seats. International and domestic observers released statements that noted instances of electoral irregularities in these parliamentary elections but did not substantiate claims of massive, systemic fraud.

Police searches of opposition parties' headquarters and homes, particularly those targeting the FNL, MSD, and UPD parties, increased significantly during the elections and their aftermath. Major opposition party leaders left the country and went into hiding (see section 2.d.). On August 9, police allegedly found a grenade, a pair of army boots, and a set of military binoculars during a raid on the MSD's national headquarters. On September 16, after MSD President Alexis Sinduhije fled the country, police searched his residence and allegedly found a box of 20 military uniforms. Human rights organizations and opposition parties suggested that the items found in the two raids were likely planted by police or the SNR to entrap MSD members and to discredit the party and its president.

Election violence resulted in numerous deaths.

For example, on May 13, an MSD member was shot and killed in front of his house in Nyakabiga, Bujumbura. By year's end no suspects had been arrested.

On June 19, a CNDD-FDD member was shot and killed in Kanyosha, Bujumbura. No further information was available by year's end.

On July 9, two members of the CNDD-FDD were killed by machetes and a grenade in Ruziba, Kanyosha Commune, Bujumbura Rural. Fifteen persons, all FNL members, were arrested in connection with the killings. Seven remained in detention at year's end.

From June 11 to July 14, 123 grenade attacks resulted in 10 deaths and 65 injuries. These attacks targeted high-profile hotels and restaurants, political party headquarters, and the homes of political party members.

Members of various political party youth movements engaged in group exercises to intimidate other parties and the local populations; such exercises led to violent clashes prior to and during the year's electoral period.

On January 7, in Rugombo Commune, Cibitoke Province, an FNL youth member was beaten by members of the CNDD-FDD Imbonerakure, who were heard yelling anti-FNL slurs during the beating. Three suspects were arrested but fled after being released on bail. One was subsequently rearrested and again released.

On February 1, the minister of the interior officially banned political party youth exercises in Kirundo province after an incident in which CNDD-FDD youth injured FNL youth supporters.

On June 26, SNR agents accompanied by 40 policemen arrested five MSD party members, including the secretary general, the treasurer, and the administrative advisor. Police Deputy Director Gervais Ndirakabuca assisted with the arrest of the administrative advisor, whose house was searched without a search warrant. In order to extract confessions, members of the Municipal Police of Bujumbura abused the arrestees. According to Ligue Iteka, a local human rights NGO, an MSD driver, who was among those arrested, was kicked and hit with rifle butts. All five were released without charges within a week.

On December 11, Haruna Sibomana, a member of the UPD opposition party and head of Buyenzi quarter in Bujumbura, was held responsible for a mob lynching of a thief on December 10. Although Sibomana had immediately involved the communal administrator and the local police chief when the crowd became a mob, they were unable to prevent the lynching. On December 11, police arrested Sibomana for failing to assist a person in danger. He informed Ligue Iteka that the police officer in charge of his case pressured him to implicate well-known UPD members as instigators of the killing. He was detained for 19 days and released after the public prosecutor dismissed the case.

There were no developments in the following 2009 cases of political violence: the January beating of an FNL supporter by police in Kinama, Bujumbura; the February killing of Frederick Misago after he left the CNDD-FDD for the FRODEBU party in Kamenge, Bujumbura; or the August arson of the UPD leader's property in Kayogoro Commune, Makamba Province.

As of October no one had been charged in the 2008 grenade attacks on four politicians' homes; the investigation stalled.

Some local administrators made CNDD-FDD membership a prerequisite to obtain public benefits such as education, employment, health-care benefits, or civil documents. On August 23, an elementary school director in Mubimbi, Bujumbura Rural Province, refused to register students unless their parents presented voter cards showing they had voted in the presidential election. As the CNDD-FDD had the only candidate in the election, a parent who voted was presumed to be a ruling party member; the school director would register his or her children. Those parents who

refused to show their voter cards or did not vote in the presidential election were assumed to belong to an opposition political party and were not allowed to register their children.

In Gashikanwa, Ngozi Province, a woman requested a certificate from the local administrator declaring her destitute in order to qualify for public assistance. Her request was denied because she was not a CNDD-FDD party member.

The constitution reserves 30 percent of the positions in the National Assembly, the Senate, and the cabinet for women. There were 34 women in the 106-seat National Assembly and 19 women in the 41-seat Senate. Women held nine of 21 ministerial seats, including the new minister of justice who was the Supreme Court president in the former government. There were eight women on the 17-seat Supreme Court and three women on the seven-seat Constitutional Court, including the chief justice.

The law imposes ethnic quotas, requiring that 60 percent of the seats in both houses of parliament be filled by Hutus, the majority ethnic group, and 40 percent by Tutsis, who constitute an estimated 15 percent of the citizenry. The Batwa ethnic group, which makes up less than 1 percent of the population, is entitled to three seats in each house. By law military and police positions should be divided equally between Hutus and Tutsis. The Government fulfilled this mandate with respect to the military; however, inequalities continued to exist within the police force. While Hutus make up 51 percent of the police force and Tutsis make up 49 percent, disparities existed at the higher ranks. Eighty percent of police commissioners at the national level were Tutsi, while Hutus made up 66 percent at the provincial district level.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for corruption; however, the Government did not implement the law effectively. Widespread corruption in the public and private sectors and a culture of impunity remained problems. Several respected private-sector representatives and trade association officials reported that corruption remained a major impediment to commercial and economic development. The World Bank's 2009 Worldwide Governance Indicators indicated that corruption was a severe problem.

By the end of 2009 OLUCOME estimated the state had lost more than 306 billion francs (\$246 million) since 2003 due to embezzlement. Losses for the first six months of the year were estimated at 20 billion francs (\$16.1 million).

The Ministry of Good Governance and the State Inspector General are responsible for combating governmental corruption. The Ministry of Good Governance includes the Anti-Corruption General Prosecutor's Office and the Anti-Corruption Brigade. The brigade has the authority to act on its own initiative to investigate, arrest, and refer offenders to the general prosecutor.

According to the latest figures available, between September 2009 and August, the Anti-Corruption General Prosecutor's Office investigated and closed 181 files, 106 cases were scheduled for trial at the Anti-Corruption Court, 95 cases were tried, and 74 cases sentenced with possibility of appeal.

Certain government entities cracked down on corruption, while others protected the guilty. For example, early in the year customs agents at the Gatumba border with the DRC were illegally charging 3,000 francs (\$2.41) per driver and 8,000 francs (\$6.44) per vehicle to enter or leave the country. The Burundian Income Authority halted this practice after OLUCOME publicized it.

On September 28, the Anti-Corruption Brigade arrested Alexis Ntaconzoba, director general of SOSUMO, the state-owned sugar company, for fraudulent misuse of public funds. At year's end Ntaconzoba remained in detention in Mpimba Central Prison and had not had a hearing.

On September 30, the director general and the director of administration at the state-owned Public Transportation Company were jailed. Both Director General Jean Pierre Manirakiza and Director of Administration Ferdinand Bacanamwo were accused of misappropriation of the company's funds. Media reports cited losses of 150 million francs (\$120,675). At year's end Manirakiza and Bacanamwo remained in detention in Mpimba Central Prison.

In 2009 the Anti-Corruption Court sentenced Jean de Dieu Hatungimana, director of the state-owned real estate company, to 15 years in prison for intentionally wrongly approving payments to a road construction company, and ministry of finance spokesperson Donatien Bwabo to 10 years in prison for authorizing payment to a fictitious garage. Both men remained free and in high-level government positions while they appealed their cases at year's end.

Former central bank governor Isaac Bizimana, who had been in jail since August 2007 for illegal transfer of government funds to the private company, Interpetrol,

was released during the year. Earlier in the year his case and the cases of his alleged accomplices, two former finance ministers in exile, were dismissed for lack of evidence. The new minister of justice stated in December that she disagreed with the general prosecutor's dismissal of the case, and the case was reopened.

The law requires financial disclosure by government officials, but it was not consistently enforced. Some top officials, including President Nkurunziza, voluntarily released copies of their finances after the August 26 presidential inauguration. However, anticorruption watchdogs reported that many government officials transferred questionable assets and financial accounts to immediate family members whose financial records were not disclosed.

In August the then minister of the environment Deogratias Nduwimana granted more than 180 acres of public land to the wife and child of the then second vice president of the republic, Gabriel Ntisezerana, who became president of the Senate on August 20. When the transfers became public knowledge, Ntisezerana stated that a mistake had been made, and the transfer to his child was rescinded. However, Ntisezerana's wife retained possession of the land.

The law does not provide for access to government information, and information was difficult to obtain. The law does not allow the media to broadcast or publish information in certain cases relating to national defense, state security, or secret judicial inquiries. Human rights observers criticized the law for its poorly defined restrictions on the right to access and disseminate information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Human rights observers generally were allowed to visit government facilities such as military bases, prisons, and detention centers, including those run by the SNR. Human rights groups continued to operate and publish newsletters documenting human rights abuses. While well-established groups with international linkages and a presence in Bujumbura had a measure of protection from governmental harassment, indigenous NGOs were more susceptible to pressure from authorities and often subject to intimidation and threats from the SNR. Some government officials and members of the ruling CNDD-FDD party indicated that they considered domestic civil society organizations, including human rights groups, to be part of the political opposition.

The following major local independent human rights NGOs operated during the year: Ligue Iteka, the APRODH, the ADDF, Centre Seruka, the Association of Women Jurists, Action by Christians for the Abolition of Torture, and the Observatory of Government Action. No major local human rights NGOs were closely aligned with the Government or political parties.

Although several international NGOs expressed frustration at the formidable bureaucratic hurdles they faced when registering with government offices, governmental attitudes toward international humanitarian NGOs remained generally favorable; however, the Government expelled the representative of Human Rights Watch (HRW) during the year.

On May 18, Minister of Foreign Affairs Augustin Nsanze informed HRW that the Government had canceled agreement for HRW representative Neela Ghoshal due to HRW's report on preelection period political violence (We'll Tie You Up and Shoot You). Nsanze claimed the report was biased against the Government and the ruling party. The Government demanded that Ghoshal cease her work immediately and depart the country by June 5; Ghoshal departed on June 2.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations, such as the ICRC.

In 2008 the UN Human Rights Council renewed the mandate of the UN Independent Expert (IE) on the Situation of Human Rights in Burundi with the provision that the IE's mandate would continue until the Government established a National Independent Human Rights Commission (CNIDH). Since 2008 the Government has taken the position that the IE has no mandate to report to the Human Rights Council until the CNIDH is established. In December parliament passed legislation authorizing creation of the CNIDH, but President Nkurunziza did not promulgate the law by year's end.

In a June press statement, the then IE Akich Okola noted increasing reports of election-related human rights violations and security concerns since his previous visit in May, including arbitrary arrests, detention and harassment of opposition politicians and their supporters, and grenade attacks by unknown perpetrators dur-

ing the presidential campaign. In a press conference on November 17, new IE Fatsah Ouguerouz encouraged the Government to investigate and prosecute those responsible for torture and extrajudicial killings. He also pressed the Government to conduct credible, swift, fair trials in the cases of murdered OLUCOME vice president Ernest Manirumva and imprisoned journalist Jean Claude Kavumbagu (see sections 1.a. and 2.a., respectively).

On January 25, the Government created the Office of the Ombudsman, as required by the 2000 Arusha Accords. On November 12, in a noncompetitive process parliament selected Mohamed Rukara as the country's first ombudsman. Civil society members, human rights observers, and political opposition leaders expressed concern that influential CNDD-FDD member Rukara could not be the neutral, independent ombudsman envisioned in the law. As of year's end, the Office of the Ombudsman lacked support staff, a workplace, and office equipment.

Parliament established human rights committees in 2005 in both houses: a Committee for Justice and Human Rights in the National Assembly and a Committee for Judicial and Institutional Issues and Fundamental Rights and Liberties in the Senate. The National Assembly committee was dominated by the CNDD-FDD party and the Senate committee, which, while well intentioned and well informed, lacked influence. At the end of the year, both committees reviewed and made recommendations on the draft legislation to create a CNIDH, which passed both houses of parliament in December. The committees do not issue reports or recommendations on human rights.

From July 2009 to March, "Popular Consultations on Transitional Justice" took place in country and with diaspora communities. A tripartite government-UN-civil society steering committee managed the consultations to gauge the population's perspective on how a Truth and Reconciliation Commission and Special Tribunal should function. The committee forwarded the report of the consultation results to the Office of the President of the Republic on April 20. On December 7, the report was released to the public. The Government did not establish a commission, tribunal, or other national transitional justice mechanisms by year's end.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, disability, language, or social status; however, the Government failed to implement these provisions effectively, and discrimination and societal abuses continued.

*Women.*—The law prohibits rape, which is punishable by up to 30 years' imprisonment; however, the Government did not enforce the law effectively, and rape and other sexual violence against women and girls were problems. The rape of minors, or rape committed by persons who infect their victim with an incurable sexually transmitted disease, is punishable by life imprisonment. Spousal rape is punishable by fines of 10,000 to 50,000 francs (\$8 to \$40) and eight days' imprisonment.

Many women were reluctant to report rape for cultural reasons, fear of reprisal, and the unavailability of medical care. Men often abandoned their wives following acts of rape, and rape victims were ostracized. Police and magistrates regularly required that victims provide food for and pay the costs of incarceration of those they accused of rape. According to a March 2009 report by Medecins Sans Frontieres de Belgique (MSF-Belgium), many victims who sought judicial redress faced an unresponsive judicial system, and courts often refused to act on cases without witnesses. Some victims were reportedly required to pay 15,000 francs (\$12.07), a large sum for most victims, to obtain a certified medical report. Other problems included judges who did not regard rape as a serious crime and a lack of medical facilities to gather medical evidence. According to women's rights organizations, at times families or communities forced victims to withdraw their complaints and negotiate settlements with the perpetrator or his family outside of the formal judicial system. In other cases the victims were forced by their families and local arbiters to marry their attackers. According to the local NGO Centre Seruka, 60 percent of persons responsible for rape were arrested, and of these 30 percent were prosecuted. As of September the APRODH recorded 61 rapists arrested. Of the limited number of cases that were investigated, successful prosecutions of rapists were rare.

During the year the Ministry of Solidarity began compiling rape statistics through decentralized family development centers (CDF) throughout the country. According to CDF reports, there were 1,556 reported cases of gender-based violence as of July. The ADDF received reports of 3,701 cases of rape and domestic violence as of September, most of which occurred in Bujumbura and its outlying areas. Centre Seruka, equipped in part by MSF-Belgium and funded by the UN, received 742 victims during the year at its center for rape victims in Bujumbura. Of the victims they assisted, 60 percent were raped by persons they knew, including members of

their families, cooks, and neighbors. Local and international NGOs, the Government, and the UN claimed the number of rape victims was likely much higher.

Civil society and religious communities worked to overcome the cultural stigma of rape to help victims reintegrate into families that had rejected them. Ligue Iteka, the APRODH, the ADDF, and BINUB continued to encourage rape victims to press charges and to seek medical care, and international NGOs provided free medical care, mostly in urban areas. The Government also raised awareness of the problem through seminars and local initiatives describing the kinds of medical care available.

The law prohibits domestic abuse of a spouse or child, with punishment ranging from fines to three- to five-years' imprisonment; however, domestic violence against women was common. As of December the ADDF had received 1,650 cases of domestic violence. Many victims did not report crimes of domestic violence, fearing retaliation, loss or economic support for their children, or a lack of support from the justice system. Police occasionally arrested persons accused of domestic violence but usually released suspects within a few days without further investigation. During the year the Government, with financial support from international NGOs and the UN, continued to sponsor civic awareness training on domestic and gender-based violence as well as the role of police assistance in 12 of the country's 17 provinces.

The media reported many instances of domestic violence, including severe beating, mutilation, and murder. For example, on May 17, Fabien Barutwanayo assaulted and killed his pregnant wife with a hoe due to a land dispute. The local women's association was banned from holding a funeral procession to highlight the problem of domestic violence (see section 2.b.). Barutwanayo fled his home and at year's end had not been located by police.

The suspects who allegedly severely burned his wife with hot water in January 2009 in Cibitoke Province, who allegedly killed his wife with a machete in September 2009 in Makamba Province, and who allegedly burned his wife's genitals in 2008 in Cankuzo Province remained in detention awaiting trial at year's end.

The law prohibits sexual harassment, including the use of orders, severe pressure, or threats of physical or psychological violence, to obtain sexual favors. The sentence for sexual harassment ranges from fines to penalties of one month to two years in prison. The sentence for sexual harassment doubles if the victim is less than 18 years old. There were no known prosecutions during the year.

The Government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, although for cultural reasons, husbands often made the final decisions about family planning. Local NGOs reported that women who attempted to assert their right to decide such matters independently sometimes became victims of domestic abuse. Cultural and religious norms made limiting the number of childbirths per family generally unpopular, although family planning and birth spacing were more openly discussed than in previous years. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health. There were no restrictions on access to contraceptives, but, according to the local NGO Burundian Association for Family Wellbeing, only 11.4 percent of citizens used these measures.

The Government provided free childbirth services, but the lack of sufficient doctors meant most women used nurses or midwives during childbirth as well as for prenatal and postnatal care, unless the mother or child suffered serious health complications. According to the United Nations Population Fund, less than 34 percent of all births took place with skilled attendants. The maternal mortality rate remained high at 620 deaths per 100,000 live births.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but local health NGOs and clinics reported that women were more likely than men to seek treatment and refer their partners. Only 16 percent of health facilities provided services to prevent mother-to-child HIV/AIDS transmission.

Despite constitutional protections, women continued to face legal, economic, and societal discrimination and were often victims of discriminatory practices with regard to credit and marital property laws. By law women must receive the same pay as men for the same work, but in practice they did not. Some enterprises suspended the salaries of women while they were on paid maternity leave, and others refused medical coverage to married female employees. Women were less likely to hold mid- or high-level positions in the workforce. However, there were many women-owned businesses, particularly in Bujumbura. While representation of women in decision-making roles remained low, women constituted approximately 20 percent of public administration roles in the country.

The Government had a department dedicated to the empowerment of women and promotion of women's rights within the Ministry of Solidarity. Several local groups also worked to support women's rights, including the Collective of Women's Organizations and NGOs of Burundi, and Women United for Development.

*Children.*—Although the constitution states that citizenship can be derived from the mother or father, in practice and according to the law on nationality, citizenship is derived from the nationality of the father only. The failure of the Government to record all births resulted in denial of some public services for unregistered children, as the Government requires a birth certificate for access to free public schooling and free medical care for children under five. Approximately half of all children were not registered at birth. According to the UN Children's Fund (UNICEF), approximately 40 percent of births of children currently under five years old were not registered. The Government registered without charge the births of all children up to the age of five. The urban and rural poor and citizens of western provinces traditionally were less likely to register the birth of a child.

Schooling is compulsory up to the age of 12; primary school was the highest level of education attained by most children. The Government's declaration of free and universal primary education in 2005 substantially increased net enrollment rates; however female illiteracy remained a particular problem.

The law prohibits child abuse, and the problem was not reportedly widespread. Corporal punishment in public schools is prohibited; however, the Government acknowledged that corporal punishment existed in many homes and schools.

The law prohibits child prostitution, and penalties for those who use child prostitutes ranged from fines from five to 10 years' imprisonment; however, the number of children engaged in prostitution for survival reportedly increased compared with the previous year.

The minimum marriage age for women is 18 and 21 for men, although recently men were allowed to begin marrying at 18. Child marriage reportedly was not widespread, although informal marriages of young girls sometimes occurred when victims were forced by their families to marry after rape or other forms of sexual exploitation. For example, the brother of a 13-year-old girl in Butihinda, Muyinga Province, reportedly arranged her marriage after she was raped by a local businessman during the year. If there was no such agreement, victims and their families were sometimes intimidated by perpetrators living in their community.

The penalty for rape of a minor is 10 to 30 years' imprisonment, and the minimum age for consensual sex is 18. The law prohibits child pornography, which is punishable by fines and three to five years' imprisonment. While child pornography was not prevalent, the rape of minors was a widespread problem. Local hospitals, NGOs, and human rights associations highlighted a particularly high number of rape and sexual abuse cases against children in Rumonge, Burambi and Buyengero communes of Bururi Province during the year; there were also several reported cases from Ngozi, Muyinga, Bujumbura, and Bujumbura Rural provinces, although exact statistics were unavailable. According to UNICEF, approximately 60 percent of reported rapes were of children under 18 years old, 20 percent of whom were children under 12 years old.

During the year Centre Seruka reported that 15 percent of the sexual violence cases it handled were of children less than five years old. The UN Development Fund for Women reported that many rapes of minors were motivated by the rapist's belief that they would prevent or cure sexually transmitted diseases, including HIV/AIDS. Centre Seruka reported that 95 percent of the rape victims who visited its facility during the year were female; the average victim assisted by Seruka was 11.5 years old. Local NGOs reported providing services to secondary school students who were coerced into performing sexual acts or raped by schoolteachers, community leaders, or other authority figures.

Rape cases of very young girls were more likely to be investigated than rape of women, often due to community pressure. For example, on March 25, after a one-and-a-half-year-old girl was raped by a teenage boy in Mutimbuzi Commune, Bujumbura Rural Province, her neighbors held demonstrations condemning the rape. The community challenged the local administration and judiciary to punish the perpetrator. Neighbors also claimed the perpetrator's parents attacked the victim's family.

Children with albinism sometimes faced discrimination in school and within their families. For example, three students with albinism reportedly abandoned their schooling in Makamba Province after their teacher discriminated against them. Officials of Albinos Without Borders (ASF) mediated the conflict between the teacher and students, convincing the students to reenroll. Fathers sometimes sent away women who gave birth to children with albinism.

According to a January report by the Ministry of Solidarity and the Institute of Statistics and Economic Studies of Burundi in conjunction with local and international NGOs and UNICEF, more than 3,250 street children lived in the country's three largest cities of Bujumbura, Gitega, and Ngozi. The Ministry of Solidarity stated that many of these children are HIV/AIDS orphans. The number of street children nationwide was higher, according to UNICEF. The Government provided street children with minimal educational support and relied on NGOs to provide basic services such as medical services or economic support.

According to UNICEF, 626 child soldiers were demobilized in 2008 and 2009; most were already adults, and only 22 were under 18 years of age at the time of their demobilization. Local NGOs continued to work with these demobilized children during the year to ensure their reintegration. According to the UN and the Government, there were no known cases of children associated with armed groups at year's end.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish population was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical or mental disabilities; however, the Government does not have the resources to protect the rights of persons with disabilities with regard to employment, education, or access to healthcare. Although persons with disabilities were eligible for free healthcare services through social programs targeting vulnerable groups, the benefits were not widely publicized or provided. The employment practice of requiring health certification from the ministry of public health sometimes led to discrimination against persons with disabilities.

The Ministry of Solidarity is the Government agency in charge of coordinating assistance and protecting the rights of persons with disabilities. The ministry reported an increase from 500 million francs to one billion francs (\$402,252 to \$804,505) in its budget for disability programs for the year after President Nkurunziza proposed the increase in his December 2009 remarks on the International Day for the Disabled. Despite increased funding for assistance, the Government did not enact legislation or otherwise mandate access to buildings, information, or government services for persons with disabilities.

The Government supported a center for physical therapy in Gitega and a center for social and professional reinsertion in Ngozi to assist individuals with physical disabilities. Handicap International reported 14 other institutions for persons with disabilities sponsored by religious institutions and NGOs, including four schools for children with sensory disabilities and two for children with mental disabilities. Many schools for children with sensory or mental disabilities were not recognized by the Ministry of Education, making it impossible for students to progress in the educational system. Local and international NGOs expressed concern that persons with disabilities were more vulnerable to rape, assault, and other forms of exploitation than other groups within their communities.

While there were no government restrictions on voting by persons with disabilities, most such individuals could not participate in elections during the year due to issues of access. In February the National Independent Electoral Commission denied a request to make polling stations more accessible, claiming limitations in funding and time.

*National/Racial/Ethnic Minorities.*—The constitution requires ethnic quotas for representation within the Government and in the security forces. Hutus, who constitute an estimated 85 percent of the population, significantly increased their presence and power in the Government following the 2005 and 2010 elections; however, the minority Tutsis have historically held political and economic advantages.

*Indigenous People.*—The Batwa, believed to be the country's earliest inhabitants, represent less than 1 percent of the population. They generally remained economically, socially, and politically marginalized and were victims of violence during the year. However, the Government instituted several measures to address the Batwa's traditional isolation. Local administrations must provide free schoolbooks and health care for all Batwa children. The Government also provided small acreages, when possible, for Batwa who wished to become farmers and allocated approximately two acres of land per family, the average size of farmstead of the country's rural poor.

The Union for the Promotion of Batwa reported that on October 23, three Batwa were killed and 32 houses of Batwa families were systematically burned in Gahombo Commune, Kayanza Province. The families fled the area to avoid further attack from the local population. Despite widespread media coverage of the attack, no suspects were arrested in the case at year's end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes homosexual acts, and anyone who has sexual relations with a person of the same sex can be fined or sentenced to between three months' and two years' imprisonment. At year's end no one was prosecuted under this provision.

Although discrimination existed, it was not always overt or widespread. Families sometimes disowned children who refused to deny their homosexual identity, and gays and lesbians often entered opposite-sex marriages due to social pressure. The lesbian, gay, bisexual, and transgender (LGBT) rights organization Humure reported that 90 percent of the men they surveyed who engaged in male-to-male sex were married. Representatives of the LGBT community stated that after the 2009 passage of the revised penal code criminalizing same sex relations, they were subjected to more discrimination, but the number of cases remained small. The Government took no steps to counter discrimination against gays and lesbians.

*Other Societal Violence or Discrimination.*—The constitution specifically outlaws discrimination against persons with HIV/AIDS or other "incurable" illnesses. There were no reports of government-sponsored discrimination against such individuals, although some observers suggested the Government was not actively involved in preventing societal discrimination.

Sporadic killings of persons with albinism occurred during the year (see section 1.a.). In January the ASF reported that persons with albinism were still seeking protection near communal administrative centers because they were afraid to return to their homes after a series of attacks and killings in 2009 and during the year. One woman fled her home for a safer location after her child with albinism was threatened in Makamba Province (see section 6, Children). Health issues involving eyesight or prolonged sun exposure often affected the ability of persons with albinism to participate fully in school or the workforce. The ASF reported that efforts to educate the population about the issues affecting persons with albinism helped to improve the situation.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and the labor code protect the right of workers to form and join unions without previous authorization or excessive requirements. According to the Confederation of Burundian Labor Unions (COSYBU), less than 10 percent of the formal private sector workforce was unionized, while an estimated 50 percent of the public sector was unionized. Although most civil servants exercised their right to unionize, the armed forces and foreigners working in the public sector are prohibited from participation in unions. The law also prevents workers under the age of 18 from joining unions without the consent of their parents or guardians. According to COSYBU, many private sector employers systematically worked to prevent the creation of trade unions, and the Government failed to protect private sector workers' rights in practice. Relations between COSYBU and the Government remained poor.

Local human rights NGOs continued to report widespread discriminatory hiring practices for government jobs based on applicants' political affiliations, despite a law prohibiting such practices.

Most citizens worked in the unregulated informal economy, which is not protected by the labor law. COSYBU stated that virtually no informal sector workers had written employment contracts; according to government statistics, only 5 percent had them.

The law provides workers with a conditional right to strike but bans solidarity strikes and sets strict conditions under which a general strike may occur. All peaceful means of resolution must be exhausted prior to the strike; negotiations must continue during the action, mediated by a mutually agreed-upon party or by the Government; and six days' notice must be given to the employer and the Ministry of Civil Service, Labor, and Social Security. Before a strike is allowed, the ministry must determine whether strike conditions have been met. The ministry has a *facto veto* power over all strikes.

The labor code prohibits retribution against workers participating in a legal strike, but labor leaders continued to suffer abuse.

In February a committee member of the SOSUMO trade union was demoted after publicizing illicit practices by the company's management. Prior to civil society

intervention and ensuing media coverage in the case, he was threatened with termination.

The leaders of teacher's trade unions recorded widespread harassment throughout the country during and after their strike in March to April.

For example, on March 17, in both Mutambu Commune and Kabezi Commune in Bujumbura Rural, communal administrators using megaphones urged the population to attack striking teachers. On April 19, at numerous schools throughout the country, when teachers withheld final exam results as a means of protesting the Government's failure to pay salary arrears, school principals encouraged students to retaliate with violence.

Ligue Iteka stated that a teacher named Athanase Mashandali was fired because he refused to join the CNDD-FDD party and, as teachers' trade union president in Bubanza Province, had encouraged teachers to strike. In 2008 Mashandali, provincial representative of the Bubanza teachers' trade union, was approached by the CNDD-FDD to join the party, but he declined. In April 2009 the school director (a CNDD-FDD member) accused Mashandali of stealing two dictionaries. Mashandali was subsequently indicted by the Bubanza High Court. He appeared before the court three times, most recently on April 1. On May 27, the school director suspended Mashandali from all teaching activities. On July 27, the court acquitted him. At year's end Mashandali was seeking a meeting with the new minister of basic and secondary education to seek reinstatement. Mashandali stated that the school director fabricated the charges against him and that he was fired because of his political affiliation and his trade union activities.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, but the Government frequently interfered with unions and intimidated or harassed their leaders. The law also recognizes the right to collective bargaining, and it was freely practiced. Wages, however, are excluded from the scope of collective bargaining in the public sector; instead, wages were set according to fixed scales, following consultation with unions.

Since most salaried workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both COSYBU and the Confederation of Free Unions represented labor interests in collective bargaining negotiations, in cooperation with individual labor unions. Civil servant unions must be registered with the Ministry of Labor. There were no reliable statistics on the percentage of workers covered by collective agreements.

The law prohibits antiunion discrimination; however, the Government often failed to respect this right in the public sector. The Government often retaliated against union members through the use of transfers, demotions, and reduced responsibility under false pretenses.

According to the International Trade Union Confederation (ITUC), the Government often failed to protect workers in the private sector from discrimination by employers.

In 2008 the vice president of the Justice Ministry's Administrative Workers Union, Juvenal Rududura, was arrested for allegedly lying during a television interview in which he criticized government policies. Following prolonged detention without trial, he was released on his own recognizance in July 2009. However, his movements were restricted, he was not permitted to leave the city, and his activities were closely monitored by the Government. In September 2009 his trial entered the deliberation phase. Under the law deliberations cannot last longer than 60 days. At year's end the case continued under deliberation. Rududura was not able to move about freely and had to appear before a judge every three months.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, reports continued that it occurred. Most reports involving adults concerned cases of domestic servitude. Forced labor by children involved domestic servitude and agriculture. There were no reported cases of forced child labor in the production of goods as defined in the Trafficking Victims Protection Reauthorization Act.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code states that enterprises may not employ children under the age of 16, barring the exceptions permitted by the Ministry of Labor. These exceptions include light work or apprenticeships that do not damage children's health, interfere with their normal development, or prejudice their schooling. In accordance with the labor code, the minister of labor may permit children ages 12 and up to be employed in "light labor," such as selling newspapers, herding cattle, or preparing food. Under the penal code the legal age for most types of "nondangerous" labor is 18. The Government did not effectively enforce these laws, and child labor remained a problem.

Children less than age 16 in rural areas regularly performed heavy manual labor in the daytime during the school year, primarily in the agriculture sector. According to the ITUC, the vast majority of children in the country worked during the year.

Children were legally prohibited from working at night, although many did so in the informal sectors noted below. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in the farming of crops, primarily bananas, cassava, maize, and beans; family businesses; and other informal sector activity such as street vending. Children also worked in small, local brick-making enterprises.

There continued to be reports of children performing household domestic labor. As in previous years, there was no indication that children were trafficked for commercial sexual exploitation or labor on an organized or widespread basis.

The Ministry of Labor was charged with enforcing child labor laws and had multiple enforcement tools, including criminal penalties, civil fines, and court orders. However, in practice the laws were seldom enforced. Due to a lack of inspectors, the ministry enforced the law only when a complaint was filed. The Government acknowledged no cases of child labor in the formal sector of the economy during the year and had conducted no child labor investigations.

During the year the Government supported international organizations, several NGOs, and labor unions engaged in efforts to combat child labor; these efforts included care and training of demobilized child soldiers.

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—Although the cost of living rose significantly during the year, the legal minimum wage for unskilled workers remained 160 francs (\$0.13) per day. While some employers voluntarily paid their unskilled laborers a minimum of 1,500 francs (\$1.20) a day, this was far from standard practice. In general unskilled workers' incomes did not provide a decent standard of living for a worker and family. Most families relied on second incomes and subsistence agriculture to supplement their earnings. The Department of Inspection within the Ministry of Labor is charged with enforcing minimum wage laws, but there were no reports of enforcement in recent years. The legal minimum wage had not been revised in many years, and there were no known examples of employer violations. These regulations apply to the entire workforce and make no distinction between domestic and foreign workers or between the informal and formal sectors.

The labor code stipulates an eight-hour workday and a 40-hour workweek, except for workers involved in national security activities; however, this stipulation was not always enforced in practice. Supplements must be paid for overtime work. There is no statute concerning compulsory overtime; opportunities for compulsory overtime were all but nonexistent. Rest periods include 30 minutes for lunch. There are no differences for foreign or migrant workers.

The labor code establishes health and safety standards that require safe workplaces. Enforcement responsibility rests with the Ministry of Labor, which was responsible for acting upon complaints; however, there were no reports of complaints filed with the ministry during the year. Workers did not have the right to remove themselves from situations that endangered health and safety without jeopardizing their employment.

Small numbers of persons from the neighboring DRC, Tanzania, and Rwanda worked in the country but did not constitute a significant presence. They were typically undocumented and worked in the informal sector.

---

## CAMEROON

Cameroon, with a population of approximately 19 million, is a republic dominated by a strong presidency. The country has a multiparty system of government, but the Cameroon People's Democratic Movement (CPDM) has remained in power since it was created in 1985. The president retains the power to control legislation and rules by decree. In 2004 CPDM leader Paul Biya won reelection as president, a position he has held since 1982. The election was flawed by irregularities, particularly in the voter registration process, but observers concluded that the irregularities did not significantly affect election results. The 2007 legislative and municipal elections had significant deficiencies, including barriers to registration and inadequate safeguards against fraudulent voting, according to international and domestic observers. There were instances in which elements of the security forces acted independently of civilian control.

Human rights abuses included security force killings; security force torture, beatings, and other abuses, particularly of detainees and prisoners; harsh and life-threatening prison conditions; and arbitrary arrest and detention of citizens advocating secession, local human rights monitors and activists, persons not carrying government-issued identity cards, and others. There were incidents of prolonged and sometimes incommunicado pretrial detention and of infringement on privacy rights. The Government harassed and imprisoned journalists, restricted freedoms of speech, press, assembly, and association, and impeded freedom of movement. Official corruption was pervasive at all levels. Societal violence and discrimination against women, female genital mutilation (FGM), trafficking in persons (primarily children), and discrimination against pygmies and gays and lesbians occurred. The Government restricted worker rights and the activities of independent labor organizations. Child labor, hereditary servitude, and forced labor, including forced child labor, were problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces killed persons during the year. The Government sometimes investigated and disciplined those responsible for such killings.

On February 11, in Bandjoun, West Region, two gendarmes shot and killed Francine Laure Kamdem Kamga, a student from the bilingual high school. On April 15, the secretary of state in charge of the gendarmerie issued a press release noting the arrest and detention of the two gendarmes. The military tribunal subsequently charged the two, who remained in Bafoussam Central Prison awaiting trial at year's end.

In early March an assistant superintendent of the Garoua Central Police Station shot and killed his wife after she returned home late at night; neighbors held the superintendent and handed him over to police. An investigation was ongoing at year's end.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2009, released during the year, the Government prosecuted at least four security force members for arbitrary killings in 2009; it was unclear when the killings occurred or the identity of victims since the report provides neither. In January 2009 the Military Tribunal of Yaounde sentenced Private Emmanuel Ahidjo to death for capital murder. In May 2009 Major Emile Bankou was sentenced to 18 months in prison for an unintentional murder. Also in 2009 Police Inspector Ernest Ngomsia was sentenced to three years in prison for an unintentional killing, and a fourth security force member was acquitted of murder; no further details were available.

There were no developments in the investigation of the October 2009 killing of Jean Baptiste Kamgaing by a gendarme.

Former police officer Olivier Villot Ehongo, wanted for the November 2009 killing of his wife Martine Virginie Ehongo, remained at large.

The Government took no action regarding killings by security forces during the 2008 riots, which resulted in more than 200 deaths, according to nongovernmental organizations (NGOs).

On August 10, the Yaounde High Court resumed hearings on the 2006 killing of Gregoire Diboule, allegedly by Ni John Fru Ndi, chairman of the Social Democratic Front (SDF), and 21 other SDF officials who belonged to a competing party faction. However, the trial was postponed because none of the 21 accused were present, although their lawyers appeared for them. The case was postponed four times in 2009.

Vigilante violence against persons suspected of theft resulted in four deaths; 18 persons died from such violence in 2009. Public frustration over police ineffectiveness and the release without charge of many individuals arrested for serious crimes contributed to vigilante violence.

On March 8, inhabitants of the Bonapriso neighborhood of Douala, Wouri Division, Littoral Region, beat to death a bandit who tried to strangle a motorbike taxi rider. An investigation was ongoing at year's end.

On July 2, residents of Wone Bakundu, a village in Meme Division, South West Region, buried to death Martin Njumbe Ikose, whom residents accused of using witchcraft to kill his nephew. Gendarmes arrested the perpetrators. An investigation was ongoing at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports that security forces tortured, beat, harassed, and otherwise abused citizens, prisoners, and detainees, although there were fewer such cases than in previous years. Security forces also reportedly subjected women, children, and elderly persons to abuse.

Security forces reportedly detained and tortured persons at specific sites, including temporary holding cells within police or gendarme facilities and cells located at the Directorate General of External Security (DGRE).

On February 20, a fight between fishermen and three officers of the elite Delta Rapid Intervention Battalion (BIR) occurred at Down Beach, Limbe, a major station of the BIR; the fishermen had allegedly molested one of the soldiers, according to military officials. On February 21, BIR troops raided the Church Street neighborhood where the fishermen lived and confiscated several cell phones belonging to fishermen. On February 23, BIR troops returned to the fishermen's neighborhood and indiscriminately beat residents and smashed cars; 24 persons were injured, including three who were transferred to an intensive care unit. On March 15, Minister of Defense Mebe Ngo'o dismissed 19 BIR members for indiscipline and violence against civilians: three of the 19 also were sentenced to 60 days in prison for their role as instigators of acts of brutality against civilians. The minister also announced that 13 other soldiers were sentenced to 45 days in jail and that their three commanding officers were sentenced to 20 days in jail.

According to the Committee to Protect Journalists (CPJ), security agents in February used torture to force a journalist to reveal his sources (see section 2.a.).

On May 3, police beat several journalists on their way to a sit-in (see section 2.b.).

On May 9, soldiers Eric Bago and Sadiou (citizens often have only one name) of the Fifth BIR, based in Ngaoundere, Vina Division, Adamaoua Region, severely beat a motorbike taxi driver who asked to be paid after transporting the soldiers. Police arrested the two soldiers, who were subsequently detained and transferred to the Garoua Military Tribunal, North Region, where they remained in detention at year's end, pending an investigation.

On July 23, six soldiers of the BIR in Yaounde, Mfoundi Division, Center Region, severely beat a vendor, who was on a street where an altercation occurred between a soldier and residents. A mob intervened and subdued two of the soldiers, who police subsequently transferred to the neighborhood gendarmerie brigade. The case was forwarded to the department of military justice for further investigation, and the two soldiers were released pending the results of the ongoing investigation.

There were no developments in the following 2009 security force beatings: the January beatings by newly recruited soldiers of approximately two dozen residents of Nsoh (Bafut), North West Region; and the police beating of Freddy Nkoue, a cameraman working for a Douala-based private television station.

NGO efforts to compile information for a formal complaint against security forces involved in use of excessive force during the 2008 riots were stalled due to inability to obtain the identities of perpetrators.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening. Numerous international human rights organizations and some prison personnel reported that torture was widespread. In Douala's New Bell Prison and other minimum security detention centers, prison guards inflicted beatings, and prisoners were reportedly chained or at times flogged in their cells. During a May 2009 visit, foreign government officials found that prison guards chained disobedient and violent prisoners in a tiny disciplinary cell, where they were reportedly beaten and denied access to food. Security forces reportedly stripped prisoners and detainees, confined them in severely overcrowded cells, denied them access to toilets or other sanitation facilities, and beat them to extract confessions or information about alleged criminals.

Guards and local NGOs reported rapes among inmates. Individuals incarcerated in the New Bell Prison for homosexual acts suffered discrimination and violence from other inmates.

Prisoners were kept in dilapidated, colonial-era prisons, where the number of inmates was as much as four to five times intended capacity. Overcrowding was exacerbated by the large number of pretrial detainees. At the end of 2009, the country's 72 prisons, with a capacity of 15,250, housed 23,368 detainees. Government statistics released in May indicated that 12,510 prisoners were held in the 10 central prisons, which were intended to hold 4,242. The Yaounde Kondengui Prison, originally built for approximately 1,000 inmates, held 3,964 in May, according to penitentiary administration statistics.

Deficiencies in health care and sanitation, which were common in all prisons, remained a significant problem. Health and medical care were almost nonexistent in

detention cells located in gendarmeries and police stations. In 2008 the National Commission on Human Rights and Freedoms (NCHRF) reported that the daily food allocation per prisoner was less than 100 CFA francs (approximately 20 cents). Prisoners' families were expected to provide food for them in prison. New Bell Prison contained seven water taps for approximately 2,813 prisoners, contributing to poor hygiene, illness, and death.

Corruption among prison personnel was widespread. Pretrial detainees reported that prison guards sometimes required them, under threat of abuse, to pay "cell fees," money paid to prevent further abuse. Prisoners bribed wardens for special favors or treatment, including temporary freedom.

On June 29, the penitentiary administration confirmed harsh prison conditions in a document presented to diplomatic missions. The document noted overcrowding, poorly maintained and unsound facilities with leaking roofs, insufficient toilets and beds, lack of water and electricity, scarcity of pharmaceuticals, lack of appropriate kitchens, absence of drainage for grey water, and lack of disinfectants.

Some prisoners were kept in prison after completing their sentences or receiving court orders of release due to inability to pay their fines. In 2009 for example, more than 100 prisoners remained in New Bell Prison despite completing their sentences. Prisons in Buea and Kumba also held inmates who had completed their sentences.

As of May, 480 minors were detained in the country's 10 central prisons, 406 of them in pretrial detention; 234 women also were detained, 163 of them in pretrial detention.

There were two separate prisons for women and a few pretrial detention centers for women; however, women routinely were held in police and gendarmerie complexes with men, occasionally in the same cells. Mothers sometimes chose to be incarcerated with their children if the children were very young or if they had no other child care option. Juvenile prisoners were often incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners. Pretrial detainees routinely were held in cells with convicted criminals. Some high-profile prisoners, including officials imprisoned for corruption, were separated from other prisoners and enjoyed relatively lenient treatment.

In temporary holding cells within police or gendarme facilities, adult men, juveniles, and women were held together. Detainees usually received no food, water, or medical care; detainees whose families had been informed of their incarceration relied on their relatives for food and medicine. Overcrowding was common. Detention center guards accepted bribes from detainees in return for access to better conditions, including permission to stay in an office instead of a cell.

Many citizens in the North and Far North regions turned to traditional chiefs, or lamibe, for dispute resolution, and the Government continued to permit lamibe to temporarily detain persons until they transferred them to the police or gendarmerie and the judicial system. Such detentions could last several weeks or months, depending on the availability of lamibe, the gravity of the offense, the distance to the nearest security office, and the availability of security officers, complainants, and transportation. Within the palaces of the traditional chiefdoms of Rey Bouba, Gashiga, Bibemi, and Tcheboa, there were private prisons that had reputations for serious abuse. For example, those incarcerated were often tied to a post with chains attached to their wrists and ankles. During an April visit in the North and Far North regions, lamibe claimed to foreign diplomats that such detention facilities no longer existed, although incriminated subjects were often held under the veranda of a hut and could be seen by passersby.

Prisoners were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship. During a May 2009 visit to the Buea Prison, diplomatic mission employees observed prisoners talking to the prosecutor and complaining about their conditions. The secretary of state for penitentiary administration and the inspector general in charge of penitentiary administration investigated credible allegations of inhumane conditions and acknowledged the existence of such conditions publicly; however, no action was taken during the year. The NCHRF also conducted investigations during the year and publicly denounced poor detention conditions. The NCHRF also acted on behalf of prisoners or detainees to alleviate overcrowding, address the status of juvenile offenders, improve pretrial detention conditions, and other matters.

The Government permitted international humanitarian organizations access to prisoners. Both the local Red Cross and the NCHRF made infrequent, unannounced prison visits during the year. The Government continued to allow the International Committee of the Red Cross (ICRC) to visit prisons. ICRC visits were conducted during the year in accordance with standard modalities.

The Government took steps to improve prison conditions. Phase two of the Improvement of Detention Conditions and Respect for Human Rights initiative resulted in 22 new wells, 732 new mattresses, and medical equipment for the country's prisons. In addition, the 10 medical doctors, 30 nurses, and 40 nurse aides that the Government recruited in late 2009 to work full-time in prisons became fully operational during the year. The Government also increased prison nutrition allowances during the year, which resulted in the provision of two daily meals instead of one in some prisons. In May the secretary of state in charge of penitentiary administration organized a workshop for 100 penitentiary officials and prison superintendents on respect for prisoner rights.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, security forces continued to arrest and detain citizens arbitrarily.

*Role of the Police and Security Apparatus.*—The national police, DGRE, Ministry of Defense, Ministry of Territorial Administration, and, to a lesser extent, Presidential Guard are responsible for internal security. The Ministry of Defense, which includes the gendarmerie, the army, the army's military security unit, and the DGRE, reports to an office of the presidency, resulting in strong presidential control of security forces. The national police include the public security force, judicial police, territorial security forces, and frontier police. The national police and the gendarmerie have primary responsibility for law enforcement, although the gendarmerie alone has responsibility in rural areas.

Police were ineffective, poorly trained, and corrupt (see section 4). Citizens viewed police as ineffective and often resorted to vigilante violence rather than calling police (see section 1.a.).

Impunity was a problem; however, some abusers were sanctioned.

According to media reports, during the year authorities sanctioned at least 41 security officers, including 21 soldiers and gendarmes and 20 police officers; offenses included harassment of citizens, corruption, extortion of funds, disregard of orders, forgery, and dangerous use of firearms.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2009, a total of 599 police officers and 18 gendarmes were sanctioned in 2009 for acts ranging from failure to follow orders to corruption, falsification of official documents, abuse of authority, use of excessive force, extortion of money, arbitrary arrest, blackmail, aggravated theft, and dangerous use of arms; sanctioned acts included those committed in 2009 and in previous years. Preliminary administrative punishments—actions taken immediately after the perpetration of the offense—ranged from written warnings to suspensions of up to six months and imprisonment for 10 to 12 days. More serious cases were transferred to the judiciary for prosecution and sentencing, which could take months or even years.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2009, at least 10 security officers were prosecuted in 2009 for torture; however, no details were provided. Twenty others were prosecuted in 2009 for physically harming citizens, including the following: Senior Warrant Officer Jean Abanda Abanda, who was sentenced in December to two years' imprisonment for "slight harm;" Police Superintendent Afana Akomezoa, who was sentenced in December to one year in prison for "simple threats and slight harm;" and Warrant Officer Bertin Ateba, who was fined 25,000 CFA francs (\$50) in December for assault on a superior and others. While not providing the date of sentencing in the following cases, the report also noted that Police Constable Theophile Ouaboube Zengoba was sentenced to five years in prison for "dangerous carriage of arms and simple harm," and Police Constable Michel Mbock Mbock was fined 50,000 CFA francs (\$100) and court costs for unspecified charges.

In 2009 the Military Tribunal of Yaounde tried 15 soldiers and gendarmes for crimes ranging from corruption to murder; 13 of the 15 were sentenced to at least one year in prison, and one was sentenced to death (see section 1.a.). Another 55 soldiers and gendarmes were being detained and awaiting trial for crimes, including false arrest, assault, torture, and murder.

In May the penitentiary administration of the Ministry of Justice organized a four-day workshop for penitentiary officials and prison superintendents on respecting prisoner rights.

*Arrest Procedures and Treatment While in Detention.*—The law requires that police obtain a warrant for an arrest, except when a person is caught in the act of committing a crime; however, police often did not respect this requirement. The law provides that detainees be brought promptly before a magistrate; however, this frequently did not occur. Police legally may detain a person in connection with a common crime for up to 48 hours, renewable once. This period may, with the written

approval of the State Counsel, be exceptionally extended twice before bringing charges; however, police occasionally exceeded these detention periods. The law permits detention without charge—or renewable periods of 15 days—by administrative authorities such as governors and civilian government officials serving in territorial command. The law also provides for access to legal counsel and family members; however, detainees were frequently denied access to both. The law permits bail, allows citizens the right to appeal, and provides the right to sue for unlawful arrest, but these rights were seldom exercised.

Police and gendarmes frequently arrested persons on Friday afternoons, although the number of such cases decreased during the year, according to NGOs and legal practitioners. Although the law provides for judicial review of an arrest within 24 hours, the courts did not convene on weekends, so individuals arrested on a Friday typically remained in detention until Monday at the earliest. According to some reports, police and gendarmes occasionally made such “Friday arrests” on spurious charges after accepting bribes from persons who had private grievances. Security forces and government authorities reportedly continued to arbitrarily arrest and detain persons, often holding them for prolonged periods without charges or trial and, at times, incommunicado.

Police arbitrarily arrested persons without warrant during neighborhood sweeps for criminals and stolen goods. Citizens were required to carry identification with them at all times, and police frequently arrested persons without identification during sweeps. On September 8, October 8, October 23, and October 26, police conducted such sweeps in the Yaounde neighborhoods of Obobogo, Mimboman, Nsam, Elig Edzoa, and Manguier; hundreds of persons were arrested. While security forces subsequently released some detainees, others were kept and transferred to the Prosecutor’s Office on various charges, including theft, aggression, and evasion.

The Delegate General for National Security (DGSN) claimed a policy of zero tolerance for police harassment; however, police and gendarmes subjected undocumented immigrants from Nigeria and Chad to harassment and imprisonment. During raids members of the security forces extorted money from those who did not have regular residence permits or who did not have valid receipts for store merchandise. Some members of the country’s large community of Nigerian immigrants complained of discrimination and abuse by government officials.

During the year the Government arrested Southern Cameroons National Council (SCNC) activists for participating in SCNC activities (see section 3).

Security forces arrested a human rights activist during the year (see section 5).

Security forces arbitrarily arrested leaders of the Cameroonian Union of Journalists during a demonstration during the year (see section 2.b.).

Unlike in the previous year, police did not arbitrarily arrest women on the street suspected of prostitution.

Approximately 220 persons arrested during the 2008 riots remained imprisoned at year’s end; all had been tried and convicted. An estimated 500 prisoners with lesser sentences were released during the year and in 2009 as a result of presidential amnesties; 951 detainees were released several days after their 2008 arrest.

In 2008 the Government claimed it arrested 1,671 persons during the riots, although NGOs claimed the number was higher and that security forces arrested scores of onlookers not directly involved in demonstrations or rioting.

In the North and Far North regions, the Government continued to permit traditional chiefs, or lamibe, to detain temporarily persons outside the Government penitentiary system, in effect creating private prisons, until they transferred them to the police or gendarmerie and the judicial system (see section 1.c.). During the year the Government sentenced traditional ruler Jean Claude Enyegue Atanga to 20 years’ imprisonment for false arrest.

The law provides for a maximum of 18 months’ detention before trial; however, lengthy pretrial detention was a serious problem. According to government statistics released in May, pretrial detainees represented 68 percent of the approximately 12,510 inmates in the country’s 10 central prisons; 2009 statistics indicated that 62 percent of inmates in the country’s main and secondary prisons were pretrial detainees. Many pretrial detainees had been awaiting trial for five to 10 years, according to a 2008 statement by the Cameroon Bar Association. The law precludes holding juvenile detainees more than three months after the conclusion of an investigation; however, juveniles were sometimes held for more than a year. The high number of pretrial detainees was due to judicial inefficiency, staff shortages, and corruption. The bar association attributed lengthy pretrial detention to a shortage of lawyers and lost files due to an inadequate tracking system.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary remained corrupt, inefficient, and subject to political influence. The court system is subordinate to the Ministry of Justice. The

constitution names the president as “first magistrate,” thus “chief” of the judiciary and the theoretical arbiter of any sanctions against the judiciary, although the president has not publicly played this role. The constitution specifies that the president is the guarantor of the legal system’s independence. He also appoints all judges with the advice of the Higher Judicial Council.

On at least one occasion during the year, however, the judiciary demonstrated independence. On November 4, the Military Chamber of the Yaounde Court of Appeal overruled a decision of the military tribunal, which in March 2009 had sentenced journalists Jacques Blaise Mvie and Charles New and soldier Jeremie Doko to five years in jail following a complaint filed by former minister of defense Remy Ze Meka. The charges included calumny, offense to a government member, and the divulging of defense secrets. According to the Court of Appeal, the facts incriminating the three accused had not been established.

The legal system includes both national and customary law, and many criminal and civil cases can be tried using either one. Criminal cases were generally tried in statutory courts.

Customary courts served as a primary means for settling domestic cases, such as succession, inheritance, and child custody. Customary courts may exercise jurisdiction in a civil case only with the consent of both parties. Either party has the right to have a case heard by a statutory court and to appeal an adverse decision by a customary court to the statutory courts. Customary court convictions involving witchcraft are automatically transferred to the statutory courts, which act as the court of first instance.

Customary law is deemed valid only when it is not “repugnant to natural justice, equity, and good conscience.” However, many citizens in rural areas remained unaware of their rights under civil law and were taught that they must abide by customary laws. Customary law ostensibly provides for equal rights and status; however, men may limit women’s rights regarding inheritance and employment, and some traditional legal systems treat wives as the legal property of their husbands. Customary law practiced in rural areas is based upon the traditions of the ethnic group predominant in the region and adjudicated by traditional authorities of that group.

Military tribunals may exercise jurisdiction over civilians when the president declares martial law and in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The Government interpreted these guidelines broadly and sometimes used military courts to try matters concerning dissident group members who used firearms.

In May the Ministry of Justice organized a refresher course for all magistrates on ways of effectively applying international norms relating to human rights.

*Trial Procedures.*—The law provides for a fair public hearing in which the defendant is presumed innocent. There is no jury system. Defendants have the right to be present and to consult with an attorney in a timely manner, and the Government generally respected this right. Defendants generally were allowed to question witnesses and to present witnesses and evidence on their own behalf. Defendants had access to government-held evidence relevant to their cases and could appeal their cases. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The bar association and some voluntary organizations such as the Cameroonian Association of Female Jurists offered free assistance in some cases. The European Union-funded program for the improvement of the condition of detainees and human rights (PACDET II) also allowed lawyers to continue to offer free assistance to 3,000 detainees. The April 2009 legal aid bill to facilitate judicial access for all citizens was not implemented during the year. In April 2009 the president signed into law a legal aid bill to facilitate judicial access for all citizens. The new law establishes legal aid commissions at the courts of first instance, high courts, military tribunals, courts of appeal, and the Supreme Court. The law also specifies the conditions for legal aid applications, explains the effects of legal aid, and identifies the conditions for withdrawal of such aid. In 2009 lawyers and human rights organizations observed several violations of the criminal procedure code in the Government’s response to the February 2008 unrest. Some detainees in police or gendarmerie cells did not receive medical assistance or access to an attorney. Jean de Dieu Momo, a human rights lawyer, and Madeleine Afite, a representative of Action of Christians for the Abolition of Torture, publically denounced these violations. Afite stated that arrested minors received no assistance from their parents, attorneys, or human rights organizations, as the code mandates.

*Political Prisoners and Detainees.*—There were reports of political detainees, which included citizens purportedly advocating secession through an illegal organization (see section 3).

During the year the Yaounde High Court repeatedly postponed the trial of two detainees widely considered by human rights NGOs to be political prisoners. Titus Edzoa, former minister of health and long-time aide to President Biya, and Michel Thierry Atangana, Edzoa's 1997 campaign manager, were arrested in 1997, three months after Edzoa resigned from the Government and launched his candidacy for president. They were convicted on charges of embezzling public funds and sentenced to 15 years in prison. Both Edzoa and Atangana complained of irregularities in their trials and restricted access to counsel. At the end of 2009, the prosecutor filed new charges against both men for embezzlement, and hearings started a few weeks later.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent civil judiciary; however, the judiciary remained subject to executive influence, and corruption and inefficiency remained serious problems. Citizens have the right to seek redress for alleged wrongs through administrative procedures or through the legal system, although both options involved lengthy delays. There were problems enforcing civil court orders due to bureaucratic inefficiency and delay.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, these rights were subject to restriction by the "higher interests of the state," and there were credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail with impunity. The Government continued to keep some opposition activists and dissidents under surveillance. Police sometimes detained family members and neighbors of criminal suspects.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing a criminal suspect. A police officer may enter a private home at any time in pursuit of a person observed committing a crime.

Unlike in the previous year, there were no reports that police put the houses of SCNC officials and activists under surveillance, searched the houses of SCNC leaders, or disrupted SCNC meetings in private residences. The SCNC is an anglophone group the Government considers illegal because it advocates secession. The group does not have legal status as it has never filed an application to become either a political party or other legally recognized organization.

An administrative authority, including a governor or prefect, may authorize police to conduct neighborhood sweeps without warrants. Such sweeps at times involved forced entry into homes in search of suspected criminals or stolen or illegal goods. Security forces sometimes sealed off a neighborhood, systematically searched homes, arrested persons, sometimes arbitrarily, and seized suspicious or illegal articles (see section 1.d.). Citizens without identification cards were detained until their identity could be established and then released. There were several complaints that police arbitrarily confiscated electronic devices and cell phones.

Unlike in the previous year, there were no reports that traditional chiefs arbitrarily evicted persons from their land.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government severely restricted these rights in practice. Security forces allegedly tortured and arrested, detained, harassed, and intimidated journalists during the year, particularly those that covered official corruption. One such journalist died in prison during the year as a result of inadequate medical care. The Government enforced media regulations irregularly, often implementing arduous requirements selectively for regime critics. Government officials used expansive libel laws to arraign journalists who criticized them. Attacks on journalists dramatically increased during the year, according to members of the African Federation of Journalists, the Union of Communication Professionals in Africa, and the National Syndicate of Cameroon Journalists. Journalists and media outlets practiced self-censorship.

Government officials threatened, harassed, and denied equal treatment to individuals or organizations that criticized government policies or expressed views at odds with government policy.

For example, information surfaced during the year that in January 2009 a security officer arrested Roland Fube Fonwi Tita, a chemistry teacher at the English High School in Yaounde, for plotting to assassinate the president and some ministers; the security official had overheard Fube criticize the president during a taxi ride with other passengers. Fube was taken to a gendarmerie and later released. On February 4, Fube was detained and charged with making disparaging remarks

about the president. On March 3, he was released on bail, and the case remained pending at year's end.

On March 8, gendarmes arrested and detained Bertrand Teyou for talking about the president in "insidious terms" during the dedication ceremony on the same day of his book *The Antecode Biya*. Teyou was subsequently charged with conspiracy, incitement to rebellion, attempt to disturb public order, and perilous activity. Teyou, who was detained for eight days, was again arrested and detained on November 9 in connection with the release of another book, *The Beauty of the Banana Republic: Chantal Biya, From the Street to the Palace*. On November 19, the Douala Court of First Instance found Teyou guilty of defamation, insult, and illegal protest, and sentenced him to pay a fine of two million CFA francs (\$4,000). Teyou, who could not pay the fine, remained in jail at year's end.

During the year approximately 200 privately owned newspapers were published; however, only an estimated 25 had sufficient funds to publish regularly. Independent newspapers continued to criticize the Government and report on controversial issues, including corruption, human rights abuses, homosexual practices, and economic policies. The Government continued to disburse official funds to support private press outlets, although it dispersed funds selectively to outlets that were less critical of the Government and with instructions to provide reporting favorable to the regime.

Security forces arrested numerous journalists during the year.

On February 5, DGRE officers arrested without charge and detained incommunicado Serges Sabouang, editor of the bi-monthly *La Nation*, and Simon Herve Nko'o, a reporter with the weekly *Bebela*, for one week for illegally possessing a document that could tarnish the image of government officials. The document allegedly implicated Laurent Easo, the secretary general of the presidency and board chairman of the state-run National Hydrocarbons Company, in secret payouts totaling 1.3 billion CFA francs (\$2.6 million) to three government officials involved in the 2008 purchase of an offshore vessel, reportedly purchased to entertain potential investors. According to the CPJ, which obtained a copy of a February 22 medical certificate detailing the condition of Nko'o upon release, security agents used torture to force Nko'o to reveal his sources. The certificate revealed that Nko'o had bruises on the soles of his feet, and the journalist told the doctor that he had been subjected to water boarding, sleep deprivation, and exposure to cold. Sabouang was interrogated, but not tortured.

Also on February 5, DGRE agents briefly detained and interrogated for 12 hours Robert Mintya, editor of the weekly *Le Devoir*, and Germain Ngota (Bibi) Ngota, editor and founder of the independent bimonthly *Cameroon Express*, in connection with the same document. Ngota subsequently went into hiding.

On February 26, police in Yaounde rearrested Mintya, Ngota (who had resurfaced), and Sabouang for forging the signature of a government official on the same document; the charge constitutes a criminal offense and is punishable by up to 15 years' imprisonment. Police released the three journalists a few days later; however, on March 10, they were rearrested and detained at Kondengui Prison in Yaounde. On April 22, Ngota, who suffered from gout, joint pain, high blood pressure, and a hernia, died from lack of medical attention. According to local media, Ngota's mother tried unsuccessfully to get relevant authorities to pay attention to Ngota's medical situation. A subsequent government investigation claimed Ngota died of AIDS-related complications. Following strong international pressure, the Government on November 25 released Mintya and Sabouang on their own recognizance, although both journalists still faced sentences of up to 20 years' imprisonment.

According to information made public during the year and released by the CPJ, the Government in 2009 lodged criminal charges against four leading journalists and an academic for commenting during a 2008 television program on the case of Yves Michel Fotso, a former executive at the national airline charged with corruption. Among those named was Spectrum TV Editor-in-Chief Thierry Ngogang, freelance journalist Alex Gustave Azebaze, Canal 2 International reporter Anani Rabier Bindze, and Jean-Marc Soboth, a prominent journalist and leading press freedom activist charged with "biased commentary" and "unauthorized disclosure of a confidential document." In January Soboth went into hiding after receiving anonymous death threats, according to local journalists.

Security forces obstructed journalists from reporting on the cases of former officials indicted in Operation Sparrowhawk, an official investigation of former officials accused of mismanaging public funds. According to the CPJ, for example, on January 17, officers at the State Secretariat for Defense in Yaounde briefly detained Nadege Christelle Bowa and confiscated her notes from an interview with Thierry Michel Atangana, a former presidential adviser, on corruption charges. On February 24, police detained reporter Justin Blaise Akono and forced him to delete courtroom

photos taken during a hearing in the trial of Titus Edzoa, a former presidential adviser accused of embezzlement.

According to the CPJ, the trial continued of Editor-in-Chief Charly Ndi Chia and Yaounde Bureau Chief Yerima Kini Nsom of the English-language biweekly *The Post* over an October 2009 story referencing the criminal case of Doh Gah Gwanyin III, a former local official convicted of involvement in the murder of an opposition politician in 2006. Following the first hearing in November 2009, the trial was repeatedly delayed due to the plaintiff's health.

Press freedom is constrained by strict libel laws that suppress criticism. These laws authorize the Government, at its discretion and the request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the president and other high government officials. Such crimes are punishable by prison terms and heavy fines. The libel law places the burden of proof on the defendant. Government officials abused this law to keep local journalists from reporting on corruption and abusive behavior.

There were developments in several 2009 libel cases.

On January 13, Jean Bosco Talla, editor of the independent weekly *Germinal*, was released from Kondengui Prison after he paid a three million CFA francs (\$6,000) fine. In December 2009 Talla was sentenced to the fine and a suspended one-year prison term for alleged libel against President Biya, who Talla claimed had betrayed a "secret homosexual pact" with former president Ahidjo.

On January 30, the Yaounde Court of Appeals confirmed the October 2009 sentence imposed by a lower court of 14 months in prison and a fine of one million CFA francs (\$2,000), damages of five million CFA francs (\$10,000), and costs of 265,000 CFA francs (\$530) against Michel Mombio, editor of the independent newspaper *L'Ouest Republicain*; Mombio was charged with fraud, attempted blackmail, and libel after he wrote an article criticizing cabinet officials. On February 15, the court released Mombio on bail after he paid the fines.

Also on January 30, the Douala Court of Appeals confirmed the three-year prison sentence imposed by a lower court in January 2009 on Lewis Medjo, publisher of *La Detente Libre*, who was arrested in 2008. Medjo was released on May 26, following a meeting between President Biya and UN Secretary General Ban Ki-moon.

On September 25, the Union of Press Editors of Central Africa issued a press release on behalf of Guy Constantin Moussi, publisher of the *Indices* newspaper; Moussi was tried during the year for publishing an article in March that accused Elajeli Musbah of trafficking in foreign currency. According to the union's press release, Elajeli Musbah, the local representative of Libyan airline *Afriqiyah*, had exerted strong pressure on magistrates to condemn the publisher. The December 16 hearing on the case in the Douala first instance court was postponed to January 2011.

Radio remained the most important medium and reached most citizens. There were approximately 70 privately owned radio stations operating in the country, three-fourths of them in Yaounde and Douala. Television had lower levels of penetration than print media but was more influential in shaping public opinion in urban areas. There was one private cable television network. The five independent television stations skirted criticism of the Government, although their news broadcasts sometimes focused on poverty, unemployment, and poor education, pointing to the role of government neglect and corruption. The state-owned Cameroon Radio and Television (CRTV) broadcast on both television and radio. The Government levied taxes to finance CRTV programming, which gave CRTV a distinct advantage over independent broadcasters.

The Government required nonprofit rural radio stations to submit applications to broadcast, but they were exempt from licensing fees. Potential commercial radio and television broadcasters must submit a licensing application and pay an application fee with the application. After a license is issued, stations must pay an annual licensing fee, which was expensive for some stations. Although the Government did not issue new broadcast licenses during the year, companies operated without them under a government policy of administrative tolerance.

On January 3, the minister of communication authorized the reopening of the Sky One FM Radio station, which he closed in August 2009 after the station refused to stop broadcasting the program *Le Tribunal*, which allowed listeners to air grievances and seek assistance. The radio station complied with the minister's demands, which included cancelling *Le Tribunal*.

Several rural community radio stations functioned with funding from the UN Educational, Scientific, and Cultural Organization and foreign countries. The Government prohibited these stations from discussing politics.

The law permits broadcasting by foreign news services that partner with national stations. The BBC, Radio France International, and Africa1 broadcast in partnership with CRTV.

The Government was the largest advertiser in the country. Some private media enterprises reported that government officials used the promise of advertising (or the threat of withholding it) to influence reporting of the Government's activities.

On March 9, the CPJ wrote a letter to President Biya expressing concern about ongoing abuses against press freedom. The CPJ called on the president to hold members of his administration accountable for using security forces and criminal laws to settle scores with the media and urged the president to initiate reforms that would refer matters of defamation to civil courts.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, Internet penetration in the country was approximately 2.2 percent.

*Academic Freedom and Cultural Events.*—Although there were no legal restrictions on academic freedom, state security informants reportedly operated on university campuses. Professors said that participation in opposition political parties or public criticism of the Government could affect their professional opportunities.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. The law requires organizers of public meetings, demonstrations, and processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the Government to suppress public assemblies that it has not approved in advance. However, officials routinely asserted that the law implicitly authorizes the Government to grant or deny permission for public assembly. Consequently, the Government often refused to grant permits for assemblies organized by persons or groups critical of the Government and used force to suppress public assemblies for which it had not issued permits.

Authorities refused to grant the SCNC permission to hold rallies and meetings, and security forces arrested and detained SCNC activists (see section 3). Security forces forcibly disrupted demonstrations, meetings, and rallies of citizens, trade unions, and political activists throughout the year. The use of excessive force by security forces resulted in numerous injuries.

The Government banned some union activities during the year (see section 7.a.).

On May 3, security forces prevented approximately 200 members of the Union of Cameroonian Journalists (UCJ) from holding a sit-in near the Office of the Prime Minister; the journalists were assembling to protest the harassment, arrest, and detention of their colleagues and the death in prison of Bibi Ngota (see section 2.a.). Police used batons on the journalists, several of whom sustained minor injuries along with damage to their clothes and loss of personal property. In justifying the ban, police claimed the UCJ had not provided ample notice of the event to the appropriate authority.

On August 25, security officers disrupted a press conference that the Republican Forum, a newly created opposition party, organized at the Djeuga Palace in Yaounde. The officers harassed the organizers, while claiming that the conference was illegal. Party Chairman Roland Romain Kouotou denied the allegations and brandished an authorization letter issued by the sous-prefet of Yaounde I.

*Freedom of Association.*—The law provides for freedom of association, but the Government limited this right in practice. The law prohibits organizations that advocate any type of secession, resulting in the disruption of SCNC meetings on the grounds that the purpose of the organization rendered any meetings illegal.

On October 1, which the SCNC commemorates as independence day for "Southern Cameroons," security forces disrupted SCNC meetings and rallies in Tiko, Buea, Bamenda, and Kumbo.

The conditions for government recognition of political parties, NGOs, or associations were arduous, interminable, and unevenly enforced. The process forced most associations to operate in uncertainty, in which their activities were tolerated but not formally approved.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—Although the constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, security forces routinely impeded domestic and international travel during the year. The Govern-

ment cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Security forces at roadblocks and checkpoints in cities and on most highways extorted bribes and harassed travelers. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. There were credible reports that police arrested and beat individuals who failed to carry their identification cards as required by law (see section 1.d.).

The law prohibits forced exile, and the Government did not use it; however, some human rights monitors and political opponents remained in self-imposed exile because they felt threatened by the Government.

*Internally Displaced Persons (IDPs).*—In 2005 between 10,000 and 15,000 persons in and around the Adamaoua Region villages of Djohong and Ngaoui were displaced following attacks and looting by unidentified armed groups from the Central African Republic (CAR). Officials in the Adamaoua Region administration reported that hundreds of IDPs remained.

During the year the Government worked with UNHCR to protect and assist IDPs.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system of providing protection to refugees. The Government granted refugee status or asylum. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

The Government provided temporary protection under the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol and provided it to more than 101,000 persons, including 80,000 from CAR, 3,000 from Chad, and 4,000 from Nigeria.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully; however, President Biya and the CPDM party controlled the political process, including the judiciary and agencies responsible for the conduct and oversight of elections.

In 2008 the National Assembly passed a constitutional amendment that removed presidential term limits and added provisions for presidential immunity. Although considerable national discussion of the proposal ensued, the National Assembly ultimately passed the revisions in a manner that allowed no debate and underscored the CPDM's unfettered control of all government branches. Neither the electorate nor its elected representatives had an opportunity to affect the outcome of the constitutional exercise.

*Elections and Political Participation.*—During the 2007 legislative elections, observers witnessed poor supervision at the polling stations and lax application of the electoral law. An unnecessarily complex registration process effectively disenfranchised numerous voters. The Government failed to implement promised electoral improvements, such as the provision of indelible ink—an internationally recognized safeguard against multiple voting—to many polling stations. In addition, despite efforts to computerize voter registration, the lists still included numerous errors.

The Supreme Court received more than 130 complaints from political parties after the elections, but dismissed the majority of them on technical grounds. However, the court ordered new elections in five constituencies for 17 parliamentary seats, which were held in 2007; the CPDM won 13 seats and opposition parties four. Observers noted some irregularities and low voter turnout.

In 2008 the Government's National Elections Observatory, which was responsible for ensuring electoral fairness, published its assessment of the 2007 legislative and municipal elections. The report cited shortcomings due to lack of coordination between the various electoral commissions and a lack of clear, uniform procedures for the various stages of the electoral process, particularly the registration process.

In 2004 President Biya, who has controlled the Government since 1982, was re-elected with approximately 70 percent of the vote in an election that was poorly managed and marred by irregularities, in particular in the voter registration process, although widely viewed as more free and fair than previous elections. Although most international observers agreed that it reflected the will of the voters, the Commonwealth Observer Group maintained that the election lacked credibility.

All members of Elections Cameroon (ELECAM), the electoral body responsible for the preparation and organization of elections, were appointed by the president. Most

board members were active CPDM members. Many in the international community publicly questioned the independence and credibility of ELECAM, given the partisan nature of its council membership.

The right of citizens to choose their local governments remained circumscribed. The Government greatly increased the number of municipalities run by presidentially appointed delegates, who have authority over elected mayors, effectively disenfranchising the residents of those localities. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition regions; however, this practice was almost nonexistent in the southern regions, which tended to support the ruling CPDM party. In municipalities with elected mayors, local autonomy was limited, since elected local governments relied on the central government for most of their revenue and administrative personnel.

There were more than 253 registered political parties. Fewer than 10, however, had significant levels of support, and only five had seats in the National Assembly. The CPDM held an absolute majority in the National Assembly. Opposition parties included the SDF, based in the anglophone regions and some major cities, the National Union for Democracy and Progress, the Cameroon Democratic Union, and the Union of the Peoples of Cameroon.

Membership in the ruling political party conferred significant advantages, including in the allocation of key jobs in parastatals and the civil service. The president appoints all ministers, including the prime minister, and also directly appoints the governors of each of the 10 regions. The president has the power to appoint important lower level members of the 58 regional administrative structures as well. Onerous requirements for registration of parties and candidates restricted political activity.

Natives of the North West and South West regions tended to support the opposition SDF party and consequently suffered disproportionately from human rights abuses committed by the Government and its security forces. The anglophone community complained of being underrepresented in the public sector. Although citizens in certain francophone areas—the East, Far North, North, and Adamaoua Regions—voiced similar complaints about under-representation and government neglect, anglophones claimed they had not received a fair share of public sector goods and services within their two regions. Many residents of the anglophone regions sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform, and have formed several quasipolitical organizations in pursuit of their goals.

Authorities sometimes refused to grant opposition parties permission to hold rallies and meetings.

During the year the Government arrested SCNC activists for participating in SCNC activities. The Government considered the SCNC illegal because it advocates secession and has never registered as a political party or organization.

On September 29, security forces in Kumbo, North West Region, arrested and briefly detained five SCNC activists who were gathering material to commemorate the 49th anniversary on October 1 of the independence of West Cameroon, an anniversary not recognized by the Government.

On October 1, police in Tiko, South West Region, arrested and briefly detained an SCNC activist for hoisting the SCNC flag in commemoration of October 1. Police later released him.

Women held 23 of 180 seats in the National Assembly, six of 61 cabinet posts, and a few of the higher offices within the major political parties, including the ruling CPDM.

Pygmies were not represented in the National Assembly or in the higher offices of government.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a severe problem. The public perception was that judicial and administrative officials were open to bribes in almost all situations. Corruption was pervasive at all levels of government. During the year the Government sanctioned dozens of government employees, particularly those from previous administrations, for corruption and mismanagement.

The National Anticorruption Commission (CONAC) is the country's principal independent anticorruption agency; however, it was subservient to the president. In 2009 CONAC received 312 petitions concerning corruption and related offenses, of which 238 resulted in prosecution. The National Financial Investigations Unit (ANIF), a separate financial intelligence unit that tracks money laundering, has re-

ferred to judicial authorities 104 of 450 reports received of suspicious transactions since ANIF's creation in May 2005; the ANIF has been informed of no trials or hearings addressing any of the 104 reports referred.

Police were corrupt. Individuals reportedly paid bribes to police and the judiciary to secure their freedom. Police demanded bribes at checkpoints, and influential citizens reportedly paid police to make arrests or abuse individuals involved in personal disputes.

Police were sanctioned for corruption during the year.

For example, on January 18, DGSN Director Emmanuel Edou suspended Police Inspector Eric Brice Essama, who served at the public security office in Nkoteng, Center Region, for three months without pay for extortion and indiscipline; legal action was pending at year's end.

On May 5, Edou suspended Second Grade Police Officer Zaza Mahamat for three months without pay for embezzlement of public funds and breach of trust; the case was pending prosecution at year's end.

Judicial corruption was a problem. According to several press reports, judicial authorities accepted illegal payments from detainees' families in exchange for a reduction in sentence or the outright release of their relatives. Political bias by judges (often instructed by the Government) frequently stopped or delayed judicial proceedings. Many powerful political or business interests enjoyed virtual immunity from prosecution, and politically sensitive cases sometimes were settled through bribes.

During the year security forces arrested for corruption several former government officials, who generally were held in separate quarters and received preferential treatment.

On January 6, police arrested and detained Haman Adama, former minister of basic education, and Roger Ntongo Onguene, former general manager of Cameroon Airports, on corruption charges. Both former officials, who were accused of embezzling public funds worth hundreds of millions of CFA francs, were in pretrial detention at year's end.

On January 12, police arrested and detained Catherine Abena, former secretary of state for secondary education, on embezzlement charges. At year's end Abena was being detained in Kondengui Prison awaiting trial.

On August 12, CONAC informed the public that the corruption investigations of 47 officials in the Ministry of Agriculture had been completed and that the cases had been transferred to the judiciary for prosecution; the 47 were allegedly involved in the embezzlement of public funds intended to boost corn production.

On October 6, the Wouri High Court opened hearings in the trial of Paul Ngamo Hamani, former general manager of Cameroon Airlines, who was arrested in March 2009 for embezzlement. The trial was ongoing at year's end.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2009, dozens of judicial proceedings were instituted against persons for alleged misappropriation of public funds in public and semi-public enterprises in 2009. For example, in the Yaounde High Court, preliminary inquiries were opened into 49 cases of misappropriation of public funds; 64 cases were pending hearing and determination; and 31 judgments were delivered, of which 16 were appealed.

According to the Report by the Ministry of Justice on Human Rights in Cameroon in 2009, in June 2009 the Douala Court of Appeals sentenced Alphonse Siyam Siwe and two other defendants to life imprisonment for embezzlement; the lower court had issued 30-year sentences. Among others accused in the case, one was sentenced to 25 years in prison, eight to 15 years, and another to one year. In addition, the court reversed the Wouri Higher Court's acquittal of seven defendants and sentenced six to 15 years' imprisonment and the seventh to one year in prison.

Jerome Mendouga, a former ambassador who was arrested in April 2009 for embezzlement in connection with the purchase of a presidential plane, remained in pretrial detention at year's end.

There were no developments in the 2009 corruption case of Dieudonne Ambassa Zang, a CPDM deputy whose parliamentary immunity was lifted in August 2009. Ambassa Zang had not been arrested by year's end and was believed to have fled the country.

There were no developments in the August 2009 arrest and detention of Jean-Baptiste Nguini Effa, former general manager of the Government-owned National Petroleum Distribution Company, along with six of his close collaborators, for embezzlement. Nguini and the other six remained in pretrial detention at year's end.

The following developments occurred in 2008 corruption cases.

On February 16, the Yaounde High Court began the trial of Urbain Olanguena Awono, former minister of public health, who was arrested in 2008 on embezzlement charges. The trial was ongoing at year's end.

On March 17, the Yaounde High Court began the trial of Polycarpe Abah Abah, a former minister of finance who was arrested in 2008 for allegedly embezzling more than two billion CFA francs (\$4 million) while in charge of collecting taxes. The ongoing trial has been postponed numerous times due to the defendant's health and a pending government appeal of a judge's decision to dismiss some of the charges against him.

On July 29, the Yaounde High Court began the trial of Jean Marie Atangana Mebara, a former secretary general of the presidency, who was arrested in 2008 for embezzlement in connection with the purchase of an airplane for President Biya that resulted in the loss of more than 15 billion CFA francs (\$30 million) to the treasury. Mebara's trial has been postponed several times because only one out of the required three judges was present.

On October 28, the Douala High Court sentenced Zacchaeus Mungwe Forjindam, former general manager of the Cameroon Shipyard and Engineering Company, to 12 years in jail and confiscation of personal property for embezzling public funds. Forjindam, who was arrested in 2008, had appealed a lower court's decision. The court also imposed an 850 million CFA francs (\$1.7 million) fine in damages on Forjindam and his co-accused.

There were no developments in the 2008 corruption case of Paulin Abono Moampamb, a former secretary of state and mayor of Yokadouma, who was arrested and detained for embezzlement.

The constitution and law require senior government officials, including members of the cabinet, to declare their assets; however, the president had not issued the requisite decree to implement the law by year's end.

There are no laws providing citizens with access to government information, and such access was difficult to obtain. Most government documents, such as statistics, letters exchanged between various administrations, draft legislation, and investigation reports, were not available to the public or the media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups investigated and published findings on human rights cases; however, government officials repeatedly impeded the effectiveness of local human rights NGOs during the year by harassing their members, limiting access to prisoners, refusing to share information, threatening violence, and using violence against NGO personnel.

Despite these restrictions, numerous independent domestic human rights NGOs operated, including the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women against Violence, the Movement for the Defense of Human Rights and Freedoms, and the Cameroonian Association of Female Jurists. The Government collaborated with domestic NGOs to address child labor, women's rights, and trafficking in persons.

Although the NCHRF remained hampered by a shortage of funds, during the year it conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars for judicial officials, security personnel, and other government officials. Although the commission rarely criticized the Government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights abuses by security forces. During the year the NCHRF continued its efforts to stop "Friday arrests" (the practice of detaining individuals on Friday to prolong the time before court appearance) and sought to obtain medical attention for jailed suspects. Government officials also attended several seminars organized by the commission.

On June 24, in Douala, gendarmes in the Ndogbong neighborhood arrested and detained Mboua Massock, a political and human rights activist who was distributing tracts in the street; Massock was released after two hours. According to the gendarmes, the message in the tracts was likely to disturb public order. Massock had been arrested twice in 2009 for defacing public property (disfiguring a monument), a charge he did not contest.

There were no developments in the case of Aicha Ngo Eheg, a human rights activist who was arrested, beaten, and stripped naked by Douala anti-riot police in February 2008; Ngo Eheg, along with other demonstrators, had gathered in the Douala neighborhood of Bepanda to march against constitutional changes to expand presidential power.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations, including the ICRC.

Unlike in the previous year, when the Government denied visas to an Amnesty International (AI) team following the release of the annual AI report, the Government issued visas to two AI officials who visited the country in August. During their

10-day visit, the two officials met with senior government officials, including the prime minister and the minister of justice. They also held meetings with the NCHRF and local human rights NGOs.

The National Assembly's Constitutional Laws, Human Rights and Freedoms, Justice, Legislation, Regulations, and Administration Committee is charged with reviewing any human rights legislation the Government submits for consideration.

On November 2, the Government published the Report by the Ministry of Justice on Human Rights in Cameroon in 2009, which focused primarily on enumerating government actions to address human rights issues, such as judicial and disciplinary action taken against officials accused of corruption or other inappropriate conduct. The report documented hundreds of investigations, disciplinary actions, and prosecutions in 2009 (see sections 1.c., 1.d., and 4).

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law does not explicitly forbid discrimination based on race, language, or social status, but does prohibit discrimination based on gender and mandates that "everyone has equal rights and obligations." The Government, however, did not enforce these provisions effectively. Violence and discrimination against women, trafficked persons, ethnic minorities, and gays and lesbians were problems.

*Women.*—The law criminalizes rape and provides penalties of between five and ten years' imprisonment for convicted rapists; however, police and the courts rarely investigated or prosecuted rape cases. The law does not address spousal rape. A study conducted in 2009 reported the rapes of hundreds of thousands of young girls and women between 1970 and 2008 (see also section 6, Children.). Due to social taboos associated with sexual violence, most rapes went unreported, and the media reported only four rape cases during the year. It was unknown whether any of the four cases resulted in prosecution. In June 2009 the German Agency for International Cooperation, in collaboration with local NGOs, launched a national campaign against rape, which continued during the year.

The law does not specifically prohibit domestic violence, although assault is prohibited and punishable by imprisonment and fines. In 2008 a study from La Maison des Droits de l'Homme, a Douala-based NGO, reported that approximately 39 percent of women suffered from physical violence. A 2005 survey cited by the Cameroon Tribune newspaper also indicated that 39 percent of women living with a man (married or unmarried) were victims of physical violence, and 28 percent were victims of psychological violence. Women's rights advocates asserted that penalties for domestic violence were insufficient. Spousal abuse is not a legal ground for divorce.

The law does not prohibit sexual harassment. The Government did not conduct any public education campaigns on the subject, and there were no statistics available on its occurrence.

In rural northern areas, societal pressures continued to reinforce taboos on discussing contraception and all other sex-related issues. However, the Government, in cooperation with NGOs, conducted programs designed to educate couples, especially men, to better understand the positive aspects of responsible spacing between childbirths. In May, during the launch of a campaign against maternal mortality, the minister of public health revealed that 12 women a day in the country lost their lives in childbirth and that the maternal mortality rate was 669 per 100,000 births. Prenatal care, skilled attendance during childbirth, and postpartum care were not available to all women, particularly to those living in rural areas. For several years the Ministry of Public Health has produced radio and televised information programs on responsible parenthood, including encouraging couples to use contraception to space the timing of their children. Couples were also encouraged to get HIV/AIDS testing prior to conception, and efforts continued to increase HIV/AIDS testing for all pregnant women at health clinics. Women were equally diagnosed and treated for sexually transmitted infections, including HIV/AIDS, and all government and civil society campaigns against the disease targeted men and women.

Despite constitutional provisions recognizing women's rights, women did not enjoy the same rights and privileges as men, and some provisions of civil law were prejudicial to women. For example, the law allows a husband to deny his wife's right to work, and a husband may also end his wife's right to engage in commercial activity by notifying the clerk of the commerce tribunal. Customary law imposes further strictures on women since in many regions a woman was regarded as the property of her husband. Because of the importance of custom and tradition, civil laws protecting women often were not respected. For example, in some ethnic groups women were precluded from inheriting from their husbands. The Ministry of Women's Empowerment and the Family worked with other government agencies to promote the legal rights of women.

*Children.*—Citizenship is derived from the parents, and it is the parents' responsibility to register births. Parents must obtain a birth declaration from the hospital or health facility in which the child was born and complete the application. The mayor's office subsequently issues the birth certificate once the file is completed and approved. Because many children were not born in formal health facilities, and many parents were unable to reach local government offices, many births were unregistered; statistics on unregistered births were unavailable. In recent years the Government created special civil status centers in remote areas to enable rural residents to register their children. Citizens unable to avail themselves of these resources often turned to a thriving fabrication industry for birth certificates, which were required to register children for school or obtain a national identification card. The Government continued its program begun in 2005 to issue birth certificates to Baka, most of whom did not have birth certificates (see section 6, Indigenous People.) The program also assisted Baka in registering for school.

Schooling is mandatory through the age of 14; however, parents had to pay uniform and book fees for primary school students and tuition and other fees for secondary school students, rendering education largely unaffordable for many children. The Government continued its efforts under a three-year program to improve access to schools, such as the construction of new classrooms, recruitment of new teachers, and provision of water fountains.

According to 2008 UN Children's Fund (UNICEF) statistics, 77 percent of girls between the ages of six and 14 were enrolled in primary school, compared with 88 percent of boys in the same age group. According to a 2006 report from the presidency, the secondary school enrollment ratio was 38 percent for boys and 37 percent for girls. The low school enrollment rate was attributed to cost, with girls' participation further reduced by early marriage, sexual harassment, unwanted pregnancy, prejudice, and domestic responsibilities.

Child abuse was a problem, although no statistics were available. Newspaper reports often cited children as victims of kidnapping, mutilation, and even infanticide. There were credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets.

The law does not prohibit FGM, which was practiced in isolated areas of the Far North, East, and Southwest regions; statistics on its prevalence were unavailable. Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies. The severest form of FGM, infibulation, was performed in the Kajifu area of the Southwest Region. FGM usually was practiced on infants and preadolescent girls. Public health centers in areas where FGM was frequently practiced counseled women about the harmful consequences of FGM; however, few perpetrators were caught in the act, and the Government did not prosecute any persons charged with perpetrating FGM. According to the Association to Fight Violence against Women, FGM practitioners frequently conducted secret, rather than open, ceremonies following the subjection of a girl to FGM.

Breast ironing, a procedure to flatten a young girl's growing breasts with hot stones, victimized numerous girls in the country, according to press reports. The procedure was considered a way to delay a girl's physical development, thus limiting the risk of sexual assault and teenage pregnancy. Girls as young as nine were subjected to the practice, which resulted in burns, deformities, and psychological problems.

While the minimum legal age for a woman to marry is 15, many families facilitated the marriage of young girls by the age of 12. Early marriage was prevalent in the northern regions of Adamaoua, North, and particularly the remote Far North, where many girls as young as nine faced severe health risks from pregnancies. There were no statistics on the prevalence of child marriage.

Children under the age of 18 were engaged in prostitution, and the problem was believed to be pervasive, although no statistics were available.

A 2009 study conducted by the German development organization GTZ reported that an estimated 432,000 women and girls have been raped in the past 20 years: 20 percent of rapes were perpetrated by family members, and the average age of victims was 15 years. According to Flavien Ndonko, the head of GTZ's HIV/AIDS program, rape has steadily increased, and only about one in 20 rapists was convicted. A campaign led by GTZ in 2009 encouraged victims to speak publicly about rape. In September the Ministry of Social Affairs, UNICEF, and the Ecole Instrument de Paix, a local NGO, organized a workshop in Douala to address the growing problem of the sexual abuse of children.

Approximately 2,000 children lived on the streets of the major urban centers. The Project to Fight the Phenomenon of Street Children, a governmental project in partnership with NGOs, gathered information on street children and offered healthcare,

education, and psychosocial care; the project also bolstered the intake capacities of specialized centers.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—In April the president promulgated a new law to protect and promote the rights of persons with disabilities due in part to the scarcity of facilities for persons with disabilities and lack of public assistance. The new law provides that both new and existing government and private buildings be designed to facilitate access by persons with disabilities. While all children were entitled to tuition-free primary school, the new law also provides for free secondary public education for persons with disabilities and children born of parents with disabilities. The law also provides for initial vocational training, medical treatment, employment “when possible,” and public assistance “when needed.”

On February 1, the Ministry of Social Affairs released a guide to educate persons with disabilities on their legal rights and the services available to them. The UN provided some of the financing for a new guide that was released in November.

Society largely treated those with disabilities as outcasts, and many felt that providing assistance was the responsibility of churches or foreign NGOs.

*National/Racial/Ethnic Minorities.*—The population consists of more than 250 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members in business and social practices. Members of the president's Beti/Bulu ethnic group from southern areas held key positions and were disproportionately represented in the Government, state-owned businesses, security forces, and the ruling CPDM party.

Northern areas continued to suffer from ethnic tensions between the Fulani (or Peuhl) and the Kirdi, who remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern regions.

Traditional Fulani rulers, called lamibe, continued to wield great power over their subjects, who often included Kirdi, and sometimes subjected them to tithing and forced labor. Isolated cases of slavery were reported, largely Fulani enslavement of Kirdi. Many Fulani hired Kirdi at exploitive wage levels to perform tasks that the Fulani considered menial and beneath them.

The 40 persons detained in connection with 2008 ethnic violence following a soccer game between Bamileke and Yebekolo members remained in detention.

Unlike in previous years, there were no reports that Alhadji Baba Ahmadou Danpullo, a wealthy businessman with ties to the Government, deceived M'Bororo women into sexual situations, forcibly displaced M'Bororo and seized their land and cattle, or used his money and influence with the Government to order the beating and false imprisonment of M'Bororo.

*Indigenous People.*—An estimated 50,000 to 100,000 Baka, including Bakola, and Bagyeli (Pygmies), primarily resided (and were the earliest known inhabitants) in the forested areas of the South and East regions. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. The Government did not effectively protect their civil and political rights, but has made an effort to assist Baka with national registration, which is a critical first step to participation and representation in institutions that can better advance Baka rights. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believed that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors.

Local Baka along the path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land and had been cheated by persons posing as Baka representatives.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation to obtain national identity cards, which were required to vote in national elections. In 2005 the Ministry of Social Affairs launched the Project to Support the Economic and Social Development of Baka in South Region. The project goal was to facilitate the issuance of birth certificates and national identity cards to 2,300 Baka, as well as help register hundreds

of students in school. In August 2009 the regional coordinator of the National Program for Participative Development, the implementing agency, indicated that they were able to assist with approximately 2,000 birth certificates and 1,000 national identity cards. The program continued during the year.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual activity is illegal and punishable by a prison sentence of six months to five years and a fine ranging from 20,000 to 200,000 CFA francs (\$40 to \$400). During the year three persons in Douala and two in Yaounde were arrested for suspected homosexual activity. Authorities prosecuted at least four persons under this law during the year. Homosexual persons generally kept a low profile because of the pervasive societal stigma, discrimination, and harassment as well as the possibility of imprisonment. Gays and lesbians suffered from harassment and extortion by law enforcement officials. False allegations of homosexuality were used to harass enemies or to extort money. On December 28, the Douala first instance court released from pretrial detention Alain Nje Penda, who was arrested for alleged homosexual acts in November 2009.

Several lesbian, gay, bisexual, and transgender organizations operated. There was a pattern of discrimination against members of such groups; however, no official cases were available for citation.

*Other Societal Discrimination.*—Persons infected with HIV/AIDS were often discriminated against and isolated from their families and society due to the societal stigma and lack of education about the disease.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join trade unions; however, the Government imposed numerous restrictions in law and in practice. The labor code does not apply to the agricultural or informal sectors, and thus to the majority of the workforce. The country had an estimated ten million workers, although less than 700,000 were in the formal sector. Seventy percent of the country's workforce was in the agricultural sector, 13 percent in the industrial sector, and 17 percent in the service sector. The law does not permit the creation of a union that includes both public and private sector workers or the creation of a union that includes different or even closely related sectors.

The law requires that unions register with the Government, permitting only groups of no fewer than 20 workers to organize a union by submitting a constitution, bylaws, and nonconviction certifications for each founding member. Although registered trade unions may no longer be dissolved by administrative authorities, and may only be dissolved through the judicial process, the law provides for prison sentences and heavy fines for workers who form a union and carry out union activities without registration. Such penalties are in breach of International Labor Organization (ILO) conventions. Trade unions or associations of public servants may not join a foreign occupational or labor organization without prior authorization from the minister responsible for "supervising public freedoms."

Government interference reportedly took various forms, including selectively recognizing certain trade unions and inconsistently applying the laws. Government officials stated that the Government provided union certification within one month of application; however, independent unions, especially in the public sector, found it difficult to register. For example, the Syndicat National des Enseignants du Supérieur was not officially registered but operated without government interference.

Registered unions were also subject to government interference. The Government chose the unions with which it would bargain; some independent unions accused the Government of creating small nonrepresentative unions amenable to government positions and with which it could negotiate more easily. Some sections of labor law had no force or effect because the presidency had not issued implementing decrees.

The labor code explicitly recognizes workers' right to strike, but only after mandatory arbitration, and workers generally exercised this right during the year. During the year strikes occurred at some universities, hospitals, the national water company, the Cameroon Bar Association, the Civil Engineering Equipment company, the national railroad company, and among motorcycle taxi drivers.

Security forces used excessive force to disperse a demonstration by members of the Cameroonian Union of Journalists (see section 2.b.).

Arbitration decisions are legally binding but often unenforceable when the parties refuse to cooperate. It was not uncommon for such decisions to be overturned or simply ignored by the Government or employers. The provision of the law allowing persons to strike does not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants

were required to negotiate grievances directly with the minister of the appropriate department in addition to the minister of labor and social insurance.

*b. The Right to Organize and Bargain Collectively.*—The constitution and law provide for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy.

On January 27, the minister of labor and social insurance presided over the signing of a collective bargaining agreement in the port sector. On November 24, he presided over the signing of a collective bargaining agreement for the banking sector. In 2009 the minister presided over collective bargaining agreements in the graphic arts and agricultural sectors.

Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the Government and labor unions were ignored by the Government.

The constitution and law prohibit antiunion discrimination, and employers guilty of such discrimination were subject to fines of up to approximately one million CFA francs (\$2,000). However, employers found guilty were not required to compensate workers for discrimination or to reinstate fired workers. The Ministry of Labor and Social Insurance (MINLESI) did not report any complaints of antiunion discrimination by private employers during the year, although there were credible press reports of harassment of union leaders.

Industrial free zones are subject to labor law except for the following provisions: the right to determine salaries according to productivity, the free negotiation of work contracts, and the automatic issuance of work permits for expatriate workers.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred.

Slavery is illegal in the country, and the law provides punishment of 10 to 20 years' imprisonment for persons accused of slavery or trafficking in persons for the purposes of forced labor; however, there were credible reports of slavery and hereditary servitude by former slaves in some chiefdoms in the North Region. For example, there were reports that the Lamido (traditional chief) of Rey Bouba in the North Region had hereditary servants inside his compound. Although the Lamido was replaced by his son in 2004, the hereditary servants remained. It was unclear whether hereditary servants stayed out of fear, a paucity of options, or because they knew no other life than the lamibe system, which is traditionally hierarchical and authoritarian.

Prison authorities arranged for prison inmates to be contracted out to private employers or used as communal labor for municipal public works. Money generated from these activities was usually pocketed by prison administrators and not given to detainees.

In the South and East regions, some Baka, including children, continued to be subjected to unfair and exploitative labor practices by landowners, including forced work without payment on the landowners' farms during harvest seasons.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law generally protects children from exploitation in the workplace and specifies penalties ranging from fines to imprisonment for infringement; however, child labor, particularly in informal sectors, remained a problem. The Government specifically prohibits forced and compulsory labor by children, but there were reports that it occurred in practice.

The law sets a minimum age of 14 for child employment, prohibits children from working at night or longer than eight hours a day, and enumerates tasks that children under the age of 18 cannot legally perform, including moving heavy objects, dangerous and unhealthy tasks, working in confined areas, and prostitution. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. These provisions of the law were not adequately enforced.

According to 2008 government statistics on child labor, 85.2 percent of working children were employed in the agriculture sector, either on family subsistence plots or on tea, banana, and palm oil plantations. In the urban informal sector, children worked as street vendors, car washers, and domestic workers. Some children also worked in mines and quarries. Many urban street vendors were less than 14 years of age. Children worked as household help, and some children were involved in prostitution. In the North there were credible reports that children from needy homes were placed with other families to do household work for pay, which normally went to the child's family.

There were reports that some parents gave their children to “marabouts” (traditional religious figures) in Maroua in the Extreme North, to learn the Qur’an and to prepare them to become marabouts themselves. However, there were reports that some of these children were kept in leg chains and subjected to forced labor.

Parents viewed child labor as both a tradition and a rite of passage. Relatives often employed rural youth, especially girls, as domestic helpers, and these jobs seldom allowed time for the children to attend school. In rural areas, many children began work at an early age on family farms. The cocoa industry also employed child laborers. These children originated, for the most part, from the three northern and the North West regions.

The Ministry of Social Affairs and MINLESI were responsible for enforcing existing child labor laws through site inspections of registered businesses; although sporadic inspections occurred during the year, the Government did not allocate sufficient resources to support an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child’s capacity. The Government employed 58 general labor inspectors, whose responsibilities included investigating child labor.

The ILO continued to work with various ministries and agencies involved in ant-trafficking activities; it also conducted nationwide investigations and cooperated with local organizations.

During the year the Prime Minister’s Office established an interagency working group to coordinate and enhance the Government’s efforts to curb trafficking in persons.

Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—In 2008 the Government increased the minimum wage in all sectors to 28,246 CFA francs (\$56) per month. However, the minimum wage did not provide for a decent standard of living for a worker and family. MINLESI was responsible for enforcing the minimum wage nationally.

The law establishes a standard workweek of 40 hours in public and private non-agricultural firms and 48 hours in agricultural and related activities. There are exceptions for guards and firemen (56 hours a week), service sector staff (45 hours), and household and restaurant staff (54 hours). The law mandates at least 24 consecutive hours of weekly rest. Premium pay for overtime ranges from 120 to 150 percent of the hourly pay depending on amount and whether it is for weekend or late-night overtime. There is a prohibition on excessive compulsory service. MINLESI inspectors were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program.

The Government sets health and safety standards. MINLESI inspectors and occupational health physicians were responsible for monitoring these standards; however, they lacked the resources for a comprehensive inspection program. In September 2009 the National Commission on Health and Safety in the Workplace expanded the list of occupational diseases from 44 to 99. The law does not provide workers with the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment.

## CAPE VERDE

Cape Verde, with a population of approximately 492,000, is a multiparty parliamentary democracy in which constitutional powers are shared between the elected head of state, President Pedro Verona Rodrigues Pires, and Prime Minister Jose Maria Neves. Pires was reelected for a second five-year term in 2006 in generally free and fair elections. The Supreme Court of Justice and the National Electoral Commission also declared the 2006 nationwide legislative elections generally free and fair. There were instances in which elements of the security forces acted independently of civilian control.

Problems were reported in the following areas: police abuse of detainees, police impunity, poor prison conditions, lengthy pretrial detention, excessive trial delays, violence and discrimination against women, child abuse, and some instances of child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports that in some instances police beat persons in custody and detention. In most cases, authorities took action against the abusers. However, there were credible reports that police failed to report to their superiors some of the abuses that occurred in police stations.

*Prison and Detention Center Conditions.*—Sao Martinho is the largest prison in the country, housing more than 55 percent of the national prison population. During the year there were no known deaths in prison from adverse conditions. There were approximately 1,300 prisoners and detainees in the country's eight prisons.

In prisons other than Sao Martinho, juveniles were sometimes held together with adults, but pretrial detainees generally were held separately from convicted prisoners.

In 2008 a prisoner alleged to be a professional killer, hired by drug traffickers, murdered a convicted drug trafficker who was collaborating with authorities. The case remained under investigation.

The 2005 prisoner riot case at Sao Martinho Prison, in which one prisoner was killed and three persons (including a guard) injured, was pending final resolution at year's end. The prison director, a military officer, who left for another country after being formally accused of allowing the mistreatment of prisoners under his supervision, subsequently was sentenced in that country to three years' imprisonment for perjury related to his immigration status. He returned to Cape Verde in October and was facing a court martial, which had not been scheduled by the end of the reporting period. He is detained in a military jail, awaiting trial.

Each municipality has police stations capable of holding detainees until they are transferred to prison. There were no deaths as a result of adverse conditions in jails and detention centers, but separation of prisoners based on trial status, gender, and age was not always possible due to space limitations.

Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or to request investigation of allegations of inhumane conditions. The Government did not investigate and monitor prison and detention center conditions.

The Government permitted formal visits by international human rights monitors to prisons and visits to individual prisoners. Local nongovernmental organizations (NGOs) and media representatives frequently visited the prisons and reported on prison conditions. There is no ombudsman to serve on behalf of prisoners and detainees.

In January the Government concluded a project improving conditions in the main prison center on Sao Martinho by inaugurating additional facilities and extending the prison's capacity from 800 to 830 prisoners. In the new unit, prisoners are divided by gender, age, and nature of crime (with separation between convicted prisoners and those awaiting trial); there are 18 disciplinary cells and two rooms for spouses' visits. The facility has spaces for guards, lawyers, and educational and social reinsertion trainers. There is a classroom equipped with television, DVD player, and computers; a space for adult education; medical facilities; canteens for guards and prisoners; a library; and a space for professional training, within the scope of a social reinsertion program. In addition the prison in Sao Vicente saw minor improvements, including a new security camera system, funded by the Portuguese government. Other prisons throughout the country, however, still awaited funding for proposed improvements, and conditions there remained poor.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The Public Order Police are under the Ministry of Internal Administration and are responsible for law enforcement. The Judicial Police are under the Ministry of Justice and are responsible for major investigations. Logistical constraints—including lack of vehicles, limited communications equipment, and poor forensic capacity—limited police effectiveness. Police abuses were investigated internally, and these investigations resulted occasionally in legal action against the perpetrators. The Government provided training to increase police effectiveness. Police impunity, however, remained a problem.

*Arrest Procedures and Treatment While in Detention.*—Police may not make arrests without a warrant issued by an authorized official unless a person is caught in the act of committing a felony. The law stipulates that a suspect must be brought before a judge within 48 hours of arrest. The law provides a detainee with the right to prompt judicial determination of the legality of the detention, and the authorities respected this right in practice. Attorneys inform detainees of the charges against

them. There was a functioning bail system. Detainees were allowed prompt access to family members and to a lawyer of their choice and, if indigent, to one provided by the Government.

Nonetheless, the length of pretrial detention was a serious problem. One concern arose from differing interpretations of the law authorizing extended pretrial detention in certain circumstances. Some courts have read this provision broadly, while others have opted for a narrower interpretation. This interpretative difference resulted in situations where detainees facing identical charges were held for different lengths of time based on the prosecutor's and the judge's interpretation of the law. At year's end, no standard timelines had been set for pretrial detentions. The judicial system also was overburdened and understaffed, and criminal cases frequently ended when charges were dropped by the citizen before a determination of guilt or innocence was made.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. However, the judicial system lacked sufficient staffing and was inefficient.

In addition to civil courts, there is also a military court; it cannot try civilians. The military court provides the same protections as civil criminal courts.

*Trial Procedures.*—Defendants enjoy a presumption of innocence. The law provides for the right to a fair and public nonjury trial. Defendants have the right to be present and to consult with an attorney in a timely manner; free counsel is provided for the indigent. Defendants have the right to confront or question witnesses against them and have the right to present witnesses in their defense. Defendants also can present evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases and can appeal regional court decisions to the Supreme Court of Justice (SCJ). The law extends the above rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The ordinary courts are impartial and independent and handle civil matters including lawsuits seeking damages for, or an injunction ordering the cessation of, a human rights violation. Both administrative and judicial remedies are available for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights. The independent press was active and expressed a variety of views without direct restriction.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 21 percent of the country's inhabitants used the Internet. Citizens in the cities had access to the Internet at cybercafes.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to ref-

ugees. The Government grants refugee status and asylum when petitioned under the established system. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide the right for citizens to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In the 2006 legislative elections, individuals and parties were free to declare their candidacies. The ruling African Party for the Independence of Cape Verde won 41 seats in the National Assembly with 52 percent of the vote; the main opposition party, Movement for Democracy (MPD), won 29 seats; and the Union for a Democratic and Independent Cape Verde won the remaining two seats. International observers characterized the elections as generally free and fair, despite some irregularities. Alleging fraud the MPD unsuccessfully contested the results by filing suit with the SCJ to annul the elections.

Presidential elections were also held in 2006, and individuals and parties were free to declare their candidacies. International observers characterized the conduct of the election as free and fair. The incumbent, President Pires, won a second term with 51 percent of the vote; MPD candidate Carlos Veiga obtained 49 percent of the vote. Veiga then petitioned the SCJ to annul the presidential election results, stating that the elections were not free or transparent. The SCJ ruled there were no legal grounds for annulment and confirmed President Pires as the winner.

Although the National Electoral Commission (CNE) and the SCJ declared the legislative and presidential elections generally free and fair, they also recognized some irregularities in both elections. The CNE noted that the electoral code needed to be amended to provide greater security and transparency. It also cited needs for stricter, more consistent voter identification and registration processes and the adoption of indelible ink on ballots.

Political parties could operate without restriction or outside interference.

There were 11 women in the 72-seat National Assembly, eight women in the 20-member cabinet, and three women on the SCJ.

*Section 4. Official Corruption and Government Transparency*

The law provides a penalty of up to 15 years' imprisonment for official corruption. There were no new reports of government corruption during the year. The World Bank's 2009 Worldwide Governance Indicators reflected that government corruption was a problem. There were also unofficial reports of instances of corruption among state prosecutors, judges, and justice officials. Police corruption was not a significant problem.

The law provides for freedom of access to governmental information without restriction, provided that privacy rights are respected. The Government in practice frequently granted access.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively, and violence and discrimination against women and abuse of children were serious problems.

*Women.*—Rape, including spousal rape, is a criminal offense, but the Government generally did not enforce the law effectively. The penalty for rape is eight to 16 years' imprisonment. Penalties are higher if the victim is under the age of 16 or if the offender took advantage of job responsibilities in a prison, hospital, school, or rehabilitation center, or with persons under his or her authority.

Domestic violence against women, including wife beating, was widespread. The Government and civil society encouraged women to report criminal offenses such as spousal abuse, which is punishable by two to 13 years' imprisonment; however, long-standing social and cultural norms as well as lack of shelter housing inhibited victims from doing so.

While there were mechanisms such as legal counseling, psychological care, specific police attention, and family courts to deal with spousal abuse, these mechanisms neither effectively prevented violence nor provided for the punishment of those responsible. Women claimed that police often ignored the legal complaints they filed against their husbands. Nevertheless, reports to police of domestic violence continued to increase during the year. Police and judicial system sometimes delayed acting on abuse cases. Violence against women was the subject of extensive public service media coverage.

The Government-run Cape Verdean Institute of Equity and Gender, the Women Parliamentarians Network, and local women's organizations with foreign diplomatic support promoted legislation to address gender-based violence. As a result of this action, in July the parliament approved a bill that, for the first time in the country's history, addressed gender-based violence. The new law focuses on three main objectives: improving protections afforded to victims, strengthening sanctions against offenders, and raising awareness of the problem. The law was designed to protect both male and female victims, but was expected to protect mostly women. According to a 2005 study by the Ministry of Health and National Institute of Statistics, approximately 22 percent of women and girls have been victims of gender-based violence.

Sex tourism was a growing problem, and there are no laws to address it. There were no indications of governmental involvement or complicity.

Sexual harassment was common but not culturally perceived as a crime. It is prohibited by law with a penalty of one year in prison, but the Government did not effectively enforce this law.

The civil code grants all citizens the freedom to make decisions regarding the number, spacing, and timing of their children without discrimination, coercion, or violence. All citizens have access to contraception. Family planning centers throughout the country distribute some contraceptives free of charge to the public. These centers provide skilled assistance and counseling both before and after childbirth and for cases of sexually transmitted infections, including HIV. Prenatal counseling and care is available, including ultrasound screening and tetanus vaccines. Prenatal blood tests are conducted, including HIV screening, and treatment for sexually transmitted diseases (including HIV) is made available if warranted. Postnatal services include family planning and free oral/injection contraceptives. The reported incidence of maternal mortality was 53.7 per 100,000 live births, according to the 2009 Ministry of Health Statistical Report. Women are equally diagnosed and treated for sexually transmitted diseases, including HIV.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Despite legal prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. The Cape Verdean Institute of Equity and Gender worked for the protection of legal rights of women. The Women Jurists' Association provided free legal assistance to women throughout the country suffering from discrimination, violence, and spousal abuse.

*Children.*—Citizenship can be derived either by birth within the country or from one's parents. The Government registered all births immediately after they were reported. Failure to register did not result in denial of public services.

The Government provided free and universal education for all children between the ages of six and 12. Education was compulsory until the age of 11; however, secondary education was free only for children whose families had an annual income below 147,000 escudos (approximately \$1,950).

Child abuse and sexual violence against children were serious problems, and the media regularly reported on those issues. Child labor was also a problem (see section 7.d.). Government efforts to address these problems were inadequate. In 2007 the Institute of Children and Adolescents (ICCA), a government organization, carried out a study on the child labor situation and concluded that the practice of using children to collect sand for use in construction should be considered as one of the worst forms of child labor.

The ICCA also found that children tended to work at the behest of their families, and that child labor was intimately linked to the need to supplement family income. It was believed, however, that the vast majority of these children performed work outside of school hours and attended school.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>

*Anti-Semitism.*—There was no known Jewish community and no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within Cape Verde.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or in the provision of other state services, and the Government effectively enforced these provisions. There are no laws or programs to provide for access to buildings, information, and communications for persons with disabilities. Several NGOs, including an association for the blind, actively advocated for the rights of persons with disabilities. The Government did not restrict the right of persons with disabilities to vote or participate in civic affairs.

The Ministry of Labor, Family, and Social Solidarity (MTSS) is the Government agency responsible for protecting the rights of persons with disabilities. The National Council for Persons with Disabilities works under the MTSS as a consulting body and has the role of proposing and overseeing the implementation of the Government's policies.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Legal provisions helped provide protection for homosexual conduct; however, societal discrimination based on sexual orientation or gender identity continued to be a problem. There were no lesbian, gay, bisexual, or transgender persons' organizations active in the country.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and to join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. There are no restrictions except for employees of diplomatic missions. The country's workforce was estimated at 194,358, 22 percent of whom were unionized. Updated data on the percentage of workers in the agricultural, nonagricultural, public, and private sectors were not available. The laws allow unions to conduct their activities without government interference. The law provides union members with the right to strike. Nonetheless, the Government may invoke a "civil request" through which it may require the striking union to continue providing specified minimum services in an emergency or if provision of basic services is threatened.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of workers to bargain collectively; however, there was very little collective bargaining. There were no collective bargaining agreements and no collective labor contracts completed during the year.

The law prohibits antiunion discrimination, and the Government effectively enforced this provision. There were no reports of such discrimination by employers during the year.

There are no special laws or exemptions from regular labor laws within the export processing zone that encompasses the entire country.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, but the Government did not implement them effectively. A revised labor code was approved in 2008, which lowered the legal minimum age for employment from 16 to 15 years. The code also states that children under 15 years old may be allowed to work as apprentices under specific conditions that do not jeopardize the child's health and development; however, the Government rarely enforced either provision. For children under the age of 15, only apprentice contracts are allowed.

The most recent statistics available (2000 census) indicated that an estimated 8,000 children were working as street vendors and car washers in urban centers and in agriculture, animal husbandry, and fishing in the countryside. It is believed, however, that the vast majority performed work outside of school hours and attended school.

In 2007 the ICCA concluded a study analyzing the child labor situation in the country. The goals of the study were to raise public awareness, create an action plan to prevent children from entering exploitive work situations, and encourage children

engaged in such labor to stop. The study concluded that child labor was a limited reality in the country and, in most cases, it was a result of poverty and closely tied to the activities of the entire family.

The Ministries of Justice and Labor were responsible for enforcing child labor laws. In practice, however, they seldom did so. There were no government programs to address child labor.

*e. Acceptable Conditions of Work.*—As the country's largest employer, the Government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector. For a typical entry-level worker, this wage was approximately 12,000 escudos (\$163) per month. The majority of jobs paid wages that did not provide a worker and family with a decent standard of living; most workers also relied on second jobs and support from their extended family for income.

The law sets the maximum workweek for adults at 44 hours, prohibits excessive compulsory overtime, and requires that a premium be paid for whatever overtime is worked. The law also mandates required rest periods, which vary according to sector; the minimum period of rest is 12 hours. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours. The labor code applicable to seamen and merchant marines was updated in May. By legislative decree, the rest period for maritime workers was increased from 2.5 days per 30 working days to 10 consecutive days per 30 working days.

The director general of labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law. Nonetheless, the Government did not enforce labor laws systematically, and much of the labor force did not enjoy legal protection.

The Government has not set occupational health and safety standards; however, there is a general provision in the law that requires employers to provide a healthy and safe work environment. Few industries employed heavy or dangerous equipment. The law provides workers the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment. There were no exceptions in the law for foreign or migrant workers.

---

## THE CENTRAL AFRICAN REPUBLIC

The Central African Republic (CAR) is a constitutional republic of approximately 4.5 million that is governed by a strong executive branch; the legislative and judicial branches are weak. Former armed forces Chief of Staff General Francois Bozize seized power in a military coup in 2003 and was elected president in 2005 elections. National and international observers judged the elections to be generally free and fair despite some irregularities. Bozize's term as president was stipulated under the constitution to expire on June 11. However, on May 10, the National Assembly passed a constitutional amendment that extended the terms of the office of the president and the National Assembly until elections. Poor preparations and a lack of funding led the Government to delay the constitutionally mandated presidential and legislative elections scheduled during the year; as of year's end, the elections were scheduled for early 2011. Fighting between nonstate armed entities, as well as between nonstate armed entities and government security forces, increased, and much of the northwestern, northeastern, and extreme southeastern regions remained outside of government control. The illegal trade in diamonds contributed to conflict and human rights abuses in some parts of the country. Banditry remained a serious threat to civilians throughout the northern provinces. There were instances in which elements of the security forces acted independently of civilian control.

Principal human rights abuses included security forces continuing to commit extrajudicial executions in the North, torture, beatings, detention, and rape of suspects and prisoners; impunity, particularly among the armed forces; harsh and life-threatening conditions in prisons and detention centers; arbitrary arrest and detention, prolonged pretrial detention, and denial of fair trial; occasional intimidation and restrictions on the press; restrictions on freedom of movement; official corruption; and restrictions on workers' rights. Mob violence resulted in deaths and injuries. Societal abuses included female genital mutilation (FGM), discrimination against women and Pygmies; trafficking in persons; forced labor; and child labor, including forced child labor. Freedom of movement remained limited in the North because of actions by state security forces, armed bandits, and other nonstate armed

entities. Sporadic fighting between government forces and nonstate armed entities continued to displace persons internally and increase the number of refugees.

Nonstate armed entities, some of which were unidentified, continued to kill, beat, and rape civilians and loot and burn villages in the North. Nonstate armed entities kidnapped, beat, raped, and extorted money from local populations. There were reports of children as young as 12 years old serving as fighters in nonstate armed entities.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike the previous year, there was one allegation that the Government or its agents killed a member of opposing political groups. Soldiers, particularly the presidential security forces (presidential guard), killed civilians they suspected of being road bandits or supporting nonstate armed entities. Both government security forces and nonstate armed entities killed civilians in the course of conflict in the North (see section 1.g.).

During the year there were numerous credible reports that elements of the security forces, including the Central African Armed Forces (FACA), and particularly the presidential guard, committed unlawful killings while apprehending suspects and, allegedly, in connection with personal disputes or rivalries. Authorities appeared unwilling to prosecute personnel of the presidential guard for extrajudicial killings (see sections 1.d. and 1.g.).

There were no further developments in the following 2009 killings: the February beating death of Police Commissioner Daniel Sama by a senior member of the presidential guard; the April killing of suspected thieves Maxime Banga and Adam Demori, allegedly by members of the Central Office for the Repression of Banditry (OCRB); and the June killing of a butcher in Bangui by a gendarme and a member of the Research and Investigation Services (SRI).

Security forces continued to commit extrajudicial killings (see section 1.g.).

Unlike the previous year, the Permanent Military Tribunal (PMT) did not adjudicate crimes committed by armed forces personnel (see section 1.d.). The PMT did not meet during the year as President Bozize declined to fill vacancies on the tribunal.

There were no reports of the Government prosecuting any OCRB personnel for killings committed in 2008.

There were no developments in the case of presidential guard member Boris Namsene, who shot and killed five persons in 2008 in Bangui before his apparent murder three days later.

In May villagers in Dissikou, located in Kaga Bandoro Province, killed two Mbororo men after the Mbororo accused the villagers of stealing their cattle. No intervention by the gendarmes based in the village took place, and there were no further developments by year's end.

In mid October residents of Bozoum, Ouham Pende Province, killed a suspected thief. According to a humanitarian worker, local gendarmes took part in the killing. Gendarmes claimed that they had no way of knowing who was responsible for the killing and did not plan on prosecuting anyone.

In November a member of the presidential guard, Elian Ngouyombo, shot and killed a 13-year-old boy in the eighth district of Bangui after a night guard who was watching a neighbor's house claimed the boy was trying to break into a bar owned by a member of the presidential guard. The soldier was arrested but was released a week later. No further information was available at year's end.

Armed bandits have contributed to instability for many years and continued to kill civilians. In the central part of the country, nonstate armed entities known as "zaraguinas" engaged in kidnappings, at times killing family members of individuals who could not or would not pay ransom. Although information about these armed entities was difficult to obtain, aid workers and UN officials described them as a combination of common criminals and remnants of insurgent groups from the recurring conflicts in the region.

There was no investigation into the 2008 death of Nganatouwa Goungaye Wanfiyo, a leading human rights activist near Sibut.

Civilians reportedly continued to kill persons suspected of being sorcerers or witches.

There was no additional information regarding the killing of two individuals suspected of witchcraft by members of a nonstate armed entity, Popular Army for the Restoration of the Republic (APRD), in June near Kaga Bandoro.

*b. Disappearance.*—Hassan Ousman, leader of the National Movement for the Salvation of the People, and member of the Follow-up Committee of the 2008 Inclusive

Political Dialogue—which brought together the Government, rebel groups, civil society, and the democratic opposition in an effort to negotiate a power-sharing agreement and end a number of insurgencies underway since 2005—disappeared in December 2009. According to family members, the last time Ousman communicated with them was the day prior to his disappearance. Two family members who travelled to Bossembele to collect information about his possible detention were arrested and detained without charge for several weeks before being released. As of year's end, no further information about his disappearance was available.

During the year several nonstate armed entities kidnapped Mbororo children and young adults and held them for ransom.

The Lord's Resistance Army (LRA) continued to abduct men, women, and children in the southeastern part of the country (see section 1.g.).

The two foreign resident nongovernmental organization (NGO) workers taken hostage in November 2009 in Birao were released in March.

No further information was available on the December 2009 disappearance of Charles Massi, a member of the nonstate armed entity Convention of Patriots for Justice and Peace (CPJP) and a former minister (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law and the constitution prohibit torture and specify punishment for those found guilty of physical abuse, police and security services continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners, according to local human rights groups such as the Central African Association Against Torture (ACAT) and the Central African Human Rights League (LCDH).

The Government did not punish police who tortured suspects, and impunity remained a serious problem (see section 1.d.). Family members of victims and human rights groups, including the Central African Human Rights Monitoring Group (OCDH), filed complaints with the courts, but authorities took no action. Members of the armed forces raped, robbed, and abused civilians in conflict and nonconflict areas. Human rights lawyers reported that victims of abuse by authorities were often pressured by relatives not to pursue their cases out of fear of reprisal.

According to ACAT, torture and beating of detainees occurred frequently in detention centers run by the SRI and the OCRB. Police employed several forms of torture, including “le cafe,” which entailed the repeated beating of the soles of an individual's feet with a baton or stick. Immediately after administering the beating, police would sometimes force the victim to walk on badly bruised feet and, if the individual was unable to do so, they continued the beating (see section 1.g.).

For example, on April 9, authorities arrested Abdelsalem Doungouss, a lieutenant in the Water and Forest Ranger Service in Ndele, on accusations of complicity with the CPJP militia. During his initial arrest, members of the armed forces tortured him before transferring him to the SRI prison in Bangui, where he spent two months before being released on June 10 for lack of evidence. There were no reports of authorities taking action against those responsible.

Authorities tortured an individual suspected of being a member of the CPJP (see section 1.d.).

Authorities took no action in the following 2009 cases: the severing of three fingers of a man accused of stealing electrical cable by a presidential guard member in Bossangoa, and the June beating and burning of 15-year-old Angele Ndarata, accused of witchcraft by the parents of a boy who drowned in the Oubangui river and a court clerk who authorized the torture.

Authorities took no action in any of the following cases of abuse by members of security forces in Bangui in 2008: the severe beating of a man in Bangui by Corporal Zilo and five of his FACA colleagues in July; the beating of a man and his sister by Lieutenant Olivier Koudemon, a member of the presidential guard, in August; the severe beating of a suspect at OCRB and SRI police headquarters in October; or the beating of several individuals by Koudemon in December.

Civilians continued to suffer mistreatment in territories controlled by nonstate armed entities (see section 1.g.).

Members of security forces, particularly the armed forces, reportedly raped civilians, although throughout the country sexual assaults were rarely reported. Security personnel rarely were punished.

There were no further developments in the ongoing International Criminal Court investigation into the 2005 charges against former president Ange-Felix Patasse and others for crimes against humanity, including rape, committed prior to and during the 2003 coup.

Civilians continued to take vigilante action against suspected thieves, poachers, and “witches.”

Civilians reportedly continued to injure and torture persons suspected of being sorcerers or witches. Mob violence was widespread and cases were underreported.

In April villagers in the town of Pende burned to death a woman accused of witchcraft. There were no further developments by year's end.

In July a prison official in Mobaye, Basse-Kotto Province, accused Angele Ndarata, a 15-year-old girl, of using witchcraft to cause the death of his wife. He subsequently ordered detainees to pour kerosene on her arms and set them on fire. The girl suffered severe burns. This was the second time the girl had been accused and tortured due to witchcraft claims. There were no further developments by year's end.

In early September, villagers in Bocaranga murdered a man accused of bewitching and causing the death of another man. There were no further developments by year's end.

In September the High Court in Bangui found four persons, including two children, respectively 10 and 13 years old, guilty of witchcraft and charlatanism. No further information about their fate was known at year's end.

In October the APRD arrested and detained four persons in Mbereguili village after being accused of witchcraft. All four were tortured before being released.

Authorities took no action in the following 2009 sorcery-related cases: the June beating of a woman in the village of Ngoumourou and the June beating of a woman and her child in Kaga Bandoro.

No action was taken against the mob that beat 13-year-old Vivian Ngoupande in August 2009. At year's end, Vivian was living with her aunt in another town.

*Prison and Detention Center Conditions.*—Prison conditions were extremely harsh and, in some cases, life threatening. Prison conditions outside Bangui generally were even worse than those in the capital. Police, gendarme investigators, and presidential guards assigned as prison wardens continued to subject prison inmates to torture and other forms of inhuman, cruel, and degrading treatment. Many prisons in the country lacked basic sanitation and ventilation, electric lighting, basic and emergency medical care, and access to potable water.

Prison cells were overcrowded, and basic necessities, including food, clothing, and medicine, were inadequate and often confiscated by prison officials. Prisoners depended on family members to supplement inadequate prison meals and sometimes were allowed to forage for food near the prison. According to a number of international observers and prison officials, prison detainees outside Bangui received no food from prison authorities and sometimes had to pay bribes to prison guards to secure food brought to them by their relatives. As in previous years, there continued to be reports of deaths in prison due to adverse conditions and negligence, including lack of medical treatment and inadequate food. According to the director of prisons at the Ministry of Justice, two deaths attributed to adverse conditions were reported in Bangui's Ngaragba prison during the year.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The Attorney General's Office granted visitation privileges, but in practice those wishing to visit prisoners often had to bribe prison guards and officials.

According to several human rights lawyers, prison detainees have the right to submit complaints in the case of ill treatment during their detention; for the minority of detainees who had lawyers, it was generally their lawyers who apprised judicial authorities about ill treatment of their clients. Victims hesitated to lodge formal complaints out of fear of reprisal from prison officials. Authorities rarely initiated investigations of abuses in the prison system.

Prison administrators submitted reports describing the poor detention conditions, but these reports did not result in any action.

A census conducted by the UN Development Program (UNDP) in Bozoum Prison in January and February 2009 indicated 80 percent of prisoners complained of food shortages.

Prisoners frequently were forced to perform uncompensated labor (see section 7.c.).

Male and female prisoners were held in separate facilities in Bangui. Elsewhere, male and female prisoners were housed together, but in separate cells. Juveniles were sometimes held with adult prisoners.

Pretrial detainees were not held separately from convicted prisoners. As of December, there were 1,320 prisoners in the country. The country's prison population decreased by 38.46 percent from 2009 levels, largely as result of a decree signed by President Bozize on the anniversary of the country's independence on December 1. President Bozize granted amnesty to prisoners with sentences that ranged from a few months to no more than five years.

There were two prisons in Bangui, Ngaragba for men and Bimbo Central Prison for women. Inmates with infectious diseases were not segregated from other inmates. A nurse was available at the two prisons for inmates needing medical care.

Detainees and inmates at both prisons received one meal per day. Food was insufficient, and prisoners complained of inferior ingredients. Inmates slept on the floor or on thin matting provided by families or charities. Authorities at the Bangui prison permitted detainees' families to make weekly visits.

As of December, there were 152 inmates in Ngaragba Prison; 102 of them were pretrial detainees. Several detainees had been held for seven months without appearing before a judge. Five prisoners were detained on accusations of sorcery. The more crowded cells each held approximately 30 to 40 inmates. Prisoners usually slept on bare concrete and complained that water supplies were inadequate. In the section reserved primarily for educated prisoners and former government officials suspected or convicted of financial crimes, cells held four to eight persons.

On January 23, Ngaragba prison closed for three weeks as a result of damages caused to the building by detainees rioting against the new prison director's disciplinary rules. For three days, prisoners tore apart their cells and threw rocks and chunks of concrete at riot police standing outside the prison walls. Authorities emptied the prison during the period of repairs and housed prisoners at various Bangui police stations, gendarmerie centers, and the OCRB's and SRF's detention centers. Reports suggested that the perceived ring leaders of the riot received "special treatment," indicating rougher than usual punishment, while in detention at the OCRB. After the rehabilitation, all the detainees were returned to Ngaragba.

As of December, Bimbo Central Prison held 33 female inmates, 21 of whom were pretrial detainees. Several had been detained for months and had not appeared before a judge; few had lawyers. Prison officials allowed sick detainees to be treated by a nurse who visited regularly. Overcrowding was reportedly not a problem, and children younger than five years old were allowed to stay with their mothers at the prison. In December a prison guard at Bimbo Central Prison, Andre Mangai, attempted to rape prisoner Ivonne Paki and left her with several injuries. Ivonne Paki's lawyer filed a complaint with the general prosecutor, and the case is currently followed by OCDH. The guard was immediately assigned to another prison, and the case was still under review by the court at the end of the year.

On September 11, a military guard at the prison in the town of Boda, Corporal Armand Ngagouni, sexually assaulted Ivonne Kokombe, who was being detained for sorcery. The sexual assault resulted in serious injuries. The case was reported by OCDH and taken to court, although no decision had been made by year's end.

Conditions in detention centers were worse than those in prisons and, in some cases, were life threatening. Bangui's police detention centers consisted of overcrowded cells with very little light and leaky buckets for toilets. Poor sanitation and negligence by authorities posed a serious health risk to detainees. According to local human rights groups, lack of training and poor supervision at detention centers were serious problems and continued to result in torture and beatings. Suspects in police and gendarmerie cells had to depend on family, friends, religious groups, and NGOs for food. Detainees with infectious diseases were not segregated from other detainees, and medicine was not available. Suspects generally slept on bare cement or dirt floors. Corruption among guards was pervasive. Guards often demanded between 200-300 CFA francs (\$0.40–\$0.60) to permit showers, delivery of food and water, or family visits.

International observers noted that the detention center in the gendarmerie in Bouar had neither windows nor a toilet, only a bucket that was emptied every other day. Detainees at the police facility in Bouar slept chained to each other, a measure the police justified by alleging the detainees were recidivists and undisciplined.

In Bangui male and female detainees were separated; however, this was reportedly not the case in jails and temporary detention facilities in the countryside. There were no separate detention facilities for juvenile detainees, who routinely were housed with adults and often subjected to physical abuse.

According to a June report by the UN Secretary-General to the UN Security Council, escapes by detainees, including incarcerated members of the armed forces, have become prevalent, critically affecting the fight against impunity.

The Government restricted prison visits by human rights observers. Although international observers were not entirely denied visits, the Government delayed responses to visit requests, often for weeks or months. The International Committee of the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC had unrestricted access to prisoners; however, access for some other observers was at times limited to certain areas of a given facility. There was no ombudsman system in the country.

Adopted by the National Assembly during the year, the Government budget included an increase of 1.7 percent for the Ministry of Justice. However, this action did not translate into a significant increase of resources devoted to prisons or detention centers.

In its national report submitted in February 2009 to the UN Office of the High Commissioner of Human Rights (UNOHCHR's) Universal Periodic Review Working Group (UPRWG), the Government claimed the following improvements: construction or renovation of prisons in Sibut, Kaga-Bandoro, Bossangoa, Batangafo, Berberati, Bossembele, and Bozoum; training for prison wardens and directors; demilitarization of prison facilities; and separation of the sexes in Bangui prisons. By year's end, rehabilitation work was completed at all of the locations according to the Ministry of Justice. The prisons constructed in Bria and Bouca hold 120 and 100 persons respectively.

In April approximately 15 domestic NGOs, with assistance from the UNDP, created the coordinated prison action (CAP), an awareness-building mechanism designed to increase monitoring of prison and detention center conditions. The Ministry of Justice said it supported the body in principle but demanded that representatives from the Government be included, causing some NGOs to express concern about the CAP's independence. At year's end, the Ministry of Justice had not yet agreed to the proposed monitoring framework through which prisons could be accessed.

*d. Arbitrary Arrest or Detention.*—The law provides protection against arbitrary arrest and detention and accords detainees the right to a judicial determination of the legality of their detention; however, security forces frequently ignored such provisions, and arbitrary arrest and detention remained problems.

On April 23, a FACA detachment arbitrarily arrested Balala Fotour in Zoukoutouniala, near Ndele, on allegations of being a member of CPJP. After severely torturing and making death threats against Fotour, the FACA transferred him to the SRI in Bangui, where he spent three months before being transferred to Ngaragba prison where he remained in detention at year's end. According to Fotour, he travelled to a CPJP controlled area to visit a sick family member and had nothing to do with CPJP.

On June 9, the burning of Rayan Supermarket in Bangui resulted in the arrests of 11 persons, including Bienvenu Ngaro, Prosper Gbanga, Michelle Bengba, Lin Maximin, Crozin Cazin, Austin Moudjikem, Michael Boda Makpevode, Mathurin Ngozoua Mamadou, Ngere Koundangba, and Mathurin Francisco Willibona without due process. The two main suspects, Symphorien Balemby, president of the Central African Bar Association and Jean Daniel Ndengou, first vice president of the Economic and Social Council attached to the National Assembly, remained at large at year's end. On June 10, authorities arrested Albertine Kalayen Balemby, wife and secretary of Symphorien Balemby, and Gabin Ndengou, brother of Jean Daniel Ndengou and driver for the World Health Organization. The prisoners were transferred without due process to Bossembele Presidential Guard Detention Center located 91 miles from Bangui. According to Amnesty International, the detainees were reported to have been charged with arson, inciting hatred, and criminal association. In an act described as illegal by the Central African Bar Association, security forces searched Balemby's office without the presence of a lawyer. To protest against these practices, the Central African Bar Association went on strike on June 12 but resumed activities on August 7 after the attorney general agreed to conduct an investigation. At year's end, 11 persons remained in custody, and the investigation was ongoing.

*Role of the Police and Security Apparatus.*—The Ministry of the Interior and Public Security, through the director general of police, oversees the activities of the national police, including the OCRB. The Ministry of Defense oversees armed forces, including the presidential guard, the national gendarmerie, and the SRI. The police and the armed forces share responsibility for internal security.

Police were ineffective; they severely lacked financial resources, and their salaries were often in arrears. Citizens' lack of faith in police led at times to mob violence against persons suspected of theft and other offenses.

During a visit to the country in February, UN High Commissioner for Human Rights Navi Pillay identified impunity for human rights abuses as one of the most daunting challenges facing the country. "Summary executions, enforced disappearances, illegal arrests, and detention are all issues that have surfaced in connection with state security and defense institutions," she said, "and strenuous efforts need to be made to put an end to these extremely serious abuses of power."

Mechanisms existed for redress of abuses by members of the police and armed forces. Citizens filed complaints with the public prosecutor. The most common complaints involved theft, rape, brutality, and embezzlement. Impunity remained a severe problem. Although the prosecutor had the ability to exercise authority and order the arrest of police officers suspected of committing abuses, the prosecutor's

staff was small and severely underfunded. There was at least one prosecution of a police officer during the year, according to the deputy prosecutor.

In October a police officer was caught stealing money from a person under arrest at a police station in Bangui. The incarcerated person's lawyer took the case to court, but no further action was taken by year's end.

The PMT did not meet during the year, although it normally holds two yearly sessions. According to an official from the Ministry of Justice, the PMT did not hold any sessions because the positions of the president, prosecutor, and deputy prosecutor of the tribunal remained unfilled.

In June the country's delegation at the UNOHCHR told the UPRWG the country faced challenges implementing military justice, particularly because prison guards who belonged to the armed forces allowed or facilitated escapes for detained armed forces personnel (see section 1.c.).

During the year, in cooperation with the Government, the Human Rights Section of the UN's Integrated Office in the Central African Republic (BINUCA) continued to collect complaints of human rights abuses committed by members of the security forces, including FACA soldiers, and by nonstate actors. It continued to investigate abuses and share information with the public prosecutor to facilitate the fight against impunity. In addition BINUCA provided more than 120 members of the security forces, including police officers and gendarmes, with international humanitarian law and human rights training; it also provided similar training for 100 armed forces personnel of the multinational Mission for the Consolidation of Peace (MICOPAX).

BINUCA maintained UN human rights observers in three regional UN offices in the northwestern and central regions. While BINUCA reported on human rights and worked with the local human rights community, local and international observers have criticized its human rights section in recent years for its inability or refusal to bring such abuses to light or demand redress.

As part of its efforts to protect citizens and safeguard property, the Government continued to conduct joint security operations with several hundred regional armed forces peacekeepers in the capital and selected cities in the Northwest. The Government also conducted joint operations with the UN Mission in the CAR and Chad in the northeastern Vakaga Province.

*Arrest Procedures and Treatment While in Detention.*—Judicial warrants are not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be informed of the charges against them, and brought before a magistrate within 48 hours. This period is renewable once, for a total of 96 hours. In practice authorities often did not respect these deadlines, in part due to inefficient judicial procedures and a lack of judges. In several police detention centers, including the SRI, detainees were held for more than two days and often for weeks before authorities brought their cases before a magistrate. The head of the SRI stated that the SRI lacked the human resources and basic equipment such as computers to process cases in a timely manner.

The law allows all detainees, including those held on national security grounds, to have access to their families and to legal counsel. Indigent detainees may request a lawyer provided by the Government, although it was not known if this right was often invoked. Detainees are allowed to post bail or have family members post bail for them. In most cases, lawyers and families had free access to detainees, but incommunicado detention occasionally occurred.

There were different standards for treatment of detainees held for crimes against the security of the state. National security detainees may be held without charge for up to eight days, and this period can be renewed once, for a total of 16 days. However, in practice such persons were held without charge for longer periods.

In September 2009 the National Assembly adopted revised penal and criminal procedure codes. Under these reforms, detainees gained the right to have access to attorneys immediately after arrest. However, many detainees were not able to exercise this right because of the costs of hiring a lawyer and a lack of understanding of their rights under the law.

According to BINUCA's human rights section, arbitrary arrest was a serious problem and was the most common human rights abuse committed by security forces during the year.

During the year authorities continued to arrest individuals, particularly women, and charge them with witchcraft, an offense punishable by execution, although no one received the death penalty during the year. Prison officials at Bimbo Central Prison for women stated that accused witches were detained for their own safety, since village mobs sometimes killed suspected witches. Near the end of the year, Bangui prison officials estimated that 18 percent of female detainees had been arrested for purported witchcraft.

During a visit in February, UN High Commissioner for Human Rights Pillay voiced deep concern over the targeting of women accused of being witches, "a gender-based calumny that has no place in any society in the 21st century."

Prolonged pretrial detention was a serious problem. At year's end, pretrial detainees constituted approximately 67 percent of Ngaragba Central Prison's population and an estimated 63 percent of Bimbo Central Prison's population. Detainees usually were informed of the charges against them; however, many waited in prison for several months before seeing a judge. Judicial inefficiency and corruption, as well as a shortage of judges and severe financial constraints on the judicial system, contributed to pretrial delays. Some detainees remained in prison for years because of lost files and bureaucratic obstacles.

In December President Bozize granted amnesty to prisoners with sentences that ranged from a few months to no more than five years (see section 1.c.).

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary remained subject to executive branch influence and, despite government efforts to improve its capacity, the judiciary was inadequate to meet its tasks.

During a visit in February, UN High Commissioner for Human Rights Pillay expressed concerns about the judiciary's lack of independence. However, she praised the National Assembly's revision during the year of penal and criminal procedure codes, which she said would help bolster the independence of the judiciary and bolster the fight against impunity for human rights abuses.

The courts continued to suffer from inefficient administration, a shortage of trained personnel, growing salary arrears, and a lack of material resources. Less than 1 percent of the annual national budget was devoted to the Ministry of Justice. According to a Ministry of Justice source, during the year there were 124 magistrates working in the entire country. Many citizens effectively lacked access to the judicial system. Citizens often had to travel more than 30 miles to reach one of the 38 courthouses. Consequently, traditional justice at the family and village level retained a major role in settling conflicts and administering punishment.

There were numerous reports that, in reaction to judicial inefficiency, citizens in a number of cities organized to deal with cases through parallel justice and persecution, such as mob violence, or resorted to neighborhood tribunals and appeals to local chiefs. Citizens also sought such resort in cases of alleged witchcraft.

*Trial Procedures.*—According to the penal code, defendants are presumed innocent until proven guilty. Trials are public, and defendants have the right to be present and to consult a public defender. Criminal trials use juries. If an individual is accused of a serious crime and cannot afford a lawyer, the Government has an obligation to provide one. In practice the Government provided counsel for indigent defendants, although this process was often slow and delayed trial proceedings due to the state's limited resources. Defendants have the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence. Defendants have the right to appeal. The law extends these rights to any citizen, including women. The Government generally complied with these legal requirements. The judiciary, however, did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. One indigenous ethnic group in particular, the Ba'Aka (Pygmies), reportedly was subject to legal discrimination and unfair trials.

Authorities occasionally tried cases of purported witchcraft in the regular courts. Witchcraft is punishable by execution although the state imposed no death sentences during the year. Most individuals convicted of witchcraft received sentences of one to five years in prison; they could also be fined up to 817,800 CFA francs (\$1,636). Police and gendarmes conducted investigations into alleged witchcraft. During a typical witchcraft trial, authorities called practitioners of traditional medicine to give their opinion of a suspect's ties to sorcery, and neighbors occasionally served as witnesses. The law does not define the elements of witchcraft, and the determination lies solely with the magistrate.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

Authorities granted BINUCA's human rights unit and human rights and humanitarian NGOs limited access to prisoners and detainees, although bureaucratic requirements for visits and delays significantly restricted their frequency during the year.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation; however, there was a widespread perception that judges were bribed easily and that litigants could

not rely on courts to render impartial judgments. Many courts were understaffed, and personnel were paid poorly.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits searches of homes without a warrant in civil and criminal cases; however, police sometimes used provisions of the penal code governing certain political and security cases to search private property without a warrant.

Further developments in the June 2009 attack on the house of Minister of Regional Development Marie Reine Hassen were hindered by the PMT's inability to meet before year's end. The PMT has not met since April 2009.

Local journalists claimed that the Government tapped their telephones and harassed them regularly by telephone.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Internal conflict continued in seven northern provinces and the Southeast. Despite the signing of the comprehensive peace accord in 2008 between the Government and four nonstate armed entities—the APRD, the Democratic Front of the Central African People (FDPC), the Movement of Justice for Central African Liberators, and the Union of Democratic Forces for Unity (UFDR)—and a 2008 inclusive political dialogue between the Government, nonstate armed entities, the political opposition, and civil society, which resulted in the formation of a government of national unity in January 2009, violence continued to increase during the year. Government and opposition forces engaged in numerous serious human rights abuses in the course of their struggle for control of the North, where soldiers, nonstate armed entities, and bands of unidentified armed men attacked civilians. Observers estimated that the Government controlled little more than half of the country during the year.

Although government forces and nonstate armed entities maintained a ceasefire for much of the year, one notable nonstate armed entity, the CPJP, remained outside the peace process at year's end and continued to fight government forces in the provinces of Bamingui Bangoran, Vakaga, Ouaka, and Haute Kotto, causing many civilians to flee. Civilians were caught in the crossfire during fighting between the CPJP and the armed forces, which often accused them of supporting the nonstate armed entities. The CPJP has reportedly employed rape and murder as intimidation tactics.

During the year there was deliberate restriction of the free and safe passage of humanitarian organizations' assistance. During the first seven months of the year, the Government denied humanitarian access north of the town of Ndele. In addition on October 2, humanitarian missions, led by the UN Educational, Scientific and Cultural Organization (UNESCO)-UNDP and MICOPAX, were blocked at an unofficial check point near Bozoum and threatened by APRD elements. These missions were ultimately allowed to continue after payment of money.

According to *Dangerous Little Stones: Diamonds in the Central African Republic*, a December report by the International Crisis Group, "rampant smuggling [of diamonds] fosters illicit trading networks that deprive the state of much needed revenue, while the Government's refusal to distribute national wealth fairly has led jealous factions to launch rebellions. Profits from mining and selling diamonds illegally enable armed groups to collect new recruits and create a strong incentive not to disarm." During the year the CPJP, which was active around the northeastern town of Ndele, frequently targeted diamond producing zones, killing those who worked in the diamond pits and trading the rough stones.

In addition attacks on civilians by the LRA in the Southeast contributed to the humanitarian crisis, increasing the number of internally displaced persons in LRA-affected areas.

The UN-led Security Sector Reform process continued to outline the restructuring and redeployment of the armed forces. The disarmament, demobilization, and reintegration of nonstate armed entities began in 2008 and continued in some provinces after suffering numerous delays.

The Ugandan Peoples Defense Force, in the eastern sector of the country, cooperated with the FACA in operations against LRA guerillas.

Armed entities, including unidentified ones, took advantage of weakened security and continued to attack, kill, rob, beat, and rape civilians and loot and burn villages in the North. Kidnappings by such groups continued at an alarming rate during the year, contributing significantly to the massive population displacement. However, according to the ICRC, improved security in the Northwest encouraged some of the thousands displaced by conflict in recent years to return home.

*Killings.*—Extrajudicial killings continued. During operations conducted by state armed forces against nonstate armed entities (including highway bandits), government forces did not distinguish between nonstate armed entities and civilians in the

villages. Government forces often burned houses and sometimes killed villagers accused of being accomplices of nonstate armed entities.

UN, press, and NGO observers noted several extrajudicial killings by security forces and the use of disproportionate force against suspected bandits and other members of nonstate armed entities.

In December 2009 the family of Charles Massi, a member of the CPJP and a former minister, reported him missing. His wife and members of his party told international media that Chadian officials arrested Massi and transferred him to CAR authorities; his wife and members of his party also claimed that CAR authorities tortured and murdered him in Bossembele prison. Early in the year, the press widely reported the same thing, but the Ministry of Defense denied the claims. In August the attorney general found no evidence of wrongdoing by the Government, but strong suspicions remained about the extrajudicial murder of Charles Massi.

Authorities took no action in any of the following four killings by members of the FACA.

On January 10, the FACA detachment in Noufou arrested, tied up, and then killed three suspected cattle thieves from Cameroon.

In April an international NGO reported that the FACA summarily executed a Chadian migrant farmer they claimed to be a member of the FDPC militia north of Kabo.

On May 2, the FACA tortured and killed a suspected CPJP combatant found on the road between Ndele and Kaga Bandoro. The FACA allegedly displayed his body in Ndele shortly thereafter.

On August 18, according to *Le Democrate* newspaper, a group of FACA based in Bang killed a local butcher who refused to serve them meat free of charge. The newspaper reported that on August 25, the local population killed three members of the FACA and one police commissioner in reprisal for the killing of the butcher.

There were no further developments in the following 2009 cases: the February attack by the FACA on the village of Sokoumba that resulted in the death of at least 18 male civilians, including the village chief, or the March execution of four men suspected of banditry outside the northwestern town of Bozoum by government forces.

There were no further developments in the June 2009 death of two civilians as a result of fighting between the FACA and the FDPC on the Kabo-Moyenne Sido road in Ouham Province.

UN, press, and NGO observers noted numerous killings by nonstate actors and the use of disproportionate force against civilians.

From January to the end of November, the total number of attacks the LRA launched over the year was at least 54, in which at least 128 civilians were killed, more than 300 persons were abducted, and 20 were wounded. Approximately 80 persons detained by the LRA were released and another 39 escaped. As of November, the UN High Commissioner for Refugees (UNHCR) estimated 5,724 Congolese refugees and approximately 21,000 internally displaced persons (IDPs) were in the southeast.

On March 27, the CPJP attacked Yangoungale village. During this attack, insurgents took the village chief and the primary school director hostage. They reportedly shot and killed the school director's wife as she tried to escape the attack.

On April 6, gunmen killed a pastor from Sido who was working for the local Independent Electoral Commission (IEC) office. Members of the FDPC were suspected in the slaying.

On April 16, attackers identified only as "armed bandits" killed a member of the FACA who was escorting a convoy of IEC vehicles on the road between Birao and the border with Sudan.

In mid-April, CPJP members reportedly burned the village chief of Mbollo alive.

On May 3, the CPJP attacked Gadaye and Haoussa villages. In Gadaye the CPJP beat to death Abba Abdoulaye Hissen, the village patriarch, allegedly because he ordered villagers to leave the area and to settle in Ndele. In Haoussa the CPJP kidnapped and tortured Adamou Aroun, the village chief, for the same reason.

On May 4, the CPJP murdered the deputy village chief of a village 12 miles north of Ndele.

On May 13, CPJP rebels invaded Diki in search of food. The village self-defense group killed one member of the CPJP. The next day, a group returned to the village, and looted and burned many houses. They also killed the chief of the village and wounded many villagers.

On October 15, the CPJP attacked the town of Ippy in Ouaka Province. After looting several stores and destroying official buildings, CPJP attackers killed one secondary school student. No further developments were available at year's end.

There were also killings resulting from tensions over land use during the year. On March 16, local residents of Batangafo fought with migrant Chadian cattle herders, leaving at least 17 persons dead. The UN reported 13 villages were burned and at least 1,500 persons displaced by the fighting. Gendarme and FACA in the town failed to intervene in the fighting; there were no further developments by year's end.

There were no further developments in the following 2009 conflict-related killings: the March killing by APRD members of the chief of Tchoulao village in the Ouham Pende; the April killing by an APRD officer in the northwestern town of Paoua of the local national herders organization representative; and the April deaths of 25 persons, following street battles between Mbororo cattle raisers and beef wholesalers in Bangui.

There were no further developments in the June 2009 torture and killing of two persons, relating to alleged witchcraft, by APRD members near Kaga Bandoro.

*Abductions.*—The Popular Front for Redressing of Grievances, an exiled armed entity of Chadian origin, reportedly took civilians hostage during the year near Kaga Bandoro to extort money from their families.

Human Rights Watch reported that between July 2009 and July 2010, the LRA abducted more than 300 persons, many of them children, in southeastern CAR.

There was little or no response by local authorities to multiple kidnappings of civilians by armed entities considered to be bandits or zaraguinas (see section 1.a.).

On October 28, a group of CPJP rebels operating in Sam Ouandja in Haute Kotto Province took 21 electoral workers hostage. The electoral workers were released a few days later after the CPJP rebels took all of their belongings.

In November 2009 unidentified bandits in Birao abducted two foreign resident NGO employees. Kidnappers released the two in Darfur, Sudan, on March 14 (see section 1.b.).

*Physical Abuse, Punishment, and Torture.*—Government forces and nonstate armed entities mistreated civilians, including through torture, beatings, and rape, in the course of the conflicts. During operations conducted by armed forces against nonstate armed entities (including highway bandits), the armed forces often burned homes and did not distinguish between nonstate armed entities and local civilian populations they regarded as accomplices, although less often than in the previous year.

During the week of March 8, the mayor of Ndim reportedly authorized the public torture of a woman accused of adultery. No action was taken against those responsible by year's end.

On April 26, Jojo Bozize, one of President Bozize's sons, ordered the arrest of two of his domestic employees, Betty Kibembe and Serge Tkpoba, on suspicion of stealing clothes from his residence. Gendarmes imprisoned the two for two days at the SRI detention center where they were severely tortured. Bozize later learned that his partner had taken the clothes to the cleaners and, as a result, he took Kibembe and Tkpoba to a private clinic for medical treatment. Kibembe suffered serious leg wounds. Authorities took no action against Bozize, and human rights lawyers stated the two victims refused to press charges.

On June 6, Abdoulaye Amat, a member of the presidential guard, threatened Price Telo with a rifle and then cut off Telo's ear after he complained about a merchant and friend of Amat not paying full price for a motorcycle. Telo's parents informed senior figures of the presidential guard who told them they would arrest Amat, but at year's end, Amat remained free.

Civilians continued to suffer mistreatment in armed territories controlled by nonstate armed entities.

In April a member of the APRD killed a 12-year-old boy in Kounmbame. The APRD's local commander offered to execute the killer if the boy's family desired but, in the end, senior figures in the APRD paid the boy's family 100,000 CFA francs (\$200).

In April near Kaga Bandoro, the APRD arrested and tortured a man for allegedly practicing witchcraft. Members of the APRD tied the man to a tree, beat him, and cut off two of his toes to force a confession. After confessing, the man escaped, and the APRD responded by arresting his mother and torturing her. No further information was available at year's end.

In May near Kaga Bandoro the APRD arrested a man for alleged shape shifting, a form of witchcraft. When he managed to flee, the APRD arrested his mother, stripped her naked, beat her, and forced her to pay a fine of 100,000 CFA francs (\$200) before releasing her.

No action was taken against APRD members who in March 2009 tortured a village chief in Bocaranga and the evangelical pastor who tried to help the chief.

International and domestic observers reported that, during the year, state security forces and members of nonstate armed entities, including Chadian soldiers and bandits, continued to attack cattle herders, primarily members of the Mbororo ethnic group. Many observers believed Mbororo were targeted primarily because of their perceived relative wealth and the vulnerability of cattle to theft. One UN agency reported that, according to its NGO partners in the affected region, attackers often were themselves Mbororo.

Mbororo cattle herders were also disproportionately subjected to kidnapping for ransom. A UN agency working in the area indicated the perpetrators often kidnapped women and children and held them for ransoms of between one million and two million CFA francs (\$2,000—\$4,000). Victims whose families did not pay were sometimes killed. Nonstate armed entities in the country continued to conduct frequent attacks on the Mbororo population on the Cameroonian side of the border, despite the Cameroonian government's deployment of security forces.

Some observers noted the use of rape by both government forces and nonstate armed entities to terrorize the population in the northern provinces, especially in the CPJP's zones of operation. Given the social stigma attached to rape, any report would likely underestimate the incidence of rape in the conflict zones. Several NGOs and UN agencies conducted gender-based violence awareness and treatment campaigns in northern provinces and Bangui.

On February 8, a member of the APRD allegedly raped a pregnant woman near the village of Goddo 2. Her husband made an official complaint to the APRD but by year's end, there was no evidence that the APRD took action against a perpetrator.

In July after an attack upon the village of Zokotonyala, members of the CPJP reportedly raped between 20 and 25 Houssa women. There was no additional information about the women as rebels prevented travelers from gaining access to the region.

On October 26, a group of CPJP combatants invaded the village of Kpata, in Bamingi Bangouran Province. After looting the village's 168 houses, they burned the village. Reportedly, the village was attacked because its inhabitants participated in the electoral census. No further information was available at year's end.

*Child Soldiers.*—According to multiple human rights observers, numerous APRD groups included soldiers as young as 12 years old. In addition the UFDR admitted that many children served as soldiers in its ranks. According to an international observer, although the UFDR and APRD stopped recruiting child soldiers during the year as a result of disarmament, demobilization, and reinsertion activities, in some remote areas, children were still used as lookouts and porters. According to one international NGO involved in disarmament, demobilization, and reintegration (DDR), in some cases, children have been "recruited" not for actual combat, but to go through the DDR process and get paid. The UN Children's Fund (UNICEF) and other observers noted that, while the child soldiers were willing to demobilize and were anxious to attend school, their communities lacked the most basic infrastructure.

UNICEF announced in July that it helped demobilize 180 child members of the APRD between the ages of 10 and 17 years old in Ouham-Pende since November 2008. An additional 15 children were demobilized in Nana Gribizi Province during the same time frame.

In December UNICEF held a 10-day training session in Boali, with 20 soldiers and six police officials, on the theme of protecting children before, during, and after a conflict. The objective of the training was to instruct the officials to become trainers themselves.

Several NGO observers have reported that self-defense committees, which were established by towns to combat nonstate armed entities (including bandits) in areas where the FACA or gendarmes were not present, used children as combatants, lookouts, and porters. UNICEF estimated that children comprised one third of the self-defense committees.

NGOs reported that the LRA continued to kidnap children and forced them to fight, act as porters, or to function as sex slaves. During the year 138 children were abducted by the LRA. Of those 138 children, 43 were released by the LRA, 45 escaped, and 13 were being supported in transit centers.

Displaced children have been forced to work as porters, carrying stolen goods for groups of bandits.

*Other Conflict-Related Abuses.*—In the Northwest, government security forces, including the FACA and presidential guard, continued to project a presence from larger towns and occasionally engaged in combat with armed entities. While the ceasefire between government forces and nonstate armed entities allowed some dis-

placed persons to return home, approximately 330,000 persons remained displaced in the bush or in refugee camps along the Chadian or Cameroonian borders.

On multiple occasions during the year, government forces burned houses and other buildings along the Ndele-Garaba road. The area was considered sympathetic to the CPJP insurrection.

Internal movement was severely impeded, particularly in northern and northwestern areas the Government did not control, by bandits and other nonstate armed entities, including former combatants who helped President Bozize come to power in 2003.

On April 16, the subprefect of Kabo called all the village chiefs north of the town to Kabo and explained that for the indefinite future, anyone who remained on the road would be considered an insurgent or in collusion with them, and thus subject to reprisals by the FACA. The subprefect's ultimatum apparently caused an estimated 5,000 new refugees to move to Chad.

Sporadic fighting between government security forces and nonstate armed entities, attacks on civilians by nonstate armed entities, armed banditry, and occasional abuse by government soldiers kept many IDPs from their homes. The UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that the number of IDPs increased during the year from 162,000 to 192,029 at year's end.

The overwhelming majority of IDPs were in the northwestern provinces of Ouham and Ouham Pende, where civilians remained displaced from their villages out of fear and lived in the bush for much of the year, returning occasionally to their fields to plant or scavenge. NGOs and UN agencies observed anecdotal evidence that some civilians were returning in the northwest provinces, but this was not a widespread phenomenon. Thousands of individuals remained homeless due to fighting in the north-central provinces of Haute Kotto and Bamingui-Bangoran, and due to instability in the northeastern province of Vakaga, where there was renewed fighting within the UFDR, as well as an ethnic conflict between the Goula, Kara, and Rounga communities.

Hygiene-related illnesses and chronic malnutrition continued. Attacks or fear of attacks prevented many subsistence farmers from planting crops, and attackers either stole most of the livestock or the farmers fled with their livestock to safety in Cameroon. Chronic insecurity also rendered the North occasionally inaccessible to commercial, humanitarian, and developmental organizations, contributing to the lack of medical care, food security, and school facilities, although less so than in the previous year. Humanitarian organizations continued to supply some emergency relief and assistance to displaced populations, although long-term development projects remained suspended due to the frequently changing security situations and sporadic fighting.

The Government did not attack or target IDPs, although some IDPs were caught in the fighting between government forces and nonstate armed entities. The Government provided little humanitarian assistance, but it allowed UN agencies and NGOs access to these groups to provide relief.

MICOPAX peacekeepers and government forces conducted joint security operations in an effort to secure the northern region and control small arms proliferation. Despite these operations, the Government was not able to provide sufficient security or protection for IDPs in the north.

On September 5, in Ouanda Djalle, 62 miles south of Birao, LRA combatants burned at least 80 houses and looted the marketplace and health center.

Refugees continued to flee the country during the year (see section 2.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, in practice authorities continued to employ threats and intimidation to limit media criticism of the Government. Authorities did not arrest any journalists during the year; however, the Government briefly detained one journalist.

Throughout the year, a number of newspapers criticized the president, the Government's economic policies, and official corruption. There were more than 30 newspapers, many privately owned, which circulated daily or at less frequent intervals. Independent dailies were available in Bangui, but they were not widely distributed outside of the capital area. The absence of a functioning postal service continued to hinder newspaper distribution. Financial problems prevented many private newspapers from publishing regularly, and the average price of a newspaper, approximately 300 CFA francs (\$0.60), was higher than most citizens could afford.

Radio was the most important medium of mass communication, in part because the literacy rate was low. There were alternatives to the state-owned radio station, Radio Centrafrique. For example, privately owned Radio Ndeke Luka continued to

provide independent broadcasts, including national and international news and political commentary. Its signal was strengthened to reach beyond Bangui, and new direct transmitters were set up in Bouar and Berberati. Ndeke Luka was also regularly rebroadcast by community radio for an hour or two each day. With the exception of Radio Ndeke Luka, which organized debates on current events, government-run and privately owned broadcast outlets based in the country tended to avoid covering topics that could draw negative attention from the Government. International broadcasters, including Radio France Internationale, continued to operate during the year.

The Government continued to monopolize domestic television broadcasting, and television news coverage generally supported government positions.

The High Council for Communications (HCC), which is charged with granting publication and broadcast licenses and protecting and promoting press freedom, is nominally independent. However, some of its members were appointed by government institutions and, according to several independent journalists, as well as the international NGO Committee to Protect Journalists, the HCC was controlled by the Government.

The media continued to face many difficulties, including chronic financial problems, a serious deficiency of professional skills, the absence of an independent printing press, and a severe lack of access to government information. Journalists in the privately owned media were not allowed to cover certain official events, and, in the absence of information, the majority of news reporting continued to rely heavily on official or protocol-related information, such as government press releases.

During the year security forces often harassed and threatened journalists. For example, on August 17, unidentified armed men in military uniforms attacked Television Centrafrique camerawoman Virginie Mokonzi. The assailants reportedly beat, robbed, and raped her in front of her children and husband. The Journalist's Union organized a march to protest the attack and delivered a memorandum to the prime minister. By year's end, there were no reports of arrests.

On September 3, police arrested Alexi Remangai, a journalist at the daily newspaper *Le Confident*, and detained him for three days at SRI before releasing him as result of a protest by the Journalists' Association. Gendarmes arrested him following a complaint of defamation by the Ministry of Mines' chief of staff. Remangai had written an article in the newspaper about corruption and mismanagement by high-ranking ministry officials at the ministry. At year's end, the case was pending before a court.

There were also reports of government ministers and other senior officials threatening journalists who were critical of the Government. However, according to the Central African Journalists' Union, the Government did not arrest any other journalists during the year.

Unlike the previous year, the HCC did not suspend publication of any newspaper during the year.

Journalists continued to practice self-censorship due to fear of government reprisals.

Imprisonment for defamation and censorship was abolished in 2005; however, journalists found guilty of libel or slander faced fines of 100,000 to eight million CFA francs (\$200 to \$16,000).

The law provides for imprisonment and fines of as much as one million CFA francs (\$2,000) for journalists who use the media to incite disobedience among security forces or incite persons to violence, hatred, or discrimination. Similar fines and imprisonment of six months to two years may be imposed for the publication or broadcast of false or fabricated information that "would disturb the peace."

The Ministry of Communications maintained a ban on the diffusion by media of songs, programs, or articles deemed to have a "misogynist character" or to disrespect women.

*Internet Freedom.*—There were no reports that the Government restricted access to the Internet, monitored e-mail or Internet chat rooms, or attempted to collect personally identifiable information. The relatively few individuals who had access could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008 approximately 0.44 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for the right of assembly; however, the Government restricted this right on a few occasions. Organizers of demonstrations and public meetings were required to register with the minister of the interior 48 hours in advance; po-

litical meetings in schools or churches were prohibited. Any association intending to hold a political meeting was required to obtain the Ministry of Interior's approval.

There were no discriminatory government restrictions that targeted women or minorities.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right. All associations, including political parties, must apply to the Ministry of Interior for registration, and the Government usually granted registration expeditiously. The Government normally allowed associations and political parties to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

A law prohibiting nonpolitical organizations from uniting for political purposes remained in place.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government restricted freedom of movement within the country and foreign travel during the year. Security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or “taxes” at checkpoints along intercity roads and at major intersections in Bangui, although these roadblocks had decreased significantly by year's end.

On multiple occasions during the year, police, gendarmes, and the FACA impeded the travel of members of the opposition Movement for the Liberation of Central African People party, delaying their travel for up to two days.

On May 9, authorities prevented Martin Ziguèle, a presidential candidate in 2005, from traveling abroad. Airport police briefly confiscated his passport and barred him from boarding an aircraft. The Government's spokesman later said the incident was the result of an unspecified misunderstanding.

On May 27, airport authorities stopped former minister of communications Cyriaque Gonda from traveling to France. The Government's spokesman said that Gonda failed to present a permission to depart document normally required for official travel by members of the Government. Gonda was neither a current minister nor going abroad in an official capacity, and observers widely viewed the incident as stemming from a political dispute between him and the president.

On June 13, airport authorities confiscated the diplomatic passport of opposition figure Nicolas Tiangaye upon his return from France where he held meetings with Central Africans opposed to the Government. Authorities claimed he had no right to a diplomatic passport, although in practice, many prominent figures held and used diplomatic passports for nonofficial travel.

In April 2009 the Ministry of Foreign Affairs requested that all diplomatic missions inform the ministry before travel to any area deemed “under tension,” although these locations were unspecified. In practice the Government hindered travel by diplomats outside of the capital on multiple occasions.

During the year police continued to stop and search vehicles, particularly in Bangui, in what amounted to petty harassment to extort payments. Local human rights organizations and UN officials said the problem of illegal road barriers and petty extortion by soldiers was widespread. Merchants and traders traveling the more than 350-mile main route from Bangui to Bangassou encountered an average of 25 military barriers. While the fees extorted varied for private passengers, commercial vehicles reported paying up to 9,000 to 10,000 CFA francs (\$18 to \$20) to continue their journeys.

This extortion greatly discouraged trade and road travel and severely crippled the country's economy.

Freedom of movement, including of traders and delivery trucks, was also severely impeded in conflict zones.

In May the UN reported that North of Kobo, in a zone of continuing conflict between the Government and the FDPC, the FACA charged truckers 100,000 CFA francs (\$200) to protect convoys of two or more trucks between the town and the border with Chad.

With the exception of diplomats, the Government required that all foreigners obtain an exit visa. Travelers intending to exit the country could be required to obtain affidavits to prove that they owed no money to the Government or to parastatal companies.

The constitution does not permit the use of exile, and the Government did not employ it in practice.

*Internally Displaced Persons (IDPs).*—Sporadic fighting between government forces and nonstate armed entities, attacks on civilians by nonstate armed entities, and armed banditry prevented the country's IDPs, most of whom were displaced in 2006, from returning to their homes. At year's end, the number of IDPs totaled 192,029, including almost 100,000 in the northwestern provinces of Ouham and Ouham Pende. The number of individuals who had fled the country was estimated at 138,000, including 74,000 refugees in Chad and 64,000 in Cameroon. In the southeastern province of Haut-Mbomou, attacks by the LRA caused the internal displacement of approximately 15,000 individuals by year's end.

In July the Government reopened roads north of Ndele to humanitarian access after a prolonged closure due to government efforts to fight the CPJP.

In 2009 the UNHCR helped create the National Committee for Dialogue and Coordination for the Protection of the Rights of IDPs in the country. The objectives of the committee were to provide for the coordination and monitoring of activities related to the protection of IDPs, to formulate a new IDP protection law, and to establish a framework for increased assistance for IDPs. The committee participated in all meetings of the country's protection cluster, the main forum for the coordination of civilian protection activities in the context of humanitarian efforts, and focused on human right abuses, but, according to OCHA, the committee had not officially met or carried out any of its assigned responsibilities by year's end.

On October 29, the UNHCR and the Office of the Prime Minister organized a workshop for 60 members of parliament on the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. The objective of the workshop was to speed progress toward the ratification of the convention.

The Government did not provide protection or assistance to IDPs, citing a lack of means.

There were no reports of the Government attacking or specifically targeting IDPs. The Government occasionally blocked humanitarian access in areas frequented by nonstate armed entities. There were no reports of the Government inhibiting the free movement of IDPs.

In June 2009 several members of the UNOHCHR's UPRWG recommended that the Government immediately take measures to safeguard the rights of IDPs, including by enacting a law with provisions for the protection of displaced children; provide for the free circulation of humanitarian workers so they can access IDPs; and follow up on past recommendations of the UN secretary-general's representative on the human rights of IDPs. At year's end, it was unclear if the Government had taken significant steps to implement these recommendations.

Displaced children worked in fields for long hours and as porters for bandits or other nonstate armed entities (see sections 1.g. and 7.d.).

*Protection of Refugees.*—The country's laws provide for granting asylum and refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government accepted refugees without subjecting them to individual screening.

The Government continued to cooperate with the UNHCR and other humanitarian organizations in assisting approximately 24,690 refugees in the country of which 5,466 remain in Bangui.

During the year security forces subjected refugees, as they did citizens, to arbitrary arrest and detention. Refugees were especially vulnerable to such human rights abuses. The Government allowed refugees freedom of movement, but like citizens, they were subject to roadside stops and harassment by security forces and nonstate armed entities. Refugees' access to courts, public education, and basic public health care was limited by the same factors that limited citizens' access to these services.

While refugees in Mongoumba and Batalimo did not report any violations, refugees in Sam Ouandja reported restriction of movement by authorities and UFDR rebels allied to the Government. Refugees in Bangui reported harassment and arbitrary arrest by police.

According to the UNHCR, there were no reports of refugee abuse during the year.

A significant number of members of the Mbororo ethnic group continued to live as refugees in Cameroon and southern Chad after violence in 2006 and 2007. However, according to Radio Centrafrique, many Mbororo herders started returning to CAR during the year.

Several international organizations worked with the Government and UNHCR to assist refugees during the year. They included Doctors without Borders, Caritas, International Medical Corps, and the NGO Cooperazione Internazionale (COOPI).

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in presidential and legislative elections in 2005, which election observers considered to be generally free and fair, despite some irregularities.

*Elections and Political Participation.*—In 2005 the country held two rounds of multiparty presidential and legislative elections that resulted in the election of General Bozize as president; Bozize had seized power in a 2003 military coup, declared himself president, and headed a transitional government until the 2005 elections. Domestic and international election observers judged the elections to be generally free and fair, despite irregularities and accusations of fraud made by candidates running against Bozize.

Bozize's term as president was stipulated under the constitution to expire on June 11. However, on May 10, the National Assembly passed a constitutional amendment that extended the terms of the office of the president and the National Assembly until elections, allowing Bozize to remain in office through the year.

The Government twice postponed constitutionally mandated presidential and legislative elections set for March due to a lack of funds and preparation. Controversially, the National Assembly altered the 2005 constitution to allow the president to ask the Constitutional Court for a delay in elections if elections preparations commence in a "lawful manner," but due to "unforeseeable and unavoidable" events must be postponed. The president used this provision to extend his mandate until such a time as elections were organized. On July 30, the president decreed the first round of presidential and legislative elections would occur in January 2011.

Despite a constitutional requirement that he do so by 2007, as well as a recommendation stemming from the 2008 inclusive political dialogue, for the fourth consecutive year, the president did not call for municipal elections, citing lack of government resources.

During the year the LCDH continued to criticize President Bozize for concurrently serving as president and defense minister, on the grounds that the constitution prohibits the president from holding "any other political function or electoral mandate"; however, officials said this criticism was based on a misinterpretation of the constitution. After political activist Zarambaud Assingambi filed a complaint with the constitutional court in 2008, the court ruled later that year that it was not competent to try the case.

Political parties continued to be subject to close scrutiny and restrictions by the Government. Members of political parties were not able to move about the country without restriction; many had to obtain authorization from the Government before traveling.

According to recommendations from a 2003 government-sponsored national dialogue, women should occupy 35 percent of posts in government ministries and political parties; however, this provision was not respected during the year. There were 10 women in the 105-seat National Assembly and four in the 32-person cabinet. There were no laws prohibiting women from participating in political life, but most women lacked the financial means to compete in political races.

There were 17 Muslims, including two members of the Mbororo ethnic group, in the National Assembly.

The Ba'Aka (Pygmies), the indigenous inhabitants of the south, made up between 1 and 2 percent of the population; they were not represented in the Government and continued to have no political power or influence.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement these laws effectively, and officials often engaged in corrupt practices with impunity. Misappropriation of public funds and corruption in the Government remained widespread. The World Bank's 2009 Worldwide Governance Indicators reflected that government corruption was a severe problem.

The Government continued its campaign against embezzlement, money laundering, and other forms of financial fraud. Since May 2009 salary payments to government employees have been made through bank accounts instead of in cash. Computerization of financial information to increase transparency continued during the year. However, the effect of these actions was not particularly evident to the public, and skepticism remained over whether these actions would serve to deter corruption. Extortion at road checkpoints and corruption among customs service officials remained major sources of complaints by importers and exporters.

The president continued to chair weekly committee meetings to combat fraud in the treasury. In 2008 Prime Minister Touadera created a national committee to

fight corruption that included representatives from the Government, trade unions, NGOs, private sector, religious organizations, and the media. The committee's investigations resulted in the arrest of 19 senior civil servants in the tax division of the Ministry of Finance on charges of embezzling up to five million CFA francs (\$10,000) each. Six of those arrested were tried in 2008 and received jail sentences. Six voluntarily reimbursed the amount they were alleged to have stolen; 13 civil servants accused of embezzlement were condemned by the court, but a few were later released, although the exact number is unknown.

Police corruption, including the use of illegal roadblocks to commit extortion, remained a problem; however, removal of some illegal roadblocks enabled more freedom of movement and easier transportation by year's end.

Judicial corruption remained a serious impediment to citizens' right to receive a fair trial. According to the UNDP, during the year the average monthly salary of a judge working in one of the highest courts (the final court of appeals) was approximately 600,000 CFA francs (\$1,200); that of a junior judge was approximately 220,000 CFA francs (\$440).

According to the LCDH, corruption extended from the judges to the bailiffs. Many lawyers paid judges for verdicts favorable to their clients. There were, however, some efforts to combat judicial corruption, including by several UN agencies and the EU.

According to the constitution, senior members of the executive, legislative, and judicial branches are required to declare publicly their personal assets at the beginning of their terms. The members of the new government declared their assets upon entry into the Government. The law does not require ministers to declare their assets upon departing government.

The law provides for access by journalists to "all sources of information, within the limits of the law"; however, it does not specifically mention government documents or government information, and no mention is made of access by the general public. The Government often was unable or unwilling to provide information, and lack of access to information continued to be a problem for journalists and the general public. Furthermore, years of instability and conflict made information difficult for the Government to collect, particularly in the countryside. Information on the humanitarian situation, for example, was difficult to obtain and sometimes contradictory.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated with few government restrictions. A few NGOs investigated abuses and published their findings. However, due to ongoing lack of funds, insecurity, and economic dislocation, domestic human rights NGOs, whose area of work was almost totally limited to Bangui, continued to lack the means to disseminate human rights information outside the capital or support their rural branches. These limitations contributed to widespread ignorance about human rights and the means of redress for abuses. Officials in Bangui met with local NGOs during the year, but many local NGOs reported the Government was not responsive. Government officials continued to criticize local NGOs publicly for their reports of human rights violations that security forces committed.

There were domestic human rights NGOs that demonstrated significant independence; however, several domestic civil society groups were led by individuals belonging to or closely associated with the ruling political party, which may have limited their independence. Citing the appearance of a conflict of interest, some international and domestic NGOs expressed concern over the neutrality and independence of the country's only legally recognized NGO platform or umbrella group, the Inter-NGO Council in CAR (CIONGCA), which was led by the brother of a former minister of state and ethnic kinsman of the president. In recent years, CIONGCA often represented domestic civil society groups in decision-making forums, including the follow-up committee of the 2008 inclusive political dialogue.

A few NGOs were active and had a sizable effect on the promotion of human rights. Some local NGOs, including the LCDH, the OCDH, the anti-torture NGO ACAT, and the Association of Women Jurists (AWJ), actively monitored human rights problems; worked with journalists to draw attention to human rights violations, including those committed by the army; pleaded individual cases of human rights abuses before the courts; and engaged in efforts to raise the public's awareness of citizens' legal rights.

Domestic human rights NGOs reported that some officials continued to view them as spokespersons for opposition political parties. President Bozize mentioned his suspicion of their ties to the opposition during numerous speeches over the year.

They also reported several cases of harassment by officials during their fact-finding visits around the country. Domestic human rights NGOs reported during the year that its members located outside the capital remained afraid to investigate alleged abuses because security force members have threatened NGO activists suspected of passing information about abuses by security forces to international NGOs for publication. Several human rights lawyers reported that the families of victims of abuse by officials, or those close to officials, often urged the victims not to pursue their attackers due to fear of reprisal.

International human rights NGOs and international organizations operated in the country without interference from the Government. However, nonstate armed entities sporadically targeted the small number of humanitarian workers operating in the northwest, northeast, and southeast, stopping their vehicles and robbing them. The entire North was occasionally inaccessible to NGOs due to increased violence.

Due in part to the Government's inability to address persistent insecurity in parts of the country effectively, some international human rights and humanitarian groups working in conflict zones have either closed suboffices or left the country. For example, international NGOs working in the Vakaga and Haute Kotto Provinces did not send international staff to the region and maintained only limited nationally staffed programs.

Some international NGOs continued to raise human right awareness among authorities and security forces. For example, throughout the year, the International Rescue Committee and the Danish Refugee Council organized a training session for security force instructors focusing on fundamental human rights principles, international humanitarian law, the rights of children, and women's rights, among other issues.

During the year the Government continued to cooperate with international governmental organizations in the promotion and protection of human rights. The national prosecutor's office continued to work with BINUCA to investigate human rights abuses by security forces, and the Government continued to cooperate with it and other UN agencies in their efforts to train security forces in human rights (see section 1.d.). The Government also continued to allow BINUCA to conduct visits to prisons and detention centers and to conduct human rights training for government security agents. International observers witnessed small improvements after prison visits but did not observe a significant change in policy toward prisons and prisoners rights during the year.

The Office of the High Commissioner for Human Rights and Good Governance, attached to the presidency, investigated citizen complaints of human rights violations by members of the Government. While the commission was operational, it remained ineffective and, after working briefly on three cases of violations, did not take any substantive follow-up steps. With a reported budget of five million CFA francs (\$10,000), the High Commissioner's Office did not have adequate staffing or financial resources, and lacked the means to train its investigators properly. The limited funding for the commission also meant that it only functioned in Bangui, limiting the scope of its operations. Some human rights observers noted that it acted more as a spokesperson for the Government than an office promoting human rights.

In December a validation seminar was held to establish in law a National Human Rights Commission that was intended to promote international human rights standards at the national level. The commission was to be independent from the Office of the High Commissioner for Human Rights and Good Governance. At year's end, it remained undecided whether the commission would be led by a commissioner or by a panel.

A human rights commission in the National Assembly sought to strengthen the capacity of the legislature and other government institutions to advance human rights, but it had few financial resources. Credible human rights NGOs questioned the autonomy and desire of this commission to affect real measures, as the National Assembly was not generally considered sufficiently independent from the executive branch.

The Government continued to cooperate with the International Criminal Court, which continued its investigation into crimes committed in the country in 2002-03 by the previous government and by soldiers under the command of Jean Pierre Bemba, then a Congolese rebel leader. In 2008 Bemba was arrested in Brussels. On November 22, the trial of Bemba opened in The Hague at the International Criminal Court. By the end of the year, 134 victims had been officially recognized by the court with more than 1,000 others awaiting a judicial decision.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution stipulates that all persons are equal before the law without regard to wealth, race, disability, language, or gender. However, the Government did not enforce these provisions effectively, and significant discrimination existed.

*Women.*—The law prohibits rape, although it does not specifically prohibit spousal rape. Rape is punishable by imprisonment with hard labor, but the law does not specify a minimum sentence. The Government did not enforce the law effectively. Police sometimes arrested men on charges of rape, although statistics on the number of individuals prosecuted and convicted for rape during the year were not available. The fear of social stigma inhibited many families from bringing suits. Released in June 2009, the report of the UNOHCHR's UPRWG commended the Government's 2007-11 national action plan to combat gender-based violence; however, the report featured several recommendations from working group members urging the Government to adopt measures to enhance the fight against sexual violence.

During a visit to the country in February, UN High Commissioner for Human Rights Pillay voiced deep concern over—and called for urgent action on—the widespread sexual violence that women faced, noting that crimes were being committed by both state and nonstate actors.

Few assessments have been conducted on the prevalence of rape. However, according to a baseline study conducted in June and July 2009 by Mercy Corps in four nonconflict areas (Bangui, Bouar, Bambari, and Bangassou), sexual violence against women was pervasive. One in seven women reported having been raped in the past year, and the study concluded that the true prevalence of rape may be even higher. In addition, from February through November, an international NGO reported 128 total cases of gender-based violence brought to its attention in the Nana Gribizi and Ouham Pende Provinces. The reports included male and female rape, as well as gang rape. In 27 cases, the victim knew the perpetrator and, in 18 cases, the perpetrator was armed. Of these 128 cases, two victims identified a member of the APRD as the perpetrator, one assailant was a member of the FACA, and one was from an unspecified armed entity. According to the NGO, in only three of the 128 cases were attempts made to hold the perpetrators accountable. In one of these three cases, the village leader reported the incident to the gendarmes, and the case was still under investigation at year's end. In the other two cases, the family members of the victims brought the two perpetrators to the APRD who whipped each perpetrator 150 lashes each and one was fined 250,000 CFA (\$500). Victims were reluctant to report the assaults out of fear of stigmatization.

Although the law does not specifically mention spousal abuse, it prohibits violence against any person and provides for penalties of up to 10 years in prison. Domestic violence against women, including wife beating, was common; 25 percent of women surveyed in the Mercy Corps study had experienced violence committed by their partner in 2009. Of them 33 percent of men and 71 percent of women said it was acceptable to use violence against women when women had not properly performed their domestic tasks. Mercy Corps did not witness a significant change during the year, although it did not carry out a new study. Spousal abuse was considered a civil matter unless the injury was severe. According to the AWJ, a Bangui-based NGO specializing in the defense of women's and children's rights, victims of domestic abuse seldom reported incidents to authorities. When incidents were addressed, it was done within the family or local community. The deputy prosecutor said he did not remember trying any cases of spousal abuse during the year, although litigants cited spousal abuse during divorce trials and civil suits.

Some women reportedly tolerated abuse to retain financial security for themselves and their children.

The law prohibits sexual harassment; however, the Government did not effectively enforce the law, and sexual harassment was a common problem. The law describes no specific penalties for the crime.

The Government respected couples' rights to decide freely and responsibly the number of children they had, as well as when they had them. Most couples lacked access to contraception and skilled attendance during childbirth. According to UNICEF data collected between 2000 and 2006, 19 percent of women between the ages of 15 and 49 who were married or in union were using contraception, and only 44 percent of births were attended by skilled personnel. According to the UN Population Funds, the maternal mortality rate remained extremely high—850 out of every 100,000 live births and infant mortality was 106 deaths per 1,000 live births in 2008. UN sources estimated that a woman's lifetime risk of maternal death was one in 27. There was little information available regarding whether women received the same level of care as men for sexually transmitted infections, including HIV. The Government continued working with UN agencies to increase the use of contra-

ception, including by women, and to assist in other prevention activities targeting sexually transmitted infections.

The law does not discriminate against women in inheritance and property rights, but a number of discriminatory customary laws often prevailed, and women's statutory inheritance rights often were not respected, particularly in rural areas.

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, including those with children, were not considered heads of households. One of every three women surveyed by Mercy Corps stated they were excluded from financial decisions in their households. By law men and women were entitled to family subsidies from the Government, but several women groups complained about lack of access to these payments for women. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at higher levels in their professions or in government service, remained limited. Some women reported economic discrimination in access to credit due to lack of collateral. However, there were no reports of discrimination in pay equity or owning or managing a business. Divorce is legal and can be initiated by either partner.

Women, especially the very old and those without family, continued to be the target of witchcraft accusations.

The AWJ advised women of their legal rights and how best to defend them; it filed complaints with the Government regarding human rights violations. During the year several women's groups organized workshops to promote women's and children's rights and encourage women to participate fully in the political process.

*Children.*—Citizenship is derived by birth in the national territory or from one or both parents. The registration of births was spotty, and Muslims reported consistent problems in establishing their citizenship. Unregistered children faced limitations in access to education and other social services. According to a 2006 UNICEF study (the most recent available), total birth registration was 49 percent, with 36 percent of children registered in rural areas. Registration of births in conflict zones was likely lower than in other areas.

Education is compulsory for six years until the age of 15; tuition is free, but students had to pay for their books, supplies, transportation, and insurance. Girls did not have equal access to primary education; 65 percent of girls were enrolled in the first year of school, but only 23 percent of girls finished the six years of primary school, according to a 2007 UNESCO study. At the secondary level, a majority of girls dropped out at the age of 14 or 15 due to societal pressure to marry and bear children.

Few Ba'aka (Pygmies) attended primary school. Some local and international NGOs, including COOPI, made efforts (with little success) to increase Ba'aka enrollment in schools; there was no significant government assistance to these efforts.

The law criminalizes parental abuse of children under the age of 15. Nevertheless, child abuse and neglect were widespread, although rarely acknowledged. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

The law prohibits FGM, which is punishable by two to five years' imprisonment and a fine of 100,000 to one million CFA francs (\$200 to \$2,000) depending on the severity of the case; nevertheless, girls were subjected to this traditional practice in certain rural areas, especially in the Northeast and, to a lesser degree, in Bangui. According to the AWJ, anecdotal evidence suggested FGM rates declined in recent years as a result of efforts by UNICEF, AWJ, and the Ministries of Social Affairs and Public Health to familiarize women and girls with the dangers of the practice.

According to UNICEF data collected between 2002 and 2007, the percentage of girls and women between the ages of 15 and 49 who had undergone FGM was approximately 27 percent.

The law establishes 18 as the minimum age for civil marriage; however, an estimated 61 percent of women between the ages of 20 and 24 were married before the age of 18, according to UNICEF data collected between 1998 and 2007, and the 2006 Multiple Indicators Country Survey reported that nearly 20 percent of women married before reaching the age of 15. The Ministry of Family and Social Affairs had limited means to address this problem. Early marriage was usually reported in less educated and rural environments where the Government lacked authority. The phenomenon of early marriage was more common in the Muslim community.

There were no statutory rape or child pornography laws protecting adolescent minors or children.

Child labor was widespread; forced child labor, including the use of children as soldiers, occurred (see sections 1.g., 7.c., and 7.d.).

There were more than 6,000 street children between the ages of five and 18, including 3,000 in Bangui, according to updated data collected by the Ministry of

Family and Social Affairs. Many experts believed that HIV/AIDS and a belief in sorcery, particularly in rural areas, contributed to the large number of street children. An estimated 300,000 children had lost one or both parents to HIV/AIDS, and children accused of sorcery (often reportedly in connection to HIV/AIDS-related deaths in their neighborhoods) often were expelled from their households and were sometimes subjected to societal violence.

There were NGOs specifically promoting children's rights, including some, such as Voices of the Heart, which assisted street children.

The country's instability had a disproportionate effect on children, who accounted for almost 50 percent of IDPs during the year. Access to government services was limited for all children, but displacement reduced it further.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no significant Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with both mental and physical disabilities. It also requires that for any company employing at least 25 persons, at least 5 percent of its staff must consist of sufficiently qualified persons with disabilities, if they are available.

In addition the law states that each time the Government recruits new personnel into the civil service, at least 10 percent of the total number of newly recruited personnel should be persons with disabilities. According to the Ministry of Family and Social Affairs, the provision was not automatic and depended on the availability of applications from persons with disabilities at the time of the recruitment decision by the interested ministry.

There was no societal discrimination against persons with disabilities. However, there were no legislated or mandated accessibility provisions for persons with disabilities, and such access was not provided in practice. Approximately 10 percent of the country's population had disabilities, mostly due to polio, according to the 2003 census. The Government had no national policy or strategy for providing assistance to persons with disabilities, but there were several one-of-a-kind government and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for persons with visual disabilities and the distribution of wheelchairs and carts by the Ministry of Family and Social Affairs.

The Ministry of Family and Social Affairs continued to work with the NGO Handicap International during the year to provide treatment, surgeons, and prostheses to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Violence by unidentified persons, bandits, and other nonstate armed entities against the Mbororo continued to be a problem, as they continued to suffer disproportionately from the civil disorder in the North. Their cattle wealth makes them attractive targets to the bandits and other nonstate armed entities that controlled the North. Additionally, since many citizens viewed the Mbororo as inherently foreign due to their transnational migratory patterns, they faced occasional discrimination with regard to government services and protections.

*Indigenous People.*—Despite constitutional protections, there was societal discrimination against Ba'Aka (Pygmies), the earliest known inhabitants of the rain forest in the South. Ba'Aka constitute approximately 1 to 2 percent of the population. They continued to have little say in decisions affecting their lands, culture, traditions, and the exploitation of natural resources. Forest-dwelling Ba'Aka, in particular, were subject to social and economic discrimination and exploitation, which the Government has done little to prevent. Despite repeated promises, the Government took no steps to issue and deliver identity cards to Ba'Aka, lack of which, according to many human rights groups, effectively denied them access to greater civil rights.

The Ba'Aka, including children, were often coerced into agricultural, domestic, and other types of labor. They often were considered to be the slaves of other local ethnic groups, and even when they were remunerated for labor, their wages were far below those prescribed by the labor code and lower than wages paid to members of other groups.

Refugees International reported in recent years that Ba'Aka were effectively "second-class citizens," and the popular perception of them as barbaric, savage, and sub-human seemingly had legitimized their exclusion from mainstream society.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The penal code criminalizes homosexual behavior. The penalty for “public expression of love” between persons of the same sex is imprisonment for six months to two years or a fine of between 150,000 and 600,000 CFA francs (\$300 and \$1,200). When the relationships involve a child, the sentence is two to five years’ imprisonment or a fine of 100,000 to 800,000 CFA francs (\$200 and \$1,600); however, there were no reports that police arrested or detained persons they believed to be involved in homosexual activity.

While there is official discrimination based on sexual orientation, there were no reports of the Government targeting gays and lesbians. However, societal discrimination against homosexual conduct persisted during the year, and many citizens attributed the existence of homosexual conduct to undue Western influence.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS were subject to discrimination and stigma, although less so as NGOs and UN agencies raised awareness about the disease and available treatments. Nonetheless, many individuals with HIV/AIDS did not disclose their status for fear of social stigma.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows all workers, except for senior-level state employees and security forces, including the armed forces and gendarmes, to form or join unions without prior authorization; however, only a relatively small part of the workforce, primarily civil servants, exercised this right. The percentage of Central Africans in the workforce during the year was estimated to be as high as 82.6 percent or roughly 3.7 million. The percentage of workers in agriculture was 66.8 percent, in the public sector 2.9 percent, and in the private sector 15.8 percent.

The labor code provides for the right of workers to organize and administer trade unions without employer interference and grants trade unions full legal status, including the right to file lawsuits. The Government generally respected these rights in practice.

There continued to be substantial restrictions that made it difficult for citizens to hold a leadership position within a union, despite some amendments to the labor code. Although the labor code no longer bars a person who loses the status of worker from belonging to a trade union or participating in its administration, the law still requires that union officials be full-time, wage-earning employees in their occupation, and only allows them to conduct union business during working hours as long as the employer is informed 48 hours in advance and provides authorization. In addition the law requires that foreign workers must meet the residency requirements of at least two years before they may organize. In June the International Labor Organization (ILO) requested the Government to amend these provisions to ensure they are in conformity with ILO principles and standards.

Workers have the right to strike in both the public and private sectors, and they exercised this right during the year; however, security forces, including the armed forces and gendarmes, are prohibited from striking. Requirements for conducting a legal strike were excessively lengthy and cumbersome. To be legal, strikes must be preceded by the union’s presentation of demands, the employer’s response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union must provide eight days’ advance written notification of a planned strike. The law states that if employers initiate a lockout that is not in accordance with the code, the employer is required to pay workers for all days of the lockout. The Ministry of Labor has the authority to determine a list of enterprises that are required by law to maintain a “compulsory minimum service” in the event of a strike. The Government has the power of requisition or the authority to end strikes by invoking the public interest. The code makes no other provisions regarding sanctions on employers for acting against strikers. In June, as on numerous other occasions, the ILO requested the Government to amend the relevant provisions to ensure the scope of the “minimum service” and the Government’s power to end strikes would conform with ILO principles and standards to provide that the workers’ right to strike would not be unfairly undermined.

*b. The Right to Organize and Bargain Collectively.*—The labor code provides that unions may bargain collectively in the public and private sectors, and provides workers protection from employer interference in the administration of a union.

Collective bargaining occurred in the private sector during the year, although the total number of collective agreements concluded during the year was unknown. The Government generally was not involved if the two parties were able to reach an agreement.

In the civil service, the Government, which was the country's largest employer, set wages after consultation, but not negotiation, with government employee trade unions. Salary arrears continued to be a severe problem for armed forces personnel and the 24,000 civil servants. In June the ILO recommended that the Government amend a provision of the labor code, which in effect hinders the public sector workers' right to bargain collectively by providing for the negotiation of collective agreements in the public sector by professional groupings even when trade unions exist.

The law expressly forbids antiunion discrimination. The president of the labor court said the court did not hear any cases involving antiunion discrimination during the year. Labor unions did not report any underlying patterns of discrimination or abuse.

Employees can have their cases heard in the labor court. The law does not state whether employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities, although employers found guilty of such discrimination were required by law to pay damages, including back pay and lost wages.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Although the labor code specifically prohibits forced or compulsory labor and prescribes a penalty of five to 10 years' imprisonment, the Government did not enforce the prohibition effectively, and there were reports that such practices occurred. Women and children were trafficked for forced domestic labor, agricultural labor, mining, sales, restaurant labor, and sexual exploitation. Prisoners often worked on public projects without compensation. In rural areas, there were reported cases of the use of prisoners for domestic labor at some government officials' residences. However, in Bangui and other large urban areas, the practice was rare, partly because of the presence of human rights NGOs or lawyers. Prisoners often received shortened sentences for performing such work. Ba'Aka, including children, often were coerced into labor as day laborers, farm hands, or other unskilled labor, and often treated as slaves.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code's prohibition of forced or compulsory labor applies to children, although they are not mentioned specifically. Other provisions of the labor code forbid the employment of children younger than 14 years of age without specific authorization from the Ministry of Labor; however, the Ministry of Labor and Civil Service did not enforce these provisions. Child labor was common in many sectors of the economy, especially in rural areas, and forced labor also occurred. Unlike in previous years, there were no reports that children were employed on public works projects or at the residences of government officials. The labor code provides that the minimum age for employment could be as young as 12 years of age for some types of light work in traditional agricultural activities or home services. The law prohibits children younger than 18 years old from performing hazardous work or working at night. The law defines hazardous work as any employment that endangers children's physical and mental health. However, children continued to perform hazardous work during the year. The labor code does not define the worst forms of child labor.

According to data collected by UNICEF in surveys between 1999 and 2007, approximately 47 percent of children between the ages of five and 14 years were involved in child labor. UNICEF considered a child to be involved in labor if, during the week preceding the survey, a child between five and 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work or a child between 12 and 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Throughout the country, children as young as seven years old frequently performed agricultural work. Children often worked as domestic workers, fishermen, and in mines (often in dangerous conditions). International observers noted that children worked in the diamond fields alongside adult relatives, transporting and washing gravel, as well as in gold mining, digging holes, and carrying heavy loads. The mining code specifically prohibits child or underage labor; however, this requirement was not enforced during the year, and many children were seen working in and around diamond mining fields.

In Bangui many of the city's estimated 3,000 street children worked as street vendors.

During the year nonstate armed entities recruited and used child soldiers (see section 1.g.).

Displaced children continued to work in fields for long hours in conditions of extreme heat, harvesting peanuts and cassava, and helping gather items that were sold at markets, such as mushrooms, hay, firewood, and caterpillars.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The labor code states that the minister of labor must set minimum wages in the public sector by decree. The minimum wages in the private sector are established on the basis of sector-specific collective conventions resulting from negotiations between the employer and workers' representatives in each sector.

The minimum wage in the private sphere varies by sector and by kind of work. For example, the monthly minimum wage was 8,500 CFA francs (\$17) for agricultural workers and 26,000 CFA francs (\$52) for government workers.

The minimum wage only applies to the formal sector, leaving much of the economy unregulated in terms of wages. The annual minimum wage increased 12 percent during the year from 25,000 CFA (\$50) to 28,000 CFA (\$56). However, the minimum wage does not provide a decent standard of living for a worker and family. The law applies to foreign and migrant workers as well. Most labor was performed outside the wage and social security system (in the extensive informal sector), especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 52 hours per week. The law also requires a minimum rest period of 48 hours per week for both citizens and foreign and migrant workers. Overtime policy varied according to the workplace; violations of overtime policy were taken to the Ministry of Labor, although it is unknown whether this occurred in practice during the year. The Government does not enforce labor standards.

There are general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor enforced them. The labor code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment. There are no exceptions for foreign and migrant workers.

---

## CHAD

Chad is a centralized republic with a population of approximately 11 million. In 2006 President Idriss Deby Itno, leader of the Patriotic Salvation Movement (MPS), was elected to a third term in what unofficial observers characterized as an orderly but seriously flawed election boycotted by the opposition. Deby has ruled the country since taking power in a 1990 coup. The executive branch dominated the legislature and judiciary.

On January 15, the Governments of Chad and Sudan signed an agreement to normalize relations. Both parties agreed to end the presence of and support for the other's armed opposition groups in their respective territories. The Governments also agreed to establish a joint force to patrol and monitor the shared border; the joint force was established in February. Hundreds of Chadian rebels who had been living in Sudan returned to the country during the year. The Government withdrew support for the Justice and Equality Movement (JEM) and expelled JEM personnel, including leader Khalil Ibrahim. Fighting between government forces and rebels occurred once during the year, and there were no reports of cross-border raids by militias based in Darfur, Sudan.

In January President Deby announced that he would not support the renewal of MINURCAT, the UN Mission in the Central African Republic (CAR) and Chad. On May 25, following subsequent discussions between the Government and the United Nations, UN Security Council Resolution 1923 extended MINURCAT's mandate until December 31, with a reduction in its military personnel and complete withdrawal of military and civilian elements, other than those required for the mission's liquidation, by that date. MINURCAT concluded operations and withdrew from the country by December 31. There were instances in which elements of the security forces acted independently of civilian control.

Human rights abuses included limitations on citizens' right to change their government; extrajudicial killings, including politically motivated killings; criminal kidnappings of children for ransom; torture, beatings, and rape by security forces; security force impunity; harsh and life-threatening prison conditions; arbitrary arrest and detention; incommunicado detention; lengthy pretrial detention; denial of

fair public trial; executive interference in the judiciary; arbitrary interference with privacy, family, and correspondence; limitations on freedom of speech, press, and movement; abuse of refugees; widespread official corruption; kidnappings of non-governmental organization (NGO) personnel by armed groups and bandits; societal discrimination and violence against women, including female genital mutilation (FGM); child abuse, abduction, and trafficking; and child marriage. Use of child soldiers occurred, although reports of such activity greatly decreased during the year. Ethnic-based discrimination; repression of union activity; forced labor, including by children; and exploitive child labor were problems.

Ethnic-based rebel groups and bandits committed human rights abuses, including killings; abductions, rape, and injury of civilians; use of child soldiers; and attacks against humanitarian workers. The Government's defeat of rebel groups and expulsion of JEM personnel, however, impeded their ability to operate within the country, resulting in a dramatic decrease in human rights abuses committed by such groups.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports that the Government or its agents committed arbitrary or unlawful killings, including politically motivated killings, generally of those suspected of rebel affiliations. Killings were sometimes committed by “men in uniform,” and it was often not possible to determine whether perpetrators were members of the armed forces or police, or whether they were acting on official orders. The Government generally did not prosecute or punish security force members who committed killings.

On January 11, in Doba, security forces reportedly kidnapped and killed Madjingar Kemhodjim due to his alleged membership in a southern-based rebel group. Kemhodjim's body was found in a local cemetery.

On March 23, in Haraze-Mangaine, members of the Chadian National Army (ANT) killed Fadoul Barcham, a district chief. According to a local human rights organization, Barcham was killed because he did not support local representatives of the ruling MPS party.

On October 19, in Guereda, ANT soldiers detained and reportedly beat a minor for allegedly possessing weapons; the minor subsequently died in ANT custody. In retaliation, on October 21, ANT troops of the boy's ethnic Tama tribe confronted the ethnic Zaghawa ANT troops accused of the beating death. A subsequent exchange of fire killed an ANT officer from each tribe.

Following the January accord between the Governments of Chad and Sudan, fighting between government and rebel forces occurred on one occasion; however, there were no reports of civilian killings.

The Government conducted no investigations of the following 2009 security force killings in connection with the conflict in the East: the May summary executions by soldiers of at least nine rebels in Am Dam; the May killings of civilians in Am Dam as a result of government tanks crushing suspected rebel homes; the July killings by soldiers of five unidentified persons, whose bodies were found buried outside of Pala; and the December killing of Regine Doumro by a uniformed perpetrator.

Attacks on travelers by armed bandits, some of whom wore uniforms, resulted in deaths, although there were fewer such attacks than in the previous year. Some of the perpetrators were identified as active duty soldiers or deserters. It was often unclear whether the killings were politically or criminally motivated.

For example, on June 2, in N'Djamena armed bandits suspected of being ANT members killed Ali Karachi Abderamane, an aviation technician. Local media reported that Abderamane was killed due to his relationship with an exiled regime opponent.

No investigation was conducted in the January 2009 killing by unknown assailants of Gani Nassour Betchi, sister of rebel leader Tom Erdimi.

No action was taken to identify the perpetrators of numerous cases of human rights abuse reported by the Commission of Inquiry, which was established to investigate disappearances and other abuses that occurred during the 2008 rebel attack and government counterattack in N'Djamena. However, on November 18, the Council of Ministers authorized the defense minister and former interior minister to provide witness testimony to judicial investigators. The commission's 2008 report charged that 977 persons—including civilians, ANT personnel, and rebels—were killed, 1,758 injured, 34 raped, and 380 detained in N'Djamena and the provinces during that period. In 2009 the Government established an additional subcommittee under the minister of justice to reexamine cases discussed in the commission's report.

There were no developments in the following 2008 security force killings: the civilian killings resulting from the ANT's destruction of several villages in Maitoukoulou, CAR and the killing of supporters of Sheikh Ahmet Ismael Bichara in response to their alleged attack on security forces.

The two persons detained in Sarh for the 2008 high-profile killing of college professor Tenebaye Oringar remained in detention awaiting trial at year's end.

Unlike in previous years, there were no reports of civilian deaths resulting from unexploded ordnance, including landmines, laid by government, rebel, and foreign units.

Interethnic fighting resulted in deaths.

For example, in June, in continuation of a decades-long ethnic feud, armed Zaghawa entered the court in Abeche and killed several ethnic Tama who had completed prison terms for an offense committed against the Zaghawa, but who had refused to leave prison for fear of their personal safety.

The alleged perpetrators of the killings of nine persons during the November 2009 interethnic conflict between herders and farmers in Kana District remained in detention without charge at year's end.

Children kidnapped for ransom were sometimes killed (see section 1.b.).

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances; however, the whereabouts of persons arrested for political reasons in previous years remained unknown. Persons were held incommunicado during the year.

On June 6, armed bandits kidnapped Hubert Blama, an employee of the British NGO Oxfam; Blama was subsequently released (see section 5).

The whereabouts of Ibni Oumar Mahamat Saleh, one of three prominent opposition leaders arrested in 2008, remained unknown. Despite pressure from foreign governments, local human rights groups, and members of Ibni's political party, who during the year held an assembly calling for government action on the case, no arrests were made. In January an interministerial committee, established to investigate unresolved cases connected to the 2008 rebel attacks, requested a six-month extension to complete its work; however, no information about Ibni's case had been released by year's end.

The whereabouts of at least 135 rebels captured during the 2008 rebel attack on N'Djamena remained unknown at year's end.

The kidnapping of children for ransom in the Mayo-Kebbi Ouest Region remained a problem, although there were fewer such incidents than in the previous year. Armed persons, both local and from neighboring countries, reportedly kidnapped children, especially Peuhl children, due to perceptions that Peuhl families were wealthier than those of other ethnic groups. According to a local NGO, 148 children were kidnapped from 2007-09, and the total ransom money paid was approximately 157 million CFA (\$314,000). During the same period, 114 children held by bandits were killed, some by kidnapers when ransom payments were not forthcoming and others during police attempts to free them.

On July 16, local human rights representatives in Pala reported the kidnapping of a four-year-old child near Fianga. During the same month, another local human rights group reported the kidnapping of two children in Bongor. On September 23, five children were kidnapped for ransom; on October 28, one kidnapped child was found dead after the parents were unable to pay the ransom in time. According to the human rights organization, no investigation of the death was conducted.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, the Government did not respect these provisions in practice. Security force members tortured, beat, raped, and abused persons, particularly those suspected of rebel activity or collaboration with rebels. The Government took no known action against security force members responsible for such abuse.

On January 24, in N'Djamena security forces arrested Mbailassem Berangoto, who allegedly was tortured during detention. No information was available on the reasons for Berangoto's arrest, and no action had been taken against security force members reportedly involved in his torture by year's end.

On February 7, in Salamat gendarmes arrested Djibrine Noh, who was subsequently tortured during detention. As a result of injuries inflicted during the torture, doctors amputated Noh's right hand after he was released.

On May 12, in Sarh government intelligence agents arrested Madjadoumbe Ngom Halle, who they subsequently tortured during detention. Halle was released on June 16.

No action was taken against security forces involved in the following 2009 cases of torture: the March 19 detention and torture by military personnel of Malioum

Ousamane; the March 26 arrest and torture by police of 15-year-old Mahamat Nour Abrass; and the May 29 torture by security agents of Yaya Erdimi.

Police, gendarmes, and ANT personnel raped women and girls.

No action was taken in the following 2009 cases of security force rape: the May 7 rape by ANT soldiers of a girl and a woman near Am Dam; the July 1 rape of an 11-year-old girl by men in uniform; and the kidnap and rape by ANT soldiers of 10 girls.

Unlike in the previous year, there were no reports that unexploded ordnance, including landmines laid by government, rebel, or foreign forces, resulted in injuries.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded; had poor sanitation; and provided inadequate food, shelter, and medical facilities. Regional detention centers, which were crumbling, overcrowded, and without adequate protection for women and youth, had no budgets to provide meals for inmates. Prison guards were not regularly paid, and sometimes “released” prisoners who offered compensation for the service. Provisions for ventilation, temperature, lighting, and access to potable water were inadequate or nonexistent. The law provides that a doctor must visit each prison three times a week, but this provision was not respected. Forced labor in prisons occurred.

As a result of inadequate record-keeping and management, many individuals remained in prison after completing their sentences or after courts had ordered their release. During the year Justice Minister Mbailao Naimbaye Lossimian and other government officials visited various prisons throughout the country to evaluate conditions. In May the justice minister ordered a survey of all prisoners to assess the disposition of cases and whether prisoners knew their rights. The survey revealed there were prisoners without case files, who had been detained more than three years with no follow-up by judges or lawyers.

Local human rights organizations continued to report on the existence of military prisons to which access was prohibited; they also reported on the existence of secret prisons run by the National Security Agency and the General Directorate of Security Services for National Institutions (DGSSIE). According to local human rights organizations, persons were detained in secret detention facilities under the authority of the Ministry of the Environment; other international organizations disputed this claim.

There were continued reports that rebel suspects were being held in the Koro Toro detention facility, which was operated by the Public Security and Immigration Ministry. (During the year the president divided the former ministry of interior into two entities: the Ministry of Public Security and Immigration and the Ministry of Territorial Administration.) On August 11, an opposition Web site released a list of 750 prisoners allegedly detained there. No information on prison conditions was available. In December the Government formally transferred control of the prison to the Ministry of Justice in an effort to improve conditions, encourage due process, and provide humanitarian access.

Estimates of deaths due to poor prison conditions varied. A local human rights group reported 10 prisoners died during the year; however, an opposition Web site claimed that 20 prisoners had died in Koro Toro Prison alone.

The Government did not keep statistics on the number of prisoners and detainees in the country, and no information was available. Juvenile males were not always separated from adult male prisoners, and children were sometimes held with their inmate mothers. During a July 2 to 5 Justice Ministry visit to five eastern towns, officials found children as young as eight years old incarcerated for petty thievery. Pretrial detainees were held with convicted prisoners.

Prisoners generally had access to visitors and were permitted religious observance. There was no regular mechanism by which prisoners could submit complaints about prison conditions, and there were no judicial authorities to receive such complaints.

The Government honored a permanent authorization notice of the Chadian Association for the Promotion and Defense of Human Rights (ATPDH), allowing the organization to visit civilian prisons at any time without advance notice. Other local NGOs, including human rights groups, were required to obtain authorization from a court or from the director of prisons; granting of such authorizations depended largely on the personal inclinations of those with authority to grant permission. Local NGOs were not allowed access to military prisons.

The Government permitted the International Committee of the Red Cross (ICRC) to visit civilian prisons under the control of the Ministry of Justice and, during the year, the ICRC conducted such visits. Despite repeated ICRC requests, the Government denied access to the Koro Toro detention facility, which was run by the Ministry of Public Security and Immigration. However, the Ministry of Justice, which

assumed authority for the Koro Toro facility in December, assured the ICRC that access would be forthcoming. The Government also restricted ICRC access to detention centers operated by other ministries.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, security forces often violated these provisions.

*Role of the Police and Security Apparatus.*—The ANT, gendarmerie, national police, nomadic guard (GNNT), DGSSIE, and counterintelligence service (ANS) are responsible for internal security. The Integrated Security Detachment (DIS), which reports to the National Coordination of Support to Humanitarian Activities and the Integrated Security Detachment, is responsible for reducing insecurity in refugee camps and for protecting refugees and IDPs. The ANT, gendarmerie, and GNNT report to the Ministry of Defense; the National Police reports to the Ministry of Public Security and Immigration; and the DGSSIE and ANS report to the president. Officers from President Deby's ethnic group, the Zaghawa, and closely allied ethnic groups dominated the ANS. The DGSSIE's ethnic composition was mixed, but Zaghawas were overrepresented. The police force was centrally controlled, but exercising oversight, particularly outside N'Djamena, was difficult.

Police were corrupt and involved in banditry, arms proliferation, and extortion. Security force impunity was widespread (see section 5).

As a result of the January 15 peace accord with Sudan, a mixed Chadian-Sudanese border force to patrol between the two countries was established in February. The Government and outside observers considered the border force effective. Command authority alternated every six months between Chad and Sudan.

In 2009 the Government initiated an extensive military modernization program to professionalize and reduce the size of the armed forces. Part of the effort included ascertaining who still collected military salaries and wore uniforms, since many former military personnel continued to do so, and former soldiers sometimes posed as active duty military and committed crimes with government-issued weapons. However, weapons were pervasive in the country, there was no standardized military uniform (except for the beret), and camouflage uniforms were readily available in the marketplace. Reports of violence were often accompanied by witnesses claiming the perpetrator was "someone in uniform."

In January President Deby announced that he would not support the renewal of MINURCAT, which the UN authorized in 2007 to protect civilians, support regional peace, and promote human rights and the rule of law in eastern Chad and northeastern CAR. Deby claimed the Government could perform MINURCAT's protection functions as well as UN peacekeepers. On May 25, following subsequent discussions between the Government and the UN, UN Security Council Resolution 1923 extended MINURCAT's mandate until December 31, with a reduction in its military personnel and complete withdrawal of military and civilian elements, other than those required for the mission's liquidation, by that date. MINURCAT ended all military operations on October 15. On December 31, MINURCAT transferred its remaining functions to the Government.

*Arrest Procedures and Treatment While in Detention.*—Although the constitution and law require a judicial official to sign arrest warrants, secret detentions occurred. Detainees were not promptly informed of charges, and judicial determinations were not made promptly. The law requires access to bail and counsel, but neither was regularly provided. Incommunicado detention was a problem, and there were reports that persons held incommunicado were tortured. The constitution and law state that legal counsel should be provided for indigent defendants and that defendants should be allowed prompt access to family members; however, in practice this usually did not occur.

Security forces arbitrarily arrested and reportedly tortured detainees, particularly those suspected of collaborating with rebels; however, unlike in the previous year, there were no reports that political leaders, civil society representatives, or human rights activists were arrested.

On March 31, gendarmes in N'Djamena arbitrarily arrested without charge Abakar Hassane, a driver. Hassane was later released after the Chadian League for Human Rights (LTDH), a local human rights organization, lodged a complaint.

During the same month, in N'Djamena intelligence agents arrested without charge Mahamat Abrass Moussa, who remained in ANS detention at year's end. The Government denied access to the ICRC and a local human rights organization, both of which had requested permission to visit Moussa.

In April in Guidari, the LTDH reported that gendarmes arrested, detained, and fined 20 farmers a total of 232,000 CFA (\$464) for allegedly felling trees on their farms; the law prohibits the mass destruction of trees, although security forces

sometimes used the law to extort money from persons who cut a single tree. The farmers were released after the LTDH filed a complaint with the court in Moundou.

Lengthy pretrial detention remained a problem. Persons accused of crimes could be imprisoned for several years before being charged or tried, particularly those who were arrested in the provinces for felonies and transferred to prison in N'Djamena. Lengthy pretrial detention resulted from a weak judiciary, which functioned poorly in urban areas and was generally ignored outside of the capital.

*Amnesty.*—On January 14, 175 prisoners were pardoned following a New Year's amnesty declared by the president.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, and subject to executive interference. Intimidation and violence against judicial members were also problems, and members of the judiciary sometimes received death threats or were demoted or removed from their positions for not acquiescing to pressure from officials. Courts were generally weak and in some areas nonexistent or nonfunctional. For example, there were only 150 judges in the country and all had to hand-write court documents. The constitution mandates that the Superior Council of Magistrates recommend judicial nominees and sanction judges who commit improprieties; however, the Government prevented any sanctions from being considered or carried out. A judicial oversight commission has the power to conduct investigations of judicial decisions and address suspected miscarriages of justice; however, the president appointed commission members, which increased executive control over the judiciary and diminished the authority of the superior council. Some members of the Supreme Court, Constitutional Court, and Court of Appeals were appointed by the Government rather than popularly elected as required by law, which further weakened judicial independence.

During the year the justice minister organized a variety of trips around the country to evaluate the judicial system personally; most results of those visits were not made public.

Government officials, particularly members of the military, had impunity (see section 4). During the year there were reports that the mayor of Abeche prevented the enforcement of sentences delivered by the court. According to one report, persons detained on criminal charges in the East and sent to N'Djamena for prosecution later reappeared in military uniform in Abeche.

Applicable law was sometimes confusing, as courts tended to blend the formal French-derived legal code with traditional practices, and customary law often superseded Napoleonic law in practice. Residents of rural areas often lacked access to formal judicial institutions, and legal reference texts were not available outside the capital or in Arabic. In most minor civil cases, the population relied on traditional courts, over which village chiefs, canton chiefs, or sultans presided. Penalties in traditional courts varied and sometimes depended on the clan affiliation of the victim and perpetrator. Decisions of traditional courts can be appealed to a formal court. During the year the UN conducted a program to train local chiefs and officials on mediation techniques and practices.

The law provides that crimes committed by military members be tried by a military court; however, no such courts existed.

*Trial Procedures.*—The law provides for a presumption of innocence; however, in practice many judges assumed a suspect's guilt, sometimes as a means to extort money from the defendant. For example, in the few cases of rape that reached the courts, defendants were fined rather than tried as a means to extort money. Trials are public and use juries, except in politically sensitive cases. Defendants have the right to be present in court. They also have the right to consult an attorney in a timely manner; however, in practice detained persons were not always given access to counsel. The law states that indigents should be provided promptly with legal counsel, but this seldom occurred in practice. Human rights groups sometimes provided free counsel to indigent clients. Defendants, their lawyers, and judges are permitted by law to question witnesses. Defendants have the right to present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases, except in politically sensitive cases. Defendants have the right to appeal decisions. The law extends these rights to all citizens.

Local leaders decide in a particular case whether to apply the Islamic concept of *dia*, which involves a payment to the family of a crime victim. The practice was common in Muslim areas. Non-Muslim groups, which supported implementation of a civil code, continued to challenge the use of the *dia* concept, arguing that it was unconstitutional.

*Political Prisoners and Detainees.*—The Government held political detainees and prisoners during the year; however, the absence of statistics and records made it difficult to ascertain how many were held.

*Civil Judicial Procedures and Remedies.*—The judiciary reportedly was not always independent or impartial in civil matters. There are administrative and judicial remedies available such as mediation for alleged wrongs. Suits for human rights violations may be brought before the penal tribunal or the penal court; compensation is addressed in the civil court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution provides for the right to privacy and inviolability of the home; however, the Government conducted illegal searches and wiretaps, monitored private mail and e-mail, and continued home demolitions in N'Djamena. Security forces regularly stopped citizens and extorted money or confiscated belongings.

In June the Government demolished homes, businesses, NGO headquarters, and government facilities as part of its ongoing urban renewal efforts in N'Djamena. The demolitions, which began in 2008, have left tens of thousands of persons without shelter or means of earning income. Citizens charged that the Government had not given proper advance notification of the home demolitions, although the Government claimed that citizens had not heeded notifications to move. The Government provided compensation to those with deeds; however, critics charged that the compensation was inadequate and not available to all. New construction to replace demolished housing began during the year, but many newly homeless persons were living in vacant lots at year's end.

The Ministry of Public Security and Immigration maintained an emergency-era ban on both the possession and use of satellite telephones. Military and police personnel searched for and confiscated satellite telephones.

Unlike in previous years, there were no reports that police arrested family members of suspects.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of opinion, expression, and of the press, with restrictions if public order, good morals, or the rights of others are affected; however, the Government did not always respect these rights, although press freedom improved during the year. The constitution also prohibits propaganda of an ethnic, regionalist, or religious nature that affects national unity or the secular nature of the state. Journalists and publishers practiced self-censorship.

Individuals who publicly criticized the Government said they risked reprisals, and the Government reportedly attempted to control criticism by intimidating critics and monitoring opposition meetings.

On August 18, the National Assembly adopted a new law on press freedom, Law No. 17, and rescinded Ordinance 5, the 2008 presidential decree that placed state-of-emergency restrictions on speech and press. Most observers welcomed the new law, which decriminalizes many press offenses as well as the specific crime of offending the head of state. However, others criticized provisions that prohibit journalists or newspapers from inciting racial or ethnic hatred or condoning violence, for which penalties include jail sentences of up to one year, fines of up to one million CFA (\$2,000 dollars), or a six-month suspension of publication.

Some journalists in rural areas reported that government officials warned them not to engage in political reporting on contentious subjects. In addition some domestic journalists claimed the Government restricted their ability to cover events or visit certain locations and limited their access to high-ranking officials, restrictions the Government did not impose on foreign journalists.

On January 6, an N'Djamena court ordered the suspension of the opposition publication *La Voix du Tchad* following the High Council for Communications (HCC) order that it cease publication in December 2009 because it was not licensed. The newspaper was permitted to resume publishing in mid-January.

In the October 14 to 17 edition of the local newspaper N'Djamena Bi-Hebdo, the publishers included an article comparing southern Sudan with southern Chad. The prime minister called the article "dangerous" and asked the HCC to act on the matter. On October 19, the HCC met with journalists and warned N'Djamena Bi-Hebdo in particular and all media houses in general to "observe ethics rules" by not printing articles that risked inciting hatred, violence, or separatist sentiment.

Unlike in the previous year, there were no reports of foreign journalists being deported.

Radio remained the most important medium of mass communication. Government-owned Radiodiffusion Nationale Tchadienne had several branches. There were

numerous private radio stations that broadcast throughout the country; many of them were owned by religious organizations, including four stations affiliated with the Catholic NGO BELACD.

The licensing fee set by the HCC for a commercial radio station remained prohibitively high at approximately five million CFA (approximately \$10,000) per year, 10 times the fee for radio stations owned by nonprofit NGOs. The HCC monitored and censored the content of radio station programming.

The Government owned and operated the only domestic television station but did not interfere with reception of channels originating outside the country.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, the Government reportedly monitored e-mail. Although increasingly available to the public at Internet cafes, most persons could not afford Internet access. Lack of infrastructure limited public access elsewhere. According to International Telecommunication Union statistics for the year, approximately 1.19 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, with restrictions if the rights of others, public order, and morals are affected; unlike in the previous year, the Government generally respected this right. The law requires organizers of demonstrations to notify the Government five days in advance.

*Freedom of Association.*—The constitution and law provide for freedom of association, with restrictions if the rights of others, public order, and morals are affected, and the Government respected this right in practice.

An ordinance requires prior authorization from the Ministry of Territorial Administration before an association, including a labor union, may be formed; however, there were no reports that the ordinance was enforced. The ordinance also allows for the immediate administrative dissolution of an association and permits authorities to monitor association funds.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—Although the constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, the Government imposed limits on these rights.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, and other persons of concern.

The Ministry of Territorial Administration required foreigners, including humanitarian agency personnel, to obtain authorization to travel to the eastern part of the country.

Security forces, bandits, and, to a lesser extent than in previous years, rebel groups continued to maintain roadblocks, extorting money from travelers, often beating and in some cases killing them.

Armed bandits, herders involved in cross-border conflict over resources, and rebel groups along the border with CAR continued to hinder free movement in the region.

The law prohibits forced exile, and the Government did not use it.

The Government continued active negotiations with rebel groups to convince them to renounce their rebel associations and integrate into the ANT or civilian life. Returning rebels who gave up former affiliations were not arrested or threatened with arrest, although rebels captured without surrendering were detained. During the year hundreds of rebel fighters returned voluntarily from Sudan; in 2009 between 2,000 and 3,000 rebels returned to the country. However, rebel fighters remained in Sudan at year's end.

*Internally Displaced Persons (IDPs).*—Approximately 170,000 IDPs, most of whom were displaced in 2005 as a result of interethnic fighting over scarce water and land resources during drought, resided in 38 camps in the country. Many IDPs were reluctant to return to their original homes, which often had been resettled by other groups and frequently provided less access to potable water and primary health care. The Government continued to allow IDPs access to humanitarian organizations and permitted them to accept assistance provided by these groups. Although UN and humanitarian organizations operated in the country during the year, lack of security lessened their ability to provide services to IDPs and refugees.

Sexual violence against displaced women and girls in the eastern part of the country was a problem. Four ANT soldiers reportedly raped an IDP during the year, and there were reports that organized groups and bandits raped IDPs. While in the past such violence was primarily perpetrated by soldiers, rebels, and bandits, during the year such attacks were perpetrated primarily by unemployed male IDPs. Observers commented that male IDP inability to obtain livelihoods contributed to domestic violence.

As in the rest of the country, perpetrators of sexual violence rarely were prosecuted, and government efforts to protect vulnerable women were inadequate. However, the Government conducted extensive sensitization campaigns against sexual violence and urged women to come forward without fear of reprisal.

Although there were more than 70 international humanitarian organizations in the eastern part of the country, there were gaps in their protection mechanisms as well. For example, victims of sexual violence may need a medical certificate to proceed with a legal case, but they struggled to get these certificates from NGO doctors wary of engaging in court processes. The mobile courts organized by the UN only made occasional visits to each area and rarely addressed sexual violence cases.

Tension between IDPs and local communities existed. IDPs generally were located near internationally provided potable water and health services, which sometimes created resentment in host communities that did not receive such services.

Tens of thousands of persons lost their homes and means of livelihood as a result of the Government's ongoing urban renewal program in N'Djamena (see section 1.f.).

*Protection of Refugees.*—The country's laws do not provide for the granting of asylum or refugee status; however, the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

By September approximately 270,000 Sudanese refugees from Darfur remained in the country, most located in 12 camps along the eastern border with Sudan. Approximately 80,000 refugees from CAR lived primarily in five camps in the south, and approximately 5,000 refugees of various nationalities lived in urban areas.

Insecurity in the East, including rebel and bandit attacks, hindered the ability of humanitarian organizations to provide services to refugees. NGO workers traveling between camps frequently were victims of carjackings and armed robberies.

The UNHCR and its partner organizations continued to express concern regarding the potential for militarization of refugee camps by Sudanese and Chadian rebels, particularly camps located close to the border. The recruitment of some refugees, including children, into rebel armed groups continued (see section 6).

Anti-refugee sentiment among citizens living in refugee-affected areas was high. Children who were refugees or IDPs often had better access to education and health services than those in surrounding local populations due to extensive humanitarian interventions on their behalf. Resentment between citizens and refugees also occurred due to competition for local resources such as wood, water, and grazing land, and because Sudanese refugees received goods and services that were not available to the local population.

Reports of refugees being raped continued. According to the UNHCR, there were 32 rapes of refugee women or girls between January and October. In the majority of the cases, the perpetrators were either fellow refugees or unknown individuals just outside the camps. In 2009 the NGO Physicians for Human Rights documented cases of refugee rape inside and outside of refugee camps. There were reports that organized groups, bandits, and other refugee groups committed the rapes. Unlike in the previous year, however, there were no reports that NGO staff members were responsible for raping refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Although the constitution and law provide citizens with the right to change their government, the Government continued to limit this right in practice. The executive branch dominated the other branches of government.

*Elections and Political Participation.*—In 2006 President Idriss Deby Itno, leader of the ruling MPS, was elected to a third term in what unofficial observers characterized as an orderly but seriously flawed election boycotted by the opposition. Deby has ruled the country since taking power in a 1990 coup.

Due to technical problems in meeting the electoral deadline, the Independent National Electoral Commission postponed legislative elections scheduled for November 28 and municipal elections scheduled for December 5 until 2011. The commission

oversaw a voter registration drive and worked with the permanent election bureau to develop voter lists and voter cards.

There were approximately 120 registered political parties. The main opposition coalition was well treated, in part to provide proof that the country had a multiparty system; however, smaller opposition parties were subjected to government interference. Northerners, particularly members of the Zaghawa ethnic group, including the Bideyat subclan to which the president belongs, were overrepresented in key institutions of state power, including the military officer corps, elite military units, and the presidential staff. Opposition leaders accused the Government of denying funds and equal broadcast time on state-run media.

Unlike in the previous year, there were no reports that opposition leaders were harassed, co-opted to run as MPS members in local elections, or pressured to cross the aisle in the National Assembly. There also were no reports that the military intimidated party members who refused to cooperate.

There were 10 women in the 155-seat National Assembly. Nine of the 41 ministers in the cabinet were women. Both the cabinet and the National Assembly had diverse ethnic representation.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for corruption; however, the Government did not implement the law effectively, and corruption was pervasive at all levels of government. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

Police were unable to address internal security problems effectively, including widespread banditry and arms proliferation. Police and gendarmes extorted payments from motorists with impunity. In November, in an effort to curb such extortion and combat the high cost of living, President Deby ordered the dismantling of all military checkpoints in the country, and many had been dismantled by year's end.

Official impunity, particularly for the military and other influential persons, was common. For example, members of the Judiciary Police did not enforce domestic court orders against the armed forces or members of their own ethnic groups. Judicial lack of independence and corruption also were problems.

The Ministry of Moralization is responsible for fighting corruption.

During the year the Government investigated several officials connected to various 2009 corruption scandals, including a school textbook scandal involving 1.5 billion CFA (\$3 million) in false contracts. During the year all 141 government officials investigated in connection with this and 34 other 2009 cases of embezzlement and misappropriation were released; in most cases, charges were dropped.

In January the High Court formally investigated seven ministers in connection with the textbook scandal. By early February, former minister of education Abdramane Koko, former deputy minister of finance Oumar Boukar Gana, and former minister and secretary-general of the Government Limane Mahamat had been dismissed for corruption. By year's end, charges had been dropped against ministers Gana, Mahamat, and Koko. The National Assembly elected not to call for cases against four other ministers arrested in connection with the scandal—former deputy education minister Khadidja Hassaballah, former health minister Ngombaye Djaibe, and former deputy agriculture minister Fatime Ramadan. Former secretary-general of the presidency Haroun Kabadi, also implicated in the textbook scandal, was released on February 16 and appointed special advisor to President Deby on July 7. Sixteen other government officials from the Ministries of Finance and Education arrested in connection with the case also were freed for lack of evidence.

In a separate corruption case, Mahamat Zen Bada, a former mayor of N'Djamena, and his 10 associates, who were arrested and removed from office in 2009, also were released with all charges dropped.

In 2009 the College for the Control and Monitoring of Oil Resources, a committee established to involve civil society in the management of oil revenues, identified deficiencies that included insufficient coordination between ministries and local officials, lack of qualified personnel to implement and oversee poverty reduction projects, and the inability of the Government to complete fully or to provide sufficient resources for ongoing projects. The Government had taken no clear action on findings in the college's previous reports by year's end.

The Government took no action regarding an August 2009 report by the International Crisis Group charging that the Government did not award contracts transparently for public works built with oil revenues, which increased corruption and cronyism. The report also stated that the Government had gradually reduced the role of the College for the Control and Monitoring of Oil Resources.

On July 16, the Government held training sessions for local officials on ethics and good governance; governors from the 22 regions attended the sessions.

Public officials were subject to financial disclosure laws; however, the law was not enforced, and officials did not disclose their financial status.

The law does not provide for public access to government information, although the Government provided such access to government-employed journalists. The Government makes its budget partially available to the public; however, it did not disclose a large portion of expenditures in the published budget. Independent media journalists stated that they were not given sufficient access to government information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Government officials generally were accessible to human rights advocates but occasionally were unresponsive or hostile to their findings; however, unlike in the previous year, there were no reports that the Government actively obstructed the work of domestic human rights organizations. Despite pressure from the Government, such groups were able to investigate and publish their findings on human rights cases.

There were two principal local human rights organizations, ATPDH and the LTDH. These and smaller human rights organizations worked together through an umbrella organization, the Association for Human Rights. Human rights groups were outspoken in publicizing abuses through reports, press releases, and the print media; however, they rarely were able to intervene successfully with authorities.

Unlike in the previous year, there were no reports that the Government arrested or harassed NGO employees.

On March 9 to 11, the Government held its first forum on human rights to address problems and develop a government action plan. Led by Minister of Human Rights Abdraman Djasnabille, government ministers, national and local government officials, military leaders, traditional chiefs, local civil society representatives, and members of domestic and international human rights organizations attended the forum. Violence against women, arbitrary arrest, police brutality, prisoner abuse, continued recruitment of child soldiers, and official impunity were among the problems addressed.

Violent attacks by armed groups and bandits against humanitarian and human rights NGO workers increased during the year. Such workers were kidnapped, their vehicles hijacked, their convoys looted, and their offices plundered. Humanitarian organizations were forced to suspend or limit their activities temporarily—including food distribution to refugees and IDPs.

On June 6, in Abeche, armed bandits kidnapped Hubert Blama, an employee of the British NGO Oxfam; Blama was released on June 16. The kidnapping reportedly was perpetrated to embarrass the president.

On February 6, ICRC international staff member Laurent Maurice was released in Darfur, Sudan after being held for 89 days; Maurice was kidnapped in Kawa in November 2009 by armed members of a Sudan-based group.

There were no developments regarding the 2008 killing of NGO Save the Children director Pascal Marlinge.

The Government cooperated with international governmental organizations and permitted visits by UN representatives. A delegation from the Geneva-based UN Commission on Human Rights visited and evaluated the possibility of opening an office in the country. In contrast to previous years, there were no reports that the Government obstructed the work of international human rights organizations, such as Human Rights Watch.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Although the constitution and law prohibit discrimination based on origin, race, gender, religion, political opinion, or social status, the Government did not effectively enforce these provisions.

*Women.*—Rape is prohibited and punishable by hard labor; however, rape, including of female refugees, was a problem (see section 2.d.); no reliable data on the extent of the problem was available. The law does not specifically address spousal rape. Although police often arrested and detained perpetrators, rape cases usually were not tried, and most suspects were released. Cultural norms often forced women and unmarried girls to marry their attackers to preserve their honor.

Although the law prohibits violence against women, domestic violence, including spousal abuse, was common. Wives traditionally were subject to the authority of their husbands and they had limited legal recourse in case of abuse. Although family or traditional authorities could provide assistance in such cases, police rarely in-

tervened, although traditional leaders often did. During the year some women began reporting cases of violence and abuse to local human rights organizations. Information on the number of abusers who were prosecuted, convicted, or punished was unavailable.

In some areas girls and women may not visit the site where an initiation ceremony is to take place. If a woman or girl violates this prohibition, she may be killed by village leaders under traditional custom, although there were no reports of this occurring during the year.

During the year the Government, with assistance from the UN, launched an awareness campaign to combat gender-based violence. This included raising awareness regarding rape, sexual harassment, FGM, discrimination against women, and early marriage.

The law does not prohibit sexual harassment, and such harassment was a problem.

The law provides for the right of couples and individuals to decide freely and responsibly the number and spacing of their children, as well as to have access to information regarding birth control methods. However, many persons lacked access to medical care, particularly those in rural areas. Couples lacked access to contraception, and only 14 percent of childbirths were assisted professionally. Based on 2008 statistics, the ratio of midwives to women of childbearing age was one to 14,800. The incidence of maternal mortality was 1,500 per 100,000 live births. Approximately 10 percent of married women in N'Djamena used contraceptives during the year; 5 percent of women in towns and 0.4 percent of women in the countryside used contraception. Women were equally diagnosed and treated for sexual transmitted infections, including HIV; treatment was free.

Discrimination against women and exploitation of women were widespread. Although property and inheritance laws do not discriminate against women, local leaders adjudicated most inheritance cases in favor of men, according to traditional practice. The Ministry of Social Action and Women is responsible for addressing gender-related issues. Women did not have equal opportunities for education and training, making it difficult for them to compete for formal sector jobs. Women experienced economic discrimination in access to employment, credit, and pay equity for substantially similar work, and in owning or managing businesses due to cultural norms that favored men.

The law states that persons of the required legal age have the right, in accordance with the law, customs, and mores, to decide whether to be married. The law does not address polygyny, but husbands may opt at any time to declare a marriage polygynous. If a husband takes a second wife, the first wife has the right to request that her marriage be dissolved, but she must repay her bride price and other marriage-related expenses.

*Children.*—Citizenship is derived by birth within the country's territory and from ones' parents; however, children born to refugees from Sudan were not always considered citizens. Children born to refugees from CAR generally were granted Chadian citizenship. The Government did not register all births immediately, and it was unclear whether a birth certificate was required to attend school. By law education is universal and free, and primary education is compulsory between the ages of six and 11; however, parents were often required to pay tuition to public schools beyond the primary level. Parents also were required to pay for textbooks, except in some rural areas. Parent-teacher associations hired and paid approximately half of teachers, without government reimbursement. Schools did not exist in many locations. Only 37 percent of children completed primary education. According to the World Bank Development Indicators Database, only six girls for every 10 boys attended primary school. Most children did not attend secondary school, where enrollment of girls was also lower than that of boys.

Several human rights organizations reported on the problem of the mouhadjirin, children who attended certain Islamic schools and were forced by their teachers to beg for food and money. Children with discipline problems were often sent to these schools by their parents, who hoped the harsh conditions would ameliorate behavioral problems. There was no reliable estimate of the number of mouhadjirin.

Child abuse remained a problem.

The law prohibits FGM; however, the practice was widespread, particularly in rural areas. According to a 2004 report by the Governmental National Institute of Statistics, Economic, and Demographic Studies, 45 percent of females had undergone excision. According to the survey, 70 percent of Muslim females and 30 percent of Christian females were subjected to FGM. The practice was especially prevalent among ethnic groups in the East and South. All three types of FGM were practiced. The least common but most dangerous and severe type, infibulation, was confined

largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

FGM could be prosecuted as a form of assault, and charges could be brought against the parents of FGM victims, medical practitioners, or others involved in the action. However, prosecution was hindered by the lack of specific penalty provisions in the penal code. There were no reports that any such suits were brought during the year. The Ministry of Social Action and Family was responsible for coordinating activities to combat FGM. The Government, with assistance from the UN, continued to conduct public awareness campaigns to discourage the practice of FGM and highlight its dangers as part of its efforts to combat gender-based violence. The campaign encouraged persons to speak out against FGM and other forms of abuse against women and girls. The president's wife played a major role during the year in raising awareness of violence and other human rights abuses faced by women and children.

Although the law prohibits sexual relations with a girl younger than 14 years old, even if she is married, the ban rarely was enforced. Families arranged marriages for girls as young as 12 or 13 years old; the minimum legal age for engagements is 11 years old. The law prohibits forced marriages of anyone younger than the age of 18 and provides for imprisonment of six months to two years and a fine of 50,000 to 500,000 CFA (\$100 to \$1,000). However, forced marriage of girls was a serious problem, including among refugees. The custom of buying and selling child brides was widespread. Girls that objected to being forcibly married often suffered physical assaults by their family members and their husband. Many young wives were forced to work long hours for their husbands in the fields or home.

The law prohibits the use of child soldiers, and the Government discontinued all conscription of child soldiers and continued efforts to demobilize all remaining children from security forces and rebel groups. However, armed groups, both Chadian and from Sudan, continued to recruit children from refugee camps along the eastern border, although such incidents had sharply decreased by year's end. MINURCAT reported that in April, JEM recruits from refugee camps in the East included children.

From June 7 to 9, the country hosted a regional conference to end recruitment and use of children in armed conflict. The conference was organized with support from UNICEF and included official delegations from Cameroon, CAR, Niger, Nigeria, and Sudan. UNICEF publicly stated that Chad's progress on addressing child soldiers had made it a regional leader on the issue. All conference participants signed the N'Djamena Declaration, pledging to eliminate the recruitment and involvement of children in armed forces, armed groups, and in all forms of hostilities. A follow-up committee to implement the declaration met and continued to work through year's end.

The Government continued to transfer children associated with returning rebel groups to UNICEF for reintegration and rehabilitation during the year. On the eve of the conference, for example, the Government facilitated the release of 45 new child soldiers from rebel groups into UNICEF's care. The Government cooperated with international efforts to provide rehabilitation services.

Armed bandits kidnapped children to obtain ransom in the Mayo-Kebbi Ouest Region (see section 1.b.).

In October members of the NGO Zoe's Ark, who had been charged with abduction of Chadian children in 2007, appeared before a court in France; in 2008 the president of Chad had pardoned those involved.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known Jewish community, nor were there any reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities, and while the Government made efforts to enforce this prohibition in N'Djamena, it was unable to do so throughout the country. There were no laws or programs to assure access to buildings for persons with disabilities; however, the Government operated a few education, employment, or therapy programs for such persons.

The country had numerous persons with disabilities related to polio, and many such persons held ranking positions in the Government.

The Government, in conjunction with NGOs, continued to sponsor an annual day of activities to raise awareness of the rights of persons with disabilities. The Ministry of Social Action and Family is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—There are approximately 200 ethnic groups, many of which were concentrated regionally. They speak 128 distinct primary languages. Most ethnic groups were affiliated with one of two regional and cultural traditions—Arabs and Muslims in the north, center, and east, and Christian or animist groups in the south; however, internal migrations in response to urbanization and desertification resulted in the integration of these groups in some areas.

Interethnic violence continued, particularly in the east and south. Clashes between herders and sedentary populations and other interethnic violence continued, often related to competition for increasingly scarce arable lands due to desertification.

Societal discrimination was practiced routinely by members of virtually all ethnic groups and was evident in patterns of employment. The law prohibits government discrimination on the basis of ethnicity, although in practice ethnicity continued to influence government appointments and political alliances. Political parties and groups generally had readily identifiable regional or ethnic bases.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no known lesbian, gay, bisexual, and transgender (LGBT) organizations. There were few reports of violence or discrimination against LGBT persons, in large part because most such persons were discreet about sexual orientation due to social and cultural strictures against homosexuality. The law prohibits but does not define “unnatural acts,” and there was no evidence that the law was used against LGBT persons during the year.

*Other Societal Violence or Discrimination.*—The law provides for persons with HIV/AIDS to have the same rights as those without HIV/AIDS and obligates the Government to provide information, education, and access to tests and treatment for persons with HIV/AIDS; however, societal discrimination against persons living with HIV/AIDS continued. Government officials were not always well informed on educating such persons on their rights and treatment options. Women were accused occasionally of passing HIV to their husbands and were threatened by family members with judicial action or banishment.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows all employees except members of the armed forces to form or join unions of their choice without excessive requirements, but the authorization of the Ministry of Territorial Administration is required; there were no reports that the authorization requirement was enforced during the year. The Ministry of Territorial Administration can also order the immediate administrative dissolution of a union.

In the formal sector, more than 90 percent of employees belonged to unions; however, the great majority of workers were self-employed, nonunionized, unpaid, subsistence cultivators or herders. The Government, which owned enterprises that dominated many sectors of the formal economy, remained the largest employer.

The law recognizes the right to strike but restricts the right of civil servants and employees of state enterprises to do so. Civil servants and employees of state enterprises, including civil servants and teachers, must complete a mediation process and notify the Government before striking. Employees of several public entities deemed essential must continue to provide a certain level of services. According to an International Trade Union Confederation report published during the year, the definition of essential services is overly broad. The law permits imprisonment with forced labor as punishment for participation in illegal strikes, but no such punishment was imposed during the year.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to organize and bargain collectively, and the Government protected these rights. Although there are no restrictions on collective bargaining, the law authorizes the Government to intervene under certain circumstances. There were no reports of restrictions on collective bargaining during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution states that persons cannot be held as slaves or in servitude, and the law prohibits forced or compulsory labor, including by children; however, forced labor, particularly by children, occurred in the informal sector. There were no reports of forced labor practices in the formal economy, but children and adults in the rural sector were involved in forced agricultural work and domestic servitude.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code stipulates that the minimum age for employment is 14 years, except that children may work as apprentices beginning at the age of 13. However, the Government did not enforce the law, and child labor, including forced child labor, was a serious problem. The low legal minimum age for employment, lack of mandatory schooling past the age of 11, lack of any schooling opportunities in some areas, and tribal initiation rites rendering children informally adults by the age of 14 contributed to a general perception that child labor did not constitute exploitation unless the victims were less than age 13 or 14 years old.

The majority of forced child laborers were subjected to domestic servitude; forced begging; forced labor in cattle herding and fishing; and street vending. Children were trafficked to Cameroon, the Central African Republic, and Nigeria for forced cattle herding. Girls sold or forced into child marriages were forced by their husbands into domestic servitude and agricultural labor.

The law prohibits the use of child soldiers, and the Government discontinued all conscription of child soldiers and continued efforts to demobilize all remaining children from security forces and rebel groups. UNICEF stated that it could not rule out the occasional use of children in the ANT in noncombat roles; but it maintained that, during the year, the ANT had ceased using children in combat and that it did not recruit children. However, armed groups, both from Chad and Sudan, continued to recruit children from refugee camps along the eastern border, although such incidents had decreased sharply by year's end. MINURCAT reported that in April, JEM recruits from refugee camps in the East included children (see section 6).

The country's numerous child herders working outside of traditional herding clans often lived in substandard conditions without access to school or proper nutrition. These herders customarily were given one cow as payment for a year's work, but herd managers often refused to pay this salary, or the child's parents collected the payment for themselves. Children from the south occasionally were kidnapped and transferred to the northeast, near the border with Sudan, to be used as herders.

An estimated 20 percent of children between the ages of six and 18 worked in exploitive labor in the urban informal sector, according to a study published in 2005 by the NGO Human Rights Without Borders. Children regularly were employed as herders, domestics, crop-pickers, and panners for gold. They also were employed in the commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Children worked as domestic servants, mainly in the capital.

A 2005 UNICEF-government survey of child domestics in N'Djamena noted that 62 percent were boys, 24 percent were between eight and 14 years of age, 68 percent were between the ages of 15 and 17, and 86 percent were illiterate. Local human rights organizations reported an increase in the number of child domestic workers during the year.

Children who attended certain Islamic schools were sometimes forced by their teachers to beg for food and money.

Some young girls were forced into marriages by their families and then compelled to work in their husbands' fields or homes while they were still too young to do so safely.

The Office of Labor Inspection is responsible for enforcement of child labor laws and policies; however, no prosecutions were conducted during the year. As in previous years, the office reportedly had no funding to carry out field work and investigations. Police reportedly used extrajudicial actions against traffickers and child labor offenders, including beatings and imposing unofficial fines. Traditional leaders also sometimes meted out traditional punishments, such as ostracism.

The Government did not have a comprehensive plan to eliminate the worst forms of child labor; however, the Government continued to work with UNICEF and NGOs to increase public awareness of child labor. In addition the campaign continued to educate parents and civil society on the dangers of child labor, particularly for child herders, who often were sent to distant locations where they were abused.

On December 1, in a speech commemorating Freedom and Democracy Day, President Deby admonished parents who forced their children to herd instead of sending them to schools.

*e. Acceptable Conditions of Work.*—The labor code requires the Government to set minimum wages, and the minimum wage at year's end was 28,000 CFA (\$56) per month; however, this standard was generally ignored. The minimum wage did not provide a decent standard of living for a worker and family, although wage levels were raised during the year. Nearly all private sector and state-owned firms paid

at least the minimum wage, but it was largely ignored in the vast informal sector. Salary arrears remained a problem, although less so than in previous years. The law limits most employment to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year, an average of 46 hours per week. All workers were entitled to unbroken rest periods of between 24 and 48 hours; however, workers did not always avail themselves of these rights, largely because they preferred the additional pay.

The labor code mandates occupational health and safety standards and gives inspectors the authority to enforce them; however, these standards were generally ignored in the private sector and in the civil service.

Workers had the right to remove themselves from dangerous working conditions; however, in practice, with so few jobs available in the formal sector, doing so for any reason often meant jeopardizing their employment. The labor code explicitly protects all workers, including foreign and illegal workers, but the protections provided were not always respected in practice.

---

## COMOROS

The Union of the Comoros is a constitutional, multiparty republic of 770,000 citizens. The country consists of three islands—Grande Comore, Anjouan, and Moheli—and claims a fourth, Mayotte, which France governs. In 2006 citizens elected Ahmed Abdallah Mohamed Sambi as Union of the Comoros president in polling international observers described as generally free and fair. This was the first peaceful and democratic transfer of power in the country's history. In 2008 the Union Army of National Development, with African Union support, launched a successful and bloodless military action resulting in the removal of former Anjouan president Mohamed Bacar, who fled the country. Bacar had ruled Anjouan by force since declaring himself the winner of an illegal election in 2007. Moussa Toybou was elected president of Anjouan in a generally free and fair process in 2008. In November and December 2010, elections were held to choose a new Union president as well as governors for each of the three islands. Although some observers noted some serious irregularities on the island of Anjouan, these were not sufficient to change the outcome, and the results of the elections were upheld by the Comoran Constitutional Court. Security forces reported to civilian authorities.

Human rights problems on all three islands included poor prison conditions; restrictions on freedom of movement, press, and religion; official corruption; discrimination against women; child abuse; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports the Government or its agents committed any politically motivated killings. However, on June 12, Colonel Combo Ayouba, a senior officer in the Comoran army, was killed at his home in Moroni. At year's end, an investigation was ongoing, and the chief of staff of the Comoran Defense Forces was under house arrest for his possible role in the killing (see section 1.d.).

There were no further developments in the 2008 death from injuries inflicted during torture of Nadiati Soimaddine.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and laws prohibit such practices, and there were no reports government officials employed them.

In 2009 the Comoros Human Rights Foundation interviewed victims of the Bacar regime and was preparing evidence to prosecute those responsible for the 2008 abuses. Most cases involved the torture of detainees. However, there were no further developments in any of these 2008 cases, including the arrest of Mohamed Attoumane, the arrest and torture of Soulaimana Bacar and several friends, the detention and beating of Attoumane Houmadi, and the arrest and torture of Abdallah Ahmed Ben Ali.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. Common problems included inadequate sanitation, overcrowding, inadequate medical facilities, and poor diet.

There were approximately 130 prisoners incarcerated in the country's only prison in Moroni, which can accommodate a maximum of 150 under crowded conditions.

At year's end two female prisoners were being held; two juveniles were also being held.

During the year there were no recorded deaths of prison inmates.

Authorities held pretrial detainees with convicted prisoners.

Prisoners and detainees were permitted reasonable access to visitors and permitted religious observance, but only if they were Muslim. The prisoners could also bring complaints to the attention of authorities; however, investigations or follow-up actions almost never occurred.

The Government permitted visits by independent human rights observers. Representatives from the Red Crescent visited the prison in Moroni in June. As a result of the visit, the Red Crescent is working on a project to provide a cistern and to repair the latrines.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Six separate security forces report to four different authorities. Union forces include the Army of National Development, the Gendarmerie, and the National Directorate of Territorial Safety (immigration and customs). Each of the three islands also has a police force under the authority of its Ministry of Interior.

Impunity was a problem, and there was no mechanism to investigate police abuses. Police and security forces participated in training on civil-military relations, public health, and peacekeeping operations.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants for arrests and provides for detainees to be held for 24 hours, although these provisions were not always respected in practice. The prosecutor must approve continued detention. A tribunal informs detainees of their rights, including the right to legal representation. The law provides for the prompt judicial determination of the legality of detention, and detainees must be promptly informed of the charges against them. In practice these rights were inconsistently respected. There is a bail system under which the individual is not permitted to leave the country. Some detainees did not get prompt access to attorneys or families. The law also requires the state to provide an attorney for indigent defendants, but this rarely occurred.

By year's end all but one of the 50 officials of the Bacar regime arrested in 2008 had been released.

Pretrial detention was a problem, with approximately 20 percent of the prison population awaiting trial for extended periods for reasons including administrative delays, case backlogs, and time-consuming collection of evidence. By law pretrial detainees can be held for only four months, but this period could be extended. Some extensions lasted several months.

On August 31, the Government put General Mohamed Amiri Salimou, chief of staff of the Comoran Defense Forces, under house arrest for his possible role in the killing of Colonel Combo Ayouba (see section 1.a.). Salimou's lawyers insisted that the penal code does not give authorities the right to forbid the general from moving about freely or communicating with the outside world. They claimed that the general's detention was a pretext to allow the president to remove him from his position. In addition to General Salimou, approximately 30 military personnel were arrested and held in military prisons. Of these all but four have since been released. At year's end, the four were being held in Moroni's prison, three of them in solitary confinement, and the investigation was ongoing.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice; however, judicial corruption was a problem.

*Trial Procedures.*—The law provides for the right to a fair trial for all citizens. Under the legal system, which incorporates French legal codes and Sharia (Islamic law), trials are open to the public and defendants are presumed innocent. Juries deliberate criminal cases, and there is an appeal process. Defendants have the right to be present, to access government-held evidence, and to consult with an attorney in a timely manner. The law allows defendants to question witnesses and present their own witnesses. Defendants can also present evidence on their own behalf. In practice these rights were inconsistently respected.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent but not impartial judiciary for civil matters; formal courts had insufficient resources and were also corrupt, frequently asking for bribes in return for favorable rulings. Adminis-

trative remedies were rarely available, although citizens with influence had access to such alternatives. Court orders were inconsistently enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Union government partially limited press freedom by public criticism of journalists who wrote controversial articles, and journalists on all three islands practiced self-censorship.

Individuals could generally criticize the Union government publicly or privately without reprisal.

There is one government-supported newspaper and six independent newspapers. One government radio station operated on a regular schedule. Small community radio stations operated on all three islands without government interference. Residents also received Mayotte Radio and French television.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 3.59 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government did not always respect this right.

On February 8, security forces used tear gas and rubber bullets to disperse a march in Moroni by students and teachers protesting the country's educational policy. The students were marching to support teachers in a compensation dispute.

On March 16 and 17, and April 23, security forces used batons, tear gas, and rubber bullets to disperse demonstrations on Moheli protesting the Government's election policy. Nafissa Abdoulhafar lost her unborn child after being assaulted by security forces during the confrontations, and several other persons were injured. There was no investigation by year's end.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Union government and the three island governments generally respected this right.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country and foreign travel, and the Government generally respected these rights in practice. No specific constitutional or legal provisions deal with emigration and repatriation.

On June 6, political activist Said Larifou (a dual French-Comoran national) was detained at the Moroni airport and refused permission to leave the country. The refusal continued for several months before it was rescinded, although he was allowed to move freely within the country during that time. The authorities did not publicly state a reason for their refusal to allow Larifou to leave the country.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection to internally displaced persons, refugees, asylum seekers, and stateless persons.

The law does not prohibit forced exile, but the Government did not use it.

*Protection of Refugees.*—The country is not party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol relating to the Status of Refugees, or the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law does not provide for the granting of asylum or refugee status in accordance with these conventions, and the Government has not established a system for providing protection to refugees. In practice although very few refugees sought asylum, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The constitution provides for a “rotating” Union presidency in which each island takes a turn at holding a primary for presidential candidates every four years. In 2006 the turn passed to Anjouan; all 12 presidential candidates had to be natives of Anjouan to run in the primary. From the 12 candidates, Anjouan voters selected three to run in the national election, which Ahmed Abdallah Mohamed Sambi won. This year the turn passed to Moheli. From the original 10 candidates (all natives of Moheli), Mohelian voters selected three to run in the national election, which was won by Ikililou Dhoinine. The constitution thus restricts, by island, those eligible to run for the presidency. But aside from the rotation principle, anyone is free to stand for election.

Grande Comore and Moheli held first- and second-round island president (governor) elections in 2007; both elections were considered generally free and fair. Anjouan held its island president (governor) elections in 2008; these were also considered generally free and fair.

In May 2009 voters approved a national referendum on modifications to the constitutional system. The changes affected the titles, powers, and terms of various office holders, including President Sambi, whose term of office was extended. The referendum took place without incident, but it was boycotted by opposition political parties who objected to the proposed changes. The referendum was approved by 94 percent of voters, but turnout was only 52 percent.

In December 2009 legislative elections were held for both the Union national assembly (parliament) and the three island assemblies. These elections were also considered generally free and fair.

In November and December, elections were held to choose a new Union president as well as governors for each of the three islands. Although some observers noted serious irregularities on the island of Anjouan, these were not sufficient to change the outcome, and the final results of the elections were upheld by the Comoran Constitutional Court. Former vice president Ikililou Dhoinine will become the next president of the Union of the Comoros early in 2011.

More than 20 political parties operated without restriction and openly criticized the Union government.

There was one woman in the 33-member national assembly, but none in the cabinet. No minorities held national assembly seats or Union or island ministerial posts.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices such as taking money for performing routine administrative services or doing favors with impunity. Resident diplomatic, UN, and humanitarian agency workers reported petty corruption was commonplace at all levels of the civil service, despite the Government’s anticorruption campaign. Private sector operators reported corruption and a lack of transparency, and the World Bank’s 2009 Worldwide Governance Indicators reflected that corruption was a serious issue.

There was continued corruption in the police force. Citizens paid bribes to evade customs regulations, avoid arrest, and to have police reports falsified. Police personnel paid bribes to receive promotions.

The Union Ministry of Justice is responsible for combating corruption; however, the Government did not prosecute or discipline officials charged with corruption.

Officials were not subject to financial disclosure laws.

There are no laws providing for public access to government information. Those who have personal or working relationships with government officials can generally access government information, but members of the general public cannot.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

One domestic and some international nongovernmental organizations (NGOs) generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. No outside visits were made during the year, but domestic human rights organizations met regularly with locally based UN personnel. No reports or criticisms were issued.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status; however, there was discrimination against women.

*Women.*—Rape is illegal, punishable by imprisonment of five to 10 years or up to 15 years if the victim is younger than 15 years of age. However the Government did not enforce the laws on rape effectively. The law does not specifically address spousal rape, which does occur. Statistics are scarce since many of these situations are settled within families or by village elders without recourse to the formal court system. Although reliable statistics were not available, authorities believe the problem is widespread and overall sexual violence is a problem. For example, more than half of the inmates in Moroni's prison are held for crimes of sexual aggression.

The law prohibits domestic violence. Although there was no reliable data available on the extent of the problem, the Government did not take any concrete action to combat violence against women. While women can seek protection through the courts in such cases, extended family or village elders customarily addressed such problems. Domestic violence cases rarely, if ever, enter the formal court system.

Sexual harassment is illegal and punishable by up to 10 years' imprisonment. Although rarely reported due to societal pressure, such harassment was nevertheless a common problem, and the Government did not effectively enforce penalties against it.

Couples and individuals are generally free to choose the number and spacing of their children. Contraceptive use for modern methods of contraception among married women between the ages of 15 and 49 was approximately 19 percent, according to the UN Population Fund (UNFPA). Existing health resources (including personnel, facilities, equipment, and drugs) are inadequate, making it difficult for the Government to respond to the health needs of the population. According to the Population Reference Bureau, approximately 62 percent of births were attended by skilled personnel. UNFPA estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 340 for 2008. There is a general lack of adolescent reproductive health information and services, leading to unwanted pregnancies and increased morbidity and mortality among adolescent girls. There are no legal barriers preventing women from receiving treatment for sexually transmitted infections, including HIV, but many hesitate to do so for social and cultural reasons. The country recently developed a national strategy for reproductive health but requires additional funding to implement it.

The law provides for equality of persons, and in general inheritance and property rights practices do not discriminate against women. Men retained the dominant role in society, although the matriarchal tradition afforded women some rights, especially in landholding. Land and homes are usually awarded to women in case of divorce or separation. Societal discrimination against women was most apparent in rural areas where women were mostly limited to farming and child-rearing duties, with fewer opportunities for education and wage employment. In urban areas, growing numbers of women were employed and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. The law does not require women to wear head coverings, but many women face societal pressure to do so. The Ministry of Health, Solidarity, and Gender Promotion is responsible for promoting women's rights.

*Children.*—Any child having at least one Comoran parent is considered a citizen, regardless of where the birth takes place. Any child born in the country is considered a citizen unless both parents are foreigners, although these children can apply for citizenship if they have lived in the country for at least five years at the time of their application. It is estimated approximately 15 percent of children are not officially registered at birth, although many of these situations are regularized subsequently. No public services are withheld from children who are not officially registered.

The Government did not take specific action to protect or promote children's welfare and did not enforce legal provisions that address the rights and welfare of children.

Education is compulsory until the age of 12, but it is not free. Teacher strikes over nonpayment of salaries interrupted school several times during the year. Due to social and cultural factors, boys generally were more likely to attend schools than girls.

Although there are no official statistics on child abuse, it was common and often occurred when impoverished families sent their children to work for wealthier families. There were also scattered reports that teachers raped students; these were generally handled through traditional societal networks rather than formal enforcement investigations.

Child prostitution and child pornography are illegal. The law considers unmarried children under the age of 18 to be minors, and they are protected legally from sexual exploitation, prostitution, and pornography. There were no statistics regarding these matters, but the Government did not consider them serious problems. The age of consent is 13-years-old. Child prostitution is punishable by a prison term of from two to five years and a fine of between 150,000 and 2,000,000 Comoran francs (\$417 and \$5,556) for anyone convicted of luring a child into prostitution.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known Jewish population, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within Comoros.

*Persons With Disabilities.*—The constitution and laws do not prohibit discrimination in employment and public services or mandate access to buildings, information, and communication for persons with disabilities.

Handicap Comoros, the country's center for persons with disabilities on Grande Comore, was run by a local NGO called Chiwe, or "pillar." The center imported wheelchairs and prostheses.

There is no restriction on the right of persons with disabilities to participate in civic affairs.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual acts are illegal. They can be punished by up to five years' imprisonment and a fine of 50,000 to 1,000,000 Comoran francs (\$139 to \$2,778). However, no case of this nature has come before the courts. No public debate on the issue has been held, and persons engaging in homosexual activity did not publicly discuss their sexual orientation due to societal pressure. There are no lesbian, gay, bisexual, and transgender organizations in the country.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and many of those in the wage labor force did so in practice. Teachers and other civil servants, taxi drivers, and dockworkers were unionized. The law allows unions to conduct their activities without government interference and provides for the right to strike, and workers exercised this right in practice.

There are no laws protecting strikers from retribution, but there were no reported instances of retribution.

The labor code, which was rarely enforced, does not include a system for resolving labor disputes. Common problems included failure to pay salaries regularly or on time, mostly in the Government sector, and unfair and abusive dismissal practices such as firing employees without giving proper notice or paying the required severance pay.

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to bargain collectively, although employers set wages in the small private sector, and the Government, especially the Ministries of Finance and Labor, set them in the larger public sector. There are no legal restrictions on collective bargaining such as exclusion of issues or minimum participation requirements.

The law does not prohibit antiunion discrimination by employers in hiring practices or other employment functions; however, there were no examples of antiunion discrimination during the year. No workers suffered retribution because of union activity.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor by adults with certain exceptions for obligatory military service, community service, and during accidents, fires, and disasters. The Union's civil protection unit may oblige persons to respond to disasters if it is unable to obtain sufficient voluntary assistance; however, this has never occurred. There are no specific prohibitions against forced or compulsory child labor, and it occurred in agriculture (planting, weeding, harvesting); fishing; informal retail (selling goods on the street); and domestic service.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Laws exist to protect children from exploitation in the workplace, but the Government did not enforce such laws. There were no laws to prohibit forced or compulsory child labor, and there were reports that such practices occurred. The law establishes 15-years of age as the minimum age for employment. Children worked in subsistence farming, fishing, in the informal sector selling goods along roadsides, and extracting and selling marine sand. Children also worked on food crops such as manioc and beans, but also on cash crops such as vanilla, cloves, and ylang-ylang (a flower used to make perfume). Some children worked under forced labor conditions, particularly in domestic service, roadside and market selling, and agriculture. In addition some Qur'anic schools arranged for poor students to receive lessons in exchange for labor, which sometimes was forced. Some families placed their children in the homes of wealthier families where they worked in exchange for food, shelter, or educational opportunities. Many children were not paid for their work. The Ministry of Labor is responsible for enforcing child labor laws, but it did not actively or effectively do so. There was only one labor inspector for each of the three islands for a total of three labor inspectors. These inspectors were responsible for all potential violations of labor law and did not focus just on child labor cases. The Government took no action to prevent exploitative child labor or to remove children from such labor.

*e. Acceptable Conditions of Work.*—A 2003 ministerial decree set the minimum wage at 30,000 Comoran francs per month (\$83). The national minimum wage did not provide a decent standard of living for a worker and family. Although the Union government and local governments did not enforce a minimum wage, unions had adequate influence to negotiate effective minimum wage rates for different skill levels for unionized jobs. These provisions applied to all workers, regardless of sector or country of origin. In practice unions promoted this minimum wage via their ability to strike against employers. Despite strikes and other protests, the Union government was unable to pay government employees, including low-level officials, teachers, and medical workers, for several months due to budgetary difficulties.

The law specifies a workweek of 37.5 hours, one day off per week, and one month of paid vacation per year. According to the law, workers receive time and a half for overtime. These laws, like many others, were not effectively enforced by the Government. There was no prohibition on excessive compulsory overtime; however, electricity shortages prevented overtime work in most businesses. Employers, particularly the Government, often were remiss in paying salaries.

No safety or health standards had been established for work sites. Workers generally could not remove themselves from an unsafe or unhealthful situation without risking loss of employment.

---

## DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo (DRC) is a nominally centralized republic with a population of approximately 68 million. The president and the lower house of parliament (National Assembly) are popularly elected; the members of the upper house (the Senate) are chosen by provincial assemblies. Multiparty presidential and National Assembly elections in 2006 were judged to be credible, despite some irregularities, while indirect elections for senators in 2007 were marred by allegations of vote buying. There were many instances in which state security forces acted independently of civilian control and of military command.

In all areas of the country, state security forces continued to act with impunity throughout the year, committing many serious abuses, including unlawful killings, disappearances, torture, rape and engaging in arbitrary arrests and detention. Severe and life-threatening conditions in prison and detention facilities, prolonged pre-trial detention, lack of an independent and effective judiciary, and arbitrary interference with privacy, family, and home also remained serious problems. Members of the state security forces continued to abuse and threaten journalists, contributing to a decline in press freedom. Internally displaced persons remained a major problem, and the integration of ex-combatants and members of rebel and militia groups (RMGs) into state security forces and governance institutions was slow and uneven. Government corruption remained pervasive, and some corporations purchased minerals from suppliers who financed mining activities by armed entities that committed serious human rights abuses. Elements of the state security forces were charged in the death of one of the country's leading human rights defenders and at times beat or threatened local human rights advocates and obstructed or threatened UN human rights investigators. State security forces retained and recruited child soldiers and compelled forced labor by civilians. Societal discrimination against

women and ethnic minorities, trafficking in persons, child labor, and lack of protection of workers' rights continued to be widespread throughout the country. Enslavement of and discrimination against Pygmies occurred.

Internal conflicts, mainly in the east, continued to significantly affect the human rights situation and challenged the Government's limited ability to effectively control its territory, which was particularly the case in North and South Kivu provinces. The conflicts permitted armed entities to commit violent abuses against civilians, with little chance that the Government would be able to hold the perpetrators accountable. These entities included RMGs, such as the Democratic Forces for the Liberation of Rwanda (FDLR) and the Mai-Mai (community-based self-defense groups), as well as dissident elements of the state armed forces, including former members of the National Congress for the Defense of the People (CNDP) and some "regular" units of the Armed Forces of the DRC (FARDC). During the year RMGs continued to commit numerous, serious abuses—some of which may have constituted war crimes—including unlawful killings, disappearances, and torture. RMGs also recruited and retained child soldiers, compelled forced labor, and committed widespread crimes of sexual violence. The situation was complicated by the incomplete implementation of the March 2009 peace agreements involving the Government and several RMGs that operated in North and South Kivu. In October the UN Office of the High Commissioner for Human Rights (UNOHCHR) detailed allegations of serious abuses, including potential war crimes and crimes against humanity, committed in the country by foreign militaries and other armed entities between 1993 and 2003 (see sections 1.e. and 5). In the eastern provinces of North and South Kivu, the illegal exploitation of natural resources continued to contribute to conflict. Many armed entities in the east, including some FARDC units, engaged in the illegal exploitation and trade of natural resources. Some RMGs, have cooperated with criminal networks within the FARDC that have militarized the mineral trade and continued to compete for control over mineral-rich areas. In September, President Joseph Kabila imposed an indefinite suspension of all mining activity in North and South Kivu and Maniema provinces, which remained in effect at year's end. A separate conflict involving the Lord's Resistance Army (LRA) in the Haut Uele and Bas Uele districts of Orientale Province in the northeast continued to have an extremely negative effect on human rights during the year, resulting in deaths, injuries, abductions, forced labor, looting, and general insecurity. Interethnic conflict in Equateur Province resulted in numerous refugees and internally-displaced persons (IDPs). While the security situation in Equateur stabilized during the year, the IDPs did not return.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports that the Government or its agents committed politically motivated killings. For example, during the year members of police allegedly killed a leading human rights activist and disappeared his colleague (see section 5).

In addition, during the year dissident elements of the FARDC, which were comprised of ex-CNDP members poorly integrated into the FARDC and led by General Bosco Ntaganda, were allegedly implicated in at least eight politically motivated killings, as well as the arbitrary arrest and temporary detention of seven other individuals, and the abduction and disappearance of another. The killings and other acts targeted members loyal to the previous CNDP commander, Laurent Nkunda, whom Ntaganda had replaced as the leader of the CNDP in January 2009, when the Rwandan government arrested and detained Nkunda in Rwanda. The ouster of Nkunda divided the CNDP movement to some extent between Nkunda and Ntaganda supporters. The killings allegedly were an attempt by Ntaganda to assert his authority over the group and quell any division.

According to Human Rights Watch (HRW), one of the targeted killings occurred on September 14, and it resulted in the shooting death of Lieutenant Colonel Antoine Balibuno, an Nkunda supporter, immediately following a nighttime meeting at a bar in Goma with Lieutenant Colonel Kabakule Kennedy and Lieutenant Colonel John Asiki, both of whom were known supporters of Ntaganda. Balibuno had reportedly told HRW and others in the preceding months that Ntaganda had repeatedly threatened him for refusing to support Ntaganda's leadership of the CNDP. Another killing documented by HRW allegedly took place in Gisenyi, Rwanda on June 20. A group of men including one of Ntaganda's body guards and, according to witnesses, Rwandan security agents entered the home of Denis Ntare Semadwinda, an Nkunda supporter. Semadwinda was stabbed repeatedly and his throat was slit. According to reports received by HRW, Semadwinda may have been in contact with

General Kayumba Nyamwasa, an opponent of the Rwandan president who reportedly escaped a murder attempt in South Africa during the year. HRW, which called on the Government to arrest Ntaganda, also reported that in the cases of arbitrary arrest and detention, Ntaganda had dictated what the charges should be and instructed judicial officials not to follow due process. Ntaganda, Kennedy, and Asiki remained free at year's end.

There were reports of state security forces engaged in summary executions, extrajudicial killings, rape and other abuses of civilians in the east and in other parts of the country during clashes with RMGs (see section 1.g.).

There were several occasions during the year when members of state security forces arbitrarily and summarily killed civilians, sometimes during apprehension or while holding them in custody, sometimes during protests, and often for failing to surrender their possessions, submit to rape, or perform personal services. In the cases below, which are not an exhaustive list of such killings during the year, authorities did not investigate or prosecute any of the perpetrators.

In April soldiers allegedly killed a journalist (see section 2.a.).

On May 5, agents of the military intelligence agency DEMIAP fired into a crowd of demonstrators in Kinshasa, killing one and injuring several. A day prior to the shooting, state security forces had arrested several members of the Church of Jesus Christ our Lord in Kinshasa at Kinshasa's airport for "security reasons." Those arrested were released after three and a half months in prison with no charges and no trial. No action was taken against the DEMIAP agents responsible for the shootings.

On June 2, two FARDC soldiers robbed and shot two civilians in Kabaye, North Kivu, which resulted in the death of one of the victims. An intelligence officer of the First Operational Area refused to transfer suspects to a judge investigating the killing. No additional information was available at year's end.

On September 29, the Republican Guard (GR) arrested and severely beat Armand Tungulu, a Congolese national for throwing a rock at the presidential motorcade in Kinshasa, according to witnesses. On October 2, the prosecutor general reported that the detainee had apparently committed suicide while in the GR's custody at Tshatshi military camp during the night. He added that a medical examiner had been assigned to the case. According to media reports, despite requests from Tungulu's wife, officials had not given Tungulu's body to his family, despite the family's requests. There was no additional information by year's end.

There were no reports of authorities taking action in the following cases of unlawful killings committed by state security forces in 2009:

The fatal shooting of a man by a Congolese National Police (PNC) officer during a protest in January in Kolwezi, Katanga;

The fatal beating of a Tanzanian man in January by two Directorate General of Migration (DGM) agents and two PNC officers in Lubumbashi, Katanga, following his arrest for alleged document fraud;

The death of a woman in Njingala, North Kivu, from injuries she sustained in April during a gang rape by 10 FARDC soldiers who invaded her home;

The death by torture of a man by FARDC intelligence officers in April in Kamandi Lac, North Kivu; or the fatal beating of a detained woman in her prison cell by PNC officers in June in Bena Mpiana, Kasai Oriental.

Authorities took no further action on the 2008 killing of a civilian in Bulukutu, Equateur, by a PNC officer, or the 2008 killing of an artisanal miner in Katanga by a police officer attached to the Provincial Mining Office in Kalukalanga. There was also no additional information regarding the arbitrary arrest and illegal three-month detention of a man, who later died from mistreatment, by the commander of the Karawa Police Station in Equateur in 2008.

Authorities in Bas-Congo Province, in the west, took no action regarding the deaths of at least 205 members of the Bundu Dia Kongo (BDK), a political-religious group seeking greater provincial autonomy, during demonstrations in 2008 and 2007. Investigative reports by the UN Joint Human Rights Office (UNJHRO) in 2008 concluded that police used excessive force in both incidents and that in 2008 police committed arbitrary executions and raped local residents. Although the Government, rejecting these conclusions, committed in 2008 to conduct its own investigation, Philip Alston, the UN special rapporteur on extrajudicial, summary, or arbitrary executions (UNSRESAE), found that authorities—including then head of the PNC John Numbi—had not held to account any of the PNC members responsible for the killings. During UNSRESAE Alston's visit, the governor ordered the mayor of Kisantu to prevent him from interviewing witnesses or holding any meetings.

There were no developments in the 2008 case of a FARDC soldier who shot and killed a civilian in Mahagi Port, Orientale.

Authorities took no action against those responsible for summarily executing and otherwise killing approximately 300 persons in 2007 during armed confrontations in Kinshasa between forces loyal to President Kabila and rival forces loyal to former vice president Jean-Pierre Bemba.

Attempts to investigate a 2004 massacre in Kilwa, Katanga Province, which was allegedly committed by FARDC soldiers with logistical help from a mining company, continued to meet with problems following Katanga government officials' decision in 2008 to prevent a local nongovernmental organization (NGO), as well as the victims' foreign attorneys, from visiting Kilwa. As a result, during the year survivors and relatives of the 73 victims of the massacre filed a class action lawsuit in Quebec against the Canadian company Anvil Mining, which responded to the lawsuit by saying there had been numerous investigations and court proceedings but "no findings adverse to Anvil or any of its employees have arisen." There were no further legal developments regarding the 2007 acquittal by a military court of several FARDC soldiers and three Anvil Mining employees accused of involvement in the Kilwa massacre. In 2008 the Lubumbashi Military Court of Appeal rejected legal motions by victims' relatives challenging the acquittals.

There were no reported developments regarding any of the other alleged killings by authorities in 2007 that were previously reported.

During the year a UN human rights mapping report detailed killings by foreign militaries between 1993 and 2003 (see section 1.g.).

RMGs in conflict zones committed unlawful killings during the year, and there were reports that some corporations facilitated such killings and other abuses by sourcing minerals from areas controlled by armed entities, including FARDC units (see section 1.g.).

*b. Disappearance.*—There were reports of disappearances caused by government forces. Authorities often refused to acknowledge the detention of suspects, and in some cases they detained suspects in secret detention facilities.

For example, in August FARDC soldiers kidnapped a civil society leader and did not disclose his whereabouts while illegally detaining him in an underground jail (see section 1.c.).

According to a report released in April 2009 by the African Association for the Defense of Human Rights (ASADHO), state security forces continued to use forced disappearances to repress individuals. ASADHO noted the disappearance of 16 persons, including students, police officers, and soldiers, following their initial arrest earlier in 2009. Their whereabouts remained unknown at year's end.

In February 2009 the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) reported to the UN Human Rights Council (UNHRC) that, as of 2008, there were 43 unsettled cases of forced or involuntary disappearance that had been reported to the UNWGEID, although none of them originated during the year. Underlining that an enforced disappearance was "a continuing offense for as long as the fate or whereabouts of the victim remains unclarified," the UNWGEID stated that, as in 2008, the Government did not respond to UN inquiries about the cases. There were no reports of government efforts to investigate disappearances and abductions, including those in which security force members were accused of involvement.

There was no information about the whereabouts of three lawyers in Kinshasa, who were abducted by three armed men in 2007 and allegedly detained by the National Intelligence Agency (ANR).

RMGs and FARDC units kidnapped numerous persons, generally for forced labor, military service, or sexual services, and there were reports that some corporations facilitated such killings and other abuses by sourcing minerals from areas controlled by these armed entities. Many of the victims disappeared (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—At the beginning of the year, the law did not specifically criminalize torture; however, during the parliamentary session between March and June lawmakers adopted a law criminalizing torture. Despite this reform, the Government did not effectively enforce the law, and during the year there were many credible reports by informed sources that security services tortured civilians, particularly detainees and prisoners, and employed other types of cruel, inhuman, and degrading punishment. Most cases of torture were perpetrated by members of the police, the ANR, and the FARDC, according to credible sources. There were very few reports of government authorities taking action against members of state security forces responsible for these acts.

For example, on August 24, FARDC units comprised of ex-CNDP members kidnapped Sylvestre Bwira, president of the civil society in Masisi, North Kivu, and held and severely beat him in an underground prison for six days. The abuses oc-

curred after he had sent an open letter to President Kabila on August 2, denouncing abuses committed with impunity by General Ntaganda's troops and the parallel CNDP administration in Masisi Territory. Authorities had taken no action by year's end.

The UNJHRO reported several cases of torture and cruel, inhuman, and degrading treatment. For example, on August 21, FARDC soldiers arrested five persons, including two minors, suspected of involvement in an attack on a MONUSCO peacekeeping base in Kirumba, in the Lubero Territory in North Kivu, which killed three peacekeepers. During their detention at the headquarters of the 12th FARDC Sector in Kasando, Lubero Territory, soldiers allegedly tortured them, giving them between 40 and 120 lashes each and burning and mutilating their feet and hands to obtain confessions. The five were transferred on August 22 to the Goma military court. There were no reports that authorities had investigated or disciplined the accused FARDC soldiers, and no additional information was available.

There were no reports of authorities taking action in the following cases of severe beatings of suspects by state security forces in 2009 and 2008:

The severe beating of a suspected thief who was subsequently denied food and water for two days by ANR agents in January 2009, in Kabimba, Katanga;

The severe beating and stabbing of two women in February 2009 by several FARDC soldiers from the Second Integrated Brigade in Butembo, North Kivu, during a break-in at the women's home;

The severe beating, extortion, and other forms of mistreatment of a man in February 2009 by five PNC officers in Kaleba, Katanga, under a PNC commander who allegedly routinely ordered the torture of civilians to extort money;

The all-night beating of two civilians suspended from a tree by three GR soldiers named Vandome, Jean-Paul, and Mapendo in May 2009 in Kahungula, Bandundu;

The beating and robbery of a civilian by two FARDC soldiers in Kalemie, Katanga, in 2008; the severe beating of a man by five FARDC soldiers in Mbuji-Mayi, Kasai Oriental in 2008 for resisting their efforts to steal his motorbike;

The cruel, inhuman, and degrading treatment of a civilian in 2008 by seven PNC officers in Bena-Leka, Kasai Occidental, under the command of Tshipamba Nzolo; or

The torture of a police officer by officers of the police's Mobile Intervention Group (GMI) in Mbuji-Mayi, Kasai Oriental, in 2008.

Authorities took no action against members of state security forces who tortured a judicial investigator in Orientale Province (see section 1.d.) in 2007.

On several occasions during the year, police beat and arrested journalists who wrote or broadcast material they did not like (see section 2.a.).

There were continuing reports, including many from the UNJHRO, of rape of civilians by members of the state security forces, both in the context of the conflict in the east (see section 1.g.) and elsewhere. For example, in Kasai Occidental, on March 13, four policemen from Kumpungu police station in Mweka Territory allegedly arrested the daughter of a man they sought and then raped her throughout the night while she was detained. No additional information was available.

During the year a police commander raped a 15-year-old girl (see prison and detention center conditions in section 1.c.).

No additional information was available regarding the investigation that a public prosecutor ordered in 2009 into the rape of a 13-year-old girl in March 2009 by the head of the office of the Ministry of Urban Planning and Housing in Bulungu, Bandundu.

At year's end no additional information was available on a FARDC soldier in Rwindi, North Kivu, whom military authorities arrested and detained after he allegedly raped a three-year-old girl in 2008.

There were no reports of authorities taking further action regarding the abduction and repeated rape over a four-day period of a 14-year-old girl by a FARDC lieutenant in Gemena, Equateur, who had been arrested and then released; or the rape of 13 women and six girls in Ngele, Equateur, and the cruel, inhumane, and degrading treatment of the village's male residents by police officers.

RMGs committed sexual violence and other types of abuses against civilians during the year, and some corporations facilitated sexual violence against civilians by supporting—through the illicit trade in mineral resources—armed entities, including some FARDC units (see section 1.g.).

Some church leaders beat, whipped, and starved children accused of witchcraft (see section 6).

*Prison and Detention Center Conditions.*—Conditions in most prisons remained severe and life-threatening. During the year UN Secretary-General Ban Ki-moon reported to the UN Security Council that the prison system merited urgent reform, as it continued to be characterized by “catastrophic conditions of detention,” includ-

ing severe overcrowding and lack of medical facilities, and that in several instances, detainees died from starvation, as no budget had been allocated to cover operational costs, including food and other basic needs. The penal system was underfunded, and most prisons were overcrowded, poorly maintained, and lacked sanitation facilities. In all prisons except the Kinshasa Penitentiary and Reeducation Center (CPRK), the Government had not provided food for years. Prisoners' friends and families provided the only available food and necessities. Malnutrition was widespread, and some prisoners starved to death. Prison staff often forced family members of prisoners to pay bribes for the right to bring food to prisoners.

The country's justice minister called the prisons "death houses" in a plea to the international community for immediate assistance. According to ASADHO's April 2009 report *Rule of Law Put to the Test*, medical equipment and medicines were absent in virtually all the prisons and detention centers. In 2009 the UN secretary-general reported that prison populations exceeded capacity by 600 percent and expressed concern about lack of food and health care, outdated prison laws and regulations, and severe shortcomings in infrastructure and training for prison guards.

While evaluating the country's prison system in July 2009, Dimitri Titov, the UN assistant secretary for the rule of law and security institutions in the Department of Peacekeeping Operations, visited the prison in Goma, North Kivu, where he found a prison facility built for 150 prisoners housing 850, 650 of whom had not been tried yet. There was no separation of men, women, and children or of civilian and military detainees, which Titov called unacceptable. Titov said overcrowding was so great in the dilapidated prison that inmates slept in hallways and next to septic tanks, facilitating the spread of disease in what he called inhumane conditions. Noting that he had toured numerous prisons in post-conflict African countries, he deemed the prison in Goma "the most terrible I've ever seen." Titov also visited the prison in Bunia, Orientale, where he found the prison population exceeded the facility's capacity by 250 percent. While underlining efforts by donor countries to improve prison conditions in the country, he urged the Government to match those efforts.

Temporary holding cells in some prisons were extremely small. Many had no windows, lights, electricity, running water, or toilet facilities; access to potable water or temperature-regulated cells was nonexistent.

Violence, particularly sexual violence, continued to be a serious problem in prisons, along with life-threatening diseases such as HIV/AIDS. Male prisoners raped other prisoners, including men, women, and children. Citing the prison rape cases that it had registered during the year, ASADHO reported in June 2009 that "women are frequently raped" and that prison rapes "are sometimes organized in cahoots with prison authorities." ASADHO also noted that men, especially new inmates, were sodomized by prison gangs. In June 2009, during an attempted prison escape and subsequent riot at the Central Prison in Goma, North Kivu, 24 military detainees raped 23 female prisoners. PNC officers shot and killed one perpetrator.

Deaths of detainees were common due to deplorable living conditions, malnutrition, and lack of medical care. For example, on February 12, 191 persons were detained in a 36-by-23-foot cell in Tshikapa's prison, Kasai Occidental Province, without ventilation resulting in the death of three detainees due to suffocation. Also in February the UNJHRO documented seven cases of death in detention throughout the country, mainly due to bad detention conditions. Over a two-week period in July, three inmates died from starvation in Bulungu Prison, in Bandundu Province. On June 26, a detainee died in Idiofa prison in Bandundu, after failing to pay for the medical care he needed, even though health care is a state obligation in the country. On June 8 and 11, two detainees of Kalemie central prison in Maniema Province died from diseases a few days after their admission to the General Hospital of Kalemie.

In July 2009 the UNJHRO reported that prisoners were dying in Bunia prison, including from malnutrition and tuberculosis. Local NGO Me Lonjiringa reported in July 2009 that the physical and hygienic conditions of Bunia prison were so bad that being detained there was "a death sentence." UN High Commissioner for Human Rights Navi Pillay reported that between March 2008 and March 2009, at least 65 prisoners died in prisons. Pillay concluded that confinement in a Congolese prison in itself often amounted to cruel, inhumane, or degrading treatment.

Health care and medical attention remained inadequate, and infectious diseases rampant. In rare cases prison doctors provided care; however, they often lacked medicines and supplies. According to a nurse at the Bunia Central prison, in 2009 many prisoners were in desperate need of a transfer to the hospital for medical care but were often denied.

Numerous prisoners attempted to escape, sometimes to avoid what they viewed as certain death from starvation, according to the UNJHRO. In June 140 inmates

escaped various prisons across the country, and only 23 of them were recaptured, according to the UNJHRO. According to media reports, in Gemena prison, in Equateur, where a growing backlog of pretrial detention cases continued to outgrow the capacity of the prison and the lone prosecutor who served the area, almost 200 pretrial inmates rioted and escaped on November 16 due to lack of food; only a handful were reportedly recaptured.

Guards were few and often unpaid, and some lived in the prisons for lack of homes. According to the UN secretary-general, approximately 95 per cent of the personnel working in the correctional facilities were not civil servants but rather self-appointed and lacked formal training for the responsibilities of their positions. There was no training institution for prison personnel, including wardens. Lack of authority and surveillance resulted in detainee death and abuse. For example, the UNJHRO reported that on January 31, an inmate in Bukavu's central prison was tied up and beaten to death by six co-detainees.

Installations remained rudimentary, contributing to high rates of escape across the prison system. According to a March 2009 report by seven UN special rapporteurs and representatives, "The disastrous state of the prison system, perhaps the weakest link in the justice chain, facilitates escapes of suspects and convicts, including high profile offenders who sometimes 'escape' with the connivance of the authorities. For this reason, but also in light of the generally appalling prison conditions, penitentiary reform is an absolute necessity." The group recommended that the Government and its technical assistance partners make it a priority to implement the new Strategic Plan on Prison Reform and Training, developed by the Ministry of Justice and the UN peacekeeping mission MONUC, whose name was changed to MONUSCO in May.

Larger prisons sometimes had separate facilities for women and juveniles, but others generally did not. Prison officials held pretrial detainees together with convicted prisoners and treated both groups the same. They generally held individuals detained on state security grounds in special sections. Government security services often clandestinely transferred such prisoners to secret prisons. Civilian and military prisons and detention facilities held both soldiers and civilians, since none of the military's prisons were operational, according to a March report by the UN secretary-general.

According to ASADHO, sleeping arrangements in prisons and detention centers were hierarchical and corrupt. Due to overcrowding, the best sleeping spots went to those who were able to pay. Those at the bottom of the hierarchy had to sleep on cement floors or outside in the courtyards.

According to MONUSCO, in 2009 fewer than 90 of the country's 230 prisons actually held prisoners; while there were no reports of the Government officially closing prisons during the year, dozens of prisons that had not functioned for years remained closed. Most prisons were dilapidated or seriously neglected.

Prisoners routinely escaped from prisons in all provinces. In some cases, security personnel who were detained or convicted of serious crimes were released from prison by military associates or by bribing unpaid guards.

Even harsher conditions prevailed in small detention centers, which were extremely overcrowded; had no toilets, mattresses, or medical care; and provided detainees with insufficient amounts of light, air, and water. Originally intended to house short-term detainees, they were often used for lengthy incarceration. They generally operated without dedicated funding and with minimal regulation or oversight. Informed sources stated that detention center authorities often arbitrarily beat or tortured detainees. Guards frequently extorted bribes from family members and NGOs for permission to visit detainees or provide food and other necessities.

Despite President Kabila's 2006 decision to close illegal jails operated by the military or other state security forces, there were no reports of such closures during the year. According to MONUSCO, the security services, particularly the intelligence services and the GR, continued to operate numerous illegal detention facilities characterized by harsh and life-threatening conditions. Authorities routinely denied family members, friends, and lawyers access to these illegal facilities.

Authorities took no action against ANR agents who tortured six inmates in 2008 in Musenze Central Prison in Goma, North Kivu.

The law provides that minors may be detained only as a last resort; however, in part due to the absence of juvenile justice or education centers, authorities commonly detained minors. Many children endured pretrial detention without seeing a judge, lawyer, or social worker; for orphaned children, pretrial detention often continued for months or years. In February 2009 the UN Committee on the Rights of the Child (UNCRC) noted that the child protection code, promulgated in January 2009, provides for juvenile courts to become operational by 2011. However, the UNCRC expressed concern over the way in which the justice system continued to

handle juveniles and the lack of a juvenile justice system. According to the UNJHRO, during the night of May 8, a 15-year-old girl who had been raped was illegally detained in a PNC cell with the alleged perpetrator and subsequently raped by the police commander in charge of the investigation. There were no reports of authorities taking any action against the commander.

Authorities denied some prisoners and detainees access to visitors and did not permit them to have contact with or submit complaints to judicial authorities (see section 1.d.). The Government had not established an effective or reliable system to monitor detention facilities, and authorities very rarely investigated allegations of inhumane prison or detention center conditions. There were no government ombudsmen serving to protect the rights of prisoners and detainees. There were no reports of authorities preventing prisoners or detainees from practicing their religion.

In general the Government allowed the International Committee of the Red Cross, MONUSCO, and some NGOs access to all official detention facilities; however, it did not allow these organizations access to illegal government-run detention facilities, including those run by the ANR, the GR, and units of the FARDC, including ex-CNDP FARDC units in Masisi territory, North Kivu.

RMGs sometimes detained civilians, often for ransom, but little information was available concerning the conditions of detention (see section 1.g.).

With MONUSCO's support, the reconstruction of the Ndolo military prison in Kinshasa was completed during the year, and plans to make the prison operational had been finalized by October. At the Goma Central Prison, construction of a structure designed to separate juveniles and women neared completion. However, according to the UN Secretary-General's report to the UN Security Council in October, despite those efforts, prison conditions throughout the country, particularly in conflict-affected areas, remained dire. Calling prison conditions one of the major human rights crises in the country, the UNJHRO opened a special office during the year to better address the problem and recommended that the Government create prison farms to ensure food supply for inmates and generate revenue to procure basic medicines.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest or detention; however, state security forces routinely arbitrarily arrested and detained persons.

*Role of the Police and Security Apparatus.*—Among other elements, the state security forces consist of the PNC, which operates under the Ministry of Interior and has primary responsibility for law enforcement and public order. The PNC includes the Rapid Intervention Police and the Integrated Police Unit. The ANR, overseen by the president's national security advisor, is responsible for internal and external security. Other agencies include the military intelligence service of the Ministry of Defense; the DGM, responsible for border control; the GR, which reports directly to the presidency; and the FARDC, which is part of the Ministry of Defense and generally responsible for external security, but which also carries out an internal security role.

State security forces generally remained undisciplined, corrupt, lacked training, were grossly underfunded, and received little pay (see section 4).

There were mechanisms available to investigate abuses by state security forces and address internal discipline problems, although the mechanisms remained weak and ineffective, particularly for addressing misconduct by mid- and high-ranking officials. However, some progress was made during the year related to internal discipline of the PNC, as authorities charged eight PNC officers following the disappearance of human rights defender Fidele Bazana Edadi and the killing of his colleague, long-time activist Floribert Chebeya, who was last heard from just before entering PNC headquarters in Kinshasa after being summoned by the head of the national police, John Numbi. Nevertheless, several rule of law experts in the country and almost 80 local and international human rights NGOs have expressed serious concerns about the credibility and independence of the investigation and the trial (see section 5). Numbi, who was implicated by several reports in serious human rights abuses in recent years, was suspended from his position in June pending an investigation, but authorities did not charge him or put him on trial, and dozens of civil society members alleged that Numbi continued to perform official duties despite the official suspension.

Created in 2007, the Inspection General d'Audit (IGA) is the internal discipline system within the PNC. As an internal oversight mechanism, it aims, among other things, to address police corruption and other types of police misconduct and human rights violations perpetrated by the police force. While the existence of the IGA was considered a positive legal step, at year's end it was not fully functioning, suffering from a lack of infrastructure, training, and awareness regarding its role and existence, especially at the provincial level.

Members of the FARDC, police, and intelligence sectors continued to commit the majority of the country's human rights abuses. For example, on February 16, the deputy police commander of Sankuru, Kasai Oriental Province, and 20 PNC agents burned 89 homes and pillaged 47 others in retaliation for the killing of a policeman by the population. On February 16 and 18, they also pillaged two schools and broke 19 windows in the local hospital. Authorities arrested six policemen, including the deputy commander, and placed them under a temporary arrest warrant. On April 14, the trial began at the Lodja military tribunal, but one of the policemen escaped before the trial began. No additional information was available at year's end.

The FARDC consisted of between 130,000 and 155,000 soldiers, including 60,000 who have reached or are close to retirement age. Approximately half of the force was deployed during the year in the conflict-affected east. The FARDC was ineffective, due in part to weak command and control, poor operational planning, low administrative and logistical capacity, and questionable loyalty on the part of some of its soldiers. Other serious obstacles to the formation of a coherent national army included lack of equipment and barracks.

In addition, in October 2009 UN Special Representative of the Secretary-General Alan Doss reported to the UN Security Council that "the fast-track integration of up to 20,000 elements of former armed groups, some with very bad human rights records, into the FARDC has aggravated existing problems of indiscipline and crimes committed against the population."

For example, in August a FARDC general ordered his soldiers to kidnap a FARDC colonel to force a military prosecutor to release another FARDC colonel, who had been arrested on charges of insubordination (see section 1.g.).

During the year there were increases in crimes committed against civilians in areas of the east where the FARDC was present, particularly regarding Operation Amani Leo (see section 1.g.). MONUSCO—as mandated by the UN Security Council—continued to condition its logistical military support to FARDC units on accountability for human rights abuses. For example, after MONUSCO suspended its support in June to the FARDC 911th, or "Bear," Battalion in Orientale, owing to the serious and persistent human rights violations committed by some of its elements, authorities arrested six officers of the battalion and transferred them to the relevant judicial authorities, according to a report submitted to the UN Security Council in October.

According to UNSRESAE Alston, "regular failures" by the Government to provide soldiers their rations and pay, together with embezzlement by commanders, contributed to indiscipline as soldiers continued "to literally prey on the population." FARDC units throughout the country regularly engaged in illegal taxation and harassment of civilians. They set up checkpoints to collect "taxes," often arresting individuals who could not pay the demanded bribes and stealing whatever food and money they could. According to the UNJHRO, there was a direct correlation between salaries siphoned off by corrupt officers and the level of human rights abuses committed by the FARDC, the GR, the PNC, the DGM and the ANR. Abuses by FARDC soldiers were dramatically reduced in areas where they were paid and fed.

Impunity in the state security forces remained a severe, widespread problem, and the weaknesses of the justice system continued to play a large role in the problem (see section 1.e.). The Government prosecuted and disciplined few security force personnel for abusing civilians. According to the UN secretary-general's report to the UN Security Council in March, military justice institutions continued to face challenges, including a severe shortage of military judges and prosecutors, with only 350 of a required 818 military magistrates being deployed. Magistrates, prosecutors, and investigators were poorly trained, had little or no resources for investigations, and limited, if any, access to legal codes. In addition, the military justice system was often subjected to political and command interference, and security arrangements for magistrates in conflict-affected areas remained inadequate. Magistrates who attempted to investigate politically connected high-level FARDC officers were threatened (see section 1.a.), as were witnesses providing information to judicial officers.

According to a HRW July 2009 report, *Soldiers Who Rape, Commanders Who Condone*, the military justice system remained a weak institution. HRW underscored that "only a small fraction" of the total number of acts of sexual violence committed by FARDC soldiers had been prosecuted. As an example, HRW reported that, during 2008, 27 soldiers were convicted of crimes of sexual violence in North and South Kivu. During the same year, the UN registered 7,703 new cases of sexual violence (by FARDC soldiers and other perpetrators) in North and South Kivu.

The Operational Military Court, which the Government established during the year to address abuses committed by FARDC officers during military operations, made some progress in prosecuting a small number of low-ranking perpetrators. However, it lacked adequate staff, the ability to conduct its own independent inves-

tigations, and the power to undertake high-level prosecutions, and there remained concerns about the court's respect for due process (see section 1.e.).

Most of the prosecutions undertaken by the military justice system continued to be lower-ranking officers or soldiers; rarely were mid-level or senior-level officers investigated for having committed acts of sexual violence. Although no general had yet been convicted, either for his own actions or for failing to control his troops, a general (General Jerome Kakwavu) was arrested for rape and other crimes in April. When they were convicted, sentences were rarely carried out. For example, in July 2009 a military court found Lieutenant Colonel Ndayambaje Kipanga guilty of raping four girls in Rutshuru, North Kivu. Prior to the arrest of General Kakwavu, he was the highest-ranking FARDC officer convicted. However, he was convicted in absentia after escaping custody two days after his arrest in May 2009, due to lax detention procedures, and he remained at large at year's end.

In its November 2009 report to the UN Security Council, the UNGOE cited meetings it held with military justice prosecutors in North and South Kivu, who "reiterated the limitations...in effectively prosecuting sexual violence and underscored the lack of willingness at the highest level of the FARDC military command to ensure that perpetrators are held accountable." Examples provided by the UNGOE of FARDC commanders who had failed to take any action after being notified of rape cases committed by their men included Colonel Alphonse Mpanzu of the 8th Integrated Brigade, deployed in Uvira (South Kivu) in the context of Kimia II (at least two cases of rape), and Lieutenant Colonel Salumu Mulenda, commander of the 33rd Brigade deployed in Uvira and Walungu territories (13 cases of rape). In addition, more than 50 cases of abuse by the 33rd Brigade (lootings, arbitrary detention, and burning of civilian properties) had been reported since the beginning of Kimia II operations, according to the group.

Several individuals accused of numerous serious abuses held senior positions in the FARDC. Of the "FARDC five," the five senior FARDC commanders whose impunity for alleged crimes of sexual violence was raised again with President Kabila by the UN Security Council in May 2009, three were in detention by year's end, their investigations had been completed, and their cases were ready for trial. General Kakwavu had been arrested and was awaiting trial, as well as colonels Safari and Mobuli. Major Pitchen, also known as Joseph Papy Ilunga, was located in Equateur. The Ministry of Defense sent a letter to his commander requesting he be transferred to the military prosecutor, but the commander refused. At year's end, Major Pitchen, who already had a warrant for his arrest due to a conviction of rape in Bukavu, continued commanding a battalion of troops. Colonel Mosala was requested to remain under house arrest but was not legally required to do so; he fled and his whereabouts were unknown. He was presumed to have fled the country.

Following his assessment visit in October 2009, UNSRESAE Alston characterized impunity within the state security forces as "chronic," noting that "endemic corruption and political interference ensure that anyone with money or connections can escape investigation, prosecution, and judgment." For example, in June FARDC forces attacked an integration center in Nyaleke, North Kivu. The commander of the 1113th Battalion, based in Oicha, North Kivu, first arrested, and then released eight of the defendants in exchange for a large amount of money. A captain of the 1113th Battalion also released suspects in the same case and refused to respond to a summons to appear in court. In addition, on August 12, ex-CNDP FARDC elements forcibly freed a former commander from the Goma Military Prosecutor's office after authorities had arrested the former commander for refusing to be redeployed from Walikale Territory following accusations of human rights abuses by FARDC elements under his command.

On October 5, General Bosco Ntaganda, an ex-CNDP chief of staff who was loosely integrated into the FARDC during 2009 (but who has not followed or been subjected to the same command chain as the "regular," non-integrated FARDC forces) told Reuters that he continued to command FARDC troops in the east as "the number two" commander in Operation Amani Leo. (The International Criminal Court (ICC) issued an arrest warrant for Ntaganda in 2006 relating to the recruitment and use of child soldiers.) His comments contradicted official FARDC statements that he had no role in Amani Leo; however, the UN GOE reported in December that General Ntaganda "remained deputy commander of Amani Leo operations." At year's end General Ntaganda continued to live and openly circulate in Goma, North Kivu. In his 2009 report, UNSRESAE Alston expressed concern that both government and UN officials had indicated they would not take steps to arrest General Ntaganda.

During the year the Government took few significant steps to reform the state security forces, and three important draft pieces of legislation to reform the armed forces had yet to be adopted by parliament. According to the UN secretary-general's

October report to the UN Security Council, “Progress on reform of FARDC was largely stalled. Several bilateral training programs supporting the implementation of the army reform plan were stalled or completed, while the continuation of others was in question.” The FARDC continued to cooperate with the EU Mission to Provide Advice on and Assistance with Security Sector Reform in its chain of payments project, which aimed to improve the FARDC’s salary distribution system, prevent fraud and embezzlement, and ensure payments reached soldiers.

There were a few convictions of state security forces members, usually low ranking, during the year. For example, on July 22, the military tribunal in Goma sentenced Lieutenant Bahati, Warrant Officer Kambere, Sergeant -Major Bandoa and Balume to 20 years in prison for rape and armed robbery.

In addition, some Congolese military prosecutors participated in joint investigation teams (JITs) a UN initiative launched during the year that focused on investigating crimes of sexual violence in the east. JITs, which consisted of UNJHRO officers and Congolese military prosecutors and investigators, received allegations of rape and other abuses from human rights groups and deployed to remote areas to investigate and collect evidence for judicial cases. The UNJHRO officers provided the military prosecutors and investigators with transportation, normally a debilitating deficiency in the investigation process. As the military prosecutors and investigators collected and processed information, they received in-the-field coaching and training in technical areas, such as forensics, witness protection and interviewing, and child protection. Although the JITs were ad hoc in nature and lacked adequate funding and personnel resources, participating military prosecutors and investigators and NGOs viewed JITs as a small but effective component in the fight against impunity.

In July 2009 announced that the Government had adopted a policy of “zero tolerance” for human rights violations by the state security forces following intense criticism by donor countries and international human rights groups. The FARDC disseminated instructions to all soldiers that protecting the population was their duty and warned that rape and other crimes against civilians would be punished. In December 2009 several members of the Universal Periodic Review Working Group (UPRWG) commended the Government for adopting this policy but expressed concern over severe deficiencies in its implementation. Several members of the UPRWG urged the Government to implement by June 2010 the short-term anti-impunity reforms that were recommended by UNSRESAE Alston, who said in October 2009 that FARDC soldiers faced “no risk of punishment” for abuses, partly due to their anonymity. Alston urged the Government to require all FARDC soldiers to wear uniforms showing their names and unit affiliation and recommended that the UN Security Council make this step a precondition for any further UN assistance. He also urged the Government to immediately indict key members of the military alleged to have committed war crimes, crimes against humanity, and other serious offenses, particularly General Ntaganda, Innocent Zimurinda, Sultani Makenga, Bernard Byamungu, and Salumu Mulenda. At year’s end, the Government had not taken these steps.

During the Amani Leo Operation, and at the request of the FARDC, MONUSCO conducted human rights screening—designed to identify and remove human rights abusers from the operation—on a small number of battalions in North Kivu that MONUSCO would support (depending upon the results of the screening process), approximately 1,500 soldiers in total; however, those in battalions not receiving support from MONUSCO were not vetted (see section 1.g.).

However, during the year the Government continued to maintain joint military oversight committees with MONUSCO in several provinces. They were composed of military officers, military magistrates, MONUSCO human rights officers, and MONUC child protection officers. They met monthly to monitor, investigate, and develop strategies to combat sexual violence and other human rights abuses. Their effectiveness remained mixed at year’s end.

*Arrest Procedures and Treatment While in Detention.*—By law arrests for offenses punishable by more than six months’ imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason for their arrest, and may not arrest a family member instead of the individual being sought. They may not arrest individuals for non-felony offenses, such as debt and civil offenses. Authorities must allow arrested individuals to contact their families and consult with attorneys. In practice, security officials routinely violated all of these requirements. No functioning bail system existed, and detainees had little access to legal counsel if unable to pay. Authorities often held suspects in incommunicado detention, including in illegal facilities run by the ANR and the GR, and refused to acknowledge their detention.

Security personnel arrested and detained without charge perceived opponents and critics of the Government during the year, sometimes under the pretext of state security, often denying due process, such as access to an attorney (see sections 1.a., 2.a. and 5).

Police often arbitrarily arrested and detained persons without filing charges, often to extort money from family members.

The military intelligence agency, DEMIAP, arbitrarily arrested persons and subjected them to prolonged arbitrary detention (see section 1.a.).

On July 21, in Kinshasa, PNC officers arrested without warrant the coordinator of the NGO Solidarity for Social Promotion and Peace (SOPROP) and a nurse, also a member of the organization, and held them in custody at the Mont-Amba police station. Police also detained three other SOPROP members when they visited the police station to support the victims; police allegedly beat one of the three. The five SOPROP members were released the same day. Authorities took no action against those responsible.

On September 29, members of the PNC arrested two women who witnessed and allegedly filmed the beating of a man by GR members after he threw a rock at the presidential motorcade. The two women were held in detention for several days until being released. The man was arrested and died in a GR detention cell, allegedly after committing suicide (see section 1.a.).

Of the 174 inmates determined in 2008 by the vice-minister of human rights to be illegally detained in the CPRK, seven remained in prison at the end of 2009, but it was unclear how many remained in prison at the end of the year.

Prolonged pretrial detention, often ranging from months to years, remained a problem, as pretrial detainees constituted at least 70 percent of the prison population, according to the UN. In March UN Secretary-General Ban Ki-moon reported that of approximately 18,000 inmates throughout the country, at least 70 percent were pretrial detainees. In July Bandundu civil society leaders reported that inmates at Bulungu prison spent two to three years on average in detention before being tried. Trial delays were due to factors such as judicial inefficiency, corruption, financial constraints, and staff shortages. Prison officials often held individuals after their sentences had expired due to disorganization, judicial inefficiency, or corruption. Prison records remained grossly inadequate, and authorities kept individuals in prison even after their sentences had been served.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judiciary was inefficient, corrupt, and subject to influence. Judges, who were poorly compensated, remained subject to influence and coercion by officials and other influential individuals.

Following his October 2009 assessment of the country, UNSRESAE Alston concluded that “across the country, endemic corruption and political interference ensure that anyone with money or connections can escape investigation, prosecution, and judgment. Judges’ appointments, removals, and promotions are subjected to frequent political interference.”

On January 21, Front for Patriotic Resistance in Ituri (FRPI) leader Bernard Kakado, 86, appeared for the first time at the Bunia military court after a length of two years and five months in custody. Kakado was being prosecuted by 23 victims for killings, rapes and lootings perpetrated from 2006 through 2007.

In a March 2009 report to the UNHRC, the UN special rapporteur on the independence of judges and lawyers and six other UN special rapporteurs and representatives collectively underscored that “political interference at all stages of the criminal process is very common.” The report cited “numerous incidents, especially in the east,” in which military and civilian judges and prosecutors were threatened and attacked by FARDC soldiers or members of nongovernmental armed entities “to intimidate them, disrupt criminal proceedings, and ensure impunity.” It also noted that “extremely low salaries” in the justice, law enforcement, and penitentiary sectors facilitated corruption at all levels.

Judicial corruption remained pervasive, particularly among magistrates. The judicial system was funded with less than 1 percent of the national budget and was poorly staffed, with a very limited presence outside of Kinshasa. A study by an international NGO concerned with justice reform identified a variety of challenges that continued to hinder the planning and execution of the judicial branch budget, including declining annual budgets allocated to the judicial branch; failure to pay salaries of court personnel on a regular basis; failure to allocate costs for court operations; and the lack of transparency in the use of funds allocated to the judiciary.

There were fewer than 1,500 magistrates (judges who serve in the lowest level courts) serving the entire population (one magistrate for every 45,000 citizens), and two-thirds of them were located in Kinshasa, Matadi (Bas-Congo), and Lubumbashi

(Katanga). There were fewer than 200 courts, of which approximately 50 were functioning during the year.

According to the UNJHRO, despite some convictions of members of the FARDC during the year, law enforcement personnel and magistrates continued to treat rape and sexual violence in general with a marked lack of seriousness. Consequently, men accused of rape were often granted bail or given relatively light sentences, and out-of-court settlements of sexual violence cases remained widespread. However, during the year the Government cooperated with the UN and donor nations to train civil and military judges in methods to effectively adjudicate rape cases.

The civilian judicial system failed to dispense justice consistently and was widely disparaged by the international community and citizens as ineffective and corrupt.

The constitution provided for new judicial institutions and laid the foundation for an independent judiciary by removing previous presidential powers to appoint and remove magistrates. The constitution divided the Supreme Court's functions into a Constitutional Court, Appeals Court, the Administrative Oversight Agency and the High Council of Magistrates (CSM), the country's supreme judicial oversight body, which is charged with disciplining judges and prosecutors and protecting the judiciary from executive intimidation and manipulation. However, by the end of 2009, the CSM was not fully operational, and no legislation had been promulgated to establish the Constitutional Court, the Appeals Court, or the Administrative Oversight Agency. In the absence of the judicial institutions provided for by the 2006 constitution, the existing structures—including the Supreme Court, Appeals Court, Superior Court (Tribunal de Grande Instance), and the misdemeanor courts known as Tribunaux de Paix—continued operating.

While the new structures provided for in the constitution were designed in part to increase access to justice, the Government still had not implemented structures that were introduced by laws promulgated decades ago. For example, the 1982 law establishing the Tribunaux de Paix, which handle cases involving crimes punishable by less than five years' imprisonment, provides for one tribunal in each town and rural zone. According to an August 2009 report by the International Bar Association's Human Rights Institute (IBAHRI) and International Legal Assistance Consortium (ILAC), if this law were carried out, there should be 180 of these tribunals; however, only 58 were in place, and only 45 were functioning.

During the year the Government continued a process begun in October 2009 to recruit and hire 1,000 new magistrates, including approximately 100 female judges, to help address the problems of unfair trials and lack of access to justice. By year's end, the deployment of the magistrates to the provincial courts had not been undertaken, and the Government had not budgeted to deploy the judges.

Military courts, which had broad discretion in sentencing and provided no appeal to civilian courts, continued to try military as well as civilian defendants during the year. Some areas of the country, particularly the east, continued to be served only by military justice, due to the absence of any operational civilian justice component. Although the constitution limits jurisdiction of military courts to members of the FARDC and PNC, at year's end, the military judicial code and the military penal code of 2002 had not been harmonized with the constitution. In August 2009, the minister of justice initiated a reform process that aimed in part to harmonize military justice with the constitution; however, the military code of justice, in place prior to the adoption of the present constitution, continued in force during the year. It prescribed trial by military courts of all cases involving state security, including offenses related to military personnel, and "weapons of war" (firearms), whether the defendants were members of the military or civilians.

In 2007 the UN's resident expert on human rights recommended that the Government establish a clearer separation between civilian and military jurisdictions; however, no action was taken by parliament during the year to address this recommendation.

In December 2009 the UN secretary-general reported to the UN Security Council about "extraordinary" military justice mechanisms established in the Kivu, including the Operational Military Court (see section 1.d.). He expressed concern that, "while contributing to discipline within the FARDC, there continued to be serious doubts regarding the legal basis of the mechanisms and their respect of fair trial standards, particularly since they do not contemplate a right of appeal." In addition, in its report to the UPRWG, a coalition of international NGOs criticized the newly created Operational Military Court for disrespecting basic due process rules. Of particular concern was the lack of an appeals process. However, on February 13, the Operational Military Court in North Kivu sentenced five FARDC soldiers to death for murder, one soldier to 20 years of imprisonment for rape, and two soldiers to five years of imprisonment for arbitrary arrest.

The law requires that a defendant can be tried only by a judge in the military justice system who is of equal or higher rank than the accused. In practice, this provision continued to provide senior military suspects with protection from prosecution.

According to the August 2009 report by the IBAHRI and ILAC, there were two main reasons why the executive branch and military command “continue to violate the independence of military judges” and prosecutors:

First, alliances between government forces and various rebel groups continued to foster loyalties that have prompted government officials to try to prevent the prosecution of some of the leaders and members of these armed entities. For example, according to IBAHRI and ILAC, in a letter from the minister of justice obtained by NGOs, the minister “ordered that no action be taken against members of [the CNDP], and that ongoing proceedings were to be discontinued.” The date of the letter, February 9, 2009, was shortly before the March 2009 peace agreement in which the CNDP formally agreed to cease hostilities against—and integrate into—the FARDC and assist in operations against the FDLR. Second, military police and military prosecutors remained dependent on the military chain of command for logistical and administrative requirements, and military judges and prosecutors were sometimes beaten or even tortured for having acted against members of the FARDC without prior authorization from the commander. According to the UNJHRO, high-ranking military officers continued to adjudicate cases in which their own soldiers were implicated. Their alleged interference resulted in several out-of-court settlements regarding rape cases. However, there were some encouraging prosecutions during the year. For example, on July 22, the military tribunal in Goma condemned Lieutenant Bahati, Warrant Officer Kambere, Sergeant-Major Bandoa, and Balume to 20 years in prison for rape and armed robbery.

In their March 2009 report to the UNHRC, seven UN special rapporteurs and representatives underscored the need for the Government to increase the justice portion of the national budget “to an acceptable level comparable with other countries (2-6 percent).” During the year the Government increased the justice portion of the national budget to 0.1 percent. Emphasizing the importance of expanding the justice system in rural territories, the report underscored the lack of mobile courts and the need for increased or “hardship” pay to induce qualified judicial personnel to serve in conflict posts.

None of the courts or offices surveyed by an international NGO in four provinces (Katanga, Maniema, Bandundu, and South Kivu) had received operational or capital improvement funding from the central government in at least 10 years, forcing courts to rely on extralegal fees to pay for basic supplies and remuneration of “volunteer clerks,” who were used by court offices to fill gaps when civil service employees retired and were not replaced. A significant source of case management delay was the inability of courts to cover the costs of serving documents and other costs of litigation, including, for example, costs of transport for witnesses and victims in initial stages of prosecution. While there was some limited donor support for capital improvement and more limited support for operational costs, it was not enough to have an appreciable effect on courts’ ability to function as viable institutions.

In their March 2009 report to the UNHRC, seven UN special rapporteurs and representatives highlighted the need for transitional justice and truth-seeking initiatives, and recommended establishing mixed courts comprising national and international judges and sitting in national courts. While no mixed courts were established during the year, on October 1 the UNOHCHR published a human rights mapping report, which was endorsed by the Government and catalogued the most serious violations of human rights and international humanitarian law committed in the country between March 1993 and June 2003. The Government called the UNOHCHR Human Rights Mapping report “credible” and, while not supportive of the recommendation to re-establish the country’s dilapidated National Truth and Reconciliation Commission, expressed support for the concept of establishing a mixed domestic chambers to address the most serious crimes highlighted by the UNOHCHR’s mapping report. The Ministry of Justice sponsored a two-day workshop to draft legislation related to the mixed chambers on November 29 and 30.

*Trial Procedures.*—The constitution provides for a presumption of innocence; however, in practice most detainees were treated as already having been convicted. Although the Government permitted, and in some cases provided, legal counsel, lawyers often did not have free access to defendants. The public could attend trials only at the discretion of the presiding judge. Juries are not used. During trials defendants have the right to be present and to be provided a defense attorney. However, in practice these rights were not always respected. Defendants have the right to appeal in most cases except those involving national security, armed robbery, and smuggling, which the Court of State Security generally adjudicated. Defendants

have the right to confront and question witnesses against them and can present evidence and witnesses in their own defense. The law requires that defendants have access to government-held evidence, but this right was not always observed in practice. There were no reports of women or specific ethnic groups being systematically denied these rights.

*Political Prisoners and Detainees.*—There were reports of political prisoners and detainees. In 2009 the UNJHRO estimated that there were at least 200 political prisoners in detention at the end of the year. The Government permitted access to some political prisoners by international human rights organizations and MONUC; however, authorities consistently denied access to detention facilities run by the GR and the ANR (see section 1.c.).

*Civil Judicial Procedures and Remedies.*—Civil courts exist for lawsuits and other disputes, but the public widely viewed them as corrupt. The party willing to pay the higher bribe was generally believed to receive decisions in its favor. Most individuals could not afford the often prohibitive fees associated with filing a civil case. While the law stipulates access to free legal counsel for citizens in civil trials, in practice magistrates remained overburdened by large caseloads in areas outside of Kinshasa. It was difficult to retain the continued services of lawyers, who often spent minimal time outside of the capital. No civil court exists specifically to address human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference with privacy, family, home, or correspondence; however, state security forces routinely ignored these provisions. Soldiers, demobilized soldiers, deserters, and police continued to harass and rob civilians. State security forces routinely ignored legal requirements and entered and searched homes or vehicles without warrants. In general those responsible for such acts remained unidentified and unpunished. State security forces sometimes looted homes, businesses, and schools.

Authorities took no action in the cases detailed in this subsection in 2009 or 2008.

Authorities at times arrested or beat a relative or associate of a person they sought to arrest (see section 1.c.).

Armed entities operating outside government control in the east routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence, and some corporations facilitated such abuses by supporting—through the illicit trade in mineral resources—armed entities, including FARDC units (see section 1.g.).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Internal conflict continued in rural and mineral-rich parts of the east, particularly in North Kivu and South Kivu, Bas Uele and Haut Uele Districts of Orientale, and to a lesser degree, the Ituri District of Orientale. According to a countrywide International Rescue Committee mortality survey released in 2008, conflict and related humanitarian crises, including the destruction and deterioration of essential infrastructure such as health centers, resulted in the deaths of an estimated 5.4 million Congolese between 1998 and 2007, or the equivalent of 45,000 per month throughout the survey period.

Despite the integration of former CNDP rebels into the FARDC in 2009, the FDLR, LRA, and some Mai-Mai groups increasingly formed coalitions during the year and continued to battle government forces and attack civilian populations. Military preparations during the year, and the fighting itself, led to further depredations against civilians by members of state security forces and armed entities. This continuation of fighting in the east, which impeded humanitarian aid in some areas kept the figure of internally displaced persons at approximately 1.7 million by the end of the year, exacerbating an already severe humanitarian crisis.

The UN peacekeeping mission, MONUC, continued to maintain several thousand soldiers and civilian personnel in the country to assist the Government in establishing and maintaining peace and security, particularly in the east. In May the UN Security Council extended MONUC's mandate for 12 months, changing the name from MONUC to MONUSCO (UN Organization Stabilization Mission in the Congo), with an emphasis on the eastern part of the DRC and retaining protection of civilians as the Mission's top priority, and authorizing a drawdown of 2,000 peacekeeping soldiers troops by June 30 from areas where the security situation permits. At the end of the year, approximately 19,000 MONUSCO peacekeepers, military observers, and police continued efforts to effectively implement the mission's mandate, most notably with regard to its top priority of protecting civilians.

Despite the presence of MONUSCO, armed entities, including ex-CNDP FARDC units in the east, continued to kill, abduct, torture, and rape civilians and burn and destroy villages.

All parties continued to use mass rape and sexual violence with impunity, often as weapons of conflict, and to humiliate and punish individuals, victims, families, and communities. The UN Population Fund (UNFPA) reported 12,838 cases of sexual violence for both adults and children in North and South Kivu and Province Orientale in 2009. According to HRW, between January 2009 and September 2009, the total number of sexual violence cases registered at health centers in North and South Kivu exceeded 7,500, a near doubling of the total for the same period in 2008. In 2009 the International Rescue Committee, which registered approximately 1,200 cases of rape in South Kivu, found that up to 80 percent of survivors identified their assailants as members of either the FARDC or RMGs. While the actual number of cases was likely much higher, lack of data, social stigma, lack of confidence in the judiciary, and fear of reprisals prevented many rape survivors from coming forward.

According to MONUSCO, between July 30 and August 2, 303 women, children, and men were raped in 13 villages in Walikale, North Kivu by a coalition of the FDLR, Mai Mai Cheka, and combatants led by Colonel Emmanuel Nsengiyumva, a former member of the CNDP and the FARDC. The perpetrators also looted more than 1,000 homes and abducted 116 civilians, whom they subjected to forced labor. The UN reported that from late July to early August, rebel groups raped an additional 260 individuals in several isolated incidents in South Kivu. According to the UN, one of the villages attacked, Luvungi, where more than 100 persons were raped, was a lucrative target for looting because it was a mining hub located only four miles from gold mines. A UN investigation in August found that the perpetrators “sought to block off the transport of minerals to Goma and Bukavu, as well as force the return of FARDC troops from the mining areas.”

In addition, the UNGOE’s November report underscored another link between the rapes and exploitation of minerals. In the weeks prior to the rapes, criminal elements of the FARDC, including the 212th FARDC Brigade, were competing for control of lucrative deployments near mines, including Bisie mine. The competition for minerals within the FARDC and a false belief that the FDLR posed no threat in the area led the commander of the 212th Brigade, ex-CNDP FARDC Lieutenant Colonel Yusef Mboneza, to disobey orders to move to the area where the armed entities were located and where the rapes later took place. The insubordination and competing parallel chains of command occurred at the expense of civilian protection and underscored the need for more effective integration of the ex-CNDP FARDC elements and other former RMGs into the FARDC.

According to the UNGOE, on August 12, authorities arrested Colonel Mboneza for insubordination related to his failure to follow orders to combat Mai-Mai Sheka, an armed entity active in Walikale Territory, North Kivu, and the FDLR. According to the UNGOE’s report of November, FARDC General Ntaganda, a former CNDP rebel, subsequently sent more than 100 soldiers to kidnap Mboneza’s rival commanding officer, and then overran the Military Prosecutor’s Office and forced the release of Colonel Mboneza. By year’s end, authorities had not taken any disciplinary action against Colonel Mboneza.

Between September 1 and 18, MONUSCO conducted Operation Shop Window to improve the protection of local populations in Walikale and support government efforts to capture the perpetrators of the attacks from late July to early August. The operation resulted in the surrender of 27 Mai-Mai elements and the arrest of three Mai-Mai elements and one FDLR element. On October 5, following a joint MONUSCO-FARDC operation, authorities incarcerated “Lieutenant Colonel” Mayele, the “chief of staff” of the Mai-Mai Cheka group, who was alleged to have coordinated the attacks in Walikale Territory from July 30 to August 2, along with FDLR elements led by “Colonel” Serafim.

In October, while discussing the rapes committed in July and August in Walikale Territory, UN Special Representative on Sexual Violence Margot Wallstrom told the UN Security Council that the rapes “demonstrate a nexus between the illicit exploitation of natural resources by armed elements and patterns of sexual violence.” She underscored the competition over mining interests in the east “as one of the root causes of conflict and sexual violence.”

Rapes committed against a single woman by large numbers of armed men sometimes resulted in vaginal fistulas, a rupture of vaginal tissue that left survivors unable to control bodily functions and likely to be ostracized.

During the year the incidents of men being raped continued as a result of the violence between nongovernmental armed entities and the FARDC. The number of male rape cases may have numbered in the hundreds during the year, but statistics for male rape were even more difficult to compile than those for female rape, as social stigma prevented many male survivors from coming forward. According to the American Bar Association, which ran a legal aid clinic in North Kivu for survivors of sexual violence, 10 percent of its cases during June 2009 were men. NGOs and

medical workers reported that the humiliation was often so severe that male rape survivors came forward only if they had urgent health problems, and according to HRW, two men whose penises were cinched with rope died a few days later because they were too embarrassed to seek help.

The recruitment and use of children by all armed entities active in North and South Kivu and Orientale, including the FARDC (particularly ex-CNDP elements), continued. HRW reported that of approximately 1,000 documented males recruited between September and December in the east, at least 261 were under the age of 18. In July the UN secretary-general reported that joint military operations against the FDLR and the LRA had put children at high risk and made them more vulnerable to recruitment and use as soldiers, sexual slaves, porters or other domestic workers. According to the UNGOE report released in November, during 2009 a significant number of children who had previously been recruited into RMGs were brought into the new FARDC structures during the integration process.

According to a UN Children's Fund (UNICEF) estimate in late March 2009, 8,000 children had yet to be demobilized from the ranks of RMGs and several units of government security forces in the east, where they served as combatants, porters, spies, and sex slaves. The estimate represented an increase of 4,500 children, compared with the UNICEF estimate for 2008; however, it was very difficult to verify actual numbers, as estimates were provided based on the numbers of children who had been demobilized, not counted within the ranks.

From January to September, MONUC/MONUSCO facilitated the release of 1,559 children from the FARDC and RMGs. Between October 2008 and December 2009, the Resolution 1612 Joint Action Committee reported that 3,180 children, overwhelmingly male, were released from RMGs and the FARDC.

The Resolution 1612 Country Task Force is pursuing advocacy with the Government to commit to, negotiate, and implement an action plan to end the recruitment and use of children by the FARDC, as requested by UN Security Council resolutions 1539, 1612, and 1882. The action plan would facilitate, among other things, the commitment of the Government and the FARDC to release all children remaining within the FARDC's ranks and put an end to the recruitment and use of children, mainly through military orders and measures to clearly prohibit the practice, as well as through systematic investigation of perpetrators of child rights violations.

Fighting between the FARDC and nongovernmental armed entities continued to displace populations and limit humanitarian access to conflict areas. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), between January and June there were 105 attacks on humanitarian agencies working in the country, which represented a significant increase, compared with the 84 attacks between January and October of 2009, and the 36 attacks during the first 10 months of 2008.

In North and South Kivu, the illegal exploitation and trade of natural resources by armed actors, including criminal elements of the FARDC, continued to prolong the conflict, facilitate the purchase of small arms to commit abuses, and reduce government revenues needed for increasing security and rebuilding the country. Generating direct and indirect financing for armed actors and conflict, the exploitation of natural resources continued to include minerals such as cassiterite (a tin oxide), the rare mineral tantalum, and wolframite, all of which are key components in electronic products, as well as gold, timber, charcoal, fishing, and land.

The illegal trade in minerals continued to be both a symptom and a cause of the conflict in the Kivu provinces. While FARDC military operations during the year and in 2009 drove many RMGs, such as the FDLR, out of the principal mining areas in the Kivus, the RMGs continued to control hundreds of more remote mining deposits, increasingly pillaged mineral traders and transporters, and employed intermediaries to purchase minerals in mines they could no longer access. Ex-CNDP FARDC elements remained loyal to and in some cases shared mining profits with General Ntaganda—who remained the subject of an outstanding ICC arrest warrant—as they continued to gain control over large areas rich in natural resources in North and South Kivu provinces, including Walikale Territory, the part of North Kivu that is richest in cassiterite.

The law specifically prohibits the involvement of the FARDC in mining and the mineral trade; the law also prohibits nonstate armed actors from engaging in mining. However, the Government did not effectively enforce the law. According to the UNGOE, "in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group. The armed groups include regular FARDC units."

Criminal involvement by some FARDC units—as well as by RMGs—ranged from protection rackets (including protection fees paid by mining pit managers to avoid pillage or to facilitate smuggling) to indirect commercial control (including the use of illegal tax revenues to buy and sell minerals near mining sites), and direct coer-

cive control (including pillage). In addition, FARDC units and RMGs routinely forced civilians to work for them or relinquish their mineral production and extorted illegal “taxes.”

Some observers expressed concern over the Government’s decision in September to suspend indefinitely all mining activities in three eastern provinces. There were reports that, following the suspension, the military’s control of the mines intensified and that some FARDC elements increased their use of forced labor in the mines since mine activity had dropped following the suspension.

In a December report, Global Witness drew on data it had collected earlier in the year to estimate that military units and officials were receiving between \$1.1 and \$2.2 million a month from the Bisie mine in North Kivu, or \$14.4 million and \$28.8 million a year. Global Witness also estimated that illegal taxes on diggers outside the mineshafts in Bisie earned the FARDC officials and soldiers between \$45,600 and \$90,000 per month, and that they earned between \$3,300 and \$16,800 a month in illegal taxes on porters traveling to Bisie.

On November 29, UN Security Council Resolution 1952 endorsed the UNGOE’s recommendations for supply chain due diligence developed for importers, processing industries, and consumers of Congolese mineral products to ensure that companies do not exacerbate the conflict by “providing direct or indirect support to illegal armed groups, those found to violate the asset freeze and travel ban on sanctioned individuals and entities, or criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces.”

The UNGOE’s reporting in 2010 presented information indicating that Etablissement Namukaya, a gold exporting company based in the Kivu provinces, purchased gold from traders who were linked to armed entities in eastern DRC, bought gold from a mine that provided visiting FARDC officers gold, and worked with members of the FDLR in an attempt to sell material that they claimed was uranium. The report also presented information indicating that Geminaco, a mining company with offices in Goma, North Kivu, gained control of the gold mine at Omate in Walikale with the support of FARDC General Amisi Kumba (the commander of FARDC land forces), General Mayala, and Colonel Mboneza. According to UNGOE reporting, Geminaco sought agreements with elements of the FARDC and the Mai-Mai Sheka to ensure that Geminaco could continue its operations at Omate.

The November 2009 UNGOE report presented information indicating that the following Kivus-based exporters regularly purchased minerals from FDLR-controlled mines in eastern DRC: MDM, Etablissement Muyeye, Panju; Huaying Trading Company (HTC), and Clepad.

The November 2009 UNGOE report also presented information indicating that World Mining Company (WMC), based in the Kivu provinces, received shipments of cassiterite from a mining zone where production was controlled by DRC Armed Forces soldiers under the command of Lieutenant Colonel Zimurinda. The same report also indicated that the DRC-based company Hill Side’s cassiterite supply chains originated from conflict-affected areas of North Kivu, including near the Bisie mine of Walikale Territory. Dissident elements of the DRC’s state security forces controlled significant mining interests in this area. According to information presented by the UNGOE in 2009 and 2010, the dissident state security elements that controlled the Bisie mine and other mines in Walikale unlawfully used and recruited child soldiers, deliberately and regularly prevented UN peacekeepers from repatriating foreign combatants, regularly engaged in the extortion of miners and other local residents and were loyal to and engaged in mining activities, some of which were financed by General Bosco Ntaganda.

In addition, the same report presented information indicating that the supply chains of the following corporations, all based outside of the DRC, included one or more of the nine DRC-based companies mentioned above, and originated from areas in which mines were controlled by armed entities, such as the FDLR, which perpetrated serious human rights abuses in the eastern DRC during the year: Malaysian Smelting Corporation (based in Malaysia), African Ventures Ltd. (based in Hong Kong); Refractory Metals and Mining Company Ltd. (based in Hong Kong); Thailand Smelting and Refining Company (based in Thailand); Amalgamated Metals Corporation (based in the United Kingdom) Afrimex (based in the United Kingdom); Minerals Supply Africa (based in Rwanda); Cronimet Central Africa AG (based in Switzerland); Cronimet Mining GmbH (based in Germany); Trademet (based in Belgium); and Traxys (based in Belgium).

In addition, according to the UNGOE interim report of May 2010, “in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group.” In December 2010, an international NGO, Global Witness, published a report exam-

ining measures it deemed necessary to “end the conflict minerals trade” in eastern DRC. According to the report, the export records of the DRC government’s Division of Mines showed that two Chinese companies and one Hong Kong company purchased 100 percent of the 41.4 tons of columbite-tantalite (or “coltan”), a metallic ore which—when refined—yields tantalum, exported from conflict-affected North Kivu Province in May 2010. According to Global Witness, the three companies were Fogang Jiata Metals, which was the top importer of coltan from the Kivu provinces in 2009 according to DRC government statistics, Star 2000 Services, and Hong Kong-based Unilink Trading Hong Kong. In addition, Global Witness identified Chinese state-owned company CNMC Ningxia Orient Nonferrous Metal Group as one of the top three tantalum smelting and producing companies in the world and reported that the company declined to identify for Global Witness the origin of the tantalum ore that it used.

At times verification of reported abuses in the east was difficult due to geographical remoteness and hazardous security conditions; however, MONUSCO’s presence allowed observers to gather more information than would have otherwise been possible.

*Abuses by State Security Forces.*—State security forces arrested, illegally detained, raped, tortured, and summarily executed or otherwise killed civilians and looted villages during military actions against nongovernmental armed entities during the year, according to reports by UN agencies and NGOs. Impunity remained a severe problem, and several individuals in the state security forces continued to hold high positions despite credible evidence of their involvement in serious human rights abuses or despite failing to hold their subordinates accountable for committing serious abuses (see section 1.d.).

Taking advantage of parallel command structures, ex-CNDP FARDC units in the east controlled their own stockpile of weapons and resisted central government orders to deploy outside of the mineral-rich east. In addition, some ex-CNDP elements collaborated with RMGs who were officially their enemies, according to the UNGOE.

Of 3,723 “incidents” reported in the first six months of the year by UNHCR in North Kivu, 1,302 (35 percent) were caused by the FARDC, compared with 698 (19 percent) by the FDLR.

During the Amani Leo Operation, and at the request of the FARDC, MONUSCO conducted human rights screening to remove human rights abusers from the operation, on a small number of battalions in North Kivu (approximately 1,500 soldiers), who were tasked with holding areas from which the FDLR and residual RMGs had been dislodged in the context of Operation Amani Leo. However, nonvetted battalions did not receive MONUSCO support. The majority of operations conducted in Amani Leo throughout the year were undertaken by the FARDC without support from MONUSCO. As FARDC soldiers spread throughout the Kivus for operations that did not receive MONUSCO support, reports of violations increased.

For example, on February 2, members of the 3221st Battalion killed the head of an elementary school and his son in Mwenga, South Kivu, because of suspicions of collaboration with the FDLR. By year’s end there were no reports of an investigation or judicial proceedings.

According to the UNJHRO, on February 21, FARDC soldiers of the 512th Brigade attacked a truck rented by an international NGO killing one civilian in Shabunda, South Kivu. By year’s end there were no reports of an investigation or judicial proceedings.

In April FARDC troops engaged in operations against Enyele insurgents who attacked Mbandaka, Equateur Province, and temporarily took control of the airport. Refugees and IDPs who fled violence that began in 2009 have been reluctant to return due to the presence of FARDC troops. According to the UNJHRO, during operations to restore order in Equateur FARDC soldiers detained at least 20 persons suspected of involvement in the Enyele insurgency at the 3rd Military Region and subsequently executed them. In addition, FARDC and/or PNC agents were involved in 12 cases of rape during the same time period. Four of these cases were being investigated by authorities. No other details were available at year’s end.

On September 17, the FARDC launched operations in the Walikale area of North Kivu, without MONUSCO support, to clear the area of FDLR and other armed entities and to enforce the mining ban enacted by President Kabila. The UNJHRO reported that on September 21 and 22, the 221st Brigade engaged in looting, beating and raping of civilians near Kibua for their alleged collaboration with FDLR and APCLS forces.

By the beginning of the year, UN and FARDC officials stated that the newly integrated FARDC units in Orientale, composed of approximately 6,000 soldiers, had become a major security threat during Rudi II military operations against the LRA in Haut and Bas Uele, Orientale. According to the UNGOE report of November,

“most troops have not been rotated in over a year and allegations of human right abuses continued to be reported.”

Neither Congolese nor Rwandan authorities took any steps to investigate or prosecute any members of the FARDC or the Rwandan Defense Forces allegedly involved in the killing of 201 civilians and other abuses in North Kivu during the joint DRC-Rwanda military operations (Umoja Wetu) against the FDLR in January and February 2009.

Congolese authorities took no steps to investigate the killing of more than 500 civilians and other abuses, such as the sexual enslavement of refugees, in North Kivu during FARDC-only operations against the FDLR during 2009, including the killing of at least 50 Hutu Rwandan refugees in April 2009 by predominantly ex-CNDP FARDC soldiers under the command of Lieutenant Colonel Innocent Zimurinda in Shalio, North Kivu.

There were no known reports that authorities were taking steps to investigate or prosecute the commander or members of the FARDC's 213th Brigade implicated in the killing of at least 62 civilians between May and September 2009, during its participation in Kimia II, in the Lukweti area near Nyabiondo, North Kivu. Investigations by human rights organizations indicated as many as 270 may have been killed during this period. MONUC ceased all support for this brigade in late 2009.

Authorities took no steps to investigate or prosecute those responsible for killing an employee of Secours Catholique-Caritas, an international human rights and humanitarian organization, in Musezero, North Kivu, in July 2009. According to the NGO, villagers reported seeing two men in FARDC uniforms stop the employee before shooting him.

Congolese authorities also took no steps to investigate the killing of at least 19 civilians in December 2009 in Masisi Territory, North Kivu, during fighting between FARDC soldiers.

Military authorities took no action against any of the following FARDC elements accused of killings: members of the FARDC 13th Integrated Brigade reportedly responsible for the disappearance of at least six civilians and the arbitrary execution of at least one civilian during 2008 in Kamatsi, Orientale; or members of the FARDC 2nd Integrated Brigade who allegedly killed eight civilians in 2008 in Musezero, North Kivu.

No further information was available regarding the 2008 arrest of 24 FARDC soldiers accused of allegedly committing serious abuses against the local populations, including the killing of nine civilians, the rape of three girls, and the pillaging of numerous homes, stores, and restaurants.

The FARDC also continued to physically abuse and arbitrarily arrest civilians in the east.

FARDC soldiers engaged in anti-FDLR operations often arbitrarily arrested civilians whom they suspected of being collaborators or sympathizers of the FDLR and detained them without charge for days or weeks, often beating them and demanding payment for their release. HRW documented more than 160 such cases between January and September 2009 in the Kivus; however, there were no reports of authorities taking disciplinary action against those soldiers responsible for the arbitrary arrests.

There were no reports of authorities investigating FARDC soldiers deployed to Kanyola, South Kivu, who allegedly forced civilians from Walungu village, South Kivu, to carry their belongings on the road from Nkokwe to Hombo. The soldiers beat the men each time they tried to rest, and two civilians died of exhaustion and mistreatment.

Authorities took no action against FARDC elements accused of gang-raping nine women and committing other abuses in 2008 after reportedly deserting their units in Orientale.

Rape by members of state security forces remained a serious problem, and perpetrators enjoyed almost total impunity. According to a December 2009 report by HRW, in North Kivu, in 349 of the 639 sexual violence cases documented by HRW, the victim or other witnesses clearly identified the perpetrators as government soldiers.

On or around June 6, four FARDC soldiers allegedly raped 10 girls at Mahagi market. Two of the girls were hospitalized and a doctor confirmed the rapes, according to MONUSCO.

On June 16, a FARDC lieutenant in Kisangani attempted to kidnap and rape a four-year-old girl. Authorities arrested him on June 17 and held him in the 9th Region's headquarters until his eventual court martial and incarceration.

Authorities took no action to bring to justice ex-CNDP FARDC soldiers who violently raped and beat a rape counselor in January 2009 in South Kivu after accusing her of denouncing them and reporting on the rapes.

No additional information was available regarding a FARDC soldier from the 17th Integrated Brigade who raped a 10-year-old boy in Walungu, South Kivu, in March 2009. The soldier's commander subsequently arrested him and transferred him to the military prosecutor's office in Bukavu, where he remained in detention pending the outcome of an investigation.

Authorities took no action against FARDC soldiers in Nyamilima, North Kivu, who allegedly raped eight women and five minors in June 2009 during a riot protesting a delay in the payment of their salary.

There were no reports of authorities taking action against soldiers of the FARDC 7th and 15th integrated brigades, who raped at least 10 women while retreating amid combat operations in the Rutshuru Territory villages of Kibirizi and Nyanzale in North Kivu between September and December 2009.

There were no reports of authorities taking action against FARDC soldiers from the 131st Battalion of the 13th Integrated Brigade who raped seven women in the village of Lubero Territory, North Kivu, in 2009.

Authorities took no action against a FARDC soldier of the 14th Integrated Brigade, who in 2008 arrested and raped a woman suspected of collaborating with the FDLR.

The use and treatment of child soldiers by FARDC elements—particularly fast-track integrated brigades composed mainly of ex-CNDP members—remained a problem. In December the UNGOE reported to the UN Security Council that during 2009 the MONUC Child Protection Section documented 686 cases of child recruitment attributable to the FARDC, compared with 631 children released by the FARDC during the same time. The FARDC showed what the UN secretary-general called “a dramatic increase” in the number of children within its ranks in 2009. According to the UN secretary-general's report of July, following the fast-track integration of former rebels and militia members in 2009, which brought many child soldiers from RMGs into the ranks of the FARDC, “the FARDC not only accounted for the highest number of children recruited during October 2008 through December 2009 but was also the only armed entity for which an increase in child recruitment was documented. By contrast, all the other groups showed a downward trend in child recruitment, with the transfer of their children to the FARDC.”

In December the UNGOE underscored concerns that UN child protection officers had been denied access to physically screen nearly two thirds of the FARDC combatants in military operations supported by the UN to ensure children were not involved. The UNGOE reported that “since the outset of the Amani Leo operations, only one FARDC battalion has been fully screened by the MONUSCO Child Protection Section.” The UNGOE added that, while some FARDC commanders have cooperated in efforts to separate children from FARDC units, others have hidden children or continued to recruit children, including some of those who had previously been separated. In 2009 the UNGOE expressed concern that ex-CNDP officers in FARDC units in the east “repeatedly and deliberately obstructed MONUC from repatriating foreign fighters from their ranks.” Sometimes the obstruction involved death threats. During the year and in 2009, the UNGOE reported that the acts of obstruction occurred often under the command of certain colonels and lieutenant colonels, including Colonel Gwigwi Busogi, Colonel Baudouin Ngaruye, Lieutenant Colonel Antoine Manzi, Lieutenant Colonel Bisamaza, Salumu Mulenda, and Colonel Innocent Zimurinda, who was sanctioned by the UN Security Council in December for recruitment and use of child soldiers and other grave abuses against children. Gwigwi, along with his commanders, systematically hid children from child protection officers and otherwise obstructed their efforts, according to witnesses. Between May and August, MONUSCO documented a further 15 cases of children who had been used as soldiers by senior officers under Gwigwi's command. Gwigwi commanded the 24th Sector of the FARDC in Kalehe, South Kivu, for most of the year but was redeployed as deputy commander of the 4th operational zone in Uvira.

UNICEF expressed concern about frequent reports of the prolonged detention of children at detention centers following their separation from armed entities. The group noted that children were often subjected to interrogation and inhumane treatment.

Government security forces in the east continued to force men, women, and children, including IDPs, to serve as porters, mine workers, and domestic laborers. For example, the UNJHRO reported that on May 21, a FARDC soldier in South Kivu allegedly shot a woman who refused to transport military goods.

During the year mining operations at Bisie mine in North Kivu reportedly supported arms transfers by FARDC elements that benefited nongovernmental armed actors; there were also reports that the FARDC mining operations benefited an ICC-indicted FARDC general. According to the UNGOE's November report, ex-CNDP FARDC elements of the 212th Brigade, who were led by Lieutenant Colonel Yusef

Mboneza and his deputy Colonel Hassani continued to maintain a presence at the Bisie mine and maintain their own illegal tax regime, which they used to extort one kilo of cassiterite from all diggers each time they exited a mining pit and \$20 every time a digger worked at night. The UNGOE reported that Colonel Hassani continued to share his mineral profits from Bisie with General Ntaganda, who remained subject to an outstanding arrest warrant issued by the ICC. Furthermore, the UNGOE presented evidence indicating that Colonel Hassani's brother Faustin Ndahiriwe handled Colonel Hassani's mineral investments, and that Ndahiriwe had commandeered his own mining pit in Bisie. In 2009 the UNGOE had established that Ndahiriwe "has directly supplied a number of businesses in Goma with cassiterite, particularly Hill Side," a mineral exporting business that the UNGOE reported was prefinanced by MSA. Previously, the UNGOE had reported in November 2009 that MSA "pre-financed" Hill Side, a mineral exporting business "that has purchased large quantities of minerals from Ndahiriwe." Finally, according to the UNGOE report of November, a Walikale military prosecutor issued an arrest warrant accusing Captain Zidane, who oversaw Colonel Mboneza's mining interests and investments at Bisie, of providing weapons to bandits to attack a mineral trader carrying over \$10,000. However, on April 7 Lieutenant Colonel Mboneza destroyed the warrant and detained the officers carrying it.

According to the UNGOE, during the year FARDC units were increasingly involved in land disputes and land grabs, which often resulted in violence. FARDC units composed of mainly ex-CNDP members forcibly displaced large numbers of civilians from land in the Mushake zone of Masisi Territory, North Kivu, in order to find grazing areas for cattle being brought in from Rwanda. The UNGOE reported that ex-CNDP FARDC soldiers under Colonel Baudouin forced more than 180 families from their land at Tchaninga. Throughout the year stories of unknown persons, either refugees from camps in Rwanda, economic migrants from Rwanda, or IDPs from other areas in the DRC, trickled back to reoccupy contested land in the Kivus, exacerbating ethnic and land-based tensions among local communities.

#### Abuses by Armed Entities Outside Central Government Control

Illegal armed entities committed numerous serious abuses, especially in rural areas of North and South Kivu and Orientale during the year. Such groups killed, raped, and tortured civilians, often as retribution for alleged collaboration with government forces.

Armed entities maintained and recruited child soldiers, including by force, sometimes from schools and churches, and sometimes killed, threatened, and harassed humanitarian workers.

Many armed entities abducted men, women, and children and compelled them to transport looted goods for long distances without pay. On occasion, armed entities also forced civilians to mine. Armed entities forced men, women and children to provide household labor or sexual services for periods ranging from several days to several months. Armed entities in conflict-affected areas in the east used children, including child soldiers, for forced labor in mines.

Armed entities in parts of the east sometimes detained civilians, often for ransom. They continued to loot, extort, and illegally tax civilians in areas they occupied.

There were no credible attempts by nonstate armed entities to investigate abuses allegedly committed by their fighters.

*National Congress for the Defense of the People (CNDP).*—In January 2009 Rwandan officials arrested General Laurent Nkunda, who remained in Rwandan custody at year's end, and CNDP chief of staff General Bosco Ntaganda became the leader of the CNDP. In January 2009 the Government and the CNDP announced an alliance, and Ntaganda agreed to rapidly integrate the CNDP into the FARDC. In addition the CNDP agreed to transform itself into a political movement. Integration of the CNDP into the FARDC was uneven, with large numbers of the CNDP continuing to operate within their old command and control structures. This ambiguous and incomplete integration contributed to impunity within the CNDP. After a public statement by the president noting their redeployment to other areas in the DRC, FARDC members who had belonged to the CNDP refused to leave North Kivu and began actively recruiting new members. In November, ex-CNDP FARDC members were actively recruiting children to serve in their ranks by visiting schools in North Kivu and demanding lists of recently demobilized children. They were also targeting young adult men to serve in their ranks.

No action was taken against CNDP combatants for any of the following alleged human rights abuses, all of which were committed prior to the CNDP's integration into the FARDC in 2009: arbitrary execution in 2008 by CNDP elements of at least 30 civilians in the vicinity of Kalonge, North Kivu; abduction of 15 civilians from Kitchanga, North Kivu, and related abuses by 15 CNDP combatants in 2008; the arbitrary arrest, illegal detention, and beating of four civilians in Karuba, North

Kivu, by CNDP elements in 2008; the summary execution of three children by CNDP colonel Sultani Makenga during 2008; the killing of an Italian aid worker in 2008 by an unidentified armed entity in CNDP-held territory in Rutshuru, North Kivu; or the 2008 cases of aggressive and forcible recruitment of children by the CNDP for use as combatants, bodyguards, and porters.

In September 2009 the UNJHRO released an investigation report on the deaths of civilians during and following the 2008 fighting in the North Kivu town of Kiwanja between CNDP and local Mai Mai combatants. The UNJHRO concluded that, after the intense fighting between Mai Mai combatants and the CNDP had ended and the Mai Mai had retreated from Kiwanja, CNDP elements conducted targeted reprisal killings of the villagers, mainly young men whom they suspected of belonging to or supporting the Mai Mai. The UNJHRO confirmed 67 arbitrary executions perpetrated by the CNDP. However, unconfirmed allegations received by UNJHRO human rights officers suggested that the number of victims could be much higher. (Other human rights groups reported in 2008 that as many as 200 civilians may have been killed during and after the fighting between CNDP and Mai Mai combatants.) In addition the UNJHRO received testimonies alleging that the CNDP burned homes and a police station, raped a woman, arbitrarily arrested and detained civilians, abducted 23 men and boys to forcibly recruit them as combatants, and dismantled camps for IDPs in and around Kiwanja after the CNDP took over local administration. The UNJHRO also received allegations of abuses by other armed entities in Kiwanja (see subsections below on abuses by the Mai-Mai and FDLR) and offered conclusions and recommendations regarding MONUC military personnel stationed in Kiwanja during the events (see section 5).

The Democratic Forces for the Liberation of Rwanda (FDLR)

The FDLR, which was led by individuals responsible for fomenting and implementing the Rwandan genocide, committed several killings during the year. Between 3,500 and 8,000 FDLR fighters remained in the provinces of North and South Kivu. According to the UNJHRO, on February 8, FDLR elements attacked Punia, Maniema Province, killing two FARDC soldiers. They also allegedly killed an unknown number of civilians, kidnapped 50 others, burned approximately 200 houses, and stole one ton of cassiterite. The abductees were forced to carry the looted items. During the night of February 3, civilians in Walikale, North Kivu, were forced to hide in the forest for fear of further attacks after the FDLR attacked, killing six inhabitants, injuring five others, and looting and burning many houses. During the night of February 11, in Mwenga Territory, South Kivu, FDLR combatants allegedly kidnapped approximately 15 women, five of whom they killed.

Following the launch of operation Umoja Wetu in January 2009, FDLR forces began to attack dozens of villages and towns across North and South Kivu. According to HRW, between late January and September 2009, the FDLR deliberately killed at least 701 civilians in North and South Kivu; more than half of the victims were women and children. Between January and October 2009, the FDLR committed an average of 50 to 60 killings per month, compared with fewer than 10 killings per month in 2008, according to UNSRESAE Alston.

While being pursued by the RDF and FARDC in January 2009, FDLR forces in Masisi Territory (North Kivu) blocked village roads and killed those who tried to flee. FDLR combatants also abducted scores of civilians as hostages, seemingly for use as "human shields" against the impending attack; however, when the hostages tried to escape as Umoja Wetu forces began attacking the FDLR's Kibua headquarters in January 2009, FDLR combatants shot and hacked to death many of them.

In April 2009 the FDLR attacked the Mianga village in the Waloaluanda area. According to HRW, FDLR attackers decapitated the local chief and killed three other local authorities whom they accused of collaborating with the FARDC. Over the days that followed, the FDLR deliberately killed a further 41 civilians, injured many others, and then burned the village to the ground.

In May 2009, machete-wielding FDLR combatants shot, hacked, and burned to death at least 96 civilians, including 25 children, in Busurungi, Waloaluanda (North Kivu), largely in retaliation for the killing of Rwandan Hutu refugees by FARDC soldiers at Shalio two weeks before. The FDLR attackers then destroyed Busurungi, burning to the ground 702 houses, three health centers, and several schools and churches, according to HRW.

Between January and September 2009, the FDLR destroyed at least 7,051 homes and other structures and perpetrated 290 cases of sexual violence in North and South Kivu in areas affected by military operations. According to HRW, in March 2009, in the Ziralo area of Kalehe Territory, seven FDLR combatants gang-raped a 60-year-old woman. When her daughter resisted being raped, the attackers shot and killed her.

According to MONUSCO, from July 30 to August 2, 303 women, children, and men were raped in a systematic assault by the FDLR, in cooperation with other armed elements in Walikale territory, North Kivu.

In 2009, scores of women were abducted and forced to serve as sex slaves in FDLR camps, where they were raped repeatedly for weeks or months at a time.

According to the November report by the UNGOE, the FDLR seemed to have increased abductions and hostage-taking during the year and ransom demands were becoming more frequent.

The FDLR took no credible action to investigate or address human rights abuses allegedly committed by its members, including FDLR members responsible for the following reported abuses: the 2008 killing of the village chief of Kilali, North Kivu; arbitrary execution of three civilians in Tchanishasha, South Kivu, in 2008; or the killing of three residents of Kabunga, North Kivu, in 2008.

In its September 2009 report about abuses committed in Kiwanja, North Kivu, during and after clashes involving CNDP and Mai-Mai combatants in 2008, the UNJHRO highlighted testimonies it collected alleging that FDLR combatants executed seven individuals and raped four women in Kiwanja.

#### Ituri District Militia Groups

Despite the signing of a 2006 ceasefire agreement between militias in the Ituri District of Orientale, including the Front for National Integration (FNI), the Congolese Revolutionary Movement, the FRPI, and the Government, the FRPI refused to participate in the peace process and was implicated in abuses committed against civilians in Ituri District during the year.

As the FARDC's Iron Stone operation in Ituri, Orientale, continued, Ugandan authorities arrested the leader of the FPJC, Sharif Manda on September 1.

Abuses by militias in Ituri were more often acts of banditry, rather than politically or ethnically motivated violence.

On August 9, the military tribunal in Bunia sentenced Kakado Banaba Yonga, spiritual leader for FRPI militia leader Colonel Cobra Matata, to life in prison for war crimes, including attacks against civilians, rape, and sexual slavery that he had committed.

There were no credible reports of action taken by rebel leaders in Ituri District against those responsible for the following abuses: the 2008 attack on villages in and around Lalo and Djurukidogo in Ituri District by FNI combatants, who burned children to death and kidnapped individuals; and attacks by FPRI members on local populations in Tchei and other villages of Orientale in 2008.

No additional information was available regarding the case of Yves Kawa Panga Mandro, alias Chief Kawa, a former Ituri militia leader convicted in 2006 for crimes against humanity in 2003. In 2008, the Kisangani Court of Appeal, citing the 2005 amnesty law, acquitted Kawa. According to the UNJHRO, the appeals judge ruled that the prosecution had made a number of errors in the case. However, Kawa remained in detention in the CPRK prison in Kinshasa while the prosecutor appealed the decision of the appeals court to the High Military Court in Kinshasa.

#### Mai-Mai

Various Mai-Mai community-based militia groups in the provinces of South Kivu, North Kivu, and Katanga continued to commit abuses against civilians, including killings, abductions, and rapes. According to the UNGOE, the use of children as soldiers by Coalition of Patriots in the Congolese Resistance (PARECO) and other Mai-Mai groups in North Kivu Province was endemic.

During the year various Mai-Mai groups continued to commit abuses against civilians, including the recruitment and use of children for use as soldiers. For example, according to MONUSCO, from July 30 to August 2, 303 women, children, and men were raped in a systematic assault by FDLR, Mai Mai Cheka, and ex-CNDP ex-FARDC Colonel Emmanuel in 13 villages around the Kibua area in Walikale territory, North Kivu (see above in section 1.g.). According to the UNGOE report of November, Mai Mai Cheka "is a creation of a criminal network within the FARDC," and in August a FARDC officer was arrested for his failure to combat the militia (see section 1.d.).

On October 5, Mai Mai Cheka deputy commander Lieutenant Colonel Mayele, one of the suspected perpetrator of the rapes, was surrendered by his commander and taken into custody by MONUSCO.

Fighting between some Mai-Mai groups and the FARDC continued during the year, displacing persons and causing insecurity.

Authorities took no action against PARECO combatants, who allegedly raped a woman, stabbed a 17-year-old girl, and arbitrarily executed six other civilians during an attack on Luwuzi, North Kivu, in 2008.

In its September 2009 report about abuses committed in Kiwanja, North Kivu, during and after clashes involving CNDP and Mai-Mai combatants in 2008, the

UNJHRO highlighted evidence of two civilian deaths and 50 persons injured during the combat. In addition, the report included testimonies alleging that, outside the context of combat, Mai-Mai combatants killed at least one civilian and abducted several persons in Kiwanja. The UNJHRO also concluded that the CNDP committed targeted executions of civilians (see preceding subsection on CNDP abuses).

There were no further developments in the trial of Katanga Mai-Mai leader Gideon for war crimes and crimes against humanity.

Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU)

In June the FARDC launched Operation Ruwenzori against the ADF, an Islamist Ugandan-led group that has been operating in the eastern part of the country since the late 1990s.

MONUSCO officials reported that members of ADF/NALU engaged in petty theft and extortion.

*Lord's Resistance Army (LRA).*—The LRA moved away from the DRC's Garamba National Park (Orientale Province) to eastern Central African Republic (CAR); however, several elements remained in northeastern DRC. The LRA was responsible for killing, raping, and kidnapping hundreds of persons in the DRC, CAR, and Sudan as it continued to seek the overthrow of the Ugandan government. The LRA continued to hold children it had forcibly abducted.

Between February 2009 and August 2010, the LRA abducted an estimated 650 persons, including children and women, and continued to cause displacement in Orientale.

Rudia II, the FARDC-led operation against the LRA, continued in cooperation with the Ugandan People's Defense Forces and with logistical support from MONUSCO. LRA attacks continued throughout the year, resulting in executions, abductions, and sexual violence, although the level and intensity of the attacks decreased as the group fragmented into smaller units.

Between February 1 and 13, LRA combatants killed 76 persons in fishing villages throughout Niangara Territory in Orientale, according to HRW. On February 26, LRA elements killed at least 80 persons in Kpanga, Niangara Territory.

During a four-day period in December 2009, the LRA killed 321 civilians and abducted at least 250, including at least 80 children, in the Makombo area of Haut Uele.

There were no credible attempts by LRA leaders to prevent abuses or punish combatants for past abuses.

The LRA continued to attack local villages and forced citizens to flee in Ango, Dungu, Niangara, and Faradje Territories, Orientale. The UNHCR estimated that there were more than 390,000 internally displaced persons in the territory as of August 31.

*Abuses by Foreign Powers.*—On October 1, the UNOHCHR issued the report of a mapping exercise documenting alleged atrocities committed in the country in the decade between March 1993 and June 2003. The report described more than 600 incidents that allegedly took place in the country over the 10-year period, raising serious allegations of brutal and horrific mass killings, rape and other abuses during the period in question believed to have been committed by armed forces and other non-state groups from Angola, Burundi, Rwanda, Uganda and Zimbabwe. The report also described allegations of human rights abuses by Congolese armed entities. The DRC government responded in writing to the UNOHCHR report and also began considering the creation of mixed chambers to prosecute these alleged crimes (see sections 1.e. and 5).

*Abuses by UN Peacekeepers.*—A number of sexual exploitation and abuse (SEA) cases by MONUSCO peacekeepers were under investigation. MONUSCO reported that the number of the most serious SEA allegations decreased from 37 in 2009 to 33 during the year. MONUSCO repatriated 11 contingent members during the year on disciplinary grounds, a significant drop from the 33 sent home in 2009.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government restricted these rights in practice, and freedom of the press declined during the year. The Government intimidated journalists and publishers into practicing self-censorship. In September, 29 members of a worldwide coalition of press freedom groups expressed concern about the “constant decline in the climate for journalists and steadily shrinking space for free expression” in the country in advance of the 2011 presidential election. In an open letter, the 31 members of the International Freedom of Expression Exchange (IFEX), including the Media Institute of Southern Africa and Congolese NGO Journalist in Danger, called

on President Kabila to declare a moratorium on imprisoning journalists on charges of defamation or insulting the authorities. IFEX also called for the rapid creation of the proposed Higher Council for Broadcasting and Communication (CSAC) to ensure candidates would have equitable access to state-owned media in 2011.

Following an assessment visit to the country in June 2009, Margaret Sekaggya, the UN special rapporteur on human rights defenders, said journalists and other human rights defenders “face illegitimate restrictions of their right to freedoms of opinion and expression” and underscored that the country’s “defenders, in particular journalists, who report on human rights abuses committed by state and nonstate actors, are killed, threatened, tortured, or arbitrarily arrested and their offices raided.”

Generally individuals could privately criticize the Government, its officials, and private citizens without being subject to official reprisals. However, public criticism of government officials and government conduct or decisions regarding issues such as conflict and insurgencies, management of natural resources, or corruption sometimes resulted in harsh responses, often from the ANR, the intelligence service under the president’s control. For example, on April 11, ANR officials arrested Antenne A-TV journalists Jean-Denis Bankonga and Jean-Louis Miasuekama at their office and held them in detention for three hours. Officials had wanted to arrest the station’s information director for announcing that the Government had set up a commission to negotiate with the Enyele insurgents on April 8.

Authorities took no action against the responsible ANR agents in Goma who, in 2008, arbitrarily arrested, detained, and mistreated for several days a member of the Union for Democracy and Social Progress/Goma for discussing politics with local citizens.

A large and active private press functioned throughout the country, and the Government licensed a large number of daily newspapers to publish. The Government required every newspaper to pay a license fee of 250,000 Congolese francs (approximately \$280) and complete several administrative requirements before publishing. Many journalists lacked professional training, received little, if any, salary, and were vulnerable to manipulation by wealthy individuals, government officials, and politicians who provided cash or other benefits to encourage certain types of articles. Many newspapers remained critical of the Government, and many others showed bias toward it or supported particular political parties. The Government press agency published the Daily Bulletin that included news reports, decrees, and official statements.

Radio remained the most important medium of public information due to limited literacy and the relatively high cost of newspapers and television. More than 350 privately owned radio and television stations operated independently, according to the transitional state media regulatory body. The state owned three radio stations and three television stations, Congolese National Radio-Television (RTNC) 1, RTNC 2, and a channel that broadcast parliament sessions live. The UN operated Radio Okapi, which was the only nationwide radio network. The president’s family also owned and operated television station Digital Congo. Political parties represented in the Government could generally gain access to RTNC.

State security forces did not generally arrest or harass foreign journalists; however, in 2009 government authorities imposed an indefinite suspension on broadcasts by Radio France Internationale (RFI). RFI’s broadcasting signal was restored across the country on October 12 and was allowed to open a local office and appointed an foreign journalist. Government authorities informed foreign journalists that the military code of justice (criminal penalties, including imprisonment) would be applied to any foreign journalists who committed press offenses, causing international journalists to express concern over their ability to report on sensitive subjects such as the conflict in the east and corruption.

During the year security force members killed a journalist. In North Kivu, on April 5, armed men in military uniform killed Patient Chebeya, a journalist-cameraman for the RTNC, at the entrance of his home in the eastern city of Beni. According to Chebeya’s wife, the gunmen told Chebeya they had come to kill him and seized videotapes, mobile phones, and money. On April 17, the Military Garrison Tribunal of Beni convicted a sub-lieutenant and an adjutant of the 1113th FARDC Battalion for his murder, sentencing them to the death penalty and financial payments of \$75,000 and restitution of the stolen property.

In 2008 unknown assailants in Bukavu shot and killed Didace Namujimbo, a journalist for Radio Okapi. On May 4, the Military Tribunal in Bukavu sentenced two soldiers and a civilian to death for the journalist’s murder, and condemned seven others to prison terms ranging from seven months to five years.

State security forces beat, arbitrarily arrested, harassed, and intimidated local journalists because of their reporting. For example, in April Jullson Eninga, pub-

lishing director of *Le Journal*, was arrested in Kinshasa for publishing an FDLR newsletter, but was acquitted of all charges on September 6.

On July 27, PNC officers in Kinshasa arbitrarily arrested Pascale Mulunda, editor of *Le Monitor*, a weekly newspaper, for allegedly committing libel when reporting on June 23 the alleged corruption by an official within the Ministry of Mines. The arrest was made following a complaint filed by the official. In addition, the editor of *Le Barometer*, Jeff Saile, reportedly went into hiding after receiving anonymous telephone threats following his reporting on the alleged corruption. Mulunda was released three weeks after his arrest. By year's end, no additional information was available regarding Saile.

On July 28, soldiers broke into Radio Moto-Oicha in Beni, North Kivu, and apprehended and beat a radio technician. There were no reports of authorities disciplining those responsible for the break-in and beating.

On December 17, ANR agents arrested Robert Shemahamba, director of Radio-Television Communautaire Mitumba, which broadcast in Uvira, South Kivu. ANR agents arrested him after he refused to be questioned without a lawyer, according to the Committee to Protect Journalists (CPJ). ANR agents held him without charge for 11 days. The agents arrested Shemahamba following the broadcast of a December 12 program in which three opposition politicians criticized Uvira municipal officials for alleged mismanagement. The country's communications minister told CPJ he had protested the arrest and called for the Ministry of Interior to resolve it. After protesting his confinement in a cell with no light, Shemahamba was eventually transferred on December 24 from Uvira to a detention center with slightly better conditions in Bukavu, where he was later released.

Also in late December, ANR agents sought journalist Dominique Kalonzo, who had participated in the same December 12 program. Kalonzo, a correspondent in Uvira for the privately owned Radio Maendeleo, based in Bukavu, went into hiding for a week, according to CPJ. On December 26, in Uvira, Kalonzo was reportedly injured in an altercation with ANR agents sent to arrest him; he was subsequently taken to a health centre in Uvira. According to domestic press freedom watchdog Journalist in Danger (JED), Kalonzo left the hospital in the company of two unidentified individuals who visited him. At year's end, his whereabouts were unknown, and no additional information was available.

In its annual report on press freedom, JED documented seven cases of assault against journalists during the year, which represented a decrease in the number of attacks on journalists compared with 2009. However, the number of cases of incarcerations of journalists rose from three in 2009 to 17 during the year.

There were no reports of authorities taking action in the following cases of press freedom abuse from 2009: the March arrest of journalist Coco Tanda (and representatives of local NGOs) in relation to a political protest; the March beating of Radio Okapi reporter Kathy Katayi by PNC officers in Kananga, Kasai Occidental; and the August assault of Radio Okapi reporter Paulin Munanga in Lubumbashi.

Authorities took no action against Kinshasa police officers who in 2008 arrested reporter Maurice Kayombo from *Big Stakes* magazine and detained him for 34 days for reporting "damaging allegations" against Christophe Kanonio, secretary-general of the Mining Ministry.

No action was taken against the ANR agents who arrested and questioned five journalists from the privately owned television station Raga TV in Kinshasa in 2008.

No action was taken against the ANR agents who in 2008 raided the privately owned television station Tele Kindu Maniema and arrested program host Mila Dipenge and a cameraman, both of whom were released the following day.

Authorities took no action against Mai-Mai militiamen who in 2008 kidnapped and robbed Belgian journalist Thomas Scheen, his interpreter Charles Ntiricya, and his driver Roger Bangué in Kiwanja, North Kivu, before eventually releasing them.

In November 2009 the UNJHRO released a report on a 2008 appeals trial that upheld a death sentence for three civilians convicted of the 2007 murder of Radio Okapi journalist Serge Maheshe in Bukavu, South Kivu. The report noted "numerous breaches of the fundamental guarantee of the right to a fair trial." The report also highlighted the court's refusal to investigate other credible leads and motives for the killing, its refusal to order further investigation, and its refusal to order an autopsy or a ballistics test. The appeals trial acquitted two of Maheshe's friends who were found guilty at the original trial; in 2007 the alleged gunmen recanted their accusations against Maheshe's friends, claiming the military court had bribed them to make the accusation.

The National Media Regulatory Commission, a quasi-governmental organization mandated by the earlier transitional constitution, continued to operate in the absence of a successor body.

President Kabila signed a law establishing the CSAC in December 2009; however, the Supreme Court ruled the law unconstitutional because it offered blanket protection from criminal prosecution to CSAC board members. At year's end parliament was revising the law.

During the year national and provincial governments continued to use criminal defamation and insult laws to intimidate and punish those critical of the Government.

For example, during coverage of the controversy in March 2009 over National Assembly president Kamerhe, there was a temporary interruption of broadcasts by multiple channels as well as harassment of newspaper street vendors by police.

In August 2009 Bruno Koko Chirambiza, a journalist with Radio Star in Bukavu, was killed by bandits while on his way home from a wedding. His friend, who was present during the attack and escaped unharmed, was arrested. The trial began in December 2009. No additional information was available.

According to JED's annual report on press freedom, released in May, there was a 16 percent increase in press freedom abuses, such as murder, assault, arbitrary arrest and detention, threats, and illegal sanctions or censorship, during the year compared with 2009. JED underscored that following a series of killings of journalists since 2005, journalists have become afraid to address sensitive topics, such as the war in the east and corruption. JED emphasized that economic and political pressure restricted press freedom and expressed concern about the continuing trend of politicians and government officials hiring journalists as advisors.

During the year radio journalists, particularly those in Bukavu, South Kivu, continued to fear for their safety. Journalists often received anonymous death threats from callers, and many journalists continued to be concerned by the lack of serious investigation and judicial action by authorities against the perpetrators responsible for multiple journalist killings in the country since 2005.

*Internet Freedom.*—The Government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There were no known government attempts to collect, request, obtain, or disclose the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief. Private entrepreneurs made Internet access available at moderate prices through Internet cafes in large cities throughout the country. According to the 2009 report of the International Telecommunication Union, 0.55 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of peaceful assembly; however, the Government sometimes restricted this right.

The Government required organizers of public events to register with local authorities in advance; to deny authorization, authorities must do so in writing within five days of being notified of the planned event. State security forces often acted against unregistered protests, marches, or meetings.

On occasion, permission to hold demonstrations was denied; for example, in June, domestic NGOs that had intended to hold a demonstration related to the killing of leading activist Floribert Chebeya were not allowed to do so.

State security forces occasionally arrested demonstrators. For example, on April 12, police arrested five members of the opposition party Union for Democracy and Social Progress (UDPS) who were protesting the anticipated constitutional revision. In addition, on April 24, police beat UDPS members who were gathered to celebrate the 20th anniversary of the Government's decision to abolish the one-party system. Also, on September 26, in Kinshasa, police arrested 27 members and supporters of the UDPS, citing public disorder during an unauthorized political gathering. On September 30, all 27 were released.

*Freedom of Association.*—The constitution provides for freedom of association; however, in practice the Government sometimes restricted this right. During the year several domestic NGOs were denied authorization to operate (see section 5).

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government sometimes restricted these rights.

State security forces established barriers and checkpoints on roads, at ports, airports, and markets, ostensibly for security reasons, and routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until they or a relative paid. The Government forced travelers to pass through immigration procedures during domestic travel at airports, ports, and when entering and leaving towns and implemented a \$36 fee for passengers traveling internally on MONUSCO flights.

Local authorities continued to extort taxes and fees from boats traveling on many parts of the Congo River. There were also widespread reports of FARDC soldiers extorting fees from persons taking goods to market or traveling between towns.

During the year there were reports of attempts by DGM officials to fine foreigners not carrying passports, although the law does not require foreigners to do so.

Security services sometimes required travelers to present official travel orders from an employer or government official.

The significant risk of rape by soldiers and nongovernmental armed entities, coupled with government inability to secure eastern territories, effectively restricted freedom of movement by women in many rural areas, particularly in the east (see section 1.g.).

Passport issuance was irregular and often required payment of substantial bribes. The law requires a married woman to have her husband's permission to travel outside the country.

The law prohibits forced exile, but the Government generally did not employ it.

Beginning in June, PAREC, a government-sponsored NGO, began a series of voluntary deportations of demilitarized Rwandan FDLR combatants from North Kivu to Kisenge, Katanga Province, where the eventual 400 to 600 individuals were housed in an unused refugee camp. As a result of this relocation, the deportees were denied their freedom of movement to return to the east or indeed to leave the Kisenge camp at all. In July and August, several deportees fled to the nearby town of Kasaji, where PAREC and government authorities arrested them and deported them to Rwanda. By year's end the experiment in voluntary relocation proved a failure, and the Kisenge camp was closed with its internees transferred to UN-sponsored reintegration centers in North and South Kivu.

*Internally Displaced Persons (IDPs).*—As of November 30, there were 1.7 million IDPs in the country, including 589,000 in North Kivu, 676,000 in South Kivu, and 389,000 in Orientale (see section 1.g.). The remainder of the IDPs were in Equateur and Katanga provinces.

The Government did not provide adequate protection or assistance to IDPs, who were forced to rely heavily on humanitarian organizations. The Government generally allowed domestic and international humanitarian organizations to provide assistance to IDPs; however, lack of security and roads impeded their efforts. While the majority of IDPs in North Kivu stayed with relatives and friends, tens of thousands stayed in 31 "spontaneous" sites and camps managed by international NGOs and coordinated by the UNHCR. As of August 31, an estimated 120,000 IDPs lived in churches and schools. Displaced women and children were extremely vulnerable to abuses by armed entities, including rape and forced recruitment.

Operation Ruwenzori, which the FARDC launched in June without support from MONUSCO, continued to address the threat of the ADF/NALU in North Kivu. In July fighting between the FARDC and ADF/NALU created instability in the Beni territory of North Kivu. Humanitarian organizations estimated that between 20,000 and 70,000 persons were displaced during several weeks. In addition, the unstable security situation made providing humanitarian relief difficult, and on July 26, IDPs marched to protest the lack of food.

IDPs in North Kivu were victims of abuses by all factions engaged in fighting, including the FARDC, and by other civilians. Abuses in camps around Goma included killings and death threats, particularly by demobilized fighters, as well as abduction and rape. According to UNICEF, in 2009 one third of the more than 1,100 women and girls raped per month in the east were in North Kivu, the majority of them IDPs. Some IDPs were also reportedly subjected to forced labor (see section 1.g.).

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a rudimentary system for providing protection to refugees. In practice it granted refugee and asylum status to individuals and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government provided temporary protection to an undetermined number of individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers with welfare and safety needs. The Government provided assistance in enabling the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating their passage through the immigration system. However, government authorities did not provide adequate security to refugees.

From January to November 2009, Angola forcibly expelled 85,000 illegal Congolese immigrants to Bas-Congo, and the DRC retaliated by forcibly expelling 30,000 Angolans, including those with refugee status. However, during the year smaller expulsions along the entire border between the two countries continued. While most expulsions were conducted peacefully in 2009, abuses during expulsions by state security forces of both countries occurred during the year. According to the UNJHRO, between January 1 and February 23, 9,205 Congolese were allegedly expelled from Angola, including 1,943 women, of whom 304 were allegedly raped by Angolan security forces. Congolese security forces committed 23 documented and verified rapes of expelled Congolese women on Congolese soil. Authorities had arrested one lower-level FARDC officer for the rapes by year's end.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through credible presidential, parliamentary, and provincial elections based on universal suffrage.

*Elections and Political Participation.*—Presidential and parliamentary elections in June 2006 and a presidential runoff in October 2006 were judged to be credible by the Carter Center and the EU Observer Mission. According to the UN secretary-general's December 2009 report to the UN Security Council, the Senate nominated two members to participate in an ad hoc committee to develop recommendations on constitutional reforms, including a review of presidential term limits, the decentralization process, and the judiciary. As of year's end, there was no further action.

During the year the voter registration process for planned elections resumed, starting in Bas Congo; however, the national voter registration process was slow and hampered by security problems and lack of resources.

In July President Kabila promulgated the law on the National Independent Electoral Commission (CENI), adopted under the National Assembly. Under the law, the National Assembly was to nominate seven members of the commission, four from the ruling party coalition, AMP, and three from the opposition. The legislation needed to finalize nominations had not been adopted by year's end.

In August the Independent Electoral Commission (CEI) published a new electoral calendar. According to the calendar local elections that had been repeatedly postponed were scheduled to take place in 2012-13; the next presidential and legislative elections were scheduled for November 2011.

As envisioned under the constitution, parliament passed the decentralization law in 2008, but other crucial pieces of legislation to support the decentralization process were pending, resulting in the constitutional deadline for decentralization passing without government action to institute it.

Uncertainty remained over the decentralization process. The constitution provides for the establishment of 26 provinces to replace the 11-province structure. Administrative powers and financial resources are to be transferred to the new provinces to allow them to assume their new responsibilities. The constitution, which defines a timetable for these steps, specifies that the new territorial boundaries were to come into force 36 months after the Senate took office, in May. However, the boundaries had not come into force, and only four of the 13 decentralization laws, had been adopted and promulgated by year's end.

In July President Kabila promulgated the law on the CENI, the permanent electoral body that replaced the CEI. Civil society expressed disappointment with the law because it does not provide for civil society participation in the CENI.

Beginning in 2009 and continuing throughout the year, press reports indicated that the Government exerted pressure on MONUC and the UN Security Council to begin withdrawing the peacekeeping force from the country. According to the UN secretary-general's December 2009 report to the UN Security Council, President Kabila requested the UN to submit a proposal, including a calendar, for the progressive drawdown of MONUC, based on the evolution of the security situation. The calendar and the modalities of the drawdown were to be agreed by the Government and the UN. UN officials, foreign diplomats, and NGOs expressed numerous con-

cerns over the prospect of a premature MONUC withdraw. Some of the concerns related to whether, during an ongoing and fragile peace process, peaceful and credible national elections could be held without the kind of logistical and security assistance that MONUC provided for the national elections of 2006, the country's first democratic elections in more than 40 years.

The law on the status and rights of the political opposition recognizes opposition parties represented in parliament as well as those outside it and provides for their right to participate in political activities without fear of retribution. During the year political parties were able to operate most of the time without restriction or outside interference; however, there were notable exceptions. Opposition members were sometimes harassed (see section 2.a.)

In 2008 police killed numerous BDK supporters during violent clashes in Bas-Congo and systematically destroyed BDK meeting places (see section 1.a.). The 2008 HRW report, *We Will Crush You: The Restriction of Political Space in the Democratic Republic of the Congo*, concluded that since the 2006 national elections, the Government has used violence and intimidation to eliminate its political opponents and restrict democratic activity. The report drew from hundreds of interviews with government officials, diplomats, political detainees, and members of civil society.

Between 2005 and 2008 the proportion of seats held by women in parliament decreased from 12 percent to 8 percent. Women held 50 of 500 seats in the National Assembly and 43 of 690 seats in the provincial assemblies. Four of the 108 senators were women. Among the 45 government ministers and vice ministers, five were women.

Many ethnic groups, including Pygmies, were not represented in the Senate, the National Assembly, or provincial assemblies. The lack of political participation of some ethnic groups may have been a result of continuing societal discrimination. The enslavement and discrimination of Pygmies continued in some areas of the country (see section 5).

In March 2009 seven UN special rapporteurs and representatives reported to the UNHRC that Kinyarwanda-speaking Congolese living in the eastern part of the country or as refugees in neighboring countries continued to experience difficulty in acquiring Congolese nationality, despite a 2004 nationality law that nominally granted nationality to members of this group. This situation, which made it difficult for them to obtain electoral cards, along with majority-voting systems and the particular tailoring of voting districts, continued to contribute to a disproportionately low number of minority candidates elected to office. In their March 2009 report to the UNHRC, the seven UN special rapporteurs and representatives recommended that the Government launch a campaign in the east to provide national identification and electoral cards to anyone qualifying for nationality under the 2004 nationality law and that implementation be guided by a presumption that "those who currently live [in the DRC], or have lived in the DRC prior to the armed conflict are considered nationals of the DRC."

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. However, the authorities did not implement the law, and corruption remained endemic throughout the Government and state security forces. The public perceived the Government to be widely corrupt at all levels. According to the World Bank's Worldwide Governance Indicators, official corruption was a severe problem.

Corruption in the judicial and penal systems continued to be severe (see sections 1.c. and 4).

In rural areas, where there were often no courts within a 300-mile radius, justice was administered on an ad hoc basis by any available authority, creating extraordinary opportunities for corruption and abuse of power. During the year some observers asserted that members of both the executive and legislative branches were content to keep the judiciary weak and ineffective because it protected their power and allowed them to engage in corruption and abuse of power without consequence.

Weak financial controls and lack of a functioning judicial system encouraged officials to engage in corruption with impunity. Many civil servants, police, and soldiers had not been paid in years, received irregular salaries, or did not earn enough to support their families, all of which fostered corruption. Embezzlement of soldiers' salaries by FARDC commanders was common and appeared to contribute to extortion, looting, and other abuses by soldiers against citizens (see section 1.d.).

Reports indicated that the mining sector continued to lose millions of dollars as a result of official corruption at all levels, including illegal exploitation of minerals by the FARDC and nongovernmental armed entities in the east (see section 1.g.).

In September 2009 the Senate estimated that more than \$1.2 billion dollars of gold—approximately 40 tons—was exported fraudulently from the country every

year and that, in the east, 80 percent of the minerals extracted were being traded illegally. The UNGOE established that “the level of fraudulent mineral exports to neighboring states has escalated significantly since 2008 and particularly since the rapprochement between Kinshasa and Kigali [Rwanda] since January 2009.”

In its November 2009 report to the UN Security Council, the UNGOE documented “fundamental irregularities” in the international gold trade between the DRC, Uganda, Burundi, and the United Arab Emirates, and gathered evidence of “inconsistent and incomplete customs declarations and procedures, as well as a lack of adequate control procedures by government customs and mining authorities.” The UNGOE “received strong indications of high-level protection and in some cases complicity in the illicit gold trade by government officials.” It made several recommendations concerning the Government, international corporations, and the UN Security Council (see section 1.g.).

During 2009, the Government continued its review of 61 mining contracts negotiated from 1997 to 2002. The review had been marred by numerous delays and a lack of transparency. In 2008 the Government reached new agreements with all but six of the companies under review, and in November 2009 it formally announced the completion of the process. The Government reached agreement on the one outstanding contract late in the year.

There continued to be an Ethics and Anticorruption Commission, but it had little effect during the year and lacked resources, independence, and credibility. It last convened in 2007 without any significant results or findings.

Government authorities and wealthy individuals at times used antidefamation laws that carry criminal punishments to discourage media investigation of government corruption (see section 2.a.).

The law requires the president and ministers to disclose their assets to a government committee. President Kabila and all ministers and vice-ministers did so during the year.

The law does not provide for public access to government-held information. In practice the Government did not grant access to government documents for citizens or noncitizens, including foreign media.

In 2008 the country was accepted as a candidate in the Extractive Industries Transparency Initiative (EITI), an international voluntary initiative designed to increase transparency in transactions between governments and companies in the extractive industries. Although the Government took some positive steps under EITI, including the establishment of a National EITI Committee, publication of the first report on EITI in the country, and the hiring of an independent auditor to carry out validation of the EITI process, the country did not meet its March 9 validation deadline. In December the EITI secretariat granted the country a six-month extension to complete validation.

In his press statement in October 2009 UNSRESAE Alston highlighted one of the factors he found to be contributing to corruption and the lack of financial accountability in the country, as well as other, broader human rights problems. According to Alston, “one of the most troubling overall issues in the DRC is the radical privatization of the state. The military is poorly paid and often not paid at all, but it is understood that soldiers will extract their own rewards from the community, through extortion and theft...Healthcare and education are outsourced to international agencies...The privatization phenomenon relieves most of the pressure for fiscal reform and accountability. The Government needs only to find resources for itself. Until the problem is confronted robustly, the ability of the state to provide security, ensure justice, and respect human rights will continue to erode dramatically. And the billions of dollars provided by the international community will have yielded no sustainable institutional framework.”

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations investigated and published findings on human rights cases. However, state security forces continued to harass, beat, intimidate, and arbitrarily arrest and detain local human rights advocates and NGO workers, and government intimidation of domestic human rights defenders worsened. In addition prison officials consistently denied access by NGOs and UN officials to detainees in certain types of facilities. The Government continued to allow international humanitarian agencies access to conflict zones, permit many UN human rights officers to investigate abuses, and invite UN special rapporteurs and representatives to visit the country during the year to assess the human rights situation and provide technical assistance. However, the Government took no significant steps to implement their recommendations. In addition there was an increase in instances in which authorities, particularly state security

forces, obstructed the work of UN human rights monitors and special rapporteurs, and—in some instances—FARDC units in North Kivu made death threats against UN personnel.

The main independent Kinshasa-based domestic human rights organizations included ASADHO, Voice of the Voiceless, Committee of Human Rights Observers, JED, and the Christian Network of Human Rights and Civic Education Organizations. Prominent independent organizations operating in areas outside Kinshasa included Heirs of Justice in Bukavu, Lotus Group in Kisangani, and Plus in Bunia, Ituri District.

Officials from the Ministry of Justice and Human Rights met with domestic NGOs and sometimes responded to their inquiries. On March 29, the minister announced the creation of a liaison organization for consultation between the Government and human rights NGOs to monitor human rights and devise strategies to improve the situation. Scheduled to meet every two weeks, the first session was convened in September.

There were reports that local officials required domestic NGOs seeking to register to pay bribes. During the year several domestic NGOs were denied authorization to operate, and NGOs needed authorization to hold demonstrations, despite constitutional provisions providing for freedom of peaceful assembly (see section 2.b.).

Domestic human rights NGOs were particularly vulnerable to harassment, arbitrary arrest and detention, and other abuses by state security forces when reporting on—or supporting victims of—abuses by the FARDC, ANR, or other state security forces and when spotlighting the illegal exploitation of natural resources in the east.

Between the evening of June 1 and the morning of June 2, one of the country's most prominent human rights activists, Floribert Chebeya Bahizire, was killed, after having been summoned on June 1 by Police Inspector General John Numbi, the head of the national police at police headquarters in Kinshasa. Chebeya's colleague Fidele Bazana Edadi, who reportedly drove Chebeya to the meeting with Numbi, went missing the same day and remained missing at year's end. Occurring just a few weeks before the country's 50th anniversary celebration, the killing, which some foreign diplomats deemed "an assassination," prompted widespread public condemnation by the UN Secretary-General, the country's foreign assistance donors, and international and Congolese civil society, accompanied by calls for a joint commission of inquiry. The UN special rapporteur for extrajudicial killings judged that Chebeya was "killed in circumstances that strongly suggest official responsibility." In early June a PNC member reportedly told the media that the death appeared to be a sex-induced heart attack linked to erectile dysfunction pills and used condoms found alongside Chebeya's body, inside his car. The Economist magazine judged that "it could be a cover-up," particularly since Chebeya, long a critic of arbitrary arrests and political repression, had received death threats and feared for his life shortly before his death. By June 6, the Government had announced the suspension of Inspector General Numbi pending an investigation, although no charges were brought against him by year's end. In addition, authorities detained several policemen, including the deputy head of the intelligence services, Major Daniel Mukalay, at a Kinshasa prison in connection with the case. At least one policeman reportedly confessed to taking part in the killing; however, UN human rights monitors were not allowed access to the detainees, and the investigation was criticized for being flawed and a "political response."

In June the Government accepted a Dutch government offer to conduct an autopsy of Chebeya's body. On July 8, a joint Dutch-Congolese forensic team reported that the autopsy was inconclusive and it could not determine the cause of death. The autopsy report mentioned that a pre-existing heart condition may have contributed to his demise. While the results did not show conclusive evidence of murder, there were minor signs of violence and superficial cuts and some bleeding around the wrists, forearms, and legs caused by an external source, and indications that he could have been handcuffed shortly prior to his death. Observers, including UN officials in the country and foreign diplomats, expressed concern over an investigation, run by the military prosecutor general, that appeared to lack independence and credibility. Aside from the Dutch autopsy assistance, the international community's offers to provide assistance to the investigation were declined.

In August almost 80 local and international NGOs called on the minister of justice to establish an independent international commission of inquiry into the killing, although no such commission had been formed by the end of the year. The NGOs also reported that despite Numbi's suspension, he continued to attend some official meetings and conduct work from his residence. On October 2, Minister of Justice Luzolo Bambi announced that the trial would commence shortly, with an arraignment hearing open to the public on November 23 and several hearings throughout the month of December. Numbi was not among those on trial, and while the pro-

ceedings were considered to be transparent, local and international NGOs continued to call for an international commission of inquiry at year's end due in part to what they viewed as the justice system's inability to try the main suspect. The trial proceedings were ongoing at year's end.

On June 8, in Kisengo, Katanga Province, a human rights defender was subjected to cruel, inhuman or degrading treatment by PNC agents after having denounced the mistreatment of persons that were detained at PNC facilities.

Also on June 8, in Maniema Province, police arbitrarily arrested a human rights defender and subjected the defender to cruel, inhuman or degrading treatment after the defender had denounced the unlawful arrest of civilians.

In July 2009 ANR agents in Katanga arbitrarily arrested and detained Golden Misabiko, president of the Katanga Province chapter of ASADHO, after ASADHO published a report implicating the provincial government in the illegal trade of uranium from the province's Shinkolobwe mine. Provincial authorities accused Misabiko of serious crimes, including defamation and threats against national security. Authorities detained Misabiko for two months in poor detention conditions despite appeals for release because of a preexisting heart condition. In September 2009 a criminal court in the Katangan capital of Lubumbashi found Misabiko guilty, based on limited evidence, of deliberately publishing false information and sentenced him to an eight-month suspended prison sentence followed by four months' confinement in the Kasapa central prison. Some observers expressed concerns about the fairness of the trial. Prior to the time of his sentencing, Misabiko fled and remained outside the country at year's end. An appeal was filed on his behalf but its status was not clear at year's end.

During the night of June 29, unknown gunmen in military uniforms killed human rights activists Salvator Muhindo in Beni. Authorities had taken no action by year's end (see section 1.a.).

In August FARDC soldiers kidnapped and badly beat a civil society leader after he sent a letter to the president asking for justice (see section 1.c.).

No additional information was available regarding the trial of members of domestic NGO Friends of Nelson Mandela for the Defense of Human Rights, including its president, Robert Ilunga Numbi, on charges of rebellion, civil disobedience, and defamation. Authorities granted him provisional release in October 2009. Human rights organizations believed authorities arrested him because he criticized working conditions in a company owned by individuals with strong connections to the Government.

Authorities took no known action against FARDC soldiers who in 2008 arbitrarily arrested, beat, and temporarily detained the president of the local human rights association in Mambassa, Orientale.

Authorities took no known action against the territorial administrator in Punia, Maniema, who, according to the UNJHRO, issued death threats in 2008 against human rights activists who had accused local authorities of complicity in the 2002 massacre by RCD combatants of 13 civilians.

Authorities took no known action against ANR agents, who in 2008 threatened a human rights activist in Tshimbulu, Kasai Occidental, when she sought information about a case of arbitrary arrest and detention.

In March gangs of young men issued threats against an international human rights organization in North Kivu, causing the organization to suspend their activities in the region.

In 2009 domestic human rights NGOs, including one that identified and liberated child soldiers from FARDC units and nonstate armed entities, received death threats from unidentified individuals. For example, in December 2009 seven members of local human rights NGOs and three members of the UNJHRO in Kalemie, Katanga, received anonymous telephoned death threats. MONUC offered to help investigate and urged the Government to take all necessary action to ensure the security of human rights NGOs and MONUC staff.

The Government generally cooperated with international NGOs that published reports on human rights and humanitarian issues and permitted their investigators access to conflict areas; however, the Government did not take adequate steps to protect international human rights NGOs from violence or harassment in the east. In January FARDC soldiers attacked a UN vehicle; however, no additional information was available.

On March 15, FARDC soldiers fired upon a missionary vehicle in Ituri District, Orientale injuring one person. No further details were known.

On April 9, Mai Mai Yakatumba members kidnapped eight members of an international human rights NGO before releasing them a week later.

In several reports submitted in September 2009 to the UPRWG, international human rights NGOs underscored concerns for the treatment of human rights NGOs

in the country. The International Foundation for the Protection of Human Rights Defenders (Front Line) criticized the Government for rarely conducting serious investigations of attacks against human rights defenders. Front Line also noted that a national plan for the protection and security of human rights defenders did not exist. Front Line and Amnesty International recommended that the Government protect the right of human rights defenders and lawyers to conduct their work without hindrance, intimidation, or harassment; ensure that abuses of activists or journalists were fully and promptly investigated; and prosecute those found responsible.

The Government cooperated with multilateral organizations in many instances. However, there were some notable problems. While authorities continued to permit international humanitarian agencies access to conflict areas, authorities denied the agencies access to certain prisons located in these areas (see section 1.g.). They also continued to consistently deny UNJHRO officers access to detainees in facilities run by the ANR and the GR in numerous areas.

In addition, there was an increase in cases of members of state security forces obstructing human rights work by MONUSCO and the UN human rights country team. During the year FARDC units in the east, comprised mainly of ex-CNDP members, consistently denied UNICEF child protection officers access to children in their ranks and sometimes threatened them (see section 1.g.).

Several senior UN officials visited the country during the year, including a technical assessment team sent by UN secretary-general Ban Ki-moon and led by Under Secretary-General for Peacekeeping Alain Le Roy during part of its trip, the special representative of the UN secretary-general on sexual violence in armed conflict, Margot Wallstrom, and others.

Released in October, the UNOHCHR's human rights mapping report identified options for addressing impunity in the country, including judicial mechanisms, truth-seeking, institutional reform and vetting, and reparations for victims. Deeming the report "detailed and credible," the Government was mostly in favor of the report and initiated draft legislation in November on the creation of mixed chambers to prosecute these crimes.

UN officials freely criticized actions by the Government during the year. In its March 2009 report to the UNHRC, a group of seven UN special rapporteurs and representatives made recommendations to the Government regarding impunity, security sector reform, child soldiers, women's rights, illegal exploitation of natural resources, the rights of displaced persons in relation to land disputes and elections, health care for marginalized groups, and the protection of human rights defenders.

In June 2009, following an assessment visit at the invitation of the Government, the UN special rapporteur on the situation of human rights defenders, Margaret Sekaggya, issued a press statement underlining that government authorities continued to subject human rights activists to intimidation and harassment, mistreatment, arbitrary arrest and detention, and "illegitimate restrictions of their right to core freedoms," including freedoms of movement, speech, and association. Sekaggya noted that government authorities and nonstate actors stigmatized human rights defenders as "enemies" or "opponents." She stated that defenders were particularly endangered when supporting victims of serious abuses, most notably sexual violence; fighting impunity, particularly by supporting the work of the ICC; and denouncing the illegal exploitation of natural resources. Sekaggya expressed specific concern over "the plight of women human rights defenders whose activities are often hindered by authorities and who may face discrimination from their male colleagues."

Sekaggya urged the Government to investigate and prosecute all abuses against human rights defenders and adopt national and provincial laws, in consultation with human rights NGOs, to protect human rights defenders. She added that the Government should openly "give legitimacy to the work of human rights defenders, including women defenders, and acknowledge it as human rights work." Other recommendations for the Government included sensitization training for police and public condemnations of all attacks on rights workers. Sekaggya also recommended that MONUC increase the staffing and financial capacity of its human rights offices, and said the international community should help the Human Rights Ministry's programs and assist it in reestablishing offices in the provinces.

On September 24, the UNJHRO released a preliminary report on the 303 Walikale rapes that took place between July 30 and August 2 (see section 1.g.). The UNJHRO found that, although MONUSCO maintained a company operating base in the Kibua region during the incident, there was no Congolese interpreter, and in spite of receiving reports of some attacks, peacekeepers on patrols were unable to confirm the reports. According to the report, 80 new troops had arrived on July 27 and 28 and had not yet received any training on civilian protection. The UNJHRO recommended that the Government deploy its forces against the rebel

groups in these insecure zones, and that MONUSCO implement a permanent training on the mandate of civilian protection and clarify the tasks of the company and temporary operating bases providing the necessary resources.

A November report by the UNGOE presented information on abuses committed by government security forces and RMGs in the east. The UNGOE highlighted that “the involvement of criminal networks within the FARDC in the illegal exploitation of natural resources has created a conflict of interest with the army’s constitutional security mandate. This involvement has led to pervasive insubordination, competing chains of command, failure to actively pursue armed groups, amounting in certain cases to collusion, and neglect of civilian protection.”

The Government had not responded to several requests for information from various UN human rights monitoring bodies in the past. In addition, during the year the Government replied to a small percentage of communications, including urgent appeals, from UN special procedures (rapporteurs and representatives), according to the UNOHCHR. However, several members of the UPRWG commended the Government for its cooperation with the UNHRC in the Universal Periodic Review (UPR) process, including its submission of a report in September 2009 to the UNHRC following consultations with domestic NGOs.

On September 3 a coalition of 220 Congolese human rights organizations issued a news release endorsing the UNOHCHR mapping report and requesting that appropriate judicial mechanisms be put in place to hold the perpetrators to account and bring justice for the victims. According to one human rights activist, “[the report] responds to the lobbying we have done for a long time to re-establish moral equilibrium in Congolese society based on the noble ideas of justice, equality, peace, fraternity and national solidarity as defined by our constitution.”

During the UNHRC’s UPR process, numerous domestic human rights NGOs and the Government underscored the need to establish a national human rights commission, founded in law, distinct and separate from the legislature and judiciary, with a broad mandate to protect and promote human rights.

In January 2009 parliament created a human rights body, composed of members from both legislative chambers, to investigate abuses by state security forces. It was not clear how active, effective, or independent the body was.

During the year the Government cooperated in some aspects with the ICC, which continued investigations into war crimes and crimes against humanity committed in the country since 2003. However, despite the ICC indictment of General Ntaganda, the Government did not arrest and transfer Ntaganda to the ICC during the year.

The UNJHRO reported that in 2008 authorities arrested Mathieu Ngudjolo, a former senior FNI commander, and transferred him to the ICC in The Hague. His war crimes and crimes against humanity charges included murder, sexual slavery, and using child soldiers in hostilities. During an ICC trial that opened in November 2009, Mathieu Ngudjolo and Germain Katanga both pleaded not guilty to charges that they directed an attack in 2003 on a village where 200 civilians were killed. The trial continued at year’s end.

Former Ituri militia leader Thomas Lubanga, whom the Government surrendered to the ICC in 2006, pleaded not guilty to various charges when the ICC began his trial in January 2009 for enlisting and conscripting child soldiers. The prosecution ended its case in 2009, and the trial was ongoing at year’s end.

The Government continued to cooperate with the International Criminal Tribunal for Rwanda (ICTR), which operated freely in areas under government control, seeking several individuals indicted for involvement in the 1994 Rwandan genocide, who they believed might be in the DRC. In September 2009 the Government transferred Gregoire Ndahimana, who had surrendered to authorities in August 2009, to the ICTR in Arusha, Tanzania.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on ethnicity, gender, or religion; however, the Government did not enforce these prohibitions effectively, in part because it lacked appropriate institutions.

*Women.*—The law criminalizes rape, but the Government did not effectively enforce this law, and rape was common throughout the country and especially pervasive in conflict areas in the east. Between January and December 2009, the UNFPA reported 12,838 cases of sexual violence against both adults and minors in North and South Kivu and Province Orientale, with a total of 17,507 cases across the entire country. According to the UN secretary-general’s 27th report to the UN Security Council, more than 1,100 women and girls were raped each month in the east alone (see section 1.g.). The law on sexual violence, enacted in 2006, broadened the definition of rape to include male victims, sexual slavery, sexual harassment, forced

pregnancy, and other sexual crimes not previously covered by law. It also increased penalties for sexual violence, prohibits compromise fines and forced marriage, allows victims of sexual violence to waive appearance in court, and permits closed hearings to protect confidentiality. It raised the age of sexual consent to 18 years old, although the family code establishes that girls can marry at the age of 14. The minimum penalty prescribed for rape is a prison sentence of five years.

Government security forces, nongovernmental armed entities, and civilians perpetrated widespread and sometimes mass rape against women and girls (see section 1.g.). In March 2009 the UN secretary-general reported to the UN Security Council that members of nonstate armed entities, the FARDC, and the police were responsible for 81 percent of all reported cases of sexual violence in conflict zones and 24 percent in nonconflict areas. The majority of cases were reported in North and South Kivu. The report cited a “disturbing increase of police personnel involved as perpetrators, especially against women in detention.” The UNFPA, the agency coordinating efforts against sexual violence in the country, estimated that 200,000 Congolese women and girls had become victims of sexual violence since 1998. The number of rapes committed during the year increased, according to UN officials, foreign diplomats, and NGOs (see section 1.g.).

Statistical information on rape, often based on information from the judiciary and agencies providing services to victims, remained fragmented and incomplete. According to UN officials and NGOs such as HRW, most statistics on sexual violence represented a small percentage of the actual number and excluded victims who were unable, afraid, or ashamed to seek assistance. On August 4, the *Journal of the American Medical Association* published a study on sexual violence in Eastern Congo covering the last 15 years of conflict in North and South Kivu and Ituri, Orientale. According to the study, nearly 75 percent of individuals in these regions experienced sexual violence, and 35 percent of these cases were conflict-related, with nearly 40 percent of women in the conflict-related cases being the perpetrators, and more than 20 percent of victims being men. The study found that only 2 percent of the perpetrators of gender-based violence in the last 15 years were FARDC members and that overwhelming numbers of civilians in the conflict zone were suffering from symptoms associated with mental illness, ranging from post-traumatic stress disorder to depression.

Prosecutions for rape and other types of sexual violence remained rare. According to HRW, between January and August 2009 the military justice system convicted 17 FARDC soldiers of crimes of sexual violence in North Kivu Province. HRW and several other human rights groups continued to criticize the Government for failing to investigate and prosecute members of the state security forces, particularly high-ranking officers, who were responsible for rape (see section 1.d.). Of the 14,200 rape cases that were registered in South Kivu between 2005 and 2007, only 287, or 2 percent of the cases, were taken to court. Both victims and the UNHRC’s special rapporteur on violence against women cited widespread impunity as the main reason for sexual violence. Most victims did not have sufficient confidence in the justice system to pursue formal legal action or feared subjecting themselves to further humiliation and possible reprisal.

In December 2009 several members of the UPRWG commended the Government for adopting the 2006 law on sexual violence but expressed concern over the failure to implement the law and recommended increased efforts to train judicial and law enforcement officials in its application. Several members urged authorities to make greater efforts to investigate and prosecute individuals, including high-ranking members of the state security forces, who were responsible for rape.

In a report submitted in April 2009 to the UPRWG, the Women’s Synergy for Victims of Sexual Violence (SFVS) and nine other North Kivu-based NGOs urged the Government to modify an existing law that continued to make it extremely difficult for them to seek reparations for sexual violence. The law requires victims of sexual violence to pay the public treasury 15 percent of the amount of damages sought in advance of any judgment. According to SFVS, in the rare instances in which reparations were awarded, defendants bribed judges, resulting in “lost” case files, effectively preventing the payment of reparations to victims. A group of special rapporteurs and representatives, including the UN special rapporteur on violence against women reported in March 2009 that the Government had been ordered by multiple courts in the country to pay compensation to a number of women raped by state security agents; however, none of the rape survivors had received compensation.

In 2009 the UN special rapporteur on violence against women and the special representative of the UN secretary-general on children and armed conflict concluded that, while many perpetrators of sexual violence were armed actors (including members of the FARDC, police, and nonstate armed entities), a significant and increas-

ing number were civilians, not only in conflict zones but also in other regions. High-level UN officials deemed this development a consequence of the climate of impunity, absence of rule of law, and the normalization of violence against women.

It was common for family members to pressure a rape victim to remain silent, even to health care professionals, to safeguard the reputations of the victim and her family.

Victims of gender-based violence faced an enormous social stigma. After a sexual assault, many young women and girls were often labeled as unsuitable for marriage, and married women were frequently abandoned by their husbands.

Some families forced rape victims to marry the men who raped them or to forego prosecution in exchange for money or goods from the rapist.

Domestic violence against women occurred throughout the country. For example, credible sources found that 86 percent of women in Equateur Province were victims of domestic abuse; however, there were few if any additional statistics available regarding the extent of domestic abuse. Although the law considers assault a crime, it does not specifically address spousal abuse, and police rarely intervened in domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

Sexual harassment occurred throughout the country; however, no statistics existed regarding its prevalence. The 2006 sexual violence law prohibits sexual harassment, and the minimum penalty prescribed by law is a prison sentence of one to 20 years; however, there was no effective enforcement.

The Government respected the right of couples to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. However, women's access to contraception remained extremely low, with only 6.7 percent of women using modern contraceptive methods. According to the World Health Organization, the maternal mortality rate for 2008 was 670 deaths per 100,000 live births.

Women's access to treatment of sexually transmitted diseases, such as HIV, was not known. Recent studies did not disaggregate by gender, and the data was highly variable across geographic regions, reflecting variations in cultural norms and access to health-care services. The percentage of women seeking skilled medical assistance during childbirth was 74 percent.

According to a demographic and health survey issued by the Government in 2007, the average rate of pregnant women who received prenatal care, predominantly from nurses and midwives, rose from 68 percent in 2001 to 85 percent in 2007. Medical assistance during childbirth was not as prevalent as prenatal care, but access did increase between 2001 and 2007. Education, socioeconomic status, place of delivery (hospital or home), and geographic location had a significant impact on who received postpartum care. Cultural barriers were nonexistent except for the minority of women who belonged to Bunda dia Mayala (formerly known as Bunda Dia Congo), a political and religious movement in which adherents were sometimes prevented from receiving vaccinations.

Women did not possess the same rights as men under the law or in practice. The law requires a married woman to obtain her husband's consent before engaging in legal transactions, including selling or renting real estate, opening a bank account, or applying for a passport. According to UNICEF, 69 percent of widows had been dispossessed of their property. Under the law, women found guilty of adultery may be sentenced to up to one year in prison; adultery by men is subject to legal penalty only if judged to have "an injurious quality."

In their March 2009 report to the UNHRC, seven UN special rapporteurs and representatives expressed concern that, while the family code recognizes equality between spouses, it "effectively renders a married woman a minor under the guardianship of her husband," by stating that the wife must obey her husband; women remained underrepresented in the democratic institutions.

Women experienced economic discrimination. The law forbids a woman from working at night or accepting employment without her husband's consent. According to the International Labor Organization (ILO), women often received less pay in the private sector than men doing the same job and rarely occupied positions of authority or high responsibility.

*Children.*—According to 2007 UNICEF data, 31 percent of children were registered at birth. However, following the Government's adoption of a National Plan of Action on Birth Registration in March 2009, child birth registration increased in Kinshasa from 37 percent to 50 percent by June 2009. Birth registration was lowest among ethnic minorities such as Pygmies. The lack of registration did not affect access to government services.

In practice primary school education was not compulsory, free, or universal, and few functioning government-funded schools existed. Fighting that resumed in 2008

in North Kivu between government and rebel forces resulted in the closure of approximately 85 percent of all schools in the area, according to UNICEF. Public and private schools generally expected parents to contribute to teachers' salaries, and parents typically funded 80 to 90 percent of school expenses. These expenses, plus the potential loss of income or labor while their children attended class, left many parents unable to enroll their children. In September President Kabila ordered that fees required by the Government for primary school children would no longer be required; however, at year's end, parents were still paying fees.

Primary and secondary school attendance rates for girls were lower because many parents preferred to send their sons to school, either for financial or cultural reasons.

The majority of schools in conflict zones were dilapidated and had been closed due to insecurity. Parents in such areas often prevented their children from attending the few functioning schools due to fear that armed entities would forcibly recruit their children, according to reports received by the UN during the year.

In a report released in February 2009, the UNCRC welcomed the Government's adoption in January 2009 of the child protection code, which provides for the establishment of 180 juvenile tribunals. However, the UNCRC expressed concern over the capacity of the Government to implement the code's provisions, particularly in the absence of an awareness raising campaign. The UNCRC urged the Government to expedite implementation of child protection laws, increase investment in law enforcement training on child protection, adopt a comprehensive child protection action plan, establish a 24-hour child helpline as a tool for children to seek assistance and lodge complaints, establish a data base and coherent national programs for refugee and internally displaced children, and swiftly improve juvenile justice standards.

The law prohibits all forms of child abuse, but it was common. There was no information about authorities arresting individuals for child abandonment and abuse during the year.

The constitution prohibits parental abandonment of children for alleged sorcery; however, such allegations resulted in abandonment and abuse. The 2009 Child Protection Law provides for a sentence of imprisonment for parents and other adults who accuse children of witchcraft; however, authorities did not implement the law effectively.

Child abuse was an especially serious problem in the eastern conflict regions. A 2008 report of the UN secretary-general on children and armed conflict in the country concluded that children continued to be the primary victims of the continuing conflict in the east.

In March 2009 a group of seven UN special rapporteurs and representatives mandated by the UNHRC to assess human rights in the country deemed it "alarming" that a significant percentage of the victims of sexual violence committed throughout the country were girls, and in some cases also boys. According to the UNFPA, of 17,507 new cases of sexual violence registered in 2009 throughout the country, 48 percent of survivors were children. The report also underscored the role of civilians in child rape, including in conflict zones where a climate of near total impunity persisted. For example, of the 2,893 cases of child rape reported in conflict-affected Ituri District, Orientale, between June 2007 and June 2008, UNICEF found that 42 percent of perpetrators were members of the state security forces or nonstate armed entities and 58 percent were civilians. During the same period, of the almost 2,000 cases of child rape reported in North Kivu, 70 percent of the perpetrators were members of the state security forces or nonstate armed entities and 30 percent were civilians.

All parties to the conflict in the east were involved in the use of child soldiers (see section 1.g.). During the year the UNCRC expressed concern that children continued to be tried in military courts for crimes allegedly committed while they were enrolled as child soldiers in nongovernmental armed entities.

The law does not prohibit female genital mutilation (FGM). According to the World Health Organization, isolated groups in the north practiced FGM, and approximately 5 percent of women and girls were victims.

The law prohibits marriage of girls under the age of 14 and boys under the age of 18; however, marriages of girls as young as 13 years old took place. Dowry payments greatly contributed to underage marriage. In some cases parents married off a daughter against her will to collect a dowry or to finance a dowry for a son. The sexual violence law criminalizes forced marriage. It subjects parents to up to 12 years' hard labor and a fine of 92,500 Congolese francs (approximately \$103) for forcing a child to marry. The penalty doubles when the child is under the age of 15. There were no reports of prosecutions for forced marriage; no additional information was available.

The minimum age of consensual sex is 14 years old for women and 18 years old for men, and the 2006 law on sexual violence prohibits and defines penalties for prostitution of minors; however, child prostitution occurred throughout the country. There were no statistics available regarding its prevalence. Many children engaged in prostitution without third-party involvement, although some were forced to do so. In the mining areas of Katanga, UNICEF reported that madams forced girls between the ages of eight and 10 years old, known as canetons (ducklings in French), into prostitution. According to HRW and a local NGO, police in Kinshasa extorted sexual services from child prostitutes.

In 2009, there were an estimated 8.4 million orphans and vulnerable children in the country; 91 percent received no external support of any kind, and only 3 percent received medical support. The country's estimated 50,000 street children included many accused of witchcraft, child refugees, and war orphans, as well as children with homes and families. During the year, according to UNICEF, there were more than 20,000 street children in Kinshasa, of whom 26 percent were girls. Many churches in Kinshasa conducted exorcisms of children accused of witchcraft involving isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF, there was a practice of branding as witches children with disabilities or even speech impediments and learning disabilities; this practice sometimes resulted in parents abandoning their children. According to UNICEF, as many as 70 percent of the street children they assisted claimed to have been accused of witchcraft.

The Government was ill equipped to deal with large numbers of homeless children. Citizens generally regarded street children as delinquents engaged in petty crime, begging, and prostitution and approved of actions taken against them. State security forces abused and arbitrarily arrested street children (see sections 1.c. and 1.d.).

There were numerous reports that street children had to pay police officers to be allowed to sleep in vacant buildings and had to share with police a percentage of goods stolen from markets.

In February 2009 the UNCRC underscored its concern over the frequency of sexual assaults committed against street children, as well as state security forces' regular harassment, beating, and arrest of street children. In addition the UNCRC expressed concern that "violence against children accused of witchcraft is increasing, and that children are being kept as prisoners in religious buildings where they were exposed to torture and mistreatment, or even killed under the pretext of exorcism." The UNCRC recommended that the Government take effective measures to prevent children from being accused of witchcraft, including by continuing and strengthening public awareness-raising activities, particularly directed at parents and religious leaders and by addressing root causes such as poverty. The UNCRC further urged the Government to criminalize accusing children of witchcraft, bring to justice persons responsible for violence against children accused of sorcery, and take steps to recover and reintegrate children accused of witchcraft.

Several NGOs worked effectively with MONUSCO and UNICEF to promote children's rights throughout the country.

At year's end the country was not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.)

*Anti-Semitism.*—The country has a very small Jewish population, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities; however, the Government did not effectively enforce this provision, and persons with disabilities often found it difficult to obtain employment, education, or government services.

The law does not mandate access to buildings or government services for persons with disabilities. Some schools for persons with disabilities, including persons with visual disabilities, received private funds and limited public funds to provide education and vocational training.

During the year children with disabilities were accused of witchcraft and subjected to abuse and abandonment (see section 6).

*National/Racial/Ethnic Minorities.*—Members of the country's more than 400 ethnic groups practiced ethnic discrimination, and discrimination was evident in

hiring patterns in some cities. The Government took no reported actions to address this problem.

State security forces in Kinshasa sometimes harassed, arbitrarily arrested, or threatened members of ethnic groups from Equateur, according to the UNJHRO. State security forces in North and South Kivu sometimes harassed, arbitrarily arrested, or threatened members of many different ethnic groups.

Discrimination against persons with albinism was widespread and limited their ability to obtain employment, health care, and education, or to marry. Persons with albinism were frequently ostracized by their families and communities. According to a 2007 survey conducted in Kisangani by the UN Development Program, 83 percent of parents of albinos stated that their children were successful in school, but 47 percent said they felt humiliated by having albino children.

Between October and November 2009, in the South Ubangi District of Equateur, ethnic violence between the Banzaya and Enelele clans (both of the Lobala ethnic group) erupted over farming and fishing rights, triggering a humanitarian crisis. After the district government recognized a member of the Banzaya clan as interim tribal chief in the village of Dongo in June 2009, members of the Enelele clan forced the Government-recognized tribal chief to flee. When the chief returned several months later with an armed police escort, Enelele clan members reportedly killed approximately 45 police officers, which led to a deployment of FARDC soldiers to address the Enelele insurgency and stabilize the area. By year's end the clashes had resulted in several civilian deaths, numerous internally displaced persons, and more than 140,000 refugees, many of whom fled to the neighboring Republic of the Congo and to the CAR.

*Indigenous People.*—The country had a population of between 200,000 and 500,000 Pygmies (Twa, Mbuti, Aka, and others), believed to be the country's original inhabitants; the Government did not effectively protect their civil and political rights, and societal discrimination against them continued. Most Pygmies took no part in the political process and continued to live in remote areas. During the year fighting in the east between nonstate armed entities and government security forces caused displacement of some Pygmy populations. Since 2003 many Pygmies who had lived in IDP camps in the east were forced outside the camps by other IDPs, removing their access to humanitarian relief provided to camp residents.

In some areas traditional leaders (mwami) and wealthy persons captured Pygmies and forced them into slavery. For 2009-2010, the World Peasants/Indigenous Organization reported 644 new cases of enslavement of Pygmies. Those captured were known as "badja" and were considered the property of their masters. During 2008 the World Peasants/Indigenous Organization conducted a three-month campaign to free such individuals. In 2008, 96 Pygmy slaves were released; 46 of the group belonged to families that had been enslaved for generations.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no known laws specifically prohibiting homosexuality or homosexual acts; however, individuals engaging in public displays of homosexuality were subject to prosecution under public decency provisions in the penal code and articles in the 2006 law on sexual violence. On October 22, a law was proposed in the national assembly that would impose significant fines and jail terms on individuals engaging in homosexuality or groups promoting or protecting homosexual behavior. No action had been taken on the draft legislation by the end of the year. Homosexuality remained a cultural taboo, and while harassment by state security forces continued, there were no reports during the year of police harassing gays and lesbians or perpetrating or condoning violence against them.

On September 6, in Kabare, South Kivu, authorities prevented a mob from lynching a 21-year old woman accused of homosexual relations with another villager.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination based on HIV/AIDS status.

In 2008 President Kabila promulgated a law passed by parliament that prohibits discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides all workers, except government officials and members of the state security forces, the right to form and join trade unions without prior authorization or excessive requirements. The extent to which the Government protected this right in practice was limited. According to NGO reporting, of an estimated 24 million adults of working age, 128,000 employees in the private sector (0.5 percent) belonged to unions. No information was available regarding the number of union members in the public sector. The informal sector, including subsistence agriculture, constituted at least 90 percent of the economy.

The law provides for the right of unions to conduct activities without interference and to bargain collectively; however, the Government did not always protect these rights.

In August an assessment of the country's trade union and worker freedoms by international NGO Freedom House found significant restrictions on labor rights and that the labor rights environment was "repressive."

Private companies often registered bogus unions to create confusion among workers and discourage real ones from organizing. According to NGO reporting, many of the nearly 400 unions in the private sector had no membership and had been established by management, particularly in the natural resources sector.

The constitution provides for the right to strike, and workers sometimes exercised it. In small and medium-sized businesses, workers could not exercise this right effectively in practice. With an enormous unemployed labor pool, companies and shops could immediately replace any workers attempting to unionize, collectively bargain, or strike. The law requires unions to have prior consent from the Ministry of Labor and to adhere to lengthy mandatory arbitration and appeal procedures before striking. The law prohibits employers and the Government from retaliating against strikers; however, the Government did not enforce this law in practice.

*b. The Right to Organize and Bargain Collectively.*—While a 2002 law provides for the right to organize and for collective bargaining, collective bargaining was ineffective in practice. The Government set public sector wages by decree, and unions were permitted to act only in an advisory capacity. Most unions in the private sector collected dues from workers but did not succeed in engaging in collective bargaining on their behalf.

The law prohibits discrimination against union employees, although authorities did not enforce this regulation effectively, and antiunion discrimination occurred in practice. The law also requires employers to reinstate workers fired for union activities.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, including by children; however, although no statistics were available, both were practiced throughout the country. The Government did not effectively enforce laws prohibiting forced or compulsory labor.

Men, women, and children were coerced into forced labor and sexual exploitation. Children were prostituted in brothels or by loosely organized networks. An estimated tens of thousands of children worked in the mining sector, most often in extremely dangerous conditions as artisanal miners. In the east, FARDC elements and RMGs continued to abduct and forcibly recruit men, women, and children to serve as laborers (including in mines), porters, domestics, combatants, and sex slaves (see section 1.g.).

Some police officers in the east reportedly arrested individuals arbitrarily in order to extort money from them; those who could not pay were forced to work until they had "earned" their freedom.

Government security forces continued to force men, women, and children, including IDPs and prisoners, to serve as porters, mine workers, and domestic laborers (see sections 1.c., 1.g., 6, and 7.d.). In addition, according to the UNGOE report of November, in Mushake, Masisi, ex-CNDP FARDC soldiers "enforce salongo, whereby civilians are required to build houses, clean camps, and transport merchandise for the military."

The military took no action against FARDC soldiers who used forced labor and abducted civilians for forced labor during the year, in 2009 or in 2008.

In the mining sector, middlemen and dealers acquired raw ore from unlicensed miners in exchange for tools, food, and other products. Miners who failed to provide sufficient ore became debt slaves, forced to continue working to pay off arrears. The Government did not attempt to regulate this practice.

Armed entities operating outside central government control subjected civilians, including children, to forced labor, including sexual slavery (see section 1.g.). Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws to protect children from exploitation in the workplace; however, government agencies did not effectively enforce child labor laws. Child labor remained a problem throughout the country, including forced child labor. Although there was at least one report of a large enterprise using child labor during the year, it was much more common in the informal sector, particularly in mining and subsistence agriculture. For economic survival, families often encouraged children to work in order to earn money. According to the Ministry of Labor, children continued to work in mines and

stone quarries, and as child soldiers, water sellers, domestic servants, and entertainers in bars and restaurants.

Although the minimum age for full-time employment without parental consent is 18 years old, employers may legally hire minors between the ages of 15 and 18 with the consent of a parent or guardian. Those under the age of 16 may work a maximum of four hours per day. All minors are restricted from transporting heavy items.

According to data collected by UNICEF in surveys between 1999 and 2007, approximately 32 percent of children between the ages of five and 14 were involved in child labor. UNICEF considered children to be involved in labor if, during the week preceding the survey, a child who was five to 11 years old performed at least one hour of economic activity or at least 28 hours of domestic work or a child who was 12 to 14 years old performed at least 14 hours of economic activity or at least 28 hours of domestic work.

Criminal courts continued to hear child labor complaints. State security forces and nonstate armed entities in conflict-affected areas in the east used children, including child soldiers, for forced labor in mines (see section 1.g.). However, the use of forced child labor by state security forces was not limited to conflict zones. For example, in October 2009 UNICEF reported that soldiers in Katanga forced children and adults to mine and transport heavy loads for them.

Children made up as much as 30 percent of the work force in the informal (“artisanal”) mining sector. In mining regions of the provinces of Katanga, Kasai Occidental, Orientale, and North and South Kivu, children performed dangerous mine work, often underground. In many areas of the country, children who were five to 12 years old broke rocks to make gravel for a small wage. In October 2009 a foreign diplomat observed children breaking stones and carrying heavy loads in a stone quarry on the compound of the Government-owned Gecamines mining company in Kipushi, Katanga. According to the Solidarity Center, during the year there was an increase in the number of children working in the Kolwezi mines in southern Katanga. Catholic Relief Services in Katanga reported that the local population, including children, were drawn to mining work, largely due to the lack of alternative sources of income and the higher salaries offered in the mining sector.

Child prostitution, including forced prostitution, was practiced throughout the country (see section 6). Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

In addition children were used to extract copper, cobalt, and gold. In the east, armed entities forced children to mine coltan, tungsten ore, and cassiterite.

Parents often used children for dangerous and difficult agricultural labor. Children sent to relatives by parents who could not support them sometimes effectively became the property of those families, who subjected them to physical and sexual abuse.

The Ministry of Labor has responsibility for investigating child labor abuses but had no dedicated child labor inspection service. The Ministry of Labor had yet to develop a national action plan to comprehensively address child labor. Other government agencies responsible for combating child labor included the Ministry of Gender, Family and Children, the Ministry of Social Affairs, and the National Committee to Combat Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no investigations during the year.

In 2009, government officials participated in a tripartite dialogue on child labor in Katanga with unions, enterprises, and the ILO. The effort was part of an ILO program, conducted in cooperation with government officials, designed to withdraw children from industrial and artisanal mining, improve working conditions for diggers, and eradicate child labor. Due to a lack of funding, the ILO closed its office in Lubumbashi shortly after the tripartite talks.

In November 2009 the ILO recommended that the Government focus on creating employment opportunities, strengthening the skills of women, enrolling children in school, and reducing the country’s reliance on imports in order to bolster the fight against child labor. There was no further progress on these recommendations; some children who had been removed from the mines through an anti-child labor project returned to the mines due to lack of support.

*e. Acceptable Conditions of Work.*—Employers in the informal sector often did not respect the legally required minimum wage of 1,680 Congolese francs (approximately \$1.86) per day. The average monthly wage did not provide a decent standard of living for a worker and family. Government salaries remained low, ranging from 45,000 to 75,000 Congolese francs (approximately \$50 to \$82) per month, and salary arrears were common in both the civil service and public enterprises (parastatals). More than 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits.

The law defines different standard workweeks, ranging from 45 to 72 hours, for various jobs. The law also prescribes rest periods and premium pay for overtime, but employers often did not respect these provisions in practice. The law establishes no monitoring or enforcement mechanism, and businesses often ignored these standards in practice.

The law specifies health and safety standards; however, government agencies did not effectively enforce them. The law does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their employment.

According to the NGO Pact, an estimated 10 million miners worked in the informal sector nationwide and up to 16 percent of the population may have indirectly relied on so-called artisanal, or small-scale, mining. Many suffered violence from guards and state security forces for illegally entering mining concessions.

## REPUBLIC OF THE CONGO

The Republic of the Congo, with a population of 3.7 million, is a parliamentary republic in which most of the decision-making authority and political power is vested in the president and his administration. Denis Sassou Nguesso was reelected president in a July 2009 election with 78 percent of the vote. The country has a multiparty political system although members of the president's Congolese Labor Party (PCT) occupy most senior government positions. The 2009 election was peaceful and the African Union declared the elections to have been free and fair; however, opposition candidates and nongovernmental organizations (NGOs) cited irregularities. There were instances in which elements of the security forces acted independently of civilian control.

Principal human rights problems included suspected killings of detainees by security forces; mob violence; beatings and other physical abuse of detainees; rapes; theft; solicitation of bribes; harassment and extortion of civilians by unidentified armed elements; poor prison conditions; official impunity; arbitrary arrest; lengthy pretrial detention; an ineffective and under-resourced judiciary; infringement of citizens' privacy rights; restrictions on freedom of speech, press, association, and movement; official corruption and lack of transparency; domestic violence, including rape; societal discrimination against women; trafficking in persons; discrimination on the basis of ethnicity, particularly against Pygmies; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings. Prison security personnel allegedly tortured an inmate to death (see section 1.c).

There were no further developments in the January 2009 death in a suspicious house fire of journalist and activist Bruno Jacquet Ossebi, known for his outspoken coverage of government corruption. The death was officially declared an accident and there was no investigation.

Local inhabitants frequently took the law into their own hands to punish persons presumed or known to be police or military personnel who looted civilian residences. The results were death or serious injury. Such incidents were most common in remote areas.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

By year's end no investigation had been conducted into the disappearance of two prisoners, Beni Alex Yandi and Bien Godja, who were assumed to have been victims of extrajudicial execution. The two were detained at the central police station in Brazzaville in October and December 2009 respectively.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, on September 8, army Lieutenant Ferdinand Bourangon died of torture-induced injuries allegedly perpetrated in Brazzaville's prison. Other unnamed prisoners were also allegedly tortured. No disciplinary action was taken against prison personnel. On December 23, three Congolese human rights NGOs announced their intention to file a lawsuit against the prison's warden, a prison driver, and a police captain for crimes including torture, assault, and murder. The three NGOs were: Association pour les Droits de l'Homme et l'Univers Caceral, Forum pour le Gouvernement et les Droits de l'Homme, and Observatoire Congolaise des Droits de l'Homme.

Several additional cases of alleged torture were reported by local NGOs. Bradi Oboromalekou was arrested in June for selling cannabis and possessing a weapon.

While incarcerated, he reportedly was handcuffed behind his back and was continually tortured for two weeks in the Jean Francois Ndengue Commissariat.

In December 2009 Jomael Batantou was arrested and accused of theft after refusing to continue paying a local sergeant a daily ransom. According to local NGOs, he was handcuffed behind his back for two weeks and tortured in the Ouenze Mampassi Commissariat. His release from detention was secured after paying 50,000 CFA (\$101) to the Commissariat in May.

*Prison and Detention Center Conditions.*—Prison and detention center conditions were harsh and life-threatening. Most inmates slept on the floor on cardboard or thin mattresses in small overcrowded cells, exposing them to disease. The prisons lacked any significant ventilation, had poorly maintained lighting, had wiring protruding from the walls, and had regular occurrences of plumbing backing up into prisoners' cells. Basic and emergency medical care was limited, and meaningful access to social services personnel was severely limited due to understaffed personnel and the overcrowded prison population.

Out of six prisons, two, one in Brazzaville and one in Pointe Noire, were fully operational during the past two years. Other facilities stopped operating at full capacity in 2008 due to physical deterioration of their premises. By year's end the prison population was approximately 1,000, the majority of whom were awaiting trial for assault and robbery. At year's end the Brazzaville prison, which was built in 1943 to hold up to 150 prisoners, held approximately 600, including 14 women and 11 minors. The Pointe Noire prison, built in 1940, held 300 prisoners. In the Dolisie prison there were 40 to 50 prisoners. The prisons in Mouyondzi and Sibiti held approximately 30 prisoners each. There were approximately 30 more prisoners being held temporarily in the police station in Owando in anticipation of the completion of renovations to the local prison. All of the prisons were remnants of the country's colonial era.

Inmates in Brazzaville's prison were supposed to receive two meals per day. Due to lack of funds, however, inmates in other prisons received one meal per day.

Separate facilities were maintained for women and men. Juveniles were held in a separate wing in Brazzaville's prison, but security measures were insufficient to maintain their isolation from the general prison population. Pretrial detainees were held with convicted prisoners. Prisoners with infectious diseases were kept in one cell, but allowed to interact with other inmates. Most of the cells had a functioning television with cable.

Access to prisoners was conditional on obtaining a communication permit from a judge. The permit allows visitors to spend 10-15 minutes with a prisoner. The visits took place in a small room that held one extended table at which approximately 10 detainees at a time might sit and converse with their visitors. A new permit is required for each subsequent visit with a prisoner. The families of many prisoners were located outside of the cities in which the prisons were located and visits were often infrequent because of the financial hardship involved in traveling to the prison.

The Government continued to grant access to prisons and detention centers to domestic and international human rights groups. During the year local human rights groups and NGOs regularly visited prisons and detention centers.

Prisoners and detainees were permitted religious observance. Religious-based charitable organizations visited prisons and detention centers for charitable actions and religious support. Prisoners and detainees are supposed to be allowed to submit complaints to judicial authorities, but in practice this right was not respected. There was no provision for an ombudsman, but defendants with sufficient personal wealth were able to hire private attorneys to serve on their behalf to consider alternatives to incarceration or to alleviate inhumane conditions.

Prior to a trial the Government is obligated to provide legal assistance to detainees who lack the financial resources to hire a private attorney, but this was not done in practice. The Government neglected to pay its public defenders, and consequently there was a dearth of legal representation for detainees with limited means. The Government investigated and monitored prison conditions at the request of local NGOs following complaints from prisoners' and detainees' families. However, little was done to address the penal system's failure to ensure due process for its detainees.

Three minors in the Brazzaville prison were detained for eight months without access to a lawyer and without their cases being heard by a judge. Another detainee was reportedly held for 24 months without being called before a judge.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention. However, members of the security forces unreasonably and arbi-

trarily detained persons for minor and often imaginary offenses, mostly traffic related, and required them to pay bribes on the spot as a condition for release.

In 2009 a number of politically motivated arrests occurred in Brazzaville related to the July 2009 presidential elections (see section 1.e.).

In December 2009 Bienvenu Woko was arrested and kept in prison for six months without access to a lawyer or to a member of his family despite the Penal Code's stipulation that detainees cannot be detained for more than 72 hours without being granted access to a lawyer or to a family member.

The representative of a local NGO, the Association Nationale des Gardiens de la Paix, was unlawfully arrested on October 26 by the Chief of the Central Police Station Colonel Jacques Antoine Bouity, after questioning the prison situation and the application of the Penal Code within the various detention centers and prisons.

*Role of the Police and Security Apparatus.*—The security forces include the police, a paramilitary unit known as the gendarmerie, and the military. The police and the gendarmerie are responsible for maintaining internal order, with police primarily in cities and the gendarmerie mainly in other areas. Military forces are responsible for territorial security, but some units also have domestic security responsibilities, such as the specialized Republican Guard battalion charged with the protection of the president, government buildings and diplomatic missions. The minister of defense oversees the military forces and the gendarmerie, and the minister of the interior and decentralization oversees the police.

A police unit under the Ministry of Interior and Decentralization is responsible for patrolling frontiers. Another military unit, the military police, is under the minister of defense and composed of military and police officers responsible for investigating professional misconduct by members of any of the security forces. Overall, professionalism of the security forces continued to improve, in large part due to training by the international law enforcement community. The Government generally maintained effective control over the security forces; however, there were members of the security forces who acted independently of government authority, committed abuses, and engaged in malfeasance.

Traffic police extorted bribes from drivers under threat of impoundment of their vehicles. Although the Human Rights Commission (HRC) was established for the public to report security force abuses, impunity for members of the security forces remained widespread.

*Arrest Procedures and Treatment While in Detention.*—The constitution and law require that warrants be issued by a duly authorized official before arrests are made, that a person be apprehended openly, that a lawyer be present during initial questioning, and that detainees be brought before a judge within three days and either charged or released within four months. However, the Government habitually violated these provisions. There is a system of bail, but, with 70 percent of the population earning an income below the poverty level, most detainees could not afford to post bail. Detainees generally were informed of charges against them at the time of arrest, but formal charges often took at least one week to be filed. Police at times held persons for six months or longer prior to the filing of charges due to administrative errors or delays in processing detainees. Most delays were attributed to lack of staff in the Ministry of Justice and court system. Family members usually were given prompt access to detainees, and indigent detainees were provided lawyers at government expense.

Arbitrary arrest continued to be a problem. These were perpetrated most often against vehicle operators (mainly taxi drivers) by police, gendarmes, or soldiers. Immigration officials also routinely stopped persons and threatened them with arrest, claiming they lacked some required document, were committing espionage, or on some other pretext to extort funds. Most often these incidents resulted in the bribe being paid; if not, the person was detained at a police station (or the airport) until either a bribe was paid or pressure was placed on authorities to release the individual.

In late 2009 a high-profile arrest of international employees of the petroleum company Chevron highlighted the danger of politically motivated arrests. Members of an auditing team were arrested and detained for several months without being formally charged. High level negotiations between Chevron and the Government eventually led to the release of the employees, but the problem of intimidation existed at all levels.

Following the July 2009 elections, the arrests of opposition members Malgala Sabin, Douniama-Etou Jean Ferenzi, and Ernest Ngalou were widely perceived to be politically motivated. Their cases were not brought to court and all three individuals were released. However, the opposition believes that legal procedure was inap-

appropriately implemented and these individuals could be arrested at a future date for the same crimes.

General Ferdinand Mbaou, a loyalist of self-exiled former opposition leader Pascal Lissouba, was released from custody in January after being arrested in July 2009 upon his return to Brazzaville from exile in France.

Lengthy pretrial detention due to judicial backlogs was a problem. Pretrial detainees continued to constitute the majority of the prison population. On average detainees waited six months or longer before going to trial.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary continued to be overburdened, underfunded, and subject to political influence and corruption.

In rural areas traditional courts continued to handle many local disputes, particularly property and inheritance cases, and domestic conflicts that could not be resolved within the family.

The Martial Court, a military tribunal system, established to try criminal cases involving military members, gendarmerie, or police, does not try civilians. The court was believed to be subject to influence and corruption. As part of an investigation into corrupt military payroll practices, the Martial Court continued to garnish the salaries of more than 500 current and former military personnel to recover misappropriated funds.

*Trial Procedures.*—The constitution provides for the right to a fair trial presided over by an independent judiciary, and the Government generally respected judicial independence in practice. The legal caseload, however, far exceeded the capacity of the judiciary to ensure fair and timely trials, and most complaints never reached the court system. The Court of Justice has held 111 criminal trials since 2008, when the court ceased to function at normal capacity due to funding and resource constraints. The court resumed its former caseload and processed 84 criminal cases during the year, including cases of misappropriation of public money, murder, rape, armed robbery, infanticide, indecent assault, and arson. In general when trials occurred prior to 2008, and in 2010 when the Court resumed its normal functional state, defendants were tried in a public court of law presided over by a state-appointed magistrate. Juries were used. Defendants had the right to be present at their trial and to consult with an attorney in a timely manner. An indigent defendant facing serious criminal charges was entitled to an attorney at public expense, although this did not always occur in practice. Defendants could confront or question accusers and witnesses against them and present witnesses and evidence on their own behalf. The defense had access to prosecution evidence. Defendants were presumed innocent and had the right of appeal. In principle the law extended the above rights to all citizens and the Government generally abided by these provisions.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees. Political prisoners may be detained for up to two months, and this period may be extended to three months by a judge. In practice these laws were not always observed, and the few known political prisoners were sometimes detained for up to six months or longer.

*Civil Judicial Procedures and Remedies.*—In contrast to the criminal courts, the civil court system operates more effectively. Individuals can file a lawsuit in court on civil matters related to human rights, including seeking damages or cessation of a human rights violation; however, no such cases were known to exist. The public generally lacked confidence in the judicial system as a means to address human rights issues.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions and the Government generally respected these prohibitions.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but also criminalize certain types of speech, such as incitement of ethnic hatred, violence, or civil war. The Government at times limited freedom of speech and press. These freedoms continued to decline during the year, according to international NGO Freedom House. Broadcast journalists and government print media journalists practiced self-censorship. The nongovernment print media experienced few constraints, as long as their reporting stayed only in print form and was not broadcast.

Individuals could criticize the Government publicly or privately without reprisal on relatively minor issues. However, persons feared reprisal if they named high-level officials while criticizing government policies. The Government generally did

not proactively attempt to impede criticism by, for example, monitoring political meetings, but sometimes punished critics after the fact. Two private newspapers, *Le Choc* and *Le Trottoir*, were both ordered to close in May for publishing “illicit” photographs of French President Nicolas Sarkozy and reporting without checking facts. Both newspapers were allowed to resume circulation after two and three month suspensions, respectively.

There was one state-owned newspaper, *La Nouvelle Republique*, and several publications which were closely allied with the Government. There were 40 private weekly newspapers in Brazzaville that criticized the Government. Newspapers occasionally published open letters written by government opponents. The print media did not circulate widely beyond Brazzaville and Pointe Noire.

Most citizens obtained their news from radio or television, and in rural areas primarily from government-controlled radio. There were three privately owned radio stations, all progovernment, three government-owned radio stations, and one government-owned television station. There were four privately owned television stations; two of the four stations were sometimes critical of the Government. Several satellite television services were available for the few who could afford to watch them.

Government journalists were not independent and were expected to report positively on government activities. However, unlike the previous year, there was no evidence that there were adverse consequences when government journalists deviated from this guidance.

A number of journalists based in Brazzaville represented international media. There were no confirmed reports of the Government revoking journalists’ accreditations if their reporting reflected adversely on the Government’s image; however, the Government did not repeal the policy that allowed for such revocation. This policy affected journalists employed by both international and government-controlled media. Local private journalists were not affected.

The press law provides for monetary penalties for defamation and incitement to violence.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 4 percent of the country’s inhabitants used the Internet. A greater proportion of the public, especially youth, was accessing the Internet more frequently. However, only the most affluent could afford to access the Internet in their own homes, and the rest of the population used cyber cafes. There were no known documented attempts by the Government to collect personally identifiable information via the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

Groups that wished to hold public assemblies were required to seek authorization from the Ministry of Interior and Decentralization and appropriate local officials, who could withhold authorization for meetings that they claimed might threaten public order. Unlike the previous year, the Government respected this right in practice.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected the right of most groups to associate. Groups or associations—political, social, or economic—were generally required to register with the Ministry of Territorial Administration. Registration could sometimes be subject to political influence. There were no reports of discriminatory practices that targeted any particular group.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/](http://www.state.gov/g/drl/irf/)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, in practice the Government at times imposed limitations.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Although the 2003 disarmament agreement effectively ended the organized rebellion in the Pool region, unidentified armed elements believed to be ex-Ninja rebels continued to harass and intimidate citizens. The country's major road and railway connecting the capital Brazzaville to the port of Point Noire traverse the Pool region. As such, banditry in the Pool necessarily limited freedom of movement of persons and goods through much of the country. However, unlike in the previous years, there were no reports of deaths attributed to banditry in the Pool region during the year, and reports of banditry declined.

The Armed Forces and the National Police partnered with the newly created government entity named "Delegation Generale Chargee de la Promotion des Valeurs de Paix et de la Reparation des Sequelles de Guerre" and led by former rebel leader and current high commissioner Frederic Ntumi Bintsamou, to promote peace and repair war aftermath effects. The two operations, namely "Kimia" and "Kidzounou," meaning peace in local languages and launched in September and October, were being reported as successful by various international organizations and NGOs. By year's end the situation in the Pool region had greatly improved. The National Police deployed several units to further secure the area, restore peace, and protect the population and their belongings.

The Government imposed an international travel ban on several opposition leaders following a July 2009 protest to contest the announced results of the presidential election. Ange Eduard Pougui, vice president of the Panafrican Union for Social Democracy, opposition leader Matias Dzon, and Emmanuel Ngouelondele, president of the Party for Democratic Alliance, were not able to travel outside the country for more than one year. In July the minister of justice announced that the travel ban was no longer in effect. However, the opposition continued to claim that the travel ban was de facto in effect and that the Government would file charges against them on undisclosed grounds if they attempt to leave the country.

The law prohibits forced exile, and the Government did not practice it.

The Government did not generally prevent the return of citizens, including political opponents of the president. In May former first lady Jocelyne Lissouba returned to the country for the first time since she fled with her husband, former president Pascal Lissouba, in 1997. Jocelyn Lissouba enjoyed a warm reception from President Sassou-Nguesso. Former president Lissouba received a pardon in December 2009, but remained in France for health reasons.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The country, especially in areas that border the Democratic Republic of Congo (DRC), received numerous waves of displaced persons in recent years. Between October 2009 and May 2010, nearly 124,000 refugees fled ethnic violence and rebellion in Equateur Province of the DRC to seek shelter in the country's Likouala region.

In June the Government signed a tripartite agreement with the Government of the DRC and UNHCR that outlined the conditions and means for an eventual voluntary repatriation. The tripartite agreement parties met again in November and agreed on a repatriation roadmap that would begin to repatriate the first group of refugees in April 2011.

Applications for refugee status are handled by the National Refugee Assistance Center (CNAR). The CNAR received 80-90 percent of its operating budget from UNHCR. In 2007 and 2008 the CNAR and UNHCR processed a backlog of around 4,800 asylum seekers that covered the period beginning in 2003. In 2008 there were 993 asylum applications, in 2009 there were 397 applications, and an additional 128 asylum applications were received during the year. At year's end 5,754 individuals were seeking asylum. According to UNHCR, as of December, the country hosted 137,789 refugees and asylum seekers. Refugees and asylum seekers came from the DRC (128,334); Rwanda (7,586); Angola (863); and others (1,006).

Employment opportunities and rights for refugees are not enumerated in law. Anecdotal evidence suggests that quotas and excessive work permit fees limit refugee employment opportunities. A healthcare organization stated that the law requires it to hire the country's nationals for at least 90 percent of its positions. The same organization stated that two-year work permits that cost around 150,000 CFA (\$303), roughly equivalent to three months salary, are required.

Gender-based violence was frequent in refugee camps, although a vast majority of the cases went unreported. UNHCR protection officers and medical personnel provided medical, psychosocial, and legal assistance to victims of gender-based violence,

including rape. Refugees had equal access to community health centers and hospitals and legal recourse.

Access to secondary education for refugees was severely limited, resulting in many children not attending school. Primary school was funded by UNHCR and made accessible to all refugees during the past year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right during the July 2009 presidential election.

*Elections and Political Participation.*—Denis Sassou Nguesso was reelected president in the July 2009 election with 78 percent of the vote. Officially, 66 percent of eligible voters participated in the election, although the opposition estimated the turnout to be much lower. While the election was peaceful, opposition candidates and NGOs criticized the election for irregularities, such as discrepancies between the officially reported rates of voter participation and those observed by independent election observers. The African Union declared the elections to have been free and fair. Prior to the election the EU representative questioned the method of updating the voter registry.

On October 16, a well known opposition group held a meeting to denounce the voter registration process. According to the group's leader, the voter registration list then being drafted was severely blemished by "monstrous manipulations" that included fictitious voters from villages that no longer existed.

Major political parties included the ruling PCT, the Pan-African Union for Social Development, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress, and the Union for Progress. Opposition parties encountered government restrictions, particularly with regard to the right to organize. Opposition parties were restricted from organizing before, during, and after the July 2009 presidential elections.

Following the July 2009 election, the newly appointed government included high-ranking politicians from northern ethnic tribes as well as representatives from other regions and ethnicities.

There were nine women in the 72-seat Senate and nine women in the 137-seat National Assembly. There were five women in the 37-member cabinet.

Some Pygmies were excluded from the political process due to their isolation in remote areas, lack of registration, culture, and stigmatization by the majority Bantu population (see section 6). However, Pygmy rights were strengthened following the parliament's passage of a Pygmy rights protection law on December 27.

*Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials engaged in corrupt practices with impunity. According to the World Bank's Worldwide Governance Indicators, government corruption was a severe problem, although the Bank and the International Monetary Fund noted that the Government undertook significant reform measures to combat corruption. For example, in February the Government undertook an effort to identify and remove payroll salaries of nonexistent civil servants known as ghost workers. It identified 2,700 ghost workers, many of whom were receiving one or more fraudulent salaries in addition to their legitimate one.

There was a widespread perception of corruption throughout government, including misuse of revenues from the oil and forestry sectors. Some local and international organizations claimed that government officials, through bribes or other fraud, regularly diverted revenues from these industries into private overseas accounts before the revenues were declared officially. Pervasive lower-level corruption included security personnel, and customs and immigration officials demanding bribes. During the year there were reports of arrested individuals whose families bribed police to secure their release.

Senior officials were subject to financial disclosure laws. It was unclear if they complied in practice.

The law provides for public access to government information for citizens, noncitizens, and the foreign media; however, in practice there were lengthy delays before the Government released information, if it did so at all.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated, with some exceptions, without government restriction during their investigations and publishing their findings on human rights cases. Government officials generally were more cooperative with and responsive to international groups than domestic human rights groups. Some domestic human rights groups tended not to report specific incidents for fear the Government would impose obstacles to their work.

The Government-sponsored HRC is charged with acting as a government watchdog and addressing public concerns on human rights issues. Some observers claimed that the commission was completely ineffective, lacked independence, and was primarily represented by persons who have no expertise in human rights. The president appointed most, if not all, of its members.

On April 30, the designated officers of the HRC met to examine and adopt a 2010-2012 action plan, a detailed program for the commission's activities, and a review of the various representative structures in the country side (other departments, cities and villages); and to create the HRC's documentation center.

On November 18, the HRC visited Brazzaville's prison, but the results of its visit were not published by year's end.

Representatives from the International Court of Justice visited Brazzaville in November 2009 but did not issue any report. Local NGOs had poor access to government officials and detainees.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law and constitution prohibit discrimination on the basis of race, gender, language, religion, social status, or handicap; however, the Government did not effectively enforce these prohibitions. There were documented instances of societal discrimination and violence against women. In addition, regional ethnic discrimination and discrimination against indigenous persons occurred.

*Women.*—Rape, including spousal rape, is illegal; however, the Government did not effectively enforce the law. The law prescribes five to 10 years in prison for violators. However, according to local women's groups, the penalties for rape could be as little as several months and rarely more than three years' imprisonment, despite what the law says. Rape was common, although the extent of the problem was unknown because the crime was seldom reported. As of July 2009, the latest period for which such data was available, a total of 182 cases of rape were reported to local police. Fewer than 25 percent of reported rape cases were prosecuted, according to local and international NGO estimates. In August a suspected serial killer who allegedly raped and killed nine women was arrested and detained in the Brazzaville prison, and was awaiting trial for rape and murder at year's end.

Domestic violence against women, including rape and beatings, was widespread but rarely reported. There were no specific provisions under the law outlawing spousal battery other than general statutes prohibiting assault. Domestic violence traditionally was handled within the extended family or village, and only more extreme incidents were reported to the police, a result of victims' fear of social stigma. Local NGOs sponsored domestic violence awareness campaigns and workshops.

Female genital mutilation (FGM) was not practiced indigenously and is against the law. It may have occurred in some immigrant communities from West African countries where it is common. There were no known governmental or other efforts to investigate or combat FGM.

Sexual harassment is illegal. Generally the penalty is two to five years in prison. In particularly egregious cases the penalty can equal the maximum for rape, i.e., five to 10 years in prison. However, the Government did not effectively enforce the law. According to local NGOs, sexual harassment was very common but rarely reported. As in previous years there were no available official statistics on its incidence.

There are no laws restricting reproductive rights, childbirth, or timing of pregnancies. There were no restrictions on the right to access contraceptives; however, they were not widely used by the population due to cost. According to the UN Population Fund (UNFPA) in 2008, only about 13 percent of married women ages 15-49 used some form of a modern contraceptive method. Health clinics and public hospitals were generally in poor condition and lacked experienced health staff. The UNFPA estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 781 and a woman's lifetime risk of maternal death to be one in 39. According to the Population Reference Bureau, approximately 83 percent of births were attended by skilled personnel.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. However, HIV-positive persons continued to

experience social stigmatization and discrimination that limited their access to these services. The National Committee to Fight AIDS coordinated national policy to counter the spread of the HIV/AIDS virus.

Customary marriage and family laws discriminate against women. Adultery is illegal for both women and men. Polygyny is legal while polyandry is not. The law provides that a legal wife shall inherit 30 percent of her husband's estate. The law limits dowries to symbolic amounts; however, this often was not respected, and men were obliged to pay excessive bride prices to the woman's family. The Ministry of Promotion of Women's Rights was in charge of protecting and promoting the rights of women.

The law prohibits discrimination based on gender and stipulates that women have the right to equal pay for equal work. However, women were underrepresented in the formal sector of the economy. Women experienced economic discrimination with respect to employment, credit, equal pay, and owning or managing businesses. Most women worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas were especially disadvantaged in terms of education and wage employment, and were confined largely to family farming, small-scale commerce, and child-rearing responsibilities. Many local and international NGOs have developed microcredit programs to address this problem, and government ministries, including those of social affairs and agriculture, were also active in helping women set up small income-producing businesses.

*Children.*—Citizenship is acquired by birth in the country as well as from one's parents.

The Government does not provide automatic recording of births; it is up to parents to record the birth of a child. Recording is not required, but it must be done to obtain a birth certificate, which is necessary for school enrollment and other services. Pygmies, in particular, were denied social services as a result of not being registered. Those living in remote villages have a difficult time registering, as offices for registration are located only in provincial capitals. The Government continued a system of providing free birth registration in Brazzaville, but, as in previous years, the program did not cover other areas.

Education is compulsory, tuition-free, and universal until the age of 16, but families are required to pay for books, uniforms, and school fees. School enrollment was generally higher in urban areas. Although there was no specific data available, Pygmy children were at a disadvantage in school attendance because their parents usually failed to register births and obtain the necessary records. Schools were overcrowded and facilities extremely poor. Girls and boys attended primary school in roughly equal numbers; however, boys were five times more likely than girls to go on to high school and four times more likely to go on to a university. In addition there were reports that teenage girls were pressured to exchange sex for better grades, which contributed to both the spread of HIV/AIDS and unwanted and unplanned pregnancies.

Child abuse was not commonly reported, but was thought to be prevalent. Most reports in previous years involved the West African immigrant communities in the country.

There were cases of children, particularly those who lived on the streets, engaging in prostitution without third-party involvement. The prevalence of the problem remained unclear, although the UN Children's Fund (UNICEF) estimated in a 2007 report that approximately 25 percent of the 1,800 estimated trafficked children were sexually exploited.

A Child Protection Code promulgated in April provides penalties for crimes against children such as trafficking, pornography, neglect, and abuse. Penalties for these crimes range from forced labor, to fines of up to 10,000,000 CFA (\$20,200), to prison sentences of several years. The penalty for child pornography includes a prison sentence up to one year and a fine up to 500,000 CFA (\$1,010).

The law prohibits child marriage, and the legal age for marriage is 18 years for women and 21 for men. However, marriage at an earlier age is permissible if both sets of parents give their permission; the law does not specify the age in this special circumstance.

International organizations assisted with programs to feed and shelter street children, the majority of whom lived in Brazzaville and Pointe Noire and were believed to be from the DRC, according to UNICEF. Children who lived on the streets were vulnerable to sexual exploitation and often fell prey to criminal elements such as drug smugglers. Many begged, while others sold cheap or stolen goods to support themselves.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction,

please see the Department of State's annual report on compliance at <http://www.travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—There was no substantial Jewish community in the country. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or in the provision of other state services, although the Government generally did not enforce the law.

There were no laws mandating access for persons with disabilities. The Ministry of Social Affairs is the lead ministry responsible for these issues.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination based on ethnicity; however, the Government did not effectively enforce this prohibition.

Regional ethnic discrimination existed among all ethnic groups and was evident in government and private sector hiring and buying patterns. The relationships among ethnic, regional, and political cleavages can be difficult to discern. Many of the supporters of the Government included persons from northern ethnic groups, such as the president's Mbochi group and related clans.

*Indigenous People.*—According to local NGOs, Pygmies were severely marginalized in regard to employment, health services, and education, in part due to their isolation in remote areas of the country and their different cultural norms. Pygmies were often considered socially inferior and had little political voice; however, in recent years several Pygmy rights groups have developed programs to overcome this. Many Pygmies were not aware of the concept of voting and had minimal ability to influence government decisions affecting their interests.

Some NGOs asserted that many Pygmy groups, who lived primarily in forest regions, did not enjoy equal treatment in the predominantly Bantu society. Indigenous persons were estimated to constitute 10 percent of the population, or an estimated 370,000 persons.

The Government disbanded several business operations in northern Congo in which Bantu groups were misusing and abusing the labor of the Pygmy persons. Pygmies were notably more prevalent in the hunting and natural healing professions.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The constitution prohibits discrimination based on political, sexual, or religious orientation. There was not a large openly gay or lesbian community due to the social stigma associated with homosexuality. A law that was promulgated during the country's colonial era and still in force prohibits homosexual conduct as punishable by up to two years' imprisonment; however, the law was rarely enforced. The most recent arrest under this law was in 1996, when several individuals were arrested in Pointe Noire and briefly detained for homosexual behavior.

There were no known cases of violence or discrimination against gays, lesbians, or transgendered individuals during the year. While discrimination may exist due to the social stigma surrounding homosexuality, no such cases were reported to the NGOs or covered by the media.

*Other Societal Violence or Discrimination.*—Public opinion polls show that societal discrimination against individuals with HIV/AIDS is significant. Unlawful divulgence of medical records by practitioners, negligence in treatment by health professionals, family abandonment, and unwarranted termination of employment are all offenses subject to sanctions. Civil society, including persons living with HIV/AIDS, was fairly well organized and sought fair treatment, especially regarding employment. NGOs and the Government worked widely on HIV/AIDS issues, including raising public awareness of the fact that those living with HIV/AIDS were still able to contribute to society.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements. Workers exercised this right in practice. However, members of the security forces and other essential services do not have this right. Nearly all the workers in the public sector and approximately 25 percent of workers in the formal private sector were union members. The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

Workers have the right to strike, provided all conciliation and nonbinding arbitration procedures have been exhausted, and due notice has been given.

*b. The Right to Organize and Bargain Collectively.*—The law also provides for the right to bargain collectively, and workers exercised this right freely, although collective bargaining was not widespread due to the severe economic conditions.

There were no reports that antiunion discrimination occurred. Most trade unions were reportedly weak and subject to government influence; as a result, workers' demonstrations were frequently prohibited, often by the unions themselves. There were no reports during the year of employers firing workers for union activity.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. There were unconfirmed reports that such practices occurred, but, unlike in previous years, no such cases were documented either by the NGOs or the Government.

The Government has not repealed a 1960 law which allows persons to be requisitioned for work of public interest and provides for their possible imprisonment if they refuse. However, there were no reports of the law ever being applied or enforced.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although there are laws and policies designed to protect children from exploitation in the workplace, child labor was a problem. The minimum age for employment or internships was 16 years; however, this law generally was not enforced, particularly in rural areas and in the informal sector. Children worked with their families on farms or in small businesses in the informal sector without government monitoring.

The most common forms of child labor were in markets or in the fishing industry, where children were subject to harsh conditions, long hours, and little or no pay. There were no official government statistics on general child labor. However, a 2005 International Labor Organization survey showed that 85 percent of the 47,000 working children resided in rural areas, and just over half (53 percent) were girls who performed household chores or worked in exchange for pay.

The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its limited resources on the formal wage sector, where its efforts generally were effective. As in previous years limited resources prevented the ministry from carrying out regular child labor inspection trips. Labor inspections occurred during the year, but there were no official data available at year's end. International aid groups reported little change during the year in child labor conditions.

For information on child trafficking see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*e. Acceptable Conditions of Work.*—The national minimum wage, which was 54,000 CFA (\$109) per month in the formal sector, did not provide a decent standard of living for a worker and family. There was no official minimum wage for the agricultural and other informal sectors. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment, mainly in the informal sector.

The law provides for a standard workweek of seven hours per day, five days a week, with a one-hour lunch break. There was no legal limit on the number of hours worked per week. The law stipulates that overtime must be paid for all work in excess of 42 hours per week; however, there is no legal prohibition against excessive compulsory overtime. Overtime was subject to agreement between employer and employee. These standards were generally observed, and workers were usually paid in cash for overtime work beyond 42 hours per week.

Although health and safety regulations require biannual visits to businesses by inspectors from the Ministry of Labor, such visits occurred much less frequently, and enforcement of findings was uneven. Unions generally were vigilant in calling attention to dangerous working conditions; however, the observance of safety standards often was lax. Workers have no specific right to remove themselves from situations that endanger their health or safety without jeopardizing their continued employment. There were no exceptions for foreign or migrant workers.

---

## COTE D'IVOIRE

Cote d'Ivoire is a democratic republic with an estimated population of 21 million. On October 31, the country held its first presidential election in 10 years. Incumbent President Laurent Gbagbo, candidate of the Ivorian People's Front (FPI), and

opposition party leader Alassane Ouattara, candidate of the Rally for Republicans (RDR), advanced to the November 28 presidential runoff.

On December 2, the Independent Electoral Commission (CEI) declared Ouattara the winner of the runoff with 54.1 percent of the vote as compared with 45.9 percent for Gbagbo. The UN and international and domestic observer missions declared the vote fair and democratic and recognized Ouattara as the country's duly elected president. Gbagbo refused to accept the results, alleging voter fraud and intimidation in several regions. On December 3, the Constitutional Council, which was made up entirely of Gbagbo appointees, overturned the CEI ruling, citing voter "irregularities." More than 500,000 votes for Ouattara were annulled, and Gbagbo was declared the winner.

Ouattara and Gbagbo took separate oaths of office December 3 and announced separate cabinets. At year's end President Ouattara and former president Gbagbo remained in a standoff over the presidency. President Ouattara operated his government from the Golf Hotel in Abidjan under a blockade of pro-Gbagbo forces. Access to President Ouattara and his government, including replenishment of food and medical supplies, was extremely limited and occurred primarily via UN helicopter. At year's end former president Gbagbo retained control of state resources including the national television station, the security forces, and the treasury.

Efforts to reunite the country following the 2002 rebellion that split control of the country between the rebel group Forces Nouvelles (FN) in the north and the Government in the south, and as stipulated in the 2007 Ouagadougou Political Agreement signed by then-president Gbagbo and FN rebel leader Guillaume Soro, remained incomplete at year's end. Approximately 7,750 UN Operation in Cote d'Ivoire (UNOCI) and 900 Operation Licorne French armed forces peacekeepers remained in the country to support the continuing peace process. Due to the standoff over the presidency and Gbagbo's control of state resources, civilian authorities failed to maintain effective control of the security forces in Gbagbo-controlled zones, and authorities of the FN's military wing, the Forces Armees des Forces Nouvelles (FAFN), generally failed to maintain effective control of the security forces in FN-controlled zones.

The following human rights abuses were reported in areas under then-president Gbagbo's government control prior to the November 28 presidential runoff: restriction of citizens' right to change their government; arbitrary and unlawful killings, including summary executions; torture and other cruel, inhuman, or degrading treatment and punishment; rape and sexual assault of civilians; life-threatening prison and detention center conditions; official impunity; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; police harassment and abuse of noncitizen Africans; use of excessive force and other abuses in internal conflicts; restrictions on freedoms of speech, press, peaceful assembly, association, and movement; official corruption; discrimination and violence against women, including female genital mutilation (FGM); child abuse and exploitation, including forced and hazardous labor; forced labor; and trafficking in persons.

There were credible reports that forces and authorities that remained loyal to Gbagbo after his defeat in the presidential runoff committed the following human rights abuses with impunity: arbitrary and unlawful killings, including summary executions; enforced disappearances; torture and other cruel, inhuman, or degrading treatment and punishment; rape of civilians; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; and restrictions on freedoms of speech, press, peaceful assembly, association, and movement.

There were credible reports that supporters of President Ouattara committed the following human rights abuses with impunity: torture and other cruel, inhuman, or degrading treatment and punishment; rape and sexual assault of civilians; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; and restrictions on freedoms of speech, press, peaceful assembly, association, and movement.

In areas under the effective control of the FN, there were reports of extrajudicial killings; torture and other cruel, inhuman, or degrading treatment and punishment; rape and sexual assault of civilians; life-threatening prison and detention center conditions; impunity; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, and home; use of excessive force and other abuses in internal conflicts; restrictions on freedom of movement; corruption and extortion; discrimination and violence against women, including FGM; and child abuse and exploitation.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces continued to commit extrajudicial killings with impunity, and progovernment militia groups were responsible for killings and harassment. Crimes often went unreported or underreported due to fear of reprisals.

Security forces killed demonstrators. Demonstrations broke out throughout the country after then-president Gbagbo dissolved the Government on February 12. The National Security Forces (FDS-CI) killed 13 civilians, including three children, in four cities: the capital Abidjan, Daloa, Divo, and Gagnoa. Eleven died from gunshot wounds, and two others from mistreatment while in custody. Seventy-six civilians were injured, including three women and 14 minors. Eighteen members of the FDS-CI were wounded. Authorities arrested 95 persons during the events and charged 20 with disturbing the peace; they remained in jail at year's end. The UN concluded that several of these killings took place as persons fled the demonstration areas and inside private residences.

On February 22, FDS-CI members killed Kouyate Lacine, Kone Lacine, and Sanogo Zakaria, in the Orly II and Sissoko neighborhoods of Daloa during a demonstration. Twenty-four persons were injured and 20 persons were arrested.

On February 23, a 75 year-old Mauritanian man in Daloa died from internal bleeding resulting from injuries inflicted on him by FDS-CI personnel who entered his home in pursuit of demonstrators hiding in his courtyard.

On July 6, two gendarmes, Marechal-des-logis (MDL) Koffi Bi and Ekra, of the Compagnie de Gendarmerie and Escadron 1/3 of Yamoussoukro, beat a Malian driver to death with truncheons and belts in the Kokronou II quarter. The incident followed accusations by gendarme MDL Koffi Bi that the man, whom he saw buying cigarettes near his home, was a drug addict. Bi and Ekra were not arrested and continued to perform their duties with impunity at year's end. The victim's family filed a complaint at the gendarmerie with the legal assistance of the Mouvement Ivoirien des Droits de l'Homme (MIDH).

Security forces frequently resorted to lethal force to combat widespread crime and often committed crimes with impunity. Such cases often occurred when security forces apprehended suspects or tried to extort money from taxi drivers and merchants at checkpoints and roadblocks.

There were continued reports of killings attributed to members of the security operations command center (CECOS), a government anticrime organization whose personnel were accused of human rights violations, racketeering, extortion, and harassment. Members of CECOS reportedly executed suspected thieves in Abidjan. The Ministry of Interior maintained that all victims were criminals killed in the course of police anticrime activities.

There were no developments in other CECOS-related killings from previous years.

On September 18, police officer Youssouf Sidibe of the Brigade de la Surveillance des Personnalites, shot and killed a 22 year-old man in the Abobo-Anador neighborhood of Abidjan following a traffic dispute. Soldiers of the Compagnie Republicaine de Securite 2 rescued the police officer from an angry mob and took him to the hospital in critical condition. The victim's family filed a complaint with authorities, but no formal investigation into the case had been opened by the gendarmerie or police by year's end.

Following the November 28 presidential runoff, security forces loyal to former president Gbagbo committed extrajudicial killings. Pro-Gbagbo militia groups also committed killings.

On the night of December 1, members of CECOS allegedly attacked the RDR party campaign office in the Youpougon district of Abidjan, killing six persons, injuring 14, and arresting seven others. Those detained were held at the MACA prison in Abidjan. No investigation was reported at year's end.

On December 16, security forces loyal to Gbagbo fired on supporters of President Ouattara during a demonstration march. Credible reports indicate at least 20 persons were killed, numerous others wounded, and hundreds arrested.

During the week of December 15-22, the UNOCI human rights division reported that 173 persons were killed, 90 tortured and mistreated, 471 arbitrarily arrested and detained, and 24 were missing. The overwhelming majority of these cases of extrajudicial killings, torture, detention, and disappearance, were committed by security forces loyal to Gbagbo.

There were numerous credible reports of CECOS involvement in extrajudicial killings, torture, and arbitrary detentions during the period following the presidential runoff. CECOS forces, in addition to elements of the Compagnie Republicaine de Securite, the Garde Republicaine, the Brigade Anti-Emeute, the

gendarmarie, and the Ivoirian Marines, were implicated in abuses targeting pro-Ouattara supporters. The majority of these incidents occurred in the Abidjan neighborhoods of Abobo, Anyama, and Yopougon.

During the year several extrajudicial killings attributed to the FN were reported in FN-controlled zones and in the former zone of confidence.

On March 4, two FAFN soldiers, Bakayoko Tiekuma and Kone Moussa Junior, beat and killed a 35 year-old man of Gouro ethnic origin in Bazra Natis. The soldiers severely beat the victim for four hours with rifles and truncheons over accusations of stealing a sum of 85,000 FCFA (\$170) from a Burkinabe farmer who filed a complaint with the FN. FN authorities arrested the two soldiers and transferred them to Seguela.

From March 4 to 5, FAFN soldiers led by Kone Abdoulaye, alias Massa, severely beat a man at the FAFN headquarters in Odienne. The victim, who sustained a swollen eye, also complained of pain in the neck, the abdomen and both sides of the stomach. He died on March 6 from his injuries. FN authorities took no action by year's end.

On October 2, the UNOCI Human Rights Division reported that FAFN soldiers in Touba summarily executed 11 persons accused of highway robbery.

There were credible reports that members of the Congrés Panafricain des Jeunes et des Patriotes (COJEP), commonly known as the Young Patriots (a youth movement supporting Gbagbo and the FPI party) committed extra-judicial killings.

The Young Patriots were responsible for summary executions in previous years and continued to operate with impunity.

In Abidjan and the western part of the country, there were reports of atrocities, including killings by progovernment militia groups and armed bandits thought to be FN members.

*b. Disappearance.*—Following the November 28 presidential runoff there were numerous reports of politically motivated disappearances committed by security forces and militia groups loyal to former president Gbagbo.

The international nongovernmental organization (NGO) Human Rights Watch (HRW) issued the report *Cote d'Ivoire: Pro-Gbagbo Forces Abducting Opponents*, which documented a pattern of nightly raids on pro-Ouattara neighborhoods beginning December 16. The raids, reportedly conducted by security forces loyal to Gbagbo and militia groups, resulted in the disappearances of numerous persons.

On December 23, UN Deputy High Commissioner for Human Rights Kyung-Wha Kang reported that UN human rights monitors had documented 24 enforced disappearances.

The Government made little effort to assist the continuing French investigation into the 2004 disappearance of Franco-Canadian journalist Guy Andre Kieffer, who was working on a story about money laundering and illegal currency transfers allegedly involving then-president Gbagbo's government when he disappeared.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, security forces, police, and FN soldiers beat and abused detainees and prisoners to punish them, extract confessions, or extort payments with impunity. Police officers forced detainees to perform degrading tasks under threat of physical harm and continued to harass and extort bribes from persons of northern origin or with northern names.

On January 6, authorities released without charge Seydou Kone, a teacher and RDR activist, after a three-month detention in the MACA correctional facility and penitentiary in Abidjan. According to Soungalo Coulibaly, RDR's secretary for human rights who visited Kone in October 2009, Kone's body was scarred from the beatings he received while in detention.

There continued to be reports that noncitizen Africans, mostly from neighboring countries, were subject to harassment and abuse by security forces and "self-defense" groups, including repeated document checks, security force extortion, and racketeering.

Following the declaration by the Economic Community of West African States (ECOWAS) that Ouattara was the duly elected president of the country and statements by Nigerian President Goodluck Jonathan in support of Ouattara, there were numerous reports of harassment by Nigerians residing in the country. There were reports of targeting and destruction of Nigerian shops and businesses by security forces and pro-Gbagbo supporters and militias.

On January 15, five armed FAFN soldiers stormed the house of a 33 year-old former FAFN soldier in Bouake and arrested him for allegedly receiving stolen goods from another former FAFN soldier. They took the man to an illegal FAFN detention center located at the southern entrance to the city, the "Corridor sud," where they beat him with a rifle butt. The FAFN soldiers poured melted rub-

ber over his body and then detained him in a seven-foot-deep hole without food for one week. He was released on January 22. At year's end there were no reports that authorities had investigated the incident.

On February 2, a group of FAFN soldiers arrested a 29 year-old man in Odienne and took him to the home of one of the soldiers, Kone Massa, where they tortured him for allegedly stealing a radio. Marks of mistreatment were visible on his body. They detained the victim at the Odienne police station until March 11, when he was released following the intervention of UNOCI human rights officers, UN Police, and the state prosecutor.

On March 16 to 17 in Korhogo, the gendarmerie summoned a man accused of helping his 18 year-old girlfriend to escape from a forced marriage situation, after the girl's parents filed a complaint against him. An FAFN soldier stripped him half-naked and beat him with a stick.

On March 30, 12 armed FDS-CI members seriously beat a Young Patriots regional leader in San Pedro after they claimed he attacked a different FDS-CI member. The Young Patriots leader sustained several injuries and received medical treatment in a private clinic. No investigation was undertaken at year's end, according to UNOCI human rights officers in San Pedro.

Following the November 28th runoff, Ouattara supporters attempted to assault physically the principal of the Odienne "College Municipal," a midwife, and two teachers. In Kani, north of Seguela, a local CEI commissioner was threatened with death by Ouattara supporters.

There were credible reports that security forces, CECOS members, and FAFN soldiers continued to rape women and girls throughout the country, particularly in the central, northern, and western zones; however, there were few specific cases available to cite. The UNOCI Human Rights Division documented 23 cases of rape related to the electoral violence. For example, on December 24, a 44 year-old woman married to a high-ranking state official was raped in Benongossou, near the airport in Abidjan. The woman was abducted outside her home by two groups of individuals, one in civilian clothes armed with knives and another group in military uniforms and armed with rifles. She was taken into the nearby bush where she was sexually assaulted. Prior to this assault, she had received numerous death threats related to her refusal publicly to denounce Ouattara. The victim was referred to a specialized organization for psychological and medical assistance, and no further action was reported at year's end.

There were no further developments from cases of torture and inhuman treatment in 2009.

On October 22, HRW published *Afraid and Forgotten: Lawlessness, Rape, and Impunity in Western Cote d'Ivoire*, which documented numerous cases of violence, torture, and rape committed in the western administrative regions of Moyen Cavally and Dix-Huit Montagnes. The report highlighted the threat posed by militia groups and demobilized former soldiers to the general population, but specifically women and children. The report documented 109 specific cases of rape in the west (23 reported by victims, 86 by witnesses), between January 2009 and August 2010.

The Ministry of Family, Women, and Social Affairs, in partnership with the UN Population Fund (UNFPA), the UN Development Fund for Women, UN Development Program, and the UN Children's Fund issued a report on gender-base violence in 2008. The report corroborated that the highest number of women who reported being the victims of sexual violence were in the western and northern regions, in Man (41percent), Duekoue (35 percent), and Korhogo (26 percent).

UNOCI established a commission of inquiry in December 2009 to probe allegations of sexual abuse involving UN peacekeepers in the country. UNOCI personnel involved in the 2007 sexual exploitation and abuse case of minors were returned to their home countries, where they stood trial. There were no significant cases involving peacekeepers during the year.

*Prison and Detention Center Conditions.*—Conditions were poor and in some cases life-threatening in the country's 33 prisons. In the 22 prisons that also served as detention centers, located in the area under government control in the south, overcrowding was a serious problem. For example, MACA, the country's main prison located in Abidjan, was built for 1,500 persons but held approximately 5,400 at year's end. Conditions in MACA were notoriously bad, especially for the poor; however, wealthier prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. The Government provided inadequate daily food rations, which resulted in cases of severe malnutrition if families of prisoners did not bring additional food. As of November 12, 180 prisoners had died in government-controlled prisons during the year, mostly due to malnutrition and disease resulting from overcrowding. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations.

Male minors were held separately from adult men, but the physical barriers at MACA were inadequate to enforce complete separation. Some minors were detained with their adult accomplices. Pretrial detainees were held with convicted prisoners.

Prison conditions for women were particularly difficult, and health-care facilities were inadequate. There were continued reports that female prisoners engaged in sexual relations with wardens in exchange for food and privileges. Pregnant prisoners went to hospitals to give birth, and their children often lived with them in prison. The prisons accepted no responsibility for the care or feeding of the infants, although inmate mothers received help from local NGOs.

The Government generally permitted access to prisons by the International Committee of the Red Cross (ICRC) and other local and international NGOs, including World Doctors, International Prisons' Friendship, Love Amour, Prisoners Without Borders, and the Ivoirian Islamic Medical Rescue Association. However, there were isolated incidents where the Government did not allow access. For example, on January 11, UNOCI human rights officers in San Pedro were denied access to the Sassandra central prison by its director, who claimed that all visits to detainees must be authorized in advance by the local prosecutor. The officers took up the matter with the local prosecutor.

Detention and prison conditions in FN zones were worse than in MACA, with detainees sometimes held in converted schools, movie theaters, or other buildings with poor air circulation and sanitary facilities. Since at least 2008, the FN have used a seven-foot-deep hole covered with iron bars as an illegal detention area. Nutrition and medical care were inadequate. Many detainees became ill, and some died from respiratory disease, tuberculosis, or malaria due to lack of medical care and unhygienic conditions.

The FN sometimes denied prison access to the ICRC and the UNOCI human rights division local teams; the FN also sometimes denied visitation rights to domestic human rights groups.

With financial assistance from a foreign government, the NGO Prisoners Without Borders completed renovations on all 11 prisons located in FN-controlled zones in 2008. The FN officially transferred control of the prisons over to the Government in January; however, in practice the FN still retained operational control of the prisons in the north.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, both occurred frequently.

*Role of the Police and Security Apparatus.*—Security forces under the Ministries of Defense and Interior included the army, navy, air force, republican guard, presidential security force, and the gendarmerie, a branch of the armed forces with responsibility for general law enforcement. Police forces, which are under the jurisdiction of the Ministry of Interior, include paramilitary rapid intervention units such as the antiriot brigade, the republican security company, and the Directorate for Territorial Surveillance (DST), a plainclothes investigating unit. In 2005 the Ministry of Interior formed CECOS to combat rising crime in Abidjan. A central security staff collected and distributed information regarding crime and coordinated the activities of the security forces.

Poor training and supervision of security forces, corruption, impunity, and investigations conducted by security forces that were abusers resulted in general lawlessness and public fear of pressing charges. Racketeering at roadblocks remained a serious problem. Security forces harassed, intimidated, abused, and confiscated the official documents of persons who refused to pay bribes. Security forces also frequently resorted to excessive and sometimes lethal force while conducting security operations and dispersing demonstrations. Police reportedly solicited sexual favors from prostitutes in exchange for not arresting them. There were credible reports that security forces in Abidjan rented their uniforms and weapons to persons wanting to engage in criminal activity. Security forces also occasionally failed to prevent violence.

The Government sometimes took action against police officers who committed abuses; however, it generally did not investigate or punish effectively the perpetrators, nor did it consistently prosecute persons responsible for unlawful killings and disappearances in previous years.

*Arrest Procedures and Treatment While in Detention.*—Detainees were not always informed promptly of charges against them, especially in cases concerning state security. Defendants do not have the right to a judicial determination of the legality of their detention. A bail system existed solely at the discretion of the judge trying the case. Detainees were generally allowed access to lawyers; however, in cases involving possible complicity with rebels or other matters of national security, detainees were frequently denied access to lawyers and family members. For more serious

crimes, those who could not afford to pay for lawyers were provided lawyers by the state, but alleged offenders charged with less serious offenses were often without representation. Incommunicado detention was a problem, and a few persons held in this manner were tortured during the year (see section 1.c.).

A public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases such as suspected actions against state security, the law permits an additional 48-hour period. According to local human rights groups, police often held persons for more than the 48-hour legal limit without bringing charges, and magistrates often were unable to verify that detainees who were not charged were released. A magistrate can order pretrial detention for up to four months by submitting a written justification each month to the minister of justice.

The DST was charged with collecting and analyzing information relating to national security. It had the authority to hold persons for up to four days without charges; however, human rights groups stated there were numerous cases of detentions exceeding the statutory limit.

On July 12, authorities released, after a detention of more than two years, five former FAFN soldiers arrested and detained in 2007 in Bouake, Korhogo, and Ferkessedougou for their alleged involvement in an assassination attempt on Prime Minister Guillaume Soro. The five appeared in Bouake before an FAFN military committee; they were released on the condition that they sign a document confessing their involvement in the assassination attempt.

On July 20, the UN Human Rights Regional Office in Bouake reported that six corporals serving in the FN Zone 9 in Boundiali were arrested, tortured, and detained on July 7 at the Bouake civilian prison. They were accused of being involved in the May 19 killing of Coulibaly Tabakaly, chief of security of FN Zone 9, and Kona Stephan, chief of the Boundiali-Korhogo sub-zone. At year's end the six corporals remained in jail, and local officials reported that no case could be undertaken in the absence of a functioning court system. UNOCI human rights officers continued to investigate the case at year's end.

There were numerous reports that security forces arbitrarily arrested merchants and transporters, often in conjunction with harassment and requests for bribes.

Police and gendarmes detained persons in various military camps in Abidjan; however, there were fewer such reports prior to November 28 than in the previous year. Following the presidential runoff, there were numerous credible reports that security forces loyal to Gbagbo detained Ouattara supporters in the Ecole de la Gendarmerie and Ecole de Police bases in Abidjan.

On December 18 in Bouake, FAFN soldiers arbitrarily arrested and detained two Ivoirians accused of being mercenaries. On December 21 in Bouna, the FN arrested nine foreigners, including three Cameroonians, four Ghanaians, a Nigerian, and a Togolese, suspected of being mercenaries.

Prolonged pretrial detention was a problem. Despite the legal limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some pretrial detainees were held in detention for years. As of November 12, the national prison administration reported that 24 percent of the 12,256 persons held in the 22 government-controlled prisons were pretrial detainees.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, in practice the judiciary was subject to influence from the executive branch, the military, and other outside forces. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. There also were credible reports that judges were corrupt. It was common for judges receptive to bribery to distort the merits of a case. Judges also reportedly accepted bribes in the form of money and sexual favors (see section 4). The judiciary was slow and inefficient.

*Trial Procedures.*—The Government did not always respect the presumption of innocence. The law provides for the right to public trial, although key evidence sometimes is given secretly. Juries are used only in trials at the court of assizes, which convenes as required to try criminal cases.

Defendants had the right to be present at their trial, but they may not present witnesses or evidence on their behalf or question any witnesses brought to testify against them. Defendants accused of felonies or capital crimes had the right to legal counsel. Other defendants may also seek legal counsel, but it is not obligatory. The judicial system provides for court-appointed attorneys; however, no free legal assistance was available, aside from infrequent instances in which members of the bar provided free advice to defendants for limited periods. Defendants may not access government-held evidence, although their attorneys have the legal right to do so.

Courts may try defendants in their absence. Those convicted had the right of appeal, although higher courts rarely overturned verdicts.

In rural areas traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of physical punishment. The formal court system increasingly superseded these traditional mechanisms. The law specifically provides for a grand mediator, appointed by the president, to bridge traditional and modern methods of dispute resolution. Grand mediators did not operate during the year.

Military courts did not try civilians and provided the same rights as civil criminal courts. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

Little information was available on the judicial system used by the FN in the northern and western regions.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary in civil matters; however, the judiciary was subject to corruption, outside influence, and favoritism based on family and ethnic ties (see section 4). Citizens can bring lawsuits seeking damages for, or cessation of, a human rights violation; however, they did so infrequently. The judiciary was slow and inefficient, and there were problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law provide for these rights; however, the Government did not respect these rights in practice. Officials must have warrants to conduct searches, must have the prosecutor's agreement to retain any evidence seized in a search, and are required to have witnesses to a search, which may take place at any time; however, in practice police sometimes used a general search warrant without a name or address.

Following the November 28 presidential runoff, security forces and militias loyal to former president Gbagbo conducted nightly raids on houses in pro-Ouattara neighborhoods. Credible reports indicated that CECOS, Republican Guard, and paid Liberian mercenaries were responsible for these nightly raids, which involved invading private residences, extrajudicial killings, and forced disappearances.

Security forces monitored private telephone conversations, but the extent of the practice was unknown. The Government admitted that it listened to fixed-line and cellular telephone calls. Authorities monitored letters and parcels at the post office for potential criminal activity, and they were believed to have monitored private correspondence, although there was no evidence of this activity. Members of the Government reportedly continued to use students as informants.

The FN continued to use confiscated property and vehicles of civil servants and those believed to be loyal to then-president Gbagbo; however, the FN vacated some of the property confiscated in previous years.

In the period following the November 28 runoff, there were credible reports of abuse and arbitrary interference with home and privacy by members of the FAFN against suspected Gbagbo supporters. For example, on December 3, in Ben Koussaikro, five FAFN soldiers broke into the home of the parent of a Gbagbo supporter and stole 13,000 FCFA (\$26). Seven other FAFN approached the same home two hours later and confiscated four bags containing around 1,000 T-shirts and threatened to return if the victim did not cease campaigning for Gbagbo.

Ouattara loyalists also participated in a small number attacks against Gbagbo supporters. For example, the FPI headquarters in Bouake was attacked and vandalized in the aftermath of the November 28 presidential runoff. The residences of Siki Blon Blaise, president of the Conseil General; Lancine Gon Coulibaly, former Mayor of Korhogo, and Issa Malick Coulibaly, national campaign director of Gbagbo, were also looted and burned down in Man and Korhogo, respectively, by suspected Ouattara supporters.

Similar attacks against the property of FPI officials took place in Bocanda, M'Bahiakro, and Toumodi. In Odiene, minor incidents were reported including attacks against private homes and destruction of property following the proclamation of the provisional by the CEI. The Odiene FPI headquarters and the FPI campaign director's residence in Minignan were looted by armed FAFN elements. In Bouna two vehicles belonging to FPI supporters were forcibly confiscated by pro-Ouattara youth.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but the Government restricted these rights in practice. Journalists continued to practice self-censorship for fear of retribution. Government officials aggressively used the court system to punish critics. Following the November 28 presidential runoff, media freedoms were drastically curtailed and journalists were harassed for reporting on the political standoff, in particular by the Gbagbo regime. On December 2, the National Audiovisual Communication Council (CNCA) banned all foreign television and radio stations; foreign broadcasting remained suspended at year's end.

Individuals who criticized the Government risked reprisal. For example, on July 16, the public prosecutor ordered the arrest of Theophile Kouamouo, Stephane Boilly, and Saint-Claver Oula, three journalists with *Le Nouveau Courrier*, a privately owned daily newspaper, after it published a series of investigative articles on corruption by officials in the coffee and cocoa sector. Authorities jailed the three journalists at MACA prison and charged them with theft of administrative documents and refusal to disclose sources after publishing a section of a "confidential" government investigation into the mismanagement of the coffee and cocoa sector. They were released on July 27 after 14 days in detention.

In 2008 then-president Gbagbo nominated an independent board of directors for the organization that publishes *Fraternite Matin*, the Government's daily newspaper. Although *Fraternite Matin* had the largest circulation of any daily, it rarely criticized government policy. However, a number of private newspapers frequently criticized government policy, the president, and the ruling party. Most newspapers were politicized and sometimes resorted to fabricated stories to defame political opponents.

On December 17, the Republican Guard, reportedly under orders from Gbagbo supporter Brigadier General Dogbo Ble Brunot, shut down all opposition newspapers. Elements of the Republican Guard approached the printing companies and stated that the following pro-Ouattara daily newspapers were forbidden to be published: *Le Patriote*, *Le Nouveau Reveil*, *L'Expression*, *Le Mandat*, *Nord Sud Quotidien*, *Le Jour Plus*, and *L'Intelligent d'Abidjan*. This ban on opposition newspapers, believed to be an independent move by the Republican Guard, was relaxed the following day, and the newspapers resumed publication on December 18.

Security forces continued to harass journalists. Outspoken members of the press, particularly those working for opposition party newspapers, continued to suffer physical intimidation from groups aligned with the ruling FPI party.

On May 10, Media Foundation for West Africa (MFWA), an Accra-based media watchdog, reported that journalists at *Le Nouveau Reveil*, a daily close to the opposition Democratic Party of Cote d'Ivoire (PDCI), received threats via short message service (SMS) messages as the party was preparing for a May 15 demonstration.

During the year no action was taken against progovernment youth groups who attacked, threatened, or harassed journalists.

The CNCA suspended French television station France 24 from February 22 to March 2 for "unbalanced and unprofessional treatment of information." The CNCA accused France 24 of displaying a news ticker reporting that several persons were killed in an opposition demonstration in Gagnoa without providing further details.

On May 25, officials of the DST detained and questioned journalists at *L'Expression*, a privately owned daily, for several hours, according to French media watchdog, Reporters Without Borders. Police authorities accused *L'Expression* of reporting on an opposition demonstration in Gagnoa in February and of supplying France 24 with pictures of the demonstration.

On October 14, Reporters Without Borders reported that approximately 50 armed members of the FDS-CI prevented a debate from taking place at the headquarters of the *L'Intelligent d'Abidjan* newspaper.

The Government also harassed and imprisoned foreign journalists. On October 14, Reporters Without Borders reported that DST members arrested journalists from the Qatar-based satellite television station Al Jazeera, who had arrived in Abidjan to cover the election. They were reportedly taken to the DST headquarters where they were questioned by Deputy Director Dje Bi, who demanded to inspect their equipment and search their hotel room. They were released two hours later.

The crews of television stations France 2 and France 3 were attacked while reporting on the political standoff. On December 16, CECOS forces threatened the crew of France 2 with AK-47 assault rifles, and allegedly fired their weapons to force the crew of France 3 to cease reporting, according to MFWA. No one was injured in the attacks, but the forces seized the journalists' equipment. France 24

cameraman Alhassane Kanate was also arrested and detained overnight at the Plateau Central Police Station.

Private radio stations did not have complete control over their editorial content. National broadcast regulations prohibit the transmission of any political commentary. The Government used the CNCA, controlled by the ruling party, to closely monitor Radio Nostalgie, reportedly because the major shareholders of the company were close to Ouattara.

The CNCA suspended privately owned radio Abidjan 1 from October 16 to 31 for covering the activities of presidential candidates, in line with CNCA Decision No. 2010-08 of October 13 prohibiting private radio stations from covering political activities during the presidential campaign.

Prior to November 28 presidential runoff, the Government did not interfere with UNOCF's radio station, UNOCI-FM. However, UNOCI denounced efforts by forces loyal to Gbagbo to jam the station after the runoff.

The Government and the ruling FPI continued to exercise considerable influence over the official media's television program content and news coverage. During the year opposition leaders frequently complained that they were not granted equal television airtime on official media. A report published by Reporters Without Borders in October found that, during the first round of the presidential elections, Gbagbo enjoyed more than three times more media coverage than his next closest rival.

The media played a role in inflaming tensions, and newspapers backed by political parties occasionally published inflammatory editorials. The Ivoirian Observatory on Press Freedom and Ethics and the National Press Commission, which enforced regulations regarding creation, ownership, and freedom of the press, regularly urged journalists to practice moderation. In the aftermath of the November 28 runoff election, the UN and international organizations criticized Gbagbo for using the state-controlled media to incite political violence and to exploit ethnic tensions. The state-run television channel RTI and newspaper *Fraternite Matin* were singled out for leading a calculated campaign of "disinformation" against President Ouattara and the UNOCI peacekeeping force, according to the UN (see section 6).

The law authorizes the Government to initiate criminal libel prosecutions against officials. In addition the state may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by three months to two years in prison.

The FN broadcasted its own programming from Bouake, which included radio and television shows that were heard in towns and villages around Bouake and, according to some reports, in the political capital, Yamoussoukro. In the western part of the country, the FN broadcasted on a local radio station from Man. The FN continued to allow broadcasts of government television or radio programs in its zones. The FN also allowed distribution of all progovernment newspapers and most independent newspapers in its territory.

On October 1, Prime Minister Soro met with various media stakeholders and called for the closure of "unauthorized" FN radio and television stations. The CNCA had previously stated that some stations were not legally authorized to broadcast messages, yet some FN stations chose to ignore the order and were operating at year's end.

No action was taken against FN members who beat, harassed, and killed journalists in previous years.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Citizens had access to the Internet at Internet cafes, but home access was prohibitively expensive for most persons. According to the Internet World Stats data for June, approximately 4.6 percent of inhabitants used the Internet.

The Government suspended all SMS messaging services on October 31, and by year's end the Gbagbo regime had not restored the services.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. The Student Federation of Cote d'Ivoire (FESCI), the progovernment militant student group created in the early 1990s, generated a climate of fear and intimidation at universities and secondary schools and regularly stopped classes, forced students to attend meetings, and threatened professors who interfered in their activities. The Government controlled most educational facilities, and a presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they had been transferred, or feared that they could be transferred, to less desirable

positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

Violent attacks by FESCI members against students and teachers continued during the year. FESCI members killed and tortured other students, teachers, and civilians with impunity. While FESCI members were occasionally arrested or detained for their actions, they were rarely if ever prosecuted.

On February 10, in Danane, FESCI members physically assaulted several volunteer teachers who had staged a strike demanding to be granted tenure and better pay. The FESCI members took several of the teachers and school administrators hostage. FDS-Forces Nouvelles (FDS-FN) elements stormed the school and freed the hostages.

On February 17, several FESCI members armed with clubs disrupted a sensitization campaign organized by UNOCI at the Lycee Moderne in Divo. One UNOCI staff member and the deputy prefect, Zeze Tetiali, were injured in the incident.

On March 8, two rival groups of FESCI, one from Yamoussoukro and the other from Toumodi, clashed violently at the College Moderne Esperance of Toumodi. The two groups attacked each other with metal bars, truncheons, and stones, injuring 19 students. Two other students were taken hostage by their peers from Yamoussoukro. UNOCI human rights officers in Yamoussoukro took up the case with the prefect of Toumodi. FESCI members were instructed to return the stolen goods and free the hostages.

On March 26, FESCI and the Union Nationale des Eleves de Cote d'Ivoire of the Dimbokro modern high school violently clashed in Dimbokro. Armed with truncheons and machetes, a group of eight FESCI members marched into the city center, and attacked and killed one student. Police subsequently arrested four FESCI members. School authorities suspended classes in order to defuse tension.

On April 27, approximately 40 FESCI members, aided by the chief and youth of the village, tortured and killed a widow in Zagueita whom they accused of causing the death of a 20 year-old FESCI member on April 25 by witchcraft. The alleged perpetrators, including the village chief and the president of the youth, were summoned to the local gendarmerie in Bonon where they were detained briefly before being released without charge.

On April 28, 15 FESCI members armed with knives, daggers, and clubs interrupted mock examinations at the Lycee Moderne and the College Moderne in Dimbokro and threatened teachers with death over the detention of one of their members on murder charges. Local gendarmes arrested six, but the public prosecutor released them on April 29 at the request of the regional director of education in Dimbokro. FESCI leaders had threatened to block all schools in the country if their comrades were not released.

FESCI actively cooperated with pro-Gbagbo militias and security forces during and after the electoral period. For example, on November 30, FESCI members attacked and expelled pro-Ouattara students from the University of Cocody campus in Abidjan. Approximately 50 students were forcibly removed from their dorm rooms and expelled from the campus, according to press reports. Security forces did not intervene.

On December 25, members of FESCI, aided by the FDS-CI and pro-Gbagbo militia members, attacked and ransacked the PDCI headquarters in Cocody. Eleven civilians were injured, three seriously with gunshot wounds, and one of the injured required amputation of several fingers. Security forces posted in the area did not intervene to stop FESCI members, and no investigation was conducted by year's end.

In 2008 HRW published *The Best School: Student Violence, Impunity, and the Crisis in Cote d'Ivoire*, which documented numerous cases of violence, extortion, racketeering, torture, summary execution, and rape committed with total impunity by FESCI members. No action was taken against FESCI members responsible for violent incidents reported in previous years.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—*The law allows for freedom of assembly; however, the Government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies in stadiums or other enclosed spaces were required by law to submit a written notice to the Ministry of Security or the Ministry of Interior three days before the proposed event. No law expressly authorizes the Government to ban public meetings or events for which advance notice has been given in the required manner, but the Government prohibited specific events it deemed prejudicial to public order. Even if authorization for an event was granted, the Government could later revoke it. In 2006 then-president Gbagbo renewed a ban on all forms of outdoor public demonstrations in Abidjan. The ban was not lifted at year's end.

Police dispersed antigovernment demonstrations several times throughout the year. On February 12, then-president Gbagbo dissolved the Government and the CEI, which was charged with organizing elections and voter registration. As a result demonstrations broke out throughout the country, but the most significant ones took place in Abidjan, Abouakoussikro, Bondoukou, Bouake, Daloa, Divo, Duekoue, Gagnoa, Katiola, Korhogo, Man, and Tiebissou. Security forces used deadly force in four of these towns: they killed two persons in Abidjan, four in Daloa, two in Divo, and five in Gagnoa. Three minors, including one infant, were among the 13 killed during these demonstrations. At least 76 persons, including 14 minors, were injured. Eighteen members of the security forces, including eight with the Integrated Command Center, were also injured.

A UNOCI report found that not all of those killed and injured in the February demonstrations were in the same area as the demonstrations. There were credible reports that security forces killed, beat, and arrested civilians attempting to flee, even in private buildings and homes. Security forces arrested 95 persons, and 20 were charged with “disturbing public order.” No members of the security forces were arrested or charged for their involvement in the death or injury of persons during the demonstrations. The Government actively sought to discredit the UNOCI report implicating security forces in these events.

On December 16, President Ouattara called for a demonstration and march to seize the RTI headquarters, and the Gbagbo-controlled government offices in Plateau. Members of the FDS-CI loyal to Gbagbo violently suppressed the march. At least 20 demonstrators were killed, and hundreds were arrested and arbitrarily detained in makeshift detention centers.

There were no developments in cases from previous years in which police used force to disperse demonstrations.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right; however, the law prohibits the formation of political parties along ethnic or religious lines, although both were key factors in some parties’ membership.

*c. Freedom of Religion.*—For a discussion of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law do not provide specifically for freedom of movement, foreign travel, emigration, or repatriation, and the Government restricted freedom of movement during the year.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

There were frequent restrictions on internal travel. Security forces, local civilian “self-defense” committees, and water, forestry, and customs officials frequently erected and operated roadblocks on major roads where they regularly extorted money from travelers.

Persons living under FN authority continued to face harassment and extortion when trying to travel between towns and to and from the Government-controlled south. Villagers complained that these fees prevented pregnant women and other vulnerable persons from traveling to receive medical care.

On May 15, the president of the Burkinabe youth in Ketro-Bassam was severely beaten and molested by FAFN elements under Sergeant Fofana’s command for refusing to pay a “crossing fee” of 200 FCFA (\$0.40). The FAFN elements detained him until his family paid 50,000 FCFA (\$100) for his release. On May 17, FN authorities replaced those soldiers deployed in the area with a new team, but took no further action against the alleged perpetrators.

On August 25, FAFN soldiers from Bouna erected roadblocks in Bania, and demanded 200,000 FCFA (\$400) from each passing vehicle.

Gaps in financial services in the FN zone made some citizens targets of harassment. Although banking services were at near 100 percent of precrisis levels in the northern part of the country, such services in the western part of the country remained quite limited. Security forces reportedly required payment of significant bribes by residents of the west who had to travel or to send money-runners inordinate distances, perhaps crossing into the Government-controlled zone, to obtain or disburse funds.

The law specifically prohibits forced exile, and no persons were forcibly exiled during the year.

*Internally Displaced Persons (IDPs).*—At year’s end, the UN’s Office for the Coordination of Humanitarian Affairs (OCHA) reported that 18,000 IDPs had fled

their homes or villages as a result of post-November 28 political violence, namely from violence in the town of Duekoue in the western part of the country. Approximately 7,000 IDPs took refuge in a Catholic mission outside the town, and the ICRC provided tents, medical supplies, water, and latrines.

As of November the UNHCR reported that the number of IDPs displaced by the 2002 crisis who had returned to their villages in the west remained unchanged from the previous year at 88,986; however, it estimated that 31,000 of these IDPs continued to live with host families and to require assistance.

During the 2002 crisis progovernment and rebel forces did not generally target civilians, but ethnic conflict and fighting forced many persons to flee the zones of conflict, and others simply felt uncomfortable living on the side of the divided country where they initially found themselves. Roadblocks and toll-collection points made it difficult for civilians to move throughout the country. IDPs continued to place heavy burdens on host communities, in part due to the prolonged nature of the crisis.

Government assistance, especially in the north and west where civil servants and infrastructure were only partially in place, did not meet the needs of these IDPs. International and local NGOs worked to fill the gap.

The Ministry of Foreign Affairs and the Ministry of Solidarity and War Victims, working in concert with UN agencies, took the lead on IDP matters prior to Gbagbo's decision to dissolve the Government in February. Following the formation of the new government in March, the Ministry of Solidarity and War Victims was downgraded to a national secretariat, under the Prime Minister's office. In addition, the Ministry of Reconstruction and Reinsertion, which had supported IDP return movements, was also downgraded to a national secretariat. This cabinet reshuffle significantly hampered government efforts to assist IDPs. At year's end there was no publicly available national strategy for IDP return movements, and the problem was a low priority for the Government in the run-up to the presidential elections.

During the year UN agencies and local authorities continued to facilitate the small-scale return of IDPs to several locations in the west of the country.

*Protection of Refugees.*—The constitution and law provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The country is a signatory to the 1969 Organization of African Unity Convention Governing Specific Aspects of the Refugee Problem in Africa, and the law provides for asylum status to be granted in accordance with this convention.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government granted refugee status and asylum.

The Government also provided temporary protection for individuals who may not qualify as refugees under the relevant UN conventions.

Defense and security officers occasionally did not honor identity documents issued to refugees by the Government or by the UNHCR. There were fewer reports than in previous years that security forces destroyed refugees' identity documents or arbitrarily detained, verbally harassed, and beat refugees at checkpoints.

Liberians made up the majority of the country's refugees. Those who arrived in the country before the 2003 peace agreement in Liberia benefited from group eligibility and received temporary refugee cards. Liberians who arrived in the country after the peace agreement did not receive temporary cards. Under certain circumstances some asylum seekers who were not granted refugee status by the Government were provided refugee certificates by the UNHCR. The identity card law includes a provision for identity cards to be issued to non-Liberian individuals older than 14 whose refugee status has been granted by the National Eligibility Commission.

The Government facilitated local integration for refugees in the most extreme situations by issuing resident permits to all refugees over the age of 14 to allow them to move freely in the country. The national office of identification, together with the UNHCR and the Ivorian refugee and the stateless persons aid and assistance office, continued to provide refugee identity cards to undocumented Liberian refugees, which allowed them to reside and work in the country legally for the duration of their refugee status. Refugees also had access to naturalization.

The UNHCR continued to assist the safe, voluntary return of refugees to their homes. As of June 30, the UNHCR found that 23,808 Liberian refugees and 602 refugees from other countries remained in the country.

*Stateless Persons.*—The scale of statelessness in the country was unclear and UNHCR reporting suggested the number of stateless persons could range from a few thousand to as many as 900,000.

Citizenship is derived from one's parents rather than by birth within the country's territory, and birth registration was not universal. The country had habitual residents who were either legally stateless or effectively stateless, and the Government did not effectively implement laws and policies to provide such persons the opportunity to gain nationality on a nondiscriminatory basis. During the year the UNHCR continued to work with the Ministries of Justice and Interior to raise awareness of statelessness.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide for the right of citizens to change their government peacefully through democratic means; however, the Government did not respect these rights in practice. Former president Gbagbo refused to cede power to democratically elected opposition candidate Alassane Ouattara following the CEI's announcement that Ouattara had prevailed with 54.1 percent of vote in the November 28 presidential runoff. The UN and multiple international and domestic observer teams declared Ouattara the winner of the runoff. The Constitutional Council reversed the results and declared Gbagbo the winner. At year's end, the country operated with two governments. National assembly representatives remained in office at year's end despite the expiration of their terms in 2005.

*Elections and Political Participation.*—The country held two rounds of presidential elections during the year.

On October 31, the country held its first presidential election since 2000. An estimated 83 percent of the registered 5.7 million voters cast ballots for one of 14 presidential candidates. Voting generally was peaceful and orderly, and the UN and other international and domestic observers noted no major irregularities. Presidential incumbent Gbagbo received 38 percent of the vote, Ouattara 32 percent, and Henri Konan Bedie 25 percent; the other 11 candidates split the remaining 4 percent. A presidential runoff between Gbagbo and Ouattara was held on November 28. Third-place finisher Bedie called for a recount of the first round results on November 4, alleging irregularities in the voting and tallying processes and inconsistencies in the results. The Constitutional Council ruled that Bedie had not filed the complaint in the requisite amount of time and certified the first round results on November 10.

Incidents of violence, intimidation, and heightened negative political messaging by both candidates and their supporters characterized the lead up to the second round. Gbagbo's campaign created and promoted an incendiary film *Ouattara: Father of the Rebellion*, which graphically depicted atrocities committed during the civil war. The screening of the film sparked a violent confrontation between Gbagbo and Ouattara supporters outside one of the showings on November 16.

On November 19, youth supporters of FESCI and the Rassemblement des Houphouëtistes pour la Démocratie et la Paix (RHDP), the opposition coalition composed primarily of Ouattara's RDR and former president Bedie's party, clashed violently outside an RHDP campaign office in Abidjan.

On November 25, Ouattara supporters reportedly attacked and killed a Gbagbo supporter in the town of Bayota after the Gbagbo supporter allegedly ripped down an Ouattara campaign poster.

The country's first televised presidential debate was held on November 26. During the debate both candidates urged their supporters to refrain from violence. Gbagbo also announced a curfew from 10 p.m. to 6 a.m. November 27 through December 1.

The presidential runoff proceeded in orderly fashion but was marred by several incidents of violence, including the killing of two persons, and allegations of small-scale clashes between supporters of the rival candidates. Voter turnout was recorded at 81 percent, and the UN characterized the second round as having occurred in a democratic atmosphere. The African Union, ECOWAS, and numerous international observer teams characterized the overall conduct of second round as free and fair. Following the voting, Gbagbo submitted an official complaint to the Constitutional Council alleging irregularities and violence in five departments, all located in Ouattara strongholds.

On November 30, as CEI Spokesman Bamba Yacouba prepared to announce election results from three of the country's regions during a press conference at CEI headquarters, CEI member and Gbagbo supporter Damania Adia Pickass grabbed the results from Yacouba's hands and tore them up. Yacouba then entered the CEI

building to print off another copy of the results, but never emerged and security forces then told journalists to leave the premises.

On December 2, Youssouf Bakayoko, the president of the CEI, declared Ouattara the winner of the runoff with 54.1 percent of the vote as compared with 45.9 percent for Gbagbo. State-controlled media did not broadcast the CEI announcement and several hours later Paul Yao N'Dre, the president of the Constitutional Council and a Gbagbo appointee, went on television to announce that the CEI was unable to deliver a result and that the Constitutional Council was thus taking over the responsibility of announcing the election results. In response to widespread international coverage of the CEI's results, the CNCA announced that all foreign television and radio broadcasts were suspended, effective immediately.

On December 3, N'Dre announced that due to "irregularities and violence" the Constitutional Council had annulled the results in seven regions, canceling more than 500,000 votes in Ouattara strongholds. N'Dre subsequently announced Gbagbo the winner of the elections with 51 percent of the vote. Special Representative of the Secretary General Y. J. Choi then certified the election results of the CEI, as required in the 2007 Ouagadougou Political Agreement, declaring Ouattara the president.

The UN and numerous international and domestic observer missions declared the vote fair and democratic and recognized Ouattara as the country's duly elected president.

Following the Constitutional Council's ruling, Prime Minister Guillaume Soro, who had served as prime minister since 2007, resigned from former president Gbagbo's government.

On December 3, Ouattara and Gbagbo took separate oaths of office and announced separate cabinets. President Ouattara reappointed Soro as prime minister of his government. At year's end President Ouattara and former president Gbagbo remained in a standoff over the presidency. President Ouattara operated his government from the Golf Hotel under a state of siege from pro-Gbagbo forces that continued to surround the hotel. Access to President Ouattara and his government, including replenishment of food and medical supplies, was extremely limited and occurred primarily via UN helicopter. Gbagbo continued to control state resources such as the state television station, the security forces, and the treasury.

The country took several steps toward reconciliation during the year. The identification and voter registration process, which began in 2008 and was initially scheduled to last 45 days, ended in June 2009. More than 6.5 million persons participated in the process. With data collected during this process, the CEI prepared a provisional electoral list and posted it for nationwide consultation in November of that year, and local CEIs began processing challenges to this list. Although the dispute period was scheduled to end in December 2009, it was not finally completed until August.

In September, various political actors agreed upon a final voters' list of 5.7 million, an event that marked the culmination of the identification and voter registration process which had begun in 2008.

The most recent national assembly elections took place in 2000 and were marred by violence, irregularities, and a very low participation rate. In addition the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials. Following legislative by-elections in 2001, 223 of the 225 seats of the national assembly were filled.

Women held 19 of 225 seats in the last elected national assembly, whose mandate expired at the end of 2005. The first vice president of the national assembly was a woman. Of the 41 Supreme Court justices, four were women. Henriette Dagri Diabate served as secretary general of the RDR, the party's second-ranking position.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption had the greatest impact on judicial proceedings; contract awards, customs and tax matters, and accountability of the security forces (see also section 1.e.).

The 23 cocoa and coffee industry officials arrested in 2008 for allegedly embezzling 100 billion FCFA (\$200 million), remained in MACA prison awaiting trial. In September 2009 four of the officials filed a formal complaint against the Government with the ECOWAS Court of Justice in Nigeria, claiming infringement of their right to a fair trial and violation of their civil liberties. The 23 officials appeared before court on September 8, but at the request of the defense lawyers the trial was postponed to November 16, and had not resumed at year's end.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of international and domestic human rights groups, including the Ivoirian League for Human Rights (LIDHO) and the MIDH, generally operated without government restriction, investigating and publishing their findings on human rights cases, prior to the November 28 runoff. Following the runoff, security forces obstructed UNOCI human rights investigators in their efforts to investigate abuses, including reports of alleged mass graves found in three separate locations.

For example, in December forces loyal to Gbagbo repeatedly blocked attempts by UN investigators to examine the sites of an alleged mass grave in Abidjan.

During the year UNOCI, LIDHO, MIDH, Action for the Defense of Human Rights, and other independent human rights groups gathered evidence and testimony on human rights cases, published information in reports and in independent local daily newspapers, and criticized government security forces.

FAFN security forces occasionally harassed and abused human rights groups. For example, on June 29 FAFN elements arrested a representative of a local children's rights NGO, National Association for Children in Danger (ANAED), for assisting a 14 year-old girl to file a complaint for attempted rape against an FAFN soldier known as "IB" in Korhogo. Keita Vassisri, the Korhogo police commissioner, accused the ANAED representative of false accusation as the medical certificate produced did not confirm rape. He also threatened to arrest the girl and her parents if they did not pay him 50,000 FCFA (\$100) in damages. Following the intervention of human rights officers with officials in Korhogo, the ANAED representative was released.

FESCI continued to threaten and harass human rights groups.

No cases were opened against perpetrators who threatened and harassed members of human rights organizations in previous years.

During the year the Government regularly permitted the World Food Program, the ICRC, and other international organizations to conduct humanitarian operations. Eleven UN agencies, including the International Labor Organization and the World Health Organization, were resident and active throughout the year. There were no reports that the Government restricted their access to certain areas deemed sensitive or denigrated their work.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, ethnicity, national origin, gender, or religion; however, the Government did not effectively enforce the law.

*Women.*—The law prohibits rape and provides for prison terms of five to 20 years; however, the Government did not enforce this law in practice, and rape was a widespread problem. The law does not specifically penalize spousal rape. Claims were most frequently brought against child rapists. A life sentence can be imposed in cases of gang rape if the rapists are related to or hold positions of authority over the victim, or if the victim is under 15 years of age. The court in Abidjan received approximately five cases of child rape per month.

Women's advocacy groups continued to protest the indifference of authorities to female victims of violence, including rape. Women who reported rape or domestic violence to the police were often ignored. Many female victims were convinced by their relatives and police to seek an amicable resolution with the rapist rather than pursue a legal case. The Ministry of Family and Social Affairs sought justice on behalf of rape victims; however, families often preferred to settle out of court. As of April 25, 21 persons were officially convicted and sentenced for rape, although the lesser charge of indecent assault was often used to speed up conviction. While small, the number of convictions steadily increased as more victims came forward and courts treated the problem more seriously.

There were continued reports of unidentified highway bandits raping and sexually assaulting women in the western part of the country, especially along the roads from Duekoue to Bangolo, Man to Biankouma, and Man to Toulepleu.

On January 7, 12 unidentified armed individuals attacked a farmer and a woman on the Tahably Glode-Beleouin road. They beat the farmer, gang-raped the woman, and took a cell phone and 120,000 FCFA (\$240 dollars). The Duekoue gendarmes opened an investigation into the incident.

On July 30, human rights officers in Duekoue reported that four men of the Guere ethnic group gang-raped a 47 year-old Burkinabe woman in her house in Guiglo on July 29. The rapists started to remove her belongings when she screamed for help. A UN contingent nearby intervened, apprehending three of the four assailants, whom they handed over to the Guiglo police.

The law does not specifically outlaw domestic violence, which continued to be a serious and widespread problem throughout the country. Penalties for assault pro-

vide for prison terms of one to 20 years, depending on the extent of the offense. Government enforcement of domestic violence complaints remained minimal, however, partially because the courts and police viewed domestic violence as a problem to be addressed within the family. The exception was if serious bodily harm was inflicted or the victim lodged a complaint, in which case criminal proceedings could be initiated. Many victims' parents often urged withdrawal of a complaint because of the fear of social stigma.

During the year the Ministry of Family and Social Affairs continued to provide limited assistance to victims of domestic violence and rape. The ministry's support included providing government-operated counseling centers with computers, printers, and other equipment for record keeping. Ministry officials visited a few victims in their homes to attempt to reconcile troubled couples and to remove domestic servants from homes in which they had been sexually abused.

The Committee to Fight Violence Against Women and Children (CNLV) did not operate a shelter or a hotline for abused women. Instead, committee members gave out their personal cell phone numbers on weekly radio programs. The committee also monitored abusive situations through frequent home visits. Young girls who feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee. The committee often stopped abuse by threatening legal action against offending parents or husbands.

The Government continued to hold awareness-raising seminars on sexual violence for judicial and security personnel. As a result of the seminars, some security forces reportedly modified their behavior to provide victims with greater privacy, and courts began recording in private the testimony of rape victims who were minors. Judges also increased the provision of statistics and information on cases to enable the CNLV to follow up with victims.

Other cases of societal violence against women included FGM, dowry deaths, levirat (forcing a widow to marry her dead husband's brother), and sororat (forcing a woman to marry her dead sister's husband).

The law prohibits sexual harassment and prescribes penalties of between one and three years' imprisonment and a fine ranging between 360,000 and one million FCFA (\$720 to \$2,000 dollars). However, the Government rarely enforced the law, and such harassment was widespread and routinely accepted as a cultural norm.

Couples and individuals had the right to decide the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. In urban areas access to contraception, skilled attendance during childbirth, including essential obstetric and postpartum care, was available to those women who could afford it. According to the UNFPA approximately 13 percent of women ages 15-49 used some form of contraception. The UNFPA also estimated the maternal mortality ratio to be 470 per 100,000 live births in 2008. Pregnant women diagnosed with sexually transmitted infections, including HIV, were treated.

According to the poverty reduction strategy report issued by the Ministry of Planning in May 2009, 12 percent of the poor had no access to a health center, and 26 percent had no access to a general hospital where information and skilled health care were provided. For some women transportation and costs of services were significant barriers to access to health centers and hospitals. The report also stated that 54 percent of the poor had to walk to a health center, 14 percent to a general hospital. Furthermore, threats or perceived threats of violence from husbands or family members were also an inhibiting factor for some women's access to family planning services located in the health centers.

A joint report by LIDHO and the International Rescue Committee (IRC) published in March 2009 noted that police roadblocks sometimes prevented pregnant women from giving birth in health centers, resulting in women giving birth at home without professional assistance. The report also mentioned that some health center professionals defrauded pregnant women under the guise of providing services that were never rendered. According to the Population Reference Bureau and UNFPA, approximately 47 percent of births were attended by skilled personnel and a woman had a one in 44 lifetime risk of maternal death.

The law prohibits discrimination on the basis of gender; however, women experienced economic discrimination in access to employment, credit, and owning or managing businesses. Women occupied a subordinate role in society. Government policy encouraged full participation by women in social and economic life; however, there was considerable resistance among employers in the formal sector to hiring women, who were considered less dependable because of their potential for becoming pregnant. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks, such as a title to a house and production of a profitable cash crop.

NGOs supervised efforts to create economic cooperatives to provide poor women access to small loans from the Government or private microfinance banks. Women in the formal sector usually were paid at the same rate as men; however, because the tax code did not recognize women as heads of households, female workers were required to pay income tax at a higher rate than their male counterparts. Women's organizations continued to campaign for tax reform to enable single mothers whose children were recognized by their fathers to receive deductions for their children. Inheritance law also discriminated against women.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. For example, polygyny is illegal, although it remained a common cultural practice. Women's organizations also campaigned against legal provisions that discriminated against women. The coalition of women leaders and the Ministry of Family and Social Affairs continued their efforts to promote greater participation of women in political decision making and in presenting themselves as candidates in legislative and municipal elections.

*Children.*—Citizenship is derived from one's parents: at least one parent must be a citizen for a child to be considered Ivoirian at birth. The law provides parents a three-month period to register their child's birth for a fee of 500 FCFA (\$1). The Government registered all births when parents submitted documentation from a health clinic or hospital attesting that a birth had occurred. However, persons without proper identification documents could not register births. The Government did not deny public services such as education or health care to children without documents; however, some schools required parents to present children's identity documents before they could be enrolled.

Primary education was not compulsory and usually ended when children reached 13 years of age; however, it was tuition-free. In principle students did not have to pay for books or fees; however, some still did so or rented books from street stalls because the Government did not cover school fees and books for every student. Students who failed secondary school entrance exams did not qualify for free secondary education, and many families could not afford to pay for schooling.

Parental preference for educating boys rather than girls persisted, particularly in rural areas.

Teachers sometimes demanded sexual favors from students in exchange for money or good grades. The penalty for statutory rape or attempted rape of a child under the age of 16 is a prison sentence of one to three years and a fine of 100,000 to one million FCFA (\$200 to \$2,000).

Children were victims of physical and sexual violence and abuse. Children accused of practicing witchcraft were placed in the care of pastors, who sometimes used violence to exorcise them. Although the Ministries of Family, Labor, and Justice worked to fight child abuse, a lack of coordination among ministries and inadequate resources hindered government efforts.

On January 23, three men in Daloa raped a 15 year-old girl, after a man lured her, into an unlit place where two accomplices were waiting. The three men also stole her cell phone. The next day, the girl was approached by another man who volunteered to help her recover her stolen cell phone. The girl followed him and was again raped by the three men. The victim received medical care through the assistance of the ICRC. The girl and her mother attempted to file a complaint however they gave up once they were unable to secure an appointment with the police commissioner on the day, according to the ICRC. No investigation was undertaken.

On March 29, the Duekoue police arrested and transferred two rape suspects to the Daloa tribunal for trial. The first, a private school teacher, was accused of repeatedly raping a 9 year-old pupil to whom he had been giving private lessons. The second was suspected of raping a 15 year-old student in Duekoue.

On April 9, the Daloa trial court sentenced a man to five years' imprisonment and a fine of 100,000 FCFA (\$200) for raping a four year-old girl in February 2009 in Vavoua.

On August 24, human rights officers in Daloa reported that a 27 year-old man who raped a 13 year-old girl on July 31 in Duekoue was sentenced by the Daloa tribunal to five years' imprisonment and a fine of 100,000 FCFA (\$200) for "violent indecent assault."

FGM was a serious problem. The law specifically forbids FGM and provides penalties for practitioners of up to five years' imprisonment and fines of 360,000 to two million FCFA (\$720 to \$4,000). Double penalties apply to medical practitioners. FGM was practiced most frequently among rural populations in the north and west and to a lesser extent in the center and south. FGM usually was performed on girls before or at puberty as a rite of passage. Local NGOs continued public awareness programs to prevent FGM and worked to persuade FGM practitioners to stop the

practice. Unlike previous years, authorities did make some arrests related to FGM during the year; however, practitioners were rarely charged.

For example, on June 13, the Duekoue police and IRC representatives interrupted an FGM ceremony in the Kokoman neighborhood in Duekoue. A six year-old girl who had just been mutilated was rushed to the Duekoue hospital where she received medical treatment. Police arrested the girl's mother and three other women involved. No further action was taken against those responsible at year's end.

The law prohibits the marriage of men under the age of 20 and women under the age of 18 without the consent of their parents. The law specifically penalizes anyone who forces a minor under 18 years of age to enter a religious or customary matrimonial union. However, in conservative communities—particularly those in the north—traditional marriages were commonly performed with girls as young as 14 years of age.

Children engaged in prostitution for survival without third-party involvement, although the extent of the problem was unknown. Under the law, using, recruiting, or offering children for prostitution, or for pornographic films, pictures, or events is illegal, and violators can receive sentences ranging from one month to two years' imprisonment as well as fines of 30,000 to 300,000 FCFA (\$60 to \$600). Statutory rape of a minor carries a punishment of one to three years in prison and a fine of 360,000 to one million FCFA (\$720 to \$2,000).

There were thousands of children living on the streets. NGOs dedicated to helping street children found it difficult to estimate the extent of the problem or to determine whether these children had access to government services.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The country's Jewish community numbered fewer than 100 persons. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law requires the Government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, hire them or help them find jobs, design houses and public facilities for wheelchair access, and adapt machines, tools, and work spaces for access and use by persons with disabilities. However, wheelchair-accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities. The law also prohibits acts of violence against persons with disabilities and the abandonment of such persons; however, there were no reports that the Government enforced these laws during the year.

There were no reports during the year that persons with disabilities were specific targets of abuse, but they encountered serious discrimination in employment and education. The Government created an additional 300 civil service jobs for persons with disabilities in 2009, bringing the total of civil service jobs for persons with disabilities to 800. No new positions were added during the year. However, in practice government employees sometimes refused to employ persons with disabilities.

The Government financially supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones for lack of other economic opportunities. Persons with mental disabilities often lived on the street.

The Ministry of Family and Social Affairs and the Federation of the Handicapped were responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse, and ethnic groups sometimes practiced societal discrimination against others on the basis of ethnicity. At least 25 percent of the population was foreign. Outdated or inadequate land ownership laws resulted in conflicts with ethnic and xenophobic overtones. There were reported clashes, usually over land tenure, between the native populations and other groups.

Police routinely abused and harassed noncitizen Africans residing in the country and occasionally harassed Lebanese merchants. Harassment by officials reflected the common belief that foreigners were responsible for high crime rates and instances of identity card fraud. Harassment of northerners, which increased markedly after the 2002 rebellion, generally continued to decline from the previous year. However, when local independent electoral commissions began examining challenges to the provisional electoral list in December 2009, harassment of northerners suddenly increased. Following denunciations from progovernment members, CECOS arrested hundreds of northerners and suspected immigrants living in the south and

west, claiming suspects were using forged government documents to be included on the provisional voters' list.

In the period leading up to the November 28 runoff, security forces systematically harassed and targeted persons with northern names. For example, on November 13, gendarmes arrested a trader at the northern entrance to the city of Yamoussoukro and threatened him with imprisonment unless he produced his father's original identification documents. He was released later that day after he paid the gendarmes a sum of FCFA 50, 000 (\$100). The Toumodi public prosecutor, when questioned about this practice by UNOCI human rights officers, claimed that the procedure was legal and refused to open an investigation into the case.

Security forces loyal to former president Gbagbo continued this practice of targeting persons with northern names following the runoff.

Ethnic tensions in the west and southwest continued to lead to violence. In the west, and in Duekoue and Bangolo in particular, there continued to be violent clashes between the native population and members of the foreign community, particularly Burkinabe farmers.

Several incidents of ethnic violence resulted in deaths and injuries.

On February 5-6, native Abbeys and Burkinabe Lobis clashed in M'berie village. The incident was triggered by the killing of a young Abbey allegedly committed by a Lobi who remained at large. In reaction Abbey youth killed four Lobis and destroyed several homes and properties. The clash led to the displacement of 350 Lobis in Agboville, Seguie, Bogue, and Rubino, and many returned to Burkina Faso. At the end of February, only 27 IDPs, including 17 children, remained at the Rubino site. They received humanitarian assistance from the UN agencies and the ICRC, following the intervention of UNOCI human rights officers in Abidjan.

On April 6, villagers of Oulai Taibly and Doke violently clashed over a parcel of land that was previously claimed by the village of Doke. Two persons were seriously injured with gunshot wounds. Law enforcement officers eventually restored law and order.

On June 8, five men armed with machetes raped an 18 year-old girl as she returned home from her farm in Tahiraguhe. The assailants then fled with five chickens stolen from the victim. The rape of the young woman, who was an ethnic Baoule, was allegedly motivated by a land dispute between the Baoule and Bete ethnic groups. The victim's father referred the case to the sous-prefet of Daloa who brokered an out-of-court settlement whereby the Bete community leader apologized to the victim's father for the conduct of the rapists. The sous-prefet subsequently asked the girl's father to withdraw the complaint that she had filed at the gendarmerie in Daloa. Human rights officers took up the case with the Daloa sous-prefet and the local gendarmerie. In August the girl filed a new complaint with the Daloa state prosecutor, following the advice of a local NGO organization, however, the sous-prefet and the state prosecutor delayed investigation of the case until after the elections, to "preserve social cohesion." No investigation had been undertaken at year's end.

On June 21, three unidentified armed individuals raided the village of Goenie Taouake. The assailants opened fire at the village's mainly Malian population before shooting two men at point blank range. One victim was killed, and the other sustained serious injuries to his legs. This attack was in retaliation to a previous attack staged on May 18 against the mainly Burkinabe inhabitants of Kouassigno and was related to the continuing land dispute between the Burkinabe and Malian communities in the Mount Peko forest. By year's end, no one was charged in the shooting.

In 2008 the Government adopted a new law on xenophobia, racism, and tribalism, making these forms of intolerance punishable by five to 10 years' imprisonment. No one was prosecuted under this law during the year.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Societal stigmatization of the lesbian, gay, bisexual, and transgender (LGBT) community was widespread, and the Government did not act to counter it during the year. There were few LGBT organizations in the country. Arc en Ciel, the primary NGO representing the LGBT community, operated freely; however, the Government required the organization to amend its by-laws to include non-LGBT members before the organization's status was officially approved.

There was no official discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. However, gay men were subjected to beatings, imprisonment, verbal abuse, humiliation, and extortion by police, gendarmes, and members of the armed forces.

*Other Societal Violence or Discrimination.*—The law does not provide for the protection of persons living with HIV/AIDS from societal and other forms of discrimination. Societal stigmatization of persons living with HIV/AIDS was widespread.

*Incitement to Acts of Discrimination.*—In the aftermath of the November 28 presidential runoff, Gbagbo was criticized by the UN and international organizations for using the state-controlled media to incite political violence and promote ethnic tensions. Pro-Gbagbo dailies, such as *Notre Voie* and *Le Temps*, were also cited as promoting and inciting ethnic and racist violence, particularly against Burkinabe and other foreign nationals living in the country.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows all citizens, except members of the police and military services, to form or join unions of their choice, and workers exercised these rights in practice, although with some restrictions.

The total workforce numbered 6,006,190 persons, of whom 61.3 percent were in the agricultural sector. Public sector employees accounted for 10.1 percent of the workforce, while 28.6 percent worked in the public sector. Only a small percentage of the workforce was organized, and most laborers worked in the informal sector, which included small farms, small roadside and street shops, and urban workshops. However, large industrial farms and some trades were organized, and there was an agricultural workers union. Of the 15 percent of workers in the formal sector, approximately 60 percent were unionized.

The law allows unions in the formal sector, which comprised approximately 1.7 million workers or 28.6 percent of the workforce, to conduct their activities without interference, and the Government protected this right in practice, with some exceptions.

The law provides for the right to strike, and workers in both private and public sectors generally exercised this right. However, the law requires a protracted series of negotiations and a six-day notification period before a strike may take place, making legal strikes difficult to organize and maintain. In addition, the president has broad powers to decree the requisition of the strikers, and to submit strikes in essential services to arbitration, but the labor code does not provide for a list of such services.

On April 12, a major transportation strike was called due to an increase in the cost of fuel. After four days, the Government agreed to lower the price of diesel, thus eliminating the increase implemented on April 1.

On August 10 customs officers from the “*Syndicat pour la Defense des Droits des Douaniers-SYDD*” protested against the delay in the payment of quarterly bonuses. Following negotiations, the union’s demands were met.

In November and December 2009 the National Union of Secondary School Teachers went on strike, demanding a pay increase. Following talks with the first lady, the secondary school teachers agreed to suspend the strike, and the union’s claims were partially met with the payment of half of the pay increase demanded.

In December 2009, a strike by the Local Government Unions Collective led to the arrest of 47 civil servants, 41 of whom were later given two-month suspended sentences. The Local Government Unions Collective called off the two-week strike after it reached an agreement with government. The Government agreed to pay partial arrears owed to the local governments and promised to speed up the review of legal texts regarding the transfer of charges from the Government to the local government. The union set up a follow up committee on the pending matters. No developments were reported at year’s end.

Absent reciprocal union agreements, foreigners are required to obtain residency status, which takes three years, before they may hold union office.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service. The number of collective bargaining agreements reached during the year was unknown.

The law does not prohibit antiunion discrimination by employers or others against union members or organizers, and the Ministry of Labor did not report any complaints of antiunion discrimination and employer interference in union functions during the year. There were also no reports of workers fired for union activities who were not reinstated. Under the labor law workers could not be fired for union activities, and this law was enforced.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government made efforts to enforce the law during the year. However, such practices occurred.

Instances of forced labor occurred in the informal labor sectors, which were not regulated under existing labor laws. Thus, domestics, most nonindustrial farm la-

borers, and those who worked in street shops and restaurants remained outside formal government protection. Forced adult labor occurred in small-scale and commercial production of agricultural products. There were reports of forced adult labor practices in rubber production, primarily in the form of long hours and low-pay for workers who lived in conditions of effective indenture.

Forced child labor occurred (see section 7.d.).

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws against forced labor and the exploitation of children in the workplace; however, child labor remained a widespread problem, particularly in cocoa and coffee plantations, and gold mines. In most instances the legal minimum working age is 14; however, the Ministry of Civil Service, Employment, and Administrative Reform enforced this provision effectively only in the civil service and in large multinational companies. Children were not allowed to work between 7 p.m. and 6 a.m. They routinely worked on family farms or as vendors, shoe shiners, errand boys, domestic helpers, street restaurant vendors, and car watchers and washers in the informal sector in cities. Some girls as young as age nine worked as domestic servants, often within their extended family networks.

Children continued to work under hazardous conditions on cocoa farms. A Tulane University survey published in September 2009 found that 24.1 percent of children between the ages of 5 and 17 within the cocoa-growing regions had worked on a cocoa farm in the previous 12 months. The survey showed that a number of these children were involved in or exposed to hazardous conditions, including operating tools (93.9 percent) and carrying heavy loads (79.8 percent). Of the children working on cocoa farms, 50.6 percent reported that they had been injured while working in agriculture. A small percentage of the children working on cocoa farms had no family ties to the farmers; however, most worked on family farms or with their parents.

On June 3, the Government created an Independent Office for the Fight against Child Labor, and it met for the first time on August 10. In July 2009 the Government launched a new program addressing child labor in cocoa-growing areas. The program focused on decreasing poverty and thereby decreasing child labor by ensuring that each village has a primary school, health clinic, and income-generating activities to supplement cocoa income. The program included sensitization of parents to the importance of children attending school. It also raised parents' awareness of the dangers associated with child labor and the need to end the involvement of children in dangerous chores. In 2009 the Government began to implement the program in 10 villages, and selected 21 more villages for participation. By year's end the Government had not begun to implement the program in any of the additional villages selected for participation.

The Ministry of Labor was responsible for enforcing child labor laws and made progress during the year in addressing the worst forms of child labor. While enforcement of child labor laws continued to be hindered by financial constraints and other factors, there were indications that government efforts, along with those of its international partners, had a positive effect towards decreasing the worst forms of child labor.

The Ministry of Labor and the prime minister's Child Labor Task Force supported and collaborated with NGOs and international partners to combat the worst forms of child labor. The task force continued to implement a national action plan to combat child labor and trafficking. Nine government ministries were involved in the effort. The Ministry of Family and Social Affairs conducted awareness campaigns targeting children at risk and agricultural regions that employ child labor, working in coordination with several international NGOs.

During the year NGOs conducted ongoing campaigns to sensitize farm families about child labor based on the list developed by the Government of prohibited worst forms of child labor. The association of domestic worker placement in the country worked to prevent the exploitation of children in domestic work. Other NGOs campaigned against child trafficking, child labor, and the sexual abuse of children.

For child trafficking, also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—Minimum wages varied according to occupation, with the lowest set at 36,607 FCFA (\$73) per month for the industrial sector; this wage did not provide a decent standard of living for a worker and family. A slightly higher minimum wage rate applied for construction work. The Government enforced the minimum wage rates only for salaried workers employed by the Government or registered with the social security office.

Labor federations attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated among classes of workers, such as local and foreign workers.

No government action was taken to rectify the large salary discrepancies between expatriate non-African employees and their African colleagues who were employed by the same company.

The standard legal workweek was 40 hours. The law requires overtime pay for additional hours and provides for at least one 24-hour rest period per week. The Government did not enforce the law actively. The law does not prohibit compulsory overtime.

The law provides for occupational safety and health standards in the formal sector; however, in the large informal sector of the economy, the Government enforced occupational health and safety regulations erratically, if at all. Labor inspectors frequently accepted bribes. Workers in the formal sector had the right to remove themselves from dangerous work without jeopardy to continued employment by utilizing the Ministry of Labor's inspection system to document dangerous working conditions. However, in practice workers in both the formal and informal sectors could not absent themselves from such labor without risking the loss of their employment.

Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws were not enforced. Neither foreign migrant workers nor citizen workers working in the informal labor sector were covered under labor laws.

---

## DJIBOUTI

Djibouti is a republic with a strong elected president and a weak legislature. It has an estimated population of 818,000. In 2008 legislative elections, President Ismail Omar Guelleh's five-party coalition won all 65 national assembly seats. A three-party opposition coalition boycotted the race, which international observers from the African Union (AU) and the Arab League considered generally free and fair. Eritrean troops, who have occupied a portion of Djiboutian territory since a 2008 clash over the disputed border, completed their withdrawal in June following the deployment of approximately 70 Qatari peacekeepers in accordance with an agreement between Djibouti and Eritrea signed in Doha. Security forces reported to civilian authorities within the ministries of Interior and Defense, as well as to the director of national security.

Significant human rights abuses in the country included difficult prison conditions; prolonged pretrial detention; denial of fair public trial; interference with privacy rights; restrictions on freedoms of the press, assembly, and association; lack of protection for refugees; corruption; discrimination against women; female genital mutilation (FGM); discrimination against persons with disabilities; and restrictions on unions.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and the law prohibit such practices; however, occasional unverified allegations that police and gendarmes beat detainees continued.

*Prison and Detention Center Conditions.*—Prison conditions remained difficult but continued to improve. The country has one central prison and a number of small jails supervised by local police or gendarmes. The jails are not well equipped as they are only meant to hold detainees until their summary release or transfer to the central prison.

The Gabode Prison in Djibouti City usually held an estimated 600 prisoners, including approximately two dozen female prisoners. There were normally fewer than six juvenile prisoners, although their numbers occasionally spiked after incidents of youth violence in Djibouti City. In December a small outbreak of minor vandalism following a political rally led to the arrest of three juveniles who were released within the week.

Several prison nurses and a doctor who visited four times a week provided medical care, while prisoners with serious health problems received treatment at the

main Djibouti City public hospital. Seriously ill prisoners were held separately, and prisoners with communicable diseases were segregated from prisoners with other health problems. Adequate medication was provided. During the prisoner intake process, prison officials attempted to test for and document serious health conditions. Prisoners with serious mental illness did not receive adequate care.

Men and women were held separately. Juvenile prisoners were generally held separately from adult prisoners when space allowed. Construction was underway within the existing compound to provide a separate facility for children.

Authorities allowed young children of female prisoners to stay with their mothers.

Although prison officials sought to hold convicted prisoners separately from those awaiting trial, space constraints in the filled-to-capacity prison often prevented full separation of the two groups.

Prisoners and detainees were permitted religious observance, visitors each Friday afternoon, and delivery of food or medicine from family members.

Although there was no formal system in place for prisoners and detainees to submit complaints to judicial authorities to request investigation of inhumane conditions, there were no restrictions placed on prisoners who sought to contact such officials.

The Government granted prison access to the International Committee of the Red Cross (ICRC) for inspections, and prison visits occurred up to six times a year.

A small group of Eritrean prisoners of war captured during the 2008 border skirmish with Eritrea received regular visits from ICRC staff, and government authorities accepted ICRC recommendations with regard to medical concerns for one of the prisoners.

At Nagad Detention Center, where authorities held foreigners prior to deportation, detainees had access to water, food, and medical treatment. Authorities deported most detainees within 24 hours of arrest.

Prison conditions continued to improve, especially with the complete transfer of prison security responsibilities to the specialized prison guard force created in 2008; that force provided some initial training for new members and more effectively enforced prison rules and maintained prison security.

At Gabode Prison prisoners had adequate access to water for drinking and washing and to sanitary facilities. The prison kitchen remained adequate but rudimentary. Prisoners were provided three meals a day, with meat served on alternate days. Prisoners' families were allowed to bring food to the prison. Prison improvements during the year included human rights training for guards, a permanent doctor assigned to the prison, and sewing skills training for some of the female detainees.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government did not uniformly respect these prohibitions. The Government arrested groups of juveniles following reports of rock throwing or minor vandalism. In these cases they were not charged but were released after a few days.

*Role of the Police and Security Apparatus.*—Security forces include the National Police under the Ministry of Interior, the army and National Gendarmerie under the Ministry of Defense, and an elite Republican Guard that protects the president. The National Police is responsible for internal security and border control. The National Gendarmerie is responsible for external security but also has some domestic responsibilities. A separate prison guard service is responsible for security at the national prison.

Police were generally effective; however, there were isolated reports of corruption, particularly in the lower ranks, whose wages were low. There was a Human Rights Office within the police, and human rights education was integrated into the police academy curriculum. The local police academy coordinated with the Office of the UN High Commissioner for Refugees (UNHCR) to host a human rights workshop to train Djiboutian security forces as well as Somali police that were visiting for other police training.

*Arrest Procedures and Treatment While in Detention.*—The law requires arrest warrants and stipulates that the Government may not detain a person beyond 48 hours without an examining magistrate's formal charge; however, the law was not always enforced in practice, especially in rural areas. Detainees may be held another 48 hours with the prior approval of the public prosecutor. There were unconfirmed reports that detentions exceeding the allowed time limit became more frequent during the year, which was attributed to the Government's response to minor reports of vandalism and stone throwing between juvenile gangs. The law provides that detainees be promptly notified of the charges against them, although in practice there were occasional delays.

The law provides for bail and expeditious trial; however, police occasionally disregarded these rights. Detainees have the right to prompt access to an attorney of their choice; in criminal cases the state provides attorneys for detainees who cannot afford legal representation. Detainees generally were allowed access to family members and legal counsel. The law requires that all persons, including those charged with political or national security offenses, be tried within eight months of arraignment. Lengthy pretrial detention due to inefficiency and judicial staff shortages remained a problem. However, no statistics were available.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, in practice the judiciary was not always independent of the executive. Constitutional provisions for a fair trial were not universally respected. In the two prominent cases of Jean-Paul Noel and Abdourahman Boreh, the defendants' foreign attorney was not granted an entry visa to represent the clients. The judiciary was inefficient but was perceived as rendering verdicts in a fair manner.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Shari'a), and nomadic traditions.

*Trial Procedures.*—The law states the accused is innocent until proven guilty. Trials generally are public. A presiding judge and two associate judges hear cases. The judge receives assistance from three lay assessors who are not members of the bench but who are considered to possess sufficient legal knowledge to comprehend court proceedings. The Government chooses lay assessors from the public. Defendants have the right to be present, consult with an attorney in a timely manner, confront witnesses, and present witnesses and evidence on their own behalf. The indigent have a right to legal counsel in criminal and civil matters but in practice sometimes did not have legal representation. Defendants have the right of appeal.

Traditional law often applied in conflict resolution and victim compensation. For example, traditional law often stipulated that a price be paid to the victim's clan for crimes such as murder and rape. Most parties preferred traditional court rulings for sensitive issues such as rape, as the result is most often a consensus with a goal toward maintaining peace between those involved. As a result, often more attention is paid to maintaining peace than to the rights of the victim, who must abide by the traditional court's ruling.

Formal law generally provides for equal application to all citizens. However, in accordance with Shari'a, male children inherit larger portions of estates than did female children.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—A presidentially appointed and impartial civil court deals with all matters related to the civil code. Citizens have access to the courts in cases of civil rights violations. Civil disputes are arbitrated if the parties agree. In rural areas traditional courts resolve many civil disputes. An administrative law chamber mediates disputes between citizens and government authorities. Court decisions were not always enforced.

In cases of human rights violations, citizens have the right to address correspondence to the National Human Rights Commission. On a variety of matters, citizens could also seek assistance from the Ombudsman's Office, which often helped resolve administrative disputes between government branches.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and the law prohibit such actions; however, the Government did not uniformly respect these prohibitions in practice. The law requires that authorities obtain a warrant before conducting searches on private property, but the Government did not always respect the law in practice. Government opponents claimed the Government monitored their communications.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law allow for freedom of speech and of the press provided it complies with the law and "respect for the honor of others." The Government did not respect these rights in practice.

While individuals often expressed themselves freely in society, opposition leaders continued to state the Government attempted to impede public criticism.

There were few media outlets. The Government owned the principal newspaper, *La Nation*. Each registered political party is permitted to publish a public journal or newspaper. During the year the opposition National Democratic Party (PND) regularly published the newspaper *La Republique*. Other parties published papers sporadically. Opposition political groups and civil society activists circulated newsletters and other materials critical of the Government.

The 2007 ban on the opposition political party newsletter *Le Renouveau* remained in effect throughout the year.

The Government also owned the only radio and television stations, which were operated by Radio-Television de Djibouti (RTD). The official media generally did not criticize government leaders or policy, and opposition access to radio and television time remained limited. Foreign media broadcast throughout the country, and cable news and other programming were available.

Journalists practiced self-censorship due to media and slander laws.

The law regulates the publication of newspapers. Circulation of a new newspaper requires authorization from the communication commission, which requires agreement from the Djiboutian National Security Service following an investigation. The only publishing houses equipped for broad distribution are government owned, obliging antigovernment sources to print privately.

There were two local journalists' associations. The Eastern African Journalists Association, a group dedicated to fostering press freedom, protecting journalists' safety, and promoting regional conflict resolution, also had its headquarters in the country.

*Internet Freedom.*—There were few government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, the Government reportedly continued to block access to the Web site of the Association for Respect of Human Rights in Djibouti (ARDHD), which was often critical of the Government. ARDHD claimed access to its Web site was blocked by the local Internet provider, although those with satellite connections were able to access the site.

According to International Telecommunication Union statistics for 2008, approximately 1.5 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events, and teachers could speak and conduct research without restriction provided they did not violate sedition laws.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly with specific requirements such as prior approval from the Ministry of the Interior. The Government generally permitted political parties to assemble freely. The Ministry of Interior requires permits for assembly in outdoor areas or publicly operated venues.

Several opposition parties held gatherings, including public rallies at which they criticized the Government. These events occurred with a security presence but without any government interference.

The Government permitted opposition parties to assemble peacefully, but those parties criticized undue delays issuing permits to host rallies. The Government administrators many of the large meeting venues, and some observers charged that the Government occasionally denied use to opposition parties.

*Freedom of Association.*—The constitution and law allow for freedom of association provided legal requirements are met; however, the Government restricted this right in practice, particularly for labor unions (see section 7.a.).

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law generally provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

Due to the continuing border dispute with Eritrea, certain areas in the North remained under military control.

The Government generally cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

*Internally Displaced Persons (IDPs).*—In June 2008 the border dispute with Eritrea intensified and reportedly resulted in the displacement of at least 207 families living in the North near the border. In July 2008 the ICRC provided humanitarian assistance to 140 displaced families. These families remained displaced, residing primarily in the Khor Angar area to the south of their original villages.

The Government utilized the National Assistance Office for Refugees and Disaster Stricken People (ONARS) to screen, assess, and aid refugee applicants. The Government allowed IDPs access to ONARS and to international humanitarian organizations and welcomed assistance from outside organizations. The Government de-

ported large groups of foreigners who were determined to be economic migrants and not IDPs.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status. The Government has established a system for providing protection to refugees under the National Eligibility Commission. In 2008 the Government reactivated the commission and began interviewing urban refugees who had been in the country for several years.

In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, the Government did not routinely grant refugee or asylum status, and delays in the system for granting refugee status left persons at risk of expulsion to countries where they might be threatened. The Government, working with the International Organization for Migration (IOM) and the ICRC, continued its efforts to properly differentiate refugees from illegal immigrants; however, a lack of manpower and other resources limited the success of the vetting effort, particularly in light of the large number of migrants transiting the country en route to Yemen.

Large numbers of illegal migrants were detained occasionally in a government effort to reduce the number of illegal immigrants in the city. These migrants were given the opportunity to claim refugee status, but their applications were usually denied.

In 2009 ONARS and the UNHCR completed a census of refugees at Ali Addeh refugee camp and distributed identification cards to adult refugees. However, organizational difficulties and resource constraints prevented both entities from providing adequate service to refugees, including the prompt processing of refugee claims. While the Government grants *prima facie* status to refugees from southern Somalia, all other nationalities, including Eritreans, must register with ONARS. As of September 2009, the Government ceased, indefinitely, the registration of non-Somalis due to a public disturbance that occurred outside the ONARS office, thus denying individuals that UNHCR deemed to be in need of protection services access to the services of ONARS. The screening unit is now in place at the Loyada Center, a primary checkpoint on the Djibouti/Somalia border to accommodate the flow of refugees from Somalia.

Ali Addeh camp was overcrowded, and basic services were inadequate. Government studies to determine a possible site for a new refugee camp continued at year's end.

Refugees continued to report that although they could not obtain work permits, many, especially women, worked. Refugees that sought work without permits typically performed low level tasks in the areas of construction, house cleaning, or babysitting. Due to the lack of permits, they were unable to challenge poor working conditions or ensure fair payment for their labor. Refugees at the Ali Addeh camp had access to a local primary school but not to a secondary school.

During the year the Government provided temporary protection to a limited number of individuals who may not qualify as refugees. However, illegal migrants identified as economic migrants attempting to transit Djibouti en route to Yemen were temporarily jailed and returned to their countries of origin. The Government worked with IOM to provide adequate health services to these migrants while they awaited deportation. There also was a trend toward denying refugee status to Ethiopian applicants due to the Government's position that most were economic migrants.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and generally fair elections based on universal suffrage. A multiparty system exists, and citizens are free to align themselves with the party of their choice.

*Elections and Political Participation.*—In 2008 President Ismail Omar Guelleh's five-party coalition, the Union for a Presidential Majority (UMP), won all 65 seats in the winner-take-all National Assembly election. The UMP included former opposition parties and leaders. International observers from the AU and the Arab League considered the election generally free and fair.

A three-party opposition coalition, the Union for Democratic Alternance (UAD), boycotted the election after its list of demands regarding the electoral process was not met. In 2008 the Government banned the opposition political party Movement for Democratic Revival (MRD), a member of the UAD, alleging one of its leaders had invited Eritrea to invade the country. The MRD appealed the decision, and the case was pending before the Supreme Court at year's end.

On April 19, the parliament approved amendments to the constitution which included removing the two-term limit for the president, specifying that presidential candidates must be between 40 and 75 years of age, and reducing the presidential term from six to five years. They also included plans for a senate whose organization and function were to be determined by the law.

Opposition political parties claimed the Government restricted and interfered with their operations.

The 2008 legislative elections brought two more women into the National Assembly, raising the number of female parliamentarians in the 65-seat body to nine. There were two women in the 21-member cabinet, and the president of the Supreme Court, who by law acts in the president's stead in case of death or incapacitation, was a woman.

The legislature included members of all clans; membership was approximately 41 percent Issa, 43 percent Afar, and 15 percent representatives of smaller minority groups. Elected as a single list, the legislature's composition reflected the governing coalition's intent to ensure balance. The cabinet was similarly balanced; there were seven Afars, including the prime minister, the defense minister, and the foreign minister. However, some Afars continued to claim they were not as well represented at lower government levels. There were three representatives from Somali clans other than the Issa in the cabinet, and one of Yemeni origin.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement such laws effectively, and officials sometimes engaged in corrupt practices with impunity.

According to the World Bank's most recent Worldwide Governance Indicators, government corruption was a serious problem.

The Chamber of Public Accounts and Fiscal Discipline (CAFD) and the State Inspectorate General (IG) were responsible for combating corruption and conducted public expenditure audits in an effort to promote transparency. The law mandates the CAFD and IG to report regularly, although in practice their reports lagged behind an annual schedule. In 2009 RTD began to broadcast anticorruption public service announcements developed with the IG. The public service announcements were broadcast twice a week in four languages.

Public officials were not subject to financial disclosure laws.

There were no laws providing for public access to government information, although legislative texts were publicly available through the online official journal, and citizens could address requests for information or mediation to the Ombudsman's Office.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic human rights groups generally operated without government restriction, conducting limited investigations and sometimes publishing findings on human rights cases. Government officials were occasionally responsive to their views. However, government officials regularly cooperated with local nongovernmental organizations (NGOs) offering training and education to citizens on human rights issues, especially women's rights. There were no reported government abuses of domestic NGOs. Due to the country's small political and NGO community, many domestic NGOs included members who were also key officials of the Government.

There were no developments in the 2009 or 2007 cases involving Jean-Paul Abdi Noel, the leader of the Djiboutian League for Human Rights. A verdict regarding Abdi Noel's dismissal request for the 2009 case involving his arrest on charges of distributing materials that insulted judicial authority remained pending at year's end.

In 2007 a court tried Abdi Noel for libel and fined and briefly imprisoned him. He appealed his sentence, and at year's end he was still awaiting a Supreme Court hearing that had been rescheduled multiple times.

The Government routinely allowed visits from international NGOs, including those dealing with human rights issues, and regularly received visitors from UN bodies. In February 2009 officials from the Addis Ababa-based UN Human Rights East Africa Regional Office visited to participate in a UN-sponsored human rights seminar.

The ICRC maintained a small office staffed with locally hired personnel. ICRC regional representatives based in Nairobi visited monthly.

The Government's Human Rights Commission, established in 2008, includes technical experts, representatives of civil society and labor, religious groups, the legal community, the Ombudsman's Office, and the National Assembly. The commission

met regularly and occasionally commented on cases of concern. State-run media featured prominent coverage of the commission's activities throughout the year. The commission succeeded in having human rights subjects added to police and gendarmerie training.

There is a government ombudsman, who also served in the parliament, whose specific responsibilities included mediation between the Government and citizens.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination on the basis of race, gender, or language; however, government enforcement of such laws was ineffective. The constitution and law do not directly address discrimination based on disability or social status. The Government took steps during the year to increase protection of women, including campaigns against FGM, but societal discrimination against women and ethnic minorities persisted.

*Women.*—The law includes sentences of up to 20 years' imprisonment for rape. The Government did not enforce the law effectively. There is no law against spousal rape. Rape cases, which often were not reported to the police, were usually settled informally between the families of the victim and the perpetrator. Reliable statistics on the prevalence of rape were not available.

Domestic violence against women was a common occurrence, but few cases were reported. While the law does not specifically prohibit domestic violence, it prohibits "torture and barbaric acts" against a spouse and specifies penalties up to 20 years' imprisonment. Families or clans rather than courts generally addressed cases of violence against women. Police rarely intervened in domestic violence incidents, and the media reported only the most extreme cases, such as murder. The Union of Djiboutian Women's counseling center helped women with a variety of problems, including domestic violence. Twenty-eight percent of the 344 women assisted by the counseling center reported physical violence, 30 percent reported psychological abuse, and more than 50 percent sought assistance in obtaining alimony or child support payments. During the year the counseling center opened a new station in the Ali Addeh refugee camp.

The law does not prohibit sexual harassment, and it was a problem. Statistics on the prevalence of sexual harassment were not available.

The Government recognized the right of citizens to decide freely and responsibly the number, spacing, and timing of their children. Health clinics operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There are no restrictions on the right to access contraceptives; in 2009 the Government estimated the contraceptive coverage rate at 33.5 percent, up from 22.5 percent in 2008. The Government provided childbirth services, and increasing numbers of women delivered babies in a hospital or health clinic. A 2009 Ministry of Health report stated 78 percent of the population had access to prenatal care, 15 percent to obstetric care, and 36 percent to post-partum care. The UN Population Fund estimated the maternal mortality rate in 2008 at 300 deaths per 100,000 live births. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV/AIDS.

Women legally possess the same rights as men, with the exception of inheritance practices that, in accordance with Shari'a law, provide males a larger proportion of estates than females; custom and traditional societal discrimination, including in education, resulted in a secondary role for women in public life and fewer employment opportunities in the formal sector. Many women owned and ran small businesses, although mostly in the informal sector, where they did not receive the same benefits or access to credit available in the formal sector. The Government promoted female leadership in the small business sector, including through expanded access to microcredit.

The increased presence of women in the Government, the legislature, and business had a positive effect. A 2008 presidential decree requires women to be represented in at least 20 percent of all high-level public service positions. The family code governs the majority of family and personal matters, but inequities existed. The Ministry for the Promotion of Women, Family, Welfare, and Social Affairs was responsible for promoting the rights of women.

*Children.*—Citizenship is derived from a child's parents. The Government did not register all births immediately. There were difficulties in registering births of children in remote areas, although most births in Djibouti City were registered quickly, and the Government continued to encourage immediate registration. There is a fee to register a child's birth, and this can sometimes result in unregistered births.

Primary education was compulsory and available to all. However, enrollment, although increasing, was not universal. The Government provided tuition-free primary and middle-school level public education, but other expenses could be prohibi-

tive for poor families. Although the educational system did not discriminate against girls, societal attitudes resulted in lower school enrollment rates for girls than boys.

Child abuse existed but was not frequently reported or prosecuted.

Female genital mutilation (FGM) was widely performed on young girls. An estimated 93 percent of females in the country have undergone FGM. Infibulation, the most extreme form of FGM, continued to be widely practiced, especially in rural areas. Some studies indicated that recent NGO and government efforts to stop the practice reduced the number of young girls subjected to FGM in Djibouti City. The law prohibits FGM, punishable by five years' imprisonment and a fine of one million DJF (\$5,570), and allows NGOs to file charges on behalf of victims; however, the Government has not convicted anyone under this statute. The law provides for up to one year's imprisonment and a fine of up to 100,000 DJF (\$557) for anyone convicted of failing to report a completed or planned FGM to the proper authorities.

During the year the Government maintained efforts to end FGM with continued high-profile national publicity campaigns, ongoing public support from the first lady and other prominent women, and outreach to Muslim religious leaders. The Government-run press featured frequent and prominent coverage of events organized to educate the public on the negative consequences of FGM. Efforts of the Union of Djiboutian Women and other groups to educate women were reportedly effective in lessening the incidence of FGM in the capital.

Child marriage occasionally occurred in rural areas; local society considered it a traditional practice rather than a problem. The Ministry for the Promotion of Women, Family, Welfare, and Social Affairs worked with women's groups throughout the country to protect the rights of girls, including the right to decide when and whom to marry.

Despite government efforts to keep at-risk children off the streets and warn businesses against permitting children to enter bars and clubs, there were credible reports of child prostitution on the streets and in brothels. Children fell victim to commercial sexual exploitation after reaching Djibouti City or the Ethiopia-Djibouti trucking corridor. Occasionally child prostitution occurred with the involvement of a third party, most frequently an older child or group of older children. Of 2,430 prostituted persons apprehended by the police in 2009, 408 were between the ages of 10 and 17.

There was no specific law prohibiting statutory rape; the age of majority was fixed by law at 18 for both men and women. The sale, manufacture, or distribution of all pornography, including child pornography, is covered under laws prohibiting attacks on "good morals," and violations are punishable with a year in prison and a fine of up to DJF 200,000 (\$1,113).

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There was no known Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution does not prohibit discrimination against persons with disabilities. The labor code prohibits discrimination in employment against such persons. The Government did not mandate accessibility to buildings or government services for persons with disabilities. Such persons had access to education and public health services. There was societal discrimination against persons with disabilities. No government agency was charged specifically with protecting the rights of such persons. NGOs continued to organize seminars and other events that drew attention to the need for enhanced legal protections and better workplace conditions for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The governing coalition included all of the country's major clan and ethnic groups, with minority groups also represented in senior positions. Nonetheless, there continued to be discrimination on the basis of ethnicity in employment and job advancement. Somali Issas, the majority ethnic group, controlled the ruling party and dominated the civil service and security services. Although discrimination in government practices based on ethnicity and clan affiliation declined, it remained a factor in business and politics.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no known reports of societal violence or discrimination based on sexual orientation. Societal norms did not allow for the public discussion of homosexuality, and persons did not openly acknowledge having a homosexual orientation.

*Other Societal Violence or Discrimination.*—There was no known societal violence or discrimination against persons with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for the right to form and join unions; however, the Government substantially restricted these rights in law and in practice. Reliable statistics on the percentage of the total workforce that belonged to a trade union continued to be unavailable. The two civil organized labor unions each have a government-appointed counterpart. The civil organized labor unions are not recognized by the Government. Only members of the Government-approved labor unions attend international and regional labor meetings.

Forty percent of the population is employed; those in rural areas work in agriculture. Most agriculture is subsistence farming, and there are no agricultural unions. The president has broad legal powers to requisition public servants who are considered indispensable to the operation of essential public services. Under the labor code, to be registered, a union must have the approval of the Ministries of Labor and Interior as well as the Labor Inspectorate and the public prosecutor. The Act on Associations also prescribes that a trade union cannot be established without prior authorization. Some union leaders continued to allege the Government suppressed independent representative unions by tacitly discouraging labor meetings and accused the Government of encouraging what they called government-sponsored “shadow unions.” In June the International Labor Organization (ILO) expressed its concern over several points of divergence between the country’s labor laws and ILO Convention 87, including convention provisions that (a) provide for a more or less automatic suspension of the employment contract when a worker holds trade union office; (b) in an overly broadly-formulated form prohibit access to any trade union because of any conviction (whether or not the conviction is prejudicial to the integrity required to exercise union office); (c) prescribe a lengthy and complicated trade union registration procedure; (d) require organizations to obtain authorization prior to their establishments as trade unions; and (e) confer upon the president broad powers to requisition public servants considered indispensable to the life of the nation and the proper operation of essential public services. The ILO also recommended that, where the representativeness of a workers’ organization has not yet been established, no representation from the trade unions should be barred from the tripartite work of the National Council on Work, Employment, and Professional Training.

In June the ILO also expressed its concern over the postal sector, where the postal union reportedly had been faced with authorities’ antiunion interference, including unfair dismissals. The ILO also noted with concern the Government’s continued lack of response to the International Trade Union Confederation’s comments made in 2009 regarding the Government’s lack of genuine commitment to encourage the reinstatement of workers and trade unionists, particularly those in the postal sector, reportedly unfairly dismissed.

The law provides the right to strike and requires employees who plan to strike to provide 15 days’ advance notification to the Labor Inspectorate, which uses this period to attempt to mediate an alternate resolution of the dispute. In practice unions occasionally disregarded the requirement for advance notification. Workers exercised the right to strike in practice, and the Labor Inspectorate recorded four strikes during the reporting period.

The Labor Union of Djibouti (UDT) continued to operate; however, as a civil-organized union it did not have government recognition, and the Government continued to recognize members of the approved counterpart to the UDT as delegates to international labor meetings. Neither the UDT nor the Government-backed unions have full validity in the view of local workers or the international community.

*b. The Right to Organize and Bargain Collectively.*—The labor code allows for collective bargaining and fixes the basic conditions for adherence to collective agreements. During the year government officials and labor union leaders reported collective bargaining was underway, although progress in reaching agreements was slow. Statistics were not available on the number of collective agreements. All parties agreed workers needed better technical assistance and legal counseling to be able to negotiate effectively with employers. The National Council on Work, Employment, and Professional Training, established in 2008, was charged with examining all collective bargaining agreements and playing an advisory role in their negotiation and application. The council included representatives from labor, employers, and the Government.

Relations between employers and workers were informal and paternalistic. Employers generally established wage rates based on Labor Ministry guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged

direct resolution by labor representatives chosen by the Government and employers. Workers or employers could request formal administrative hearings before the Labor Inspectorate. However, in practice the inspectorate did not have sufficient resources to conduct regular preventive inspections or to follow up on the enforcement of previous cases.

The law prohibits antiunion discrimination and requires employers found guilty of discrimination to reinstate workers fired for union activities; however, the Government neither enforced nor complied with the law.

The 2004 Djibouti Free Zone Code establishes more flexible hiring regulations for workers in the duty free zone, an export processing area. However, on other work issues, the national labor code applies to workers in the duty free zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, a small number of women and children transiting the country from Somalia or Ethiopia and impoverished local girls fell victim to domestic servitude after reaching Djibouti City or the Ethiopia-Djibouti trucking corridor.

For further information, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/tip](http://www.state.gov/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits all labor by children under the age of 16, but the Government did not always enforce this prohibition effectively, and child labor existed. Children engaged in the sale of the mild narcotic khat, legal under local law. Family-owned businesses such as restaurants and small shops employed children at all hours. Children were involved in a range of activities such as shining shoes, washing and guarding cars, selling items, working as domestic servants, working in subsistence farming and with livestock, and other activities in the informal sector.

The Ministry of Labor is responsible for monitoring work places and preventing child labor, but a shortage of labor inspectors and other resources such as vehicles reduced the likelihood that reports of child labor would be investigated, and no inspections were conducted during the year. There was no government program to enforce the work of inspectors.

*e. Acceptable Conditions of Work.*—Only a small minority of the population was employed formally and earned a wage salary. The 2006 labor code canceled minimum wage rates for occupational categories and provides that wages be set after common agreement between employers and employees. The former national minimum wage did not provide a decent standard of living for a worker and family, and it was unlikely that such common agreements would provide a decent standard of living. In June the ILO recommended the Government reestablish minimum wage rates, and ensure that collectively agreed minimum wage rates be binding and effectively enforced.

The legal workweek is 48 hours, normally spread over six days. This limit applies to workers regardless of gender or nationality. The law mandates a weekly rest period of 24 consecutive hours and the provision of overtime pay, and limits compulsory overtime to a maximum of five hours per week.

The Ministry of Labor is responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions. Workers rarely protested due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment. Although more flexible hiring regulations applied in the Free Zone, other labor code provisions applied to all workers, including foreign workers and workers in the Free Zone.

---

## EQUATORIAL GUINEA

Equatorial Guinea, with an estimated population of approximately one million, is nominally a multiparty constitutional republic. All branches of government were dominated by President Obiang Nguema Mbasogo, who has ruled since seizing power in a military coup in 1979, along with his clan from the majority Fang ethnic group and his political party, the Democratic Party of Equatorial Guinea (PDGE). In November 2009 President Obiang was reelected with 95.37 percent of votes cast. There were instances in which elements of the security forces acted independently of civilian control.

The following human rights problems were reported: limited ability of citizens to change their government; unlawful killings, including summary executions; abduc-

tions by security forces; torture of detainees and prisoners by security forces; life-threatening conditions in prisons and detention facilities; official impunity; arbitrary arrest, detention, and incommunicado detention; harassment and deportation of foreign residents with limited due process; constraints on judicial independence; official corruption at all levels of government; restrictions on the right to privacy; restrictions on freedoms of speech, press, assembly, association, and movement; official corruption and impunity; violence and discrimination against women; suspected trafficking in persons; discrimination against ethnic minorities; and restrictions on labor rights.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces killed several persons, including by summary execution, during the year.

On December 28, a Malian emigrant, Bakary Konate, was killed by uniformed men at a checkpoint in Bata after he failed to pay a bribe.

On June 30, a civilian court convicted and sentenced three persons, including an army officer sentenced in absentia, to long prison sentences and hefty fines for manslaughter and trafficking. The three were involved in trafficking seven presumed African illegal aliens, who were believed to have died from asphyxiation while being transported in the back of a truck in February.

On August 21, the Government summarily executed four former military officers—Jose Abeso Nsue, Manuel Ndong Azeme, Jacinto Micha Obiang, and Alipio Ndong Asumu—one hour after a military tribunal convicted them of terrorism for seeking to overthrow the Government and the attempted assassination of the head of state in February 2009. According to Amnesty International (AI), the Government facilitated their forced return to Equatorial Guinea in late January from a neighboring country, where they had been living for several years as refugees; they were held incommunicado in Black Beach Prison, where they reportedly were tortured. In a statement released on August 23, AI criticized the country for “abductions, torture, and executions it currently carries out under the pretense of justice.” The Government stated that the four had been captured in international waters when they were duped into preparing an attack similar to the February 2009 attack on the Malabo presidential palace that they were accused of carrying out.

There were no further developments in the September 2009 death of a Nigerian, Akee Jimoh, who was beaten to death by four off-duty police officers after refusing to pay a bribe. At year’s end, the four officers remained suspended from the police force and an investigation continued.

There were no further developments in the following 2008 security force killings: the January police killing of an alleged illegal immigrant; the March death in detention of Ncogo Mbomio, a member of a banned political party, which AI claimed was a result of torture; the May police killing of a Malian citizen; and the December killing of a Cameroonian fisherman.

*b. Disappearance.*—In January security forces secretly detained former military men Jose Abeso Nsue, Manuel Ndong Azeme, Jacinto Micha Obiang, and Alipio Ndong Asumu and summarily executed them in August (see section 1.a.).

Former army colonel Cipriano Nguema Mba, who was abducted from Cameroon in 2008, reportedly escaped from Evinayong Prison on October 15 (see section 1.e.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, security officials abused and tortured persons during the year.

Following his 2008 mission to the country to assess the use of torture in the penal system, UN special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment Manfred Nowak, stated that police employed the “systematic use of torture” on detainees, including political prisoners and suspects of common crimes. Nowak, who observed a fully equipped torture room in the basement of the Bata Central Police Station, documented police abuse, corroborated by a medical expert, including beatings to the soles of the feet and buttocks with batons, solid rubberized cables, and wooden bars; electric shocks with starter cables attached to different parts of the body with alligator clips; and various forms of suspension with hands and feet tied together for prolonged periods while security officials beat victims as they swung back and forth.

Nowak underlined the inhuman treatment of political prisoners in Black Beach Prison where they had been held in solitary confinement for up to four years without being allowed the one hour of exercise per day required by international minimum standards. Political prisoners generally were held in leg irons for almost the

entire duration of their imprisonment. Nowak also found that immigrants ran an increased risk of physical abuse in police cells. The Government categorically rejected Nowak's report but then said it would take steps to improve conditions.

According to an August 23 AI report, security forces tortured four former military officers in Black Beach Prison until they confessed to the attack on the presidential palace in February 2009; the four were subsequently executed (see section 1.a.).

Information surfaced during the year that in February 2009 police arrested without warrant Epifanio Pascual Nguema, who they detained at the Bata police station. Approximately four days later, police officers took Nguema from his cell and tortured him for four hours, according to an AI report released on May 28. Police reportedly beat Nguema around the kidneys, belly, and genitals. For several days he passed blood in his urine and was unable to walk or stand straight. Nguema, who reportedly was arrested for procuring travel documents for his wife and for criticizing President Obiang, was released uncharged in May 2009.

Following a February 2009 armed attack on the presidential palace, the Government rounded up, arbitrarily arrested without warrant, and held without charge 10 Popular Union (UP) members, at least two of whom were reportedly tortured.

Foreigners, primarily irregular immigrants from other African countries, were harassed, intimidated, and arbitrarily arrested and detained. Foreign diplomats, primarily those from African countries, also complained that police harassed, abused, and assaulted them and their family members, even after the victims displayed their diplomatic documents.

No action was taken during the year against officials at the Malabo Central Police Station who in 2008 reportedly beat at least two former members of the banned opposition Progress Party of Equatorial Guinea (PPGE) to force confessions.

*Prison and Detention Center Conditions.*—Prisons did not meet international standards. Following his 2008 visit to assess the use of torture in the penal system, UN special rapporteur Manfred Nowak noted the use of prolonged solitary confinement, insufficient food, and poor sanitary conditions in prisons.

With the exception of the newly renovated principal jails in Bata, Evinayong, and Malabo, conditions in police station jails and other local detention centers were harsh and sometimes life threatening. Holding cells were overcrowded and dirty, and detainees very rarely had access to medical care, exercise, or mattresses. Provision for sanitation, ventilation, and lighting and access to potable water were inadequate. Diseases, including malaria and HIV/AIDS, were serious problems. Access to medical care was inadequate. However, prison authorities reportedly provided emergency medical care to prisoners they had tortured to keep them alive for other torture sessions. The Government has begun providing basic meals in the three main prisons, but food was often provided by detainees' families or fellow detainees, and access to potable water was severely restricted. Most detainees had no access to toilets and resorted instead to plastic bottles or bags.

Detained irregular immigrants pending deportation were held in police cells without food or water for lengthy periods, since most had no relatives nearby. In 2008 the UN Working Group on Arbitrary Detention, which visited the country in 2007, expressed concern over the lengthy arbitrary detentions of irregular immigrants and recommended that the Government make significant efforts to ensure foreigners received access to consular officials and establish reasonable periods of maximum detention; however, foreign embassies reported conditions for irregular immigrant detainees remained the same during the year.

There were no reliable statistics on the total number of prisoners (including juveniles and women) in detention. Local observers believed that there were several hundred overall, but no breakdown was available for juveniles or women.

Female prisoners were generally separated from male prisoners; however, juveniles were not separated from adults. Juveniles were generally imprisoned for the most serious crimes; otherwise they were given "provisional liberty" in some cases and monitored. Pretrial detainees were held together with convicted prisoners.

In most cases, prisoners had reasonable access to visitors and were permitted religious observances. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities and to request investigation of allegations of inhumane conditions. During the year the director general for penitentiaries twice visited prisons, and his visit led to some cosmetic improvements.

Neither the judicial system nor police had a fully effective system to register cases or track prisoners. Prisons provided the Ministry of Justice with a monthly printout of prison inmate numbers, including releases with full names, sentences completed, and release dates. However, the list was not always reliable, and authorities generally kept better track of political prisoners than common criminals.

The Government sometimes permitted independent monitoring of conditions in the country's three prisons, 12 jails, and numerous holding cells in smaller localities.

According to government officials, meetings were held during the year with representatives of the International Committee of the Red Cross (ICRC) to discuss reopening an ICRC office in the country. Government officials confirmed two ICRC officials were allowed to visit Malabo's Black Beach Prison and other prisons on several occasions throughout the year, but access to detainees was intermittent and not uniform for most of the year, and standard modalities for these visits were seldom followed. However, full, unlimited access was granted to the ICRC in November.

There was no provision for an ombudsman to serve on behalf of prisoners to consider matters such as alternatives to incarceration for nonviolent offenders and to prevent overcrowding in prisons.

During the year the Government continued to make some efforts to improve prison conditions by allocating increased budgetary resources and improving diet. As a result of renovations completed in 2009, prisoner cells and the exercise yard at the Malabo City Prison—which was singled out for criticism by Nowak—were larger and better ventilated. Physical renovations at the three main civilian prisons improved living conditions as did the requirement to feed prisoners for the first time instead of relying on relatives. The Government also hung antitorture posters at airports and border crossings. Minister of National Security Nicolas Obama also met with all police commissioners to underscore the illegality of mistreating prisoners. The director of human rights held four workshops during the year; security and police officials stressed that torture was against the law.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, security forces arrested or detained persons arbitrarily, secretly, and without due legal process. A 2008 report by the UN Working Group on Arbitrary Detention expressed concern that both police and gendarmes frequently ordered arrests and detentions without legal authorization. Secret detentions reportedly occurred (see section 1.a.).

*Role of the Police and Security Apparatus.*—The police are generally responsible for security in the cities, while gendarmes are responsible for security outside the cities and for special events; both report to the minister of national security. Military personnel, who report to the minister of defense, also fulfilled police functions in border areas, sensitive sites, and high-traffic areas. In addition there were police elements within the Ministries of Interior (border and traffic police), Finance (customs police), and Justice (investigative/prosecuting police). Presidential security officials also exercised police functions in the vicinity of the president and presidential facilities. Foreign contractors continued to work with the Government to consolidate and organize security structures within the country.

Police remained underfunded and poorly trained, and corruption and impunity were problems, although less so than in previous years. Security forces continued to extort money from citizens and immigrants, although the number of such incidents significantly decreased during the year. There was no internal investigation unit within the police, and mechanisms to investigate allegations of abuse were poorly developed.

The Government recognized the need for professional improvement of police and continued to support a broad training program. A foreign contractor continued to train police officers and their leaders on human rights, prevention of trafficking in persons, rule of law, appropriate use of force, and a code of ethics. Evidence and feedback from expatriates, citizens, and community leaders indicated improvement in performance in human rights and professional conduct, particularly among younger officers who received training.

*Arrest Procedures and Treatment While in Detention.*—The constitution requires arrest warrants, except in cases in which a suspect is caught committing a crime; however, the Government frequently arrested persons without a warrant. A detainee has the right to a judicial determination of the legality of the detention within 72 hours of arrest, excluding weekends and holidays; however, such detentions were often longer, occasionally several months. For example, on October 8, police detained Marcos Manuel Ndong, a party secretary of the opposition Convergence for Social Democracy (CPDS) in a police jail and in Black Beach Prison before allowing him to see a judge on October 18; the judge released Ndong on December 8 and all charges were dropped.

There were several reports of international businessmen being arbitrarily detained in conjunction with business disputes.

The law provides for detainees to be promptly informed of the charges against them; however, authorities did not respect this right in practice. Some foreign detainees complained they were detained and subsequently deported without knowledge of the charges against them. Although a bail system and public defenders—supplied by the bar association, which received funding from the Government—were

available upon request, the public was largely unaware of either, and neither system operated effectively.

The law provides for family visits and prohibits incommunicado detention; however, use of such detention and denial of family visits were serious problems. According to the 2008 report by the UN Working Group on Arbitrary Detention, lawyers did not have access to police stations and could not contact detainees while they were held there; police superintendents interviewed by the working group stated they did not see the need for or advisability of such access.

Police periodically raided immigrant ghettos, local stores, and restaurants to apprehend irregular immigrants; however, reliable sources reported that many legal, as well as irregular, immigrants were abused, extorted, or detained during such raids. Police often used excessive force to detain and deport detainees, and almost all foreign embassies in the country criticized the Government during the year for its harassment, abuse, extortion, and detention without representation of foreign nationals. Many detainees complained about the bribes required for release from detention.

In January security forces forcibly returned from overseas four citizens for suspected involvement in the February 2009 presidential palace attack, detained them in Black Beach Prison, and summarily executed them in August (see section 1.a).

The Government arbitrarily arrested a journalist during the year (see section 2.a.).

Unconfirmed information surfaced during the year that at least 20 minors between ages of 10 and 17 were arrested in February 2009 for receiving money from one of President Obiang's grandchildren, who apparently had stolen the money. They were detained for nearly two months before being released.

Lengthy pretrial detention remained a problem, and a significant number of those incarcerated were pretrial detainees; however, the number of pretrial detainees, especially of common criminals as opposed to political prisoners, was generally unavailable. Prison authorities started to provide monthly printouts on prisoners and detainees to the Ministry of Justice. Inefficient judicial procedures, corruption, lack of monitoring, and inadequate staffing contributed to the problem.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the Government did not respect this provision in practice, and the judiciary was not independent, according to UN officials and local and international human rights advocates. Judges served at the pleasure of the president and were appointed, transferred, and dismissed for political as well as competency reasons. Judicial corruption was widely reported, and cases were sometimes decided on political grounds.

The military justice system did not provide defendants with the same rights as the civil criminal court system. The code of military justice states that persons who disobey a military authority, or are alleged to have committed an offense considered to be a "crime against the state," should be judged by a military tribunal, with limited due process and procedural safeguards, regardless of whether the defendant is civilian or military. A defendant may be tried without being present, and the defense does not have a guaranteed right to cross-examine an accuser. Such proceedings are not public, and the defendants do not have a right of appeal to a higher court. According to the UN Working Group on Arbitrary Detention, "judges and defenders in military courts were not lawyers or jurists, but military officials with no legal training."

Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside. These adjudications were conducted according to tradition and did not afford the same rights and privileges as the formal system. Those dissatisfied with traditional judgments could appeal to the civil court system.

*Trial Procedures.*—By law a defendant enjoys the presumption of innocence until proven guilty; however, the Government suspended due process and the presumption of innocence for several detainees during the year (see section 1.a). Most trials for ordinary crimes were public, but juries were seldom used. Defendants have the right to be present at their trials but rarely were able to consult promptly with attorneys unless they could afford private counsel. An accused person who cannot afford a lawyer is entitled to ask the Government to provide one, but only if the accused is summoned to appear in court, and defendants were not routinely advised of this right. The country's bar association was available to defend indigent defendants; however, there remained a shortage of lawyers, and there continued to be no effective system of court-appointed representation. The law provides for defendants to confront and question witnesses and present their own witnesses and evidence; however, this right was seldom enforced in practice. By law the accused has the right to appeal; however, legal appeals were not common due to lack of adequate

legal representation and ignorance of constitutional rights. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—It was difficult to estimate the number of persons detained or imprisoned for exercising their political rights, in part because authorities did not maintain reliable prisoner lists or allow comprehensive independent monitoring of detention facilities. However, approximately 20 political prisoners were believed to remain incarcerated at year's end.

Political prisoners were incarcerated for offenses relating to the exercise of political rights; all were members of opposition parties, mainly banned parties, or persons the Government accused of involvement in various coup attempts. Of those convicted, most were charged with "crimes against the state." Some were convicted by military courts without respect for due process, and some were tried summarily without the right to appeal their sentences, according to the UN Working Group on Arbitrary Detention.

Some political prisoners were released during the year.

On October 7, seven Nigerians (one died earlier in captivity) and UP opposition activists Marcelino Nguema and Santiago Asumu were pardoned and released; all had been accused of involvement in the February 2009 presidential palace attack. The pardon of the Nigerians followed their April conviction and sentencing to 12 years in prison by a civilian court. The two UP opposition activists were acquitted by the same civilian court but subsequently tried by a military tribunal, which sentenced them to 20 years in prison. According to AI, Marcelino Nguema and Santiago Asumu were tried twice on the same charges.

During the year all charges were dropped against eight UP activists who were arrested in connection with the presidential palace attack and subsequently released on bail in 2009.

The Government also pardoned five political prisoners being held in Bata Prison: Jesus Micha Micha, Carmelo Ncogo Mitogo, Juan Bestue Santander, Antonio Mba Ndong, and Juan Maria Itutu Mendez. The five had been extradited from Gabon in 2004 and given long jail sentences in 2007 in connection with disturbances on Corisco Island.

On October 15, former army colonel Cipriano Nguema Mba, who in 2008 was abducted from Cameroon where he was recognized as a refugee, escaped from Evinayong Prison. In a 2004 military trial, Nguema was convicted of treason in absentia and sentenced to 30 years' imprisonment for allegedly plotting a coup and leaving the country with government funds.

The Government continued to detain other political prisoners whom government agents had kidnapped from neighboring countries in recent years, according to the UN Working Group on Arbitrary Detention.

The UN Working Group on Arbitrary Detention recommended in 2008 the adoption by the Government of necessary measures to put an immediate end to secret detentions. The group cited the (at that time) secret detentions of Florencio Ela Bibang, Felipe Esono Ntumu, and Antimo Edu Nchama, all of whom were kidnapped in foreign countries where they had refugee status, tortured, and convicted of treason in a military tribunal. Bibang and Nchama were believed to remain in Black Beach Prison. On October 15, Felipe Esono Ntumu reportedly escaped from Evinayong Prison, along with Cipriano Nguema Mba.

In 2008 a court convicted and sentenced to six years' imprisonment five former members of the banned PPGC political party—Cruz Obiang Ebele, Emiliano Esono Micha, Gerardo Angue Mangue, Gumersindo Ramirez Faustino, and Juan Ecomo Ndong—on charges of belonging to a banned party, holding illegal meetings, attempting to overthrow the Government, and arms smuggling. At year's end the five remained in prison.

The Government took little action on 2008 recommendations by the UN Working Group on Arbitrary Detention that the Government draft a new criminal code; establish an independent judiciary; prompt judges and law officers to make periodic visits to prisons and police detention centers; limit the jurisdiction of military courts to military offenses committed by armed forces personnel; and extend human rights training to judges, law officers of all grades, security force members, and the Office of the Attorney General. The Government stated it lacked the internal capacity to fully institute such changes but that it would welcome the efforts of outside organizations and governments to provide this capacity training.

*Civil Judicial Procedures and Remedies.*—Civil matters can be settled out of court, and in some cases tribal elders adjudicated local disputes. Courts were increasingly engaged in ruling on civil cases brought before them, some of which involved human rights complaints. Many international companies doing business in

the country operated with mediation clauses, which were occasionally activated. Resulting resolutions were generally respected.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government often did not respect these prohibitions in practice. Security forces entered homes without authorization and arrested suspected dissidents, criminals, foreign nationals, and others—often without judicial orders, which are not required for certain officials to enter and search homes—and confiscated their property with impunity.

Government informers reportedly monitored opposition members, nongovernmental organizations (NGOs), and journalists. Most residents and journalists believed the Government monitored telephone calls.

Individuals may hold property title to pieces of land, but the state has full power of eminent domain, which it often exercised in the interests of development. In past years, scores of families were forcibly evicted from their homes to make room for roads and housing developments, especially in Malabo and Bata. The local Red Cross, Catholic Church, human rights lawyers, and opposition members expressed concerns about the displacement of poor communities.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the law grants extensive powers to authorities to restrict the activities of the media, and the Government continued to limit these rights in practice. The country's media remained weak and under government influence or control. Journalists were subject to surveillance and practiced self-censorship.

While criticism of government policies was allowed, individuals generally could not criticize the president, his family, other high-ranking officials, or the security forces without fear of reprisal, and the Government reportedly attempted to impede criticism by continuing to monitor the activities of the political opposition, journalists, and others. Libel is a criminal offense.

Starting a new periodical required a complicated process governed by an ambiguous law and was often inhibited by government bureaucracy. In addition, accreditation was cumbersome for both local and foreign journalists, who had to register with the Ministry of Information.

Only one international news agency had a regular stringer present in the country, and government agents reportedly followed and observed stringers for foreign media. Some international media were not able to operate freely in the country during the year, and the Government refused to issue visas to some Spanish journalists from major media organizations prior to the November 2009 presidential election. International newspapers or news magazines were generally not available in rural markets due, at least in part, to their high price and the low rate of literacy in rural areas; however, international magazines and newspapers increasingly were being sold in a number of grocery stores and hotels in Malabo and Bata.

On April 14, police in Malabo detained Agence France-Presse and Africa One radio correspondent Samuel Obiang Mbana for five hours while he attempted to cover a regional summit.

The law allows the Government considerable authority to restrict press activities through official prepublication censorship. The law also establishes criminal, civil, and administrative penalties for violation of its provisions, in particular when it comes to violations of the 19 “publishing principles” in article 2 of the Law on the Press, Publishing, and Audiovisual Media.

Many of the legal and administrative obstacles criticized by international press freedom advocacy groups continued to pose significant problems for the country's media.

The Government owned the only national radio and television broadcast system, RTVGE. The president's eldest son owned the only private broadcast media. Satellite broadcasts were widely available, including the French language Africa24 television channel that carried opposition criticism.

Foreign channels were not censored, were broadcast throughout the country, and included Radio France International, the BBC, and Radio Exterior, the international shortwave service from Spain.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports the Government monitored e-mail or Internet chat rooms or collected personally identifiable information. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Most overt criticism of the Government came from the country's community in exile, and the Internet replaced broadcast media as the primary way opposition views were expressed

and disseminated. Exiled citizens' sites were not blocked and some Internet-based criticism of the Government and its leaders was openly sourced to individuals living inside the country without negative repercussions. According to International Telecommunication Union statistics for 2009, approximately 2.2 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no official restrictions on academic freedom or cultural events; however, in past years some professionals lost their teaching positions because of their political affiliation or critical statements reported to government officials by students in their classes. Most professors reportedly practiced self-censorship to avoid problems. Cultural events required coordination with the Ministry of Information, Culture, and Tourism.

Members of opposition political parties and faculty members complained of government interference in the hiring of teachers, continued employment of unqualified teachers, and pressure to give passing grades to failing students with connections. Teachers with political connections but no experience or accreditation were hired, even though they seldom appeared at the classes they purportedly taught. No teacher's union existed to defend the rights of teachers, and teaching positions were available only to PDGE members.

On May 26, university professor Alfredo Okenve Ndo was fired from the National University's School of Engineering Technology as both a board member and professor after speaking about official corruption at a civil society event abroad on May 21.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for the right of assembly; however, the Government restricted this right, largely through limits on freedom of association, which made it difficult for organizations that had not gained legal authorization to operate and hold meetings legally. Although the Government formally abolished permit requirements for political party meetings within party buildings, opposition parties were expected to inform authorities if they wished to hold gatherings outside of their headquarters. The Government required notification for public events such as meetings or marches. According to foreign donors and members of local civil society groups, in light of coup attempts in recent years, the Government continued to view some informal meetings by associations as security threats.

On September 1, the provincial governor in Bata refused to authorize a public demonstration against the death penalty by the legally recognized UP party on the grounds that the party "is not represented in parliament where it could actually introduce a bill against it."

During the 2009 election campaign, local officials impeded opposition attempts to campaign in regions loyal to the president (see section 3).

*Freedom of Association.*—The constitution and law provide for freedom of association, but the Government significantly restricted this right in practice. All political parties, labor unions, and other associations must register with the Government. As of year's end, only one labor organization had been registered. The law prohibits the formation of political parties along ethnic lines, and several political parties remained banned (see section 3). The registration process for NGOs was costly, burdensome, opaque, and sometimes took years to complete. However, there were no government restrictions that targeted specific groups. During the year foreign donors continued to urge the Government to review and reform the legal regime governing the establishment of NGOs.

*c. Freedom of Religion.*—For a description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. However, the Government sometimes restricted these rights in practice.

During the year there were no cases in which the Government cooperated with the UN High Commissioner for Refugees, which had no local office, or other humanitarian organizations in assisting refugees and asylum seekers.

Police at roadblocks routinely checked passing travelers and occasionally engaged in petty extortion, although reports of such practices declined during the year. Frequent roundups of irregular immigrants also occurred at roadblocks. The Government claimed roadblocks impeded illegal immigration, mercenary activities, and attempted coups.

The law prohibits forced internal or external exile; however, the Government did not respect this in practice. Following the granting of pardons to political prisoners in 2008, the Government required several of them to return to and remain in their

villages of origin. Several members of banned political parties remained in self-imposed exile.

*Internally Displaced Persons (IDPs).*—Unlike in the previous year, there were no reports that the Government continued to forcibly evict scores of families from their homes to make room for roads and luxury housing developments (see section 1.f.).

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. The Government provided temporary humanitarian protection to individuals who may not qualify as refugees under the 1951 Convention and its 1967 Protocol.

In practice the Government provided some protection against the expulsion or return of persons to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Although reliable data on the number of persons involved was not available, the Government provided temporary humanitarian protection to individuals who may not qualify as refugees during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully; however, despite continued improvements in the electoral process during the year, this right was extremely limited, partly as a result of the dominance of the ruling PDGE party.

*Elections and Political Participation.*—In November 2009 President Obiang was reelected, winning 95.37 percent of votes cast; opposition candidate Placido Mico of the CPDS won 3.55 percent of the vote. The lopsided results and weak independent monitoring of the electoral process raised the suspicion of systematic voting fraud. Few international election observers monitored the country's 1,289 polling stations as a result of the Government's insistence on coordinating their movement, prohibition of criticism, and control of media access. Procedural irregularities at some polling stations included multiple voting, failure to respect secrecy of the vote, and the absence of a posted list of registered candidates. At some stations, family voting was allowed, unregistered voters were allowed to vote, and ballot boxes were unsealed. Soldiers were deployed to all polling stations.

In October 2009 President Obiang announced the election would be on November 29, with campaigning to begin officially on November 5. According to Human Rights Watch, the tight election timetable and the Government's refusal to make the voter rolls public severely limited the opposition's ability to campaign and win support. The voter registration process, an important part of the preparations for elections in the country, was seriously flawed. The registration committee was composed primarily of PDGE members and routinely decided issues in favor of the PDGE. When registering a PDGE member, the committee registered all members of the family as PDGE voters, including children. Persons who were dead, underage, or living abroad were included as PDGE registrants.

No independent and impartial body existed to oversee the electoral process or consider election-related complaints. The National Electoral Commission, which was separate from the voter registration committee and charged with ensuring the fairness of the elections and handling formal postelection complaints, was controlled by the ruling party and headed by the interior minister, a prominent member of the party. While its membership included a representative of each political party that fielded candidates, it also included representatives from the Government, lacked civil society representation, and a majority of its members were ruling party officials. The opposition CPDS party claimed that one of its electoral officials was forced with a pistol held to his head to sign off on a vote count.

Opposition party members and candidates operated at a significant disadvantage when attempting to gain voter support. On the whole, opposition parties and their candidates were poorly organized, poorly financed, and lacked public support. Because of quasi-mandatory collection of dues and other contributions, the ruling party had greatly disproportionate funding available, including for gifts to potential voters. Several peaceful political parties banned in recent years were not allowed to participate in the elections. The Government denied the opposition equal access to the media. Opposition members and leaders also claimed the Government monitored their activities.

Unlike in previous elections, no opposition members were arbitrarily arrested, detained, or tortured; however, opposition candidates were harassed and intimidated during the presidential campaign.

No action was taken against a priest in Ayene who stopped a CPDS candidate from holding a rally in the town square in November 2009 or against the security forces and PDGE members who assaulted supporters of the UP party in Aconibe the same month.

The ruling PDGE party ruled through a complex arrangement built around family, clan, and ethnic loyalties. Indirect pressure for public employees to join the PDGE continued. Opposition party members continued to report they had been discriminated against in hiring, job retention, scholarships, and obtaining business licenses. During the year individuals contended government pressure precluded opposition members from obtaining jobs with foreign companies. Opposition party members claimed businesses found to have hired employees with direct links to families, individuals, parties, or groups out of favor with the Government were often forced to dismiss employees or face recrimination.

The three legal opposition parties faced restrictions on freedoms of speech, association, and assembly (see sections 2.a. and 2.b.). Some political parties that existed before the 1992 law establishing procedures to legalize political parties remained banned, generally for “supporting terrorism.”

The president, who may serve an unlimited number of six-year terms, exercised strong powers as head of state, commander of the armed forces, head of the judiciary, and founder and head of the ruling party. In general, leadership positions within government were restricted to the president’s party or the coalition of “loyal opposition” parties. Because the ruling party overwhelmingly dominated the commissions established to review electoral practices and recommend reforms, few changes were made. The minister of the interior was appointed to act as president of the national electoral commission.

The Government did not overtly limit participation of minorities in politics; however, the predominant Fang ethnic group, estimated to constitute more than 85 percent of the population, continued to exercise strong political and economic power. Women comprised more than 10 percent of the 100-member parliament, including its vice president. There was one woman in the cabinet and four of the vice ministers (for the Ministries of Health, Economy, Finance, and Planning) were women.

#### *Section 4. Official Corruption and Government Transparency*

Laws provide severe criminal penalties for official corruption; however, the Government did not implement these laws effectively, and officials frequently engaged in corrupt practices with impunity. Corruption continued to be a severe problem. The presidency and prime minister’s office were the lead agencies for anticorruption efforts. The president and members of his inner circle continued to amass personal profits from the oil windfall.

At least two high-profile corruption cases involving officials stealing government funds were successfully prosecuted during the year. Both involved well-connected government officials in the Ministry of Finance and in the state-run telephone company, GETESA. Lengthy jail sentences and heavy fines were handed down to senior officials, including a parliamentarian from the ruling party and a relative of a vice prime minister.

In August, in the finance ministry case, treasury official and ringleader Ernesto Abeso was sentenced to 21 years in prison and fined 3 million CFA (\$6,072). Another finance ministry official, Adolfo Mba Ela, was sentenced to 21 years. A 19-year sentence was imposed on three other finance ministry officials, Martin Nseng Monsuy (also a PDGE parliamentarian), Angel Salvador Elo Micue, and Astrina Micue Ndong. Seven others received lesser sentences, and 11 others were acquitted.

In September, in the GETESA case, a court convicted six persons of stealing government funds (three were French citizens who were tried in absentia).

In July some national security officials were removed because of corruption and posted abroad as diplomats in African embassies. The vice minister of national security and the secretary of state for national security were both removed from their positions. The vice minister refused to go to his posting and was briefly imprisoned and reportedly remained under house arrest.

In November a French appeals court reinstated the lawsuit filed in 2008 against President Obiang and two other African heads of state accused of acquiring luxury homes in France with embezzled public funds. The lawsuit, which was dismissed by a French court earlier in the year, was filed by anticorruption activist groups, including the French chapter of AI.

A lawsuit filed by a Spanish human rights group in 2008 alleging that members of President Obiang’s family and high-ranking political officials close to the president had laundered money and bought homes in Spain from embezzled funds continued at year’s end.

Officials by law must declare their assets, although no declarations were published publicly. There was no requirement for officials to divest themselves of business interests in potential conflict with official responsibilities and no law prohibiting conflict of interest. Most ministers continued to moonlight and conduct businesses they conflated with their government responsibilities.

During the year the Government made progress toward meeting objectives required to join the Extractive Industries Transparency Initiative (EITI), a multinational civil society initiative to encourage transparency and accountability in extractive industries, developing an approved work plan and achieving candidate status. As a result of its participation in the EITI, the Government for the first time released oil revenue figures for 2007 (\$4 billion) and 2008 (\$5.9 billion). However, in April EITI delisted Equatorial Guinea as a candidate country because of lack of consensus among board members on whether or not there were extenuating circumstances that would give the country an extension to complete all EITI requirements.

The law does not provide for public access to government information, and citizens and noncitizens, including foreign media, were generally unable to access government information. A lack of organized record keeping, archiving, and public libraries also limited access.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The law restricts NGO activity, and the few existing domestic human rights NGOs focused on development issues involving social and economic rights, such as health and elder care. Although the law includes human rights among the areas in which NGOs may operate, no NGO reported publicly on the abuse of civil or political rights by the Government or on official corruption. Thus, there were no local groups dedicated to human rights, rather there were groups that worked on human rights as part of their overall brief. The Government was suspicious of human rights activity, claiming that much of it was prompted by antiregime exile groups and critical foreign NGOs.

On September 28, the Government, working with the World Bank and Revenue Watch Institute, allowed a rare NGO training workshop to take place in Bata, according to a foreign diplomat charged with evaluating the status of civil society in the country. Government restrictions, including burdensome registration requirements and lack of capacity to manage and provide the public with information, continued to impede the activities and development of domestic civil society. There were few international human rights NGOs resident in the country, and they generally focused on social and economic rather than civil and political rights.

The Government cooperated to varying degrees with international organizations such as the ICRC and the UN. According to government officials, meetings were held during the year with representatives of the ICRC to discuss reopening an ICRC office in the country. In February the ICRC, which suspended prison visits in 2008 after the Government refused to grant access to some prisoners, resumed visits (see section 1.c.).

In 2009 the Government categorically rejected the 2008 report on detention facilities by UN special rapporteur on torture Manfred Novak, who reported that torture appeared to reflect a state-endorsed method of obtaining evidence and confessions and that a culture of total impunity allowed torture to continue unabated (see section 1.c.).

The primary official in charge of human rights, the third vice prime minister for human rights, functioned more to defend the Government from accusations than to investigate human rights complaints or keep statistics on them.

The parliamentary committee for complaints and petitions provided a forum for the public to register concerns and was increasingly active during the year. The committee accepted complaints and petitions whenever the parliament was in session. The sole opposition member in parliament vociferously and publicly denounced abuses.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively. Nonetheless, numerous public outreach efforts were undertaken to improve public awareness of the issues associated with violence and discrimination against women and children, discrimination against ethnic minorities, and discrimination against those with HIV/AIDS.

*Women.*—Rape is illegal and penalties date back to the Spanish colonial era penal code in existence as of 1968, but spousal rape is not specified in the law. Penalties

include a minimum punishment of 12 years in prison to a maximum of 20 years. An additional fine may be levied, but the law does not specify the amount. The Government did not enforce the law effectively. Reporting rape was considered shameful to the families involved. Several cases were prosecuted in court during the year, but the exact number was not known.

Domestic violence was a widespread problem. Violence against women, including spousal abuse, is illegal, but the Government did not enforce the law effectively. Depending on severity and circumstances, the penalty for assault can range from one to 20 years' imprisonment. Police and the judiciary were reluctant to prosecute domestic violence cases. In conjunction with international organizations, the Government conducted public awareness campaigns on women's rights and domestic violence. In accordance with a law passed in May 2009, family courts were created to deal with cases of violence against women. On occasion, the police organized workshops on family violence.

Sexual harassment is illegal; its extent was unknown. There were no known cases brought before the courts.

The Government did not interfere with the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. According to the UN Population Fund (UNFPA), less than 10 percent of the population used any contraceptives. Statistics on maternal health, prenatal care, essential obstetric care, and postpartum care were dated and unreliable. However, the UNFPA estimated the maternal mortality ratio to be 280 deaths per 100,000 live births. The Population Reference Bureau estimated that in 2008 approximately 65 percent of births were attended by skilled health personnel. However, many local observers believed that such data was unreliable. Some prenatal and obstetric care was free in government clinics but availability and quality was highly variable, and access was limited mostly to the two main cities. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides for equal rights for women and men, including rights under family law, property law, and in the judicial system; however, the rights of women were limited in practice. According to the UN Committee on the Elimination of Discrimination against Women, the prevalence of negative stereotypes and the "deep-rooted adverse cultural norms, customs, and traditions, including forced and early marriage, and levirate marriage (the practice by which a man may be required to marry his brother's widow)" discriminated against women. Lack of legislation regulating customary marriages and other aspects of family law also discriminated against women, particularly with respect to polygyny, inheritance, and child custody.

Women in rural areas largely were confined by custom to traditional roles. In urban settings women with equal qualifications rarely suffered overt discrimination. However, the country maintained a conservative culture in which societal bias against women persisted. Women sometimes experienced discrimination in access to employment, credit, and equal pay for substantially similar work.

The Government continued to provide courses, seminars, conferences, and media programs to sensitize the population and government agencies to the needs and rights of women. The Ministry of Social Affairs and the Promotion of Women held several events during the year to publicize these rights and held public rallies for women's rights and against domestic violence.

*Children.*—Citizenship is derived from one's parents. Registration of births is the responsibility of the parents, and failure to register a child so can result in the denial of public services.

Education was free and compulsory until 13 years of age. The overwhelming majority of children attended school at least through primary grades. Boys were generally expected by their families either to complete an additional seven years of secondary school or to finish a program of vocational study after primary education. For many girls in rural settings, however, early pregnancy or the need to assist at home limited educational opportunities, and women generally attained lower educational levels than men. During the year the Government continued to partner with a foreign oil company to undertake a multimillion dollar school renovation program and work with a foreign country to reform outdated curriculum materials.

Abuse of minors is illegal; however, the Government did not enforce the law effectively, and child abuse occurred. Physical punishment was the culturally accepted method of discipline. During the year a small number of cases in which child abuse was alleged came before the courts.

The law does not address child prostitution or child pornography. There was little evidence children engaged in prostitution for survival without third party involvement. The minimum age for sexual consent is 18.

While teenage pregnancies are not uncommon, the Ministry of Social Affairs and the Promotion of Women operated several successful programs to deter child marriage.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community was extremely small; there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law does not provide persons with disabilities with protection from discrimination in employment, education, or the provision of other state services, nor does it mandate access to buildings for persons with disabilities.

Educational services for persons with mental or physical disabilities were limited. The local Red Cross, with financial support from the Government, managed the country's school for deaf children. The Government, through the Ministry of Social Affairs, and the Catholic Church worked together to provide care for the mentally handicapped in the Virgin Madre Maria Africa facility. The country's first lady gave several highly publicized donations to help the handicapped.

The Ministries of Education and Health have primary responsibility for protecting the rights of persons with disabilities. Public service announcements regarding rights of persons with disabilities continued to be broadcast.

*National/Racial/Ethnic Minorities.*—Discrimination against ethnic or racial minorities was illegal; however, societal discrimination, security force harassment, and political marginalization of minorities were problems. Foreigners were often victimized. Irregular residents from Nigeria, Ghana, Cameroon, Mali, Togo, Gabon, and other African countries represented a significant portion of the labor force and continued to grow, despite police attempts to enforce immigration laws.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing sexual orientation; however, societal stigmatization and traditional discrimination against gay men and lesbians was strong, and the Government made little effort to combat it.

*Other Societal Violence and Discrimination.*—Despite frequent public statements and radio campaigns advocating nondiscrimination, persons with HIV/AIDS continued to be victims of societal stigmatization, which led them to keep their illness hidden. The Government provided free HIV/AIDS testing and treatment and supported public information campaigns to increase awareness.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to establish unions and affiliate with unions of their choice; however, the Government placed practical obstacles before groups wishing to organize. Most often, those seeking to organize were co-opted into existing party structures by means of pressure and incentives. The Union Organization of Small Farmers continued to be the only legal operational labor union. According to the International Trade Union Confederation, authorities continued to refuse to register the Equatorial Guinea Trade Union or recognize other existing unions. The law stipulates a union must have at least 50 members from a specific workplace to register; this rule effectively blocked union formation. Authorities refused to legalize the Independent Syndicated Services, a public sector union, despite its having met the requirements of the law.

Workers have the right to strike; however, they rarely did so, in part because they feared losing their jobs and possible harm to themselves or their families. On several occasions during the year, both local and foreign workers engaged in temporary protests or "go slows" (work slowdowns and planned absences) which were resolved peacefully by labor ministry officials through negotiations and fines on employers.

Unlike in previous years, there were no reports that security forces killed strikers. No action was taken against police responsible for the 2008 killing of two Chinese strikers.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct activities without interference, but the Government did not protect this right in practice.

The law provides for representatives of government, employers, and workers to meet biannually to review and set minimum wages; however, worker representation was limited. There were few reports of organized, collective bargaining by any

group; however, the Ministry of Labor sometimes mediated labor disputes. Dismissed workers, for example, could appeal to the ministry, first through their regional delegate; however, there was little trust in the fairness of the system. Citizens had a right to appeal labor ministry decisions to a special standing committee of the parliament established to hear citizen complaints regarding decisions by any government agency.

There is no law prohibiting antiunion discrimination, but there were no reports it occurred.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, children were subjected to forced labor. According to UN and other sources, there was no evidence of forced labor by adults. See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 14 from working and provides that persons found guilty of illegally forcing a minor to work may be punished with a fine of approximately 50,000 to 250,000 CFA francs (\$101 to \$505); however, child labor occurred. The law prohibits children from working as street vendors or car washers; however, children performed such activities. Children also worked as street vendors, in local markets, and in car washing and were involved in domestic servitude.

Law enforcement officials were often stationed in market places, where they enforced laws prohibiting minors from working there. Vendors who violated these laws could be forced to close down their stalls, heavily fined, or deported; however, no vendors were prosecuted during the year. The Government did not provide social services to children found working in markets. In general there was greater protection for local children focusing on concern that they be in school; foreign children, mostly street vendors, were treated like foreign adults.

The Ministry of Labor is responsible for enforcing child labor laws. Authorities were relatively effective in enforcing child labor laws, at least as far as Equatoguinean children were concerned.

*e. Acceptable Conditions of Work.*—Enforcement of labor laws and ratified international labor agreements was not effective, resulting in poor working conditions. While the Government paid more attention to such issues during the year, safety codes, for example, were not generally enforced. Most petroleum companies, on the other hand, exceeded minimum international safety standards.

In April 2009 the Government issued Public Decree 60/2009, which establishes a monthly minimum wage of 95,400 CFA francs (\$193) for all workers in the country, including farmers; however, the minimum wage did not provide a decent standard of living for a worker and family in Malabo or Bata. In the rest of the country, the minimum wage provided a minimally adequate income. Many formal-sector companies paid more than this, but many workers (e.g., farmers) were not covered under the minimum wage law. By law hydrocarbon industry workers received salaries many times higher than those in other sectors, creating disparities within society and fueling inflation for some goods and services. The Ministry of Labor is responsible for enforcing minimum wage rules.

The law prescribes a standard 35-hour workweek and a 48-hour weekly rest period; these requirements were generally observed in the formal economy. Exceptions were made for some jobs, such as those in offshore oil industry work. Premium pay for overtime was required, but the requirement was not always effectively enforced.

The law provides for protection of workers from occupational hazards, but the Government did not effectively enforce this provision. In 2009 the Government hired an additional 100 labor inspectors to oversee the industry. The law does not provide workers with the right to remove themselves from situations that endangered health or safety without jeopardizing their continued employment. The law does not provide for any exception for foreign or migrant workers.

---

## ERITREA

Eritrea is a one-party state that became independent in 1993 after its citizens voted for independence from Ethiopia, following 30 years of civil war. The People's Front for Democracy and Justice (PFDJ), previously known as the Eritrean People's Liberation Front, is the sole political party and has controlled the country since 1991. The country's president, Isaias Afwerki, who heads the PFDJ and the armed forces, dominated the country. The Government continued to postpone general elec-

tions which have not taken place since independence in 1993. The Government continued to use border disputes with Ethiopia and Djibouti as a pretext for curbing human right and civil liberties. Although civilian authorities generally maintained effective control of the security forces, consistent and systemic gross human rights violations persisted unabated at the Government's behest.

Human rights abuses included abridgement of citizens' right to change their government through a democratic process; unlawful killings by security forces; torture and beating of prisoners, sometimes resulting in death; abuse and torture of national service evaders; harsh and life-threatening prison conditions; arbitrary arrest and detention, including of national service evaders and their family members; executive interference in the judiciary and the use of a special court system to limit due process; and infringement of privacy rights. National service obligations are effectively open-ended although the Government does not acknowledge this circumstance. There is no due process and persons remain in jail for years. The Government severely restricted freedoms of speech, press, assembly, association, and religion. The Government also limited freedom of movement and travel for all citizens, foreign residents, the UN, humanitarian and development agencies; it harassed and tightly controlled the movements of foreign diplomats. Foreign diplomats are required to apply for travel permits in writing 10 days in advance, even for consular emergencies, and travel permit applications were often not answered or refused. Restrictions continued on the activities of national and international nongovernmental organizations (INGOs). Female genital mutilation (FGM), although prevalent in rural areas, declined significantly in urban areas, according to trusted sources. Societal abuse and discrimination against women, members of the Kunama ethnic group, gays and lesbians, members of certain religious groups, persons with disabilities, and persons with HIV/AIDS remained areas of concern. There were limitations on worker rights, and the Government was party to forced labor on its citizenry. Children were engaged in forced labor.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government continued to subject detainees to harsh and life threatening prison conditions, including torture, that resulted in deaths during the year. Additional deaths resulted from the Government's continued authorization of the use of lethal force against individuals resisting or attempting to flee military service or found in prohibited regions near the border or near mining camps.

Several persons detained for evading national service reportedly died after receiving harsh treatment by security forces. There were reports that individuals were severely beaten and killed during roundups of young men and women for national service. There was a pattern of mistreating and hazing conscripts, a practice that sometimes resulted in deaths. However, no official cases were available for citation. The Government continued the practice of summary executions and shooting of individuals on sight near mining camps and border regions for allegedly attempting to flee military service, interfering with mining activities, or attempting to leave the country without an exit visa.

During the year the UN Development Program (UNDP) sought, but did not receive, additional funding to continue its explosive ordinance disposal programs and mine risk education for school children and families in mine-impacted communities. The UNDP drew on its own funding to continue minimal programming in education and victims' assistance.

In June an opposition Web site reported that Eritrean military forces executed 12 persons as they were trying to cross the border to Sudan. The 12 individuals executed were from the village of Mai Temenay near Asmara.

In its May report, INGO Reporters Without Borders, reported that approximately 30 journalists are currently held in the Government's 314 prison camps and detention centers. At least four journalists died during the year as a result of medical neglect, food deprivation, and excessive heat; an unknown number of others have disappeared.

In April, according to an opposition Web site, 24 persons were executed in the gold mining areas of Hademdem and Fankon in the Gash-Barka region. The executions were in retaliation for resistance to an unwarranted round up conducted by the Government to forcefully conscript workers into the army.

In April, Eyob Bahta Habtemariam, a team leader at the Era-Ero prison, and formerly the Embatkala prison, fled the country. Habtemariam stated the Era-Ero prison housed 35 high-ranking government officials, journalists, and staff of international organizations including the G-15, a group of high-ranking political activists

who regularly pushed President Isaias for democratic reform during the country's formative years. Of this group of 35, 15 have died due to torture and medical neglect, food deprivation, and excessive heat in the Era-Ero or Embatkala prisons. Of the remaining 20 prison inmates of the group still alive at the Era-Ero prison, nine have reportedly become disabled physically or mentally. There were only 11 remaining inmates of this group of 35 considered still to be "aware of their situation" and thus kept in handcuffs and leg chains 24 hours a day. The 20 prison inmates still alive only received one meal a day, consisting of bread, lentils, and tea, and Habtemariam reported they were all emaciated. Among the dead were the one-time Eritrean vice-president, Mahmoud Sherifo; General Ogbe Abraha; and five journalists. Haile Woldetensae, the former foreign minister, was still alive but alleged to have been blinded.

Habtemariam reported the following deaths of political prisoners among the group of 35 high-ranking government officials and journalists.

In June 2009 Germano Nati, former administrator of Southern Red Sea Region, died of unknown causes.

In 2004 the former administrator of Sorona Subzone Tesfagiorgish and journalist Sied Abdelkadir committed suicide. Journalist Medhanie Haile died due to lack of medical treatment the same year.

In 2003 journalist Yosuf Mohamed Ali, Aster Fessehasion, and former minister Salih Kekiya, all died during a three day period as a consequence of excessive heat in prison.

In 2003 journalist Fessehaye Yohannes (Joshua) was found hanged in his cell after making several unsuccessful attempts to commit suicide. Minister Mahmoud Sherifo died due to lack of urgent medical treatment the same year.

In 2002 General Okbe Abraha attempted suicide. However, the attempt failed, and he received medical treatment for three months in Glass, a military hospital, west of Keren. However, his health condition further deteriorated, worsened by asthma, and he died after his return to Embatkala prison.

According to an August 2009 report from an opposition Web site, Berhanes Gebregzabhier, one of 11 members of the PFDJ National Assembly, who had been held in solitary confinement since 2001, was executed in 2002 based on the recommendation of Naizghi Kiflu, a former presidential advisor.

During the year there were credible reports that at least five prisoners detained because of their religious affiliation died due to lack of medical treatment. The Government did not investigate or prosecute any reports of security force abuse.

*b. Disappearance.*—Eritrean refugees and asylum seekers repatriated from other countries during the year reportedly disappeared and an unknown number of persons assumed to be in government detention have also disappeared. The Government does not provide information on disappearances, and does not regularly notify family members or respond to information requests regarding the status of persons in detention.

In February, according to an opposition Web site, 12 of 67 Eritreans deported from Libya disappeared. There were unconfirmed reports that nine of the deportees were detained incommunicado in Embatkala prison before its closure. Their names are: Zigta Tewelde, Asmelash Kidane, Captain Zeraburuk Tsehay, Second Lieutenant Zewde Teferi, Yohannes Tekle, Ghebrekidan Tesema, Tilinte Estifanos Halefom, Nebyat Tesfay, and Tilinte Tesfagabre Mengstu. Additional unconfirmed reports state that Habte Semere and Yonas Ghebremichael, who worked for the President's Office before they left Eritrea, are being detained incommunicado in Ghedem prison near Massawa.

During the year a number of imprisoned journalists disappeared, according to NGO Reporters Without Borders.

In January 2009 the Government of Egypt refouled several hundred Eritrean refugees and asylum seekers, all of whom were returned to their families, according to the Government. Nevertheless, there were numerous reports from family members of missing individuals, mostly young men and women who had not completed national service.

In 2008 approximately 1,200 Eritreans were repatriated from Egypt, many of whom remained missing at year's end. Similarly in 2008 German immigration authorities returned two Eritrean nationals, neither of whom had been seen since their arrival in Asmara.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law and unimplemented constitution prohibit torture. However, torture and beatings are institutionalized within prison and detention centers. There were credible reports that several military conscripts died following torture and beatings. Security forces tortured and beat army deserters, draft evaders, persons living near

mining camps, persons attempting to flee the country without travel documents, and members of certain religious groups. Examples of torture and mistreatment include: prolonged sun exposure in temperatures of up to 120 degrees Fahrenheit; the binding of hands, elbows, and feet for extended periods of time; forcing inmates to walk barefoot on sharp objects; overcrowded conditions; extreme temperature fluctuations caused by confinement in crowded and unventilated metal shipping containers in the desert; extreme temperatures and lack of sanitation resulting from detention in crowded cement-lined underground pits without ventilation or sanitation; suspension from trees with arms tied behind back, a technique known as “almaz” (diamond); and being placed face down with hands tied to feet outside in the desert, a technique known as the “helicopter,” while pouring sugar on detainees to attract biting insects.

The Government sanctioned these torture methods, and no known action was taken during the year to punish perpetrators of torture and abuse.

According to international NGO Human Rights Watch, Eritrean female refugees reported in 2009 that female conscripts in national service were often raped by their supervisors, and there is no information to indicate increased protection of female conscripts during the year. There were also reports that military officials tortured foreign fishermen captured in Eritrean waters.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and in some cases life threatening. Severe overcrowding was common. Some prisoners were shackled in unventilated holding cells for long periods of time in extreme heat, with outside temperatures reaching 120 degrees Fahrenheit, and died due to heat exhaustion in combination with other medical conditions. There were reports that prisoners were held in underground cells or in shipping containers with little or no ventilation in extreme temperatures. The shipping containers were reportedly not large enough to allow all of those incarcerated to lie down at the same time. Other prisoners were held in cement-lined underground bunkers with no ventilation. Up to 200 prisoners were held in each bunker, and there are reports that prisoners lost consciousness from the extreme heat while in detention.

The Government does not provide adequate provisions for basic and emergency medical care in prisons and detention centers, and detainees were known to have died due to lack of medical treatment during the year. Food provided was not adequate. Potable water was generally not available, and one detainee reported going without water for several days until providing money to purchase bottled water. In June and July 2009, a meningitis outbreak created by unsanitary conditions in Wi'a prison caused the death of approximately 50 Christian prisoners from unregistered denominations who were detained for practicing their religion. The Wi'a prison closed during the year and surviving prisoners were relocated to the Metier prison; others were taken to the May Idaga prison outside of Dekemhare.

There were numerous unofficial detention centers, most located in military camps and used as overflow detention centers following mass arrests and roundups. There were reports that detention center conditions for persons temporarily held for evading military service were also harsh and life threatening. During the year there were hundreds of such detainees. Draft evaders were reportedly sent to the Wi'a military camp where, typically, they were beaten. Some were held as long as two years before being reassigned to their units. At one detention facility outside Asmara, authorities continued to hold detainees in an underground hall with no access to light or ventilation and sometimes in very crowded conditions.

Use of psychological torture was common, according to former inmates. One common technique was for the interrogator to open and close the door of the cell constantly, as if the prisoner were going to be taken for interrogation where beatings are administered. Denial of food, medical treatment, and family access were also used to punish prisoners. Some prisoners were released after close friends or relatives offered their homes or other property as bond.

Deaths occurred in prisons and detention centers as a result of inadequate nutrition, disease, extreme temperature fluctuations, and denial of medical care. In August 2009 a meningitis outbreak at a prison in Massawa reportedly killed dozens of inmates.

The Government did not provide current number of prisoners. The Government did not investigate and monitor prison and detention center conditions. It was known that there are more than 300 prisons and detention centers, which were filled to capacity. Prisoners and detainees did not have reasonable access to visitors and were not always permitted religious observance. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities did not investigate credible allegations of inhumane conditions and document the results of such investigations in a publicly accessible manner.

Those imprisoned were often interrogated about religious affiliation and were asked to identify members of nonapproved religious groups, such as Jehovah's Witnesses.

During the year the largest prison in Asmara, called Track B, was closed, and its prisoners were transferred to Adi Abieto prison and other detention centers outside Asmara, making even indirect monitoring by the international community impossible. During the year the Government did not permit the International Committee of the Red Cross (ICRC) or any local human rights organizations to monitor prison conditions. Since the shutdown of the repatriation program during 2009, the Government also denied the ICRC access to Ethiopian prisoners of war detained in the country.

Ombudsmen cannot serve on behalf of prisoners to alleviate inhumane overcrowding. There are no provisions for addressing the status and circumstances of confinement of juvenile offenders, pretrial detention, or bail. Record keeping procedures are not transparent making it impossible to assure that prisoners do not serve beyond the maximum sentence for the charged offense, even if a specific charge is brought.

Although there was a juvenile detention center in Asmara, juveniles frequently were held with adults in prisons and detention centers. Juveniles as young as 15 years old were tried as adults. Juveniles were sometimes imprisoned with their mothers and other detainees and not in juvenile detention centers. Pretrial detainees were not always separated from convicted prisoners.

Authorities commonly moved prisoners to locations away from their families to make family visits impossible. In some circumstances, authorities permitted convicted criminals in prisons up to three visits per week by family members; however, this was only common for those who had relatives working within the Government. Persons detained, arrested, or convicted for reasons of national security or for evading national service were denied family visits.

*d. Arbitrary Arrest or Detention.*—The law and unimplemented constitution prohibit arbitrary arrest and detention; however, arbitrary arrest and detention remained chronic problems.

*Role of the Police and Security Apparatus.*—Police were officially responsible for maintaining internal security, and the army was responsible for external security; however, the Government called on the armed forces, the reserves, and demobilized soldiers to meet either domestic or external security requirements. Agents of the National Security Office, which reports to the Office of the President, were responsible for detaining persons suspected of threatening national security. The armed forces have the authority to arrest and detain civilians. Generally police did not have a role in cases involving national security, but they were heavily involved in rounding up individuals evading national service.

During the year the police, armed forces, and internal security arrested and detained persons without due process and often used violence. Police forcibly arrested individuals on the street who were unable to present identification documents. Those in the Government national service were required to present "movement papers" issued by their offices or departments authorizing their presence in a particular location. Those persons who did not present "movement papers" were arrested.

*Arrest Procedures and Treatment While in Detention.*—The law stipulates that detainees must be brought before a judge within 48 hours of arrest and may not be held more than 28 days without being charged with a crime. In practice authorities detained suspects for much longer periods without being brought before a judge, charged with a crime, or in some cases even understanding the reason for their detention. Some detainees, who were not given a right to due process, were still in prison after a decade, and others have died while in detention. The Government has argued that those detained without charge can be assumed to be charged under national security grounds.

There were credible repeated reports of the following detention practices and outcomes: release after providing proof of completion of national service requirements, release after being threatened with death for continued religious activity, release after being threatened with death for continued homosexuality activity, release after recanting of religious faith or declaring allegiance to the Eritrean Orthodox Church, release after paying a fine equivalent of hundreds or thousands of dollars or having another Eritrean put up their house as collateral, release after unpaid forced labor such as picking vegetables for several months, release just before imminent death caused by torture during detention, unconditional release, indefinite detention, inadequate provision of food, torture and confinement in crowded unsanitary conditions subject to extreme temperatures (see section 1.c.).

The law stipulates that unless there is a “crime in progress,” police must conduct an investigation and obtain a warrant prior to making an arrest. In cases involving national security, this process may be waived. In practice very few individuals were arrested with a warrant. Authorities did not promptly inform detainees of charges against them and often changed the charges during detention. Detainees in prisons often did not have access to counsel or appear before a judge.

Incommunicado detention was widespread, although detainees in police stations occasionally had access to legal representation and family members. Authorities provided indigent detainees with counsel on an irregular basis. There was a functioning bail system, except for persons charged with national security crimes or crimes that could carry the death penalty.

Security force personnel detained individuals for evading national service and for other unspecified national security charges. Numerous detainees were arrested, even if they had valid papers showing that they had completed or were exempt from national service. In practice most detainees were informally charged with issues relating to national service, effectively allowing authorities to incarcerate citizens indefinitely.

Security forces also continued to detain and arrest the parents and spouses of individuals who evaded national service or fled the country (see section 1.f.).

There were reports of mass arrests known as “round-ups,” in which citizens were held without charge indefinitely while authorities sorted out their military service paperwork in search of deserters and questioned them about their religious affiliation. These round-ups tended to coincide with Liberation Day (May 24) ceremonies, and harvest season when many of those detained were used as free manual labor and are forced to pick vegetables for several months on government controlled farms.

The Government does not recognize dual nationality and, during the year, security forces arbitrarily arrested citizens holding other nationalities on national security charges. There were reports that plainclothes agents of the National Security Office entered homes without warrants and arrested occupants.

Numerous reports also indicated that persons with connections to high-level officials instigated the arrest of individuals with whom they had personal vendettas. In many instances, these individuals were never formally charged.

The Government continued to arbitrarily arrest members of nonregistered religious groups and persons who criticized the Government (see sections 2.a. and 2.c.). There were reports that the Government continued to hold without charge and sometimes torture 2,000 to 3,000 members of unregistered religious groups and numerous members of the Eritrean Liberation Front, an armed opposition group that fought against Ethiopia during the struggle for independence.

At least four Eritrean diplomats arrested in previous years, including former ambassador to China Ermias Debassai Papayo, remained in detention, as did Aster Yohannes, wife of former foreign minister Petros Solomon. Hundreds of staff of embassies and international organizations have been temporarily detained and interrogated since 2001, and several remained in detention at year’s end.

The Government held numerous other detainees without charge or due process, including an unknown number of NGO employees detained in a 2008 round-up (see section 5). The detainees included an unknown number of persons suspected of antigovernment speech or of association with the 11 former PFDJ members arrested in 2001. Suspected Islamic radicals or suspected terrorists also remained in detention without charge. Some had been detained for more than 10 years. These detainees reportedly did not have access to legal counsel and were not brought before a judge. During the year the deposed Orthodox patriarch remained under house arrest (see section 2.c.). There were also widespread reports that many detainees were released without going to trial.

*e. Denial of Fair Public Trial.*—The law and unimplemented constitution provide for an independent judiciary; however, in practice the judiciary was impotent. Judicial corruption remained a problem. The judicial process was influenced by patronage of former fighters who later became judges. Executive control of the judiciary continued; the Office of the President served as a clearinghouse for citizens’ petitions to the courts or acted for the courts as arbitrators or facilitators in civil matters. The judiciary suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that limited the ability of the accused persons to a speedy and fair trial. Public trials were held for some detainees facing criminal charges. However, no cases involving individuals detained for national security or political reasons were brought to trial, and the fate of these detainees remains unknown. The drafting into national service of many civilian court administrators, defendants, judges, lawyers, and others involved in the legal system continued to have a significant negative effect on the judiciary. While not prohibited, the Government has in

practice not issued licenses to lawyers seeking to enter private practice for the past four years.

The text of the constitution was completed and ratified by the National Assembly in 1997. It contains provisions intended to promote fair trials; however, the constitution remains unimplemented.

The judicial system consists of civil courts and "special courts." The civil court system includes community courts, regional courts, and the High Court, which also serves as an appellate court. Minor infractions involving sums of less than approximately 110,000 nakfa (\$7,300) are brought to community courts. The regional court is generally the court of the first instance and has civil, criminal, and Sharia (Islamic law) benches. The Sharia bench adjudicates family law for Muslims only. Decisions rendered by any of the benches at the regional court can be appealed to the High Court. The High Court is primarily an appellate court but also serves as the court of first instance for cases involving murder, rape, and other serious felonies. The High Court has civil, criminal, and Sharia benches. There also is a five-judge bench that hears final appeals in lieu of a Supreme Court.

The executive-controlled special courts issue directives to other courts regarding administrative matters, although their domain was supposed to be restricted to criminal cases involving capital offenses, theft, embezzlement, and corruption. The Office of the Attorney General decides which cases are to be tried by a special court. No lawyers practice in the special courts. The judges serve as the prosecutors and may request that individuals involved in the cases present their positions. The special courts, which do not permit defense counsel or the right of appeal, allowed the executive branch to mete out punishment without regard for due process. Most trials in special courts were not open to the public.

Many civilian and special court judges are former senior military officers with no formal legal training. They generally based their decisions on "conscience" without reference to the law. There was no limitation on punishment, although the special courts were not known to have issued capital punishment sentences during the year. The attorney general allowed special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy. In rare instances, appeals made to the Office of the President reportedly resulted in special courts rehearing certain cases.

Most citizens' only contact with the legal system was with the traditional community courts. In these courts, judges heard civil cases, while magistrates versed in criminal law heard criminal cases. Customary tribunals were sometimes used to adjudicate local civil and criminal cases. The Ministry of Justice offered training in alternative dispute resolution to handle some civil and criminal cases.

The military court has jurisdiction over penal cases brought against members of the armed forces in addition to crimes committed by and against members of the armed forces. Presiding judges are senior military officers, and the court has higher and lower levels, depending on the seriousness of the offense. With approximately 200,000 enlisted personnel in the armed forces, the military courts have a significant and unregulated importance in the country.

Sharia for family and succession cases may be applied when both litigants in civil cases are Muslims. The Government allowed Muslim courts to apply Sharia law, but not in any cases where physical punishment was envisioned.

*Trial Procedures.*—The law and unimplemented constitution provide specific rights to defendants in the regular court system. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer, and government legal aid was limited to defendants accused of serious crimes punishable by more than 10 years in prison. Only in the High Court did defendants have the right to confront and question witnesses, present their own witnesses, present evidence, gain access to government-held evidence, appeal a decision, and enjoy the presumption of innocence; these rights were upheld in practice. However, the High Court adjudicated very few cases, trials were generally closed to the public, and the attorney general allowed High Court cases to be retried in special courts where defendants have none of the above rights in practice.

Rural courts followed customary law rather than constitutional law and were headed by rural elders or elected officials. Smaller cases in rural areas were encouraged to be reconciled outside the court system, while more substantial cases were reserved for the courts. These procedures did not apply in the special courts. Trials in rural courts were open to the public but were not heard by a jury; they were heard by a panel of judges.

*Political Prisoners and Detainees.*—Persons are routinely arrested on political grounds, and there was lack of due process and lack of transparency surrounding

the penal system. The most famous politically motivated mass arrest occurred when several hundred individuals were detained in 2001. Many were perceived to have ties to political dissidents or were believed to have spoken against government actions. These detainees have not been tried and did not have access to legal counsel. Several have been tortured to death and others are still in Era-Ero prison. The ICRC was not authorized to visit these detainees (see section 1.a.).

*Civil Judicial Procedures and Remedies.*—There are no civil judicial procedures for individuals claiming human rights violations by the Government. For the majority of citizens, there were few remedies available for enforcing domestic court orders; however, persons affiliated with the executive branch, former fighters, and persons with wealth could use their influence with the court to secure civil remedies before the law.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law and unimplemented constitution prohibit arbitrary interference with privacy, family, home, or correspondence; however, the Government did not respect these rights in practice.

The Government deployed military and police personnel throughout the country, using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders. Security forces continued to detain and arrest parents and other family members of individuals who evaded national service duties or fled the country. There were reports that such parents were either fined 50,000 nakfa (\$3,333) or forced to surrender their children to the Government. Government officials entered households and confiscated property and livestock of draft evaders. There is a sophisticated network of security officials who accept bribes to aid draft evaders in crossing the border.

There were reports of security forces arresting persons whose foreign family members did not pay their extraterritorial income tax of 2 percent of foreign earned income.

There were reports that security forces targeted gatherings of unregistered religious groups, regularly searched their homes, and detained their members. There were also reports that the Government sometimes seized the property of registered and unregistered religious groups (see section 2.c.).

The Government monitored mail, e-mail, text messages, and telephone calls without obtaining warrants as required by law. Government informers were believed to be present throughout the country. Many citizens believed the Government particularly monitored cell phones; the Government requires a permit for the use of SIM cards, necessary for operating and storing information in mobile phones. The Government allowed only one SIM card per person, although this rule is unevenly applied, and there is a black market for the sharing of SIM cards. The Government did not allow citizens in military service to have SIM cards. There were reports of the Government arresting those who rented their cell phones to others or used a cell phone while in military service.

There were multiple reports that military and government officials seized residences and businesses belonging to private citizens and religious organizations and subsequently housed the families of senior military officers or government officials in the properties, used them for government or military functions, or reassigned ownership to government and military officials. There were also reports that military officials used soldiers in national service to perform free labor such as construction of houses and crop harvesting.

In 2008 the Government demanded that departing NGOs transfer financial and reporting documents to government officials. While membership in the PFDJ, the only sanctioned political party, was not mandatory for all citizens, the Government coerced membership for certain categories of individuals, particularly those occupying government positions or assigned through national service to serve in government institutions. All citizens were forced to attend PFDJ indoctrination meetings irrespective of membership, and there were reports of threats to withhold the ration cards of those who did not attend. There were reports that similar meetings were mandatory for Eritrean communities abroad, and the names of those not attending were reported to government officials. Reportedly citizens who did not attend were harassed. Officials also collected biographical and contact information on Eritrean residents living abroad.

It is reported that Eritrean military officials or proxies use access to persons in refugee communities to threaten them against becoming politically active in Eritrean politics in neighboring countries such as Kenya and Sudan, without permission of the respective governments.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law and unimplemented constitution provide for freedom of speech and of the press; however, the Government severely restricted these rights in practice. Citizens did not have the right to criticize their government in public or in private, and some who did were arrested or detained. The private press remained banned, and most independent journalists remained in detention or had fled the country during the year, which effectively prevented any public and media criticism of the Government. All journalists practiced self-censorship due to fear of government reprisal. The Government actively monitored the Eritrean Diaspora within the country and abroad via agents.

The Government attempted to impede criticism and took reprisals against persons who criticized government officials or policies. Public criticism about the Government's inability to combat poverty and starvation was prohibited. Gatherings were considered illegal without prior approval, and the Government routinely monitored religious gatherings. Most other gatherings took place through government-run organizations and, thereby, were implicitly monitored by government officials present.

The Government also continued to forbid free speech. In a February 2009 interview with news agency Al Jazeera, President Isaias stated that he would not allow independent media to operate in Eritrea. In an interview in October with a Qatari reporter for Al Watan newspaper, the president did not indicate any change in stance with regard to issues related to press freedom.

The Government controlled all media, which included three newspapers, three radio stations, and two television stations. The law does not allow private ownership of broadcast or other media. The Government banned the import of foreign publications without prior approval; however, satellite dishes were widespread and allowed by the Government, and subscriptions to international media were allowed. Those who could afford to purchase satellite dishes have access to uncensored international news including the BBC, CNN, and Al Jazeera. The Government mandated approval of publications distributed by religious or international organizations before their release, and the Government continued to restrict the right of religious media to comment on politics or government policies. The press law forbids reprinting of articles from banned publications.

The only foreign news organization operating, the VOA, has only one heavily censored stringer who does not permanently reside in the country. The last Reuters correspondent left the country in 2009. In 2008 the Government created administrative obstacles for the Agence-France Presse (AFP) international journalist resulting in his forced departure. AFP has not been allowed to return to the country. President Isaias occasionally conducted interviews with foreign news agencies invited specifically for the interview.

Dawit Isaak, a Swedish-Eritrean reporter, has been held by the Government for nearly nine years without charge. He was released for medical treatment in 2005, detained again a few days later, and remained in detention at year's end. The Swedish Embassy has not been granted consular access. In a May 29 televised interview, the president stated he had no intention of releasing the journalist or providing him with a trial. At year's end, the Government had not responded to the Swedish government's calls for the journalist's release. In August Yemane Ghebreab, head of Political Affairs for the PFDJ, traveled to Sweden and was questioned about the imprisonment of Dawit Isaak. Yemane replied only that Dawit was being held for "very serious crimes regarding Eritrea's national security and survival as an independent state," without providing any evidence or allowing for the possibility for due process. Dawit was believed to be in poor health.

After they fled the country during the 2001 crackdown, the journalists founded several radio stations from exile. For example, Radio Assenna and Radio Erena were founded in Europe by former journalists in Eritrea including Amanuel Ghirmai, Biniam Simon, and Emanuel Iyassu.

In March an opposition Web site reported that Said Abdulhai, a well-known Eritrean journalist and official, was arrested for unknown reasons. Said Abdulhai was formerly head of the press department of the Ministry of Information and responsible for the state newspaper. The Eritrean news agency, which is the main source for local news in the country, was also run by him.

According to a February report by Reporters Without Borders, Amanuel Asrat, the former editor of Zemen (a private newspaper no longer in existence), was arrested in 2001 and held in Era-Ero prison camp (cell No. 25) along with freelance journalist Seyoum Tsehaye (cell No. 10) and Dawit Habtemichael, deputy editor and co-founder of Meqaleh (cell No. 12). Although libel or national security laws were not used to suppress criticism directly, citizens remained fearful of speaking out against

the Government or its policies. The Government repeatedly asserted that national security concerns were at the root of suppressing free speech and criticism.

In February 2009 the Government detained the entire staff of Asmara-based Radio Bana according to a February report by Reporters Without Borders. The group of detained journalists included Yirgalem Fisseha Mebrahtu, who was one of the few women working as a journalist in Eritrea; Bereket Misghina; and Meles Negusse Kifu. The whereabouts of these prisoners was unknown; at year's end, they were assumed to remain in detention.

*Internet Freedom.*—There were no official restrictions on the use of the Internet; however, the Government monitored Internet communications.

The Government monitored e-mail without obtaining warrants as required by law (see section 2.a.). All Internet service users were required to use one of the three Internet service providers owned by the Government either directly or through high-ranking PFDJ party members. Those who want a larger bandwidth, such as some international mining corporations, pay exorbitant prices far beyond the reach of the local population for DSL speed Internet connections. In rural areas of the country, there was no access to the Internet.

The Government also discouraged citizens from viewing Web sites known to be antigovernment by continuously labeling the sites and their developers as saboteurs of the Government. Many citizens expressed fear of arrest if the Government caught them viewing such sites. Despite the requirement for journalists to receive written permission to take photographs, gatherings are regularly photographed by government officials for intimidation and as possible grounds for future detention.

According to International Telecommunication Union statistics for 2009, approximately 4 percent of the country's inhabitants used the Internet. While monitored Internet cafes with extremely limited bandwidth are available in Asmara and other major cities, the vast majority of Eritreans do not have access to the Internet.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom, including restricting or censoring course content and curriculum and censoring or sanctioning academic personnel for their teachings, writing and research. Academic travel and contact with other academics at home and abroad was restricted, intimidating academics into practicing self-censorship, and influencing academic appointments based on political affiliation.

The Government practices widespread and systematic discrimination in the education system. In order to enroll students in more selective elementary and primary schools, parents often paid bribes or provided favors to local authorities or staff at the school.

During the year there have been reports that schools have separated students whose families include liberation "fighters" and students whose families do not include "fighters." Students whose families include liberation fighters are sometimes only required to serve five months or less in the military and are often assigned to prized places in technical colleges, freeing them of indefinite military service. Students whose families do not include a liberation fighter often serve indefinite military service with no opportunity for higher education.

In 2002 the Government reorganized the University of Asmara, which effectively shut the traditional undergraduate level programs nationwide. As a result, prospective students were not allowed to enroll in the university and were directed instead by the Government to attend technical institutes. With few exceptions, students must finish their last high school year at the Sawa military and educational camp and were not permitted to choose their next course of study, instead being assigned to specific vocational programs based on their performance on the matriculation exam. Only those students who completed military training at Sawa or received a medical waiver were allowed to take the exam.

The Government denied exit visas to many students who wanted to study abroad. University academics who wished to travel abroad for further study or training were required to seek permission in advance from the university president and the Government. Many students choose to risk their lives by illegally crossing the border into Sudan or Ethiopia to attend university abroad eventually.

During the year the Government censored, canceled, or closed films, art exhibits, and other cultural activities. For example, the Government routinely monitored libraries and cultural centers maintained by foreign embassies, threatening censure of material and, in some instances, intimidating and harassing employees and attendees.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Peaceful Assembly.*—The law and unimplemented constitution provide for freedom of assembly and association; however, the Government did not permit either. For public gatherings,

the Government required those assembling to obtain a permit, although this requirement was enforced sporadically.

During the year security forces disrupted public meetings, religious gatherings, and cultural gatherings. Security forces typically took photographs and recorded the names of participants and interrogated participants upon arrival and departure.

*Freedom of Association.*—The law and unimplemented constitution provide for freedom of association; however, the Government did not respect these rights.

The Government did not allow the formation of any political parties other than the PFDJ. It also prohibited the formation of any associations or private organizations (see section 3).

*c. Freedom of Religion.*—For a complete description of the religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law and unimplemented constitution provide for freedom of movement, foreign travel, emigration, and repatriation; however, the Government restricted all of these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in assisting refugees who were not from Ethiopia. The Government also cooperated in part with the UNHCR to provide protection and assistance to some refugees. The Government's Office of Refugee Affairs managed the refugee camps, providing hospitals, schools, and other resources. The Government did not recognize Ethiopians as refugees and did not cooperate with the UNHCR on their behalf.

Citizens required government permission for most travel within the country and to change their places of residence. The Government severely restricts travel to the border regions and does not even offer bus services to towns near the border. The Government continually modified its requirements to obtain passports and exit visas, sometimes suspending passport or exit visa services without prior warning. During the year the Government introduced a new, machine-readable passport at a cost of 4,000 nakfa (\$267) valid for two years. It costs a citizen in national service approximately 40 percent of his gross yearly salary just to maintain a valid passport. The prohibitive cost of the passport deters many citizens from foreign travel.

Citizens participating in national service were often denied internal travel permits, passports, and exit visas. Many persons who previously were issued passports were not allowed to renew them, nor were they granted exit visas. Military police periodically set up surprise checkpoints in Asmara and on roads between cities to find draft evaders and deserters. Police also stopped persons on the street and detained those who were unable to present identification documents or movement papers showing they had permission to be in that area.

Citizens and some foreign nationals were required to obtain exit visas to depart the country. Persons routinely denied exit visas included men under the age of 54, regardless of whether they had completed national service; women under the age of 47; members of Jehovah's Witnesses and unregistered religious groups; persons who had not completed national service; and other persons out of favor with, or seen as critical of, the Government. In 2006 the Government began refusing to issue exit visas to children 11 years old and older. During the year some children as young as five years of age were denied exit visas either on the grounds that they were approaching the age of eligibility for national service or because their foreign-based parents had not paid the 2 percent income tax required of all citizens residing abroad. The Government did not in general grant exit visas to entire families or the male and female parents of children simultaneously in order to prevent families from fleeing the country. Some citizens were given exit visas only after posting bonds of approximately 150,000 nakfa (\$10,000). Exit visa policies are frequently adjusted in nontransparent ways to specifically benefit the relatives of high-ranking government officials, such as the unannounced posting of public notices in locations that the public cannot access.

Travel restrictions imposed in 2006 on noncitizens remained in effect. All diplomats, humanitarian organizations, UN staff, and foreign tourists were required to obtain advance permission from the Government to leave Asmara. Travel restrictions were enforced at military checkpoints. Securing travel permission was not a transparent process. While some foreign nationals obtained permission to travel to certain locations, the Government refused to issue travel permits to others traveling to the same place. The Government often failed to respond to requests for travel authorization.

The Government prevented NGO travel by restricting fuel supplies and failing to respond to requests for travel permits (see section 5).

The law has no provisions concerning exile, and there is no confirmed report of the Government employing exile during the year.

The Government does not recognize dual citizenship; therefore, all persons of Eritrean descent are considered citizens. In general citizens had the right to return. However, citizens residing abroad had to show proof that they paid the 2 percent tax on foreign earned income to be eligible for some government services, including exit visas upon their departure from the country. Applications to return to the country filed by citizens living abroad were considered on a case-by-case basis if the applicant had broken the law, contracted a serious contagious disease, or was declared ineligible for political asylum by other governments. Citizens of foreign countries were regularly detained and harassed by government officials.

In August 2009 the Government halted its repatriation program with the ICRC, preventing the repatriation of thousands of Ethiopians.

*Internally Displaced Persons (IDPs).*—During 2008 almost all of the internally displaced persons (IDPs) from the conflict with Ethiopia were permanently resettled, although hundreds of IDP families remained in the Gash Baraka region. The Government allowed UN organizations and the ICRC to provide assistance to former IDPs.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and is not a party to the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. As a result, the Government cannot provide legal refugee or asylum status. However, in practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year the Government provided temporary protection to approximately 95 persons from Sudan, 4,500 persons from Somalia, and 73 persons from Ethiopia on a prima facie basis. Reports indicated that the Government provided resources to Ethiopian refugees only if the refugees joined Ethiopian opposition groups. Ethiopian refugees who did not join opposition groups were harassed by government officials.

The Government required noncitizens to pay an annual fee for a residency card; there was no discrimination regarding nationality in terms of protection of refugees, with the exception of Ethiopians. The fee was 500 nakfa (\$34); the card was used to demonstrate that a foreigner was not indigent. If the foreigner could not pay the fee, he was first referred to the ICRC for repatriation. If he refused repatriation, he was incarcerated for 60 days, at which point the cycle began again.

The Government systematically rounded up Ethiopians each year around the country's Liberation Day (May 24). The Ethiopians were held in a camp until authorities verified that they were not indigent, or paid a fine.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law and unimplemented constitution provide citizens with the right to change their government peacefully; however, citizens were not allowed to exercise this right in practice.

*Elections and Political Participation.*—The Government came to power in a 1993 popular referendum in which voters chose to have an independent country managed by a transitional government; however, the transitional government did not permit the formation of a democratic system. The Government twice scheduled elections in accordance with the constitution but cancelled them without explanation. An official declaration in 2003 claimed that, "in accordance with the prevailing wish of the people, it is not the time to establish political parties, and discussion of the establishment has been postponed." Government officials also stated that implementation of the constitution was not possible until the border demarcation with Ethiopia was finalized. In 2008 the president claimed in an al-Jazeera interview that elections might not take place for another 30 or 40 years. The country is a one-party state. Power rested with the PFDJ and its institutions. At times the Government coerced membership in the PFDJ.

Although no political parties operated in the country, citizens living abroad established several political parties and even a shadow government in Ethiopia. During the year the Government continued to label individuals as traitors, rapists, pedophiles, and traffickers if they created or participated in the political parties other than the PFDJ.

Women held four nominal ministerial positions in the Government: justice, labor and human welfare, tourism, and health. Women also served in other government positions, such as mayors and regional administrators.

A few members of ethnic minorities were on the PFDJ's Executive Council or served on the Central Council. Some senior government and party officials were members of minority groups such as the Tigre.

*Section 4. Official Corruption and Government Transparency*

During the year there have been reports that citizens seeking executive, legislative, and or judicial services must pay a "gift" or bribe through a system of patronage and cronyism to access services. The law does not provide criminal penalties for official corruption. However, the Government arrested individuals it unofficially charged with corruption based on political motivations. Those arrested under these charges were never tried in court.

There were reports of petty corruption within the executive branch, largely based on family connections. Judicial corruption was also a problem, and illegal acts such as property theft were not prosecuted when carried out by certain armed forces officials or former fighters from the independence struggle who are in favor with the Government. There were allegations of corruption among armed forces leaders involving illicit trade, the appropriation of houses, and the black market sale of goods such as diesel fuel and cement. Corruption was extensive in the passport office, and individuals requesting exit visas or passports often had to pay bribes.

Police, who often were conscripted, were paid 15 nakfa (approximately one dollar per day) and corruption was a problem. During the year there were reports of police and other security forces committing crimes to supplement their income, including breaking into homes to confiscate jewelry, money, and food. Police typically used their influence as government officials to assist friends and family, such as in facilitating family members' release from prison. There were reports that police demanded bribes to release detainees and that military forces accepted money to smuggle citizens from the country. There were no mechanisms to address allegations of official abuse, and impunity was a problem.

Public officials were not subject to financial disclosure laws, and there was no government agency responsible for combating government corruption. Corruption was extensive for government services involving identification and travel documents.

During the year the Government seized successful private companies and transferred them to the PFDJ or to the Government. Individuals were not compensated for these seizures. Unlike the previous year, the Government did not seize crops and other foodstuffs from individuals and transfer them to the ruling party. The Government provided privileges to former liberation "fighters" and their relatives by granting them access to business opportunities, trade imports, education privileges, and property expropriated from "nonfighters."

Although the law and unimplemented constitution provide for public access to government information, the Government did not provide information to either citizens or noncitizens.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

No domestic human rights groups and only six international humanitarian NGOs (Oxfam, Lutheran World Federation, Irish Self-Help, Gruppo Missione Asmara of Italy, Refugee Trust International, and Norwegian Church Aid) operated in the country; the Government interfered with and restricted their work. Catholic Relief Services closed during the year due to government restrictions on international staff obtaining visas and other restrictions on travel and activities.

The Government allowed two ruling party-aligned domestic rights NGOs, Toker International and Vision Eritrea, to operate. All NGOs were required to register with the Ministry of Labor and Human Welfare, but international NGOs were required to maintain 30 million nakfa (two million dollars) in a government controlled bank.

In previous years, the Government permitted only the ICRC to operate effectively, although it limited ICRC operations to repatriation, providing shelter to families displaced by the conflict with Ethiopia, visiting prisons and detention centers where Ethiopians were held, and providing assistance to IDPs.

There were no developments on the dozens of NGO employees seized and detained by the Government during 2008 raids on NGO compounds; they remained in detention during the year.

During the year regular fuel shortages caused by government rationing of fuel, coupled with limitations on freedom of movement, prevented travel by NGOs. In 2008 the Government restricted diesel fuel supplies for international NGOs, UN agencies, and the ICRC. These organizations were able to purchase unrationed gasoline at the market price. However, these restrictions made it increasingly difficult for NGOs, the UN, and the ICRC to visit project sites, implement new projects, or

carry out resettlements. At year's end, the NGOs continued to be denied rationed fuel.

The Government did not permit humanitarian food distribution by NGOs or by the World Food Program (WFP), although it allowed UNICEF to continue its supplemental feeding programs under the supervision of the Ministry of Health. By requiring NGOs and UN organizations to obtain permission to travel outside the capital, the Government effectively controlled access by relief organizations to the rural areas. UNICEF continued to support school feeding programs under the supervision of the Ministry of Health. The WFP maintained an office but did not have any programs operating in country. Several UN organizations and NGOs cited high levels of malnutrition as a concern which could not be adequately addressed with the current limited feeding programs.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law and unimplemented constitution prohibit discrimination against women, persons with disabilities, and discrimination based on race, language, and social status, but the Government did not enforce these provisions.

*Women.*—Rape is a crime punishable by up to 10 years imprisonment. Gang rape, rape of a minor, or an invalid is punishable by up to 15 years in prison. Sexual assault is punishable by six months to eight years in prison. Spousal rape is not categorically outlawed. No information was available on the prevalence of rape. Authorities often responded to reports of rape by encouraging the perpetrator to marry the victim. Allegations of women being raped while attending mandatory military and educational training at the Sawa camp were common.

Violence against women occurred and was pervasive in rural areas. Domestic violence is a crime; however, domestic violence cases were rarely brought to trial, and there were no legal penalties enshrined into law. Women seldom openly discussed domestic violence because of societal pressures. Such incidents were more commonly addressed, if at all, within families or by clergy. The authorities' response to domestic violence was hindered by a lack of trained personnel, inadequate funding, and unsupportive societal attitudes.

Sexual harassment is illegal; however, cultural norms prevented women from reporting such incidents, and no one was charged or prosecuted for sexual harassment.

Couples and individuals maintained the basic right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence.

Women have a legal right to equal educational opportunities, equal pay for equal work, and equal property rights; however, in practice men retained privileged access to education, employment, and control of economic resources, particularly in rural areas. Women generally did not enjoy a social status equal to men.

The law requires that all Eritreans participate in national service beginning at the age of 18. In practice, however, some Eritreans are only 17 years old when they go to Sawa where they have six months of military training in addition to their normal grade 12 academic year. The law requires that women, starting from grade 12, participate in national service. During the year the Government continued efforts to detain female draft evaders and deserters. According to reports, some women drafted for national service were subjected to sexual harassment and abuse.

The Ministry of Labor and Human Welfare and Ministry of Health were the primary government offices responsible for ensuring legal rights of women along with the quasi-governmental National Union of Eritrean Women (NUEW). Economic discrimination against women was not a problem, despite the social discrepancies.

*Children.*—Citizenship was derived from at least one parent being an Eritrean citizen. Persons born abroad to at least one Eritrean parent are considered citizens. There were instances of persons being born to Eritrean parents in country but not being able to obtain national identity cards and government services due to government discrimination. For example, members of certain religious groups were unable to obtain Eritrean identity cards for government services and as evidence of their citizenship due to their religious beliefs.

Education through grade seven is compulsory and tuition is free; however, students were responsible for uniforms, supplies, and transportation, which were prohibitively expensive for many families. Education above grade seven required a nominal fee and was not compulsory. There was a shortage of schools and teachers at all levels, remedied in part by holding morning and afternoon shifts at schools. In rural areas, young girls usually left school early to work at home.

The Government required all students who reached the final year of secondary school to attend grade 12 at the Sawa military and educational camp in the western section of the country. Students who did not attend this final year did not graduate

and could not take examinations that determined eligibility for advanced education. The remote location of this military boarding school, security concerns, fear of abuse, and societal attitudes reportedly resulted in many female students not enrolling for their final year and attempting to leave the country. However, women could earn an alternative secondary school certificate by attending night school after completing national service. Many students elected to repeat grades or dropped out of high school after the 11th grade to avoid forced conscription into the Sawa military education. There were reports of discrimination between students whose parents were liberation fighters and students whose parents were not fighters in the form of better living accommodations, shorter terms of national service, more frequent approvals for temporary leave from military training, and greater opportunities for study.

There are no laws against child abuse and no government programs to combat the problem. Physical punishment was widespread and socially accepted.

According to reliable sources, the practice of FGM has been largely eliminated in urban areas through the efforts of government educational campaigns to discourage its practice, but FGM continued in remote villages and among nomadic populations. The Government did not release official figures estimating the current rate of FGM, but before recent campaigns largely eliminated FGM in urban areas, international organizations reported that 95 percent of girls had undergone FGM, and these figures are likely still accurate in rural regions with limited government interaction. In the lowlands, infibulation—the most severe form of FGM—was practiced. In 2007 the Government issued a proclamation declaring FGM a crime and prohibited its practice. The Government and other organizations, including the NUEW and the National Union of Eritrean Youth and Students, sponsored a variety of education programs during the year that discouraged the practice.

The legal minimum age for marriage for both men and women is 18 years old, although religious entities may bless marriages at younger ages. UNICEF reported in 2009 that 46 percent of girls were married before 18 years of age in 2009.

There were no confirmed instances of children engaged in prostitution for survival with or without third party involvement, but there are several known locations in the capital of Asmara where prostitution takes place. The law criminalizes child prostitution, pornography, and sexual exploitation; however, there were reports that it increasingly occurred during the year as economic conditions worsened.

All students spend their final year of high school at the Sawa military and educational camp in Sawa. Attendance at Sawa was compulsory, and those who did not attend remain at risk of arrest. Students at Sawa were typically 18 years old or older, although a fair percentage were as young as 16 years old. The initial three months of school were spent undergoing military training. Students who received poor grades in high school had, in the past, been sent to the Wi'a Military Camp in lieu of being allowed to complete the academic year.

The law prohibits the recruitment of children under the age of 18 years into the armed forces; however, in practice children under the age of 18 were conscripted by their forced attendance at Sawa. It was not known if rebel groups within the country recruited soldiers under the age of 18.

During the year humanitarian groups and interlocutors anecdotally noted an increase from previous years in the number of street children due in part to an increase in economic hardship. UNICEF funded programs for street children; however, the increase in the number of street children outstripped program's ability to provide services.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>

*Anti-Semitism.*—There are fewer than 10 Jews in the country, and the Government allows for the maintenance of a synagogue in Asmara. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law and unimplemented constitution prohibit discrimination against persons with disabilities in employment, education, or in the provision of other state services. Unlike previous years, there were some reports of discrimination against persons with disabilities, especially in rural areas. Schools involved with the education of persons with disabilities reported that job discrimination was common. The Government dedicated substantial resources to support and train the thousands of men and women with physical disabilities that resulted from the war for independence and the conflict with Ethiopia. There are no laws man-

dating access for persons with disabilities to public thoroughfares or public or private buildings, but many newly constructed buildings provided such access. The Ministry of Labor and Human Welfare was responsible for the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups residing primarily in the western sector of the country. Societal abuse of Ethiopians occurred and was noticeable during the yearly roundups that occur just before Liberation Day (May 24). Ethiopians were arbitrarily arrested and asked to pay fines to be released. Requests from citizens in rural areas (where ethnic minorities are concentrated) for basic services, such as an adequate number of schools, were routinely ignored by the Government.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexuality is illegal, and individuals continue to be prosecuted under article 600 of the penal code. During the year there were unconfirmed reports that the Government carried out periodic roundups of individuals considered gay and lesbian, and gays and lesbian faced severe societal discrimination. The Government accused foreign governments of promoting the practice to undermine the Government. There were uncorroborated reports that known gays and lesbians in the armed forces were subjected to severe abuse. There were no known lesbian, gay, bisexual, or transgender organizations in the country.

*Other Societal Violence or Discrimination.*—There was no societal violence or discrimination based on persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the legal right to form and join unions to protect their interests; however, some government policies restricted free association or prevented the formation of some unions, including within the civil service, armed forces, police, and other organizations providing essential services. The Government ran all unions, including the Teacher's Union, Women's Union, Youth's Union, and Worker's Union. Membership in these unions was required as a precondition to working in their respective fields. The Government did not encourage the formation of independent unions by employees or private businesses. Union leaders were typically government employees, and union activities were generally government sanctioned. The Ministry of Labor and Human Welfare must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the Government opposed the formation of labor associations during the year; however, the Government did not approve the formation of any unions.

The law allows strikes; however, all unions were closely aligned with the Government and thus did not exercise or promote the right to strike. The ability of government-backed industries to use national service conscripts as free or cheap sources of labor on nonmilitary projects prevents labor market competition.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and collective bargaining is allowed, but in practice all unions were subservient to the Government. The Government sets wages for union workers, employees of PFDJ-owned enterprises, and government employees. For most professions, wages have not been increased for more than a decade despite rampant inflation. Wages were set independently in the small private sector, although workers were not allowed to organize independently.

Since most businesses were government-owned, unions did not experience antiunion discrimination.

The Eritrean Free Zone in Massawa, authorized in 2006 to attract foreign and local investors, was not operational by year's end.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. However, forced labor occurred. Specifically, Eritrea's mandatory national service program of indefinite duration requires conscripts to perform a wide variety of nonmilitary activities, including harvesting and work in the service sector. Conscripted into mandatory, open-ended service begins at the senior year of high school for all students; they are required to spend their senior year at the Sawa military and education camp. Some students enter Sawa as early as the age of 16 or 17 and, therefore, begin national conscripted labor immediately following Sawa under the age of 18.

With few exceptions, the Government required all men and women upon graduation from high school to participate in the national service program until demobilization, which included military training and civilian work programs. However, the criteria for demobilization were unclear, and many were required to work indefi-

nately in any location or capacity chosen by the Government. Reports indicated citizens were enlisted in the national service for many years at below minimum wage rates with no prospective end date, no promotion or salary increases, and restricted freedom of movement, since those employed under national service were often denied passports or exit visas. The Government justified its open-ended draft on the basis of Ethiopia's occupation of Eritrean territory. Some national service members were assigned to return to their civilian jobs while nominally kept in the military because their skills were deemed critical to the functioning of the Government or the economy. These individuals continued to receive only their national service salary. The Government required them to forfeit to the Government any money they earned above that salary. Government employees generally were unable to leave their jobs or take new employment. Draft evaders often were used as laborers on government development projects.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although the Government has a national plan of action to protect children from exploitation in the workplace, it was not enforced effectively, and child labor occurred. The legal minimum age of employment is 14 years old. The law prohibits minors from working in transport industries or working underground, such as in mines and sewers. It was common for rural children who did not attend school to work on family farms, fetch firewood and water, and herd livestock, among other activities. In urban areas, children could be seen in auto mechanic uniforms working in car repair shops. Some children worked as street vendors of cigarettes, newspapers, or chewing gum to supplement household income, or at the behest of older children. Persons who have fled Eritrea report that police have arrested children and forced them into military service and other forms of national service regardless of their being younger than the minimum working age.

There were no known reports of children engaged in the worst forms of child labor; however, in urban areas children were engaged in auto and bicycle repair or transport of grain and goods via donkey carts. Increasingly dire economic conditions have led to an increase in begging and prostitution among children in Asmara. In rural areas, children assisted with farming corn, wheat, sorghum, and other grains.

Labor inspectors from the Ministry of Labor and Human Welfare were responsible for enforcing child labor laws, but inspections were infrequent, and enforcement of child labor laws was ineffective.

Some of the major programs implemented to prevent child labor include government preschool services in rural and urban areas and academic and vocational training.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The minimum monthly wage in the civil service sector is 360 nakfa (eight dollars) per month. The official government conversion rate is 15 nakfa to one dollar, but the black market values nakfa at 45 nakfa to one dollar. The country is not self-sustaining in terms of food and basic goods. They are often smuggled into the country and purchased at the less favorable black market rate. Therefore a salary of 360 nakfa which has an official value of \$24 has an effective purchasing power of only eight dollars. This wage does not provide a decent standard of living for workers and support for their families. As an example, a large 1,600 gram can of powdered milk costs more than 1,000 nakfa or three months salary at minimum wage. Many persons in the service industry made less than the minimum wage. For instance, police officers earn between 50 and 400 nakfa per month (between \$3.33 and \$26.67). The Government did not enforce the minimum wage law.

The standard workweek was 44.5 hours, but many persons worked fewer hours. Workers were entitled to one rest day per week; most workers were allowed from one to one-and-one-half days off per week. There are no prohibitions against excessive overtime. Citizens are legally entitled to overtime, except for those employed under national service; however, citizens were rarely forced to work more than the 44.5-hour workweek.

The Government instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. In practice some workers were permitted to remove themselves from dangerous work sites without retaliation.

During the year there was discrimination against foreign or migrant workers, especially Ethiopians, who could not receive food coupons and were periodically arrested without cause and not released until paying a fine.

\*United States personnel were rarely permitted to travel outside of the capital Asmara, and had very limited access to citizens and government officials in the country. This report draws in large part on non-U.S. government sources.

## ETHIOPIA

Ethiopia is a federal republic led by Prime Minister Meles Zenawi and the Ethiopian People's Revolutionary Democratic Front (EPRDF). The population is estimated at 82 million. In the May national parliamentary elections, the EPRDF and affiliated parties won 545 of 547 seats to remain in power for a fourth consecutive five-year term. In simultaneous elections for regional parliaments, the EPRDF and its affiliates won 1,903 of 1,904 seats. In local and by-elections held in 2008, the EPRDF and its affiliates won all but four of 3.4 million contested seats after the opposition parties, citing electoral mismanagement, removed themselves from the balloting. Although there are more than 90 ostensibly opposition parties, which carried 21 percent of the vote nationwide in May, the EPRDF and its affiliates, in a first-past-the-post electoral system, won more than 99 percent of all seats at all levels. Although the relatively few international officials that were allowed to observe the elections concluded that technical aspects of the vote were handled competently, some also noted that an environment conducive to free and fair elections was not in place prior to election day. Several laws, regulations, and procedures implemented since the 2005 national elections created a clear advantage for the EPRDF throughout the electoral process. Political parties were predominantly ethnically based, and opposition parties remained splintered. During the year fighting between government forces, including local militias, and the Ogaden National Liberation Front (ONLF), an ethnically based, violent insurgent movement operating in the Somali region, resulted in continued allegations of human rights abuses by all parties to the conflict. Security forces generally reported to civilian authorities; however, there were instances in which security forces, specifically special police and local militias, acted independently of civilian control.

Human rights abuses reported during the year included unlawful killings, torture, beating, and abuse and mistreatment of detainees and opposition supporters by security forces, especially special police and local militias, which took aggressive or violent action with evident impunity in numerous instances; poor prison conditions; arbitrary arrest and detention, particularly of suspected sympathizers or members of opposition or insurgent groups; detention without charge and lengthy pretrial detention; infringement on citizens' privacy rights, including illegal searches; use of excessive force by security services in counterinsurgency operations; restrictions on freedom of speech and of the press; arrest, detention, and harassment of journalists; restrictions on freedom of assembly and association; restrictions on freedom of movement; ruling party intimidation, threats, and violence during the elections; police, administrative, and judicial corruption; harassment of those who worked for human rights organizations; violence and societal discrimination against women and abuse of children; female genital mutilation (FGM); exploitation of children for economic and sexual purposes; trafficking in persons; societal discrimination against persons with disabilities and religious and ethnic minorities; forced labor and child labor; and government interference in union activities.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There was no proof that the Government and its agents committed any politically motivated killings during the year; however, there were credible reports of involvement of security forces in the killings and other abuses of civilians in connection with the conflict in the Somali region (see section 1.g.) and in the deaths of opposition party activists (see section 3).

In January Oromia police shot two unarmed students, one of them fatally, during a college riot at Ardayta College in the Western Arsi zone of the Oromia Regional State. The Government acknowledged a disturbance at the college, evidently related to longstanding disputes between students and the administration, that led the college dean to call the police for assistance. After the shooting incident, the police suspended two senior officers for giving inappropriate orders, and one policeman was charged and found guilty of murder by use of excessive force. He was sentenced to prison.

In June the press reported that police in Addis Ababa beat 17-year-old Besufekad Tamene to death. The Government confirmed that police officers Girma Makonnen

and Birhanu Jula were on duty when they were approached for assistance by Yewebnesh Hailemariam because her grandson was causing a disturbance at home. They reportedly hit him repeatedly with a stick on the head, neck, and chest. Besafekad died on June 4 as a result of his injuries. The officers were arrested on June 5 and charged with murder. The case was pending at year's end.

According to a May 2009 government report, the security chief of Gue, Tamene Tadesse, was charged with the use of excessive force and sentenced to 15 years in prison for the 2007 fatal shootings of two students in Gue, in the Oromia region.

There was no official action taken against police officers involved in the January 2009 shooting and killing of Debasu Yengusie Mengesha and Gobeze Wudu as they left a bar.

There were no developments in the February 2009 incident in which police shot and killed a 19-year-old student protester, Wendimu Damena, or in the police shooting that injured a 20-year-old student, Belay Motuma, during the same demonstration.

There were no developments in the following 2008 incidents: the killing of three brothers—Yayeh Yirad Assefa, Negusu Assefa, and Temesgen Assefa—by local police and militia in Zeba kebele (Dejen woreda, East Gojam zone, Amhara region); the killing of Aschalew Taye, a supporter of the opposition All Ethiopia Unity Party (AEUP); and several bombings (the Humera bus and school incidents in Amhara; two hotels in Negele Borena, in the Oromia region; and a bombing at a Jijiga hotel).

There were no developments in the April 2009 land mine explosion in the Danakil Depression area of the Afar region, which killed two persons and wounded two others. The Government claimed that the South Red Sea Rebel Liberation Front was responsible.

There were no developments in the December 2009 incident in which two hand grenades thrown into a crowded cafe in Kebri Dehar, in the Somali region, killed one woman and wounded nine other persons. The Government claimed that the perpetrators were four Eritreans supporting the rebel ONLF.

On May 6, in the Oromia region, a hand grenade was thrown into a political meeting of the Oromo Peoples' Democratic Organization (OPDO) killing two persons and injuring 14. A government spokesman, Shimeles Kemal, stated that the incident was an attempt to assassinate the region's deputy president, Abdulaziz Mohammed, who escaped unhurt. Police officials arrested suspects, one of whom, Tadesse Haile, was sentenced to death after a trial within a week of the incident.

Clashes between ethnic clans during 2008 and 2009 resulted in hundreds of deaths (see section 6).

*Disappearance.*—There were no reports of politically motivated disappearances; however, there were innumerable reports of local police, militia members, and the National Intelligence and Security Service (NISS) seizing individuals, especially opposition political activists, for brief periods of incommunicado detention. Neither diplomatic missions nor nongovernmental organizations (NGOs) were allowed access by the Government to the Somali region and therefore had very limited ability to comment on the procedures of security forces operating there.

There were no developments in the 2008 disappearances in Addis Ababa of Ethiopian Teachers' Association members Tilahun Ayalew and Anteneh Getnet, or of Alexander Gebre Meskel, a resident of Addis Ababa.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit the use of torture and mistreatment, there were credible reports that security officials physically mistreated detainees.

Opposition political party leaders reported frequent, systematic abuse and intimidation of their members and supporters by police and local militias. Those leaders stated that victims of such abuse did not seek redress from police and other criminal justice authorities for fear of provoking retaliation. When opposition parties packaged hundreds of such reports of abuse for consideration by officials at the National Electoral Board of Ethiopia (NEBE), the board—possessing the legal discretion to investigate but lacking an investigative staff—generally dismissed the complaints for lack of evidence or procedural defects, in both 2008 and 2010.

The UN Committee Against Torture noted in a November 19 report that it was “deeply concerned” about “numerous, ongoing, and consistent allegations” concerning “the routine use of torture” by the police, prison officers and other members of the security forces—as well as the military, in particular—against political dissidents and opposition party members, students, alleged terrorists, and alleged supporters of insurgent groups, such as the ONLF and the Oromo Liberation Front (OLF). The committee reported that such acts frequently occurred with the participation of, at the instigation of, or with the consent of commanding officers in police

stations, detention centers, federal prisons, military bases, and unofficial or secret places of detention.

Numerous reliable sources confirmed in April 2009 that in Maekelawi, the central police investigation headquarters in Addis Ababa, police investigators often used physical abuse to extract confessions. Several prisoners who were held at Maekelawi and other nontraditional detention facilities independently claimed with credible detail that they and other detainees were tortured in police station jails in attempts by security officials to elicit confessions before their cases went to trial. No indication came during the year that these abusive practices were eliminated. NGO and diplomatic access to Maekelawi was curtailed during the year.

Several of the persons arrested in April 2009 for alleged affiliation with Ginbot 7, a largely diaspora opposition group some of whose members publicly advocated violent overthrow of the Government, reported harsh physical abuse and torture during pretrial interrogations. In November 2009 these defendants reiterated these accusations to their trial court. A government spokesman denied the allegations. In December 2010 the Global Alliance Against Torture in Ethiopia, an antigovernment diaspora group, released reports, purportedly originating with cooperative prison personnel, summarizing the accusations of mistreatment given by individual Ginbot 7 inmates.

In those reports Amerar Bayabel, Second Sergeant Gobena Belay Ayele, and Lieutenant Colonel Abere Assefa Aberra described similar, consistently horrific experiences at Maekelawi. They included lengthy nights of physical mistreatment, including: being made to lie on the ground, handcuffed, blindfolded, and in some cases naked, while interrogators wearing military boots stood on their chests; being whipped with wire and beaten on the head and the insides of their feet; being gagged, hung upside down, and beaten with electrical cords; being threatened with injection of HIV-infected blood; and being subjected to ethnic slurs.

In July 2009 Nimona Tuffa, a student at Hayuma Medical College in Ambo and a member of the Oromo People's Congress (OPC), an opposition party, was detained in Guder by Oromia regional security officials dressed in civilian clothes. Nimona reported that security officials, including the head of security of West Shoa zone, Tesfaye Sime, beat him, first in a nearby forest and later at the OPDO Ambo offices, part of the EPRDF, where they pressured him to sign a statement admitting he was a member of the OLF. He eventually signed. When released Nimona was hospitalized for severe nerve-ending damage, hearing damage, and back injuries. When the case was brought to court, the prosecutor suggested that the case was not politically motivated but was a personal conflict. However, Nimona testified that he had no knowledge of his attackers before the incident and that he believed it was politically motivated. The judge sentenced the perpetrators to a fine of 500 birr (\$30.53). With the involvement of a diplomatic mission, the case was reopened and the primary police officer involved was eventually sentenced to three years in prison, for use of excessive force. However, at year's end the officer apparently had not begun to serve the sentence. Nimona fled the country.

There were no developments in the 2008 beating of Gelaye Tadele while in local police custody in Arba Minch, in the Southern Nations, Nationalities, and Peoples Region (SNNPR).

*Prison and Detention Center Conditions.*—The country has three federal and 120 regional prisons. There also are many unofficial detention centers throughout the country, including in Dedessa, Bir Sheleko, Tolay, Horamat, Blate, Tatak, Jijiga, Holeta, and Senkele. Most are located at military camps.

Prison and pretrial detention center conditions remained harsh and in some cases life threatening. Severe overcrowding was common, especially in sleeping quarters. The Government provided approximately eight birr (\$0.50) per prisoner per day for food, water, and health care. Many prisoners supplemented this with daily food deliveries from family members or by purchasing food from local vendors. Medical care was unreliable in federal prisons and almost nonexistent in regional prisons. Water shortages caused unhygienic conditions, and most prisons lacked appropriate sanitary facilities.

Many prisoners had serious health problems in detention but received little treatment. In April an Italian citizen died after receiving allegedly substandard medical treatment in Kality prison. At year's end there were an estimated 86,000 persons in prison, of whom 2,474 were women and 546 were children incarcerated with their mothers. Juveniles were sometimes incarcerated with adults who were awaiting execution. Male and female prisoners generally were separated. Authorities generally permitted visitors. In some cases family visits to prisoners were restricted to a few per year.

Following a 2008 investigation on prison conditions, the Ethiopian Human Rights Commission (EHRC) reported that the overwhelming majority of detainees in pris-

ons were held on pending charges. Some prisoners reported being detained for several years without being charged and without trial. Pretrial detention during the year, while still high, showed a rapid decline. Approximately 80 percent of those incarcerated in Amhara, Benishangul-Gumuz, Oromia, SNNPR, and Tigray had been sentenced.

Prisoners were generally permitted religious observance, but this varied by prison, and even by section of prison, at the discretion of prison management. Prisoners can, during trial, make complaints about prison conditions or treatment to the presiding judge.

During the year the International Committee of the Red Cross (ICRC) visited regional prisons but, like all international organizations and NGOs, remained barred from visiting federal prisons, which held persons accused or convicted of crimes against national security, and all prisons in the Somali region. Regional authorities allowed NGO representatives to meet regularly with prisoners without third parties being present.

The Ethiopian NGO Justice for All-Prison Fellowship Ethiopia (JFA-PFE) was granted access to various prison and detention facilities, including federal prisons. JFA-PFE ran a “model” prison in Adama with significantly better conditions compared with other prisons.

The Government and prison authorities were generally cooperative in dealing with NGO efforts to effect improvements in prison conditions.

The Government routinely failed to meet its obligation to notify diplomatic missions of the arrest of foreign nationals, so foreign representatives had only rare access to prisons and other detention facilities.

In 2009 the Government established regional “justice forums” throughout the country to improve coordination among the Ministry of Justice (MOJ) as well as regional security and prison administration officials.

*d. Arbitrary Arrest or Detention.*—Although the constitution and law prohibit arbitrary arrest and detention, the Government frequently ignored these provisions in practice. During the year the phenomenon increased significantly in the preelection environment (see section 3).

*Role of the Police and Security Apparatus.*—The Federal Police Commission reports to the Ministry of Federal Affairs, which is subordinate to the parliament; however, this subordination was loose in practice. Each of the country’s nine regions has a state or special police force that reports to the regional civilian authorities. Local militias also operated as local security forces in loose coordination with regional police and military, with the degree of coordination varying by region. NISS officers were involved in all matters deemed to have implications for national security.

Impunity remained a serious problem. According to sources at government agencies, the Government rarely publicly disclosed the results of investigations into abuses by local security forces, such as arbitrary detention and beatings of civilians. In its November report, the UN Committee Against Torture noted that there were “numerous and consistent reports” about the Government’s “persistent failure” to investigate allegations of torture and prosecute perpetrators, including Ethiopian National Defense Force (ENDF) or police commanders. The committee further noted the absence of information on cases in which soldiers and police or prison officers were prosecuted, sentenced, or subjected to disciplinary sanctions for acts of torture or mistreatment.

There were no further developments in the July 2009 case of the 444 staff members, including high-ranking officials, fired by the Addis Ababa Police Commission for involvement in serious crimes, including armed robbery, rape, and theft.

The Government continued its efforts to provide human rights training for police and army recruits. During the year the Government continued to seek assistance from the JFA-PFE and the EHRC to improve and professionalize its human-rights training and curriculum, by including more material on the constitution and international human rights treaties and conventions. The JFA-PFE conducted human rights training for police commissioners, prosecutors, judges, prison administration, and militia in Amhara, Oromia, SNNPR, Benishangul-Gumuz, and Gambella.

*Arrest Procedures and Treatment While in Detention.*—Authorities regularly detained persons without warrants and denied access to counsel and family members, particularly in outlying regions. Although the constitution and the penal code require that detainees be brought to court and charged within 48 hours, this requirement generally was not respected in practice. A functioning bail system was in place but not available in murder, treason, and corruption cases. In most cases authorities set bail between 500 and 10,000 birr (\$30 and \$610), which was too costly for most citizens. Police officials did not always respect court orders to release suspects on

bail. With court approval persons suspected of serious offenses can be detained for 14 days without being charged and for additional 14-day periods if an investigation continues. The law prohibits detention in any facilities other than an official detention center; however, there were dozens of unofficial local detention centers used by local government militia and other formal and informal law enforcement entities. The Government provided public defenders for detainees unable to afford private legal counsel, but only when their cases went to court. While in detainees were in pretrial detention, authorities allowed them little or no contact with legal counsel. Police continued to arrest individuals without warrants (see section 1.f.). Opposition party members consistently and credibly reported that authorities frequently detained persons in police stations for long periods without charge or access to a judge. Authorities apparently targeted certain individuals for arrest, with charges and other terms of detention determined only after detention commenced.

In January NISS officers detained a foreign citizen and held him incommunicado in Tigray without warrant at various locations for 48 hours (see section 2.a.). When he complained to a senior NISS official, he was told: "This is Ethiopia. We can do what we want. You are lucky the worst hasn't already happened to you." He was released soon after without charges being filed.

Persons arrested in April 2009 in connection with the Ginbot 7 case were held for more than a month at Maekelawi without charges while police gathered evidence, during which time family members were not informed of their whereabouts. They were then charged with conspiracy to destroy government institutions, the attempted assassination of government officials, and an attempt to incite rebellion in the army. The detainees were denied pretrial access to legal counsel, and several alleged mistreatment while in detention. Ultimately, their property was confiscated, five received death sentences, 33 received life imprisonment in Kality prison, and two received sentences of 10 years.

In May 2009 customs authorities detained Abebe Worke, the chairman of the Ethiopian Human Rights Council (EHRCO) and a prominent human rights lawyer, and Meleskachew Amha, a Voice of America (VOA) reporter, for allegedly attempting to illegally sell imported duty-free publishing equipment that belonged to Addis Broadcasting Company, of which both were shareholders (see section 2.a.). Meleskachew and Abebe were detained at the Customs Authority compound, not a formal detention facility, for 12 days before being released on bail. Abebe fled the country. On July 15, the Federal First Instance Court dropped all charges against Meleskachew due to lack of evidence. Abebe was sentenced in absentia to one year's imprisonment and fined 1.4 million birr (\$85,370).

In June 2009 town officials in Bistima, Werebaba woreda (South Wollo zone, Amhara region), arrested an EHRCO investigator, Mulugeta Fentaw. Mulugeta was returning home after investigating alleged cases of harassment in Bistima of Unity for Democracy and Justice (UDJ) members. The woreda Security Chief, Makonnen Hussein, confiscated Mulugeta's notebook containing sensitive summaries of his interviews. Immediately thereafter the police accused Mulugeta of stealing 2,000 birr (\$122.10) and arrested him. At the police station he was searched, and when the police found only 200 birr (\$12.21) in his possession, they modified the charge to claim that he stole only 200 birr (\$12.21). Mulugeta was arrested and jailed for three days. He was brought to the woreda court on June 3, convicted, and sentenced to eight months' imprisonment. He appealed to the zonal high court. On July 17, the high court dismissed the case, stating that such acts by the woreda court eroded public confidence in the judiciary. The woreda administration appealed and brought another charge of "tarnishing the reputation of woreda officials by bringing false witnesses." Mulugeta again appealed to the high court, which dismissed the case. Fearing further harassment by government officials, he went into exile abroad.

One of Mulugeta's defense witnesses, Alemu Abaineh, was arrested after he gave testimony in court. He was accused of stealing and possessing antitank grenades and plotting to attack the militia. He was sentenced to four years' imprisonment. He appealed to the high court and was released on bail. The trial continued at year's end.

There were no developments in the cases of the opposition AEUP members Mekuanent Seneshaw, Alehegne Mekuanent, Kifle Tadege, and Endale Tadege, who were arrested at a Chendiba wedding in 2008 and charged with holding an illegal political gathering in the form of a wedding.

*Amnesty.*—On September 10, the federal government and Amhara and Oromia regional governments granted pardons to more than 9,000 prisoners, in keeping with a longstanding tradition for celebration of the new year on September 11.

The president of the opposition party UDJ, Birtukan Mideksa, was pardoned and released from prison on October 6 (see Political Prisoners and Detainees).

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary. Although the civil courts operated with a large degree of independence, the criminal courts remained weak, overburdened, and subject to significant political intervention and influence. The upper house of parliament has sole responsibility for judging the constitutionality of new laws, handling judicial appointments, and reviewing judicial conduct. In theory and in practice, courts have the ability to convict defendants on charges not raised by the prosecution.

Regional offices of the federal MOJ monitored local judicial developments. Some regional courts had jurisdiction over both local and federal matters, as the federal courts in those jurisdictions that had not begun operation; overall, the federal judicial presence in the regions was limited. Consequently many citizens residing in rural areas generally had little access to formal judicial systems, at any level, and effectively had no choice but to rely on traditional mechanisms of resolving conflict.

The law provides legal standing to some preexisting religious and traditional courts and allows federal and regional legislatures to recognize decisions of such courts. By law all parties to a dispute must agree to use a traditional or religious court before such a court may hear a case, and either party can appeal to a regular court at any time. Sharia (Islamic) courts may hear religious and family cases involving Muslims. In addition other traditional systems of justice, such as the Council of Elders, continued to function. These customary courts resolved disputes for the majority of citizens who lived in rural areas. Some women complained of lack of access to free and fair hearings in the traditional justice system because they were excluded by custom from participation in the Council of Elders and because there was strong gender discrimination in rural areas.

The judicial system severely lacked experienced staff, sometimes making the application of the law unpredictable. The Government continued to train lower court judges and prosecutors and made effective judicial administration the primary focus of the training. To address backlogs in case processing, in October 2009 the Government allocated 147 million birr (\$8.97 million) to construct five new courthouses in Addis Ababa and Dire Dawa. During the year the federal Supreme Court, high courts, and courts of first instance remained open for over two-and-one-half months during their regular recess period in June, July, and August to try to reduce the backlog of cases.

The seventh criminal branch of the federal court of first instance, headed by three judges, handled cases involving juvenile offenses and cases of sexual abuse of women and children. There was a large backlog of juvenile cases, and accused children often remained in detention with adults until officials heard their cases. There were also credible reports that domestic violence and rape cases were often significantly delayed and given low priority.

In October the EHRC, a government entity, signed a memorandum of understanding with four public universities to encourage students to participate in legal aid for indigent clients.

In July 2009 the parliament passed the Anti-Terrorism Proclamation to address growing terrorist threats. Several human rights organizations raised concerns over the law's broad definition of terrorism, severe penalties, broad rules of evidence, and discretionary powers afforded police and security forces. Although a full prosecution under this law had not yet been conducted by year's end, several defendants were charged under it, including elderly citizens and students who staged public demonstrations in January in Oromia against gold mining interests they claimed were polluting their community's air and water.

Criminal matters related to the military are handled by military tribunals. Military tribunals may not try civilians except in certain cases involving allegations of threats to national security. The total caseload of the military justice system grew, reflecting an effort to hold military officers and troops more accountable, but the military lacked adequately trained staff to handle the increased demands on the system.

In November 2009 the Federal Supreme Court sentenced Judge Girma Tiku, former president of the Court of First Instance for Urban Affairs of Lideta subcity, Addis Ababa, to seven years' imprisonment and a fine of 1,000 birr (\$61) on corruption charges.

There were no developments in two 2008 MOJ corruption cases against judges.

*Trial Procedures.*—According to the law, accused persons have the right to a fair public trial by a court of law within a "reasonable time," a presumption of innocence, the right to be represented by legal counsel of their choice, and the right to appeal. In some sensitive cases deemed to involve matters of national security, notably the Ginbot 7 and OLF trials, closed proceedings took place, and at times authorities allowed detainees little or no contact with legal counsel. The court system does not use trial by juries.

Judicial inefficiency, lengthy trial delays, and lack of qualified staff often resulted in serious delays in trial proceedings. The Public Defender's Office provided legal counsel to indigent defendants, although its scope and quality of service remained limited due to the shortage of attorneys. Although the law explicitly stipulates that persons charged with corruption are to be shown the evidence against them prior to their trials, several credible sources reported that authorities routinely denied defense counsel pretrial access to such evidence. As in previous years, the Government did not establish an execution date for the 19 former Derg officials sentenced to death in 2006 for crimes of genocide, treason, and murder. All remained on death row at year's end except Colonel Mengistu Haile Mariam, who was in exile in Zimbabwe. According to a May 2009 government report, religious leaders requested that the Government reduce the sentences of former Derg officials. The Government had not responded by year's end, although religious officials increased the volume of their pleas in December.

*Political Prisoners and Detainees.*—Domestic and international NGOs estimated that there were 200 to 300 political prisoners and detainees at year's end.

In August several opposition party leaders reported an intensification in the arrest and detention of opposition supporters, especially in Oromia, Amhara, and Tigray. Approximately 1,200 opposition Oromo Federalists' Congress (OFC) Party supporters, for example, were reportedly arrested and detained in association with the May elections. (The OFC was formed by the merger of the OPC and the Oromo Federalist Democratic Movement (OFDM)). Many were released during the year after serving four- to five-month sentences, but many remained in jail.

In October the president of the UDJ, Birtukan Mideksa, whose pardon was revoked and life sentence reinstated in 2008, was released. Prior to her release she was held in solitary confinement until June, despite a court ruling that indicated it was a violation of her constitutional rights.

Chaka Robi, a supporter of the opposition Coalition for Unity and Democracy (CUD) arrested in 2008, was released during the year.

There were several developments in the 2008 case in which police, local authorities, and ruling party cadres arrested 16 second-tier leaders from various opposition parties engaged in community outreach or opening new offices throughout the country. On August 12, 15 arrestees were ordered to present their defenses against charges of recruiting and organizing OLF members, promoting OLF terrorist activities, and financially supporting the OLF. The case against one defendant was dismissed. Among the 15 tried, OFDM secretary general Bekele Jirata was charged and released on bail in February 2009. He later fled the country. He was found guilty in absentia on March 31 and sentenced to 12 years in jail. The other men were also found guilty. One man was sentenced to death, one was sentenced to life in prison, and the rest were given jail terms ranging from 10 to 13 years.

In February the Government pardoned 182 members of the AEUP previously convicted of threatening the "constitutional order" during the violent aftermath of the 2005 national elections. The pardons reportedly were part of a negotiated agreement for the AEUP leadership to participate in EPRDF-led talks on the enactment of an electoral code of conduct for political parties.

*Civil Judicial Procedures and Remedies.*—Civil courts were generally viewed as independent and impartial. The law provides citizens the right to appeal human rights violations in civil court; however, no such cases were filed during the year.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires authorities to obtain judicial warrants to search private property; however, in practice police often ignored this law, and there were no records of courts excluding evidence found without warrants.

The Ethiopian government and regional governments began to put in place "villagization" plans in the Gambella and Benishangul-Gumuz regions, an effort to speed up agricultural development. The plan involves the resettlement of 45,000 households in each of the two regions. The Governments describe the resettlement plans as strictly voluntary, but there were reports of local skepticism and resentment and isolated reports of violence, in part because much of the land was or was to be leased to foreign companies.

There were reports of police forcibly entering civilian homes in 2008 and 2009. During the year there were innumerable reports of ruling party operatives making unwelcome visits to the homes of opposition operatives, although forced entry was not part of the usual pattern alleged (see section 1.c.).

In April 2009 witnesses reported that Tirsch kebele (Dejen woreda, Amahara region) and woreda police and officials searched the house of Waltenege Abate, the woreda vice chairman of the AEUP, without a warrant. Although officials accused him of hiding armaments, none were found. In 2008 kebele officials had previously

searched Waltenevus' home without a warrant. He accused police of beating him and his family members during the searches.

By year's end there had not been any action taken by officials against the police officers and militia of Tirsch kebele (Dejen woreda, Amhara region) for the 2008 assault and illegal search of the home of Tiringo Mengist.

All but three electronic communications facilities are state owned. Opposition political party leaders reported suspicions of telephone tapping and other electronic eavesdropping. In May 2009 a former employee of Ethiopian Telecommunication Corporation (ETC), the state-run monopoly telecommunications and Internet provider reported from self-imposed exile that the Government had ordered ETC employees to unlawfully record citizens' private telephone conversations.

The Government used a widespread system of paid informants to report on the activities of particular individuals.

The Government tampered with the mail of an independent media organization, according to a report from the Committee to Protect Journalists (see section 2.a.).

Security forces continued to detain family members of persons sought for questioning by the Government. Officials in some kebeles reportedly went from house to house demanding that residents attend ruling coalition meetings. Residents were not arrested or harassed if they did not attend party meetings; however, there were reports that some persons who did not attend party meetings had difficulty obtaining basic public services from their kebeles. Reliable reports establish that unemployed youth who were not affiliated with the ruling coalition sometimes had trouble receiving the "support letters" from their kebeles necessary to get jobs.

Human Rights Watch, opposition parties, and elements of the media alleged a general politicization of foreign donor assistance. These reports suggested that, in the period prior to the May elections, the EPRDF and its regional affiliated parties used humanitarian assistance as incentives to secure support for the ruling coalition. The donor community, collectively known as the Development Assistance Group, conducted an assessment of the four largest donor-supported development programs. The assessment evaluated the systems and safeguards that various programs had in place to prevent, detect, and address political and financial distortion. The final report, issued in July, concluded that all four programs had accountability systems in place that provided checks on distortion in the distribution of assistance. In addition the two programs related to the provision of food aid were deemed to have the strongest safeguards and thus were the least likely to have been subject to distortion for political purposes.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—During the year fighting continued between government forces, primarily regional government-backed militia, and the ONLF, a violent ethnic insurgent movement operating in the Ogaden area of the Somali region, with continuing allegations of human rights abuses by all parties to the conflict. Deliveries of food and medicine were restricted as a result of insecurity, lack of capacity, and military restrictions.

Since it was outlawed in 1994, the ONLF has engaged in armed conflict with the Government. In October another insurgent group, the United Western Somali Liberation Front, as well as the "Salahdin Ma'ow faction" of the ONLF, signed a peace agreement with the Government and ceased hostilities. The "Admiral Osman faction" of the ONLF, consisting of hard-core fighters and supported by the Eritrean government, denounced the peace talks and staged attacks against government forces.

Since the military began significant counterinsurgency operations in the Ogaden region in response to the April 2007 slaying of 65 citizens and nine Chinese oil workers living outside an oil exploration camp, the Government has continued to limit the access of diplomats, NGOs, and journalists to the Somali region. The Government allowed some humanitarian access but restricted the ability to investigate reports of human rights abuses. Reports of human rights violations largely have come from interviews with second-hand sources or alleged victims who fled the Somali region. Credible reports of human rights abuses continued, although these diminished dramatically after the signing of the two peace agreements. NGO personnel have been compelled by ENDF and regular police officials to report ONLF activity. Some villagers reported that local authorities threatened to retaliate against anyone who reported abuses by the ENDF, special police, or local militias.

Civilians, international NGOs, and other aid organizations operating in the region reported that both government security forces and the ONLF were responsible for abuses and harsh techniques used to intimidate the civilian population. Reliable reports indicated that special police and local militias, both accountable to the Somali regional government, forcibly relocated whole villages believed to be supportive of the ONLF.

Reliable sources reported increasingly violent ONLF attacks on police and military elements during the year. Development workers reported being frequently stopped for questioning by the ONLF.

*Killings.*—There were several instances of killings in internal conflicts. These included the killing of five persons and wounding of 20 others in a bomb attack in the northern town of Adi Aro, and a bus bombing near the Eritrean border that wounded 13 persons. The Government blamed Eritrean-sponsored elements for both incidents but produced no evidence.

In 2008 police forces reportedly attempted to force villagers from Laare and Puldeng, in Gambella, to move to a new area. When villagers refused, violence ensued, and police reportedly killed nine civilians and wounded 23. Two police officers were killed and six others were wounded. Police also reportedly set fire to homes and killed numerous livestock. Gambella Deputy Police Commissioner Mulugeta Ruot Kuon gave a different account. According to him, police responded to a clash between two Nuer groups and tried to facilitate a negotiation. One group started beating the police with sticks and shot one officer, triggering a gunfight that killed one police officer and four civilians and wounded 27. The conflict spread to eight kebeles, and federal police and the ENDF came to the region to calm the fighting. Traditional methods of conflict resolution, facilitated by elders, were used to resolve the conflict.

The Government has not responded to ONLF accusations that the ENDF killed 48 civilians in Mooyaha village and six civilians in Galashe in the Ogaden region in 2008.

There were no developments in the February, June, and July 2009 attacks by the ONLF against military and civilian targets that resulted in civilian casualties. Similarly there were no developments in the 2008 arrests of eight men suspected of involvement in the 2007 ONLF attack on a Chinese-run oil facility in the Somali region; the ONLF killed 65 civilians and nine Chinese nationals.

*Abductions.*—In April nine NGO employees were abducted and held for five days by a group purporting to represent the ONLF. They were released unharmed but told to warn their principals that cooperation with security forces in delivering humanitarian supplies would provoke ONLF violence.

*Physical Abuse, Punishment, and Torture.*—Special police were accused of rape and other abuses of women in early 2009 in the Degehabur and Kebredehar zones, in the Ogaden.

*Child Soldiers.*—Although there were no reports that ENDF or regional police recruited children, there were credible reports that some local militias in Somali region did so. In recent years, the Somali Regional Security and Administration Office had increased recruitment of special police forces and local militias in conflict zones. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Other Conflict-Related Abuses.*—The Government continued to restrict access by NGO workers and journalists to affected Somali region areas. International journalists who entered the Somali region without permission of the Government were arrested or obliged to leave the country. The Government continued to ban the ICRC from the region, having previously alleged that it cooperated with the ONLF. During the year some humanitarian groups reported roadblocks manned by insurgent groups, which occasionally briefly detained them. These same humanitarian groups reportedly were interrogated by the ENDF on their encounters at the roadblocks with the insurgents.

In 2008 the ENDF placed Medecins Sans Frontieres-Holland (MSF-NL) staff members under house arrest in Warder for allegedly providing medical support to the ONLF and confiscated MSF-Switzerland property and vehicle keys in Kebri Dehar, limiting its staff members' movement to the town for three weeks. There was no judicial process and no charges filed in either case. MSF-NL continued to work in Warder zone, while MSF-Spain, which was working in Deghabur, withdrew after a hand-grenade attack on its offices in August; the attack was believed to be the work of a disgruntled former employee.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—While the constitution and law provide for freedom of speech and of the press, the Government did not respect these rights in practice. The Government continued to arrest, harass, and prosecute journalists, publishers, and editors. The Government continued to control all broadcast media, including the sole television station, except three private FM radio stations. Private-sector and government journalists routinely practiced self-censorship. The broad-

casting law prohibits political and religious organizations or foreigners from owning broadcast stations.

Government-controlled media mostly reflected the views of the Government and the ruling EPRDF coalition. However, live radio and television broadcasts occasionally included televised parliamentary debates and broadcast the views of opposition parliamentarians, as did government newspapers. During the election campaign, state media broadcast debates between the parties; because broadcast time was allocated on the basis of parliamentary seats, spokesmen for the ruling party received the most time.

Although some new, small-circulation newspapers were published during the year, the number of private newspapers remained low. Approximately 20 private Amharic-language and English-language newspapers with political and business focuses were published, with a combined weekly circulation of more than 150,000.

The Government owned the only newspaper printing press and used its monopoly position, *inter alia*, to regularly increase costs to publishers. Reports indicated that this practice influenced the circulation numbers of the private newspapers, forcing them to adjust their printing runs according to what they could afford.

Foreign journalists and local stringers employed by foreign publications at times published articles critical of the Government but were subjected to government pressure to practice self-censorship. Few foreign journalists were based in the country. During the year some reporters for foreign media were subjected to intimidation and harassment or threatened with expulsion from the country for publishing articles critical of the Government.

For example, in January in Tigray, NISS officials detained a foreign journalist with a valid residence permit, who was accredited by the Government, when he attempted to investigate allegations of food aid politicization in the area. His credentials and cell phone were taken from him, and he was transported by authorities to Addis Ababa, where he was questioned by immigration officials and held overnight at the airport. He was not permitted to call consular officials or his family. After almost 48 hours in custody, he was released and told by the Ministry of Foreign Affairs as well as immigration officials that he would have to leave the country within two days. No specific charges were brought against him. His credentials were eventually returned to him, and he was told that he could continue to live and work as a journalist in Ethiopia.

In May the editor in chief of the Amharic weekly *Awramba Times*, Wubshet Taye, was asked to appear at the Ethiopian Broadcasting Authority (EBA) two days before the national elections. He was accused of unbalanced reporting favoring Forum, a major opposition coalition. The EBA referred to a feature article that compared two photographs of Meskal Square: one taken in 2005 with more than one million pro-opposition demonstrators, and one of an empty square during the year with only an EPRDF campaign poster. The article was called "Where Did These People Go?" Wubshet was told that this sort of article was not allowed and that he would be held responsible if any violence resulted. Shortly after this incident, Wubshet resigned as editor in chief of the *Awramba Times*.

On June 29, the Committee to Protect Journalists (CPJ) reported that the new editor in chief of the *Awramba Times*, Dawit Kebede, complained to the Ethiopian Postal Service (EPS) at least three times earlier that month, after the newspaper received opened letters and destroyed envelopes in its postal box. The EPS asserted that the "quality of the paper" might have been responsible for the tearing of the mail.

On July 19, the Oromia region special zonal administration ordered the Media and Communications Center (MCC), owned by Amare Aregawi (also the publisher and owner of *The Reporter*), to stop construction on its future printing house site in Dukem, 21 miles from Addis Ababa, which the MCC had leased from the regional administration. On July 24, the Government Housing Agency, alleging unlawful occupancy, commandeered the MCC's office compound in Addis Ababa, also owned by Amare.

On August 26, EBA Director General Desta Tesfaw sent a letter to the *Awramba Times* requesting that sources for its news stories be provided. The constitution states that journalists do not have to reveal their sources, even in court procedures.

On September 11, the al-Quds editor in chief, Ezeddin Mohammed, was released from prison after serving eight months on charges of violating article 10 of the Press Proclamation, including counts of defamation and attempts to incite conflict between persons. The charges followed the newspaper's publication of articles criticizing a Ministry of Education directive on religious worship in schools. Although Ezeddin was released, his 17-year-old son, Ahmed Ezedin, was arrested in the Afar region that same day. Ahmed was serving as the acting editor of al-Quds during his fa-

ther's imprisonment. The arrest was purportedly the result of articles Ahmed had written criticizing the Islamic Council of Afar.

There were no new developments in the April 2009 case in which the Government Communications Affairs Office summoned three VOA reporters—Peter Heinlein, Meleskachew Amha, and Eskinder Firew—and suspended the licenses of Meleskachew and Eskinder for three days for reasons that were never disclosed.

There were no new developments in the July 2009 case in which unidentified individuals beat a journalist for Addis Neger, Abraham Begizew, who was attempting to report on a disagreement within the leadership of the Ethiopian Orthodox Church.

In September 2009 Kassahun Addis, an Ethiopian citizen based in Addis Ababa who was a reporter for a foreign newspaper, fled the country due to a credible fear of unreasonable prosecution. There were no new developments in the case.

In December 2009 Addis Neger, an Addis Ababa-based weekly newspaper often critical of government policies, ceased publication after months of reported government harassment. Three staff members—Abiy Tekle Mariam, Mesfin Negash, and Tamirat Negera—fled the country.

In 2008 Dawit Kebede, then editor in chief of the weekly newspaper Awramba Times, was accused by the NEBE of violating electoral regulations by posting an advertisement for his newspaper on a poster promoting EPRDF candidates for local elections. Charges in the case were dropped in February.

There were no developments in the 2008 case of Alemayehu Mahtemework and three staff members of the private Amharic monthly entertainment magazine Enku. The Government accused them of publishing “stirring articles that could incite people” and held them for five days before release. Alemayehu also was charged with threatening public order. The magazine continued operating during the year.

Dawit Kebede and Wosseneged Gebrekidan, who were charged in 2008 with inciting the public through false rumors by publishing articles about the Ginbot 7, were released on bail in December 2009.

In 2008 two police officers, one from Addis Ababa and the other from Gonder, arrested Amare Aregawi, editor in chief of The Reporter, at his office. The arrest was in connection with a private libel suit brought by the Gonder-based, EPRDF-owned Dashen Brewery following a 2008 story on a labor dispute at the brewery. Amare appeared in court in 2008 but learned there were no charges against him, and his bail money was returned to him. The article's author, Teshome Niku, appeared in court in 2008 and was released on bail of 300 birr (\$18.32). Following his release Teshome reportedly received anonymous, threatening telephone calls and was beaten and intimidated by unidentified persons. In January 2009 a private newspaper reported that Teshome fled to Kenya. The Dashen Brewery manager filed defamation charges against Amare in August 2009. The Federal High Court 10th Criminal Bench ordered Amare to defend his case. Amare won, and the case was dropped in March.

In 2008 Amare Aregawi was attacked by civilian assailants in front of his son's school. Three individuals, who admitted they had attacked Amare, appeared at the federal high court and testified that they were hired to attack him. Amare reported that he suspected he was attacked by government supporters threatened by his newspaper's reporting on corruption. There were no developments by year's end, although Amare continued to press for further investigation of the clique that hired the assailants to attack him.

Several journalists remained in self-imposed exile, including journalists detained following the 2005 elections but released in 2007.

Prime Minister Meles publicly announced on March 18 that he would authorize the jamming of VOA Amharic service broadcasts and compared the VOA to Radio Milles Collines, the Rwandan radio station that helped incite genocidal violence in 1994. VOA's Amharic services experienced jamming throughout the country from March until October.

Ethiopian Satellite Television, based in Amsterdam and supported by the Ginbot 7 group, which espouses violent overthrow of the Government, reported periodic jamming of its service in Ethiopia, beginning in May, at the start of broadcasting.

In June 2009 the EBA ordered the private radio station Sheger-FM (102.1) to cease all rebroadcasts of VOA programming. Sheger had been broadcasting some VOA programs daily, mostly music, through a contractual agreement. Sheger management resolved the issue with the EBA, which stated that the station needed preapproval from the Government to rebroadcast programs. After going through the proper procedure, Sheger resumed rebroadcasting of all VOA programs with the exception of a brief news show.

In 2008 the parliament passed the Mass Media and Freedom of Information Proclamation. The law prohibits pretrial detention of journalists and censorship of pri-

vate media, and it recognizes the right of journalists to form professional associations. However, the law allows only incorporated entities to publish print media, requires all previously licensed press to reregister, bars foreign and cross media (involving more than one form of media, i.e. print and radio) ownership, grants the Government the unlimited right to prosecute the media, criminalizes defamation of public officials, increases defamation fines to 100,000 birr (\$6,105), establishes “national security” as grounds for impounding materials prior to publication, provides government information officials exclusive discretion to withhold “sensitive” information without judicial review, and maintains the Communication Affairs Office’s authority to regulate the media.

The Ministry of Information was dissolved in 2008. The new Communication Affairs Office reports directly to the prime minister. The EBA took over responsibility for press registration and oversight from the dissolved ministry. All existing newspapers and magazines were required to reregister with the EBA in 2009.

In February 2009 the EBA issued a regulation barring newspaper and magazine publishers and those owning more than a 2 percent stake in a media house from holding the position of editor or deputy editor in their media houses.

The Government used its licensing authority to censor the media indirectly. In June 2009 the Federal High Court denied an appeal and ruled that Sisay Agena, Serkalem Fasil, and Eskinder Nega could not be granted press licenses due to a 2005 court ruling that called for the dissolution of their former publishing companies. While the defendants had been acquitted of all charges and their former companies remained defunct, the court found that granting licenses to these individuals would be tantamount to circumventing the 2005 court ruling ordering the dissolution of the former companies.

In February 2009 the Federal High Court dropped the fines levied against the same three publishers in 2008 for a combined amount of 300,000 birr (\$18,315), in connection with their newspapers’ coverage of the 2005 elections. They appeared in court in 2008 and delivered a written petition citing the pardon law, which stipulates that pardons granted to persons automatically pertain to monetary penalties against them.

In 2008 Ayele Chamisso, chairman of the CUD, filed charges against three private newspapers: Addis Neger, the Awramba Times, and the now-defunct Soressa. Ayele claimed that the newspapers used his party’s name for other groups. The editor of the Awramba Times, Dawit Kebede, appeared in court in 2008 on defamation charges and was released on bail of 2,000 birr (\$122.10). In December 2009 Ayele Chamisso asked the court to drop the charges against the three newspapers.

*Internet Freedom.*—The Government restricted access to the Internet and blocked opposition Web sites, including the sites of insurgent groups advocating violent overthrow of the Government (OLF, ONLF, Ginbot 7) and several news blogs and Web sites run by opposition diaspora groups, such as Addis Neger, Nazret, Ethiopian Review, CyberEthiopia, Quatero Amharic Magazine, Tensae Ethiopia, and the Ethiopian Media Forum. The news Web site for VOA was inaccessible from March to October.

In early March 2009, the Government lifted Internet restrictions on all domestic news Web sites and opposition Web sites for a short time. However, some Web sites, including Nazret.com, reported being blocked again soon after.

In 2008 a press release by the CPJ stated that, according to reliable sources, its servers were inaccessible to users in the country and that e-mails from the country were not coming through to the CPJ. These reports emerged at the same time that the CPJ was investigating the detention of The Reporter editor in chief Amare Aregawi. The Reporter also alleged that its Web site was blocked for four days during this time. The CPJ’s Web site was also inaccessible at other times during the year. The CPJ continued to report matters with e-mails and domestic access to its Web site.

As of March 2009, the ETC reported 42,707 Internet subscribers. Citizens in urban areas had ready access to Internet cafes; however, rural access remained extremely limited. According to International Telecommunication Union statistics for 2008, approximately 0.45 percent of the country’s inhabitants used the Internet. Mobile telephone text messaging was available countrywide. The number of mobile telephone subscribers was 6.1 million, according to the Ministry of Communication and Information.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom during the year. Authorities did not permit teachers at any level to deviate from official lesson plans and actively prohibited partisan political activity and association of any kind on university campuses. Innumerable anecdotal reports suggest that non-EPRDF members were reportedly more likely to be transferred to undesir-

able posts and to be bypassed for promotions. There was a lack of transparency in academic staffing decisions, with numerous complaints from individuals in the academic community of bias based on party membership, ethnicity, or religion. Speech, expression, and assembly were frequently restricted on university and high school campuses. Several teachers who were members of, or were perceived to support, opposition parties—particularly in Oromia, Tigray, Amhara, and the SNNPR—reported being harassed by local officials and threatened with the loss of their jobs or transfers to distant locations.

Some college students reportedly were pressured to pledge allegiance to the EPRDF to secure enrollment in universities or postgraduation government jobs. According to multiple credible sources, teachers and high school students in grade 10 and above were required to attend training at their schools on the subject of revolutionary democracy and EPRDF policies on economic development, land, and education. After the training attendees reportedly were routinely provided with EPRDF membership forms; as a result, some students were under the impression that they needed EPRDF membership to gain admission to university in the future.

In August the Ministry of Education (MOE) disseminated a directive banning distance learning programs offered by both public and private universities and prohibiting private universities from offering degree programs in law and teacher education. The directive also required private universities to align their curriculum offerings with the previously announced MOE policy of a 70-to-30 ratio between science and social science academic programs. The directive permitted universities to complete ongoing courses, but no new enrollments were permitted. The directive disproportionately affected private universities, which were the primary purveyors of distance learning programs. Private university curricula also were heavily focused in the social sciences. MOE officials cited a need to maintain quality standards as the reason for the directive. In October the Government lifted the ban.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government restricted this right. Organizers of large public meetings or demonstrations must notify the Government 48 hours in advance and obtain a permit. Local government officials, invariably associated with the EPRDF, controlled access to municipal halls, and there were many complaints from opposition parties that local officials would deny or otherwise obstruct the scheduling of opposition parties to use halls for lawful political rallies.

Regional governments, including the Addis Ababa regional administration, were reluctant to grant permits or provide security for large meetings.

Multiple opposition political parties reported EPRDF partisans with cameras at the entryway of campaign rallies who would film opposition activists while they were entering, leaving, or participating in meetings. After a meeting the individuals pictured reportedly were harassed and intimidated to discontinue their support for the opposition party; sometimes they were detained.

Opposition parties also often reported difficulty in obtaining use of local municipal halls, controlled by local officials who invariably were affiliated with the EPRDF, to hold public campaign events.

In August 2009 the UDJ attempted to hold a town hall meeting in Adama after receiving permission from local authorities. Prior to the meeting, local authorities prevented the UDJ from displaying posters and announcing the meeting to the public. The meeting was disrupted by the shouts of several participants. Security guards did not attempt to stop the disruption. The meeting adjourned 15 minutes after it began. The Minister of Communications announced that the disruptions were illegal and that the Government would launch an investigation; however, at year's end there was no information reported on the conclusions.

There were credible reports from Shakiso woreda of mass arrests and rough treatment of students and elderly citizens while they were attempting to protest the practices of the Laga Dembi mine in December 2009. Residents claimed that the mine was releasing toxic waste into a nearby river. The Ministry of Mines and Energy and regional administration officials carried out a study to attempt to dispel rumors of environmental damage leading to miscarriages and still births, finding that such damages had never occurred. In December 2009 police arrested more than 100 persons at a demonstration in anticipation of a response from local officials to their petition. Among those arrested were two political figures, Assefa Arure and Dulecha Robe. According to press reports, as well as a former member of parliament, Demboba Boku, on January 5-6, police arrested three students at Awassa University in connection with the riots.

There were no developments in the 2008 beatings of Dejen town residents who were protesting the stalling by local officials of the residents' application for use of nearby farmland.

*Freedom of Association.*—Although the law provides for freedom of association and the right to engage in unrestricted peaceful political activity, the Government limited this right in practice.

In accordance with the Charities and Societies Proclamation (CSO law), adopted in February 2009, which entered into force in February, charities and civil society organizations (CSOs) were required to reregister by February with the recently established Charities and Societies Agency (CSA). The CSA was originally under the authority of the MOJ but was moved to the Ministry of Federal Affairs before the end of the year. According to the MOJ, there were 3,522 organizations registered before the CSO law was adopted, and, after the law, 1,655 organizations reregistered.

The Ministry of Foreign Affairs screens applications for international NGOs and submits a recommendation on whether to approve or deny registration.

The Ethiopian Teachers' Association (ETA) has operated since 1967, but after the EPRDF took power in 1993, an alternate, pro-EPRDF ETA was established. In 1993 the original ETA and the Government-supported ETA began a prolonged legal battle over the organization's name and property rights. In 2008 the Court of Cassation ruled against the original ETA and awarded its name and property to the pro-EPRDF ETA (see section 7.a.). In 2008 the original ETA applied to the MOJ for registration as the National Teachers' Association but was denied registration.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—Although the law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, the Government restricted some of these rights in practice.

The Government severely restricted the movement of persons into and within the Ogaden area of the Somali region, arguing that the ONLF armed insurgency posed a security threat (see section 1.g.).

The law prohibits forced exile, and the Government did not employ it. Several citizens sought political asylum or remained abroad in self-imposed exile, including prominent human rights advocates.

In October the Government announced a new policy that allows exiled Eritreans living in Ethiopia to become permanent legal residents of Ethiopia with full entitlement to public services.

*Internally Displaced Persons (IDPs).*—The Federal Disaster Risk Management and Food Security Sector (DRMFSS), under the authority of the Ministry of Agriculture and Rural Development, is the main government actor responsible for the emergency needs of IDPs, in collaboration with the Ministry of Health, Agriculture, and Water Resources. However, there was no coordination mechanism and no government policy dedicated particularly to IDPs and related matters. The DRMFSS mandate includes only assistance and not protection, return, resettlement, or finding durable solutions, and IDP matters are dealt with mostly on an ad hoc basis.

The relationship between conflict and natural disaster-induced displacement in Ethiopia was complex. In some cases conflict has arguably exacerbated displacements caused by drought conditions (e.g., those in the Somali region), resulting in mixed causes of displacement. The UN Office for the Coordination of Humanitarian Affairs estimated there were between 300,000 and 350,000 natural disaster and conflict-induced IDPs, including an estimated 62,259 from Gambella and 184,239 from the Somali region and Oromia.

In Gambella intercommunal conflict and cross-border conflict with residents of Sudan over resources continued to exacerbate vulnerabilities and lead to displacement. The regional government stated that the number of persons affected by conflict between clans was not available but acknowledged it was a concern. In addition the impact of raids by Murle and Lou Nuer Sudanese led to the displacement of residents from the woredas of Akobo, Jor, Jikawa, and Wantawa. A joint government and humanitarian partners' assessment, completed in March, indicated that approximately 11,460 households—57,300 persons—were displaced from the woredas of Mathar, Lare Itang, and Jor.

In July 2009 Menit Goldia and Menit Shasha (Amhara region) woreda officials forced an estimated 5,500 Bench Maji persons from their homes for unknown reasons. Many fled to Addis and appealed to several government officials. Some also filed a complaint with the Office of the Ombudsman. Following a joint investigation by regional and zonal government authorities, a decision was made to allow those who settled in Menit Goldia and Menit Shasha woredas prior to August 1997 to resettle in their respective woredas. At the end of 2009, woreda officials continued discussions as to the process of resettlement. Those who arrived after August 1997

were sent back to the Amhara region. Vehicles were provided by the Amhara regional government, but most of the victims chose not to go because they considered themselves to be from the Welkite and Gojeb areas in the SNNPR.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 Organization of African Unity Convention Governing the Specific Aspects of the Refugee Problem in Africa. The Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, and it granted refugee status and asylum. The Government generally cooperated with the UN Office for the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and returning citizens. There were continued anecdotal reports that Ethiopian asylum seekers deported from Yemen were detained upon return to the country.

In February, in cooperation with the UNHCR, the Government opened a new refugee camp, Melkadida, northwest of the town of Dolo Odo, near the border with Kenya and Somalia, to accommodate new Somali refugees, since Bokolmayo camp, which opened in April 2009, had reached its 20,000-person capacity. The capacity of the new camp was 30,000 refugees, and it held more than 22,659 refugees as of year's end. The UNHCR and the Government also planned to increase the population capacity of Bokolmayo to 30,000 to deal with the continued influx of Somali asylum seekers. Registration of new arrivals in the transit center in Dolo Odo averaged 1,700 per month.

The number of Eritrean asylum seekers increased, with approximately 1,000 to 1,500 new arrivals per month, according to the International Organization for Migration (IOM), compared with 800 to 1,000 in 2009. As in the previous year, approximately half, an estimated 500 to 750 Eritrean refugees a month, departed monthly on secondary migration through Egypt and Sudan to go to Europe and other final destinations.

In April the Government opened a new refugee camp for Eritreans, Adi Harush, located less than nine miles from My Ayni camp. The UNHCR continued to assist in the reception and transportation back to My Ayni or Adi Harush of more than 150 Eritrean refugees who had been detained in Egypt and deported by the Egyptian authorities. Overall, the UNHCR reported 44,823 Eritrean refugees living in Ethiopia at year's end. The UNHCR and the Government also reported a significant increase in the number of unaccompanied minors fleeing Eritrea. The population of such minors grew from 336, in December 2009, to 1,100 as of year's end. Unaccompanied minors in the 15- to 17-year age group represented more than 75 percent of the total population of such minors, consisting of those individuals who stated that they fled Eritrea to avoid military conscription.

In August the Government announced an out-of-camp policy for Eritrean refugees, a change to its previous requirement that all refugees remain in designated camps, most of which were located near the borders with Eritrea, Somalia, and Sudan, unless granted permission to live elsewhere in the country. Prior to this new policy, such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps. The policy permitted Eritrean refugees to live outside the three camps located in the north of the country. The policy provided more freedom of movement to Eritrean refugees and eased the burden of providing services within the camps. There were more than 1,700 urban refugees registered with the UNHCR and the Government, most of them from Somalia, Eritrea, and the Democratic Republic of the Congo.

The Government, in cooperation with the UNHCR, continued to provide temporary protection to individuals from Sudan, Eritrea, and Somalia who may not qualify as refugees under the 1951 convention and the 1967 protocol.

During the year the IOM processed 4,606 refugees who departed for resettlement abroad. While still ongoing, interest in Sudanese repatriation waned, and the UNHCR and the Government did not assist the return of any Sudanese refugees to their homes during the year.

On January 18, police outside of My Ayni camp fired upon a car that failed to stop at a police checkpoint, killing one female refugee and seriously wounding two others. On June 12, police shot three Eritrean refugees, one fatally, at a police checkpoint outside My Ayni. In both instances the refugees were seeking to leave My Ayni for secondary migration to Sudan and Egypt. In response the UNHCR officially wrote to the Government to request an investigation.

On April 28, nine Somali refugees from Kebrebeyah refugee camp were arrested on suspicion of affiliation with the ONLF. All were released later without charge.

On June 30, one refugee from Kebrebeayah was sentenced to eight years in prison for having links to the ONLF.

At years' end four of the refugees arrested in December 2009 remained in prison without charge. The Administration of Refugee and Returnee Affairs, an Ethiopian government agency, but not the UNHCR, had access to the prisoners.

As in 2009 there were no allegations of government cooperation with the Government of Sudan in the forcible repatriation of Ethiopian refugees. In 2009 there were instances of refoulement, in which Ethiopian refugees from Somaliland and Puntland were turned over to government security forces.

There were no developments in the ongoing investigation of the December 2009 arrest of eight Kebrebeaya camp refugees by police and the subsequent killing of three of them by the military. The Government asserted that the individuals were IDPs, not refugees. When shown proof from the UNHCR database that the individuals were indeed registered refugees, authorities alleged the individuals were Ethiopians posing as refugees. The UNHCR transferred two of the families of the refugees involved in the incident away from Kebrebeayah due to continued harassment by security forces. At year's end the Government continued to investigate the incident.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully. In practice the country has never had a peaceful change of government, and the ruling EPRDF and its allies dominated the Government. In simultaneous national and regional parliamentary elections in May, the EPRDF received approximately 79 percent of the total votes cast but won more than 99 percent of all legislative seats. Election day was peaceful, as 93 percent of registered voters cast ballots, but independent observation of the vote was severely limited. Accredited diplomats were restricted to the capital and barred from proximity to polling places. Although those few independent observers allowed access to the process did not question the EPRDF victory, there was ample evidence that unfair government tactics—including intimidation of opposition candidates and supporters—influenced the extent of that victory. International observation was limited to 60 observers from the African Union (AU), who arrived on May 16 for the May 23 vote, and 120 observers from the EU, some of whom arrived as early as February. In preliminary comments following the elections, the AU pronounced them free and fair. The EU concluded that the elections fell short of international standards for transparency and failed to provide a level playing field for opposition parties. Overall the EU observed a “climate of apprehension and insecurity,” noting that the volume and consistency of complaints of harassment and intimidation by opposition parties was “a matter of concern” and had to be taken into consideration “in the overall assessment of the electoral process.”

*Elections and Political Participation.*—The constitution provides citizens the right to freely join political organizations of their choice; however, in practice these rights were restricted through bureaucratic obstacles and government and ruling party intimidation, harassment, and arrests, with physical threats and violence used by local officials and EPRDF operatives, local police, and shadowy local militias under the control of local EPRDF operatives.

In the May national and regional parliamentary elections, the EPRDF and its affiliates won 2,450 of 2,453 seats. Coupled with the 2008 local elections, in which the EPRDF and its affiliates took all but four of 3.4 million seats after a boycott by most of the opposition, the May electoral cycle solidified the EPRDF's political domination at every level of government.

An environment conducive to free and fair elections was not in place in the two years prior to the May elections. The EPRDF employed advantages of incumbency to restrict political space for opposition candidates and activists. On the federal level, a series of reforms passed by the EPRDF-dominated parliament allowed the EPRDF to progressively narrow the freedom of opposition parties and civil society organizations to participate in the elections process. The parliament enacted a code of conduct that created a system of “joint councils” through which political parties could present all manner of complaints for peer review and arbitration. In practice only 16 of the 637 joint councils envisioned for the country were in fact formed, and only the Addis Ababa Joint Council took up cases in earnest. In an April speech, Prime Minister Meles threatened opposition leaders with postelection criminal prosecution for unspecified violations of the electoral code of conduct; however, there were no prosecutions by year's end. At the local level, thousands of opposition activists complained of EPRDF-sponsored mistreatment, ranging from harassment in submitting candidacy forms to beatings by local militia members, and complained

further that there was no non-EPRDF dominated forum to which to present those complaints. Although the law provides for partial public funding of campaigns, in practice opposition parties received very little public funding, since funding was allocated on the basis of the number of seats held by each party in the parliament. The law also permits private citizens and companies to contribute to campaigns, but recently enacted disclosure rules likely limited contributions to opposition parties. The EPRDF entered the election season with millions of dollars, whereas major opposition parties were virtually bankrupt.

The parliament also enacted the CSO law, which prohibited NGOs with greater than 10 percent foreign funding from participating in the elections process. This essentially eliminated independent civil society participation in the elections.

Voter education efforts, previously undertaken by civil society, were taken over exclusively by the NEBE, which launched its voter education campaign only days before the election and limited it to instruction on finding polling stations and completing ballots. The major educational effort that would have been required to explain to voters, the majority of whom were illiterate, that they were free to vote for whomever and whichever party they chose was not undertaken.

The EPRDF controlled all 112 seats in the House of Federation, the upper house of parliament, whose members were appointed by regional governments and by the federal government. The primary role of the Upper House is to judge, as necessary, the constitutionality of the laws passed by the lower house and to allocate financial resources from the federal government to the regions.

An opposition candidate for the federal parliament, Aregawi Gebreyohannes, was killed on March 2, in western Tigray. He was a member of the Arena Tigray Party, which belonged to the Forum opposition coalition. The party chief, Gebru Asrat, said that the killing came after weeks of harassment and multiple politically motivated arrests of Aregawi. The Government stated that the death stemmed from a personal dispute and confrontation between Aregawi and Tsige Berhane, a customer in Aregawi's restaurant. Tsige was convicted of murder on March 10 and sentenced to 15 years in prison.

On April 16, Biyansa Daba died in an Addis Ababa hospital. Members of Biyansa's family and Forum coalition leaders claimed that Biyansa was a Forum activist who had been repeatedly harassed and physically abused by local officials, police, and militia in his home village of Balemi, in Oromia. Biyansa's family and neighbors said that he had been severely beaten by local police and militia outside his home approximately two weeks before his death and had sought medical treatment in Balemi and Ambo before being transferred to an Addis Ababa hospital. Local officials and police insisted that Biyansa was an EPRDF supporter, denied that any beating took place, and did not investigate the allegations. EPRDF leaders in Addis Ababa insisted that Biyansa died of natural causes and produced an autopsy report to that effect. Dergis Merera, a close friend of Biyansa's who said he witnessed the beating and saw the medical records, stated that Biyansa's death was the result of trauma from the beatings. Dergis was arrested in May and convicted of "organizing an uprising to disrupt the constitutional order." He was released from Ambo prison in September.

The Government policy of ethnic federalism led to the creation of individual constituencies to provide for representation of all major ethnic groups in the House of People's Representatives. There were more than 80 ethnic groups, and small groups lacked representation in the legislature. There were 24 nationality groups in six regional states (Tigray, Amhara, Beneshangul, SNNPR, Gambella, and Harar) that did not have a sufficient population to qualify for constituency seats based on the 2007 census result; however, in the May elections, individuals from these nationality groups competed for 24 special seats in the House of People's Representatives. Additionally these 24 nationality groups have one seat each in the unelected, largely ceremonial House of Federation.

During the year the United Ethiopian Democratic Forces, UDJ, OFDM, Arena Tigray for Democracy and Sovereignty, and OPC reported arrests of members and the forced closure of political party offices throughout the country, as well as intimidation of landlords to force them to evict the political groups (see section 1.d.).

During the year some opposition political leaders, including federal and regional members of parliament (MPs), were discouraged or physically blocked from traveling to their constituencies to meet with supporters, although others visited constituents without incident. In January police and militia in the Oromia region, as well as civilians, allegedly physically harassed two senior leaders of OPC when they tried to register candidates.

Reporting from Human Rights Watch further documented pre-election intimidation and harassment of opposition candidates and activists by the Government and the EPRDF. In the period prior to the election, the Government jammed both VOA and

Deutsche Welle Ethiopian-language broadcasts and blocked their Web sites, a state of affairs that lasted until October.

There were 152 women in the House of People's Representatives, two female judges on the 11-seat Supreme Court, and three women among the 39 state ministers.

Membership in the EPRDF conferred advantages upon its members; the party directly owned many businesses and was broadly perceived to award jobs and business contracts to loyal supporters. There were frequent reports that local authorities told opposition members to renounce their party membership and become EPRDF members if they wanted access to subsidized seeds and fertilizer; food relief; civil service job assignment, promotion, or retention; student university assignment and postgraduate employment; and other benefits controlled by the Government.

During the year there were credible reports that teachers and other government workers had their employment terminated if they belonged to opposition political parties. According to opposition groups such as the OFDM and the OPC, the Oromia regional government continued to threaten to dismiss opposition party members—particularly teachers—from their jobs.

Registered political parties must receive permission from regional governments to open and occupy local offices. There were, however, reports of opposition parties closing offices due to coercion by local officials. A common tactic reported was to intimidate landlords into evicting their political party tenants. Another factor that influenced the closing of offices was a decrease in the availability of funding. For example, the OPC had no more than seven offices, down from more than 100 in 2005.

The political leaders of the OPC, Major Mekonnen Geleta and Colonel Asrat Tekalegne, alleged that supporters of the ruling party, including EPRDF woreda officials, beat and intimidated them as they tried to register their party's candidates for the May election. They did not pursue legal action, stating that appeal to the EPRDF-dominated local institutions would be pointless and potentially dangerous.

Merera Gudina, the chairman of the OPC, stated that he was unable to register candidates in five woredas; that security forces attacked and damaged an OPC vehicle, stole party documents, and beat representatives traveling to East Wallega to register candidates; that the police in the Somali region prevented him from holding a rally by dispersing the crowd; and that of 38 events planned at the woreda level, he was able to hold only six.

There were no developments in the 2008 beating of federal MP Gutu Mulisa and suspected CUD supporter Bilisuma Shuge.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. Corruption remained a problem, particularly among traffic police who routinely solicited bribes. The World Bank's 2009 Worldwide Governance Indicators made it clear that corruption remained a serious problem.

The MOJ has primary responsibility for combating corruption, largely through the Federal Ethics and Anti-Corruption Commission (Ethics Commission). A combination of social pressure, cultural norms, and legal restrictions limited corruption. However, some government officials appeared to manipulate the privatization process, and state- and party-owned businesses received preferential access to land leases and credit.

In March parliament passed the Disclosure and Registration of Assets Proclamation, requiring that all government officials and employees officially register their wealth and personal property. The registration of assets of government officials began in December. At year's end the president, prime minister, and all the cabinet-level ministers registered their assets.

On April 22, the Federal High Court handed down sentences of two to 15 years, in addition to fines, for seven defendants accused of corruption in connection with a scheme to sell land in Addis Ababa illegally. Behailu Lemma Dinku, a former technician in the Land and Housing Department, created two front companies to appropriate 205 million birr (\$12.5 million) worth of city land illegally; two employees of the land-leasing company acted as his chief accomplices, formalizing the fake associations.

The Federal Ethics and Anti Corruption Commission released a statement claiming that from March through May, 110 persons convicted of corruption were sentenced to prison terms ranging from one to 21 years and fined amounts ranging from 3,000 to 5,000 birr (\$183 to \$305). The statement said that the individuals were found guilty of abusing power, embezzling public property, receiving bribes, and administrative mismanagement. Among the individuals sentenced to 21 years was the previous finance section head of the Federal Courts Law Enforcement Division, Goshu Andualem, and the former manager of the land development office of

the Kolfe subcity in Addis Ababa, Wondwosen Alemu. Nineteen of the 110 individuals convicted were reported to be women.

Government tenders were occasionally discontinued after bids were received, re-released several times without being filled, or awarded to bidders with strong links to the Government and ruling party with little to no transparency in these processes or reviews.

In February 2009 the Ethics Commission reported that it conducted investigations on and arrested 203 corruption suspects from August 2008 to January 2009. The Ethics Commission also reported it held a training session for 553 persons on the concept of ethics, the anticorruption law, and corruption-prevention strategies.

In October 2009 federal MP Belete Etana Disassa published allegations of several instances of serious corruption within the federal government, including illegal procurement, unlawful payments, and unaccounted spending amounting to more than 2.5 billion birr (\$152 million).

In December 2009 the Federal High Court sentenced nine army officers and Kolfe-Keranyo subcity officials of Addis Ababa to from seven to 10 years' imprisonment and fines of 5,000 to 10,000 birr (\$305 to \$620) for illegally possessing land worth more than 6.7 million birr (\$409,000) for personal gain.

In 2008 the Ethics Commission arrested Tesfaye Birru, former ETC managing director, and 12 other senior management staff and accused them of approving an equipment and technology contract that violated government bid regulations and cost 1.52 billion birr (\$92.7 million). In August the ETC found that the evidence against Tesfaye and the others presented a prima facie case of corruption and ordered the 12 defendants to present their cases, which were pending at year's end.

In 2008 the Ethics Commission accused eight high-ranking National Bank officials of involvement in a gold scandal worth 158 million birr (\$9.7 million). The Federal High Court ordered the defendants to present their cases. The cases were pending at year's end.

Police and judicial corruption continued to be problems.

The law provides for public access to government information, but access was largely restricted in practice. The Press Law, passed in 2008, included freedom of information provisions.

The Government publishes its laws and regulations in the national gazette prior to their taking effect. The Communication Affairs Office managed contacts between the Government, the press, and the public; however, the private press reported that the Government routinely refused to respond to queries from the private press.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic human rights groups generally operated, although with significant government restriction. The Government was generally distrustful and wary of domestic human rights groups and international observers. Particularly in the period prior to the May national elections, continuing through the immediate postelection environment, the national media were critical of international human rights groups such as Human Rights Watch (HRW), which they accused of promoting subversive "neoliberal" and "rent-seeking" agendas, and the Government restricted diplomatic movements in the country around the time of the election.

Both before and after the May national elections, small demonstrations were instigated against HRW. HRW was strongly criticized for interference in internal country affairs. On November 8, the EU Election Observer Mission issued its final report on the elections, criticizing what it described as an electoral process that "fell short of international commitments for elections, notably regarding the transparency of the process and the lack of a level playing field for all contesting parties." It described "the blurring of the distinction between the ruling party and the local administration" at the kebele level, and it found discrepancies between the final results from polling stations and the previously recorded vote counts in 27 percent of observed cases.

On February 13, the CSO law entered into force following a one-year grace period. During the grace period, NGOs and CSOs had to complete new registration processes. The law prohibits charities, societies, and associations (NGOs or CSOs) that receive more than 10 percent of their funding from foreign sources from engaging in activities that promote human rights and democracy; the rights of children and persons with disabilities; equality among nations, nationalities, people, genders, and religions; conflict resolution or reconciliation; and the promotion of justice. During the grace period, leading human rights defender organizations adjusted by registering either as local charities, meaning that they could not raise more than 10 percent of their funds from foreign donors, or as "Resident Charities," which allowed donations but prohibited activities in the enumerated areas.

Two prominent human rights defender organizations—EHRCO and the Ethiopian Women Lawyers' Association (EWLA)—registered as local charities to preserve their mission and adjust to the law. For EHRCO the only organization in the country doing actual investigation and reporting on alleged human rights abuses, the readjustment also included dropping its “Ethiopian” designation, since it could not afford to retain offices in at least five regions, as required by the CSO law. Therefore, it eliminated “Ethiopian” from its name and registered as HRCO. The CSA set up by the Government to oversee NGOs froze the accounts of these two and four other organizations, claiming that funds raised in 2009 would have to be cross-checked against the annual work plan for the year. Donors demanded that the seized assets be returned to the organizations, or at least to donors, but the matter remained unresolved at year's end.

EWLA was the prominent women's rights advocacy NGO providing support services to disadvantaged women in three major areas: research and advocacy to find gender gaps and suggest amendments to the national laws, legal aid to support victims of violence and resolve civil problems in marriage relations as well as employment, and public education to influence aspects of the traditional outlook that are harmful to women and girls. Due to financial cutbacks, EWLA significantly reduced its public education program, decreased its staff by 70 percent, and closed its hotline.

Other prominent organizations, such as the Ethiopian Bar Association were compelled to seek reregistration under new names, since their names were appropriated by new, identical associations organized by the EPRDF.

There were 3,522 organizations registered before the CSO law was adopted, and, after the law 1,655 organizations reregistered. The Government maintained that the majority of the organizations that did not reregister had not functioned organizations prior to the reregistration process.

The Government harassed individuals who worked for domestic human rights organizations. For example, in June 2009 Werebabo woreda officials in South Wollo zone arrested EHRCO investigator Mulugeta Fentaw in Bistima town. He was charged with stealing 200 birr (\$12.21) and sentenced to eight months in prison. In July 2009 the zonal high court dismissed the case (see section 1.d.).

The Government generally cooperated with international organizations such as the UN. In 2009 with the assistance of the Office of the High Commissioner for Human Rights, East Africa Regional Office, the Government undertook a project to prepare all of its overdue initial, combined, and periodic reports required under various international and regional human rights instruments, and by year's end all reports were completed, with the process of review in various committees underway.

The Government continued to restrict Somali region access to the MSF and other NGOs (see section 1.g.).

The Government denied NGOs access to federal prisons, police stations, and political prisoners. There were credible reports that security officials continued to intimidate or detain local individuals to prevent them from meeting with NGOs and foreign government officials investigating allegations of abuse.

In May 2009 state-owned Ethiopian Television broadcast a three-part documentary claiming to refute cases of human rights abuses documented by foreign observers. The Ministry of Foreign Affairs initiated an ostensible “investigation” conducted by the Ethiopian News Agency (ENA), a part of the Government Communication Affairs Office. Human rights abuse victims and their families, neighbors, and friends were questioned by ENA officials, sometimes while being recorded on video and escorted by armed security officers. The testimony by individuals confirming their stories of abuse to these investigators was excised from the final documentary report. The Government-established Ethiopian Human Rights Commission, which is funded by the parliament and subject to parliamentary review, investigates human rights complaints and produces both annual and thematic reports, although it did not release any reports during the year. The Office of the Ombudsman has the authority to receive and investigate complaints with respect to administrative mismanagement by executive branch offices. The office received hundreds of complaints during the year, mainly focused on delays or denials in services, improper institutional decisions, promotions or demotions, and pension matters. It was not known which complaints were investigated or acted upon.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides all persons equal protection without discrimination based on race, nation, nationality, or other social origin, color, gender, language, religion, political or other opinion, property, birth, or status; however, in practice the Government did not fully promote and protect these rights.

*Women.*—The constitution provides women the same rights and protections as men. Harmful Traditional Practices (HTPs) such as FGM, abduction, and rape are explicitly criminalized; however, enforcement of these laws was inconsistent. To address this, the Government established a National Commission for Children's and Women's Affairs in 2005, as part of the EHRC, to investigate alleged human rights violations against women and children.

Women and girls experienced gender-based violence daily, but it was underreported due to cultural acceptance, shame, fear, or a victim's ignorance of legal protections. The National Committee for Traditional Practices in Ethiopia identified 120 HTPs. One of the most prevalent HTPs, FGM, was still widespread but declining. In 2000 the Ethiopian Demographic and Health Survey found that FGM was practiced on 80 percent of all women surveyed, while the total dropped to 74 percent of all women surveyed in 2005. Furthermore, the number of younger women subjected to FGM was declining more rapidly; in 2005, 81 percent of women ages 35-39 had been subjected to FGM, compared with 62.1 percent of women ages 15-19. The same survey found that four in five women who had been subjected to FGM in the Somali region, and three in five in the Afar region, underwent infibulation, the most severe form of FGM. In the context of gender-based violence, significant gender gaps in the justice system remained, due to poor documentation, inadequate investigation, and lack of special handling of cases involving women and children.

The law criminalizes rape and provides penalties of five to 20 years' imprisonment, depending on the severity of the case; however, the law does not expressly address spousal rape. The Government did not fully enforce the law, partially due to widespread underreporting. The Addis Ababa 2006 annual police report listed 736 rape cases in an estimated population of 3.5 million persons; the true incidence may have been much higher. More recent statistics on the number of abusers prosecuted, convicted, or punished were not available. However, EWLA reported that in 2006, 558 rape cases were reported and 281 offenders were punished. Additionally, in 2005, 938 incidents of rape were reported; however, only 103 offenders were punished. The length of imprisonment for offenders in both years was unknown.

Domestic violence, including spousal abuse, was a pervasive social problem. The 2005 Demographic and Health Survey (DHS) found that 81 percent of women believed a husband had a right to beat his wife. A 2005 World Health Organization study found that in two rural districts in SNNPR, Meskan and Mareko, 71 percent of women were subject to physical or sexual violence, or both, by an intimate partner during their lifetime. Although women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, particularly in rural areas. The Government prosecuted offenders on a limited scale. Domestic violence is illegal under the criminal code. Depending on the severity of damage inflicted, punishment varies from small fines to imprisonment for up to 10 to 15 years. During the year the Government expanded its efforts to combat domestic violence by setting up a hotline run by the Federal Police, under the Ministry of Federal Affairs; another domestic violence hotline established by EWLA was closed due to budget constraints. In addition police officers were required to receive domestic violence training from domestic NGOs and the Ministry of the Women's Affairs. There is a deputy commissioner of women's and children's rights in the EHRC.

Sexual harassment was widespread. The penal code prescribes 18 to 24 months' imprisonment; however, harassment-related laws were not enforced.

The law sets the legal marriage age for girls and boys at 18; however, this law was not uniformly enforced. The 2005 DHS found that among women ages 25-49, 66 percent were married by age 18 and 79 percent were married by age 20. The median age at first marriage among women ages 25-49 was 16.1 years of age, with a range of 14.2 years in Amhara to 21.9 years in Addis Ababa. There was little change in these numbers between the 2000 and 2005 studies, although it appeared that there was a small decline in marriages at the earliest ages.

In 2004 the Ministry of Health launched an ambitious Health Sector Development Program that significantly increased access to health care, especially in rural areas. The Health Extension Program (HEP) supports a paid health extension worker at a health post in every area with a population of at least 5,000; health posts feed into a health center that provides limited services. The HEP contributed significantly to increases in access to improved water and sanitation, family planning, and immunization, which in turn have drastically improved health indicators. For example, according to the 2000 DHS, the contraceptive prevalence rate among married women was 8 percent, of which 6.3 percent used modern methods. This increased to 14.7 percent in 2005, with 13.9 percent of that due to modern methods. The DHS's 2009 Last Ten Kilometers Project baseline survey reported a contraceptive prevalence of 32 percent in the four most populous agrarian regions (accounting for

80 percent of the country's population). Similarly, under-five mortality declined from 166 deaths per 1,000 live births in 2000 to 123 deaths per 1,000 live births in 2005 (DHS). Infant mortality declined from 97 to 77 per 1,000 live births. Maternal mortality rates declined from 871 in 2000 to 673 in 2005.

Discrimination against women was most acute in rural areas, where 85 percent of the population was located. The law contains discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over five years old. Courts generally did not consider domestic violence a justification for granting a divorce. There was limited legal recognition of common law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the law entitled women to only three months' financial support if a relationship ended. A common-law husband had no obligation to provide financial assistance to his family, and as a result, women and children sometimes faced abandonment. Notwithstanding progressive provisions in the formal law, such as the family law passed in 2000, traditional courts continued to apply customary law in economic and social relationships.

According to the constitution, all land belongs to the Government. However, both men and women have land-use rights, which they can pass on as an inheritance as long as their offspring are also engaged in farming. Those who use the land may rent all or a portion of their land according to regional land laws, which vary from region to region. In Amhara one may rent up to 100 percent of one's land for a maximum of 25 years; in Tigray and SNNPR, up to 50 percent of land may be rented for a maximum of 20 years; in Oromia the maximum duration of the lease is 15 years. All recently passed federal and regional land laws empower women to access government land. Inheritance laws also enable widowed women to inherit joint property they acquire during marriage. At year's end Gambella and Benishangul-Gumuz had not passed regional land policies.

In urban areas women had fewer employment opportunities than men, and the jobs available did not provide equal pay for equal work. Women's access to gainful employment, credit, and the opportunity to own and/or manage a business was further limited by their low level of education and training, traditional attitudes, and limited access to information.

The MOE reported that female participation in undergraduate and postgraduate programs had increased to 90,938 in 2008-09 from 33,146 in 2004-05, due to the expansion of higher-learning institutions, awareness training, and the establishment of gender offices in universities.

*Children.*—The constitution provides a comprehensive list of rights for children. Citizenship is derived from one's parents.

The Government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues, despite its limited ability to provide improved health care, basic education, or child protection. As a policy primary education was universal, tuition-free, and compulsory; however, there were not enough schools to accommodate the country's youth, particularly in rural areas. The cost of school supplies was prohibitive for many families, and there was no legislation to enforce compulsory primary education.

Child abuse was widespread. Unlike in previous years there was no training of police officers on procedures for handling cases of child abuse. One NGO that assisted in the training lost foreign funding because of the CSO law and had ceased its operations.

A 2009 study conducted by the African Child Policy Forum revealed that prosecuting offenders for sexual violence against children was difficult due to inconsistent interpretation of laws among legal bodies and the offender's right to bail, which often resulted in the offender fleeing or coercing the victim or the victim's family to drop the charges.

Societal abuse of young girls continued to be a problem. HTPs included FGM, early marriage, marriage by abduction, and food and work prohibitions. A 2006 African Child Policy Forum retrospective survey indicated that 68.5 percent of girls surveyed had been sexually abused and 84 percent had been physically abused.

The majority of girls and women in the country had undergone some form of FGM. Girls typically experienced clitoridectomies seven days after birth (consisting of an excision of the clitoris, often with partial labial excision) and faced infibulation (the most extreme and dangerous form of FGM) at the onset of puberty. A 2008 study funded by Save the Children Norway reported a 24 percent national reduction in FGM cases over the past 10 years, due in part to a strong anti-FGM campaign. The penal code criminalizes practitioners of clitoridectomy, with imprisonment of at least three months or a fine of at least 500 birr (\$30.53). Likewise, infibulation of the genitals is punishable with imprisonment of five to 10 years. However, no criminal charges have ever been brought for FGM. The Government discouraged the

practice of FGM through education in public schools and broader mass media campaigns.

In the Afar region older men continued to marry young girls, but this traditional practice continued to face greater scrutiny and criticism. Local NGOs, such as the Kembatta Women's Self-Help Center and the Tigray Women's Association, also influenced societal attitudes toward HTPs and early marriage in their areas. Child marriage was a problem particularly in Amhara and Tigray, where girls were routinely married as early as age seven, despite the legal minimum age of 18 for marriage. Regional governments in Amhara and Tigray ran programs to educate young women on issues associated with early marriage. There were some signs of growing public awareness in communities of the problem of abuse of women and girls, including early marriage.

Marriage by abduction is officially illegal, although it continued in some regions, including the Amhara, Oromia, and SNNPR, despite the Government's attempts to combat the practice. Forced sexual relationships accompanied most marriages by abduction, and women often experienced physical abuse during the abduction. Abductions led to conflicts among families, communities, and ethnic groups. In cases of marriage by abduction, the perpetrator did not face punishment if the victim agreed to marry the perpetrator. EGLDAM (Ethiopia Goji Limadawi Dirgitoch Aswogaj Mahibar), the former National Committee for Traditional Practices in Ethiopia, reported in June that there were significant decreases in this practice in all regions over the past decade. Overall, 25 percent of women ages 60 and above reported marriage by abduction, but only 8 percent of women under age 30 reported this practice.

The commercial sexual exploitation of children continued during the year, particularly in urban areas. Girls as young as age 11 reportedly were recruited to work in brothels, often sought by customers who believed them to be free of sexually transmitted diseases. Girls were also exploited as prostitutes in hotels, bars, resort towns, and rural truck stops. Reports indicated that some young girls were forced into prostitution by their family members. Within the country children were trafficked from rural to urban areas for domestic service, commercial sexual exploitation, and forced labor in street vending and other activities. Reports indicated that children were trafficked from Oromia and SNNPR to other regions of the country for forced or bonded labor in domestic service.

According to a Ministry of Labor and Social Affairs (MOLSA) report, approximately 150,000 children lived on the streets, and 60,000 of these children lived in the capital. The MOLSA report stated that the problem was exacerbated because of families' inability to support children, due to parental illness and insufficient household income. These children begged, sometimes as part of a gang, or worked in the informal sector. Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger ones. "Handlers" sometimes maimed or blinded children to raise their earnings from begging.

There were reports during the year of recruitment of child soldiers in connection with the Somali region conflict (see section 1.g.).

There were an estimated 5.4 million orphans in the country, according to the report of Central Statistics Authority. Government-run orphanages were overcrowded, and conditions were often unsanitary. Due to severe resource constraints, hospitals and orphanages often overlooked or neglected abandoned infants. Children did not receive adequate health care, and several infants died due to lack of adequate medical attention. There were multiple international press reports that parents received payment from some adoption agencies to relinquish their children for international adoption, and that some agencies concealed the age or health history of children from their adoptive parents. The Government was slow to investigate these allegations.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—The Jewish community numbered approximately 2,000; there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution does not mandate equal rights for persons with disabilities. However, two laws prohibit discrimination against persons with physical and mental disabilities in employment and mandate access to buildings.

The Right to Employment of Persons with Disabilities Proclamation, gazetted in 2008, prohibits employment discrimination on the basis of disability. It also states that employers are responsible for providing appropriate working or training condi-

tions and materials to persons with disabilities. The law specifically recognizes the additional burden on women with disabilities. The Government took limited measures to enforce the law. For example, the Government assigned interpreters for hearing-impaired civil service employees.

The Ethiopian Building Proclamation, gazetted in May 2009, contains an article that mandates building accessibility and accessible toilet facilities for persons with physical disabilities. In addition landlords are required to give persons with disabilities preference for ground-floor apartments, and this was respected in practice.

Women with disabilities were more disadvantaged than men in education and employment. An Addis Ababa University study showed that female students with disabilities were subjected to a heavier burden of domestic work than their male peers. The enrollment rate for girls with disabilities was lower than for boys at the primary school level, and this gap increased at higher levels of education. Girls with disabilities also were much more likely to suffer physical and sexual abuse than able-bodied girls.

There were approximately seven million persons with disabilities, according to the Ethiopian Federation of Persons with Disabilities. There was one mental hospital and an estimated 10 psychiatrists in the country. There were several schools for hearing and visually impaired persons and several training centers for children and young persons with intellectual disabilities. There was a network of prosthetic and orthopedic centers in five of the nine regional states.

The CSO law that went into effect in February prohibits organizations receiving more than 10 percent of their funding from foreign sources from promoting the rights of persons with disabilities. Several domestic associations, such as the Ethiopian National Association of the Blind, Ethiopian National Association of the Deaf, and Ethiopian National Association of the Physically Handicapped, were negatively affected by the legislation.

*National/Racial/Ethnic Minorities.*—There are more than 80 ethnic groups, of which the Oromo, at 40 percent of the population, is the largest. The federal system drew boundaries roughly along major ethnic group lines, and regional states had much greater control over their affairs than previously. Most political parties remained primarily ethnically based.

In late January and early February, press reports alleged and credible sources confirmed that some students in Addis Ababa who originated from the Ogaden province of the Somali regional state were being arrested. In a criminal trial, the Government charged Mohamed Muse, Ahmed Nure Abdi Ali, Meryamo Moalin Abdu, Faysel Abdiquadir, and Siyad Sheekh with undermining the political and territorial integrity of the country, including membership in the ONLF, and raising finances for the ONLF. Codefendants Mohammed Muse, Ahmed Nure, and Meryamo Moalin Abdu were found guilty and sentenced to 11 years in prison. The other three defendants were acquitted and released.

In March press reports alleged that ethnic Oromos fled to Yemen due to fear of political persecution and systematic abuse. However, the IOM reported that a significant portion of the migrants returning from Yemen were from Oromia.

In June 2009 several minority ethnic groups in SNNPR (composed of more than 50 minority ethnic groups) complained the Government took measures to silence indigenous persons who protested the exploitation of natural resources. The regional State Justice Bureau of SNNPR revoked the licenses and suspended the activities of 42 community-based organizations (CBOs) for engaging in activities outside their mandate. Alleged infractions included mobilizing communities against the use of fertilizers, setting up a parallel government, promoting harmful traditional practices, nontransparent remuneration and accounting practices, producing no visible development projects for the perceived amount of money the associations were receiving, and practicing traditional rites that offended Christians. All of the CBOs were cultural and environmental preservation associations. The associations denied some or all of the allegations and lodged appeals with the Office of the Prime Minister, the ombudsman, the House of People's Representatives, and the House of Federation. The case continued at year's end.

Government and ONLF forces were responsible for human rights abuses in the Somali region (see section 1.g.).

There were no developments in the following 2008 ethnic conflict incidents: the Holte-Keyama kebele conflict that resulted in the killing of 18 persons and the injury of 26; the Borena and Gheri ethnic conflict that resulted in the death of 600 persons and the displacement of thousands; the Oromo, Afar, and Argoba conflict that resulted in the killing of 14 persons and severe injury to 18; and the killing of Zewdu Abate.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexuality is illegal and punishable by imprisonment under the criminal code. Instances of homosexual activity involving coercion or involving a minor (ages 13 to 16) are punishable by imprisonment prison term of anywhere from three months to five years. Where children under 13 years of age are involved, the law provides for imprisonment of five to 25 years. There were some reports of violence against lesbian, gay, bisexual, and transgender individuals; however, reporting was limited due to fears of retribution, discrimination, or stigmatization.

The AIDS Resource Center in Addis Ababa reported that the majority of self-identified gay and lesbian callers, 75 percent of whom were male, requested assistance in changing their behavior to avoid discrimination. Many gay men reported anxiety, confusion, identity crises, depression, self-ostracizing, religious conflict, and suicide attempts.

In 2008 nearly a dozen religious figures adopted a resolution against homosexuality, urging lawmakers to endorse a ban on homosexual activity in the constitution. The group also encouraged the Government to place strict controls on the distribution of pornographic materials. At year's end no action had been taken on the resolution.

*Other Societal Violence or Discrimination.*—Societal stigma and discrimination against persons living with or affected by HIV/AIDS continued in the areas of education, employment, and community integration. Despite the abundance of anecdotal information, there were no statistics on the scale of this problem.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides most workers with the right to form and join unions, and the Government permits unions in practice. However, the law specifically excludes managerial employees, teachers, and civil servants (including judges, prosecutors, and security service workers) from organizing unions. Approximately two-thirds of union members belong to organizations affiliated with the Confederation of Ethiopian Trade Unions, which is under the influence of the Government. There was no reported government interference in trade union activities during the year, because the major trade unions were government-established entities.

A minimum of 10 workers is required to form a union. While the law provides all unions with the right to register, the Government may refuse to register trade unions that do not meet its registration requirements. There were no reports that the Government used this authority during the year. The law stipulates that a trade organization may not act in an overtly political manner. Approximately 400,000 workers were union members.

Seasonal and part-time agricultural workers cannot organize into labor unions. Compensation, benefits, and working conditions of seasonal agricultural workers were far below those of unionized permanent agricultural employees.

Under a regulation passed in 2008, the Ethiopian Revenue and Customs Authority's director general has the sole power to dismiss government workers suspected of corruption. Courts have no authority to reinstate workers cleared of such charges.

Based on a 2008 Council of Ministers' regulation, the Government sued the Workers' Association of the National Bank of Ethiopia (central bank) in the Federal High Court, claiming that the bank was a nonprofit government agency and that the labor union should be dissolved. In February 2009 the High Court ruled that the association could not be dissolved by a regulation while the rights of workers of the bank were protected by law. The Government appealed to the Supreme Court, and at year's end the case was pending.

In 2008 the Supreme Court ruled that the independent ETA be shut down and forfeit its name, property, and bank assets to the Government-controlled ETA. The decision capped 15 years of lengthy legal proceedings and appeals. Subsequently, the original ETA applied for registration with the MOJ as the National Teachers' Association but was denied registration. Leaders of the organization sued the MOJ for refusing to register their association but lost in the Federal First Instance Court. They appealed to the Federal High Court in June 2009 and reapplied for registration with the CSA. On April 19, the High Court ruled that the case could be referred to the CSA. The agency refused to register the National Teachers' Association, explaining to its leaders that their organization was superfluous given the existence of the Government-controlled ETA. The original ETA leaders planned to appeal the decision to the CSA board, a body that began operations in August.

Although the constitution and law provide workers with the right to strike to protect their interests, it contains detailed provisions that make legal strike actions dif-

difficult to carry out, such as a minimum of 30 days' advance notice before striking when the case is referred to a court or labor relations board. The law requires aggrieved workers to attempt reconciliation with employers before striking and includes a lengthy dispute settlement process. These provisions applied equally to an employer's right to lock workers out. Two-thirds of the workers involved must support a strike for it to occur.

If a case has not already been referred to a court or labor relations board, workers retain the right to strike without resorting to either of these options, provided they give at least 10 days' notice to the other party and to the Ministry of Labor and Social Affairs and make efforts at reconciliation.

The law also prohibits strikes by workers who provide essential services, including air transport and urban bus service workers, electric power suppliers, gas station personnel, hospital and pharmacy personnel, firefighters, telecommunications personnel, and urban sanitary workers.

The law prohibits retribution against strikers, but labor leaders stated that most workers were not convinced that the Government would enforce this protection. Labor officials reported that, due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

Fourteen employees of Roto PLC were fired for arriving late on July 9. Another 20 employees went on strike in support of their 14 colleagues on July 30, claiming that the company had failed to respect the agreement it had signed with the employees' labor union. These 20 employees were also dismissed by Roto PLC. The Addis Ababa city administration Social and Labour Issues Office and the National Federation of Energy, Chemical, and Mine Trade Unions (NFECMTU) attempted to reconcile both sides, but the company refused to reinstate the 14 it had dismissed, as well as the 20 employees who went on strike as a result of the action taken against the 14. The company instead hired and trained 20 new employees and decided not to bring back the 34 employees. On August 4, the company stated that it was willing to pay compensation, but the employees wanted to negotiate for a return to work, not compensation. At year's end the NFECMTU was trying to intervene and reconcile both sides, but the dismissed employees stated that their intent was to take the matter to court if Roto PLC refused to negotiate a return to work.

*b. The Right to Organize and Bargain Collectively.*—The law protects the right of collective bargaining for most workers, and in practice the Government allowed citizens to exercise this right freely. Labor experts estimated that collective bargaining agreements covered more than 90 percent of unionized workers. Representatives negotiated wages at the plant level. Unions in the formal industrial sector made some efforts to enforce labor regulations.

Although the law prohibits antiunion discrimination by employers against union members and organizers, unions reported that employers frequently fired union activists. Lawsuits alleging unlawful dismissal often take years to resolve because of case backlogs in the courts. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities and generally did so in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, such practices occurred (see sections 6 and 7.d.).

Courts could order forced labor as a punitive measure. Additionally, both adults and children were forced to engage in street vending, begging, traditional weaving, or agriculture work. Situations of debt bondage also occurred in traditional weaving, pottery, cattle herding, and other agricultural activities, mostly in rural areas.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws against child labor; however, the Government did not effectively implement these laws in practice, and child labor remained a serious problem, both in urban and rural areas. By law the minimum age for wage or salary employment is 14 years; however, the minimum age for employment was not effectively enforced. Special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. By law children between the ages of 14 and 18 are not permitted to work more than seven hours per day, between 10 p.m. and 6 a.m., on public holidays or rest days, or overtime. The law defines hazardous work as work in factories or involving machinery with moving parts or any work that could jeopardize a child's health. Prohibited work sectors include transporting pas-

sengers, electric generation plants, underground work, street cleaning, and many other sectors.

A 2001 survey conducted by the Central Statistics Agency found that approximately 58 percent of boys and 42 percent of girls ages five to 14 were working. These figures were supported by a 2006 UNHCR study on the worst forms of child labor. The great majority of working children were found in the agricultural sector (95 percent), followed by services, manufacturing, and other sectors. The number of working children was higher in Amhara, Oromia, SNNPR, and Tigray than in other regions. During the year the Government increased investments in modernizing agricultural practices as well as in the construction of schools in efforts to combat the problem of children in agricultural sectors. The Government claimed a 94 percent rate of initial school enrollment for children of primary school age.

According to the MOLSA, many children worked for their families without pay. In both rural and urban areas, children often began working at young ages. The MOLSA reported that two of five working children were below the age of six. In rural areas children worked in agriculture on commercial and family farms and in domestic service. Children in rural areas, especially boys, also engaged in activities such as cattle herding, petty trading, plowing, harvesting, and weeding, while other children, mostly girls, collected firewood and fetched water. In urban areas many children, including orphans, worked in domestic services, often working long hours, which may prevent them from attending school regularly. Anecdotal evidence suggests that some children in urban areas also worked in construction, manufacturing, shining shoes, making clothes, portering, directing customers to taxis, petty trading, and herding animals. According to social welfare activists and civic organizers, who cited anecdotal evidence, forced child labor was poorly documented, and child laborers often faced physical, sexual, and emotional abuse at the hands of their employers. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Estimates of the population of street children varied, with government estimates of approximately 100,000. In Addis Ababa alone, there were an estimated 50,000 to 60,000 street children, according to the MOLSA. Some of these children worked in the informal sector to survive.

Child labor issues are covered by the MOLSA, with limited support from the Ministry of Women's Affairs and the Ministry of Youth and Sports. Cooperation, information sharing, and coordination between and among the ministries were poor. Courts are responsible for enforcing children's rights, and criminal and civil penalties may be levied in child rights violation cases. In the absence of a national strategy, investigation and disposition in cases of the violation of children's rights was minimal.

To prevent children from being exploited for labor purposes, a joint police-NGO child victim identification and referral mechanism operated in the capital. Child Protection Units (CPUs) operated out of each Addis Ababa police station but were sponsored by an NGO, Forum for Street Children; the CPUs rescued and collected information on trafficked children that facilitated their return to their families. The CPUs referred 240 trafficked children to the IOM and local NGOs for care in 2006, 843 in 2007, 761 in 2008, and 723 in 2009. The CPUs also collected data on rescued children to facilitate their reunification with their families. At year's end the CPUs stopped child protection activities because the new CSO law prevents Forum for Street Children from conducting advocacy work in the area of children's rights. Previously, internationally funded centers in Addis Ababa provided shelter, medical care, counseling, and reintegration assistance to girls victimized by trafficking. Other international NGOs provided assistance to child victims of commercial sexual exploitation, including such services as a drop-in center, shelter, educational services, skills training, guidance, assistance with income-generating and employment activities, and family reunification services.

*e. Acceptable Conditions of Work.*—There is no national minimum wage. Some government institutions and public enterprises, however, set their own minimum wages. Public sector employees, the largest group of wage earners, earned a monthly minimum wage of approximately 320 birr (\$20); employees in the banking and insurance sector had a minimum monthly wage of 336 birr (\$21). According to the Office for the Study of Wages and Other Remuneration, these wages did not provide a decent standard of living for a worker and family. Consequently, most families in the wage sector required at least two wage earners to survive, which forced many children to leave school early. Only a small percentage of the population was involved in wage labor employment, which is concentrated in urban areas. Young girls continued to migrate, often illegally, to the Gulf States in search of housekeeping work in order to assist families back home and often fell victim to exploitation or were trafficked. Many of these girls were subjected to inhumane living and working

conditions, and some lost their lives. In an effort to prevent these situations, the MOLSA continued to encourage illegal employment agencies to register as legal organizations.

The labor law provides for a 48-hour maximum legal workweek with a 24-hour rest period, premium pay for overtime, and prohibition of excessive compulsory overtime. Although the Government did little to enforce the law, in practice most employees in the formal sector worked a 39-hour workweek. However, many foreign, migrant, and informal sector workers worked more than 48 hours per week.

The Government, industries, and unions negotiated occupational health and safety standards; however, the MOLSA inspection department did not effectively enforce these standards, due to lack of resources. Lack of detailed, sector-specific health and safety guidelines also precluded enforcement. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

## GABON

Gabon, population approximately 1.4 million, is a republic dominated by a strong presidency and the Democratic Party of Gabon (PDG), which has held power since 1968. In August 2009 President Ali Bongo Ondimba was elected in a poll characterized by international observers as generally free and fair, although irregularities and post-election violence occurred. Security forces reported to civilian authorities.

The following human rights problems were reported: ritualistic killings; use of excessive force by police; harsh prison conditions and lengthy pretrial detention; an inefficient judiciary subject to government influence; restrictions on privacy and press; harassment and extortion of African immigrants and refugees; widespread government corruption; violence against women; societal discrimination against women, noncitizen Africans, Pygmies, and persons with HIV/AIDS; and trafficking in persons, particularly children.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that the Government or its agents committed arbitrary or unlawful killings.

An inquiry into civilian deaths perpetrated by security force members following the August 2009 presidential election had not been released by year's end. The Government claimed four persons were killed during post-election riots, while l'Union newspaper claimed there were at least six deaths. Opposition reports claimed security forces were responsible for a much higher number of civilian deaths.

Ritualistic killings occurred and generally went unpunished. Authorities condemned the killings; however, no investigations or arrests were made during the year. The local nongovernmental organization (NGO) Association to Fight Ritual Crimes (ALCR) reported that 34 persons were identified as victims of ritual crimes during the year. The ALCR estimated that at least double that number of ritual crimes occurred but either were not reported or incorrectly identified.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices, credible reports persisted that security forces beat prisoners and detainees to extract confessions.

Unlike in the previous year, there were no reports that security forces were responsible for injuring civilians while dispersing crowds.

Unconfirmed reports from the African immigrant community asserted that police and soldiers occasionally beat noncitizen Africans during operations to round up and deport illegal immigrants. Refugees continued to complain of harassment and extortion by security forces.

Children were injured and killed by practitioners of ritual crimes (see section 1.a.).

*Prison and Detention Center Conditions.*—Prisons were overcrowded, and conditions were harsh. Food, sanitation, and ventilation were poor, although basic medical care was provided. Prisons had adequate lighting and access to potable water; however, there were no air conditioners in prisons or jails, and temperatures often exceeded 95 degrees Fahrenheit. On-site nurses provided medical care, and prisoners needing emergency medical care were transported to hospitals. NGOs, family

members, and private citizens occasionally made contributions to augment prisoners' poor food rations.

Ten or more prisoners died during the year due to poor hygiene or malnourishment.

Prison authorities did not keep records, and it was unknown how many prisoners were being held in the country. Pretrial detainees were held with convicted prisoners.

Prisoners and detainees were allowed to worship without hindrance, and Catholic, Protestant, and Muslim services were regularly held in the prisons. Family visits were permitted in both prisons and jails.

Authorities permitted prisoners and detainees to submit written complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions; however, no reports were submitted during the year.

The Government investigated and monitored prison and detention center conditions through an office in the Ministry of Justice. After visiting Libreville's central prison in November, First Lady Sylvia Bongo and the minister of justice reported that conditions were harsh; their findings resulted in the signing of a contract to build a new modern prison facility.

The Government permitted independent monitoring of prison conditions by human rights organizations and NGOs. The International Committee of the Red Cross and the NGO Cri de Femmes visited prisons during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not always observe these prohibitions.

*Role of the Police and Security Apparatus.*—The national police, under the Ministry of Interior, and the gendarmerie, under the Ministry of Defense, were responsible for domestic law enforcement and public security. Elements of the armed forces and the Republican Guard, an elite unit that protects the president, sometimes performed internal security functions. The Inspector General's Office was responsible for investigating police abuse. Police were inefficient and corrupt, and impunity was a problem. Security forces often sought bribes to supplement their salaries. During the year the Government conducted a comprehensive review of the police and security forces; however, results of the review had not been released by year's end.

*Arrest Procedures and Treatment While in Detention.*—The law requires arrest warrants based on sufficient evidence and issued by a duly authorized official; however, security forces frequently disregarded this provision. The law allows authorities up to 48 hours to initially detain a suspect without charge, but police often failed to respect this time limit. Detainees were usually promptly informed of charges against them; however, authorities often did not file charges expeditiously. Conditional release was possible after charges had been announced if further investigation was required. Detainees were allowed prompt access to family members and a lawyer or, if indigent, to one provided by the state. There was a functioning bail system.

Members of the security forces continued to stop individuals at roadblocks under the guise of checking vehicle registration and identity papers. Security forces frequently used such operations to extort money.

All persons arbitrarily detained by security forces in Port Gentil following the 2009 presidential election had been released by year's end.

The law limits pretrial detention to six months for a misdemeanor and one year for a felony charge, with six-month extensions if authorized by the examining magistrate; however, prolonged pretrial detention was common as a result of overburdened dockets. Approximately one-third of detainees were held in pretrial detention, which sometimes lasted up to three years.

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, the judiciary was inefficient and remained susceptible to government influence. The president appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is accountable. Corruption was a problem.

The military court is appointed each year by the Office of the Presidency and is composed of selected magistrates and military personnel. The court provides the same basic legal rights as a civilian court.

Minor disputes may be taken to a local chief, particularly in rural areas, but the Government did not always recognize such decisions.

*Trial Procedures.*—The constitution provides the right to a public trial and to legal counsel, and the Government generally respected these rights. Nevertheless, a judge may deliver an immediate verdict of guilt at the initial hearing in a state security trial if the Government presents sufficient evidence. Defendants are presumed innocent and have the right to be present. Indigent defendants were provided

an attorney at state expense. Defendants have the right to confront witnesses against them, present witnesses or evidence on their behalf, have access to government-held evidence against them through their lawyer, and appeal. The Government generally respected these rights, which were extended to all citizens.

*Political Prisoners and Detainees.*—During the year President Ali Bongo Ondimba announced the release of 500 nonviolent prisoners arrested and detained under the previous government, some of whom may have been arrested for political reasons. With their release, there were no political prisoners or detainees in the country.

International NGOs have not requested formal visits or reviews of political prisoners in the last four years, but they were, in principle, allowed access.

*Civil Judicial Procedures and Remedies.*—There is an independent civil judiciary, but it was susceptible to government influence and corruption. Persons seeking damages for, or cessation of, a human rights violation could seek relief in the civil court system. Corruption was also a problem in the enforcement of domestic court orders. Administrative remedies were not generally available.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government did not respect these prohibitions in practice. As part of criminal investigations, police requested and easily obtained search warrants from judges, sometimes after the fact.

Security forces conducted warrantless searches for illegal immigrants and criminals, using street stops and identity checks.

Authorities reportedly routinely monitored private telephone conversations, personal mail, and the movement of citizens.

Unlike in the previous year, the Telecommunications Regulation Agency (ARTEL) did not impede cell phone texting. In September 2009 ARTEL suspended texting after prominent persons and journalists reported receiving text messages containing death threats. Texting was again suspended with no explanation in October 2009 in advance of the presidential inauguration; the suspension was lifted in November 2009.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and unlike in the previous year, the Government generally respected these rights. After the June 2009 death of former president Omar Bongo Ondimba, the media engaged in a more open debate on the country's leaders and its future; however, some journalists continued to practice occasional self-censorship.

Unlike in the past, when citizens risked losing their jobs if they criticized the former president, individuals could criticize the Government, including the president, publicly or privately, without reprisal.

The only major daily newspapers were the Government-affiliated *l'Union* and *Gabon Matin*. Approximately nine privately owned weekly or monthly newspapers represented independent views and those of various political parties, but most appeared irregularly due to financial constraints, or in some cases, government suspension of their publication licenses. All newspapers, including *l'Union*, criticized the Government and political leaders of all parties. Following the death of Omar Bongo, privately owned newspapers appeared more regularly.

The Government owned and operated two radio stations that broadcast throughout the country. Much of their news coverage concerned the activities of government officials, and editorials sometimes criticized specific government policies or ministers. Seven privately owned radio stations were operating at year's end. International radio stations broadcast locally.

Unlike in the previous year, no journalists were assaulted.

No action was taken in the following 2009 assaults on media employees: the September assault by opposition supporters on Patrick Bibang, a reporter at Radio Africa No.1; or the September attacks by opposition supporters on employees of Radio Television Nazareth.

The Government owned and operated two television stations. Four privately owned television stations transmitted 24 hours a day. Satellite television reception was available.

Unlike in the previous year, the Government did not close media outlets. On election day in August 2009, authorities cut broadcasts by TVPlus, a television station owned by opposition presidential candidate Andre Mba Obame. The following day, masked gunmen opened fire on the transmitter of the satellite television station Go Africa, which had been carrying TVPlus content.

Libel can be either a criminal offense or a civil matter. Editors and authors of libelous articles can be jailed for two to six months and fined 500,000 to five million

CFA francs (\$1,040 to \$10,400). Penalties for libel and other offenses also include a one- to three-month publishing suspension for a first offense and a three- to six-month suspension for repeat offenses.

On June 7, a court in Libreville convicted Jonas Moulenda, a reporter with the state-owned daily *l'Union*, on charges of criminal defamation and ordered a suspended three-month prison sentence and a fine of 500,000 CFA francs (\$900), according to the Committee to Protect Journalists (CPJ). The charges were connected with a November 2009 article in which Moulenda accused Alfred Nguia Banda, the former director of the Gabonese Import/Export Council, of having orchestrated the killing of Rene Ziza, who was credited with fighting corruption while in charge of the country's maritime transport agency. According to the CPJ, Moulenda was being punished for raising questions about official corruption. The Government claimed that the issue was a private court case that did not involve governmental influence or official organs. In September 2009 Moulenda went into hiding after his house was raided by unknown assailants.

On October 29, CPJ called on the Government to free Jean-Yves Ntoutoume, editor of the independent bimonthly *Le Temps*, who was arrested and detained on October 26 after his newspaper failed to pay 10 million CFA francs (\$20,800) in damages to Albert Meye, a former PDG treasurer. Meye sued the newspaper after it published an article about Meye's possible involvement in a 2004 armed robbery at PDG headquarters, which resulted in the death of a courier and the theft of more than 80 million CFA francs (\$166,000). CPJ charged that the heavy civil damages imposed on Ntoutoume did not appear to be based on any actual losses suffered by Meye.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 6 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and the law provide for freedom of assembly and association, and unlike in the previous year, there were no reports that the Government denied opposition groups permits to demonstrate or forcibly dispersed demonstrators.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and unlike in the previous year, the Government generally respected these rights in practice.

The Government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

There were no legally mandated restrictions on internal movement; however, the military, police, and gendarmes continued to stop travelers at random checkpoints to check identity, residence, or registration documents and to solicit bribes.

Security force members harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. Some members of the security forces extorted bribes by threatening imprisonment or the confiscation of residency documents. Residency permits cost 150,000 CFA francs (\$312) per year, and first-time applicants were required to provide the cost of a one-way air ticket to their country of origin. In principle but usually not in practice, the Government refunded the cost of the air ticket when the individual departed the country permanently.

Unlike in the previous year, the Government imposed no restrictions on the foreign travel of opposition members. In September 2009 after the riots in Port-Gentil, the minister of interior prevented all opposition candidates from leaving the country pending an investigation into post-election violence. The restriction was lifted in October 2009.

The law prohibits forced exile, and the Government did not use it during the year.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threat-

ened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Refugees complained about widespread harassment, extortion, and detentions by security forces. To reduce such mistreatment, the Government initiated a program to replace UNHCR-issued identity cards with government-issued ones. By year's end approximately 90 percent of refugees in the country who qualified had been issued new cards. Card holders enjoyed the same rights as citizens, including the right to work, travel, and access public services. Although the cards—along with a UNHCR-led information campaign—helped reduce discrimination against refugees, approximately 3,000 refugees remained without cards at year's end, either because they could not be reached by government or UNHCR officials or because they chose not to regularize their status in the country. During the year a trilateral agreement between the UN and the Governments of Gabon and the Republic of the Congo to ensure that refugees can either return home or regularize their status in Gabon was signed and implemented.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens partially exercised this right in practice through periodic and generally fair elections.

*Elections and Political Participation.*—President Ali Bongo Ondimba was elected in August 2009 with 41 percent of the vote; the president succeeded his father, former president Omar Bongo, who died in June 2009 after a 41-year rule. The two leading opposition candidates each received approximately 25 percent of the vote. International observers characterized the election as largely free and fair; however, the election was marred by post-election violence, significant restrictions on human rights, and accusations of political tampering with the electoral process. Authorities censored news coverage and harassed the press. Irregularities included problems with voter lists and registration, polls that opened late, improperly secured ballot boxes, and armed security personnel in or near voting sites. Numerous opposition candidates contested the election results, but the Constitutional Court in October 2009 validated President Bongo Ondimba's victory.

The Government is dominated by a strong presidency. When the legislature is not in session, the president can veto legislation, dissolve the national legislature, call new elections, and issue decrees that have the force of law. The legislature generally approved legislation presented by the president, who appoints ministers of government and heads of parastatal companies.

A single party, the PDG, has remained in power since its creation by former president Omar Bongo in 1968. Opposition parties routinely complained of restricted access to the media.

Women held governmental positions from the ministerial level on down and in all branches. In a 30-member cabinet, there were six women. The president of the Senate and the head of the Constitutional Court also were women.

Members of the president's Bateke ethnic group and other southerners held a disproportionately large number of key positions in the security forces, although members of all major ethnic groups continued to occupy prominent government positions. Indigenous Pygmies rarely participated in the political process.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties, including fines and imprisonment, for official corruption; however, officials often engaged in corrupt practices with impunity. During the year the Government initiated major reforms to curb corruption. The most recent World Bank Worldwide Governance Indicators reflected that corruption was a severe problem.

Among the major anticorruption measures taken by the Government was an audit, completed in January, of all civil service positions, including those of the president and cabinet ministers. The audit resulted in the elimination of 5,600 "ghost workers," government officials who collected illegal second or third incomes. The audit also uncovered the use of fake educational credentials to obtain higher pay.

The Commission Against Illegal Enrichment is the primary body responsible for combating official corruption. During the year the commission conducted 50 investigations, including 12 cases that started in 2009; the investigations were ongoing at year's end. During the year the commission fined a local bank 960,000 CFA francs (\$2,000) after an investigation revealed corrupt practices.

In October 2009 the president recalled and ordered the arrest of Philibert Andzembe, the governor of the Bank of Central African States, on corruption

charges. The Government arrested two other officials on the same charges, one of whom remained under house arrest at year's end; the other official was released with all charges dropped. Andzembe, who was removed from his position, was awaiting trial at year's end. The president's chief of staff resigned amid corruption charges associated with the scandal, although he was eventually cleared of all charges after a French court, which had jurisdiction, dismissed the case.

The law provides that civil servants disclose their financial assets within three months of assuming office to the Commission Against Illegal Enrichment; however, this requirement was not always followed due to loopholes in the law. The Government has since eliminated the loopholes.

The law does not provide for public access to government information, and the Government generally did not allow such access.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Local human rights NGOs and activists generally operated without government restriction, investigating and publishing their findings. Government officials took no known actions on their recommendations. Local human rights NGOs and their missions included ALCR (ritual crime), Cri de Femmes (women's rights), EBANDO (pygmy rights), AVOGAB (women's and orphan's rights), Groupe Conscience (victims of sexual exploitation), and Reseau de Defense des Droits Humains du Gabon (an association of human rights NGOs).

The Government worked closely and effectively with representatives from the UN, including the UN Children's Fund (UNICEF) and UNHCR.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Although the constitution and law prohibit discrimination based on national origin, race, gender, disability, language, or social status, the Government did not enforce these provisions consistently.

*Women.*—The law criminalizes rape and provides penalties of between five and 10 years' imprisonment for convicted rapists; however, rape cases were seldom prosecuted. The law does not address spousal rape. In recent years rape was believed to be widespread. During the year, however, there continued to be a lack of information on the prevalence of rape. According to the UN Committee on the Elimination of All Forms of Discrimination against Women, it was difficult to obtain information on domestic violence against women, including marital rape, in the country. Discussing rape remained taboo and women often opted not to report rape out of fear, shame, or submission. Only limited medical and legal assistance for rape victims was available.

The law prohibits domestic violence; however, it was believed to be common, especially in rural areas. Penalties for domestic violence range from two months to 15 years in prison. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities, although the Government operated a counseling group to provide support for abuse victims.

There is no law that prohibits sexual harassment, but it was not a widespread problem. The Government and NGOs reported cases of female domestic workers (often victims of child trafficking) who were sexually molested by employers.

The Government recognizes the basic right of couples and individuals to decide freely the number and spacing of their children and the nature of the family. In 2009 authorities repealed a parliamentary decree prohibiting the use of contraceptives; however, women continued to have difficulty acquiring reliable contraceptives. Health clinics and local health NGOs operated freely in disseminating information on the use of contraceptives and family planning.

The Government provided free childbirth services, including prenatal care and obstetric care. According to local NGOs, such as the Mouvement Gabonais Pour le Bien Etre Familial, the infant mortality rate was approximately 99 out of 1,000 births. The maternal mortality rate was 260 deaths for every 100,000 live births. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV/AIDS.

The law provides that women have rights to equal access in education, business, investment, employment, credit, and pay for similar work; however, women continued to face considerable societal and legal discrimination, especially in rural areas. Women owned businesses and property, participated in politics, and worked throughout the Government and in the private sector. The law requires that a woman obtain her husband's permission to travel abroad, although this was rarely enforced.

*Children.*—Citizenship is conferred through one's parents and not by birth in the country. At least one parent must be a citizen to transmit citizenship. Registration

of all births is mandatory, and children without birth certificates cannot attend school or participate in most government-sponsored programs. Many mothers could not obtain birth certificates for their children due to isolation, poverty, or lack of understanding of the law.

Education is compulsory and free until age 16, although students were required to pay for their supplies, including school uniforms. The country had a shortage of classrooms and teachers, and education was often unavailable after sixth grade. Unlike in the previous year, there were no teacher strikes that reduced educational access.

Child abuse occurred. When reports of abuse surfaced, the accused abusers were generally arrested and tried; however, many such cases went unreported.

Although illegal, female genital mutilation was believed to occur among the resident population of noncitizen Africans.

Ritual killings of children, in which limbs and/or genitals were amputated, occurred. No prosecutions of such cases were conducted during the year.

The minimum age for consensual sex and marriage is 15 for girls and 18 for boys. Child marriage was rare.

Children under the age of 18 were engaged in prostitution, although no statistics were available.

The law prohibits lewd pictures and photographs "against the morals of society." The penalty for possession of pornography includes possible jail time from six months to one year and/or fines up to 222,000 CFA francs (\$462).

Gabon is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no significant Jewish community in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/tip](http://www.state.gov/tip).

*Persons With Disabilities.*—There are no laws that prohibit discrimination against persons with disabilities or provide for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. Societal discrimination against persons with disabilities occurred, and employment opportunities and treatment facilities for persons with disabilities were limited.

*Indigenous People.*—Pygmies are the earliest known inhabitants of the country. Small numbers of Pygmies continued to live in large tracts of rainforest in the northeast. Most Pygmies, however, were relocated to communities along the major roads during the late colonial and early post-independence period. The law grants them the same civil rights as other citizens, but Pygmies remained largely outside of formal authority, keeping their own traditions, independent communities, and local decision-making structures. Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have easy access to public services. Their Bantu neighbors often exploited their labor by paying them much less than the minimum wage. Despite their equal status under the law, Pygmies generally believed they had little recourse if mistreated by Bantu. There were no specific government programs or policies to assist Pygmies.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Discrimination and violence against lesbian, gay, bisexual, and transgender (LGBT) persons was a problem, and LGBT individuals often kept their status secret from the community for fear of being harassed or discriminated against.

*Other Societal Violence or Discrimination.*—There was considerable discrimination against persons with HIV/AIDS. Local NGOs worked closely with the Ministry of Health to combat both the associated stigma and the spread of the disease.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law places no restrictions on the right of association and recognizes the right of citizens to form and join trade and labor unions; workers exercised these rights in practice. The small private sector industrial workforce was generally unionized. Unions must register with the Government to be recognized officially, and registration was granted routinely.

According to the Ministry of Labor, there were more than 136 unions. The Ministry of Labor estimated there were 40,000 union members in total, 10,000 in the public sector and 30,000 in the private sector.

The law provides workers the right to strike; however, they may do so only after eight days' advance notification and only after arbitration fails. The right of public sector employees to strike was limited if a strike could jeopardize public safety. The law prohibits government action against individual strikers who abide by the notification and arbitration provisions.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without government interference, and the Government protected this right. The law provides for collective bargaining by industry, not by firm. Collectively bargained agreements set wages for whole industries. Labor and management met to negotiate differences, with observers from the Ministry of Labor. Agreements negotiated by unions also applied to nonunion workers. Unions are politically active and influential in Gabonese politics.

Discrimination on the basis of union membership is illegal. Employers who are found guilty by civil courts of having engaged in such discrimination may be required to compensate employees. Trade unions in both the public and private sectors often faced discrimination. Their demands or requests for negotiations were sometimes ignored or denied. Workers did not face termination due to trade union activity.

There are no special laws or exemptions from regular labor laws in the country's two export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, there continued to be media reports that farm workers, including some children on communal farms, and domestic workers, including some children in private households, were subjected to forced labor, including conditions of inadequate compensation for their labor and mandated long hours by employers. Boys were forced to work in local handicraft workshops while girls were primarily trafficked for forced domestic servitude, market vending, restaurant labor, and commercial sexual exploitation. The Ministry of Labor's lack of sufficient vehicles, budget, and personnel, as well as difficulty in gaining access to some large communal and family-owned commercial farms and private households, impeded the ability of labor inspectors to investigate possible labor code violations, including allegations of forced labor.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although children below the age of 16 may not work without the expressed consent of the ministries of labor, education, and public health, child labor was a serious problem. The law provides for fines between 290,000 and 480,000 CFA francs (\$604 to \$1,000) and prison sentences of up to two years for violations of the minimum age for work. The ministries rigorously enforced this law in urban areas with respect to citizen children, and few citizens under the age of 18 worked in the formal wage sector; however, child labor occurred in rural areas, where the law was seldom enforced. Non-citizen children were more likely to work in informal or illegal sectors of the economy, where laws against child labor were less rigorously enforced.

In December the Government undertook a joint operation with INTERPOL, which resulted in the rescue of 165 children and the arrest of 38 traffickers from 10 African countries. The children were placed in reception centers while the Government, UNICEF, and countries of origin worked on repatriation and prosecution of the traffickers.

An unknown number of children, primarily noncitizens, worked in marketplaces or performed domestic work; many of these children were reportedly the victims of child trafficking. Such children generally did not attend school, received only limited medical attention, and were often exploited by employers or foster families. In an effort to curb the problem, the police often fined the parents of children who were not in school. Laws forbidding child labor covered these children, but abuses often were not reported.

The constitution and labor code protect children against exploitation. The Ministry of Justice is responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor are responsible for receiving, investigating, and addressing child labor complaints. However, violations were not systematically addressed because the inspection force was inadequate, and complaints were routinely not investigated. The Government viewed child labor and child trafficking as closely linked.

During the year the Government worked closely with a foreign embassy on a media campaign to educate the populace about trafficking in persons and child labor. In conjunction with the media outreach, the Government also initiated a door-

to-door program to educate citizens in isolated communities about trafficking and child labor.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The national monthly minimum wage is 80,000 CFA francs (\$166); government workers received an additional monthly allowance of 20,000 CFA francs (\$41) per child. Government workers also received transportation, housing, and family benefits. The law does not mandate housing or family benefits for private sector workers. The minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage standards and, in general, it did so effectively.

The labor code governs working conditions and benefits for all formal sectors and provides a broad range of protection to workers; however, the Government sometimes did not respect these protections. There are various minimum wage rates depending on occupation or industry, but they have not been changed since 1994. There is no minimum wage applied to the informal sector.

The labor code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. According to the labor code and related decrees, the daily limit can be extended to perform specified preparatory or complementary work, including work necessary to start machines in a factory and by supervisors whose presence at the workplace is indispensable. The additional hours range from 30 minutes to two hours, depending on the type of work.

The daily limit does not apply to establishments in which work is performed on a continuous basis and those providing services that cannot be subject to a daily limit, including in retail, transport, dock work, hotels and catering, housekeeping, guarding, security, medical establishments, domestic work, and the press. The daily limit can be extended for urgent work to prevent or repair accidents.

Overtime compensation varies, as it is determined by collective agreements or government regulations.

Companies in the formal sector generally paid competitive wages and granted the fringe benefits required by law, including maternity leave and six weeks of annual paid vacation.

The Ministry of Health established occupational health and safety standards but did not enforce or regulate them. The application of labor standards varied from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The Government reportedly did not enforce labor code provisions in sectors where the majority of the labor force was foreign. Foreign workers, both documented and undocumented, were obliged to work under substandard conditions, were dismissed without notice or recourse, and were often physically mistreated. Employers frequently paid noncitizens less and required them to work longer hours, often hiring them on a short-term, casual basis to avoid paying taxes, social security contributions, and other benefits.

---

## GAMBIA, THE

The Gambia is a multiparty democratic republic with an estimated population of 1.7 million. In 2006 President Alhaji Yahya Jammeh was reelected for a third five-year term in an election considered partially free and fair. President Jammeh's party, the Alliance for Patriotic Reorientation and Construction (APRC), continued to dominate the National Assembly after its 2007 elections, which were also considered partially free and fair. There were instances in which elements of the security forces acted independently of civilian control.

Human rights problems included government complicity in the abduction of citizens; torture and abuse of detainees and prisoners, including political prisoners; poor prison conditions; arbitrary arrest and detention of citizens, including incommunicado detention; denial of due process and prolonged pretrial detention; restrictions on freedom of speech and press; violence against women and girls, including female genital mutilation (FGM); forced child marriage; trafficking in persons; child prostitution; discrimination against homosexual activity; and child labor.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

In March 2009 Dodou Janneh, a police volunteer attached to the national drug enforcement agency, appealed the 2008 death sentence he received for the 2007 killing of Sheriff Minteh during a police raid in Serrekunda; the appeal was before the courts at year's end.

In April 2009 the joint fact-finding team created by the UN and the Economic Community of West African States (ECOWAS) to investigate the 2005 deaths of more than 50 Ghanaians and other West African nationals in the country submitted a report of its findings. The report stated that "rogue elements" in the security services were responsible for the deaths and disappearance of the Ghanaians and recommended that the Government pay compensation to the Government of Ghana for the killings and exhume and return the bodies of six Ghanaians found buried in the Tanji forest. In October 2009 the six bodies were returned to Ghana, according to Ghanaian media reports. While the Government did not provide compensation, it paid for exhumation of the bodies and provided some funds to families of the victims.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, the Government was complicit in the abduction of citizens suspected of witchcraft.

Between January and June 2009, the BBC and newspaper Foroyaa carried a series of reports about so-called "witchdoctors" from Guinea, who abducted up to 1,000 villagers in the country during the same period, held them for several days, and forced them to drink an herbal concoction that resulted in illness and two deaths. There were unconfirmed reports that some villagers were subsequently forced to confess to being witches. According to Amnesty International (AI), the Guineans were invited into the country after the death of the president's aunt, which was attributed to witchcraft. Officials in the police, army, and the president's personal protection guard reportedly accompanied the Guineans. The Guineans, who were driven around in government vehicles, also conducted "cleansing rituals" in several government offices in Banjul as well as in several other towns and villages. In May 2009 in Brefet, President Jammeh said he had to "bring in witchdoctors to identify and eradicate witches," who, he said, were responsible for underdevelopment in the districts of Foni, according to the Government newspaper *The Gambia Daily*.

During an address to the National Assembly in April 2009, the former attorney general and justice minister denied that journalist "Chief" Ebrima Manneh, who was arrested by security forces in 2006 and subsequently disappeared, was in state custody. This was the Government's first statement regarding the June 2008 ruling by the ECOWAS Community Court of Justice that Manneh's detention had been illegal and that the Government should release him and pay compensation of 2.7 million dalasi (\$100,000) to Manneh's family. The ruling followed a lawsuit filed in 2007 by the Media Foundation for West Africa (MFWA), based in Ghana. In 2007 Manneh was reportedly sighted seeking medical treatment under police supervision at a hospital in Banjul, but his whereabouts remained unknown at year's end. *c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*

The constitution and law prohibit such practices; however, there were reports that security forces tortured, beat, and mistreated persons in custody.

On August 5, former inspector general of police Ensa Badjie and former commander of the military police unit of the army Lieutenant-Colonel Mam Matarr Secka, who were on trial for corruption, abuse of office, and drug-related offenses, told their lawyer state security agents severely tortured them.

There were no developments in the following 2008 cases of torture and abuse by security forces: the March stabbing of Amadou Sanyang by members of the police intervention unit; the June torture and beating of five residents of Lamin Daranka during their arrest and transfer to Yundum Police Station; and the torture of Abdoulie Faye over an 18-day period in September by members of the police criminal investigation division.

In April 2009 former National Assembly member Musa Suso, while being tried on charges of giving false information to a public officer, alleged that while serving an earlier prison sentence (from 2000 to 2007) he was denied food and was tied and beaten for three days after a telephone calling card was discovered in his cell. In December 2009 Suso was acquitted of some of the charges against him, but he was convicted of others and sentenced to 18 months in prison.

On June 3, former editor in chief of the Independent newspaper, Musa Saidykhan, testified before the ECOWAS Community Court of Justice in Abuja in his case against the Government of the Gambia for his illegal detention and torture in 2006. The case was filed on Saidykhan's behalf by the MFWA in 2007. Saidykhan, who lives abroad in self-imposed exile, claimed that security forces applied electric shocks to his naked body during his 22-day detention; Saidykhan subsequently was released without charge. In June 2009 the court's three-member panel rejected the Government's claim that plaintiffs first had to exhaust legal remedies at the national level before appealing to ECOWAS. On December 16, the court ruled that Saidykhan was indeed tortured by state security agents while in detention in 2006. The three-member panel awarded him damages of 5.4 million dalasi (\$200,000).

The indemnity act continued to prevent victims from seeking redress in torture cases related to official actions taken by military personnel during military rule from 1994-96. The army requires victims to file formal complaints with the courts regarding alleged torture that occurred at other times. However, during the year there were no known prosecutions in civil or military courts of security force members accused of mistreating individuals.

*Prison and Detention Center Conditions.*—Prison conditions were poor, and cells were overcrowded, damp, and poorly ventilated. Inmates complained of poor sanitation and food. Unlike in previous years, there were no reports that guards were reluctant to intervene in fights between prisoners. Local prisons were overcrowded, and inmates occasionally slept on the floor. Prior to conviction, detainees were allowed to receive food from outside, but not after conviction. Medical facilities in prisons were poor; inmates who fell ill often were taken to the Royal Victoria Teaching Hospital in Banjul or nearby health centers for examination and treatment. Water supply was adequate but lighting in some cells was poor. During the summer months temperatures are extremely high and there were no ceiling fans to reduce the heat.

Unlike during the prior year, no prisoners at the Mile 2 Central Prison died during the year as a result of poor food or inadequate medical care. In March 2009 Benedict Jammeh, former police inspector general and current director at the National Drug Enforcement Agency (NDEA), testified at Musa Suso's trial that inmates at Mile 2 Central Prison were fed tainted meat that resulted in the deaths of several prisoners; a committee of senior police officers subsequently confirmed the report. In May 2009 David Colley, the director general of prison services, testified in the same trial that 23 inmates in 2006 and 40 in 2007 died in prison, primarily as a result of chronic anemia, abdominal infection, and food poisoning.

Pretrial detainees occasionally were held with convicted prisoners. At year's end, there were more than 800 inmates in the country's prisons. Women and men were held in separate wings, as were juveniles and adults.

There were occasional reports of lawyers' and family members being denied access to detainees at Mile 2 Central Prison, but generally all prisoners had access to visitors. Prisoners were free to observe any religion. Prisoners and detainees who had complaints could transmit them through their lawyers or relatives, who could take up the complaints with judicial authorities.

Authorities sometimes investigated credible allegations of inhumane conditions, as was the case in the reports of prisoners in Mile 2 being fed tainted beef in 2006. A Prisons Visiting Committee, which comprises several government agencies, is empowered to monitor detention center conditions, but it was thought to be inactive during the year.

The Office of the Ombudsman can investigate all reports brought before it, including bail conditions, pretrial detention, and confinement of juvenile offenders. However, it is not involved in negotiating alternatives for suspects facing the law. The Office of the Ombudsman did not publish findings of any investigations it conducted during the year.

The Government permitted limited independent monitoring of prison conditions by some local and international human rights groups and diplomatic missions; however, neither the media nor the International Committee of the Red Cross (ICRC) was granted access to detainees or prisoners during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, there were numerous instances of police and other security forces arbitrarily arresting and detaining citizens.

*Role of the Police and Security Apparatus.*—The armed forces are responsible for external defense and report to the minister of defense, a position held by the president. The police, under the interior minister, are responsible for public security. The National Intelligence Agency (NIA) is responsible for protecting state security, collecting intelligence, and conducting covert investigations; it reports directly to the

president. The NIA is not authorized to investigate police abuses, but during the year, the NIA often assumed police functions such as detaining and questioning criminal suspects. Security forces frequently were corrupt and ineffective. On occasion security forces acted with impunity and defied court orders.

The police human rights and complaints unit receives and addresses complaints of human rights abuses committed by police officers from both civilians and other police officers. During the year, the unit received several complaints, and some police officers faced disciplinary action as a result.

*Arrest Procedures and Treatment While in Detention.*—The law requires that authorities obtain a warrant before arresting a person; however, in practice individuals often were arrested without a warrant. Periods of detention generally ranged from a few to 72 hours, the legal limit after which detainees must be charged or released; however, there were numerous instances of detention surpassing the 72-hour limit. Detainees generally were not informed promptly of charges against them. There was a functioning bail system; however, the courts occasionally released accused offenders on bail only to have police or other law enforcement personnel rearrest them as they were leaving the court. Detainees were not allowed prompt access to a lawyer or family members; convicted prisoners were generally permitted to meet privately with their attorneys. Indigent persons accused of murder or manslaughter were provided a lawyer at public expense.

Military decrees enacted prior to the adoption of the constitution give the NIA and the interior minister broad powers to detain individuals indefinitely without charge “in the interest of national security.” These detention decrees were inconsistent with the constitution, but have not been subject to judicial challenge. The Government claimed it no longer enforced the decrees; however, there were numerous detentions during the year that exceeded the 72-hour limit.

Security forces arbitrarily arrested journalists during the year (see section 2.a.).

Security forces arbitrarily arrested and detained civilians and members of the military during the year. For example, on March 5, the former minister of fisheries and water resources, retired Major Antouman Saho, was arrested and detained at Mile 2 Central Prison for several weeks without charge. He was released and rearrested several times, spending a total of more than four months in detention without charge, well beyond the 72-hour legal limit. He was finally pardoned by the president and released without charge in July.

On July 15, eight men accused of plotting to overthrow the Government were convicted of treason and conspiracy and sentenced to death. The eight men are former chief of defense staff (CDS) of the Gambia Armed Forces (GAF) Lieutenant General Lang Tombong Tamba; former director of operations and training of the GAF Brigadier General Omar Bun Mbye; the commander of the army unit in the president’s home village, Lieutenant Colonel Kawsu Camara; the head of military intelligence in the GAF, Major Momodou Lamin Bo Badjie; former deputy inspector general of police Momodou Gaye; former diplomat Ngorr Secka; real estate dealer Abdoulie Joof; and businessman Yusuf Ezziden. The men were arrested in November 2009 but were not charged until March 2010—well beyond the 72-hour legal limit. They were accused of plotting to overthrow the Government, procuring weapons, and recruiting and training mercenaries in Guinea-Bissau to help them stage a coup. They vehemently denied all the charges and filed an appeal, which was before the Court of Appeal at year’s end.

On June 18, former CDS General Tamba and former chief of naval staff Rear Admiral Sarjo Fofana were charged with concealment of treason in relation to the foiled coup plot in 2006 masterminded by former CDS Colonel Ndure Cham. Tamba, who was deputy CDS at the time, was credited with foiling the plot when he telephoned President Jammeh in Mauritania to inform him of the plan and mobilized loyal forces to arrest officers said to be involved.

In December 2009 NIA director Ousman Sowe was dismissed, arrested, and held incommunicado for several days. There were reports that he was accused of “delaying a document of national security interest.” Sowe was being held without access to his family or lawyers at year’s end.

On May 13, Bakary Gassama, former financial director of the NIA, was released after more than a year in detention on charges of abuse of office. He was later appointed as Financial Director at the National Drug Enforcement Agency (NDEA).

In June 2009 information surfaced on the lengthy incommunicado detention of four citizens. Kemo Conteh, army Staff Sergeant Sam Kambai, NIA officer Kebba Seckan, and Samsudeen Jammeh were brought before a magistrate in Brikama, along with 12 Senegalese nationals from the southern Casamance region; the four citizens had been held for two to three years incommunicado on terrorism charges in an unknown location. Their trial, which began on August 27, continued at year’s end.

Two of the detainees held after the disclosure of the 2006 abortive coup plot—Alieu Lowe, nephew of the fugitive coup leader, and Abdoulie Njie—were still being held at Mile 2 Central Prison without charge, but their families were allowed access to them during the year. The trial of a third detainee, Hamadi Sowe, who was charged with concealment of treason, continued at year's end.

Backlogs and inefficiency in the justice system resulted in lengthy pretrial detention. Approximately 40 inmates in the prison system were in pretrial detention, and some had been incarcerated for several years awaiting trial. Several long-term detainees were released without charge or pardoned during the year.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the courts, particularly at the lower levels, were corrupt and subject to executive pressure. AI noted that the presidential power to remove a judge, nominally in consultation with the Judicial Service Commission (JSC), impeded judicial independence. During the year the president removed two high court judges without consulting the JSC.

Judges presiding over “sensitive” cases who made decisions not considered favorable to the Government risked being fired. For example, on June 8, the president dismissed Chief Justice Abdoukarim Savage without explanation. In June 2009 the president also terminated the appointment of Justice Haddy Roche, regarded as an independent thinker in legal circles; Roche had been dismissed from the bench twice previously. Several judges were dismissed under similar circumstances in 2008.

Government and security forces often disregarded court orders to release suspects and rearrested them to provide the prosecution more time to prepare its case.

Islamic, or Cadi, courts have jurisdiction over Islamic matters of marriage, divorce, and inheritance when Muslim parties are involved. District chiefs preside over local tribunals that administer customary law at the district level. Cadi courts and district tribunals do not offer standard legal representation to the parties involved, since lawyers are not trained in Islamic or customary law. Military tribunals cannot try civilians.

*Trial Procedures.*—The constitution and law provide for a fair and public trial, and the judiciary generally enforced this right, although frequent delays and missing or unavailable witnesses, judges, and lawyers often impeded the process. Many cases also were delayed because of adjournments designed to allow the police or NIA time to continue their investigations.

Defendants are presumed innocent. Both civilian trials and courts-martial are held in public, but occasionally closed-court sessions are held to protect the identity of a witness. No juries are used in the civilian courts, but court-martial proceedings are presided over by a judge advocate assisted by a panel of senior military officers. Defendants can consult with an attorney and have the right to confront witnesses and evidence against them, present witnesses and evidence on their own behalf, and appeal judgment to a higher court. Indigent defendants charged with murder or manslaughter have the right to attorneys provided at public expense. The law extends the above rights to all citizens, and no groups were denied these rights during the year; however, detainees were rarely informed of their rights or the reasons for their arrest or detention, according to AI.

The judicial system suffered from inefficiency at all levels. Cases continued to be delayed because the court system was overburdened. To alleviate the backlog, the Government continued to recruit judges and magistrates from other commonwealth countries that have similar legal systems. The attorney general oversees the hiring of foreign judges on contract. The Government reserves the right not to renew a judge's contract.

The judicial system recognizes customary, Sharia (Islamic), and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and other traditional and social relations. Customary law recognizes the rights of all citizens regardless of age, gender, and religion. It does not call for discrimination, but women are expected to show respect for their husbands and children for their parents.

Sharia was employed primarily in Muslim marriage and divorce matters; it favored men in its provisions. General Law, following the British model, applied to felonies and misdemeanors and to the formal business sector.

*Political Prisoners and Detainees.*—During the year there were credible reports that the Government held civilians based on their political views or associations, and some were held incommunicado for prolonged periods. There were about 20 political prisoners in detention at year's end.

For example, United Democratic Party (UDP) supporter Kanyiba Kanyi, who was arrested by men believed to be state security agents and held without charge shortly before the 2006 presidential elections, remained in prison at year's end. The Govern-

ment has not permitted access to Kanyi by international humanitarian organizations or his lawyer. In 2008 Kanyi's lawyer, who maintained Kanyi was being held by the NIA, filed an application to force the state to comply with the 2006 high court rulings to free him. In July 2009 the judge presiding over the case returned the case file to the Office of the Chief Justice in an apparent attempt to recuse himself from the trial; the judge provided no explanation for the return of the case file. Kanyi reportedly was sighted by a relative in March 2008 at the Royal Victoria Hospital, where he was being escorted by wardens from Mile 2 Central Prison.

The whereabouts of Chief Ebrima Manneh, who also was arrested without charge in 2006, remained unknown at year's end. The Government denied Manneh was in its custody (see section 1.b.).

*Civil Judicial Procedures and Remedies.*—The high court has jurisdiction to hear cases for civil and human rights violations, although it may decline to exercise its powers if it is satisfied that adequate means of redress are available under other laws. The Indemnity Act continued to prevent victims from seeking redress in some cases.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not always respect these prohibitions in practice. The Government did generally enforce Decree 45, which applies constitutional safeguards against arbitrary searches and the seizure of property without due process.

Observers believed the Government monitored citizens engaged in activities that it deemed objectionable.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government limited these rights by intimidation, detention, and restrictive legislation. In a July 2009 television interview, President Jammeh warned that journalists who tarnished the country's image would be "severely dealt with." Although the independent press practiced self-censorship, opposition views regularly appeared in the independent press, and there was frequent criticism of the Government in the private media.

The Government published one newspaper, *The Gambia Info*. The privately owned *Daily Observer* favored the Government in its coverage. There were seven other independent newspapers, including one published by an opposition political party that remained highly critical of the Government. There was one independent bi-weekly magazine.

One government-owned and nine private radio stations broadcast throughout the country. During most of the year, the Government-owned Gambia Radio and Television Services (GRTS) gave limited coverage to opposition activities. GRTS television rebroadcast CNN, while local radio stations rebroadcast the BBC, Radio France Internationale, Voice of America, and other foreign news sources, all of which were also available via shortwave radio. GRTS television, foreign cable, and satellite television channels broadcasting independent news coverage were available in many parts of the country, and the Government allowed unrestricted access to such networks.

The deterioration of the country's media environment continued during the year. The Government harassed journalists who wrote articles it considered inaccurate and investigated cases it considered sensitive. Several journalists reportedly went into hiding from fear of government retaliation.

Security forces arbitrarily arrested and detained numerous journalists during the year. For example, on August 9, *The Point* newspaper deputy editor in chief Abba Gibba and reporter Sainey Marenah were summoned by a high court judge presiding over the trial of former inspector general of police Ensa Badjie following publication in *The Point* of a report headlined "My Client Was Tortured to Obtain Statement." The article quoted defense lawyer Borry Touray as saying in court that his client had told him he was tortured severely by his interrogators before they took his "voluntary" statement. Justice Emmanuel Amadi questioned the journalists over the source of the article, saying no such statement was made in court. However, Touray immediately came to their defense, saying he indeed made the statement in court. They were released immediately.

In February 2009 Pap Saine, coproprietor and managing editor of *The Point*, was arrested and subsequently charged with publishing false information; Saine reported on the transfer of diplomat Lamin Sabi Sanyang from NIA headquarters to Mile 2 Central Prison and on the appointment of former minister Neneh Macdougall-Gaye to an ambassadorship. The high court withdrew the charge in July.

In March 2009 police arrested Halifa Sallah, a former presidential candidate and the publisher of the newspaper Foroyaa, for allegedly trying to incite citizens to challenge “a lawful order of the president to screen witches”; Sallah had criticized the Government-backed abduction of alleged witches during the year (see section 1.b.). In March 2009 the director of public prosecution announced that all charges were dropped “in the interest of peace and justice.”

In June 2009 seven journalists were arrested for their role in the publication of a statement by the Gambia Press Union (GPU) responding to remarks by President Jammeh on the 2004 killing of newspaper publisher Deyda Hydera; the GPU characterized the president’s remarks as un-Islamic, inappropriate, and provocative. They added that such statements would not exonerate the Government from involvement in the killing. In June 2009 the court charged the journalists with three counts of sedition and seditious publication. In July 2009 the court discharged one of the journalists for lack of evidence. On August 5, the remaining six journalists were convicted on all six counts and sentenced to two years in prison plus a fine of one million dalasi (\$35,714); failure to pay the fine would result in an additional two years’ imprisonment. On September 3, the six journalists were released following a pardon by President Jammeh, who said the gesture was in honor of the Muslim month of Ramadan.

In June 2009 reporter Augustine Kanjia of The Point was arrested at Kanifing court for allegedly taking pictures of the six journalists charged with sedition and defamation. He was released on bail after spending two days in detention and thereafter left the country.

In August 2009 authorities arrested Abdoulie John, the deputy editor in chief and French language columnist of the progovernment Daily Observer, on charges of refusing to recognize the appointment of a new managing director of the paper. John was cautioned and released without charge on the same day.

The trial of Today proprietor and editor Abdul Hamid Adiamoh, arrested in 2008 following the publication of a story about schoolchildren who skipped classes to salvage scrap metal, continued at year’s end; he was charged with publication with seditious intent.

Political activist Fatou Jaw Manneh, a foreign-based Gambian journalist who was convicted in 2008 of sedition, departed the country after her family paid the 250,000 dalasi (\$9,260) fine.

Foreign missionaries David and Rachel Fulton, who in 2008 pled guilty in a magistrate court in Banjul to advocating the violent overthrow of the Government, were released from prison during the course of the year after serving a year’s sentence in Mile 2 Central Prison. They also paid a fine of 250,000 dalasi (\$9,260) each. Both returned to the United Kingdom. The Fultons were arrested in 2008 for publishing “negative articles” and sending “negative letters” about the country and its government to individuals and organizations.

In some cases journalists from certain independent newspapers were denied access to state-sponsored events and press conferences due to official disapproval of their editorial stances.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail. However, Internet users reported they could not access the Web sites of two U.S.-based online newspapers, Freedom and The Gambia Echo, which were critical of the Government and most of its actions. Although many citizens were illiterate and most did not have computers or Internet connections at home, Internet cafes were popular in urban areas. According to International Telecommunication Union statistics for 2008, approximately 6.8 percent of the country’s inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice. However, police sometimes refused to issue permits to opposition parties wishing to hold political rallies.

The opposition UDP reported that police did not issue permits for a July 2009 meeting in Serrekunda or an August 2009 meeting in Bakau; the August meeting, however, proceeded without police permission.

For example, on April 1, leading opposition activist Femi Peters was sentenced to one year in prison and fined 10,000 dalasi (\$360) for organizing a political rally and using a loudspeaker without a police permit as required under the Public Order Act. Peters, who was the campaign manager of the UDP, was arrested in October

2009 after the UDP held a rally in Serrekunda without prior police authorization. The opposition said the police were using the issue of a permit to stifle their legitimate right to hold meetings. Peters appealed his conviction; it was dismissed by the court of appeal on August 5.

*c. Freedom of Religion.*—For a discussion of religious freedom, see the Department of State's 2010 International Religious Freedom Report at <http://www.state.gov/g/drl/rls/irf/2010/index.htm>.

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, but allow for “reasonable restrictions.” Restrictions were imposed on foreign travel for many persons released from detention, often because their travel documents were temporarily confiscated at the time of their arrest or soon afterwards. As a rule, all government employees were required to obtain permission from the office of the president before traveling abroad.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to assist internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern. The UNHCR coordinated government efforts with the International Organization for Migration, the Gambia Red Cross Society, and other agencies to provide this protection and assistance.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—Neither the constitution nor the law provides for the granting of asylum or refugee status, but the Government has established a system for providing such protection to refugees and granted refugee status during the year. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

In 2008, consistent with international agreements, the UNHCR terminated the refugee status of Sierra Leoneans who fled during that country's civil war. During the year, the Government and UNHCR provided local integration opportunities to the remaining 130 Sierra Leoneans in the country. In 2009 the Government also facilitated the voluntary repatriation of 27 Liberian refugees, and another 15 refugees in 2010, leaving an estimated 585 others in the country at year's end.

UNHCR reported 9,100 refugees in the country, of whom approximately 8,300 are Senegalese who fled the Casamance conflict in Senegal. UNHCR provided assistance with basic needs and services and implemented livelihood programs. The country also hosted smaller numbers of refugees from Liberia, Cote d'Ivoire, Togo, and the Democratic Republic of Congo.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2006 Alhaji Yahya Jammeh was re-elected to a third term as president, winning approximately 67 percent of the vote. The main opposition political party, the UDP, challenged the election results; however, the courts upheld the results. In the 2007 National Assembly elections, the ruling APRC won 42 of the 48 elected seats, and President Jammeh appointed five nominated members, including the speaker. The presidential and National Assembly elections were declared partially free and fair; irregularities included underage voting, voting by noncitizens, and biased media coverage.

Individuals representing political parties or running as independents could freely declare their candidacy, if their nominations were approved according to the rules of the independent electoral commission.

Political parties generally operated without restriction; however, police sometimes refused to issue permits for opposition parties to hold public meetings (see section 2.b.).

There were four women in the 53-seat National Assembly; two were elected and two were nominated by the president. At year's end, there were three women in the 16-member cabinet, including the vice president.

No statistics were available on the percentage of minorities included in the legislature or the cabinet. However, President Jammeh and many members of his administration are from the previously marginalized minority Jola ethnic group.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively. The World Bank's Worldwide Governance Indicators reflected that corruption was a serious problem.

The president spoke against corruption on numerous occasions during the year, and on July 22 formally enunciated a policy of "zero tolerance for drugs and corruption." The financial intelligence unit, which was established in 2009, is responsible for combating corruption.

During the year the Government prosecuted several senior police, military, and civilian officials for corruption. For example, on March 2, former inspector general of police Ensa Badjie, former commander of the military police unit of the army Lieutenant-Colonel Mam Matarr Secka, and Major Kuluteh Manneh were dismissed from their positions; they had been detained on numerous criminal charges including corruption, abuse of office, involvement in drug related crimes and armed robbery. Their trial continued at year's end.

On March 5, another group of four senior officers from the NDEA, including Director General Ebrahim Bun Sanneh; his deputy, Karamo Bojang; and former director of operations Ousman Sanneh, were dismissed and charged with drug-related offenses, corruption, and abuse of office. Their trial continued at year's end.

In November 2009 Lieutenant Colonel Gibril Bojang, former commander of the presidential guard, was convicted on charges of theft and sentenced to two years' imprisonment and a fine of 1,110,086 dalasis (\$41,100). Bojang, who pled as charged, said the money was not used for personal gain but for the welfare of his unit.

In November 2009 six judiciary officials, including judicial secretary Haruna Jaiteh and high court judges Nguie Mboob-Janneh, Amie Saho-Ceesay, and Saffie Njie, were suspended without pay due to allegations of embezzlement of court fines, forfeitures, and auctions. The officials, who also included junior clerks Pa Modou Njie and Momodou L. Sonko, were charged with embezzlement totaling 4,232,000 dalasis (\$157,000). The trial continued at year's end.

Public officials were subject to financial disclosure laws.

The constitution and law do not provide for public access to government information. Under the official secrets act, civil servants are not allowed to divulge information about their departments or to speak to the press without prior clearance from their department heads.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Some members of domestic human rights groups reportedly practiced self-censorship in matters related to the Government. Several groups expressed concern over detainees held incommunicado, but the Government did not respond.

The Government allowed visits during the year by the UN and other international governmental organizations, such as ECOWAS and the Commonwealth Secretariat; however, the Government offered no response to reports issued after the visits. The Government denied prison access to the ICRC during the year.

The Office of the Ombudsman operated a national human rights unit (NHRU) to promote and protect human rights and to support vulnerable groups. The office was established by the Government and receives government funding. During the year the unit received complaints regarding unlawful dismissals, termination of employment, unfair treatment, and illegal arrest and detention.

On October 3, two prominent gender activists and anti-FGM campaigners were arrested and charged with stealing 30,000 euros (\$40,200) granted by the Spanish nongovernmental organization (NGO) Yolocamba Solidaridad. Dr. Isatou Touray, Executive Director of the NGO Gambia Committee on Traditional Practices Affecting the Lives and Circumstances of Women and Children (GAMCOTRAP), and the agency's Program Coordinator, Mrs. Amie Bojang Sissoho, were denied bail and spent eight days in prison custody before their trial could proceed. The charges of theft were reportedly based on the findings of an investigation panel that looked into GAMCOTRAP's management of the Yolocamba grant. A previous panel set up by the Office of the President in May concluded that the allegations of mismanagement were unfounded. A number of women circumcisers who worked with GAMCOTRAP in its campaign to end FGM were brought in by the authorities to testify. The case was still before the courts at year's end.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, religion, gender, disability, language, or social status, and the Government generally enforced these prohibitions.

*Women.*—The law prohibits rape, but the problem remained despite the stiff penalties imposed by the Government. The penalty for rape of an adult is life in prison, and the maximum penalty for attempted rape is seven years' imprisonment.

No statistics are available on the number of rape cases but all incidents reported to the police were diligently prosecuted and in the majority of cases the culprits were convicted. About 10 rape cases were brought to the courts during the year. The law against spousal rape was difficult to enforce effectively, as many did not consider spousal rape a crime and failed to report it.

Domestic violence, including spousal abuse, was a widespread problem; however, it was underreported due to the stigma surrounding such violence. There was no law prohibiting domestic violence; however, cases of domestic violence could be prosecuted under laws prohibiting rape, spousal rape, and assault. There have been no prosecutions because cases of domestic violence are often settled through counseling and dialogue with family elders. There are no shelters or hotlines for victims. One of the leading women's rights NGOs in the country, GAMCOTRAP, has included gender-based violence in its training modules for combating FGM. Police generally considered reports of spousal rape to be domestic issues outside of their jurisdiction.

Prostitution is illegal; however, it was a major problem, particularly in tourist areas. Women were forcibly trafficked for commercial sexual exploitation. The tourism offenses act prohibits sex tourism, which reportedly increased significantly during the year.

The law prohibits sexual harassment and provides for a one-year mandatory prison sentence for offenders; however, sexual harassment remained a problem, although no cases were reported during the year.

The Government did not interfere with the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Couples and individuals had access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. Women were equally diagnosed and treated for sexually transmitted infections, including HIV. The maternal mortality rate in 2008 was 281 per 100,000 live births.

During the year the national reproductive and child health unit of the department of health and social welfare continued to implement a reproductive health campaign launched in 2007. The campaign, which was funded by the World Health Organization, was designed to encourage men to become involved with sexual and reproductive health issues. All maternal health care services were provided free of charge in government-run hospitals.

Traditional views of women's roles resulted in limited societal discrimination in education; however, employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment, access to credit, or owning and managing a business; however, limited societal discrimination still lingers, and women generally were employed in such pursuits as food vending or subsistence farming. Women's ability to own land was hampered by their low earning power rather than any traditional or cultural practices that prohibit such ownership. Women who own land have the same opportunities to access loans or credit as long as they are willing to offer such property as collateral.

Sharia is applied in marriage, divorce, and inheritance cases for Muslims, who make up more than 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than males. The churches concerned and the office of the attorney general settled Christian and civil marriage and divorce issues.

Marriages often were arranged and, depending on the ethnic group, polygyny was practiced. Women in polygynous unions had problems with property and other rights arising from the marriage. They also had the option to divorce, but no legal right to disapprove or be notified in advance of subsequent marriages by their husbands. The women's bureau under the Office of the Vice President oversees programs to ensure the legal rights of women. Active women's rights groups existed.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents; however, not all births were registered. To access health care and treatment at public health centers, children were required to have a clinic card, which was available without birth registration. Birth certificates are often required at enrollment in schools, but they could easily be obtained.

The constitution and law mandate free, compulsory primary education from ages six to 12, but the inadequate infrastructure prevented effective compulsory education, and children paid fees to attend school. During the year the Government estimated that 75 percent of children were enrolled in primary schools. Another 15 percent were enrolled in Islamic schools, called madrassas. Girls constituted approximately 51 percent of primary school students and an estimated one-third of high school students. The enrollment of girls was low in rural areas, where poverty and cultural factors often led parents to decide against sending their daughters to school. As part of the Government's ongoing initiative to increase the numbers of girls in school, the Government continued a countrywide program to pay basic school fees for all girls; however, in many regions, both girls and boys were still required to pay for books, lunch, school fund contributions, and exam fees.

The penalty for raping a minor, as with adults, is life imprisonment. However, because of the difficulty of proving rape of minors, particularly very young children, the charge is mostly defilement or having carnal knowledge, both of which carry a prison sentence of 14 years. There were two convictions for rape of a minor during the year: Nfamara Saidykhan and Omar Kittan were both sentenced to life imprisonment. There were several other convictions for defilement or having carnal knowledge of a minor: Samba Baldeh, sentenced to 25 years; Abdoulie Bahoum, sentenced to 14 years and ordered to pay compensation of one million dalasi (\$35,714) to the victim; Musa Ceesay, sentenced to 14 years and ordered to pay 100,000 dalasi (\$3,571) compensation; and Davidson Jones and Landing Mboob, both sentenced to 14 years. In Mboob's case, his accomplice, Mansour Manneh, was also sent to prison for 14 years for aiding and abetting a rapist. In August 2009 Musa Sarr was sentenced to life imprisonment for raping a girl.

Authorities generally enforced laws when cases of child abuse or mistreatment were brought to their attention. Carnal knowledge of a girl under the age of 16 is a felony except in the case of marriage, which can be as early as 12 years of age. Incest also is illegal. Serious cases of abuse and violence against children were subject to criminal penalties.

In March 2009 Anthony Michael Dobson, a 61-year-old New Zealand national, was convicted of child pornography and sentenced to one year in prison. Dobson was arrested in 2008 and charged with child pornography and defilement of a girl under the age of 16; he was acquitted of the defilement charge. His Gambian accomplice, who was standing trial for procurement, was also acquitted.

Peter Paul Hornberger, a German national who was arrested in 2008 for "indecent assault" on an 11-year-old boy, remained in prison awaiting sentencing at year's end.

The law does not prohibit female genital mutilation (FGM), and the practice remained widespread. A survey by the United Nations Children's Fund conducted in 2005/06 found that approximately 78 percent of girls and women have undergone FGM, and seven of the nine major ethnic groups reportedly practiced it at ages varying from shortly after birth until age 16. FGM was less frequent among educated and urban groups. Some religious leaders publicly defended the practice. There were reports of health complications, including deaths, associated with FGM; however, no accurate statistics were available. Several NGOs conducted public education programs to discourage the practice and spoke out against FGM in the media.

In 2009 more than 30 National Assembly members attended a seminar organized by GAMCOTRAP on the harmful effects of FGM. GAMCOTRAP was campaigning for a law banning FGM.

In May 2009 Vice President Isatou Njie-Saidy chaired an international conference calling for an end to FGM.

There are no laws against forced marriage, and in many villages, especially Bajakunda, young girls were forced to marry at a young age.

Children in prostitution worked in some brothels, often to support their families or because they were orphans. The tourist industry stimulated a high level of child prostitution without third party involvement. Children were also trafficked for forced commercial sexual exploitation. Some NGOs also believed that tourists living in remote guesthouses and motels were involved in the sexual exploitation of children. Security forces in the tourism development area were instructed to turn away all minors who approached the main resort areas without an acceptable reason, although they seldom turned away such children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution protects persons with disabilities—specifically stating “disabled or handicapped” persons—against exploitation and discrimination, in particular as regards access to health services, education, and employment. The law also provides that in any judicial proceedings in which a disabled person is a party, the procedure shall take into account his or her condition. The Department of Social Welfare is responsible for ensuring that persons with disabilities are not denied these rights. There were no reports of persons with disabilities being involved in any judicial proceedings. The department also worked with international donors to supply wheelchairs to some persons with disabilities. However, there was some societal discrimination. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered little discrimination in employment for which they were physically capable. There were no laws to ensure access to buildings for persons with disabilities, and very few buildings in the country were accessible to them. The Department of Social Welfare worked with the Gambia Organization for the Visually Impaired and the School for the Deaf and Blind to help educate handicapped children and to promote relevant skills. There are no laws or specific programs to ensure that persons with disabilities have access to information and communications.

On June 18, police arrested an unknown number of beggars and mentally disabled persons loitering the streets of Banjul. They were loaded onto a police truck and driven away. The Government issued no statement; the action is assumed to be a continuation of the Government's efforts to end street begging, which it views as a public nuisance. Leaders of the Gambia Federation of the Disabled urged authorities to review their policy regarding persons with disabilities. They were instrumental in obtaining the release of several detained beggars with disabilities.

The media continued to report on the rights of persons with disabilities, and several NGOs sought to improve awareness of these rights, including by encouraging the participation of persons with disabilities in sports and physical activities. The NHRU specifically sought to promote the rights of women with disabilities. Persons with disabilities were given priority access to polling booths on election days.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law establishes prison terms ranging from five to 14 years for any male that commits in public or private any act of gross indecency, procures another male, or has actual sexual contact with another male; however, to date, no one has been prosecuted. There is no similar law targeting women. Many citizens shunned lesbian, gay, bisexual, and transgender (LGBT) individuals.

In a March 2009 speech before the National Assembly, President Jammeh called homosexual conduct “strange behavior that even God will not tolerate.” The president previously described homosexual conduct as a criminal practice and told police to arrest persons practicing homosexual activity and to close motels and hotels that accommodated them. In 2008 the president ordered all LGBT persons to leave the country within 24 hours and threatened to cut off their heads. Despite this statement, there were no reported incidents of physical violence against LGBT individuals. There were no LGBT organizations in the country.

There is strong societal discrimination against LGBT individuals, but officially there are no laws that deny such individuals access to citizenship, employment, housing, education, or healthcare.

*Other Societal Violence or Discrimination.*—Societal discrimination against persons infected with HIV/AIDS hindered disclosure and resulted in rejection by partners and relatives. The Government took a multisectoral approach to fighting HIV/AIDS through its national strategic plan, which provided for care, treatment, and support to persons living with or affected by HIV/AIDS. The plan also protected the rights of those at risk of infection. In 2007 the national AIDS secretariat collaborated with the Chamber of Commerce and Industry to develop a business coalition response to HIV/AIDS, using workplace policies to destigmatize it and allow workers to feel comfortable seeking information. Public discourse about HIV/AIDS continued during the year as President Jammeh continued his controversial herbal treatment program for the disease. Throughout the year the Ministry of Health urged persons to undergo voluntary HIV/AIDS counseling and testing.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that workers are free to form associations, including trade unions, without previous authorization or excessive requirements, and workers exercised this right in practice. Military personnel, police officers, and other civil service employees are prohibited from forming unions. Unions must register to be recognized, but there were no cases in which registration was denied to a union that applied. Approximately 20 percent of the work force was employed in the formal wage sector, where unions were most active.

The law allows the right to strike; however, the Government interfered with unions' right to strike. The Government places restrictions on the right by requiring unions to give the commissioner of labor written notice 14 days before beginning an industrial action (28 days for essential services). The law specifically prohibits military personnel, police officers, and other civil service employees from striking. Police and military personnel had access to a complaints unit, and civil servants could take their complaints to the public service commission or the personnel management office.

*b. The Right to Organize and Bargain Collectively.*—The law permits unions to conduct their activities without interference. Unions were able to negotiate without government interference; however, in practice they lacked experience, organization, and professionalism and often turned to the Government for assistance in negotiations. The law allows workers to organize and bargain collectively, and although trade unions were small and fragmented, collective bargaining took place. Union members' wages, which generally exceeded legal minimums, were determined by collective bargaining, arbitration, or agreements reached between unions and management. Most collective agreements are registered with the Department of Labor and remain valid for a period of three years before being renewed. The law also sets minimum contract standards for hiring, training, and terms of employment and provides that contracts may not prohibit union membership.

An employer may apply to a court for an injunction to prohibit industrial action that is deemed to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. The law prohibits retribution against strikers who comply with the law regulating strikes.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities, and the Government intervened to assist workers whose employers fired them or discriminated against them.

There is a government-established export processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. There are no special laws or exemptions from regular labor laws in the EPZ.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children; however, there were reports that forced labor occurred (see section 6). See also the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor was a problem, although the constitution prohibits economic exploitation of children under 16 years of age, and the law prohibits exploitative labor or hazardous employment of children under the age of 18. The Children's Act also sets the minimum age for light work at 16 years and for apprenticeship in the informal sector at 12 years. Most children completed their formal education by the age of 14 and then began work. Child labor protection does not extend to the performance of customary chores on family farms or petty trading. Child labor in informal sectors is difficult to regulate, and laws implicitly apply only to the formal sector. Rising school fees prohibited many families from sending their children to school, resulting in an increase in child labor. In urban areas some children worked as street vendors, or taxi and bus assistants. There were a few instances of children begging on the street. Other sectors where children between the ages of 14 and 17 were known to work include carpentry, masonry, plumbing, tailoring, and auto repair. Children in rural areas worked on family farms. Unlike in previous years, there were almost no reports of Koranic students, known as "almudus," being forced to beg in the streets; teachers who demanded this type of behavior were usually summoned by police and ordered to stop. Children between these ages were also involved in street vending and served as housemaids.

The Department of Labor is responsible for enforcing child labor laws and conventions on the worst forms of child labor. Employee labor cards, which include a person's age, were registered with the labor commissioner, who was authorized to enforce child labor laws; however, enforcement inspections rarely took place. The law incorporates International Labor Organization provisions outlawing child prostitu-

tion and pornography. There were no specific actions by the Government to prevent or combat child labor during the year.

*e. Acceptable Conditions of Work.*—The lowest national minimum wage according to law was 19.55 dalasi (\$0.72) per day for unskilled labor, but in practice the minimum wage was 50 dalasi (\$1.85) per day. The national minimum wage did not provide a decent standard of living for a worker and family. The minimum wage law covered only 20 percent of the labor force, essentially those in the formal economic sector, although most such laborers were paid above the minimum wage. Minimum wage laws also covered foreign and migrant workers. A majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families. The Department of Labor is responsible for enforcing the minimum wage, and it did so when cases of underpayment were brought to its attention.

The basic legal workweek is 48 hours within a period not to exceed six consecutive days. Nationwide, the workweek included four eight-hour workdays and two four-hour workdays (Friday and Saturday). There are no limits on hours worked per week and no prohibition of excessive compulsory overtime. A 30-minute lunch break is mandated. Government employees are entitled to one month of paid annual leave after one year of service. Most government employees were not paid overtime. However, government workers holding temporary positions and private sector workers received overtime pay calculated per hour. Private sector employees received between 14 and 30 days of paid annual leave, depending on length of service. There was no exception for foreign or migrant workers.

The law specifies the safety equipment that an employer must provide to employees working in designated occupations. The law also authorizes the Department of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the labor department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice authorities did not effectively enforce this right.

The law protects foreign workers employed by the Government; however, it only provides protection for privately employed foreigners if they have a currently valid work permit. On April 3, the National Assembly passed an amendment to the payroll tax act which requires that employers not hire noncitizens in excess of 20 percent of their workforce except in the specialized professional category. The move was designed to encourage employers to train and employ more local citizens.

## GHANA

Ghana, with a population of 24 million, is a constitutional democracy with a strong presidency and a unicameral 230-seat parliament. In 2008 the opposition National Democratic Congress (NDC) won both the presidency and a small majority in parliament in an election deemed generally free and fair by domestic and international observers; John Evans Atta Mills was inaugurated president in January 2009. There were instances in which elements of the security forces acted independently of government authorities.

Human rights problems included the following: use of excessive force by police, which resulted in deaths and injuries; ethnic killings and vigilante violence; harsh and life-threatening prison conditions; police impunity; prolonged pretrial detention; arbitrary arrest of journalists; corruption in all branches of government; violence against women and children, including female genital mutilation (FGM); societal discrimination against women, persons with disabilities, gays and lesbians, and persons with HIV/AIDS; trafficking in women and children; ethnic discrimination and politically motivated violence; and child labor, including forced child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings; however, use of excessive force by security forces resulted in the deaths of several armed criminal suspects and other persons during the year.

On April 28, an inmate in Koforidua Prison, Eastern Region, died en route to the hospital. According to the Criminal Records Office at the Ghana Prisons Service, the

inmate died of illness; however, one local newspaper charged that the prisoner died from injuries inflicted during torture. No postmortem exam was conducted because the Ghana Police Service (GPS) denied requests by hospital staff to conduct one, alleging that the staff had not followed proper procedures to request a postmortem.

Ethnic violence resulted in deaths. For example, on January 23, three persons were killed in clashes between Fulani herdsmen and residents in Aboboa, a farming community in the Atebubu Amantin district of Brong-Ahafo Region. Authorities arrested six suspects in the neighboring village of Duabone. The suspects remained in prison, and an investigation continued at year's end.

Chieftaincy disputes, which frequently resulted from a lack of clear succession, competing claims over lands and other natural resources, and internal rivalries and feuds continued to result in deaths, injuries, and destruction of property.

On January 31, one person was killed, and 36 houses and a medical facility were burned following the installation of a rival chief in Tema, a village in the Bunkpurugu-Yunyoo district of the Northern Region. On March 7, in the same region, three persons were killed and 101 houses were burned during a renewed dispute between sympathizers of the newly appointed chief and community leaders. Police and military personnel were called to restore order. In April two persons were killed in renewed ethnic clashes in the region.

On March 5, in Tuobodom, Brong-Ahafo Region, three persons were killed and more than 500 persons displaced because of fighting between ethnic factions after the kidnapping of a rival chief. Eight persons were arrested in connection with the incident. An investigation conducted by the Criminal Investigations Division (CID) continued at year's end.

On March 22, a newly appointed chief in Garihegu, Northern Region, was attacked and killed by unidentified assailants while riding his motorbike to a nearby village. The assailants allegedly tortured the chief to death, ignited his motorbike, and placed the burning motorbike on top of him. Five persons were arrested and awaiting trial at year's end.

On March 22, in Dankyira, Greater Accra Region, a clash between supporters of two rival chiefs resulted in three deaths. Police arrested 10 suspects, and the trial continued at year's end.

Throughout the year an ongoing chieftaincy and ethnic dispute in Bawku, Upper East Region, resulted in an estimated five deaths; a polling station chairman of the opposition New Patriotic Party (NPP) was among the dead. Military and police personnel were deployed to the region, and the municipality remained under a curfew that was imposed several years ago. The violence occurred despite the establishment in February of a military barracks in the Binduri constituency of Bawku to assist with peacekeeping efforts.

There were no developments in the following 2009 societal or ethnic killings: the February killings of two persons in the Northern Region as a result of a land dispute between rival clans; the February killing of one person over ownership of a parcel of land; the July death of one arsonist in a chieftaincy dispute in the Volta Region; and the August deaths of two men and the September deaths of three other persons as a result of clashes between rival ethnic groups in the Agbogbloshie section of Accra.

Vigilante and societal violence continued to result in deaths during the year. Police took action in cases in which perpetrators were identified; however, witnesses were often reluctant to come forward, and many cases remained unsolved.

On January 19, a mob lynched a suspected thief in Ashaiman, Greater Accra Region.

In February a 21-year-old student was lynched in Birim central municipality, Eastern Region, by a mob that suspected his involvement in two alleged ritual killings in the area.

On April 11, two suspected armed robbers were lynched by a mob in Sakaman, Greater Accra Region.

On June 11, a man was lynched by a group of unidentified students at the University of Cape Coast, Central Region, for alleged theft. An investigation conducted by the Cape Coast Metropolitan Police continued at year's end.

At year's end there was no new information in the following 2009 cases of vigilante violence: the March beating death in Accra of a man who allegedly stole a mobile phone; the May beating death in the Volta Region of a woman who was accused of stealing a piece of cloth; the July lynching of two suspected armed robbers in an Accra suburb, and the July lynching of a man in Adisadel Estate, Cape Coast area.

Persons suspected of witchcraft were killed during the year. For example, on November 20, in Tema, Greater Accra Region, persons including an evangelist pastor allegedly set fire to a 72-year-old woman after accusing her of being a witch. The woman died the following day from her injuries. Police arrested six persons; two

were charged with murder, and four were released on bail. At year's end the trial continued.

Ritual killings occurred during the year. For example, on December 4, in Assin Gangan, Central Region, a man allegedly beheaded his three-year-old son for ritual purposes. A buyer in Kumasi reportedly offered the man 35,000 cedis (\$24,000) to produce a human head that he could use for ritual purposes. The father was arrested, and an investigation continued at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports that police beat and abused suspects, prisoners, and other citizens. Severe beatings of suspects in police custody reportedly occurred throughout the country but generally were unreported in official channels. Police generally denied allegations or claimed that force was justified. Military officials also reportedly mistreated persons during the year. During the year several nongovernmental organizations (NGOs), lawyers, and civil society organizations publicly criticized police use of excessive force. A 2009 call by such organizations for the Inspector General of Police (IGP) to take action against security force members involved in abuse resulted in campaigns to raise awareness and in disciplinary actions against such officials during the year.

In August a police officer in Juaso, Ashanti Region, shot and injured a man who made a derogatory comment. Police were investigating the incident at year's end.

On October 21, in Aflao, Volta Region, an immigration official allegedly shot and injured a taxi driver when he refused to stop at the border crossing. A mob subsequently burned tires and vandalized the offices of the Ghana Immigration Service. The border was temporarily closed, and the military was called to restore order. Two immigration officers were arrested pending further investigation, which continued at year's end.

On October 27, police and security personnel in Nakpanduri, Northern Region, allegedly ransacked and burned homes, injured civilians, and repeatedly fired their guns during an operation to arrest an escaped convict; the interior minister subsequently issued an apology on behalf of the Government. The Commission on Human Rights and Justice (CHRAJ) noted that investigations to determine the culpability of individual police personnel continued at year's end.

Violence between soldiers and police, often due to internal rivalries, resulted in injuries during the year. For example, on June 4, in Kumasi, soldiers from the Fourth Garrison attacked and beat 12 police officers stationed at various duty posts throughout the city. One officer was hit in the head with a hammer and was hospitalized. Soldiers also vandalized property at police stations and forced officers to flee their duty posts. In July a committee composed of three top-ranking military officers and three senior police officers, and chaired by a retired appeals court judge opened an investigation into the incidents.

At year's end there was no new information in the following 2009 cases of security force abuse: the January shooting and injuring by military police of a man on a motorcycle; the August police shooting and injuring of an 18-year-old man; the filmed abuse of two suspects being interrogated by military personnel in Bawku.

Chieftaincy disputes during the year resulted in injuries.

For example, on March 28, in the Ashanti Region, an unknown assailant shot and injured the village chief of the Ofoase traditional area.

On April 11, youth from the Abudu faction of the Dagbon ethnic group attacked 11 traders at a market in Yendi, Northern Region. The attack was in response to the arrest of some of their leaders as a result of an ongoing chieftaincy dispute.

On May 21, two persons were injured in Kaneshie, Greater Accra Region, when approximately 25 persons armed with machetes, axes, and locally manufactured pistols invaded the Ga Mantse palace in an attempt to remove the king. Four persons were arrested. At year's end the trial continued.

On August 9, in Salaga, Northern Region, two persons were shot and injured in a chieftaincy dispute.

In August in Achiaman, Greater Accra Region, nine persons were injured when fighting erupted between two factions in a chieftaincy dispute.

On September 28, in Akuapem Mampong, Eastern Region, seven persons including a 10-year-old child were injured after fighting erupted between two factions in a chieftaincy dispute.

There were no developments in the following violence stemming from chieftaincy disputes in 2009: the March incident in which police refused to intervene after the paramount chief of the Goaso traditional area, Brong-Ahafo Region, ordered his men

to beat a woman for not kneeling before him; and the May incident in which nine persons were injured in the Central Region.

Vigilante violence against suspected criminals and persons accused of witchcraft resulted in deaths and injuries (see sections 1.a., 1.d., and 6).

Mob violence during the year resulted in injuries and property damage.

On August 31, residents of Navrongo, Upper East Region, attacked construction workers who were building a school in the community; the attack reportedly was due to the hiring of workers from outside the community.

On September 16, in Tema, Greater Accra Region, approximately 200 fishermen and fishmongers attacked construction workers who attempted to clear land that was slated for a construction project. The fishermen used the land to dry and smoke fish. The mob burned vehicles and buildings, threw stones, and fired at police officers. Police and military were called in to restore order, and 32 persons were arrested, of whom 28 were granted bail. An investigation continued at year's end.

On November 8, in Gowrie, Upper East Region, students at the Gowrie Senior High and Technical School allegedly attacked two police officers during a protest against the temporary closure of the school. School officials closed the school after students boycotted classes and refused meals to protest the suspension of 18 classmates earlier in the year.

There were no developments in the February 2009 attack in Greater Accra Region by youths who robbed and beat workers at a building site before burning the building because it was on their playing field.

*Prison and Detention Center Conditions.*—Prison conditions generally were harsh and sometimes life threatening. Police beat suspects in custody. Much of the prison population was held in buildings that were originally colonial forts or abandoned public or military buildings with poor ventilation and sanitation, substandard construction, and limited space and light. Many prisoners slept on bare floors or took turns using beds. As many as 55 inmates commonly shared a cell intended for 12. According to the 2009 Prisons Service Annual Report, 13,778 prisoners (average daily lockup) were held in prisons designed to hold approximately one-third that number. The CHRAJ noted that the most common ailments affecting prisoners stemmed from overcrowding, poor nutrition, and a lack of ventilation. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organizations for additional food, medicine, and other necessities. According to the CHRAJ, the daily food stipend for prisoners was 60 pesewas (\$.40), which the CHRAJ deemed too low. Shortages of food, bedding, clean water, and clothing for prisoners persisted.

In 2009, 84 prisoners died in custody. The most common causes of death were tuberculosis, HIV/AIDS, and cardiovascular distress, although severe overcrowding sometimes also resulted in death.

For example, in February two inmates in a police cell in Ashaiman, Greater Accra Region, allegedly suffocated to death. The cell in which the two were incarcerated was built to accommodate 10 persons, but held 43 at the time of their deaths.

No investigation was conducted in the May 2009 death of a detainee during a police raid on a police holding facility in Tesano District, Accra. In May 2009 the IGP suspended two officers in connection with the death and promised an investigation.

There were 189 female and 121 juvenile inmates in the country's 42 prisons. Juvenile detainees were not housed separately from adults, and pretrial detainees were held with convicted prisoners.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions and treatment; however, submission of complaints by prisoners was not common practice. Authorities investigated credible allegations of inhumane conditions and treatment and documented the results. Whenever allegations of inhumane treatment are made, the accused officer is asked to respond. If prison authorities are unsatisfied with the response of the officer, an internal inquiry is launched and recommendations for disciplinary action are submitted to the director general of the Prisons Service.

The Government permitted independent monitoring of prison conditions by the CHRAJ, which served as the official ombudsman, and the Welfare Unit of the Prisons Service. During the year the CHRAJ monitored 28 of the total 42 prisons and prison camps in the country. The CHRAJ and other NGOs worked on behalf of prisoners and detainees to help alleviate inhumane overcrowding; to address the status and circumstances of confinement of juvenile offenders; and to improve pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond the maximum sentence for charged offenses.

The Government also permitted independent monitoring of prison conditions by international human rights groups, including the International Committee of the Red Cross; however, no such visits were conducted during the year.

During the year 204 inmates in Nsawam Medium Security Prison, Eastern Region, were discharged under the “Justice for All” program, which began in 2008 to ease prison overcrowding and to accelerate judicial processes; another 251 inmates in the country were released on bail.

*d. Arbitrary Arrest or Detention.*—The constitution and law provide for protection against arbitrary arrest and detention; however, the Government frequently violated these prohibitions.

*Role of the Police and Security Apparatus.*—The GPS, under the Ministry of Interior, was responsible for maintaining law and order. The military continued to participate in law enforcement activities during the year. A separate entity, the Bureau of National Investigations, handled cases considered critical to state security and answered directly to the Ministry of National Security. Police maintained specialized units in Accra for homicide, forensics, domestic violence, trafficking in persons, visa fraud, narcotics, and cybercrimes. Such services were unavailable nationwide, however, due to a lack of office space, vehicles, and other equipment outside of the capital. In May the GPS unveiled a five-year strategic plan to increase police personnel, housing, vehicles, and equipment, as well as to establish new training academies.

Police brutality, corruption, negligence, and impunity were problems. Delays in prosecuting suspects, rumors of police collaboration with criminals, and a widespread perception of police ineptitude contributed to vigilante violence during the year. There were also credible reports that police extorted money by acting as private debt collectors, setting up illegal checkpoints, and arresting citizens in exchange for bribes from disgruntled business associates of those detained (see section 4). Low salaries, which were sometimes not paid on time, contributed to police corruption. On July 1, the Government implemented the Single Spine Salary Structure, which increased the salaries of all police officers.

The 33-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During the year PIPS received 1034 new cases; of those, 430 cases were closed, and 604 remained under investigation at year’s end. Among the 604 cases being investigated at year’s end, 100 involved complaints of harassment, 37 involved unlawful arrest, and 46 involved alleged police brutality with human rights violations.

*Arrest Procedures and Treatment While in Detention.*—The law requires judicial warrants for arrest and provides for arraignment within 48 hours; however, persons were frequently arrested without warrants, and detention without charge for periods longer than 48 hours occurred. Police detained some prisoners for indefinite periods by renewing warrants or by simply allowing them to lapse while an investigation was conducted. The constitution provides that a detained individual be informed immediately, in a language that the person understands, of the reasons for the detention and of his or her right to a lawyer at state expense if unemployed or indigent. The Government did not always observe these rights. With some exceptions, lawyers were generally assigned promptly. Authorities routinely failed to notify prisoners’ families of their incarceration. The law requires that a detainee who has not been tried within a “reasonable time” as determined by the court be released either unconditionally or subject to conditions necessary to ensure that the person will appear in court at a later date; however, in practice, this provision was rarely observed.

The law provides for bail, and the court has unlimited discretion to set bail, which was often prohibitively high. The court may refuse to release prisoners on bail and instead detain them without charge for an indefinite period, subject to weekly review by judicial authorities. In September a man was granted bail after spending 10 years in detention. On occasion, police also demanded money from suspects as a precondition for their release on bail.

Lengthy pretrial detention remained a serious problem. According to the Prisons Service’s 2009 Annual Report, 28 percent of the prison population was in pretrial status, a decrease from 30.5 percent in 2008. Detainees sometimes served more time in detention awaiting trial than the sentence for the crime required. In 2009 the CHRAJ reported that one inmate at Nsawam Prison had been in pretrial detention for 17 years.

During the year prison officials, courts, and police continued efforts to reconstruct the files of at least 300 pretrial inmates; the files had been missing since at least 2007. Once files are reconstructed, trials of the detainees may begin. At year’s end, 136 inmates had been released.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to influence and corruption (see section 4).

Members of the military were tried separately under the criminal code in a military court. Military courts, which provide the same rights as civil courts, were not permitted to try civilians. Despite alternate dispute resolution (ADR) procedures to decongest the courts and to address judicial inefficiency, court delays persisted. Mediators have been trained throughout the country to implement ADR, mediation desks have been established in some district courts, and an ADR secretariat was established within the Judicial Service. Nevertheless, even in fast-track courts, which were established to hear cases to conclusion within six months, trials could last for years.

The Chieftaincy Act gives village and other traditional chiefs the power to mediate local matters and to enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, the authority of traditional rulers has steadily eroded because of a commensurate increase in the power of civil institutions, such as courts and district assemblies.

A judicial complaints unit, headed by a retired Supreme Court justice, addressed public complaints, such as unfair treatment by a court or judge, unlawful arrest or detention, missing dockets, delayed trials and delivery of judgments, and alleged bribery of judges. During 2009 the unit received 345 complaints, of which 294 were resolved and 51 remained under investigation at year's end.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and the judiciary generally enforced this right; however, the judiciary was sometimes inefficient and subject to influence and corruption. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases and have a right to appeal. Defendants have the right also to present witnesses and evidence. Juries are used in murder trials. The law extends the above rights to all citizens. In practice, authorities generally respected these safeguards.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

Fast-track courts and automated commercial courts continued efforts to streamline resolution of disputes, although delays were common. A growing number of automated courts, whose proceedings were expedited through electronic data management, were established across the country.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government sometimes infringed on privacy rights. Although the law requires judicial search warrants, police seldom obtained them in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government sometimes restricted those rights during the year. Journalists were arbitrarily arrested and detained during the year, and some practiced self-censorship.

Individuals generally could criticize the Government publicly or privately without reprisal; however, local authorities sometimes arrested or harassed its critics.

For example, on May 24, in Kumasi, Ashanti Region, opposition NPP activist Adu Gyamfi was arrested for referring to President Mills as a chimpanzee during a radio program on Fox FM. Gyamfi was released after 48 hours when President Mills said he was not interested in pressing charges against the radio commentator.

The independent media were active and expressed a wide variety of views without restriction. There were reports that the Government paid journalists "time and transportation" costs to facilitate coverage.

There were an estimated 1,200 newspapers and magazines registered with the National Media Commission, approximately 200 FM radio stations, and 17 television stations across the country. The most wide-reaching print outlets were owned by the state; the majority of television and radio stations were privately owned.

On January 26, a photographer with the Daily Guide, an Accra-based privately owned newspaper, was arrested and detained on orders of the Accra High Court.

Police claimed that the photographer, who was covering the trial of four criminals convicted of murder, did not have permission to photograph the convicts.

Opposition NPP activist and radio commentator Nana Darkwa Baafi, who alleged during a February 18 radio discussion that former president Rawlings deliberately set a fire at his residence, was arrested and charged with publication of false news with the intent to cause fear and alarm to the public. Baafi was initially refused bail by an Accra Circuit Court; however, his case was dismissed, and he was released.

On September 16, police in Tamale, Northern Region, forced the temporary closure of privately owned North Star Radio for airing an inflammatory press conference during which a chief voiced his displeasure about the behavior of some of his fellow chiefs. Observers believed, however, that the temporary closure resulted from broadcasts that allegedly inflamed local tensions over a longstanding conflict between two ethnic groups in the Upper East Region.

On March 24, a former national security operative forced a reporter of the independent JOY FM radio station to delete a recording of an interview with national security officials after the interview was played for the officials; the interview focused on grievances of former employees of the security services.

On July 19, police charged Ato Kwamena Dadzie, acting news editor of JOY FM radio, with “publishing false news with intent to cause fear or harm to the public or to disturb the public peace” in violation of Section 208 of the criminal code. Police subsequently forwarded Dadzie’s case to the Attorney General’s Department for advice.

On July 21, the CID summoned Enimil Ashon, the editor of the state-owned Ghanaian Times newspaper, after the newspaper published an article alleging that police were susceptible to bribery and government influence.

Following the two incidents in July, the National Executive Committee of the Ghana Journalists Association (GJA) called on the GPS to refer grievances to the National Media Commission (NMC), which is responsible for ensuring press freedom and accountability. The NMC subsequently intervened with police on Ashon’s behalf, and no charges were filed.

On September 16, prison officers in Kumasi reportedly stormed the premises of privately owned OTEC FM and attacked two staff members, including the program manager; the prison officers reportedly objected to the radio station’s coverage of a prison guard strike. An investigation continued.

According to information that surfaced during the year from the GJA’s Upper West Regional Branch, in October 2009 a journalist was physically assaulted, subjected to a rigorous body search, handcuffed, and detained in a police cell for two and one-half hours. The journalist, who worked with the community station Radio Progress, was accused of “disrespecting” police when he photographed a man they had allegedly tied to a power pole.

No action was taken against police officers who in February 2009 assaulted two female sports journalists who were trying to gain access to the players’ dressing room following a football match.

No action was taken against supporters of the ruling NDC party who assaulted an Upper East Regional correspondent for The Chronicle newspaper after the newspaper photographed an NDC party activity. Unlike in the previous year, there were no reports that NDC supporters attacked independent journalists and vandalized their radio stations.

In previous years journalists received threatening cell phone messages; however, there were no known reports of such calls during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was accessible in Accra and other large cities, but there was limited access in other parts of the country. According to International Telecommunication Union statistics for 2009, approximately 5.3 percent of the country’s inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of peaceful assembly, and, unlike in the previous year, the Government generally respected this right. The Government does not require permits for demonstrations, but police can deny use of a particular route.

Unlike in the previous year, there were no reports that police denied demonstration permits to antigovernment groups.

The ban on campus demonstrations at Takoradi Polytechnic Institute, where 64 students were arrested in 2007, remained in effect.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. Security force members were prohibited from joining political assemblies or groups within the security services, but they were allowed to participate in political activities outside police or military compounds.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

In May approximately 1,000 persons left the Bunkpurugu/Yungoo District in the Northern Region for Togo to escape violence stemming from an ongoing chieftaincy dispute; however, most returned to their homes by year's end, according to the UNHCR.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government established the Ghana Refugee Board (GRB) to adjudicate claims for refugee status and to ensure that refugees received all appropriate protections; the UNHCR participated as an observer on the board. Following the January 2009 presidential election, the incoming administration appointed new board members. However, because the Government had not appointed a GRB board chairman by year's end, the board was unable to function. While the GRB secretariat continued some functions such as conducting refugee interviews, there were no board meetings to adjudicate claims or to confer refugee status during the year.

The law allows rejected asylum seekers to appeal and to remain in the country until an appeal is adjudicated. There were delays in the appeal process, however. The law also accords the right of protection to refugees who entered the country illegally without documentation.

Refugee status for Sierra Leoneans who fled during that country's civil war was terminated as of the end of 2008 in accordance with international agreements. In December 2008 the GRB and UNHCR conducted interviews to determine if any of the Sierra Leoneans remaining in the country qualified as refugees based on an individual need for international protection. Of the 135 individuals who went through the process, 65 were rejected; of these rejections, 51 subsequently filed appeals with the interior minister. During the year 15 of the appeal cases had been granted exemption, qualifying the 15 as refugees.

The UNHCR estimated that approximately 14,800 refugees resided in the country during the year: 81 percent were Liberians in the Buduburam Camp near Accra; 12 percent were Togolese in various communities in the Volta Region; 3.5 percent were refugees of various nationalities in Krisan Camp in the Western Region; and 3.5 percent were urban refugees and asylum seekers in the Greater Accra Region. Since 2008 the UNHCR has assisted the voluntary return of nearly 10,000 Liberians and 4,383 Togolese refugees. Sexual and gender-based violence remained a problem among refugee populations. In the Buduburam settlement, three cases of defilement, one case of child abduction, and one case of child abuse were reported to the UNHCR and police during the year. With the support of the UNHCR, police opened a police post in the settlement in July 2009.

Refugees had freedom of movement within the country and were not required to carry identification at all times. Refugees were allowed to apply for work permits through the same process applicable to other foreigners. However, work permits generally were issued only for employment in the formal sector, and the majority of refugees worked in the informal sector. Refugee children had access to public primary schools. Refugees in Krisan Camp, the Buduburam Settlement, and the Volta

Region were enrolled in the national health insurance system with funding from the UNHCR. Urban refugees had access to health care on a fee-for-service basis.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Following a narrow victory in 2008 over opposition NPP candidate Nana Akufo-Addo, ruling NDC candidate John Evans Atta Mills was inaugurated as president in January 2009. There were reports in some areas of voter intimidation and election irregularities; however, the consensus of observers and the independent Electoral Commission was that these irregularities were insufficient to have altered the outcome of the election.

During an August by-election in Atiwa, Eastern Region, members of opposing parties blocked roads limiting access to polling stations, and fighting sometimes broke out near polling stations between opposing party members. On August 31, NDC and the NPP party leaders complained about voter intimidation and the use of violence, noting that police response to the violence was inadequate.

Political parties could operate without restriction or outside interference. The NDC held 116 seats in the parliament, the NPP 107, minor parties three, and independents four.

There are no laws preventing women from voting or participating in political life on the same basis as men, but women traditionally had less access to leadership positions than men. There were 19 women in the 230-seat parliament, four women in the cabinet, and five women on the Supreme Court. Eight of 38 ministers were women.

No laws or practices prevent minorities from equal participation in political life. According to the 2000 census, the country had more than 80 ethnic groups, none of which constituted a majority. For example, the Ashanti were the largest ethnic group with 14.8 percent of the total population.

*Section 4. Official Corruption and Government Transparency*

Corruption was present in all branches of government. The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and some officials frequently engaged in corrupt practices. Police set up barriers to extort money from motorists, and judicial officials accepted bribes to expedite or postpone cases or to “lose” records. The World Bank’s most recent Worldwide Governance Indicators (2008) reflected that corruption was a problem.

On September 7, the Serious Fraud Office was replaced by the Economic and Organized Crime Office (EOCO), which was granted expanded powers to investigate and prosecute corruption in economic crimes such as money laundering, human trafficking, and cyber crime. The EOCO hired new employees during the year, the majority of which were slated to be investigators.

The CHRAJ investigates human rights abuses, public corruption, and abuse of power and is empowered to recommend punitive actions against proven violators. The attorney general, the minister of justice, the EOCO, and the Public Prosecutor’s Office are responsible for combating corruption. Parliament’s Public Accounts Committee is also responsible for auditing government spending. An auditor general reviews public-sector accounts.

In hearings in May and August, the Public Accounts Committee uncovered numerous cases of embezzlement and misuse of funds by government ministries, departments, agencies, and district assemblies. The committee ruled that failure to refund funds or to reconcile accounts would result in prosecution. The committee forwarded all cases to the attorney general; however, no prosecutions had been reported at year’s end.

In January an undercover reporter filmed members of the Customs, Excise and Preventive Service and the Ghana Immigration Service allegedly extorting money and harassing travelers at the Ghana-Togo border crossing in Aflao, Volta Region. The officers were removed from the post, and an investigation continued at year’s end.

Security force members were arrested for corruption during the year.

In March, in Accra, three soldiers and two policemen were arrested for extorting two men they had falsely accused of drug charges. Also in March, in Accra, a policeman and a former policeman were charged with extorting money from a man they framed on drug charges.

On March 19 in Accra four policemen were accused of attacking and robbing a foreign national of more than 7,207 cedis (\$5,000). Two officers were arrested and

in December were each sentenced to 10 years' imprisonment. Two officers remained at large in connection with the case.

In May three police officers in the Greater Accra Region were arrested for stealing 500,000 CFA francs (\$970) from a deceased accident victim. The police officers were indicted, and an investigation continued at year's end.

Officials were subject to a financial-disclosure process, but their responses were not available for public review.

In July 2009 a presidential commission was established to investigate allegations of corruption and financial mismanagement by the former government's Ghana@50 Secretariat. The attorney general subsequently charged Kwadwo Mpiani, chairman of the National Planning Committee, and Charles Wereko-Brobby, CEO of the Ghana@50 Secretariat, with four counts of willfully causing financial loss to the state. On May 24, the defendants filed pretrial motions to dismiss the case for lack of jurisdiction, pending appeal of the commission's adverse findings. The High Court agreed and dismissed the case for lack of jurisdiction.

The constitution provides for public access to government information; however, obtaining such access was difficult in practice.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The CHRAJ, which mediated and settled cases brought by individuals against government agencies and private companies, operated with no overt interference from the Government; however, some critics questioned its ability to investigate high-level corruption independently. Its biggest obstacle was a lack of adequate resources, which resulted in low salaries, poor working conditions, and the loss of many of its staff to other government and nongovernmental agencies. However, public confidence in the CHRAJ was high, resulting in an increased workload for its staff, whose salaries were often delayed due to a chronic lack of resources and administrative issues.

Human rights issues were addressed in parliament by the Committee on the Constitution, Legal Issues, and Parliamentary Affairs.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination on the basis of race, gender, disability, language, or social status; however, enforcement was generally inadequate. Limited financial resources and a generally permissive societal attitude toward such discrimination contributed to its perpetuation. Courts were empowered specifically to order enforcement of these prohibitions.

*Women.*—The law criminalizes rape but not marital rape. Rape was underreported and remained a significant problem. When cases of rape were reported, perpetrators were often arrested and prosecuted. During the year the police service's Domestic Violence and Victim Support Unit (DOVVSU) worked closely with the Department of Social Welfare, the national chapter of the International Federation of Women Lawyers, the Legal Aid Board, and several other human rights NGOs to combat domestic violence. During the year DOVVSU received 318 reports of rape and reported 158 arrests, 101 prosecutions, and three convictions; 224 cases remained uninvestigated at year's end. Convicted rapists may be punished with prison sentences ranging from five to 25 years.

Although the law prohibits domestic violence, it continued to be a problem. The law stipulates that a person in a domestic relationship who engages in misdemeanor domestic violence is liable on summary conviction to a fine, a term of imprisonment of not more than two years, or both. The court also may order the offender to pay compensation directly to the victim. However, inadequate resources and logistical capacity in DOVVSU and other agencies, as well as only partial implementation of the Domestic Violence Act, hindered the full application of the law during the year. Unless specifically called upon by DOVVSU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills, shelters, and other resources to assist victims. In many cases, victims were discouraged from reporting abuse and from cooperating with prosecutors because of long delays in bringing such cases to trial. Victims frequently did not complete their formal complaints because they could not afford the fees that doctors charged to document the abuse in police medical forms. Although the law waived these medical fees, doctors continued to require them in exchange for signing medical reports. There were credible reports that doctors sometimes charged more than the rate set by the hospital administration

to sign medical forms. Statistics were not available on prosecutions of domestic violence cases during the year.

In the Northern, Upper East, and Upper West regions of the country, where belief in witchcraft remained strong, rural women and men suspected of witchcraft were banished by their families or traditional village authorities to “witch camps.” Such camps were separate from the “prayer camps” to which persons with mental illness were sometimes sent by their families. Most accused witches were older women, often widows, whom fellow villagers identified as the cause of illness, crop failure, or financial misfortune. Some suspected witches in the camps were accompanied by their families. NGOs provided food, medical care, and other support to residents of the camps. During the year the CHRAJ monitored three camps in the Northern Region and reported that the camps contained 175 females and eight males; media sources reported far higher numbers of men, women, and children in the camps.

There were no laws specifically to protect women from sexual harassment; however, some sexual harassment cases were prosecuted under the existing criminal code. Women’s advocacy groups reported that sexual harassment remained a widespread problem.

Couples and individuals have the right to decide freely on the number, spacing, and timing of pregnancies. According to the 2008 Demographic and Health Survey, 98 percent of all women surveyed were able to cite at least one birth control method. According to a foreign aid agency, 17 percent of married women of reproductive age used a modern contraceptive method. More than 75 percent of pregnant women had four or more prenatal visits. Approximately 60 percent of women delivered with a skilled attendant. Maternal mortality was estimated in a recent study at 451 per 100,000 live births, with the most common causes of death being hemorrhage and infection. More than two-thirds of women reported receiving medical care within two days of delivery. Women were more likely than men to accept HIV testing, particularly since it was offered as a standard component of prenatal care. An estimated 10 percent of the population knew their HIV status; approximately 30 percent of HIV-positive pregnant mothers received antiretroviral medications to prevent mother-to-child transmission.

The constitution provides for all persons to be treated equally under the law; however, women continued to experience discrimination in access to employment. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women’s entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions, performing physically difficult manual labor such as farming, transporting goods, and manual household chores, while often carrying a child on their backs. Women also were subjected to traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritance and property, a legally registered marriage with the associated legal rights, and the maintenance and custody of children. There were female entrepreneurs, but poor access to credit remained a serious barrier for women who wanted to start or expand a business.

Women’s rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. The Government was involved in educational programs, and many officials were advocates of women’s rights.

*Children.*—Citizenship is derived by birth within the country or parentage, but not all births were registered with the Government. Some children were reportedly denied education because their births were not registered, although a birth certificate is not a legal precondition to attend school.

The constitution provides for free, compulsory, and universal basic education for all children from kindergarten through junior high school; however, parents were required to purchase uniforms and writing materials. During the year the Government launched a program to provide uniforms to 1.6 million children in deprived areas, although contracting delays prevented most of the targeted children from receiving their uniforms. The Government also operated a school feeding program for more than 670,000 children, which covered incidental costs as well as meals, and a nationwide capitation grant program, which covered other school fees for all children attending public schools. According to the Ministry of Education, girls attending primary school during the 2009-10 school year constituted 48 percent of all students; at the junior high school level, the proportion was 47 percent. During the year the Ghana Education Service (GES) actively campaigned to expand education for girls by providing scholarships at the junior and senior high school levels and by offering financial incentives and free housing to female teachers to work in the “deprived” areas. The GES placed girls’ education officers at regional and district levels, and there were community participation coordinators in every district office to mobilize communities to increase school enrollment of girls.

The law prohibits defilement, incest, and sexual abuse of minors, but such abuses remained serious problems. During the year DOVVSU received 1,080 cases of suspected child defilement and 11 cases of attempted defilement. There were frequent press reports that male teachers sexually assaulted and harassed female students. Girls often were reluctant to report these incidents to their parents, and social pressure often prevented parents from going to authorities. Press reports of teachers, coaches, and headmasters/headmistresses either being arrested for sexual harassment of female students or dismissed for ignoring reported problems continued during the year.

The law prohibits FGM, but it remained a serious problem in the Upper West Region of the country, and to a lesser extent in Upper East and Northern regions. Type II FGM—defined by the World Health Organization as the excision of the clitoris with partial or total excision of the labia minora—was more commonly performed than any other type. A girl was typically excised between 4 and 14 years of age. According to a 2008 study conducted by the Ghana Statistical Service with support from the UN Children’s Fund, approximately 49 percent of girls and women between 15 and 49 years old in Upper West Region—where the practice was most common—had experienced some form of FGM, 20 percent in Upper East Region, and 5 percent in Northern Region.

Intervention programs were somewhat successful in reducing the prevalence of FGM, particularly in the northern regions. Officials at all levels, including traditional chiefs, continued to speak out against the practice, and local NGOs continued educational campaigns to encourage abandonment of FGM and to train practitioners in new skills so they could seek alternate sources of income.

In a 2009 survey of girls and women between 15 and 49 years old in Upper West Region, 85 percent stated that the practice should be discontinued, 10 percent were unsure, and only 5 percent supported its continuation. Lower prevalence of FGM among women in Upper East Region was highly correlated with increased education. There were no prosecutions of practitioners during the year.

Forced child marriage, which was illegal, remained a problem with no improvement during the year, according to the CHRAJ and NGOs.

The migration of children to urban areas increased due to economic hardship in rural areas. Children were often forced to support themselves to survive, increasing both the occurrence of child labor and the school dropout rate. Girls under 18 were among the most vulnerable child laborers, as many also engaged in prostitution or were sexually exploited in exchange for protection while living on the streets.

The minimum age of consensual sex is 16 years. Defilement of a child younger than 16 years, with or without the child’s consent, constitutes an offense and is punishable by imprisonment for between seven and 25 years. There is no specific legislation against child pornography; however, it can be prosecuted as an “offense against public morals” and is punishable by a fine ranging from 120 to 600 cedis (\$80-\$400) and/or imprisonment for a period not to exceed three years.

Unlike in the previous year, there were no reports that children participated in the ongoing ethnic and chieftaincy conflict in Bawku. In 2009 there were media reports that children participated in the ongoing ethnic and chieftaincy conflict in Bawku in the Upper West Region. Children were reported to have burned houses, and a group of Mamprusi children were alleged to have ambushed a Kusasi woman near Bawku hospital.

Local and international NGOs worked with the Government to promote children’s rights and were somewhat successful in sensitizing communities about protecting the welfare of children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community had a few hundred members. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law provides for the rights of persons with disabilities, including protection against exploitation and discrimination in employment, health care, and other domains. The National Council on Disability, mandated by law, was inaugurated in April 2009. While the Government did not systematically or overtly discriminate against persons with disabilities, such persons often experienced societal discrimination. The law provides persons with disabilities access to public buildings “as far as is practical.” Activists supporting the rights of persons with disabilities complained of the slow implementation of the Persons with Dis-

ability Act, especially the lack of legislative instruments to implement the new law. Despite the legal protection provided in the law, discrimination against disabled persons in employment and the inaccessibility of public buildings continued to be problems.

Persons with mental and physical disabilities were frequently subjected to abuse and intolerance; however, unlike in the previous year, there were no reports of persons with disabilities being killed for ritual purposes.

In March 2009 four persons appeared in court on murder charges in connection with the July 2008 killing of Yakubu Busanga, a hunchback. The attack may have been motivated by a desire to obtain body parts for use in ritual practices. At year's end there was no new information on this case.

In July 2009 a two-year-old albino boy was stolen from his mother for ritual purposes. An 18-year-old woman was arrested for the kidnapping and detained in prison custody. She claimed that she was hired to steal the child. At year's end there was no new information on the case.

Some religious groups believed that persons with mental disabilities were afflicted by demons that should be exorcised. The abuse of children with disabilities was common. In previous years there were reports that children with disabilities were tied to trees or under market stalls and caned regularly and of family members killing children with disabilities.

Human rights activists expressed concerns about "prayer camps" in which individuals believed to be possessed by evil spirits were chained for weeks, physically assaulted, and denied food and water. The camps targeted persons with mental illnesses. Camp supervisors diagnosed mental illness as a "demonic affliction" and prevented patients from consuming food or water, often for seven consecutive days, to cleanse victims of their evil spirits. Some victims were estimated to be as young as six years old. Families sent these victims to be exorcised of evil spirits or cured of their physical or mental illnesses. Victims were held at the camps until they were considered healed. Reports indicated that these practices occurred in the Greater Accra, Eastern, Central, Western, Ashanti, and Brong-Ahafo regions. The Commonwealth Human Rights Initiative (CHRI) released a report in May 2009 on prayer camps based on interviews with current and former inmates. The report found that some families caring for mentally ill members had insufficient financial resources and viewed prayer camps as an available option. The CHRI urged regulation of prayer camps; however, no regulations were implemented by year's end.

Several government agencies and NGOs were involved in addressing discrimination against persons with disabilities, including the Ministry of Health, the Ministry of Employment and Social (MESW), the Ministry of Education, and the Center for Democratic Development.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law makes consenting homosexual acts a misdemeanor, and strong sociocultural beliefs discriminated against and stigmatized same-gender sex. There were no registered Lesbian, Gay, Bisexual, and Transgender (LGBT) organizations. LGBT persons faced widespread discrimination, as well as police harassment and extortion attempts. Gay men in prison often were subjected to sexual and other physical abuse.

On June 4, more than one thousand protesters in Takoradi, Western Region, participated in a peaceful rally against reports of gay and lesbian activities in their city. This was reportedly the first antigay protest in the country.

On December 22, the acting head of the CHRAJ spoke against discrimination during a radio interview on Accra-based CITI FM. She stressed that gays and lesbians should not be condemned based on societal attitudes and that the constitution provides for freedom from discrimination.

*Other Societal Violence or Discrimination.*—Discrimination against persons with HIV/AIDS was a problem, and the fear of being stigmatized continued to discourage persons from being tested for HIV infection.

The Government and NGOs subsidized many centers that provided free HIV testing to citizens, although there were reports that confidentiality was not consistently respected.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, except for the armed forces, police, the prison service, and other security and intelligence agency personnel, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. While unions no longer must seek government approval before registering, the law requires that trade unions or employers' organizations must register, be authorized by the chief labor

officer, and obtain a certificate of registration to be considered legal. The percentage of workers belonging to unions decreased in recent years, in part because of a relative lack of employment opportunities in the formal, unionized sectors. Moreover, some workers previously employed in the formal sector lost their jobs.

The law recognizes the right to strike but restricts that right for workers who provide essential services, including “areas in an establishment where an action could result in a particular or total loss of life or pose a danger to public health and safety and such other services as the minister may by legislative instrument determine.” The minister of employment and social welfare designated a list of essential services. The list included services carried out by utility companies (water, electricity, etc.), ports and harbors, medical centers, and the Bank of Ghana. In these essential services the parties to any labor disputes are required to resolve their differences within 72 hours; the deadline was meant to pressure employers and employees to operate efficiently with limited interruptions. The right to strike can also be restricted for workers in private enterprise whose services a union and an employer deemed essential to the survival of the enterprise by. A union may call a legal strike if the parties fail to agree to refer the dispute to voluntary arbitration or if the dispute remains unresolved at the end of arbitration proceedings. No union ever went through the complete dispute resolution process, and there were numerous unsanctioned strikes during the year.

On September 15, prison officers at both the Kumasi Central Prison in the Ashanti region and the Sekondi Central Prison in the Western Region demonstrated against perceived inequalities in the implementation of the Single Spine Salary Structure. The initiative aimed to unify differing salary structures of the national government.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. However, the armed forces, police, prison service, security, intelligence personnel, and workers with policymaking and managerial functions cannot bargain collectively. The law provides a framework for collective bargaining, and trade unions engaged in collective bargaining for wages and benefits with both private and state-owned enterprises without government interference. However, only unions that represented the majority of workers in a given company can obtain a Collective Bargaining Certificate, which was required to engage in collective bargaining.

The labor law prohibits antiunion discrimination by employers; however, some employers continued to fire employees for union activity. The Labor Act protects trade union members and their officers against discrimination if they organize within the free zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Local NGOs cited the presence of compulsory labor affecting both children and adults in the fishing sector and illegal mining. Local NGOs claimed victims forced to work on boats as children were sometimes unable to leave their employers and continued to work without pay as adults. In the illegal mining industry (galamsey), NGOs cited debt bondage as a problem. Please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip) for more information.

The law provides for employers found guilty of using forced labor to be fined no more than 250 penalty units (each unit was assigned a monetary value adjusted for the fluctuating exchange rate); however, limited resources inhibited the Government’s implementation of the law, and no fines were levied during the year. During the year the International Labor Organization (ILO) continued to urge the Government to revise various legal provisions that permit imprisonment with an obligation to perform labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum employment age at 15 years and 13 years for light work not likely to be harmful to the child or to affect the child’s attendance at or capacity to benefit from school. The law prohibits night work and certain types of hazardous labor for those under 18, and provides for fines and imprisonment for violators; however, child labor remained a serious problem in the informal sector.

The law allows children 15 years of age and above to have an apprenticeship under which craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. However, child labor laws were not always enforced effectively or consistently, and law-enforcement officials, including judges, police, and labor officials, were sometimes unfamiliar with the provisions of the law that protected children. Local custom and poverty also contributed to child labor and eroded societal observance of child labor laws.

Children as young as seven worked in agriculture and as domestic laborers, porters, hawkers, miners, quarry workers, and fare collectors. Children also engaged in herding livestock, fetching firewood, and bricklaying.

The fishing industry in the Lake Volta region had a particularly high number of child laborers engaged in potentially hazardous work, such as diving into deep waters to untangle fishing nets caught on submerged tree roots. Girls in the region also engaged in work as domestic servants, cooks, servers, and porters.

Child laborers were poorly paid and physically abused, received little or no health care, and generally did not attend school.

According to government labor officials and the Ghana Employers Association, child labor problems were infrequent in the formal labor sector.

The law prohibits forced and compulsory labor by children; however, during the year children were forced to work or were reportedly sold, leased, or given away by parents to work in fishing villages, shops, or homes. It was difficult to determine the extent to which forced and bonded labor by children was practiced.

There were newspaper reports of children being sold into involuntary servitude for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fishermen in exchange for a yearly remittance to their families. The practice often involved the consent of their generally impoverished parents. The media run regular stories about children in involuntary servitude, particularly as street hawkers and porters. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Inspectors from the Ministry of Employment and Social Welfare are responsible for enforcement of child labor regulations, and district labor officers and the social services subcommittees of district assemblies are charged with seeing that the relevant provisions of the law are observed by annually visiting each workplace and making spot checks whenever they receive allegations of violations. Inspectors are required to provide employers with information about child labor violations and effective means to comply with provisions of the Labor Act. However, the Government did not provide sufficient resources to law enforcement and judicial authorities to carry out these efforts.

On September 13, the minister of employment and social welfare signed the Joint Declaration and Framework of Action with Senator Harkin, Representative Engel, and representatives from the U.S. Department of Labor, the Government of Cote d'Ivoire, and the cocoa and chocolate industry to reaffirm and further extend implementation of the Harkin-Engel Protocol. The protocol requires governments to prohibit the worst forms of child labor and to take immediate action towards eliminating it.

In October the cabinet approved the 2009-2015 National Plan of Action for the Elimination of the Worst Forms of Child Labor. The Government worked closely with NGOs, labor unions, and the cocoa industry to eliminate the worst forms of child labor in the cocoa industry.

During the year the Ministry of Women and Children's Affairs conducted seminars on child labor to educate the media, police, civil servants, and the general public.

The ILO's International Program on the Elimination of Child Labor, government representatives, the Trade Union Congress, the media, international organizations, and NGOs continued to build upon the National Plan of Action for the Elimination of Child Labor in Ghana by increasing institutional capacity to combat child labor. In October the MESW relaunched the National Steering Community on Child Labor, consisting of over 40 representatives from government, the ILO, labor unions, and development partners. In November the MESW unveiled a new, integrated child labor monitoring system. Education and sensitization workshops were conducted with police, labor inspectors, local governments, and communities.

*e. Acceptable Conditions of Work.*—A National Tripartite Committee composed of representatives of the Government, labor, and employers sets daily minimum wages. The daily minimum wage of 3.11 cedis (\$2.19) during the year did not provide a decent standard of living for a worker and family. Furthermore, there was widespread violation of the minimum wage law in the formal sector, and there was no official minimum wage for the growing informal labor force. In most cases households had multiple wage earners, and family members often engaged in family farming or other family-based commercial activities. The Ministry of Employment and Social Welfare was unable to enforce this law effectively.

The Fair Wages and Salaries Commission was charged with ensuring fair, transparent, and systematic implementation of the public service pay policy; advising the Government on matters related to salaries, wages, grading, classification, job analysis, and job evaluation; and ensuring that decisions on those issues are implemented.

The law sets the maximum workweek at 40 hours, with a break of at least 48 consecutive hours every seven days. Workers were entitled to at least 15 working days' leave with full pay in a calendar year of continuous service or after having worked at least 200 days in a particular year. However, such provisions apply neither to task workers or domestic workers in private homes, nor elsewhere in the informal sector.

Occupational safety and health regulations exist, and the Factories Department within the MESW was responsible for imposing sanctions on violators. Employers who failed to comply were liable to a fine not exceeding 1,000 penalty units, to imprisonment for a term not exceeding three years, or both. The law requires that employers report, no later than seven days from the date of occurrence, occupational accidents, and diseases. In practice safety inspectors were few and poorly trained, and they lacked the resources to respond effectively to violations. Inspectors did not impose sanctions or otherwise respond to violations during the year.

In September 2008 the CHRAJ issued a report entitled *The State of Human Rights in Mining Communities in Ghana*, which provided evidence of widespread violations of human rights in mining areas of the country. The report documented abuses by the security services in mining areas, particularly of *galamseys*, independent, artisanal miners whose operations sometimes conflict with larger, concessionary miners. The report also notes that environmental damage from mining, especially to water resources, has affected public health and caused loss of livelihoods. Blasting at mine sites also caused damage to private property.

The report cited examples of private and government security forces abusing small-scale miners. In the Obuasi area in the western region, independent miners suspected of stealing equipment from a nearby mine were arrested and beaten by security service members.

---

## GUINEA

Guinea is a republic with a population of approximately 10 million. In June and November the country held two rounds of presidential elections which resulted in the election of longtime opposition leader Alpha Conde, the candidate of the Rally of the Guinean People Party (RPG). In December, Conde was inaugurated as the country's first democratically elected president since independence from France in 1958. While the elections were generally regarded as free and fair, the second round was accompanied by widespread violence. Prior to Conde's inauguration, Guinea was headed by a transition government led by interim president General Sekouba Konate, the former defense minister in military junta that seized control of the country in 2008 after the death of former president Lansana Conte. The military junta, under the leadership of Captain Moussa Dadis Camara, suspended the constitution and dismissed the National Assembly. In December 2009 a failed assassination attempt rendered Camara medically unable to lead the country. Camara's sudden departure led to the installation of a transition government on January 15, pursuant to the Ouagadougou Accord, which called for a return to civilian rule by mid-2010. The Accord was signed by Burkinabe President Blaise Campaore (mediator from the Economic Community of West African States), former interim president Konate, and Captain Dadis Camara, who was recuperating in Burkina Faso. In late January, Konate appointed opposition leader Jean Marie Dore prime minister. On February 16, Dore appointed a National Transitional Council (CNT) as the country's legislative body. The CNT, which had equal representation from civil society, political parties, and the former junta regime, promulgated a new constitution on May 7. Security forces did not report to civilian authorities under the rule of the transition government.

Human rights problems included: the use of excessive force by security forces resulting in civilian deaths and injuries; vigilante killings and ethno-religious violence; torture and abuse of prisoners, including rape; inhumane and life-threatening prison conditions; arbitrary arrests; prolonged pretrial detention; incommunicado detention; lack of judicial independence; official corruption; restrictions on freedom of speech, press, assembly, association, and movement; attacks on human rights workers; sexual violence against women and girls; societal discrimination against women; and female genital mutilation (FGM). Ethnically based harassment by civilian supporters of opposition political parties was also a problem. Trafficking in persons, ethnic discrimination, and forced labor, including by children, occurred.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces, including the Special Force for a Safe Electoral Process (FOSSEPEL), an election security force consisting of police and gendarmes, generally acted with restraint in quelling violent demonstrations before and after the second round of presidential elections on November 7; however, use of excessive force, including live ammunition, resulted in deaths and injuries.

On October 22 and 23, FOSSEPEL's efforts to quell violent clashes between supporters of RPG presidential candidate Alpha Conde, and Cellou Dalein Diallo, the candidate of the Union of Democratic Forces of Guinea (UFDG), resulted in one death and 26 injuries. Doctors told Amnesty International that some of the dead bodies examined from the October 22 and 23 clashes showed that "people had been hit in the head, the abdomen, the thorax, and the back of the head," indicating security forces sometimes used lethal force to disperse demonstrators.

On November 17, a member of FOSSEPEL shot and killed a 20-year-old student, Mamadou Abdoulaye Bah, who was visiting friends in a Cosa neighborhood, according to the international nongovernmental organization (NGO) Human Rights Watch (HRW).

Deaths in custody also occurred.

On November 15, the body of Michel Lazare Loua was delivered to a hospital morgue in Conakry, according to HRW. Loua had been arrested on October 26 by gendarmes from Matoto Gendarmerie for alleged coup-plotting. In an October 28 letter, judicial authorities reminded the commander of the Matoto Gendarmerie of the 48-hour limit for pretrial detention, but were warned by the gendarmes to desist from pursuing the case, according to HRW. Despite subsequent efforts by judges with jurisdiction over the case and Loua's own lawyers to have Loua's dossier transferred from the gendarme squadron to the relevant judicial authority, Loua remained in custody of the gendarmes until his death. HRW stated that Loua's medical report noted signs of severe mistreatment, including bruising and swelling of the head, back, and wrists.

While the transition government began an investigation into the September 2009 massacre of prodemocracy protestors in Conakry's main soccer stadium, no perpetrators were arrested or prosecuted by year's end. At least 157 demonstrators were killed when members of the elite Presidential Guard surrounded the stadium, blocked entrances, and used guns and bayonets on the demonstrators. Nearly 100 women and girls were raped during the attack. None of the bodies reportedly buried by security forces in mass graves was exhumed during the transition government's tenure.

No investigation was conducted or action taken against military personnel responsible for civilian and military killings following the December 2009 attempted assassination of former junta leader Dadis Camara. Killings resulted from a military crackdown during its search for suspected attempted assassin Lieutenant Aboubacar "Toumba" Diakite, who remained at large at year's end. Eyewitnesses told journalists that persons were shot in the streets as they fled from patrols; an unconfirmed number of persons died as a result.

Unlike in the previous year, there were no reports that transition government officials endorsed or encouraged vigilante killings. In February 2009 Dadis Camara issued a proclamation authorizing the use of lethal force against anyone engaged in drug trafficking, money laundering, armed robbery, or trafficking in children. In June 2009 Moussa Tiegboro Camara, the former junta minister of high crimes and antidrugs, stated that armed robbers should be burned alive to avoid overcrowding the prisons.

From February 6 to 8, ethno-religious conflict in the Forest Region city of N'Zerekore resulted in the deaths of three persons: Joseph Balamou, who was beaten to death, Yakouba Keita, who was burned to death in his home, and Djefadima Kante, who died of unknown causes. At least 38 persons were injured. Local NGOs and media sources claimed the violence was primarily between Christian Guerze and Muslim Malinke youth. Security forces in N'Zerekore were unresponsive during the first day of the violence. On February 7, the head of the gendarmerie sent reinforcements who arrested an unknown number of civilians, all of whom were released within 24 hours, according to local NGOs. Unlike in previous years, there were no reports of abuse by security forces during the operation.

Violence between political party members resulted in deaths (see section 3).

Vigilante violence occurred. For example, on November 3, a mob in the Hafia-Commandaya neighborhood in Conakry beat to death a suspected burglar.

No action was taken against the perpetrators of vigilante violence in previous years.

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances under the transition government.

There were no developments in the disappearance of dozens of prodemocracy demonstrators following the September 2009 stadium massacre in Conakry. HRW reported that bodies from the massacre were buried in mass graves. During the year victims' families formed groups to demand that the transition government investigate these disappearances; however, no action was taken by security forces or the transition government by year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The new constitution and law prohibit such practices; however, security forces' use of excessive force, including live ammunition, to quell demonstrations resulted in deaths and injuries (see sections 1.a. and 3). According to Amnesty International, persons detained during violent election-related demonstrations faced a high risk of torture. The transition government seldom took action against alleged torturers; however, it arrested 22 military and police personnel for use of excessive force, looting, and inciting violence during street clashes on November 16, the day after election results were announced.

Prison guards tortured, beat, raped, and otherwise abused citizens and detainees. In 2008 the local NGO *Terres des Hommes Minors* reported that detainees, including children, were tortured before being incarcerated.

No investigation was conducted or action taken against the perpetrators of the September 2009 attacks against prodemocracy protestors in Conakry's main soccer stadium (see section 1.a.).

No action was taken against security forces responsible for torture at the military prison on Kassa Island, where security forces used torture, including possible castration, on inmates. Approximately 100 military personnel were reportedly detained in inhumane conditions in the prison following the September 2009 stadium attack. In January former interim president Konate closed the military prison on Kassa Island; however, detainees were still being held in the facility at year's end, according to HRW.

Unlike in the previous year, there were no reports that soldiers ambushed, beat, and kidnapped any foreign ambassadors.

Prison guards used sexual violence to intimidate and brutalize detainees, although reports of such conduct decreased during the year. During the September 2009 stadium massacre, members of the Presidential Guard publicly raped and sexually assaulted with weapons an estimated 100 women. According to human rights organizations and survivors, approximately 20 women were also kidnapped and raped for several days. By year's end no perpetrators were punished for these crimes. The Government made no efforts to rehabilitate rape victims, some of whom were subsequently shunned by their families and forced to live on the streets.

Vigilante violence was common, in part due to lack of confidence in security forces and the judiciary. However, unlike in the previous year, there were no reports of citizens in N'Zerekore waiting outside the local prison to attack and burn to death released convicts.

Ethno-religious violence resulted in deaths and injuries, particularly in the months leading up to the November 7 presidential election (see sections 1.a. and 3).

*Prison and Detention Center Conditions.*—Conditions in civilian prisons, which were under the Ministry of Justice, remained inhumane and life threatening. Poor sanitation, malnutrition, disease, lack of medical attention, and poor conditions resulted in dozens of deaths. Prisoners, including children, were reportedly routinely tortured to extract confessions or to extort money. Prisoners claimed that guards routinely threatened, beat, and otherwise harassed them, according to NGOs.

All prisons were overcrowded. Conakry Prison, which was built to hold 300, held 1,055 prisoners at the beginning of October. Some Conakry prisoners reported sleeping on their knees because their cells were so small. During the year a new prison with greater capacity than the old one was completed in N'Zerekore. In 2009 approximately 60 prisoners in the old N'Zerekore Prison were squeezed into two small cells with no access to fresh air or daylight.

Reports from NGOs indicated that prison guards routinely harassed and sexually assaulted female inmates. A local NGO reported that half of the female prisoners in Conakry Prison had been beaten or abused during the year. One NGO reported that prison guards regularly subjected girls under the age of 18 to sexual exploitation and harassment in exchange for favors, especially provision of additional food or water.

Neglect, mismanagement, and lack of resources were prevalent. Toilets did not function, and prisoners slept and ate in the same space used for sanitation purposes. Access to drinking and bathing water was inadequate. Wells ran dry in the dry season, and electric pumps, such as the one in Conakry Prison, did not function. In 2009 a foreign observer reported that inmates in Siguiiri Prison in the northeast of the country lacked access to medical care, adequate food and water, and legal representation—a situation that was common in prisons throughout the country.

NGOs reported endemic malnutrition throughout the prison system, which did not deliver food or medicine to inmates. Prison directors relied on charities, the International Committee of the Red Cross (ICRC), and NGOs to provide food for inmates. Due to the efforts of such groups, no prisoners in Conakry Prison died of malnutrition during the year. Prisoners reported eating one small meal a day consisting primarily of rice and sauce. Some inmates relied on assistance from families or friends to maintain their health, but relatives often abandoned prisoners due to the difficulty and cost of travel to the prisons. Guards often demanded bribes in exchange for delivering food to inmates and routinely confiscated food.

Inmates were not tested for HIV/AIDS upon entry into the prisons, and no statistics on HIV/AIDS infection rates were kept; however, local NGOs estimated that 15 percent of the prison population was infected. Lack of medicine in prisons, combined with endemic malnutrition and dehydration, made infection or illness life threatening. In several regions prisoners with tuberculosis were held together with uninfected inmates.

Although there was no data on prisons in the interior of the country, a prisoner advocacy NGO in Conakry estimated that 18 prisoners died from poor prison conditions during the year.

Although the Ministry of Justice administered civilian prisons, military officers and guards managed and staffed the facilities. There were reports that some prison administrators followed directives from their military superiors, even when they were in conflict with orders from the Ministry of Justice. Due to limited funds and personnel shortages, prisons were largely staffed by untrained and unpaid “volunteers” who hoped for permanent entry into the military. This system was difficult to manage and particularly vulnerable to corruption and abuse. Some prisoners exercised more power than the guards, controlling conditions and cell assignments, giving better conditions to prisoners who were able to pay.

NGOs estimated that 3,800 prisoners (including between 47 and 100 women) were incarcerated in 32 civilian prison facilities nationwide. Statistics on incarcerated minors held nationwide were unavailable, but a local NGO reported that 130 minors were incarcerated at Conakry Prison, of which 14 had never been formally charged or tried, several had been imprisoned for more than six years, and others had grown up in the prison. No information was available on the number of children incarcerated with their mothers nationwide. The transition government did not provide for children’s food, clothing, education, or medical care in prison.

In most prisons men and women were held separately, but juveniles generally were held with adults in prisons outside the capital. Children in Siguiiri Prison were housed with adult men and women. Local NGOs reported that male juveniles were held separately from male adults at Conakry Prison; however, women and girls were confined together and not given the same freedoms, including access to fresh air, as their male counterparts. Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest.

Conditions in military prisons, which were under the Ministry of Defense, could not be verified since the transition government denied access to prison advocacy groups and international organizations; however, unlike in the previous year, international organizations and NGOs were permitted access to prisons run by the gendarmerie. In 2009 local media reported the use of torture at the military prison on Kassa Island. While the majority of prisoners detained in the Kassa Island facility were released after its closure in January, there were reports that some prisoners still remained, one of whom was reportedly beaten during the year.

Gendarmerie prisons were commonly used to hold civilian detainees while they were being processed for transfer to civilian facilities; however, such temporary detentions could last anywhere from a few days to several months.

Prisoners and detainees were not permitted reasonable access to visitors or granted religious observance. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhumane conditions. Prisoners and detainees have the right to submit complaints, but seldom exercised that right due to fear of reprisals by prison guards and the gendarmerie. Prison authorities did not investigate credible

allegations of inhumane prison conditions, nor has the Government investigated or monitored prison or detention center conditions.

The country has no ombudsman to serve on behalf of prisoners and detainees to consider alternatives to incarceration for nonviolent offenders, monitor the status and circumstances of confinement of juvenile offenders, or improve pretrial detention, bail, and recordkeeping procedures to ensure prisoners are not held beyond their maximum sentences. However, the Association for the Support of Refugees and Displaced Persons in Detention, a local NGO that maintained offices in all prison facilities, regularly interceded with the Justice Ministry and prison officials to alleviate overcrowding, improve pretrial detention, and keep judicial processes moving without the commonly used tactic of bribery.

The transition government permitted prison visits by local humanitarian and religious organizations that offered medical care and food for those in severe need.

The ICRC was allowed regular access to all civilian detention facilities; however, no international or local organization was permitted access to military detention facilities. The ICRC continued partnership programs with prison and security authorities to improve civilian prison conditions.

*d. Arbitrary Arrest or Detention.*—The new constitution and law prohibit arbitrary arrest and detention, but the transition government did not observe these prohibitions.

*Role of the Police and Security Apparatus.*—The gendarmerie, a part of the Ministry of Defense, and the National Police, under the Ministry of Security, share responsibility for internal security. The army is responsible for external security but also plays a role in domestic security. FOSSEPEL, a 16,000-member unit composed of police and gendarmes, was created in May to ensure security during the elections and was under the Ministry of Security. The code of penal procedures permits the military, FOSSEPEL, the gendarmerie, and police forces to make arrests; however, only the gendarmerie can arrest members of the military and police forces.

The police force was inadequately staffed and lacked training. In addition, some police officers were part of a “volunteer” corps that did not receive salaries. Administrative controls over the police were ineffective, and security forces rarely followed the penal code. Corruption was widespread, and security forces generally were not held accountable for abuses of power or criminal activities (see section 4). Many citizens viewed all the security forces as corrupt, ineffective, and dangerous.

FOSSEPEL was effective in quelling violence during the first round of presidential elections in June, and there were no reports of excessive use of force; however, before and after the November 7 presidential runoff, there were reports of lack of discipline, excessive force, criminality, and ethnic partisanship by some FOSSEPEL members (see section 3).

According to the African Organization for the Defense of Human Rights-Guinea Section (RADDHO-Guinea), 22 military and police personnel were arrested for use of excessive force, looting, and inciting violence (see section 1.a.).

During the year the transition government took steps to train and reform security forces. In July the chief of the gendarmerie signed a use of force policy that complied with international standards and was successfully implemented during the electoral period.

There were instances in which security forces failed to prevent or respond to societal violence. Police did not intervene during February ethno-religious violence in N’Zerekore. During October 18-19 violent demonstrations in Conakry, FOSSEPEL did not intervene initially, due in part to being overwhelmed until police and gendarmerie reinforcements arrived.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants before an arrest and provides that detainees be charged before a magistrate within 72 hours; however, many detainees were arrested without warrants and incarcerated for longer periods before being charged. The law precludes arrest of persons in their homes between 4:30 p.m. and 6:00 a.m.; however, night arrests occurred. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. Authorities routinely ignored the legal provision that provides client access to attorneys. Indigent defendants were not provided attorneys at state expense. Although the law prohibits incommunicado detention, it occurred in practice. Release on bail was at the discretion of the magistrate who had jurisdiction. The law allows detainees prompt access to family members, but such access was sometimes denied or occurred in the presence of a government official.

Security forces arbitrarily arrested numerous persons during the year.

On March 30, at military barracks in Caleah and Forecariah, military personnel arrested approximately 300 soldiers for suspected participation in a revolt at the barracks. A majority of the detainees were released 48 hours after the incident, but

16 remained in detention in Conakry's main prison without formal charge at year's end.

On June 12, police arrested and detained for 24 hours eight military officers closely identified with the Dadis Camara regime. No formal charges were brought against the individuals.

Numerous persons were arrested during violent civilian clashes before and after the second round of presidential elections on November 7; however, it was difficult to ascertain how many of those were arbitrarily arrested on the basis their ethnicity and how many were detained on the basis of credible allegations of criminal acts.

On September 11 and 12, during fighting between UFDG and RPG supporters in Conakry, numerous persons were arrested and subsequently released.

During violent demonstrations on October 18 and 19, FOSSEPEL members arrested 327 protesters, all of whom were released by year's end. During electoral violence in November, numerous persons were arrested and subsequently released.

A journalist was arbitrarily arrested during the year (see section 2.a.).

Unlike in the previous year, there were no reports that gendarmes routinely arrested civilians and detained them at Kassa Island military prison until they paid bribes for their release (see section 1.c.).

How many of the hundreds of persons who disappeared in the September 2009 stadium massacre and subsequent government crackdown had been arrested and detained was unclear. While some detainees arrested in 2009 were released, an undetermined number remained in detention at year's end.

The following persons arrested in 2009 were believed to have been released: 11 detainees held with a journalist at Camp Koundara; 12 military officers arrested in January; three military personnel detained in April for alleged coup-plotting; and Kader Doumbouya.

On February 5, human rights activist Mouctar Diallo was released (see section 5).

On February 23, Sadou Diallo and Toussaint Tichissambou, detained in July 2009 by the then-minister of high crimes and antidrugs Tiegboro Camara, were released and all charges dropped.

On March 3, Ahmed Kante, a former minister of mines accused of misappropriation of state funds, was released after being detained one year without formal charge.

During the year Ousmane Conte and three associates, all of whom were arrested in November 2009, were released.

On May 15, Prime Minister Dore announced that nearly 200 prisoners detained without charge would be released. Among those released were women and children as well as several military officials arrested by the former military junta. It was unclear how many detainees were released as a result of the prime minister's declaration.

Judicial inefficiency, corruption, and lack of political will contributed to prolonged pretrial detention. Local and international NGOs estimated that 85 percent of all prisoners were awaiting trial. Many detainees remained in prison for more than 10 years without trial.

*e. Denial of Fair Public Trial.*—The new constitution and law provide for an independent judiciary; however, the judicial system lacked independence and was underfunded, inefficient, and overtly corrupt (see section 4). Budget shortfalls, a shortage of qualified lawyers and magistrates, and an outdated and restrictive penal code limited the judiciary's effectiveness. The Government largely ignored the judiciary.

A military tribunal prepares and adjudicates charges against accused military personnel, to whom the penal code does not apply, although military courts provide the same rights as civil courts. Civilians were not subject to military tribunals.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of "wise men." The dividing line between the formal and informal justice systems was vague, and authorities sometimes referred a case from the formal to the traditional system to ensure compliance by all parties. Similarly, if a case was not resolved to the satisfaction of all parties in the traditional system, it could be referred to the formal system for adjudication. In the traditional system evidence given by women carried less weight.

*Trial Procedures.*—Trials are public, and juries are used for criminal cases. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants have the right to confront and question prosecution witnesses and to present witnesses and evidence on their behalf. The prosecution prepares a case file, including testimonies and evidence, and provides a copy for the defense. The law provides for the presumption of innocence of accused persons, the independ-

ence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision; however, these rights were not consistently observed in practice. Although the transition government was responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment.

Lack of due process sometimes resulted in unenforceable judgments. For example, in September the president of the Dixin Court found two members of the Independent National Electoral Commission (CENI) guilty of fraud and sentenced them to one year in prison and a fine of two million Guinean Francs (\$434) (see section 3). Since the proceedings did not comply with the law, the judgment was not legally enforceable, and neither of the CENI members had been arrested by year's end.

*Political Prisoners and Detainees.*—The transition government denied the existence of political prisoners or detainees during the year. According to HRW, however, the Kassa Island facility still held detainees at year's end, including civilian Souape Kourouma and military officers Colonel David Sylla, Colonel Sekou Fadiga, and Captain Issa Camara; all were being detained without charge for alleged coup-plotting. According to witnesses who saw the men in detention, none was granted access to a lawyer or had been brought before a judge, and Kourouma claimed to have been beaten.

Under the junta government in 2009, political prisoners were reportedly held either at the Kassa Island military prison or at Conakry Prison, where they were separated from the general population. Following the September 2009 massacre and subsequent government crackdown, there also were reports of an unknown number of political detainees being held at Camp Alpha Yaya.

*Civil Judicial Procedures and Remedies.*—The law provides for a judicial procedure in civil matters, including lawsuits seeking damages for human rights violations; however, it was neither independent nor impartial, and decisions were often influenced by bribes and based on political and social status. There were no lawsuits seeking damages for human rights violations during the year. In practice domestic court orders were often not enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The new constitution and law provide for the inviolability of the home and require judicial search warrants; however, police reportedly ignored legal procedures in the pursuit of criminals or when it served their personal interests. Unlike in the previous year, there were no reports that soldiers entered private residences and businesses to extort money and rob or threaten civilians.

Following the state of emergency imposed on February 17, the transitional government ordered cellular companies to block text messaging, which had been used to coordinate demonstrations. In 2009 the junta government blocked text-messaging capabilities during political unrest.

Unlike in the previous year, there were no reports that security forces arrested the family members of detainees or persons it sought to detain.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The new constitution and law provide for freedom of expression and of press; however, the transition government sometimes restricted these rights. Some journalists continued to practice self-censorship, although less so than in previous years.

During the year the transitional government enacted a new law that replaces prison terms for journalists with the following fines: between one million and five million Guinea francs (\$217 and \$1,086) for defamation, slander, and seditious talk against government officials; between 500,000 to 20 million Guinea francs (\$108 to \$4,347) for defamation relating to the nationality, race, or religion of a person or group; and between 500,000 to two million Guinea francs (\$108 to \$434) for incitement, condoning murder, or disseminating material against public modesty and morals. According to Boubacar Algassimou Diallo, political editor of the private weekly *Le Lynx*, "the fines are so high that journalists think they prefer prison."

Citizens could generally criticize the Government publicly and privately without fear of reprisal.

Despite the limited reach of the print media due to low literacy rates and high prices of newspapers, the independent media were active and expressed a wide variety of views without official restrictions. The National Communications Council (CNC) provided financial subsidies to independent media organizations.

There were 13 private newspapers published weekly in Conakry, and approximately 100 other publications appeared sporadically; technical difficulties and high operating costs impeded regular publication. Two private newspapers were pub-

lished irregularly in the regions of Labe and Kankan. Foreign publications, some of which criticized the Government on a regular basis, were available both in print and electronic format.

Unlike in the previous year, there were no reports that security forces beat and tortured journalists who criticized the Government. There also were no reports that the transitional government excluded independent media from government meetings or that security forces assaulted independent journalists who tried to attend.

No action was taken against members of the Presidential Guard who in March 2009 whipped, kicked, and robbed an independent reporter who was covering a clash between soldiers and youth protestors over the sale of a soccer field.

On May 10, a journalist from The Independent newspaper was arrested and detained for two days without formal charge. He was released on May 12.

On February 5, the transition government released human rights activist Mouctar Diallo, whom the military junta had arrested in November 2009 for criticizing the junta (see section 5).

Media sources admitted self-censorship during the country's transition period and collectively signed a "code of good conduct" that highlighted the importance of national unity during the fragile transition period. For several months after the assassination attempt on junta leader Dadis Camara and the creation of the transition government, journalists continued to prefer to publish human-interest pieces and other innocuous stories, although the press became far more vigorous once presidential campaigning began in earnest.

Radio remained the most important source of information for the public, and numerous private stations broadcast throughout the country.

Unlike in the previous year, the transitional government permitted political parties and religious institutions to own media outlets and did not restrict programming on political and religious subjects. The CNC did not suspend political discussion on the radio, and state media provided equal coverage of all 24 political parties during the election.

During the first round of presidential elections, the media was allowed access to all polling stations. However, during both rounds of presidential elections, the transition government forbade the private media from reporting election results, claiming that reporting voting percentages could upset national unity.

*Internet Freedom.*—There generally were no government restrictions on access to the Internet or reports that the transition government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was available in the capital city and in a few larger towns, but less than 1 percent of the country's inhabitants used it, according to 2009 International Telecommunication Union statistics. Cost, illiteracy, and lack of availability remained major constraints to Internet use.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The new constitution provides for freedom of assembly and association; however, the law imposes restrictions, and the transitional government restricted these rights during the year.

The law restricts freedom of assembly and bans any meeting that has an ethnic or racial character or any gathering "whose nature threatens national unity." The transition government required 72-working-hour advance notification for public gatherings. The law permits local authorities to cancel a demonstration or meeting if they believe it poses a threat to public order. Authorities may also hold event organizers criminally liable if violence or destruction of property ensues.

On six occasions during the year the transition government banned public protests in the wake of election violence, claiming that public gatherings threatened national security. All political parties agreed to the bans, which the population generally respected.

During the year security forces used tear gas, batons, and live ammunition to disperse violent demonstrations, resulting in deaths and injuries (see sections 1.a. and 3).

*Freedom of Association.*—The new constitution and law provide for freedom of association, and, unlike in previous years, the Government generally respected this right in practice. Requirements to obtain official recognition for public, social, cultural, religious, or political associations were not cumbersome, although bureaucratic delays sometimes impeded the registration of new associations.

*c. Freedom of Religion.*—For a discussion of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the transition government generally respected these rights in practice. The transition government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

The transition government required all citizens to carry national identification cards, which they must present on demand at security checkpoints.

According to a credible NGO, a government initiative to remove roadblocks during the year resulted in a 75 percent decrease in roadblocks compared to 2009. Nevertheless, police and security forces continued to detain persons at military roadblocks to extort money, impeding the free movement of travelers and threatening their safety.

The law does not prohibit forced exile, but the transition government did not use it.

*Internally Displaced Persons (IDPs).*—Hundreds of persons were displaced during the year as a result of election-related violence or fear of such violence.

In early November a suspected poisoning of dozens of RPG supporters during a meeting in Conakry spurred ethnically motivated attacks against members of the Peuhl ethnicity in at least four towns, according to HRW (see section 3). According to the ICRC, the violence resulted in the displacement of at least 2,800 persons. In response the Government dispatched additional security forces to protect those who had been displaced and their property; the transitional government also allowed those who were displaced to vote away from their assigned polling station during the second round of presidential elections. None of the IDPs returned to their homes by year's end.

Following the November 15 announcement of provisional election results by CENI, hundreds of Malinke in Middle Guinea left their homes, although most returned by year's end.

*Protection of Refugees.*—There is a government-established system providing protection to refugees through an advisor on territorial issues within the Ministry of Territorial Administration. In practice the transition government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

The country was a place of refuge for asylum seekers from neighboring countries, including Liberia, Sierra Leone, Cote d'Ivoire, and Guinea Bissau. At year's end the UNHCR and the National Bureau for Refugee Coordination estimated that the total refugee population was 15,325, the majority of whom were Liberians. At year's end the UNHCR reported that only two refugee camps remained operational.

The transition government, in coordination with the UNHCR, assisted the safe, voluntary return of Liberian refugees to Liberia and facilitated local integration for Liberian refugees unwilling or unable to return to their homes. Most of the aid for local integration consisted of a small plot of land in the Forest Guinea Region near N'Zerekore, as well as a written letter of introduction from the national government soliciting local businesses to hire integrated former refugees. However, many refugees viewed the assistance as inadequate.

During the year the transition government, with the UNHCR, continued to facilitate the local integration of approximately 1,500 Sierra Leonean refugees whose refugee status had been revoked by a panel chaired by the UNHCR.

During the year the transition government continued to provide temporary protection to approximately 66 individuals of various African nationalities who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees or its 1967 Protocol.

Tension continued between host communities and refugee populations because of disparities in living standards and tribal conflicts, although these tensions were less apparent than in previous years. Economic decline in the country continued to exacerbate situations where refugees received basic services and opportunities unavailable to citizens. The UNHCR continued to offer financial support for the rehabilitation of communities severely affected after 18 years of hosting refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The new constitution provides citizens the right to change their government peacefully, and citizens partially exercised this right during the year in two rounds of presidential elections, from which UFDG candidate Alpha Conde emerged as the victor; however, irregularities, political and ethnic violence, and incidents of exces-

sive force by security forces responding to the violence marred the election's credibility.

In accordance with the Ouagadougou Accord, the CNT was formed in February to act as the legislative body until legislative elections were held. Composed of representatives from civil society, political parties, security forces, unions, youth groups, and educators, the CNT during the year rewrote the constitution, the electoral code, and the media code to define a new government with significantly less power for the president.

*Elections and Political Participation.*—On June 27, UFDG candidate Cellou Diallo and RPG candidate Alpha Conde emerged as the front-runners in the first round of presidential elections, which international observers characterized as credible and free. FOSSEPEL defused a few clashes between supporters of different political parties quickly and with minimum force. Political party candidates could freely declare their candidacy and stand for elections, and there were no government restrictions focused on any one party. Each of the 24 candidates was allotted equal access to the media, and several observer groups stated that media coverage leading up to the first round of elections was neutral. The 24 candidates represented all of the country's major ethnic groups and many of its smaller ethnic groups as well.

The second round of presidential elections, originally scheduled for September 19, was repeatedly postponed until November 7, due to a dispute over alleged bias in CENI leadership, inadequate preparation for the elections, and the theft of laptops provided by the European Union to tabulate results from polling stations. International donors quickly replaced the laptops.

On November 7, the second round of presidential elections, originally scheduled for September 19 and postponed to October 10 and October 24, was held. On November 14, before election results were announced, Diallo declared that he would not accept the outcome of the vote. This was largely because the CENI refused to disqualify ballots from two contested prefectures where minority Peuhls were unable to vote due to ethnically motivated attacks against them in October; one Peuhl was killed, and Peuhl residents fled (see section 2.d.). On November 15, CENI announced the provisional results of the election, which gave Alpha Conde the victory with 52.52 percent of the vote. International observers characterized the election as generally free and fair. Diallo subsequently challenged the results in the Supreme Court, and two days of violence between UFDG and RPG supporters ensued. On November 17, the transitional government declared a state of emergency and a dusk-to-dawn curfew; the curfew was withdrawn on December 3, when the Supreme Court validated the election results.

Election-related violence, which occurred sporadically during the year, was largely drawn along ethnic lines between Diallo's Peuhl supporters and Conde's supporters—mostly Malinke, Soussou, and residents of the Forestier Region. Deaths and injuries resulted from the violence.

On June 25, in Coyah, fighting between UFDG and RPG resulted in two deaths. On September 11 and 12, in Conakry, two youths were killed during fighting between UFDG and RPG supporters. One youth was killed by a rock and the other by a bullet shot by an unidentified perpetrator.

Beginning in October some members of FOSSEPEL, which was dominated by ethnic groups that supported the RPG and Alpha Conde, were drawn into the violence.

On October 18 and 19, gendarmerie and FOSSEPEL personnel used tear gas and batons to disperse thousands of predominantly UFDG youth who were protesting CENI leadership. The demonstrators, who numbered in the thousands, blocked traffic with burning tires and threw stones at passing vehicles. Numerous persons were injured, and approximately 100 of the 327 persons arrested during the two-day clash remained in prison without formal charge at year's end.

In late October violence again erupted between UFDG and RPG supporters. According to HRW, some FOSSEPEL members beat and assaulted party supporters, chased some into their homes and workplaces, and used the unrest as a pretext to loot shops and commit criminal acts, including theft of mobile phones, money, and other goods. Approximately 30 persons detained by security forces described being slapped, kicked, whipped, burned, and beaten with batons and rifle butts as they were being detained by security force members on the street, at their home or jobs, or in one of several gendarmerie and police facilities. HRW also documented the rape of six women by soldiers in the town of Labe; the transition government did not take action against these soldiers by year's end.

Witnesses described how some FOSSEPEL officers targeted individuals for abuse and theft on the basis of their ethnicity, using racial threats and warning them not to vote for a particular party.

On November 16 and 17, following the November 15 announcement of Conde's victory, violence again erupted between supporters of Diallo and Conde. Mobs of youths

and men armed with rocks, sticks, iron bars, knives, machetes, and, in a few cases, small swords and hammers attacked supporters on both sides of the ethnic-political divide. However, in Conakry, HRW documented considerably more attacks by Peuhl youths on members of communities they believed supported Conde than the reverse. Conakry residents described being attacked in their homes, dragged out of their cars and beaten, singled out for abuse due to their ethnicity at informal checkpoints, and, in at least three cases, raped. Witnesses described how mobs vandalized and sometimes burned houses, cars, or furniture. Those who suffered the most serious violence were from ethnic groups that were a clear minority in a given neighborhood. Many families fled their homes.

While security forces sought to quell the violence in the cities of Conakry, Dalaba, and Labe, they failed to provide equal protection to all citizens, according to HRW. In some cases FOSSEPEL used lethal force to suppress violence by members of the Peuhl ethnic group. There were reports that security force members used ethnic slurs against members of the Peuhl ethnic group, collaborated with civilian mobs from ethnic groups that largely supported Conde, and in several cases looted and stole property from persons who were perceived to have supported Diallo.

In November, HRW took in-depth statements from 16 victims of gunshot wounds, 12 of whom described seeing security force members either shooting directly at them, or near them; the other four were injured by stray bullets fired by security forces. The local hospital where the vast majority of victims were taken informed HRW that it treated 84 individuals for gunshot wounds. Some of the injured admitted that they had engaged in violence and thrown rocks at the security forces, but the majority denied involvement in violence and said they had been shot in or near their homes by security forces members who stormed houses and compounds looking for youths who had fled after being dispersed by tear gas. Some of the youths also described being shot by security forces conducting foot or vehicular patrols after the violence had calmed down. Several men were shot, including two who died, during periods of relative calm when the men had ventured out to buy water or supplies or to visit family members.

There were also unconfirmed reports that military personnel attempted to impersonate FOSSEPEL officers and disrupt political rallies. There were also unconfirmed reports that ethnic partisans masqueraded as FOSSEPEL officers to inflict harm on members of opposing groups.

There were 36 women in the 155-seat CNT, including the CNT president. Six of 13 cabinet ministers were women, and there were two female justices on the Supreme Court. Minority ethnic groups were represented in CENI, the CNT, and the cabinet.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the transition government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption remained widespread throughout all branches of government. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem. Public funds were diverted for private use or for illegitimate public uses, such as buying expensive vehicles for government workers. Land sales and business contracts generally lacked transparency.

Security force corruption was endemic. Members of the military targeted and robbed business owners and coerced others into paying bribes. Police ignored legal procedures and extorted money from citizens at roadblocks.

The judicial system was endemically corrupt. Magistrates were civil servants with no assurance of tenure, and judicial authorities routinely accepted bribes in exchange for favorable rulings.

During the year no high-profile corruption cases were prosecuted, and officials arrested in 2009 and charged with corruption were released.

On March 24, seven persons arrested in May 2009 for allegedly trafficking narcotics were released without formal charge, including a former chief of the armed forces staff, former director general of the National Committee of Antidrugs, the former secretary general of the committee, and two other high-ranking military officials. Court proceedings against the individuals started in February, but all charges were eventually dropped when the court proceedings turned into a public spectacle against the junta regime and Tiegboro Camara, who arrested the individuals in May 2009.

Public officials were not subject to public disclosure laws.

There is no law providing free access to government information. Unlike in the previous year; however, the transition government routinely publicized the deliberations of cabinet meetings and presidential activities.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. During the year the transition government created an Independent National Institution for Human Rights, which was charged with promoting human rights throughout the country. The transition government met with domestic NGO monitors, but seldom responded to their inquiries, reports, or recommendations during the year. Security forces attacked a prominent human rights worker during the year.

Independent human rights NGOs included RADDHO-Guinea and the Association for the Support for Refugees and Displaced Persons in Detention.

On October 23, human rights defender Mamadou Aliou Barry was attacked and beaten while trying to stop members of the security forces from attacking a group of youths in Hamdalaye, a suburb of Conakry. Barry had traveled to the area after hearing reports that gendarmes and members of the presidential guard were beating residents and ransacking homes and stores. Barry, who was detained with approximately 15 men, suffered a broken arm and numerous contusions. According to Barry, security force members told him, "You, the Peuhl, will not be allowed to vote. We will detain you and keep you here. you will not be in power, we will crush you."

On February 5, Mouctar Diallo, the president of a local human rights organization, was released and all charges dropped. Diallo, who was arrested in November 2009, was reportedly being held for criticizing the junta.

The transition government facilitated visits by a number of international human rights NGOs and generally cooperated with such organizations; however, none were permitted access to military prisons.

The transition government generally cooperated with international governmental organizations and permitted visits by UN representatives. Authorities permitted and facilitated visits by members of the International Criminal Court, who were investigating human rights abuses committed by government officials in 2009. The transition government also cooperated in the creation of a UN office for human rights in Conakry, as suggested by the UN Commission of Inquiry Report on the September 2009 violence.

Despite promises, however, the transition government did not allow an independent investigation into the September 2009 stadium massacre.

Due to lack of funds and political will, an independent commission of inquiry, established in 2007 to investigate human rights abuses committed by security forces during the 2007 general strike, had not begun its investigation by year's end.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the transition government did not enforce these provisions uniformly.

*Women.*—Rape is a criminal offense but was rarely prosecuted. Authorities were reluctant to pursue criminal investigations of alleged sexual crimes, and there were no reports of prosecutions of rapists, although police records indicated 50 persons were arrested for rape during the year. Spousal rape is neither punished nor regarded as a criminal offense. Social beliefs and fear of being ostracized prevented most victims from reporting incidents of rape. According to a 2003 study, victims of sexual assault constituted more than 20 percent of women treated in a local hospital. Experts reported that the situation had not changed significantly. Many of these assaults were perpetrated by a person the victim knew, and often took place at school; more than half the victims were young girls. Several local NGOs worked to increase public awareness and the reporting of such crimes.

Domestic violence against women was common, although estimates of its prevalence were unavailable. Due to fear of stigmatization and reprisal, women rarely reported abuse. Wife beating is not addressed specifically within the law, although charges can be filed under general assault, which carries penalties ranging from two to five years in prison and fines ranging from 50,000 to 300,000 Guinea francs (\$11 to \$65). Assault constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes, and there were no reports of perpetrators being punished. Local NGOs assisted victims of domestic violence.

Sexual harassment is not against the law. Women working in the formal sector in urban areas complained of frequent sexual harassment, and it was not penalized by employers.

Couples and individuals have the right to decide freely on the number, spacing, and timing of their children and generally had access to information on how to do so without fear of discrimination, coercion, or violence. In 2008 the maternal mor-

tality ratio was 680 deaths per 100,000 live births. Nine percent of women of reproductive age used a modern method of contraception. Women generally had equal access to diagnoses and treatment for sexually transmitted infections, including HIV. However, cultural norms and taboos reportedly dissuaded individuals from taking advantage of opportunities to learn about reproductive health or seeking health services for sexually transmitted infections.

The law generally provides for equal treatment of men and women; however, traditional law discriminates against women and sometimes took precedence over formal law, particularly in rural areas. Formal law regarding inheritance also discriminates against women. The Ministry of Social Affairs and Women's and Children's Issues worked to advance legal equality for women; however, women faced discrimination throughout society, particularly in rural areas, where opportunities were limited. According to the Organization for Economic Cooperation and Development (OECD), women under traditional law are entitled to hold land only on a usufruct basis, which authorizes them to work family-owned land and draw a wage, but not to own the land. Women also had difficulty obtaining loans, according to the OECD.

Government officials acknowledged that polygyny was a common practice. Divorce laws generally tend to favor men in awarding custody and dividing communal assets. Legal evidence given by women carried less weight than testimony by men, in accordance with Islamic precepts and customary law. Although the principle of equal pay for equal work exists, in practice women received lower pay than men. No steps were taken to implement the 2007-2011 action plan on women's empowerment.

*Children.*—Citizenship can be derived by birth, marriage, naturalization, or parental heritage. The transition government did not systematically register births and issue birth certificates, leaving a significant number of children without official documentation and thereby impeding their access to school and health care.

Government policy provides for tuition-free, compulsory primary school education for six years; however, enrollment rates were generally low by international standards. While girls had equal access to all levels of primary and secondary education, social norms and practices resulted in significantly lower attendance rates at the secondary level.

Child abuse was a problem. Ritual murders occurred, although the extent of the practice was unknown due to cultural taboos and a general unwillingness to speak on the subject. Unlike in previous years, there were no arrests in connection with ritual killings.

On March 16, a three-year-old child was abducted from his Conakry home and killed. His throat was cut, his eyes removed, and his abdomen slit open in a manner reportedly consistent with ritualistic ceremonies involving human sacrifice. The alleged killer and accomplice were being held in Conakry Prison and were awaiting trial at year's end.

FGM was practiced widely in all regions among all religious and ethnic groups, primarily on girls between the ages of four and 17; infibulation, the most dangerous form of FGM, was rarely performed. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, reported high rates of infant mortality and maternal mortality due to FGM. According to a 2005 Demographic and Health Survey, 96 percent of women in the country had undergone the procedure. FGM is illegal, and practitioners faced a penalty of three months in prison and a fine of approximately 100,000 Guinea francs (\$21); however, there were no prosecutions during the year.

The transition government cooperated with NGOs in their efforts to eradicate FGM and educate health workers on the dangers of the practice. A study conducted by a local NGO during the year reported that 33 percent of women and 45 percent of men were opposed to FGM, compared to 19 percent of women and 41 percent of men in 2005. The NGO TOSTAN was successful in bringing together many communities to declare their intention to abandon FGM and early or forced marriage. Recognizing traditional practices that encouraged FGM, TOSTAN helped establish binding social contracts in which families agreed to accept a woman who had not undergone FGM to marry one of their sons. Continued efforts by NGOs to persuade communities to abandon FGM resulted in thousands of families ending the practice. Urban, educated families increasingly opted to perform only a slight, symbolic incision on a girl's genitals rather than the complete procedure.

The legal age for marriage is 21 years for men and 17 years for women. Although there were no official reports of underage marriage, it was a problem. Parents contracted marriages for girls as young as 11 years of age in Middle Guinea and the Forest Region. The CPTAFE, in conjunction with the transition government, local journalists, and international NGOs, continued to run an education campaign to dis-

courage underage marriage and reported lower rates than in previous years. According to the CPTAFE, some families that sanctioned early marriages nevertheless kept their married daughters in the family home until they had at least completed secondary school.

Sexual assault of children, including rape, was a serious problem. Girls between the ages of 11 and 15 years were most vulnerable and represented more than half of all rape victims. The law prohibits child pornography, and the country has a statutory rape law.

Street children were pervasive in urban areas, although there were no official statistics. Many were forced to beg in mosques and markets.

Guinea is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—The Jewish community is very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law does not prohibit discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. There were no official reports of societal or governmental discrimination against persons with disabilities. The transition government had not mandated accessibility for persons with disabilities, and buildings and vehicles remained inaccessible. Few persons with disabilities worked in the formal sector; some worked in the informal sector in small family businesses, and many lived by begging on the streets. The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities, but it was ineffective.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse, with three main ethnic groups and several smaller ethnic groups identifying with specific regions. Three major ethnicities form the majority of the population: the Soussou in Lower Guinea, the Peuhl in Middle Guinea, and the Malinke in Upper Guinea. There were smaller ethnic groups throughout the country. Conakry, other large urban areas such as Kankan, and the Forest Region were ethnically heterogeneous.

While the law prohibits racial or ethnic discrimination, ethnic identification was strong. Mutual suspicion, both inside and outside the transitional government, affected relations across ethnic lines. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private-sector hiring patterns, in the ethnic segregation of urban neighborhoods, and in the relatively low levels of interethnic marriage. Political campaigns capitalized on ethnic divisions, and divisive ethnic rhetoric spurred civilian clashes in N'Zerekore, Coyah, and Conakry that resulted in the deaths of at least seven persons during the year. The transition government and the CNT implemented several sensitization programs throughout the year to highlight the importance of peace and unity among ethnic groups. It also held conferences and purchased radio and television programming to combat ethnic tensions and to encourage political leaders to avoid using divisive ethnic rhetoric.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no laws criminalizing sexual orientation, although there were deep social, religious, and cultural taboos against homosexual conduct. There were no official or NGO reports of discrimination against individuals based on their sexual orientation. However, during the opening of the UN Human Rights office in Conakry, the prime minister announced his belief that homosexuality is wrong and should be forbidden by law. He also said that sexual orientation should not be regarded as a basic human right. There were no lesbian, gay, bisexual, or transgender organizations active during the year, but there were no legal impediments to the operation of such groups.

*Other Societal Discrimination.*—National organizations worked to end the stigma associated with HIV/AIDS. Most victims of stigmatization were women, who were frequently abandoned by their families after their husbands died of AIDS.

Doctors and health workers routinely disregarded medical confidentiality standards resulting in widespread distrust of testing.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law and constitution provide for the right of employees, except for military and paramilitary personnel, to form and join independent labor unions, and the transitional government enforced this right. The

labor code requires elected worker representatives for any enterprise employing 25 or more salaried workers. Although labor statistics were inadequate, at least 167,000 workers were reportedly unionized.

The law grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike, and workers exercised this right a few times over the year. By law arbitration is by consensus and executed through the Office of the Inspector General of Work within the Ministry of Labor. In practice, however, employers could impose binding arbitration. The law prohibits strikes in essential services, including hospitals, police, the military, transport, radio and television, and communications.

Unlike in the previous year, the transitional government did not break up strikes during the year. No investigation was made into the violent dispersal of a June 2008 police strike, which resulted in the deaths of 14 police officers.

*b. The Right to Organize and Bargain Collectively.*—The law provides that representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations, and workers exercised this right in practice. The law protects the right to bargain collectively for wages and salaries without government interference. Employers established rules and hours of work in consultation with union delegates, and this law was generally respected in practice.

There were no reports of antiunion discrimination during the year. Employers generally did not interfere in or prohibit labor union activities. There were no reports of workers being fired because of labor activity. During a strike in March at a mining company's alumina refinery in Fria, the transition government sent protective forces to the area to ensure workers' ability to strike and also to protect the refinery workers who chose to report to work despite the strike.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law specifically prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits child labor and the exploitation of vulnerable persons for unpaid or underpaid labor; however, child labor was a serious problem. Violators of child labor laws face penalties between six months to five years in prison and fines between 50,000 to 382,500 Guinea francs (\$11 to \$82); however, the Government did not enforce the law.

The minimum age for employment is 16 years, although apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 are not permitted to work at night, for more than 10 consecutive hours, for more than 12 consecutive days, or on Sundays. The Ministry of Labor maintained a list of occupations in which women and youth under the age of 18 cannot be employed; however, enforcement was limited to large firms in the modern sector of the economy.

Child labor occurred most frequently in the informal sectors of subsistence farming, small-scale commerce, and mining. Many children were exploited as domestics in the urban sector, as miners, or as farm or plantation workers. A 2007 HRW report stated that tens of thousands of girls worked as domestics, many of them for up to 18 hours a day with little or no compensation. Some girls allegedly suffered beatings, sexual harassment, and rape. Family members or employers allegedly forced some to prostitute themselves to earn enough money to survive. The transition government did not take action when prostitution of minors was brought to its attention, and it did not monitor child or adult prostitution.

According to both official and NGO sources, many children between the ages of five and 16 worked 10 to 15 hours a day in the diamond and gold mines for minimal compensation and little food. Child laborers extracted, transported, and cleaned the minerals. Children were described as living in extreme conditions without access to water or electricity and exposed to constant threat of disease and sickness. According to NGOs, the children did not attend school and reportedly were prevented from contacting their parents. A 2006 study by the NGO AGRAAD reported that 45 percent of workers at the Dandano gold mine were children ranging in age from seven to 16, approximately 30 percent of whom were working with an adult relative in the mine.

Many young Muslim children sent to live with a Koranic teacher (marabout) for instruction in Arabic and the Qur'an worked for the teacher as payment. Rural families often sent children to Conakry to live with family members while they attended school. If the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board or simply used the child as a cheap source of domestic labor.

Although statistical data was unavailable, there were reports that children were sold into exploitative labor through child trafficking.

The Ministry of Labor is responsible for enforcing child labor laws, but it conducted no child labor inspections or investigations and prosecuted no court cases during the year.

The Government continued a public ad campaign against child labor throughout the country.

*e. Acceptable Conditions of Work.*—The labor code allows the transitional government to set a minimum hourly wage enforced by the Ministry of Labor; however, the Government neither exercised this provision nor promoted a standard wage. Prevailing wages routinely did not provide a decent standard of living for a worker and family.

The law mandates that regular work should not exceed 10-hour days or 48-hour weeks, and it mandates a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least two workdays per month of work. There also are provisions in the law for overtime and night wages, which are fixed percentages of the regular wage. In practice authorities rarely monitored work practices or enforced these rules.

Teachers' wages were extremely low, and teachers sometimes went six months or more without pay. Salary arrears were not paid, and some teachers lived in abject poverty.

The law contains general provisions regarding occupational safety and health, but the Government did not establish a set of practical workplace health and safety standards. Moreover, it did not issue any orders laying out the specific safety requirements for certain occupations or for certain methods of work that are called for in the labor code. The Ministry of Labor is responsible for enforcing labor standards, and its inspectors are empowered to suspend work immediately in situations hazardous to health; however, enforcement efforts were sporadic.

All workers, including foreign and migrant ones, have the right to refuse to work in unsafe conditions without penalty; however, many workers feared retaliation and did not exercise this right.

---

## GUINEA-BISSAU

Guinea-Bissau\* is a multiparty republic with a population of approximately 1.7 million. In July 2009 Malam Bacai Sanha of the African Party for the Independence of Guinea and Cape Verde (PAIGC) was elected president in elections following the assassination of former president Joao Bernardo Vieira by the military. International observers declared the holding of the 2009 presidential elections to be free and fair despite election-related violence preceding the polls. As in the previous year, there were multiple instances in which elements of the security forces acted independently of civilian control.

Human rights abuses included beatings and torture; poor conditions of detention; arbitrary arrest and detention; lack of judicial independence and due process; interference with privacy; intimidation of journalists; widespread official corruption, exacerbated by government officials' impunity and suspected involvement in drug trafficking; violence and discrimination against women; female genital mutilation (FGM); child trafficking; and child labor, including some forced labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike the previous year, there were no reports that the Government or its agents committed arbitrary or unlawful killings, including killings that were politically motivated.

There were no developments in the cases of the 2009 killings of former president Vieira and former armed forces chief of staff General Jose Batista Tagme Na Waie. In March 2009, Na Waie was killed by a bomb outside his office in military headquarters. Following Na Waie's assassination, soldiers under the command of Colonel Antonio Indjai tortured and then hacked Vieira to death with machetes in what was widely considered retaliation for the killing of Na Waie. Observers noted that the longstanding tension between Vieira and Na Waie had increased due to Na Waie's 2008 accusation that Vieira was involved in the drug trade. It was unclear whether the killings were linked to the growing cocaine trade through West Africa, but Vieira and senior military officers had been accused of profiting from it. The na-

tional commission of inquiry, established in 2009 to investigate the killings, did not identify or charge anyone during the year.

There were no developments in the case of former national assembly deputy Helder Proenca, whom military personnel beat, shot, and killed, along with his bodyguard and driver, in June 2009 on the outskirts of Bissau. Proenca, who had been accused of plotting to overthrow the Government on June 5 by Colonel Samba Djalo, chief of the Military Information and Security Service, reportedly was killed while resisting arrest. In November 2009 the state attorney general filed a criminal complaint against Djalo; however, the case remained pending at year's end.

No perpetrators had been identified or punished by year's end for the June 2009 death of former presidential candidate and assemblyman Baciro Dabo. Soldiers shot and killed Dabo after accusing him of plotting with Proenca to overthrow the Government.

There were no developments in the 2008 killing of a judicial police officer by security forces.

During the year Alexandre Tchama Yala, the suspected leader of a 2008 coup attempt in which two presidential guards were killed, remained at large following his 2009 escape from detention.

Unlike in 2009, there were no reported injuries or deaths as a result of unexploded ordinance during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, armed forces and police did not always respect this prohibition. The Government did not punish members of the security forces who committed such abuses.

During his brief detention on April 1 (see section 1.d.), Prime Minister Carlos Gomes was robbed, beaten, and reportedly pistol-whipped by soldiers loyal to then deputy armed forces chief of staff Antonio Indjai. Gomes was released after several hours.

In July a civilian named Fernando Te was reportedly tortured to death while in custody at the 5th Esquadra police station. At year's end, an investigation was ongoing with no individuals identified or charged with his death.

During the year no military personnel were identified or charged for the reported torture of former president Vieira before his death (see section 1.a.).

No action was taken during the year against those responsible for the torture and abuse of lawyer Pedro Infanda, whom military personnel reportedly beat and tortured for four days and then denied medical treatment prior to his release. Infanda had stated in a March 2009 press conference that the appointment of Jose Zamora Induta as armed forces chief of staff following Na Waie's death was not in accordance with the proper order of succession.

No action was taken during the year against soldiers who beat former prime minister Francisco Jose Fadul during his June 2009 detention at armed forces headquarters.

There were no developments in the case of journalist Mario de Oliveira, who was verbally abused and beaten in October 2009 during his detention following a *Donos da Bola* newspaper publication of an interview with the minister of the interior, Major Samba Djalo.

*Prison and Detention Center Conditions.*—In December the Ministry of Justice, with the assistance of the UN Office on Drugs and Crime, completed construction of the country's first secure prison facilities in the towns of Bafata and Mansoa. The prisons have a total capacity for 90 prisoners, including cells for up to six women in Mansoa and eight in Bafata. The prisons have electricity and potable water. No inmates were transferred to the new prisons by the end of the year due to a lack of equipment.

The Government continued to detain most prisoners in makeshift detention facilities at the Judicial Police headquarters, on military bases, in Bissau, and neighboring towns. Conditions of confinement were poor. Detention facilities generally lacked secure cells, running water, and adequate sanitation. Detainees' diets were poor and medical care was virtually nonexistent. Pretrial detainees were held together with convicted prisoners, and juveniles were held with adults.

The Government permitted some independent monitoring of detention conditions by local and international human rights groups. During the year representatives from the UN Peacebuilding Support Office in Guinea-Bissau (UNOGBIS) and the International Committee of the Red Cross (ICRC) conducted visits. The Government also permitted visits to detention locations by the Human Rights League of Guinea-Bissau (LGDH). The Government required advance scheduling of visits and did not permit regular repeat visits.

Following his April 1 detention (see section 1.d.), former armed forces chief of staff Jose Zamora Induta was reportedly in poor health and was denied access to medical treatment at the military barracks in Mansoa. Induta was allowed to receive visitors, including diplomatic representatives and UNOGBIS and ICRC representatives, but not without third parties present.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions; however, security forces arbitrarily arrested persons and were involved in settling personal disputes, sometimes detaining persons upon request without full due process.

*Role of the Police and Security Apparatus.*—The country is divided into 37 police districts, and there were an estimated 3,500 police personnel in nine different police forces reporting to seven different ministries. The approximately 100 officers of the Judicial Police, under the Ministry of Justice, have primary responsibility for investigating drug trafficking, terrorism, and other transnational crime, while the 1,300 members of the Public Order Police, under the Ministry of Interior, are responsible for preventive patrols, crowd control, and conventional maintenance of law and order. Other police forces include the State Information Service, the Border Service, the Rapid Intervention Force, and the Maritime Police.

Police were generally ineffective, poorly and irregularly paid, and corrupt. They could not afford fuel for the few vehicles they had, and there was a severe lack of training.

During the year the Director General of the Judicial Police received formal police training in Ghana facilitated by the Economic Community of West African States. Also, in preparation for the opening of the new prisons in Mansoa and Bafata, a group of 78 prison guards and five directors completed a ten-week basic training course led by the Portuguese Ministry of Justice and UNODC. The training included instruction in prison management and contained a human rights module.

Transit police were particularly corrupt and demanded bribes from vehicle drivers, whether their documents and vehicles were in order or not. Impunity was a problem. Corruption and a lack of police detention facilities and vehicles frequently resulted in prisoners simply walking out of custody in the middle of investigations. The attorney general was responsible for investigating police abuses; however, employees of the attorney general were also poorly paid and susceptible to threats, corruption and coercion.

According to the constitution, the armed forces are responsible for external security and can be called upon to assist the police in internal emergencies.

During a military mutiny on April 1, the former navy chief of staff, Jose Americo Bubo Na Tchuto and soldiers loyal to then deputy armed forces chief Antonio Indjai beat, robbed, and detained Prime Minister Carlos Gomes, armed forces chief of staff Jose Zamora Induta, and other military personnel. Gomes was released several hours later and departed the country on April 23 to receive medical treatment abroad. He returned in June. Induta remained in detention without charge until December 23.

During the mutiny, soldiers also released several officials being held on charges of embezzling government funds; however, the officials were suspended from their jobs, and charges against them were pending at year's end.

On July 6, a group of soldiers assaulted several police officers, including at least two women, near the parliament building. According to media reports, the incident occurred following a dispute between a relative of recently appointed armed forces chief of staff Indjai and a traffic police officer. No soldiers were charged or punished for the assault by year's end.

*Arrest Procedures and Treatment While in Detention.*—The law requires arrest warrants, although warrantless arrests often occurred. The law requires that detainees be brought before a magistrate within 48 hours after arrest and that prisoners be released if no timely indictment is filed; however, authorities did not always respect these rights in practice. In general, detainees were informed promptly of charges against them, but some military detentions involved no notification of charges. The law provides for the right to counsel and to counsel at state expense for indigent clients; however, lawyers did not receive compensation for their part-time public defense work and often ignored state directives to represent indigent clients. There was a functioning bail system, and pretrial detainees were allowed prompt access to family members.

At times authorities arrested criminal suspects, particularly immigrants, without warrants.

No actions were taken against military personnel who illegally arrested and beat Pedro Infanda in March 2009 (see section 1.c.).

No actions were taken against soldiers who illegally arrested and beat Francisco Jose Fadul, the former president prime minister and former chief justice of the Audit Court (see section 1.c.).

The vast majority of the prison population consisted of detainees awaiting the conclusion of their trials; however, few detainees remained in custody for longer than one year. Most left detention before the conclusion of their trials as a result of inadequate detention facilities, lack of security, and rampant corruption. The few prisoners who were convicted seldom remained in custody for more than two years. Prisoners remanded to their homes due to space constraints in detention facilities often failed to return to prison.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the largely nonfunctional judicial branch had little independence. Judges were poorly trained, inadequately and irregularly paid, and subject to corruption. Courts and judicial authorities were also frequently accused of bias and passivity, according to a 2008 report published by the International Federation for Human Rights. The attorney general had little protection from political pressure since the president can independently replace the incumbent. Trials were often delayed by lack of materials or infrastructure, and convictions were extremely rare.

In addition to the civil judicial structure, there is a military court. The Supreme Military Court is the final court of appeal for military cases. In theory, military courts do not try civilians; however, civilian courts try all cases involving state security, even if the accused are members of the military.

Traditional systems of justice prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. Police also often resolved disputes.

*Trial Procedures.*—There is no trial by jury. For all citizens, the law provides for a presumption of innocence, the right to have timely access to an attorney, to question witnesses, to have access to evidence held by the Government, and to appeal. Trials in civilian courts are open to the public. Defendants have the right to be present and to present witnesses and evidence on their behalf. For those few defendants whose cases went to trial, these rights were respected in a majority of cases and despite the otherwise dysfunctional judiciary. Citizens who cannot afford an attorney have the right to a court-appointed lawyer; however, court-appointed attorneys received no compensation from the state for representing indigent clients, were not punished for failing to do so, and generally ignored such responsibilities.

*Political Prisoners and Detainees.*—There were no other reports of political prisoners or detainees during the year.

*Civil Judicial Procedures and Remedies.*—The judicial system handles civil as well as criminal matters, but it was neither independent nor impartial. There was no administrative mechanism to address human rights violations. Domestic court orders often were not enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government partially respected these prohibitions in practice. Police routinely ignored privacy rights and protections against unreasonable search and seizure.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government did not always respect these rights in practice. During the year security forces detained persons for exercising their right to free speech, particularly when they spoke out against military officials or arbitrary killings. Journalists practiced self-censorship.

On May 14, the private daily newspaper *Diary Bissau* published an editorial entitled “Guinea-Bissau is a Narco-state” with photographs of former armed forces chief of staff Na Waie, former president Vieira, former deputy assembly leader Proenca, and former presidential candidate Dabo captioned “victims of drug trafficking in Guinea-Bissau.” Unknown assailants subsequently beat Joao de Barros, the director of the paper and former minister of media affairs under Vieira. In addition the paper’s headquarters was ransacked and all publishing equipment destroyed. One man, Armando Correia Dias, was briefly detained but later released without charge. The investigation remained open at the end of the year.

There were no developments in the case of Francisco Jose Fadul, former prime minister and chief justice of the Audit Court. Soldiers beat and stole possessions from Fadul following a March 2009 press conference in which he called on the Gov-

ernment to hold the armed forces responsible for corruption and other criminal activities.

In addition to the Government-owned newspaper *No Pintcha*, several private newspapers published without restriction. All newspapers were published through the state-owned printing house. The national printing press often lacked raw materials, and salaries were not always paid, resulting in publication delays.

There were several independent radio stations, a national radio station, and a national television station. International radio broadcasts could be received.

Journalists reported receiving telephone threats and summons to government premises to explain their activities or statements, while others reported prolonged court proceedings that impeded their work.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure, equipment, and education severely limited access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government usually respected this right in practice. Permits were required for all assemblies and demonstrations.

Following the April 1 military mutiny, numerous citizens protested in Bissau against the detention of Prime Minister Gomes and Armed Forces Chief of Staff Induta in the streets of Bissau. Deputy Armed Forces Chief of Staff Antonio Indjai and former navy chief of staff Na Tchuto threatened to kill civilians and Gomes if the crowds did not disperse, but the threats were not carried out prior to Gomes' release.

*Freedom of Association.*—The constitution and law provide for the right of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, asylum seekers, stateless persons, and other persons of concern.

The law did not specifically prohibit forced exile; however, the Government did not use it.

*Internally Displaced Persons (IDPs).*—IDPs moved back and forth over the border with Senegal, depending on the status of the ongoing armed conflict in Senegal's Casamance region. With ethnic and family ties on both sides of the poorly marked border, the nationality of IDPs was not always clear.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The Government did not grant refugee status or asylum during the year.

There were no restrictions on refugees' ability to work provided they had a valid refugee card. Persons holding official refugee status were allowed access to public services, including education, health care, and land. The UNHCR opened an office in Bissau in February and facilitated the issuance of refugee cards. As in previous years, local communities in northern Guinea-Bissau lent land to long-term refugees from the Casamance region of southern Senegal, thus allowing the refugees to cultivate the land. Rather than utilizing local schools, most refugees sent children to nearby Senegalese schools in the Casamance, which were perceived as being higher quality.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to peacefully change their government.

*Elections and Political Participation.*—Following the March 2009 military assassination of President Vieira, interim president Raimundo Pereira postponed the first

round of the presidential election until June 2009, citing lack of resources, although the constitution provides that an election be held within 60 days of a president's death. The PAIGC candidate, Malam Bacai Sanha, won the June 2009 first round with 39 percent of the vote, and the July 2009 second round with 63 percent.

International observers characterized the polling process as free and fair.

Formal membership in the dominant party conferred some informal advantages. The Balanta ethnic group, mainly through its predominance in the armed forces, controlled the political system.

During the year the ruling PAIGC party attempted to restrict opposition political activity. Unlike previous years, the political opposition was not subjected to overt violence such as torture or killings.

The 98-member National Assembly had 10 female members. The Supreme Court president, three of the 19 government ministers, and one of nine state secretaries were also women.

All ethnic groups were represented in the Government. The minority Balanta group dominated the army.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties of one month to 10 years in prison for official corruption. However the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Official corruption and lack of transparency were endemic at all levels of government. The World Bank's Worldwide Governance Indicators reflected that corruption was a severe problem. Members of the military and civilian administration reportedly trafficked in drugs and assisted international drug cartels by providing access to the country and its transportation infrastructure. Customs officers frequently accepted bribes not to collect import duties, which greatly reduced government revenues. The largely nonfunctional and corrupt judiciary was unable and unwilling to enforce the law and investigate corruption cases. Unlike the previous year, there were no new investigations of corruption by the attorney general.

During the year the Government imprisoned and charged officials with collecting salary payments of former and deceased government employees, but soldiers released the officials during the April 1 mutiny. The officials remained free at the end of the year, although the charges against them were pending in court.

On June 25, deputy armed forces chief of staff Antonio Indjai was promoted to armed forces chief of staff, despite having led the April 1 mutiny in which Prime Minister Gomes and former armed forces chief of staff Induta were illegally detained (see Section 1.d.).

On October 15, former treasury secretary Maria Paula Costa was found guilty of fraud and negligence. He was sentenced to three years in prison and fined 3.5 million CFA (\$7,000). The charges stemmed from a 2006 case in which forged signatures were used to steal 75 million CFA (\$150,000) from the treasury.

According to media reports, the head of the country's football federation remained free at year's end despite receiving a three-year prison sentence in 2009 for stealing millions of CFA from the federation that had been intended to build the organization's local headquarters.

Unlike the previous year, no officials were arrested or charged for embezzlement.

According to a 2008 UN report on the country and the activities of the UN Peacebuilding Support Office, the country was rapidly moving from being a transit hub to a major market place in the drug trade. According to the UNODC, the volume of drugs transiting the country increased during the year. The failure to interdict or investigate suspected narcotics traffickers contributed to the perception of government and military involvement in narcotics trafficking.

Systemic failure to act throughout the police, military, and judiciary resulted in the absence of prosecutions of drug traffickers. Drug traffickers usually had official protection at some level. The Judicial Police had no resources to conduct investigations, limited ability to detain suspects, and no means of transporting detainees to court. Judges and guards were highly susceptible to corruption and often released suspected traffickers who subsequently disappeared. Judicial officials who displayed independence, resisted corruption, or attempted to investigate or prosecute narcotics traffickers were threatened.

On October 8, former navy chief of staff Na Tchuto was reappointed to his old position, despite being involved in the April 1 mutiny (see section 1.d.) and his known involvement in narcotics trafficking.

There were no developments in the 2008 case of the military's protection of the crew of an airplane impounded at Bissau airport and the off-loading of a suspected shipment of cocaine.

Public officials are legally required to disclose their personal finances before the Court of Audits, but the court's authority was weak. No public officials disclosed their personal finances during the year.

As in the previous year, the National Assembly's anticorruption committee was inactive.

The law provides that "everyone has the right to information and judicial protection"; however, such access was seldom provided.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

There were reports that NGO workers were harassed during the year. For example, in June the president of the Bissau Civil Society Movement reported receiving death threats following a press conference in which the organization noted problems between the president and prime minister and the "insubordination" of the military to civilian authorities and expressed uncertainty about the future of the Government.

There were no developments in the case of Luis Vas Martins, president of the LGDH, who reported in April 2009 that an armed man came to his office and threatened to kill him due to an LGDH statement condemning the beating of Francisco Jose Fadul (see section 1.c.).

The Government permitted visits by UN representatives, including UNOGBIS personnel and the ICRC.

There was no government response by year's end to the October 2009 UN Report of the Secretary-General on Developments in Guinea-Bissau and on the Activities of the United Nations, which was critical of the country's human rights record.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination but does not designate the bases of discrimination; the Government did not enforce prohibitions against discrimination.

*Women.*—The law prohibits rape, including spousal rape, but government enforcement was limited. Based on anecdotal evidence, rape was not a frequent problem. The law only permits prosecution of rape when the victim has reported it, which observers noted was rare due to the cultural stigmatization of rape victims. This problem was exacerbated in the Muslim eastern regions of Gabu and Bafata, where a cultural practice known as "djokorenda" dictated that the issue be resolved at home within a family. There were no statistics available on the number of abusers who were prosecuted, convicted, or punished for rape.

Domestic violence, including wife beating, was an accepted means of settling domestic disputes and was reportedly widespread. There is no law that prohibits domestic violence, and politicians reportedly were reluctant to address the subject for fear of alienating more traditional voters or particular ethnic groups. Although police intervened in domestic disputes if requested, the Government did not undertake specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

There is no law prohibiting sexual harassment and it was a problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There is access to birth control and limited access to HIV testing. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV. The UN Population Fund reported that 98 of 114 health centers offered family planning services and that approximately 10 percent of women used contraception. The Catholic Church and other religious groups discouraged condom use, which also was not widespread due to lack of education. According to the most recent data available from the UN Population Fund, 78 percent of women were attended to by a skilled health provider during pregnancy; however, only 39 percent of live births were attended by a skilled health worker. Estimates for the maternal mortality rate ranged from 800 to 1,100 per 100,000 live births.

The law treats men and women equally and prohibits discrimination; however, discrimination against women was a problem, particularly in rural areas where traditional and Islamic laws were dominant. Women were responsible for most work on subsistence farms and had limited access to education like the majority of citizens, especially in rural areas. Women did not have equal access to employment. Among certain ethnic groups, women cannot manage land or inherit property. Al-

though no data was available, women reportedly experienced discrimination in employment, pay for similar work, and owning a business.

*Children.*—Citizenship is derived by birth within the country and from one's parents. Child registration does not occur automatically at hospitals. Parents must register their child's birth with a notary. The Government conducts yearly campaigns to register children in the countryside. Lack of registration resulted in the denial of education, since school registration requires a birth certificate. Lack of registration did not result in the denial of health services.

Public schooling was free and universal through high school. In March the national assembly passed a law increasing compulsory attendance from the sixth grade to the ninth grade and lowering the enrollment age from seven years to six. The gap of enrollment rates between girls and boys was fairly small: 65.4 percent for girls and 69.3 percent for boys. Teachers were poorly trained and paid. Schools closed twice during the year due to strikes by teachers protesting nonpayment of salaries.

Children often were required to help their families in the fields, which conflicted with schooling. In general there was no difference in the treatment and attendance of boys and girls, but Islamic schools banned girls from attending.

Violence against children was widespread, but was seldom reported to the authorities.

During the year an 85-year-old man in Gabu was charged with sexually abusing two of his granddaughters, aged 15 and 16, which resulted in their pregnancies. His trial had not begun by year's end.

There is no law prohibiting FGM, and certain ethnic groups, especially the Fulas and the Mandinkas, practiced it, not only on adolescent girls but also on babies as young as four months. There was no government effort to combat FGM during the year, but NGOs worked to limit the practice. In June there was one reported death of a baby girl in Bissau due to the practice.

Child marriage occurred among all ethnic groups, but no reliable data existed to quantify the problem. Girls who fled arranged marriages often were forced into prostitution to support themselves. The practice of buying and selling child brides also reportedly occurred on occasion. Local NGOs worked to protect the rights of women and children and operated programs to fight child marriage and protect the victims of child marriage. Observers noted during the year that NGO efforts to enroll more girls in school had a negative side effect on child marriages: more girls were forced to marry at a younger age because parents feared the social opportunities of school would increase the risk of their daughters losing their virginity before marriage.

There are no explicit penalties for child prostitution, but there is a statutory rape law against having sex with a person less than 16 years old. The rape law carries a penalty of two to six years in prison. There is no law against child pornography.

The Child Protection Office of the Bissau Police Department estimated that approximately 1,000 children were living on the streets of Bissau, with a growing number of boys engaged in gangs and petty crime. The Government provided no services to street children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitism.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities, mandate building access for them, or provide for equal access to employment and education. There were no government efforts to mitigate discrimination against persons with disabilities or ensure their access to buildings or streets. However, there were no reports of overt societal discrimination. The Government made some efforts to assist military veterans with disabilities through pension programs, but these programs did not adequately address health, housing, or food needs.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws that criminalize sexual orientation; however, social taboos against homosexuality restricted freedom of sexual orientation. There were no reported violent incidents or human rights abuses targeting individuals based on their sexual orientation or identity. There was no official discrimination based on sexual orientation or gender identity in employment or access to education and health care. However, the law only recognized heterosexual married couples as entitled to larger government housing.

*Other Societal Violence and Discrimination.*—There was open discussion of HIV/AIDS and no societal violence or discrimination against persons with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides all workers with the freedom to form and join independent trade unions without previous authorization or excessive requirements, and workers exercised this right in practice.

Most of the population, 90 percent, worked in the agricultural sector. Other employment sectors included fisheries and extractive industries. A significant majority of the population worked in subsistence agriculture, and only a small percentage of workers were in the wage sector and organized. Approximately 85 percent of union members were government or parastatal employees who belonged primarily to independent unions. Further statistics pertaining to the country's workforce were unavailable.

The law allows unions to conduct their activities without government interference; trade union delegates are protected under union laws, while laborers' rights to free speech and assembly are protected by the constitution. However, only trade union delegates are protected against antiunion discrimination, with limited sanctions.

The law provides for the right to strike, but the Government did not always protect this right. The only legal restriction on strike activity was a prior notice requirement. The law also prohibits retaliation against strikers.

Unlike the previous year, there were no reports that security personnel forcibly dispersed legal strike participants.

*b. The Right to Organize and Bargain Collectively.*—The law does not provide for or protect the right to bargain collectively; however, the tripartite National Council for Social Consultation conducted collective consultations on salary issues. Most wages were established in bilateral negotiations between workers and employers.

The law does not prohibit employer antiunion discrimination against workers; however, no workers alleged antiunion discrimination during the year, and the practice was not believed to be widespread.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were reports that such practices occurred. Boys were routinely sent abroad (often to Senegal) to receive religious education, but then often were forced by their marabouts (Koranic teachers) to beg in the streets and were subjected to harsh treatment. Some observers believed girls were also subjected to forced domestic labor within country or in Senegal.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are no specific laws that protect children from exploitation in the workplace, and child labor occurred. The legal minimum age is 14 for general factory labor and 18 for heavy or dangerous labor, including labor in mines. Minors are prohibited from working overtime. The small formal sector generally adhered to these minimum age requirements; however, the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in informal work settings.

Most child labor occurred in the informal sector. As in previous years, types of forced child labor included domestic servitude, shoe shining, and selling food in urban streets. Children in rural communities performed domestic and fieldwork without pay to help support their families or because of a lack of educational opportunities. Some children were partially or completely withdrawn from school to work in the fields during the annual cashew harvest. The Government had not taken action to combat such practices by year's end.

The Institute of Women and Children and the ministries of labor and justice are responsible for protecting children from labor exploitation; however, there was no effective enforcement. The Government took little action to prevent child labor during the year. The local NGO Association of the Friends of Children (AMIC), in collaboration with the NGO International Cooperation and Development, succeeded in rescuing approximately 48 child workers. AMIC estimated that approximately 50 children per month returned home of their own volition. The NGO Network of Youth was also involved in removing child workers.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The Council of Ministers annually establishes minimum wage rates for all categories of work, but it did not enforce them. The lowest monthly wage was approximately 19,030 CFA (\$38) per month plus a bag of rice. This wage did not provide a decent standard of living for a worker and family, and

workers had to supplement their incomes through other work, reliance on the extended family, and subsistence agriculture.

Unlike in the previous year, the Government paid back wages and kept current on civil servant salaries.

The law provides for a maximum 45-hour workweek; however, many employees were forced to work longer hours. The law also provides for overtime pay, as long as overtime does not exceed 200 hours per year, and a mandatory 12-hour rest period between workdays; however, these provisions were not enforced.

With the cooperation of the unions, the Ministries of Justice and Labor establish legal health and safety standards for workers, which the national assembly then adopts into law; however, these standards were not enforced, and many persons worked under conditions that endangered their health and safety. Workers, including foreign workers, do not have the right to remove themselves from unsafe working conditions without losing their jobs.

\*In 1998 the U.S. Embassy suspended operations in the midst of heavy fighting during a civil war in Guinea-Bissau, and all official personnel in the country were evacuated. This report is based on information obtained from U.S. embassies in neighboring countries, especially Senegal, from other independent sources, and from regular visits by diplomatic personnel to Guinea-Bissau.

---

## KENYA

Kenya is a republic with a population of approximately 40 million. It currently has a strong president and a prime minister with unclearly defined executive powers. There is a unicameral national assembly. In 2007 the Government held local, parliamentary, and presidential elections. Observers judged the parliamentary and local elections to be generally free and fair. In the presidential election, the incumbent, President Mwai Kibaki, was proclaimed the winner by a narrow margin under controversial circumstances. Serious irregularities undermined the integrity of the presidential election results. Raila Odinga, the main opposition candidate, disputed the results, and violence erupted in sections of Nairobi and opposition strongholds in Nyanza, Rift Valley, and Coast provinces; approximately 1,133 persons were killed and more than 350,000 displaced between December 2007 and February 2008. The violence ended in February 2008 when, as the result of an international mediation process, the two sides agreed to form a coalition government. Under the terms of the agreement, incumbent Kibaki retained his office, and Odinga was appointed to a newly created prime ministerial position. The parties also agreed to undertake a series of constitutional, electoral, and land reforms to address underlying causes of the crisis. On August 4, citizens approved a new constitution in a national referendum, widely considered to be free and fair. Some of its elements entered into force immediately, but full implementation was expected to take several years. It was expected that if fully implemented, it would result in significant changes to the Government's structure, including greater checks on executive power, the elimination of a prime minister, greater devolution of power to the counties, and creation of a second legislative chamber. There were instances in which elements of the security forces acted independently of civilian control.

The following human rights problems were reported: abridgement of citizens' right to change their government in the last national election; unlawful killings, torture, rape, and use of excessive force by security forces; mob violence; police corruption and impunity; harsh and life-threatening prison conditions; arbitrary arrest and detention; arbitrary interference with the home and infringement on citizens' privacy; prolonged pretrial detention; executive influence on the judiciary and judicial corruption; restrictions on freedom of speech, press, and assembly; forced return and abuse of refugees, including killing and rape; official corruption; violence and discrimination against women; violence against children, including female genital mutilation (FGM); child prostitution; trafficking in persons; interethnic violence; discrimination based on ethnicity, sexual orientation, and HIV/AIDS status; lack of enforcement of workers' rights; forced and bonded labor; and child labor, including forced child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were several reports that the Government or its agents committed arbitrary and unlawful killings, included politi-

cally motivated killings, during the year. The Government took only limited action in enforcing the law against security forces suspected of unlawfully killing citizens.

On March 11, seven administration police executed seven taxi drivers in the Kawangware slums west of Nairobi. The seven men were arrested, appeared in court on March 31, and were charged on December 11. A trial had not begun by year's end.

In July, according to Amnesty International, a 74-year-old unarmed man was shot and killed by police after verbally protesting the beating of a woman during a forced evacuation of a Nairobi settlement. There were no developments in the case by year's end.

In September administration police killed 14 persons and dumped their bodies in Kinale Forest. Police made no statement about the killings although there were reports that three of the victims were known criminals. Members of Parliament (MP) tasked the Minister of Security with issuing a report on the murders although no report had been produced by year's end.

On November 6, a police officer shot and killed 10 persons, including two fellow officers, while allegedly looking for a woman who infected him with HIV. There were no developments in this case by year's end.

In February 2009 Philip Alston, the UN special rapporteur on extrajudicial, summary, or arbitrary executions, released a report that found "that police in Kenya frequently execute individuals and that a climate of impunity prevails." The rapporteur also reported "the existence of police death squads operating on the orders of senior police officials and charged with eliminating suspected leaders and members of criminal organizations." The Government rejected the findings of the Alston report and filed a protest with the UN. According to media reports, however, the Ministry of Internal Security acknowledged in a February 2009 letter to the Kenya National Commission on Human Rights (KNCHR) that police had killed 308 youths in 2008.

In 2008 the Government formed the Commission of Inquiry into Postelection Violence (CIPEV) as part of the internationally mediated political settlement. The CIPEV documented 405 gunshot deaths during the postelection period; it attributed the vast majority of these to police. The final CIPEV report recommended that the Government establish a special tribunal to investigate individuals suspected of such violence; however, no local tribunal was established, and the Government still had not systematically investigated or prosecuted individuals suspected of postelection violence through other means by year's end. However, on December 15, the chief prosecutor of the International Criminal Court (ICC) announced that he had asked a pretrial chamber to issue summonses for six Kenyan nationals on charges of crimes against humanity for their alleged role in the 2007-08 postelection violence.

In March 2009 unidentified gunmen, reportedly acting on orders from the former commissioner of police, shot and killed Oscar Kamau King'ara, the executive director of the local nongovernmental organization (NGO) Oscar Foundation Free Legal Aid Clinic Kenya (OFFLACK), and Paul Oulu, OFFLACK's program coordinator. In 2008 OFFLACK reported that police were linked with the continued disappearance and deaths of suspected members of the banned Mungiki criminal organization. Police threatened and intimidated witnesses to the killings, and four witnesses went into exile. The prime minister requested international assistance to investigate the murders, but the minister for foreign affairs subsequently rejected such assistance. No credible investigation had been conducted by year's end, and none was expected.

Security forces continued to claim that police must shoot to kill to defend themselves when confronted by armed suspects. For example, in September 2009, the media reported that the district commissioner for Murang'a East District issued a "shoot to kill" order against suspected Mungiki members, and in October 2009 a district commissioner in Marakwet announced a "shoot to kill" policy against suspected armed bandits. The policy first was enunciated in 2005 and later reiterated in 2007, after armed criminals killed 43 police officers in the line of duty.

On March 10, police reportedly killed seven suspected members of the Mungiki in a police operation in Nairobi. Police claimed that a gun battle had started after police shot at a mob that was attacking motorcyclists to extort motorcycle taxi drivers.

During the year there were reports that persons died while in police custody or shortly thereafter, some as a result of torture.

For example, the Daily Nation reported in January that a 24-year-old man was tortured to death while undergoing police interrogation regarding a livestock theft at the Ngomeni Police Station. No further information was available at year's end.

In November the Standard newspaper reported that a man, arrested at a bar for an altercation with a police officer, was dragged to a police station by the officer and chained and beaten to death. No further information was available at year's end.

In 2008 the Independent Medico-Legal Unit (IMLU), a leading and credible human rights NGO, reported one death in police custody but noted that the actual number was likely higher; police often did not enter suspects into police custody records, impeding the ability to track such cases.

Police killed numerous criminal suspects during the year, often claiming that the suspects violently resisted arrest or were armed. During the year security forces killed 16 suspected Mungiki members as compared to killing 25 in 2009.

In 2009 the IMLU documented 33 alleged extrajudicial killings by police officers from January to October: the majority were criminal suspects whom police killed during apprehension.

No action was taken during the year against police who killed five persons traveling in a “matatu” minibus in the Githurai area of Nairobi in October 2009; police claimed that the five were armed members of Mungiki. Residents of the area stated that the five were matatu operators fleeing police harassment and that police planted the gun after the killing.

No action was taken against security force members in the following 2008 killings of criminal suspects: the killing of six suspected car thieves in Nairobi; the police shooting deaths of 21 robbery suspects in and around Nairobi, and the shooting deaths of three suspects and two workers in a Nairobi casino.

There also were no reported developments in the October 2009 killing of the police officer who provided evidence to the KNCHR on extrajudicial killings of Mungiki members.

A journalist was abducted and killed in 2009, reportedly at police instigation.

No action was taken against security force members responsible for the 2008 extrajudicial killings of Mungiki members or the 2008 killing of a police officer who had cooperated with the KNCHR investigation of Mungiki killings.

Unlike in 2008, police use of excessive force to disperse demonstrators did not result in deaths.

There were no developments in the following 2008 cases of deaths of demonstrators, and none were expected: the arrest of a police officer in Kisumu for the shooting death of two unarmed protesters, and the killing of at least 83 persons during postelection violence in Kisumu.

Mob violence and vigilante action resulted in numerous deaths. The great majority of victims killed by mobs were suspected of criminal activities, including theft, robbery, killings, cattle rustling, and membership in criminal or terrorist gangs. In April 2009 villagers near the town of Karatina clashed with suspected members of the Mungiki criminal organization, killing 29 persons. Police arrested 48 suspects in connection with the clashes. The case continued at year’s end.

There were no developments in the August 2009 case in which an armed gang killed internationally renowned gemologist Campbell Bridges when he confronted the group for trespassing on a mine near Voi. Police arrested and quickly released six suspects in the case, but Bridges’ family alleged that senior government officials involved in the killing were not investigated.

There were no developments in the following 2008 cases of death by mob violence: the death by burning of two men in Meru who allegedly robbed a matatu driver, the stoning of one man in Imenti South, or the lynching of a village chief in Mikumbune in Imenti South.

Human rights observers attributed vigilante violence to a lack of public confidence in police and the criminal justice system; allegedly, assailants often bribed their way out of jail or were not arrested. The social acceptability of mob violence also provided cover for acts of personal vengeance, including settling land disputes.

Mobs committed violence against persons suspected of witchcraft, particularly in Kisii District and Nyanza and Western provinces. Although local officials spoke out against witch burning and increased police patrols to discourage the practice, human rights NGOs noted public reluctance to report such cases due to fear of retribution.

In February 2009 five persons were burned to death in Kitutu Chache, Kisii, after being accused of abducting and placing a spell on a young boy. In March 2009 six suspected witches were burned to death in Pokot District, and six others were killed in Kisii. No action was taken by year’s end.

*b. Disappearance.*—Unlike in the previous year, there were no reports of disappearances or politically motivated abductions.

There were no developments in the January 2009 case in which a journalist was abducted and killed.

There were no developments in the September 2009 case in which the Muslim Human Rights Forum alleged that five Muslims suspected by the Government of involvement in terrorist activity were abducted by the Antiterrorism Police Unit (ATPU) and subsequently disappeared. The ATPU denied the allegations.

The KNCHR, the IMLU, and Western Kenya Human Rights Watch (WKHRW) reported that the Government failed to investigate disappearances in connection with the 2008 security force operation in Mount Elgon and the crackdown on the Mungiki criminal organization in 2008.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, the legal code does not define torture and provides no sentencing guidelines, which functionally bars prosecution for torture. Police frequently used violence and torture during interrogations and as punishment of pretrial detainees and convicted prisoners. According to the IMLU, physical battery was the most common method of torture used by the police.

Human rights organizations, churches, and the press reported numerous cases of torture and indiscriminate police beatings.

In 2008 the IMLU received 772 cases alleging torture by security officers, compared with 397 in 2005, although it noted that the number of torture cases was likely higher.

There were allegations of rape by security forces, including the rape of women in prisons, as well as in camps for internally displaced persons (IDPs) and refugees and among asylum seekers crossing into the country from Somalia.

For example, in March Human Rights Watch (HRW) conducted 102 interviews regarding sexual violence in the Dadaab refugee camps. In 46 of the cases, police were accused of gang-raping women in the camps or on their way to the camps. The Center for Rights Education Awareness alleged in 2008 that policemen raped women in the Kibera slum in Nairobi and those seeking refuge in police stations.

Police use of excessive force to disperse demonstrators resulted in injuries (see section 2.b.).

Due to a shortage of civilian state prosecutors in the legal system (72 civilian prosecutors nationwide compared to 315 police prosecutors), police were responsible for investigating and prosecuting all crimes at the magistrate court level; civilian prosecutors handled cases at the high court level. Police routinely ignored evidence of security force torture provided by the IMLU and other human rights organizations. In most cases allegations of torture were not fully investigated and the perpetrators not charged.

As part of reforms agreed to in the National Accord in July 2009 the Government established the Truth, Justice, and Reconciliation Commission (TJRC), whose mandate included the investigation of alleged cases of torture since independence. The TJRC had collected statements but had not conducted any hearings by year's end.

The Government did not investigate alleged cases of torture by security forces that were documented by the IMLU and HRW from the Mount Elgon and El Wake security operations in 2008. The Government denied that security forces engaged in torture and refused to prosecute individuals alleged to have participated in torture during the two operations.

There were numerous instances of mob violence and vigilante action resulting in serious injury. On February 12, near Mombasa, an armed mob of between 200 and 300 persons surrounded the Kenya Medical Research Institute (KEMRI), a government health center that provides HIV/AIDS services. Police arrived, took two KEMRI employees into custody for their protection but did not arrest members of the mob. On the same day the mob beat a man who had come to the health care center and were about to set fire to him when the police took the beaten man into custody. The mob then gathered outside the police station. The following day, a mob severely beat a KEMRI volunteer, who was also taken into protective custody. Over the next week, mobs in the same area attacked and beat other persons suspected of being gay (see section 1.d. and 6).

*Prison and Detention Center Conditions.*—Prison and detention center conditions continued to be harsh and life threatening. A KNCHR prison assessment during 2009 concluded that torture, degrading and inhuman treatment, unsanitary conditions, and extreme overcrowding were endemic in prisons. The commissioner of prisons reported that prisons were filled to 200 percent capacity during the year. According to the Legal Resources Foundation Trust (LRF), there were 49,757 prisoners on the last day of the year, held in prisons with a recommended capacity of 22,000. Approximately 36 percent of the prisoners were in remand, awaiting trial due to the judicial backlog. The Daily Nation reported that in February the Kakamega Remand Prison held 900 inmates awaiting trial in an institution built to accommodate 500.

Civil society organizations began visiting prisons in 2003, and these visits continued to reveal harsh conditions, as well as allegations by prisoners of inhumane treatment, including torture. For example, in February 2009 the KNCHR documented beatings and assault by prison staff of prisoners at Nairobi Remand and Meru Women's Prisons, and in April 2009 at Kisumu Women's Prison.

In 2008 wardens in Kamiti Prison scalded prisoners with hot water and beat them during an operation to interdict contraband items. One person died, and 20 were hospitalized. Three wardens were suspended. At year's end a police investigation of the incident continued.

Prisoners generally received three meals per day, but portions were inadequate, and sometimes they were given half rations as punishment. During the year LRF reported that prison conditions were poor due to lack of funding, overcrowding, and poor management. Water shortages, an issue outside prisons as well, continued to be a problem, although the Government built one well and improved two water treatment plants. Medical care for those with tuberculosis was poor, and patients with tuberculosis or HIV/AIDS were not given supplemental food to assist in the digestion of their medication. Medical care in prisons for the general population was poor, although courts generally granted requests for referral to hospitals in serious cases. However, administrative delays, such as transport, often delayed court-ordered hospital attention. Shikusa Prison gained electricity during the year, but in general many prisoners spend most of their time indoors in poorly lit, poorly ventilated cell blocks. This was especially true for the one third of prisoners who were awaiting trial, as they were not engaged in any work programs that would allow them to leave their cell. Sanitary facilities had not been built to match the rise in prison populations.

In 2009 prison personnel stated that the rape of male and female inmates, primarily by fellow inmates, continued. Media reports indicated that it was also common for prison officials to rape female inmates. In September 2009 a transgender person alleged abuse by male prisoners and wardens in Nairobi's Kamiti Prison. In December the High Court awarded him 511,252 shillings (\$6,250) for the inhumane treatment, and he remained in solitary confinement at year's end.

Hundreds of prisoners died annually from infectious diseases spread by overcrowding, unhygienic conditions, and inadequate medical treatment. During the year, according to the commissioner of prisons, 218 prisoners died from diseases while incarcerated. In August 2009 18 prisoners died of suspected tuberculosis and pneumonia in Kodiaga Prison in Kisumu.

Prisoners were sometimes kept in solitary confinement far longer than the legal maximum of 90 days. Prisoners and detainees sometimes were denied the right to contact relatives or lawyers. Family members who wanted to visit prisoners faced numerous bureaucratic and physical obstacles, each often requiring a bribe to overcome. According to LRF during the year, prisoners had reasonable access to visitors including lawyers, although privacy space was lacking. However, on May 25, the Daily Nation reported that the Kitale branch of the Kenya Law Society stated that 35 lawyers were denied access to prisoners by court order as punishment for a lawyers' strike.

LRF also reported during the year that prisoners were able to make complaints to the courts and had the ability to send paralegal-written letters to the court without appearing personally. Some prisons had paralegal clinics. Some magistrates and judges also made prison visits during the year, providing another avenue for prisoners to raise grievances. KNHRC had a mandate to visit prisons and investigate allegations of inhumane conditions. According to the commissioner of prisons, human rights trainings took place in prisons during the year. The department of prisons had imbedded intelligence officers in the prisons to report on conditions and any abuse.

There were no separate facilities for minors in pretrial detention. Civil society activists witnessed young children, women, and men sharing the same cells. In 2008 IMLU reported that underage boys were detained in Bungoma Prison. Additionally a 2008 government report on prison conditions noted that underage female offenders, who were ineligible for diversion to a lesser security training school, were housed with adult female prisoners. According to the commissioner of prisons, there were 338 children, all under the age of four, living with their mothers in prisons. LRF reported the prisons did not have facilities, lessons, beds, or special food for the children nor did they have access to medical care.

The Government permitted visits to prisons by local human rights groups during the year.

Following the 2009 release of the Madoka Committee report on prison conditions, the Government increased investment in the prison system. New prison facilities and housing for prison staff were built, and bedding and meals for inmates improved, although they were still considered inadequate by rights groups.

*d. Arbitrary Arrest or Detention.*—The law prohibits arrest or detention without a court order unless there are reasonable grounds for believing a suspect has committed or is about to commit a criminal offense; however, police frequently arrested and detained citizens arbitrarily.

*Role of the Police and Security Apparatus.*—There was a large internal security apparatus that included the Kenyan National Police Service (KNPS) and its Criminal Investigation Department, responsible for criminal investigations, and the ATPU; the Kenya Administration Police (KAP), which has a strong rural presence throughout the country, constitutes the security arm of the civilian provincial administration structure, and has the mandate for border security; the Kenya Wildlife Service, responsible for security and counterpoaching operations within the national parks; the paramilitary General Services Unit (GSU), responsible for countering uprisings and guarding high-security facilities; and the National Security Intelligence Service (NSIS), which collects intelligence. The KNPS, KAP, and GSU are under the authority of the Ministry of State for Provincial Administration and Internal Security. The NSIS is under the direct authority of the president. There was a public perception that police often were complicit in criminal activity.

Police were ineffective and corrupt, and impunity was a problem. In 2008 OFFLACK noted that bribery in police recruitment was a problem. The police often recruited unqualified candidates who had political connections or who paid bribes, which contributed to poorly conducted investigations.

Press and civil society reported that police continued to resort to illegal confinement, extortion, physical abuse, and fabrication of charges to accomplish law enforcement objectives, as well as to facilitate illegal activities.

Impunity was a major problem. Police officers rarely were arrested and prosecuted for criminal activities, corruption, or for using excessive force. In March 2009 police reportedly brutalized citizens during disarmament campaigns in Turkana and Samburu after promising amnesty. Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism regarding a process that assigned the investigation of police abuse to the police themselves.

Police also often did not enter suspects into police custody records, making it difficult to locate detainees. For example, in 2009 the civil society organization Bunge la Mwananchi reported that when members were arrested following political forums, they often were not booked at police stations.

According to NGOs, the police practice of requiring an examination and testimony by a single police physician in the case of victims of sexual assault resulted in substantial barriers to the investigation and prosecution of sexual violence cases (see section 6). In 2009 the Government established a witness protection unit pursuant to the 2007 witness protection law; however, the unit was not operational by year's end. Witness insecurity and harassment of witnesses continued to inhibit severely the investigation and prosecution of major crimes.

The Government took some steps to curb police abuse during the year. For example, in January President Kibaki established the Police Reforms Implementation Committee to monitor progress of reforms required by the new constitution, including an independent police oversight board. The media also reported that several dozen police officers were arrested for petty corruption in the last quarter of the year.

In September 2009 in response to an interim report by the National Task Force on Police Reforms, the president replaced police commissioner Hussein Ali and the senior police leadership. The final task force report was released in November 2009; a Police Reform Implementation Commission charged with overseeing the implementation of the recommended reforms began its work during the year. A 15-member committee headed by the CEO of Kenya Airways was established to undertake police reforms. It was given a one year mandate (which was extended) and tasked with undertaking 200 recommendations proposed by Justice Ransley's taskforce on police reforms, with minimal success at year's end.

There were no developments, and none were expected, in the following 2008 cases: the trial of a police officer allegedly responsible for the shooting deaths of two unarmed, peaceful demonstrators in Kisumu; and the trial of a police officer for the shooting death of an MP in Kericho.

There were numerous instances in which police failed to prevent societal violence. In February near Mombasa, an armed mob of between 200 and 300 persons surrounded the KEMRI (see section 1.c.). Police did not arrest any members of the mob.

In February and March 2009, police failed to prevent the burning deaths of suspected witches in Pokot and Kisii. In April 2009, police failed to prevent a mob from beating to death suspected Mungiki members in Karatina. Police attempted to investigate these incidents of societal violence but were hampered by the communities' unwillingness to provide information about the cases.

*Arrest Procedures and Treatment While in Detention.*—Under the criminal procedure code, police have broad powers of arrest. Police may make arrests without a

warrant if they suspect a crime has occurred, is happening, or is imminent. Detainees in noncapital cases must be brought before a judge within 24 hours. Detainees in capital cases must be brought before a judge within 14 days; however, the Government did not respect this law in practice. The courts dealt with this shortcoming by considering whether the constitutional rights of the accused had been breached. In many cases accused persons, including some charged with murder, were released because they had been held longer than the prescribed period.

The right to prompt judicial determination of the legality of detention frequently was not respected in practice. The law provides pretrial detainees the right of access to family members and attorneys. When detainees could afford counsel, police generally permitted access; however, there were cases in which police refused access to lawyers. Family members of detainees frequently complained that access was only permitted on payment of bribes. There is a functioning bail system; however, many suspects remained in jail for months pending trial because of their inability to post bail. Individuals charged with offenses that were deemed serious and capital offenses are not eligible for bail pending trial.

Police often stopped and arrested citizens to extort bribes. For example, during the year police in Eastleigh routinely targeted Somali youths, threatening to send them to refugee camps if they did not pay a bribe. Since few could afford even a modest bribe, many languished in jail unless family or friends raised the bribe money demanded by police.

Muslim leaders claimed that police indiscriminately arrested Muslims on suspicion of terrorism and that some suspects subsequently disappeared, but the police denied this.

Muslim MPs and clerics also continued to claim that Muslims were being unfairly targeted during the year. For example, the arrest and renditions of suspects of the July 7 Kampala bombings were thought to be religiously based. The Ugandan government arrested several dozen individuals in connection with the bombings including, on September 15, including Kenyan human rights activist al-Amin Kimathi and Kenyan attorney Mbuga Mureithi. On September 18, authorities released Mureithi without charge and deported him back to Kenya. On December 1, authorities charged 17 persons, including Kimathi, with terrorism, murder and attempted murder in relation to the bombings and released 18 others. Hearing of the cases was pending at year's end.

There were no reports during the year that police arbitrarily arrested persons demonstrating against the Government.

In August authorities arrested 13 civil society demonstrators for demanding a reason for the invitation to Sudanese President Omar al-Bashir to attend the promulgation ceremony.

Lengthy pretrial detention continued to be a serious problem that contributed to overcrowding in prisons. The Government claimed the average time spent in pretrial detention on capital charges was 16 months; however, there were reports that many detainees spent more than three years in prison before their trials were completed. Police from the arresting location are responsible for serving court summonses and picking up detainees from the prison each time a court schedules a hearing on a case. A shortage of manpower and resources meant that police often failed to appear or lacked the means to transport detainees, who then were forced to await the next hearing of their cases. According to the judiciary, the backlog numbered approximately 800,000 cases, including both civil and criminal. During the year there were more than 17,000 persons incarcerated awaiting trials.

*Amnesty.*—The president releases petty offenders periodically, with the largest amnesty occurring on December 12, Independence Day; however, the release is not automatic. During the year the president pardoned approximately 4,000 persons. In August 2009 the president commuted all death row sentences to life imprisonment.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the executive branch sometimes exercised political influence over the judiciary. The judiciary was corrupt at all levels. In 2008 after the controversial announcement of the presidential results, the opposition leader refused to file a court challenge to the announcement because he did not expect a fair hearing.

The president has extensive powers over appointments, including of the attorney general, chief justice, and appellate and high court judges; however, this will be reduced some under the new constitution. Key judicial appointments, including Chief Justice and Attorney General, now require the approval of parliament. A Judicial Services Commission is responsible for making recommendations for appointment of judges.

The constitution provides for Kadhi's courts and states that the "jurisdiction of a Kadhi's court shall be limited to. questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion and submit to the jurisdiction of the Kadhi's court." There are no other traditional courts. The national courts used the traditional law of an ethnic group as a guide in personal matters, as long as it did not conflict with statutory law. Use of traditional law occurred most often in cases of marriage, death, and inheritance in which there was an original contract based on traditional law. Citizens may choose between national and traditional law when they enter into marriage or other contracts; however, the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate traditional law, through a number of proposed marriage laws, because in practice the current laws were interpreted and applied in favor of men.

The Government occasionally used the legal system to harass critics. Local authorities continued to prosecute a 2008 case against a physician who helped document allegations of human rights abuses in the Mount Elgon region but dropped a case against a second witness.

In May 2009 prosecutors dropped charges from a 2008 case against the director of the seafarer's welfare organization for issuing a statement that military cargo on a hijacked ship was bound for South Sudan and not Kenya, as the Government claimed.

There were no developments and none were expected in the 2008 case of the former MPs charged with incitement for statements about human rights abuses in El Wak.

*Trial Procedures.*—Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trials, confront witnesses, and present witnesses and evidence in their defense. A defendant's right to consult with an attorney in a timely manner was generally respected. However, the vast majority of defendants could not afford representation and were tried without legal counsel. Indigent defendants do not have the right to government-provided legal counsel except in capital cases. The lack of a formal legal aid system seriously hampered the ability of many poor defendants to mount an adequate defense. Legal aid was available only in major cities where some human rights organizations, notably the Federation of Women Lawyers (FIDA), provided it.

Discovery laws are not defined clearly, further handicapping defense lawyers. Implementation of the High Court ruling that written statements be provided to the defense before trial was slow. Often defense lawyers did not have access to government-held evidence before a trial. The Government sometimes invoked the Official Secrets Act as a basis for withholding evidence. Defendants can appeal a verdict to the High Court and ultimately to the Court of Appeals. The legal system does not provide for trial by jury; judges try all cases.

In treason and murder cases, the deputy registrar of the High Court can appoint three assessors, who are lay citizens, to sit with a high court judge. Although assessors render verdicts, their judgments are not binding, and the practice was being phased out, starting in 2009. Defendants' lawyers can object to the appointment of individual assessors. A shortage of appropriate assessors frequently led to long delays in hearing cases.

According to NGOs the police practice of requiring an exam and testimony by a single police physician in cases of victims of sexual assault resulted in substantial barriers to the investigation and prosecution of sexual violence cases (see section 6).

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees during the year.

*Civil Procedures and Remedies.*—The KNCHR has some powers of a court, including the issuance of summonses and ordering the release of a prisoner or detainee, payment of compensation, or other lawful remedy; however, the Government continued to ignore such summonses and orders. The police routinely refused to release suspects when ordered to do so by the KNCHR.

In 2009 the attorney general filed a brief with the High Court arguing that the KNCHR should be stripped of judicial powers; the court had not issued a final ruling but did issue an injunction barring the KNCHR from convening investigatory panels. As a result, the KNCHR was barred from intervening in cases of police and judicial misconduct.

The civil court system can be used to seek damages for victims of human rights violations. However, corruption, political influence over the civil court system, and chronic backlogs of cases limited access by victims to this remedy.

Widespread corruption existed at all levels of the civil legal system. Bribes, extortion, and political considerations influenced the outcomes in large numbers of civil cases.

Court fees for filing and hearing cases—a daily rate of at least 2,040 shillings (\$28) for arguing a civil case before a judge—effectively barred many citizens from gaining access to the courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, except “to promote public benefit”; however, authorities sometimes infringed on citizens’ privacy rights. The law permits police to enter a home without a search warrant if the time required to obtain a warrant would prejudice an investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen.

During the year police raided dozens of homes in the Nairobi slums in search of suspected Mungiki members.

City council officers and police officers also frequently raided, evicted, or destroyed the homes and businesses of citizens in slums or other areas who did not hold proper legal title. Residents complained that these actions were often intended to extort bribes from residents and small business owners.

In September 2009 parliament accepted an amended version of the Mau Forest Task Force report, authorizing the eviction of all 2,000 residents in the Mau Forest; evictions were carried out in November and December 2009. Evictees alleged that security forces destroyed property and that the Government failed to provide adequate emergency shelter or promised compensation. Residents holding title deeds are entitled to compensation.

By year’s end Mau Forest evictees had not been resettled and still were living in extremely poor conditions.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but the Government sometimes restricted these rights. Unlike the previous year, there were no reports that security forces killed members of the media. However, during the year security forces harassed members of the media, and journalists practiced self-censorship.

The Government occasionally interpreted laws in such a way as to restrict freedom of expression. The prohibition on discussion of issues under court consideration limited deliberation on a number of political issues, although this restriction was relaxed in September 2009. The Government monitored many types of civil society meetings, and individuals were not always allowed to criticize the Government publicly without reprisal. In September 2009, the speaker of parliament issued a ruling that the long-standing “sub judice” practice that prohibited parliamentary discussion of issues under judicial consideration could not be used to bar parliament from debating matters of public interest as it had in the past.

The Government cited national or public security as grounds to suppress views that were politically embarrassing. The Kenya National Dialogue and Reconciliation Monitoring Project (KNDR) reported that two journalists for the Star newspaper were charged in court in 2009 for threatening national security. In October 2009, the KNDR reported that journalists reporting on the security sector often were intimidated by government officials and requested to reveal sources.

The Government occasionally interpreted laws to restrict press freedom, and officials regularly accused the media of being irresponsible and disseminating misinformation. There were also reports of politicians paying journalists to avoid negative coverage or to plant negative coverage of a political opponent.

Officials used libel laws to suppress criticism.

In 2009 Minister of Finance Uhuru Kenyatta sued the Nation Media Group over its coverage of discrepancies in the national budget. Aaron Ringera, the former chairman of the Kenya Anti-Corruption Commission (KACC), initiated a libel case against the Standard Daily newspaper. No new details were available on these cases by year’s end.

In 2009 journalist Francis Kainda Nyaruri was abducted and killed near Nyamira, Kisii. NGOs reported that a credible investigation did not take place. There were no further developments in this case by year’s end.

In September 2009 the Communications Commission of Kenya (CCK), the media licensing body, circulated new regulations related to the controversial 2008 amendments to the Communications Act, which President Kibaki signed in January 2009.

According to the new CCK regulations, “all licensees, except the public broadcaster shall not be assigned more than one broadcast frequency for radio or television broadcasting in the same coverage area.” A license will be granted to only

those who offer broadcasting services for at least eight continuous hours per day. No frequency is transferrable to another entity without the CCK's permission.

Generally the mainstream print media remained independent despite attempts at intimidation by officials and security forces. The mainstream print media included five daily newspapers, one business-focused daily, and numerous regional weekly newspapers with national distribution. There also were numerous independent tabloid periodicals that appeared irregularly and were highly critical of the Government.

Of the several television stations operating in Nairobi, the Government-owned Kenya Broadcasting Corporation (KBC) was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave transmission. Although KBC coverage was generally viewed as balanced, its monopoly on national broadcasting limited the ability of critics of the Government to communicate with the electorate. The disadvantage to government critics posed by the KBC monopoly on national broadcasting was particularly pronounced in the period prior to the 2007 general elections.

The international media operated freely.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet service was limited in rural areas due to lack of infrastructure. According to International Telecommunication Union statistics for 2008, approximately 8.6 percent of the country's inhabitants used the Internet.

In July 2009 the Government announced that all cell phone users had to provide the Government with their name and identification number for each line owned; this announcement also affected citizens who accessed the Internet through cell phone-based modems, potentially enabling the Government to monitor Internet use.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

A number of publications remained banned, including the Quotations of Chairman Mao Zedong and Salman Rushdie's *Satanic Verses*. The Prohibited Publications Review Board reviewed publication bans.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, but the Government frequently restricted this right in practice. Organizers must notify local police in advance of public meetings, which may proceed unless police notify organizers that the meeting is prohibited. According to the law, authorities may prohibit such gatherings only if there are simultaneous meetings previously scheduled for the same venue or if there is a perceived, specific security threat. However, police routinely denied requests for meetings filed by human rights activists and dispersed meetings for which no prohibition had been issued. Civil society groups noted that when they tried to comply with the licensing policy, police often refused to issue permits in a timely manner.

Police forcibly dispersed demonstrators.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right. The Societies Act requires that every association be registered or exempted from registration by the registrar of societies.

The 2002 ban on membership in the Mungiki criminal organization remained in effect. The Mungiki espoused political views and cultural practices that were controversial in mainstream society. Also in 2002 the Government declared the group a criminal organization because it ran protection rackets, particularly in the public transportation sector, and harassed and intimidated residents. The Mungiki had a significant following among the poor and unemployed. Other prohibited criminal organizations with political or cultural trappings included the Kamjesh, Chinkororo, Baghdad Boys, Jeshi la Embakasi, Jeshi la Mzee, Amachuma, Sungu Sungu, and a local group called "the Taliban."

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights. The Government largely cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Police routinely stopped vehicles throughout the country and often engaged in solicitation of bribes at such checkpoints. Ethnic Somalis are frequently required to provide additional identification. HRW stated during the year that the Government continued to illegally deport hundreds of Somali asylum seekers back to Somalia. HRW also stated that the Government detained and deported ethnic Somalis and Ethiopians on the assumption they were economic migrants or potential security risks; the NGO believed that some of these deportees were Kenyan citizens and legal residents.

Refugee freedom of movement was severely restricted, and the Government tightened its restriction on travel outside of refugee camps unless approved by the Government and the UNHCR. There were instances in which refugees outside of the camps were detained despite holding valid travel passes.

Civil servants and MPs must obtain government permission for international travel, which generally was granted.

The law prohibits forced exile, and the Government did not use it. However, in 2009 four witnesses to the OFFLACK killings went into self-imposed exile after being intimidated by the police (see section 1.a.).

*Internally Displaced Persons (IDPs).*—In September 2009 President Kibaki stated that approximately 7,000 of the 350,000 persons who fled their homes in Rift Valley Province, Central Province, Nairobi, and other sections of the country as a result of 2008 postelection interethnic violence, still had not been resettled in their home regions. In 2008 the Government announced “Operation Rudi Nyumbani” (Operation Return Home) to return IDPs in camps to their homes; however, the majority of IDPs chose to relocate to transit sites near to their homes. By the end of 2008 the Government had closed or ceased providing services to IDP camps; however, in 2009 the Kenya Red Cross Society reported that 99,198 IDPs resided in transit sites. IDP camp residents complained that police used force and did not offer adequate compensation during the resettlement.

Rapes allegedly perpetrated by residents of camps, local residents, and sometimes by police personnel occurred in IDP camps. In 2008 the representative of the UN secretary general on the human rights of IDPs visited the country and concluded that the returns of some IDPs were not voluntary and based on informed choices. In a 2008 report the KNCHR found that the Government had used intimidation and force to remove IDPs from camps and had failed to provide housing, food, and clean water to resettled camp residents. The KNCHR also found that resettled residents were exposed to sexual violence and harassment.

In 2009 government eviction and destruction of homes in low income areas resulted in IDPs. For example, in July of that year police bulldozed homes in Githogoro Village, Nairobi, displacing 3,000 residents.

There were also many other causes of displacement in 2009, including land disputes and flash floods. NGOs reported that hundreds of pastoralists were displaced in conflicts over pasture and watering holes in semiarid regions of North Eastern, Eastern, and Rift Valley Provinces. Karamojong from Uganda engaged in cross-border cattle raids in Western Rift Valley Province, resulting in death and displacement among the Pokot and Turkana tribes.

An unknown proportion of the several thousand persons displaced by ethnic clashes from the 1990s had not returned to their homes due to fear of renewed violence.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status for those claiming asylum, and the Government coordinates with UNHCR to provide refugees protection. During the year the Department of Refugee Affairs (DRA) hired a consultant to develop a refugee policy to provide implementing guidelines for the 2006 Refugee Act. By year’s end, however, the Government fired the consultant and was in the process of searching for a replacement consultant. Additionally the commissioner of refugee affairs stepped aside due to corruption allegations and was replaced by an acting commissioner until the allegations were investigated.

The Government and UNHCR registered more than 90,000 new refugees during the year, with some 65,000 new arrivals registered in Dadaab refugee camp. The Dadaab refugee camps were severely overcrowded. UNHCR had received county authorization to transfer 20,000 refugees to land adjacent to an existing refugee camp but was blocked from implementing the transfer by local government officials. The Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, there were credible reports of the forcible return of Somali asylum seekers throughout the year; the Kenya-Somalia border remained officially closed, limiting asylum seekers from legally entering the country. A planned reopening of

the Liboi Registration Center for Somali asylum seekers had yet to be formally authorized by the Government. Somali asylum seekers reportedly paid approximately 7,500-15,000 shillings (\$100-\$200) per family in bribes and transportation costs to travel from the Kenya-Somalia border to the Dadaab refugee camps. HRW reported a "systematic extortion network" of police officers along the Kenya-Somalia border who committed serious human rights violations of Somali asylum seekers.

In 2009 international donors initiated a program to transfer the responsibility of registering asylum seekers and completing refugee status determinations from the UNHCR to the Government. However, the plan had stalled and UNHCR still performed asylee registration and refugee status determination. The Government also registered refugees in Dadaab camps, located in the northeastern part of the country; however, many refugees report they had not received their identification documents by year's end.

The Government permitted the UNHCR to register and assist new arrivals who successfully made their way to one of the three Dadaab refugee camps. The UNHCR registered 65,207 new arrivals in the Dadaab camps during the year, increasing the camp size to more than 300,000 refugees (the three camps were designed to accommodate 90,000 refugees). In January the Garissa County Council approved the UNHCR's request to extend the Ifo refugee camp in Dadaab to accommodate an additional 90,000 refugees. However, due to disagreements with local officials and UNHCR, the Ifo extension had not been opened. The UNHCR began improvements to the land, as well as relocated 40,000 refugees to the site. New arrivals to Kakuma refugee camp in the northwest also continued to increase during the year, with 11,387 new arrivals documented during the year bringing the camp population to 81,000. UNHCR reported that the host community had agreed to provide land for the Kakuma Camp expansion, which would accommodate 5,000 additional refugees. UNHCR was also in the process of negotiating the acquisition of land at Kalobeyei for an additional camp during the year.

The UNHCR remained unable to provide newly arrived refugees with plots in the Dadaab camps, restricting assistance to limited nonfood items (sometimes only soap) and instructions to find their own accommodations either with their clan members or outside the Dadaab refugee camp complex. Cholera, meningitis, H1N1, and measles outbreaks were all reported in Dadaab. Many new refugees reportedly bypassed Dadaab camps because of the conditions and continued directly to Kakuma camp or Nairobi.

Despite the policy that all refugees must reside in camps (the Government has a de facto encampment policy), 11,387 newly arriving refugees were registered in Nairobi during the year, bringing the officially registered Nairobi refugee population to slightly more than 46,000 refugees. Unofficially, the UNHCR and NGOs estimated that more than 100,000 refugees resided in Nairobi. In June the DRA began a 100-day Rapid Results Initiative (RRI) to register urban refugees in Nairobi and provide them with government refugee identity cards. The DRA only targeted refugees previously registered with the UNHCR. Despite a goal of registering and issuing government refugee identity cards to 17,000 refugees, the DRA reportedly issued only 6,273 cards. Following the RRI in August, the DRA stated that registration of new asylum seekers would only take place in Dadaab and Kakuma refugee camps, and that any refugee detained in Nairobi without a government-issued refugee card would be subject to relocation to Dadaab or possible deportation. The UNHCR continued to register refugees in Nairobi at year's end. By year's end 11,813 asylum seekers were registered with UNHCR in Nairobi pending refugee status determinations.

Security concerns, including rape, banditry, and shooting, remained problems at both Dadaab and Kakuma refugee camps. Health and social workers at the camps reported that due to strong rape awareness programs, victims increasingly reported such incidents, resulting in improved access to counseling, particularly in Kakuma refugee camp. Capital FM, a local radio station, reported that during the year approximately 300 crimes in Dadaab were reported to UNHCR authorities, of which almost two-thirds were gender-based crimes, including 107 cases of reported sexual violence (rape, attempted rape, sodomy, and defilement). Fifteen relief agencies followed a code of conduct for humanitarian workers to further reduce incidents of sexual abuse by agency staff in refugee camps.

Other security and human rights problems affecting refugees included persecution of Muslim converts to Christianity; community pressure against opponents of FGM; forced marriage, particularly of young Sudanese and Somali girls; and family objections to out-of-clan marriage. At times these resulted in the kidnapping of spouses and children and domestic abuse. The UNHCR, Ministry of Internal Security, and the Ministry of Immigration reached an agreement to increase the police presence at all refugee camps, but the agreement remained unsigned at year's end.

There were isolated incidents of ethnic-based violence at the Dadaab refugee camps. In August a 13-year-old Somali youth was found murdered in Dagahaley camp. In response to the gruesomeness of the murder, a group of Somali refugees attacked and seriously injured several Sudanese refugees. NGO staff and property was also attacked with some damage to property and minor injuries reported. The UNCHR removed all the Sudanese from Dagahaley to Ifo camp while tensions cooled. According to the UNHCR, the violence against international humanitarian agencies in Dadaab frequently revolved around staff management disputes.

The Government required all refugees to remain at UNHCR camps, which were located near the country's borders with Somalia and Sudan, unless refugees had been granted permission to attend higher education institutions, receive specialized medical care outside the camp, or leave to avoid security threats. During the year the Garissa provincial commissioner began implementing a strict adherence to the rules that resulted in several delays in transporting refugees needing urgent medical attention to Nairobi for treatment.

In 2009 the Government introduced mobile courts to serve the camp populations, which were fully fledged judicial courts and instrumental in curbing crime and violence.

In October 2009 HRW reported the recruitment of citizens as well as refugees in Dadaab refugee camps by militias participating in the Somalia conflict. The UN Children's Fund (UNICEF) confirmed the reports, and the UNHCR launched an investigation. In response to its findings, the UNHCR distributed bulletins in the camp warning refugees who joined armed groups that they would be at risk of losing their refugee status if they left the camp to join a militia. Additionally the UNHCR initiated discussions with the Government to stop recruitment in the camps. No incidents were reported during the year.

*Stateless Persons.*—In 2009 the UNHCR estimated that 100,000 stateless Sudanese Nubians, reportedly the descendants of Sudanese forcibly conscripted by the British in the early 1900s, lived in the country. The Sudanese Nubians were not granted citizenship or identification documents, despite the UNHCR's conclusion that the Nubians qualified for citizenship under prevailing nationality law. In 2003 the Nubians sought judicial relief from the Constitutional Court to be declared citizens by birth. Citizenship is determined by parentage, but the law also provides citizenship for Africans brought to the country by colonial authorities. In 2005 the Nubians filed a memorandum of admissibility with the African Commission on Human and Peoples' Rights under the African Charter on Human Rights. In 2007 the commission heard arguments on the admissibility of the case. The Government presented its arguments and filed a brief on the merits of the case. No further information on the case was available at year's end.

According to the UNHCR, an unknown number of descendants of mixed Eritrean-Ethiopian marriages also were stateless. They were unable to obtain citizenship in either of those countries due to strong nationalist prejudices. Their lack of proper documentation resulted in difficulties in finding employment.

In March the International Rescue Committee (IRC), the Humanitarian Policy Group (HPG) at the Overseas Development Institute, and the Refugee Consortium of Kenya released their study, *Hidden and Exposed: Urban Refugees in Nairobi, Kenya*, highlighting the vulnerability of urban refugees in Nairobi. The report provided a critical assessment of the Government's implementation of the 2006 Refugee Act, the ineffective roles of the DRA and the UNHCR in protecting urban refugees, the scarcity of assistance programs to urban refugees, and the lack of possibility for local integration. In recognition of the challenges faced by refugees in Nairobi, the UNHCR chose Nairobi as one of five pilot cities to implement its Global Policy on Refugees in Urban Areas.

In August the Government and two foreign governments released the study, *In Search of Protection and Livelihoods: Socio-economic and Environmental Impacts of Dadaab Refugee Camps on Host Communities*. The study found that the impacts of the camps on the host communities were significant. They were mainly positive from an economic standpoint (although illicit), and resulted in a marked increase in the host community population from 15,000 in 1989 to 148,000 in 2010. However, host and refugee communities were found to overlap so closely that an estimated 40,500 host community members within 30 miles of the camp were thought to hold refugee ration cards.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government through free and fair multiparty elections, and citizens exercised this right through generally free and fair local and legislative elections held on the basis of universal

suffrage. However, the manner in which the 2007 presidential election results were tallied raised serious doubts as to whether this right was respected in practice on the presidential level.

*Elections and Political Participation.*—In 2007 the country held local, parliamentary, and presidential elections. A total of 117 parties contested local elections, presenting 15,332 candidates, and 138 parties contested parliamentary elections, putting forth 2,548 candidates. Nine parties nominated presidential candidates.

Voting and counting at polling stations for the 2007 elections generally were conducted in accordance with democratic standards, although there were irregularities in both opposition and progovernment strongholds. International observers concluded that the tallying irregularities by the Election Commission of Kenya (ECK) in Nairobi undermined the credibility of the ECK. In December 2007 the ECK announced that President Kibaki won the election; violent protests ensued.

A mixed Kenyan-international commission appointed in 2008 to evaluate the elections found that the election results were “irretrievably polluted.” The commission also reported that the election results, and especially the presidential election results, lacked integrity.

International and local monitors reported that the election campaign for the 2007 elections was generally free and fair, although there were instances of violence between supporters of rival parties, especially among progovernment parties. Although the Government required parties to register prior to political rallies, the Government by and large did not interfere with party campaign activities. Police generally reacted professionally to instances of campaign violence. Text messages, pamphlets, and Web logs sometimes were used to disseminate hate speech that was banned under the election code of conduct. The KNCHR and other civil society organizations accused the Government of misusing state resources by providing transport and funding rallies and election materials for some candidates in the election campaign. While nearly 14.3 million citizens registered to vote, an independent review commission concluded that voter rolls contained the names of approximately 1.3 million deceased persons.

In accordance with the National Accord, the ECK was abolished in 2008 and an Interim Independent Electoral Commission (IIEC) was established in May 2009. In August 2009, the IIEC conducted two parliamentary by-elections, in Shinyalu and Bomachoge constituencies. The by-elections were deemed free and fair by domestic and international observers, although there were problems with the voter registry, and several political parties bribed voters in exchange for votes.

Women’s participation in electoral politics remained low; however, a record number of female candidates ran for parliament and for local office in 2007, despite harassment and attacks. Women constituted 10 percent of all parliamentary candidates and held 21 of the 222 seats in parliament. Women also held seven of 40 ministerial portfolios. Six of the 12 nominated MPs were women.

The new constitution provides for the representation in parliament of women, youth, persons with disabilities, ethnic minorities, and marginalized communities.

During the year several by-elections were held, all of which were peaceful and undisputed.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement these laws effectively, and officials often engaged in corrupt practices with impunity. The World Bank’s 2009 Worldwide Governance Indicators reflected that control of corruption and rule of law were severe problems.

Frequent press reports of government corruption fueled a widespread public perception that massive corruption persisted up to the highest levels of the Government and in parliament and that the Government took little official action against the most corrupt. The media also reported that several dozen police officers were arrested for petty corruption in the last quarter of the year.

In September a report by the auditor general revealed that a total of 7.6 billion shillings (\$95 million) was unaccounted for within the Government’s ministries. The Mars Group Kenya, a local anticorruption NGO, teamed up with the KACC during the year to assist in the investigation regarding revenue leakages in government’s budget.

In October the foreign minister and his permanent secretary chose to step down (albeit with pay) while an investigation into the fraudulent sale of embassy land in Japan worth more than 1.54 billion shillings (\$19.3 million) moved forward.

During the year the Ministry of Local Government and City of Nairobi conspired to purchase a worthless plot of land, intended to be a cemetery, for 283 million shillings (\$3.5 million). The scandal affected the deputy prime minister, his permanent

secretary, and the mayor of Nairobi. The mayor was arrested in October, but the deputy prime minister was exonerated.

The Public Officer Ethics Act requires office holders to disclose their income, assets, and liabilities, as well as that of their spouses and children under the age of 18. The Act, however, does not require public disclosure of this information, under the guise of protecting the office holder's privacy. The new constitution provides citizens with access to information held by the state and further requires that the state publish and publicize any important information affecting the nation; however, many elements of the new constitution remained unimplemented. In practice, important reports regarding major corruption scandals from the last decade have never been released to the public.

In 2009 the media reported on three major corruption cases linked to the Government: one involving oil; one involving education; and one involving maize. A KACC report exonerated all of the alleged participants. No one had been prosecuted in any of these cases by year's end.

In 2008 the KACC sued seven current and former MPs for making fraudulent reimbursement claims for allowances totaling 20 million shillings (\$250,000). The case was pending at year's end.

In 2003 the Government created the KACC and in 2004 appointed a director and other staff. The KACC lacks prosecutorial powers and can only recommend cases for prosecution to the attorney general. At the end of 2009/2010 fiscal year, according to the KACC, it had recommended 461 cases for prosecution to the attorney general, including cases involving nine ministers, four MPs, 12 permanent secretaries, seven chairpersons of boards of public institutions, 67 directors and chief executive officers of top public institutions, and 96 other senior level management officers of public institutions. The attorney general accepted the prosecution recommendations in 391 of the cases and won convictions in 74 of the cases, all involving low- and mid-level officials.

Local anticorruption NGOs claimed that the KACC accomplished little, despite significant financial support provided by the Government. Some civil society organizations reported that the Government also used the commission to harass critics. Since President Kibaki assumed office in 2002, despite numerous scandals, no top officials have been prosecuted successfully for corruption.

In August 2009 President Kibaki unilaterally reappointed Aaron Ringera as the head of the KACC. This action led to widespread criticism from parliament, society in general, the NGO community, and international observers, since the appointment bypassed rules that require a recommendation by the KACC advisory board and approval from parliament. Parliament subsequently passed a motion nullifying Ringera's reappointment, which the executive argued was not binding. Ringera, who was the head of the KACC since its inception and was widely viewed as ineffective, voluntarily resigned in September 2009.

In July PLO Lumumba took over as head of KACC. The reinvigorated agency, which had begun to show signs of life in the months preceding his assumption of duties, continued to engage actively on corruption issues. In addition to prosecuting new cases of corruption, Lumumba promised to reopen the mega-corruption scandals of the last decade, including Anglo Leasing and Goldenberg.

Widespread corruption existed at all levels of the civil legal system. Bribes, extortion, and political considerations influenced the outcomes in large numbers of civil cases.

The chief justice dealt with complaints against specific judges and magistrates; most complaints were related to court management. The August 2009 report of a multidisciplinary task force that examined judicial reform recommended introduction of a permanent mechanism to handle complaints against the judiciary. No law was passed to establish such a mechanism by year's end.

In 2008 OFFLACK noted endemic bribery in police recruitment. The police often recruited unqualified candidates who had political connections or who paid bribes, which contributed to poorly conducted investigations.

Impunity was a major problem. Police officers rarely were arrested and prosecuted for criminal activities and corruption, or for using excessive force. Authorities sometimes attributed the absence of an investigation into corruption or an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and the public was rather skeptical regarding a process that assigned the investigation of police abuse to the police themselves.

The Government took some steps in 2009 to curb police abuse. In May 2009, Internal Security Minister George Saitoti inaugurated the National Task Force on Police Reform, an 18-member team. The task force was guided by the Waki and Kriegler reports and the Vision 2030 plan. The report was completed in October

2009, following five months of gathering and analyzing views from the public and security experts.

In September 2009, President Kibaki removed Hussein Ali as police commissioner. Ali was identified in official reports as one of the key officials blocking reforms in the police force. His tenure was marred by extrajudicial killings of more than 500 Mungiki members in 2007 and brutal police killings and human rights violations during the 2008 postelection violence. His removal was widely hailed as a positive step by society, the NGO community, and international observers.

In 2008 the Ministry of Provincial Administration and Internal Security established a police oversight board to hear public complaints and recommend disciplinary actions. At year's end, the board still was not functional, due to a lack of political will and police concerns that they were not represented.

There is no freedom of information law; however, access to government information, particularly through the Internet, continued to improve. The Government spokesman's briefings were televised, and updates of many government Web sites were prompt. Parliamentary debate continued to be televised live and broadcast via radio to the general public.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. With the exception of the police, government officials were usually cooperative and responsive to the queries of these groups. However, there were reports that officials also intimidated NGOs and threatened to disrupt their activities, and that provincial administrators and security forces interfered with less-established NGOs, particularly in rural areas. For example, in 2008 local authorities filed criminal charges against two persons who helped document allegations of human rights abuses against security forces in the Mount Elgon region. WKHRW officers fled the country following intimidation from local officials in 2008; however, they returned to the country during 2009. Human rights activists also claimed that security agencies conducted surveillance of their activities.

In February 2009 the UN special rapporteur on extrajudicial, summary, or arbitrary executions visited the country to investigate extrajudicial killings. He released a report documenting hundreds of extrajudicial killings by the security forces and the existence of death squads. The Government rejected the report and its recommendations and filed a protest with the UN.

During the year unknown persons threatened to kill the commandant for administration at the police training college if he cooperated with the ICC investigation into responsibility for the postelection violence. The Government initially provided him with adequate security but it was later withdrawn. Other potential witnesses for the ICC investigations also were harassed, threatened, and beaten during the year.

For example, in Eldoret the spouse of a witness received 3,000 shillings (\$37.50) with a note informing her to keep the money to buy her husband a coffin since he was a potential witness. Some witnesses were bribed and promised a lavish lifestyle, while two were paid by politicians to confess that they were coached by KNHRC to frame William Ruto as one of the key organizers of postelection violence.

In 2009 cabinet ministers, political leaders, and businessmen suspected of orchestrating the 2008 postelection violence allegedly directed gangs and security agents working on their behalf to intimidate and beat witnesses to the postelection violence who testified before the CIPEV. Although the minister of justice acknowledged that witnesses had been intimidated, beaten, and in some instances forced into hiding, neither the Ministry of Justice nor the Attorney General's Office took effective steps to protect the witnesses.

Approximately 15 domestic organizations advocated for human rights in the country; 14 were independent of the Government. Several NGOs maintained comprehensive files on local human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance and were concentrated in Nairobi and other large cities. The Government sometimes allowed human rights organizations to witness autopsies of persons who died in police custody. The Government also permitted NGOs to provide paralegal services to prisoners; the KNCHR noted that reports of human rights abuses decreased in prisons with resident paralegals.

NGOs monitored the 2009 and 2010 by-elections and the August 4 constitutional referendum, in cooperation with the KNCHR and foreign diplomatic missions.

A number of human rights organizations, including the Kenya Human Rights Commission, the IMLU, and the KNCHR, produced reports cataloguing human

rights abuses. The KNCHR has the status of an appeals court and can issue summonses, order the release of prisoners, and require compensation for human rights abuses. However, the Government routinely ignored the KNCHR's summonses and orders (see section 1.e.).

As required by the National Accord, in July 2009 the Government established the TJRC to investigate politically and ethnically motivated human rights abuses since independence. The TJRC had not held any hearings by year's end.

During the year Chairman Bethwel Kiplagat was forced to step down for investigation for his role in the 1984 Wagalla Massacre when he was the permanent secretary of foreign affairs. It was alleged that he lacked credibility and needed to be investigated. Vice Chair Betty Murungi also resigned. During the year the TJRC carried out visits to the Mount Elgon region where members of the Sabotage Land Defence Force were executed and beaten by the military personnel deployed to undertake the exercise. The TJRC also carried out visits in other parts of the country to discuss issues on historical injustice.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth. Government authorities did not enforce effectively many of these provisions. There was also evidence that some government and opposition officials tolerated, and in some instances instigated, ethnic violence. The law criminalizes homosexual activity.

*Women.*—The law criminalizes rape, defilement, sex tourism, and sexual harassment; however, implementation remained limited, and as many as 95 percent of sexual offenses were not reported to the police. The law does not specifically prohibit spousal rape.

The law provides a maximum penalty of life imprisonment for rape, although sentences usually were no longer than the minimum of 10 years. NGO activists complained that a provision in the law that criminalized false claims of sexual assault deterred the reporting of sexual offenses.

In 2008 official police statistics indicated 627 rapes during the year, but human rights groups estimated that more than 21,000 rapes were perpetrated annually. The rate of reporting and prosecution of rape remained low because of the police practice requiring that survivors be examined by a police physician; cultural inhibitions against publicly discussing sex; survivors' fear of retribution; police reluctance to intervene, especially in case cases where family members, friends, or acquaintances were accused of committing the rape; poor training of prosecutors; and the unavailability of doctors who might provide the evidence necessary for conviction.

According to NGOs police procedures in handling cases of rape and sexual assault created substantial barriers to the investigation and prosecution of suspected perpetrators of rape and sexual assault. Police prosecutors required survivors of sexual assault to be examined by a police physician prior to the initiation of an investigation and required the same physician to testify during trial. As of the end of 2009, there was only one police physician in Nairobi, and police physicians were generally not present in rural areas. The police physician in Nairobi frequently issued examination reports that conflicted with the findings of other medical professionals, was often not available to conduct exams, and frequently failed to appear in court. As a result numerous alleged cases of sexual violence were not investigated by the police, and numerous cases were dismissed from court due to the absence of the police physician.

The Government did not investigate or prosecute reported incidents of widespread sexual violence following the disputed election in 2008. There were national guidelines on the management of sexual violence under the Ministry of Public Health, but the implementation mechanisms remained weak. The police lacked the capacity to handle most cases including handling specimens from victims.

Domestic violence against women was a serious and widespread problem but often was condoned by society and the courts. The penal code does not contain specific provisions against domestic violence but treats it as assault. Police generally refrained from investigating cases of domestic violence, which they considered a private family matter. The 2008-09 Kenya Demographic and Health Survey found that 39 percent of women had been the victims of domestic physical or sexual abuse. NGOs, including the Law Society of Kenya and FIDA, provided free legal assistance to some victims of domestic violence. FIDA research undertaken during the year indicated that 83 percent of women and girls in the country reported one or more episodes of physical abuse.

The law prohibits sexual harassment; however, sexual harassment continued to be a problem. It was often not reported and rarely resulted in charges being filed.

Subsidized contraception options, including condoms and birth control pills, were widely available to both men and women throughout the country, although access was more difficult in rural areas. Skilled obstetric and postpartum care was available in major hospitals, but many women were unable to access or afford these services. According to UN estimates, the maternal mortality ratio in 2008 was 530 deaths per 100,000 live births.

The Government and private organizations supported a network of more than 8,000 counseling and testing centers providing free HIV/AIDS diagnosis. Diagnosis of other sexually transmitted infections was available through hospitals and clinics throughout the country. HIV/AIDS carried social stigma, and many citizens avoided testing due to social pressure.

The law provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, women experienced a wide range of discrimination in matrimonial rights, property ownership, and inheritance rights. Women constituted an estimated 75 percent of the agricultural work force and were active in urban small businesses. The average monthly income of women was approximately two-thirds that of men. Women held only 6 percent of land titles; under traditional law, women in many ethnic groups could not own land. Women had difficulty moving into nontraditional fields, were promoted more slowly, and were more likely to be laid off. Societal discrimination was most apparent in rural areas. Women also faced discrimination in access to employment and to credit. The justice system—particularly customary law—often discriminated against women, limiting their political and economic rights and relegating them to second-class citizenship.

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children but terminates the inheritance rights of widows if they remarry. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. The law also allows the Ministry of Justice to exempt certain communities from the law in deference to tradition, which in some cases, provides for equal distribution of a man's property only among his sons. The law allows only males to transmit citizenship automatically to their spouses and children.

Certain communities commonly practiced wife inheritance, in which a man inherits the widow of his brother or other close relative, regardless of her wishes. Other forced marriages were also common. Although poor and uneducated women were more likely to be inherited or suffer from property and inheritance discrimination, prominent and educated women sometimes were victims.

*Children.*—Citizenship is determined by parentage. Lack of official birth certificates resulted in discrimination in delivery of public services such as education and health care.

Primary and secondary education was tuition-free (although secondary enrollment was limited to students who obtained high scores on standardized primary exams); however, classes were overcrowded due to insufficient teachers and an inadequate budget. Rural families were more reluctant to invest in educating girls than boys, particularly at higher levels.

During the year more than 500 teachers were fired following reports of professional misconduct, including sexual acts with students that resulted in pregnancy in some cases. However, only approximately 30 cases appeared before the courts due to bribery.

A report released in November 2009 by the Teachers Service Commission found that 12,660 female students were sexually abused by teachers from 2003 to 2007.

In 2008 the Centre for the Study of Adolescence reported that between 10,000 and 13,000 girls dropped out of school annually due to pregnancy. While the Education Act gave pregnant girls the right to continue their education until and after giving birth, NGOs reported that schools often did not respect this right and that schoolmasters sometimes expelled pregnant girls.

In 2008 the Ministry of Education estimated that 80,000 children dropped out of school annually due to forced marriages and child labor. Cherish Others, a local NGO, reported 30 cases of child marriage in TransMara District in 2009 but also noted that local officials had managed to prevent many more child marriages. In 2008 UNICEF reported that nine out of 10 children from poor households failed to complete primary education.

The Government ordered provincial administrators to arrest parents who did not take or send their children to school. However, this law was not enforced uniformly.

The Government banned corporal punishment in schools; however, there were reports that corporal punishment occurred throughout the year.

The law prohibits FGM under the age of 18 but it was practiced, particularly in rural areas. FGM usually was performed at an early age. According to UNICEF, one-third of women between the ages of 15 and 49 had undergone FGM, and in June

2009 an obstetrician estimated that 32 percent of women had suffered from the procedure. Of the country's 42 ethnic groups, only four (the Luo, Luhya, Teso, and Turkana, who together constituted approximately 25 percent of the population) did not traditionally practice FGM. According to the Ministry of Gender and Children Affairs, in 2008 90 percent of girls among Somali, Kisii, Kuria, and Maasai communities had undergone the procedure. The rates among other communities were: Taita Taveta (62 percent); Kalenjin (48 percent); Embu (44 percent); Meru (42 percent); Kamba (37 percent); and Kikuyu (34 percent). There were public awareness programs to prevent the practice, in which government officials often participated.

Some churches and NGOs provided shelter to girls who fled their homes to avoid FGM, but community elders frequently interfered with attempts to stop the practice. Various communities and NGOs instituted "no cut" initiation rites for girls as an alternative to FGM.

In August 2009 two girls were forcibly circumcised against their will in Narok, after previously fleeing threats of FGM by their families.

Child rape and molestation continued to be serious problems. Police reported that 1,626 children were defiled in 2008. The law establishes a minimum sentence for defilement—defined as a sexual act with a child involving penetration—of life imprisonment if the child is under 11 years old, of 20 years if the child is between 11 and 16 years old, and of 10 years if the child is between 16 and 18 years old; a child is any person under 18 years of age. Newspapers contained frequent reports of molestation or rape of children by relatives, neighbors, teachers, police, and clergy. NGOs The CRADLE and Care Kenya released a 2006 report entitled *Robbing the Cradle* that indicated an increase in child sexual abuse and a decrease in the age of the youngest victims. The most vulnerable victims were girls under age 18 and boys aged three to eight. Most child abusers were neighbors, fathers, and other relatives. Teachers were the worst perpetrators in the professional category, with pastors and police officers following closely.

There were no developments in the following 2008 cases: the alleged impregnation of four primary school students in Homa Bay by a teacher, and a Nairobi teacher arrested for defiling a two-year-old boy.

Media reported discrimination against uncircumcised boys.

Newspapers frequently highlighted the problem of child marriages, which was commonly practiced among certain ethnic groups. According to UNICEF, 25 percent of young women had been married as children. The Marriage Act forbids marriage under the age of 16, but the Mohammedan Marriage and Divorce Act allows Muslim girls to marry at puberty. If a marriage is entered into under the provisions of the act, any court hearing matters related to the marriage applies the provisions of that act when deciding the case.

Child prostitution increased in recent years due to both poverty and the increase in the number of children orphaned by HIV/AIDS. Strong growth in the tourism industry also led to a large increase in foreign and domestic tourists seeking sex with underage girls and boys. Political leaders expressed concern that minors in drought-affected communities were leaving school and being lured to prostitution to address their basic needs.

There were reports of children joining gangs and militia and of the Mungiki gang recruiting young boys from schools. In 2009 armed groups operating in Somalia, particularly the Al Shabaab militia and militias supporting the Transitional Federal Government, allegedly recruited minors from North Eastern Province and refugee camps in the country to fight in Somalia.

Poverty and the spread of HIV/AIDS continued to intensify the problem of child homelessness. In 2007 the Government began a pilot program to place two million AIDS orphans with families in 20 districts. In 2007 the program placed 5,000 children in homes. Street children faced harassment and physical and sexual abuse from police and others, and within the juvenile justice system.

The Government operated programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and medical care to girls abused in, and street children exploited in the commercial sex industry.

*International Child Parental Abductions.*—Kenya is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>

*Anti-Semitism.*—The Jewish community was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical or mental disabilities in employment, education, access to health care, or the provision of other state services; however, the Government did not effectively enforce these provisions. The Ministry of Health is the lead ministry responsible for implementing the law, but implementation was slow. The Government equipped some public buildings with wheelchair ramps, and wheelchair-accessible elevators and sanitary facilities. The Government assigned each region a sign-language interpreter for court proceedings.

Provisions for persons with disability existed but not in all polling stations. During the most recent by-elections the Kenya Society for the Mentally Handicapped (KSMH) and the Disabled Voters of Kenya Alliance worked closely with the IIEC to ensure that all persons were able to cast their votes.

In 2008 the KNCHR ordered the Kenya Commercial Bank (KCB) to reinstate an employee who had been terminated due to mental illness. The KCB filed a suit objecting to the judicial powers held by the KNCHR; the Attorney General's Office supported the KCB's claims. The court issued an injunction against further intervention which barred future action from the KNCHR in employee rights matters.

NGOs reported that persons with disabilities were affected disproportionately by postelection violence, especially in IDP camps. However, NGOs reported that camp administrators often failed to recognize those with mental disabilities.

The education ministry permanent secretary stated that only 35,000 of the 147,000 children with special needs were enrolled in school, while the KNCHR commissioner contended that fewer than 10 percent of children with special needs were enrolled in school.

The KNCHR also stated that the Kenya National Examination Council (KNEC) failed to provide adequate testing facilities and resources for students with disabilities. The KNEC claimed that it provided special accommodations, such as exams in Braille and in large print for visually impaired candidates, and extra time to complete exams. The Government was developing disability-specific curricula, but the process was slow because the Government failed to allocate sufficient resources and staff.

*National/Racial/Ethnic Minorities.*—The population is divided into approximately 42 ethnic groups, among which discrimination and occasional violence were frequent. The 2009 census released in August revealed that the top ethnic communities were: Kikuyu at 6.6 million, Luhya at 5.3 million, the Kalenjin at 5 million, Luo at 4 million, Kamba, at 3.9 million, Kenyan Somali at 2.3 million, Kisii at 2.2 million, and Mijikenda at 1.9 million. The Kikuyu and related groups dominated much of private commerce and industry and often purchased land outside their traditional home areas, which sometimes resulted in fierce resentment from other ethnic groups. The numerically small and shrinking South Asian community controlled a disproportionate share of commerce.

There was frequent conflict, banditry, and cattle rustling among Somali, Turkana, Gabbra, Borana, Samburu, Rendille, and Pokot ethnic groups in arid regions located in North Eastern, Eastern, and Rift Valley provinces. In 2009 intervention by security forces to reclaim stolen cattle resulted in police expropriating cattle that had not been stolen, which inflamed ethnic tension.

The Government did not investigate alleged abuses committed in 2008 by security forces searching for illegal weapons in El Wak, Garri, and Mandera.

During the year some of the communities, especially the Turkhana and the Pokot, felt that the Government applied selective disarmament. There were general complaints that the neighboring communities were rearming while others were being disarmed. Cattle rustling was rampant, and during the year several people were killed in Turkhana and Samburu.

In 2008 the Government established the CIPEV; it issued a report that called for the establishment of a special tribunal to try suspected organizers of postelection violence. On December 15, the ICC prosecutor announced he was asking a pretrial chamber to issue summonses to six persons who allegedly committed crimes against humanity during in the postelection violence. The six named were: former minister of higher education William Ruto; former minister of industrialization Henry Kosgey; Head of Operations KASS FM radio station Joshua Sang; Secretary to the Cabinet Francis Muthaura, Deputy Prime Minister and Finance Minister Uhuru Kenyatta, and former police commissioner Mohamed Ali.

Through the provincial administrations, the Government held public meetings to promote reconciliation in communities affected by the postelection violence and to establish a forum for dialogue and peaceful resolution of conflicts. NGOs reported that implementation of reconciliation efforts was not uniform.

Many factors contributed to interethnic conflicts: long-standing grievances over land tenure policies and competition for scarce agricultural land, the proliferation of guns, the commercialization of traditional cattle rustling, the growth of a modern warrior/bandit culture (distinct from traditional culture), ineffective local political leadership, diminished economic prospects for groups affected by a severe regional drought, political rivalries, and the inability of security forces to adequately quell violence. Conflict between land owners and squatters was particularly severe in Rift Valley and Coast provinces, while competition for water and pasturage was especially serious in the northern districts of Rift Valley and Eastern provinces and in North Eastern Province.

In private business and in the public sector, members of nearly all ethnic groups commonly discriminated in favor of other members of the same group. Some neighborhoods, particularly in slum areas of the capital, tended to be segregated ethnically, although interethnic marriage had become fairly common in urban areas.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The penal code criminalizes “carnal knowledge against the order of nature,” which is interpreted to prohibit homosexual activity and specifies a maximum penalty of 14 years’ imprisonment. A further statute specifically criminalizes male-to-male sex and specifies a maximum penalty of 21 years’ imprisonment. However, there were no reported prosecutions of individuals for sexual orientation or homosexual activity during the year.

Lesbian, gay, bisexual, and transgender (LGBT) advocacy organizations, such as the Gay and Lesbian Coalition of Kenya (GALCK), were permitted to register and conduct activities. There was frequent and widespread societal discrimination based on sexual orientation during the year.

For example, during the year persons put up “not wanted” posters of the GALCK president and other LGBT activists around Nairobi. The posters also had bible verses depicting homosexuality as a sin.

On February 12, near Mombasa, an armed mob of between 200 and 300 persons surrounded KEMRI. Police arrived, took two KEMRI employees into custody for their protection but did not arrest members of the mob (see section 1.c.). Over the next week, mobs in the same area attacked and beat other persons suspected of being gay.

*Other Societal Discrimination.*—There was societal discrimination against persons with HIV/AIDS during the year. Stigmatization of HIV/AIDS made it difficult for many families to acknowledge that a member was HIV-positive, and no socially or politically prominent individual admitted being HIV-positive. However, there were fewer reports of violence against persons with HIV/AIDS.

The Ministry of Defense arranged for uniformed personnel, their families, and some local persons to have access to HIV counseling and testing, prevention programs, and antiretroviral treatment during the year.

The Government worked in cooperation with international donors on programs for HIV/AIDS prevention and treatment. This cooperation enabled a continued expansion of counseling and testing as well as care and treatment. These developments were seen as key to reducing stigma and discrimination.

Organizations representing persons with albinism claimed that they suffered widespread discrimination. There were no reported developments in the 2008 case in which a child with albinism was killed in Namanga.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including those in the export processing zones (EPZs), are free to form and join unions of their choice, and workers exercised this right in practice. Workers numbering seven or more in an enterprise have the right to form a union by registering with the trade union registrar. If the registrar denies registration, a union may appeal to the courts. The armed forces, police, prisons service, and the administration police are explicitly prohibited from forming or joining unions. There were 33 unions affiliated with the Central Organization of Trade Unions (COTU) and four unions that were not COTU affiliates. These unions represented an estimated 1.5 million workers, reflecting a steady increase over the past two years. After the postelection violence, worker displacement and other barriers that kept workers away from their places of employment and union membership declined. The increase in membership was a result of concentrated organizing efforts and outreach to women, youth, and non-

traditional sectors. The law allows unions to conduct their activities without government interference, including the right to strike, but this right was not always protected.

The law permits workers to strike, but requires formal conciliation procedures to have been exhausted and seven days' notice to both the Government and the employer. The law permits the Government to deny workers the right to strike under certain conditions. For example, members of the military, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants are allowed to strike following the seven-day notice period.

During the year union leaders were arrested and threatened for defending the rights of workers on tea plantations. On October 18, approximately 80,000 workers went on strike over the use of tea plucking machines by six multinational companies which they claimed could cost them their jobs. Workers from the Kenya Plantation and Agricultural Worker's Union, who initiated industrial actions, were arrested and some reported being tortured. Workers ended their two-week strike after a court order which urged workers to negotiate with tea firms to resolve concerns over the use of tea plucking machines.

The Ministry of Labor typically referred disputes to mediation, fact-finding, or binding arbitration at the Industrial Court; during mediation any strike is illegal, thus removing legal prohibitions on employer retaliation against strikers. In practice a Ministry of Labor referral to dispute resolution nullifies the right to strike.

*b. The Right to Organize and Bargain Collectively.*—While not having the force of law, the Industrial Relations Charter (IRC), implemented by the Government, the COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities, and the Government protected these rights. Both the Trade Disputes Act and the IRC authorize collective bargaining between unions and employers, and unions and management establish negotiated wages and conditions of employment.

Security forces cannot bargain collectively but have an internal board that reviews salaries. Other groups that cannot bargain collectively, such as health sector workers, have associations, not unions, which negotiate wages and conditions that match the Government's minimum wage guidelines; however, these agreements were not legally enforceable. Workers in the military, prisons, the National Youth Service, and teachers under the Teachers' Service Commission do not have the right to bargain collectively. The law allows employers in some industries to dismiss workers regardless of the provisions of their collective bargaining agreements.

During the year NGOs and trade unionists reported a growing trend towards the elimination of permanent positions in favor of casual or contract labor, especially in the EPZ, agricultural, and manufacturing sectors. In many cases the job was permanent, but an employer staffed the position with rotating contract workers. This practice held at the management level as well where employers hired individuals as management trainees and kept them in this position for the maximum time of three years. At the end of this time, instead of converting this worker to permanent staff, the person was then replaced by another trainee. In the banking sector and other commercial industries, there were reports that casual workers were replaced when they expressed interest in joining a union. One report stated that casual employment grew by 13 percent in 2009, accounting for 32 percent of total wage employment.

Except for the Factories Act, all labor laws apply in the EPZs; however, the EPZ Authority and the Government granted many exemptions to applicable laws. For example, the Government waived a provision of the law that prevents women from working in industrial activities at night. The Tailors and Textiles Workers Union claimed that a number of garment producers in the EPZs refused to recognize the union and resisted its efforts to organize their workers. The law prohibits employers from intimidating workers; however, some antiunion discrimination occurred, including in garment plants in the EPZs. The Industrial Court, a body of up to five judges appointed by the president, can order reinstatement and damages in the form of back pay for employees wrongfully dismissed for union activities. Workers have been fired for participating in trade union activities, especially in export processing zones. COTU reported more than 1,000 cases where workers were fired for participating in union activities across various sectors. In addition to the EPZ, there were many reports that workers in Nairobi's industrial zone were also dismissed. This practice appeared to be more common in the urban areas, although there were also reports that workers were fired on flower farms where managers insisted that workers do not join unions.

The Government voiced its support for union rights but did not protect them fully. Some unions complained that employers resisted efforts to establish unions in their factories, even where most workers indicated a desire for union membership, and

that the Industrial Court and Ministry of Labor and Human Resources Development were ineffective in compelling employers to comply with the law.

In 2008 the Government strengthened the labor dispute system by giving the Industrial Court the ability to enforce its decisions. However, during the year union leaders reported that employers often did not comply with reinstatement orders, and workers often accepted payment in lieu of reinstatement. Most employers did not comply with the reinstatement orders. In several cases, employers took the industrial court decision to the High Court which reversed the decision. The enforcement mechanisms of the industrial court remain weak.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits slavery, indentured servitude, and forced and bonded labor, including by children, but such practices reportedly occurred. Women, children, and men were trafficked for commercial sexual exploitation and labor. During the year there were reports of forced labor and child labor in domestic service, street vending, child prostitution, subsistence and commercial agriculture, and mining. Children primarily work in the informal sector. Commercial sexual exploitation was widespread, particularly in the coastal areas.

Forced child labor occurred. See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits all forms of child labor that are exploitive, hazardous, or would prevent children under age 16 from attending school. However, child labor was widespread, particularly in the informal sector, and children were trafficked for commercial sexual exploitation and labor. An estimated one million children between five and 17 years of age—most between 13 and 17 years old—worked.

The 2005 Kenya Integrated Household Budget survey indicated that 951,273 children below the age of 18 were employed: 79.9 percent worked in agriculture and 11.6 percent worked in domestic services. While there were no recent official statistics, the Ministry of Gender, Children Affairs and Social Development and NGOs focused on child labor problems where the number of children engaged in child labor had sharply risen to an estimated 2 million children. The increase was attributed to increasing economic hardship where families relied more on children to earn wages to support the households. The employment of children in the formal industrial wage sector in violation of the Employment Act was rare. Children worked primarily in the informal sector, which was difficult to monitor and control. The Ministry of Labor and Human Resources Development nominally enforced the minimum age statute. The ministry remained committed to enforcing minimum age statutes, but implementation remained problematic due to resource constraints.

Children under age 13 are prohibited from working, and children between 13 and 16 years of age may perform only "light work" that is not harmful to their health or development and does not interfere with their schooling. However, the law does not apply minimum age restrictions to children serving as apprentices under the terms of the Industrial Training Act. Persons under age 18 may not be employed in any industrial undertaking at night, employment should not cause children to reside away from parents without their approval, and permission to work in a bar, hotel, or restaurant requires annually renewed consent from the labor commissioner.

The law prohibits the employment of a child (defined as a person under the age of 18) in any activity that constitutes a worst form of child labor and provides fines for employing children in such activities of up to 200,000 shillings (\$25,000) and/or imprisonment for up to 12 months. The penal code prohibits procurement of a girl under age 21 for unlawful sexual relations and criminalizes child commercial sexual exploitation, child labor, and the transport of children for sale.

Many children worked on family plots or in family units on tea, coffee, sugar, and rice plantations. Children also worked in mining, including abandoned gold mines and small quarries, breaking rocks and sifting through tailings. Children often worked long hours as domestic servants in private homes for little or no pay, and there were reports of physical and sexual abuse of child domestics. The Ministry of Gender, Children Affairs and Social Development and the NGO Eradicate Child Prostitution in Kenya estimated that 30,000 of these children were exploited in the sex industry every day. Forced or compulsory labor by children, such as agricultural labor, prostitution, and domestic servitude sometimes were initiated by their parents. During the year, there were reports that children participated in ethnic-based militia activity.

The Government worked closely with the COTU and the International Labor Organization to eliminate child labor. In 2004 the Government prepared a practical guide to labor inspection and trained labor inspectors and occupational health and safety officers to report on child labor. The National Steering Committee on the

Elimination of Child Labor, which includes the attorney general, eight ministries, representatives of child welfare organizations, other NGOs, unions, and employers continued to operate and met quarterly. An Interministerial Coordination Committee on Child Labor, chaired by the minister for gender, children's affairs, and social development, was responsible for setting general policy.

Many NGOs were active on child labor issues and assisted in the return to school of child laborers. During the year the Government continued to implement a multitude of programs for the elimination of child labor with dozens of partner agencies. The partners placed the children in schools, vocational training institutions, and apprenticeships and supported income-generating activities for thousands of parents. Partners also provided support to schools for income-generating activities to help keep children from poor families in school.

UNICEF, the Ministry of Tourism and Wildlife, the World Tourism Organization, and NGOs continued to work with the Kenya Association of Hotelkeepers and Caterers, a representative body of hotels and tour operators, to increase their awareness of child prostitution and sex tourism. The association encouraged all hospitality-sector businesses to adopt and implement the code of conduct developed by the NGO End Child Prostitution and Child Pornography and Trafficking of Children for Sexual Purposes. During the year the majority of hotels on the coast had signed the NGO's code of conduct and continued to self-regulate through the Kenya Association of Hotelkeepers and Caterers. The Ministry of Tourism and Wildlife continued to register villas and cottages and impose the same requirements as on hotels. During the year the cabinet approved a new tourism bill that would establish a regulatory authority to oversee all hotels, villas and cottages, including their adherence to the code of conduct. At year's end, the bill remained in parliament.

During the year the Child Protection Department employed a total of 450 children's officers, an increase in the number of officers. Also during the year the Government's cash transfer program for orphans and vulnerable children expanded to cover 47 districts and to reach an estimated 100,000 beneficiaries. It was cofunded by the Government and development partners. The beneficiaries each received 3000 shillings (\$ 39) per month, a 50 percent increase in the cash payment received by each family since last year. There were an average of three orphans and vulnerable children in each beneficiary household who directly benefitted from the program.

*e. Acceptable Conditions of Work.*—Regulation of wages is part of the Labor Institutions Act, and the Government established basic minimum wages by occupation and location, setting a minimum bar for monthly, daily, and hourly work in each category. In many industries, workers were paid the legal minimum wage; however, in most cases these wages were far outpaced by the cost of living. The lowest legal urban minimum wage was 6,743 shillings (approximately \$85) per month, and the lowest agricultural minimum wage for unskilled employees was 2,536 shillings (\$35) per month, excluding housing allowance. During the year the Productivity Center of Kenya, a tripartite institution including the Ministry of Labor, the Federation of Kenyan Employers, and the COTU, continued to set wage guidelines for various sectors based on productivity, inflation, and cost of living indices. While the center continued to set guidelines, it did not have the personnel with sufficient expertise to gain the respect of industry. Many employers did not obey the center's recommendations. The minimum wage did not provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, other informal work, or the extended family for additional support. A large percentage of the labor force worked in the informal sector and was not covered by these provisions.

The law limits the normal workweek to 52 hours (60 hours for night workers); some categories of workers had lower limits. The law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to one rest day per week, and there are provisions for 21 days of combined annual and sick leave. The law also requires that total hours worked (regular time plus overtime) in any two-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations. Violations were reported during the year. Workers in some enterprises, particularly in the EPZs and road construction, claimed that employers forced them to work extra hours without overtime pay to meet production targets. In addition employers often did not provide nighttime transport, leaving workers vulnerable to assault, robbery, and sexual harassment. During the year trade unionists complained that some government labor inspectors were bribed by employers to avoid penalties for labor violations. The extremely low salaries and the lack of vehicles, fuel, and other resources made it very difficult for labor inspectors to do their work and left them vulnerable to bribes and other forms of corruption. Employers in all sectors routinely bribed labor inspectors to prevent them from reporting infractions, especially in the area of child labor.

Labor laws require two weeks' paternity leave, three months' maternity leave with full pay, and compensate both public and private employees for work-related injuries and diseases contracted at work. However, in 2008 employers challenged the workers' compensation provisions in court. At year's end, the case continued.

The law detailed environmental, health, and safety standards; however, the Government did not effectively enforce the law. Fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from the Factory Act's provisions. The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites, except in the EPZs; it employed 79 inspectors, far short of the 168 reportedly needed to inspect factories adequately and enforce its safety and health orders. No new inspectors were hired since 2007. During the year the DOHSS had a target of 4,840 inspections, carried out 4,000 inspections and prosecuted 100 companies for violating occupational health and safety regulations. There continued to be widespread hazards, such as lack of basic safety equipment and emergency escape routes in many companies. During the year labor unions and NGOs continued to criticize health and safety conditions in the EPZs and other sectors, such as small horticultural producers.

DOHSS health and safety inspectors can issue notices against employers for practices or activities that involve a risk of serious personal injury. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a high court judge. The law stipulates that factories employing 20 or more persons should have an internal health and safety committee with representation from workers. The DOHSS developed a program to help factories establish the committees and trained them to conduct safety audits and submit compliance reports to the DOHSS. According to the Government, most of the largest factories had instituted health and safety committees by year's end.

Workers, including foreigners and immigrants, theoretically have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment; however, this right was not enforced effectively, and workers were reluctant to do so due to risk of losing their jobs.

---

## LESOTHO

Lesotho is a constitutional monarchy with a population of 1.88 million. Under the constitution, the king is head of state but does not actively participate in political activities. The prime minister is head of government and has executive authority. In the 2007 election, the governing Lesotho Congress for Democracy (LCD) party retained a majority of seats in the legislature; domestic and international observers characterized the election as free and peaceful. Other observers, including members of the leading opposition parties and some nongovernmental organizations (NGOs), stated it was not entirely fair. Issues from the 2007 election were still contested and remained the greatest source of political conflict between the ruling and opposition parties. Security forces reported to civilian authorities, but there were instances in which elements of the security forces acted independently of civilian control.

The following human rights abuses were reported: killings, torture, and abuse by police; mob violence; poor prison conditions; lengthy pretrial detention, and long trial delays. Societal abuses included abuse of spouses and children; sexual abuse; restrictions on women's rights; discrimination against women; stigmatization of persons with disabilities and HIV/AIDS; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings during the year; however, security forces killed persons during the year.

According to the Inspectorate for Complaints and Discipline (ICD), which monitors and investigates reports of police abuse, three persons died in police custody during the year.

For example, in July a 25-year-old prisoner was found dead in his cell at Leribe police station. According to police spokesperson Masupha Masupha, police "suspect that some police officers could have contributed to the man's death through torture." Investigation results were not disclosed.

According to the Police Complaints Authority (PCA), an independent oversight body that monitors police behavior and addresses grievances against police, there

were six alleged murder cases during the year involving police. Investigations continued at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law expressly prohibit such practices, there were reports of police torture and abuse.

Between January and September, the PCA received a total of 10 reports of torture/assault by police. These included allegations that police assaulted Ha Tsae villagers, unlawfully arrested and assaulted a suspect, tortured a suspect, received a bribe, unlawfully confiscated and then damaged two vehicles, delivered services poorly at Morija, and damaged property. Two of the 10 cases were sent to court, and eight were under investigation at year's end. The process of enforcing police accountability was slow, but internal affairs organs prosecuted some members of the security forces. More serious offenses, such as murder, were sent to the High Court via the Office of the Director of Public Prosecutions.

In February Maseru police reportedly handcuffed and repeatedly asphyxiated post office manager Tael Mohale with a plastic bag. Mohale was suspected of aiding thieves that stole from the post office. Constable Ntepe, Sergeant Masela, and Constable Khotso were accused of repeatedly beating Mohale's buttocks with a knobkerrie (club) outside the police station in the presence of a crowd. In September Mohale filed a 200,000 maloti (\$28,571) lawsuit against police for torture, unlawful arrest and detention, and humiliation. According to the victim, the actual thieves were caught at a later stage, and the case was pending in the High Court at year's end.

On March 19, Tukula Makhakhe stated he was tortured by Maseru police and forced to confess to charges of armed robbery. Members of the Police Vehicle Theft Detection and Counter-Robbery Crime Unit assaulted him with knobkerries, an iron rod, and a tire tube. He later retracted his confession to the magistrate, claiming it was made under duress. Makhakhe last appeared in court in September and was remanded out of custody; however, he failed to attend monthly remands, and there was a warrant for his arrest at year's end. The case was pending in the Magistrate Court at year's end.

In the early hours of April 12, police raided the village of Thota-Peli, Berea District, according to the Sunday Express newspaper. Police searched for the illegal firearms used in a clash over grazing land that had killed two local residents. Police allegedly whipped, kicked, and struck people with the butts of their guns, ordering some of them to "roll in the morning dew naked." Although targeted mainly at men, the raid also victimized some women, the elderly, and children. One victim stated that police choked her husband while pulling his genitals when he protested that he did not have a gun. The next morning villagers marched to Teyateyaneng Police Station to report the incident; police reportedly intercepted the villagers and beat them again. Former minister of agriculture Lesole Mokoma subsequently held a rally in the village. He warned that any member of the LCD who lodged a formal complaint against the police would be viewed as fighting the Government. Forty-eight villagers led by their chief, Molomo Mopeli, filed a lawsuit demanding compensation of 24 million maloti (approximately \$3.4 million). Acting on instructions of the 48 residents and their chief, advocate Zwelakhe Mda issued a civil claim against the attorney general, Tsokolo Makhetha, and commissioner of police, Malejaka Letoane, on September 4. Receiving no response from the state, Mda filed a summons on December 31.

On May 23, a soldier stationed at the entrance of the residence of the minister of public works and transport allegedly shot an unidentified person. According to police forensic investigations, evidence found at the scene did not match the guard's version of the story. He was charged with attempted murder and was waiting to appear in court at year's end.

On June 17, police in Ha-Lekhobanyane arrested and assaulted villagers suspected of stoning and burning a woman to death. The woman was presumed to have been mentally ill, but villagers suspected her of witchcraft. One victim, Nthejane Lelimo, stated that police beat his ribs and back with a knobkerrie, while Malefetsane Mokhele alleged that police beat the soles of his feet. Mantsoi Khutlang sustained a fractured jaw and swollen cheeks after she was repeatedly punched in her face.

A local cab driver claimed that he was assaulted by a police officer who demanded to see his license. The magistrate found him guilty of reckless driving and failing to obey police instructions. The case against the police officer was dropped after the prosecutor rejected the cab driver's evidence.

In August 2009 local newspapers and private radio stations reported that several male residents in the village of Nokong, Berea District, accused police of torture and unlawful detention. They alleged that police conducted a raid on the village searching for illegal guns at selected homes. After failing to find any illegal weapons, police allegedly took the men from their homes to a plateau overlooking the village and beat them. The PCA investigated the case and issued a report to the minister of home affairs and public safety. The report was not made public. The ICD also investigated the torture allegations of the Nokong villagers but did not release a report.

The media reported several incidents of “mob justice” in which members of the society took the law into their own hands to punish suspects.

*Prison and Detention Center Conditions.*—Prison conditions were poor, and facilities were overcrowded and in disrepair. The country’s prisons had a combined capacity of 2,910, but sometimes held twice that number. Maseru Central Prison had an estimated capacity of 600 inmates but held up to 860 prisoners during the year. Berea and Butha-Buthe prisons were constructed in 1886 and 1907. Sanitation and nutrition were poor, although potable water was available. Prison facilities lacked bedding, ventilation, and proper lighting. Heating and cooling systems did not exist.

Prisoners received free medical care from government hospitals, and all prisons had a nurse and a dispensary to attend to minor illnesses. Some correctional facilities owned ambulances to transport inmates for emergency medical care. The Lesotho Correctional Service (LCS) employed a full-time HIV/AIDS coordinator who trained 90 peer educators during the year.

The LCS reported a total prison population of 2,498, including 77 juveniles, 2,360 men, and 61 women. Pretrial detainees were held with convicted prisoners. High-security prisoners and military prisoners were held in a separate facility.

There were reports of prisoners brutalizing and raping other prisoners, although statistics were unavailable.

From April 2009 to September (data is based on the fiscal year, which runs from April to March), seven deaths were reported in prisons countrywide. Six deaths were due to illness, primarily HIV/AIDS. One death resulted from a fight between two inmates, both of whom had histories of mental illness.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and allowed them to request investigations of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions, but reports were not made public. Individuals must go through the Public Relations Office to obtain information about a particular case. The Pardons Committee and Advising Committee have the authority to inspect prisons. The Management Committee for Juveniles monitors conditions of juvenile prisons.

Prison regulations provide for visiting committees made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens; however, no such visits were conducted during the year. These committees were authorized to visit any prison without the prior knowledge of the prison director and generally were allowed to do so. The committees reported their findings to the prison director as well as to the general public.

International human rights groups were permitted to monitor prison conditions, although there were no known visits during the year.

The Office of the Ombudsman can enter and inspect jails, prisons, and military cells to assess conditions and make recommendations to protect the rights of prisoners and detainees; however, the last inspection was conducted in 2005. The Office of the Ombudsman did not monitor the enforcement of pretrial detention restrictions and bail provisions. Detailed recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for offenses were not available.

The renovation of the Maseru Central and Leribe District prisons continued during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The security forces consist of the Lesotho Defense Force (LDF), Lesotho Mounted Police Service (LMPS), National Security Service (NSS), and the LCS. The LMPS is responsible for internal security. The LDF maintains all external security and assists the police when requested by the LMPS commissioner. The NSS is an intelligence service that provides information on possible threats in support of internal and external security.

The prime minister has direct authority over the LDF and NSS as minister of defense and national security. The LCS is under the Ministry of Justice, Human

Rights, Correctional Services, Law, and Constitutional Affairs. The LMPS is under the Ministry of Home Affairs and Public Safety (MHA).

The country is divided into three police regions, which are subdivided into districts. A shortage of human and financial resources limited LMPS effectiveness.

The internal affairs organs that address corruption and other offenses by police are the ICD and the PCA. Commonly imposed forms of disciplinary action included fines, suspension, demotion, or dismissal from service. Current legislation does not grant the PCA powers of search and seizure or the authority to summon police officers. Local NGOs complained that the PCA's inability to initiate cases based on public complaints limited its effectiveness. Cases were initiated only at the request of the minister of home affairs and public safety.

The LDF continued its 15-year plan for restructuring and reform begun in 1998; however, high turnover rates and budget restrictions resulted in delays.

*Arrest Procedures and Treatment While in Detention.*—The law requires police to obtain a warrant from the magistrate prior to making an arrest. Suspects are apprehended openly and informed about their rights before they are brought before an independent judiciary. Suspects must be informed of charges within 48 hours, and their families must be notified of any detention. The law allows family members to visit inmates. According to media reports and LMPS officials, police did not always comply with these provisions. The law provides for bail, which authorities granted regularly and, in general, fairly. Defendants have the right to legal counsel. Detainees were allowed prompt access to a lawyer, and lawyers were provided for indigents. The Legal Aid Division, under the Ministry of Justice and Human Rights, offered free legal assistance, but a severe lack of resources hampered the division's effectiveness. NGOs maintained a few legal aid clinics.

There were no reported cases of authorities resorting to false charges to detain or try persons for criticizing the Government.

Eighteen percent of inmates were in pretrial detention, which could last for months or even years. The backlog was due to lack of resources, judicial staffing shortages, delay tactics by defense counsel, and unavailability of legal counsel. The average length of pretrial detention was 60 days, after which authorities usually released pretrial detainees on bail pending trial. The Speedy Trial Act of 2002 provides that a suspect cannot be held in custody more than 90 days before a trial except in exceptional circumstances.

To address trial delays, the High Court of Lesotho, with the assistance of the Commonwealth, engaged an expert to address the problem. The High Court established a Commercial Court with two judges in February and introduced a new individual docket system to ensure that one judge handles cases from start to finish. The new system involved the compilation of a database of pending cases beginning in 2005 and was designed to deter delay tactics often used by defense counsels. From February to August, 431 civil cases were completed, more than the total number of cases completed in all of 2009. On December 30, the chief justice swore in Judge Lebohang Molete, the third judge of the Commercial Court, bringing the number of Basotho judges to three.

*Amnesty.*—The Government occasionally granted amnesties and early releases on Moshoeshoe's Day, the King's Birthday, Independence Day, or Christmas Day. On Moshoeshoe's day, March 11, 71 male inmates were released early. On July 17, the King's Birthday, 64 inmates (62 men and 2 women) were released early. On October 4, Independence Day, 44 inmates were released early (40 men and four women). On Christmas Day, 46 male inmates were released early. A total of 225 inmates (219 men and six women) were released during the year.

*e. Denial of Fair Public Trial.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. The country has a dual legal system consisting of common law and customary law. Customary law is made up of the norms, values, and practices of Basotho codified together under the Laws of Lerotholi of 1903. Any norm, value, or practice not contained in that book cannot be regarded as law and was not binding on any Mosotho. It applied to every Mosotho, but there were instances in which one could opt for common law instead of customary law, such as for marriage. However, there were instances where one cannot opt for customary law, but it may automatically apply depending on the merits of the case. Customary law is equivalent to common law, that is, if no law is superior to another, they apply equally.

The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. There was a large case backlog, which resulted in delayed trials.

*Trial Procedures.*—Defendants are presumed innocent until proven guilty. There is no trial by jury. Trials are public, but in civil and criminal matters a single judge

normally hears cases. It is only in high-profile constitutional, commercial, and appeals cases that more than one judge is appointed. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner; however, there were instances in which authorities did not advise accused persons of their right to legal representation. Free legal counsel was available, either from the state or an NGO. Defendants may confront and question witnesses against them and present witnesses on their own behalf. A defendant may present evidence on his own behalf at the Magistrate Court, but at the High Court legal representation was required.

Defendants have the right to access unclassified government evidence. The Government cannot classify evidence and use it against a defendant. If evidence is going to be used in court, both the plaintiff and the defendant must have access. Defendants have the right to appeal. A defendant may either be held or released on bail until sentenced. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary with jurisdiction over civil matters. Citizens can freely access the court system to file lawsuits seeking cessation of human rights violations or a recovery of damages. Some administrative remedies were available from the Labor Court, as stipulated by the Public Services Act. Judicial remedies for such wrongs are addressed in the constitution. However, in some cases, the Government failed to produce evidence in court and sequestered witnesses, which damaged the claims of plaintiffs and resulted in dismissal of cases.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution provides that “every person shall be entitled to respect for his private and family life and his home.” Although search warrants were required under normal circumstances, the law provides police with the power to stop and search persons and vehicles and enter homes and other places without a warrant if the situation is considered life threatening, if there are security concerns, or if it is an emergency. The general public reportedly was unaware that police were required to have search warrants.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. However, some journalists practiced self-censorship because the Government employed libel suits in previous years. Media outlets risked being sued by the Government for slander or libel. Further, state-owned media outlets reflected positions of the ruling party.

The constitution and law provide for freedom of speech and press; however, the Government did not always respect these rights in practice. Some journalists practiced self-censorship.

Journalists were threatened during the year. For example, Marafaele Mohloboli, deputy chairperson of MISA-Lesotho, reported having received a death threat. She reported the matter to police, but there were no further developments at year’s end.

Unlike in the previous year, no journalists were attacked.

The Government employed lawsuits against media outlets, editors, and journalists for libel and slander. Reports indicated that on December 9, the prime minister filed a lawsuit at the High Court against a local newspaper claiming two million maloti (approximately \$286,000) for defamation. The newspaper had alleged that the prime minister embezzled eight million maloti (approximately \$1.1 million). Further, state-owned media outlets reflected positions of the Government. During the May celebration of World Media Freedom Day, the deputy chairman of the Media Institute of Southern Africa’s Lesotho chapter (MISA-Lesotho) threatened a media blackout if the Government did not revise sanctions against noncompliant media houses. The minister of communications, science, and technology stated that the journalists practiced sensational reporting and harsh criticism of high government officials to raise sales. For the past 13 years, MISA-Lesotho has advocated for a new media policy.

On April 23, the Court of Appeal upheld the judgment by the High Court that Billy Macaefa, a leader of the Billyso Workers Party, was not guilty of sedition and subversion. It was alleged that Billy gave a speech at a political rally following the 2007 elections inciting the people to overthrow the Government.

On May 5, members of the Lesotho National Assembly verbally attacked Bongiwe Zihlangu, political editor of a major local newspaper. They accused her of “spreading

false information about gratuities” (one-time end-of-service bonuses) for members of parliament (MPs). Zihlangu had reported on a proposed bill that gave MPs who had been in parliament for two years 25 percent of their gratuity early. According to the report by MISA-Lesotho, Zihlangu was sitting in the media gallery when Rantelai Shea of the opposition Lesotho Workers Party demanded that the journalist be thrown out of the parliament building. Shea reportedly stated that “freedom of the media leads reporters to report on things that strip us of our dignity.” He called for the newspaper to be sued for lies about their gratuities. He further urged that Zihlangu be sued “in broad daylight and be ordered by the courts to pay us the 307,000 maloti (\$44,000) she alleges that we are going to get.” Zihlangu reportedly then left the parliament media gallery. The Members of Parliament Salaries (Amendment) Bill 2010 passed on May 27.

In October the media reported that Thomas Thabane, leader of the All Basotho Convention (ABC), the largest opposition party, threatened to shoot the chief reporter and editor of a local newspaper when he was requested to comment on allegations of a domestic dispute.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was not widely available and almost nonexistent in rural areas, due to lack of communications infrastructure and the high cost of access. The Lesotho Communications Authority estimated that 5.1 percent of inhabitants used the Internet during the year.

There were no reports of government attempts to collect, request, obtain, or disclose personally identifiable information of a person in connection with that person’s peaceful expression of political, religious or ideological opinion or belief.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

The parliament unanimously passed the Public Meetings and Processions Bill in May. The bill stipulates that anyone who wishes to hold a public meeting or procession in an urban area should first make written application for permission to “an officer in command of police in the area where the public meeting or procession” is to be held. Additionally “a person wishing to hold a public meeting or procession in an area that is not urban shall at least within seven days before holding the public meeting or procession, make a written application for permission to hold the procession or meeting, either to the headman or representative of the headman of the area the meeting or procession is intended to be held.”

Twenty students of Limkokwing University were charged under the bill following rioting that took place during their strike on November 20. The students appeared at the Magistrate Court on November 23, and the case was scheduled to be heard in June 2011.

Local media reported that police denied protesters’ request for permission to picket during South African President Jacob Zuma’s visit in August. Media reports indicated that the request was denied due to inadequate staffing; the police, however, denied receiving an application for the demonstration.

The High Court’s inquest into the student riots at the National University of Lesotho and subsequent police shooting and death of a student in October 2009 had not begun by year’s end.

*c. Freedom of Religion.*—For a complete discussion of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf](http://www.state.gov/g/drl/irf).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for free movement within the country, foreign travel, emigration, and repatriation. The Government generally respected these rights in practice.

According to the MHA, the Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

In June the Government of South Africa announced that Lesotho citizens could no longer travel to South Africa using temporary travel documents, and six-month border permits would no longer be issued or renewed. The change in procedure resulted in long waits at the border. The MHA scrambled to print new passports and cope with the rising demand. A reported backlog of up to 350,000 passport applications dating back to 2002 slowed efforts. A meeting between the ministers of home

affairs of the two countries failed to resolve the matter. Clashes between passport applicants and passport office workers were reported in Leribe and Mafeteng districts during public protests against poor passport service. Police brought these under control, and no injuries were reported.

The constitution and law prohibit forced exile, and the Government did not use it in practice.

*Protection of Refugees.*—According to the MHA, the Government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There is no restriction on the movement of asylees.

A committee chaired by the MHA's principal secretary interviews asylum seekers, then makes a recommendation to the minister of home affairs, who has the final say on the matter. The committee consists of officials from the MHA Legal Division, MHA Passport Department, Office of the Director of Immigration, the UN Development Program, the Ministry of Foreign Affairs, and LMPS.

There were 40 asylum seekers in the country. Most of them were from the Democratic Republic of Congo; others were from Sudan, Ethiopia, and Zimbabwe. In July the UNHCR donated equipment to produce identity documents to enhance their access to local services.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—During the most recent national elections, in 2007, the LCD party maintained a legislative majority, claiming 61 of 80 constituency-based seats in the National Assembly. Domestic and international observers characterized the election as free and peaceful. Other observers, including members of the leading opposition parties and some NGOs, stated it was not entirely fair. Their complaints initially centered on the complicated manner of allocating proportional parliamentary seats but later included the manner of appointment of the leader of opposition in parliament and review of the constitution and electoral laws.

Through a preelection alliance with the National Independent Party, the LCD controlled a further 21 of 40 proportional representation seats, bringing its majority to 82 out of 120 seats. The largest opposition party, the ABC, won 17 constituency-based seats and 10 proportional seats through its own preelection alliance with the Lesotho Workers Party. Although both major political parties created alliances in an attempt to gain more seats, the most contested were the 21 seats gained by the ruling LCD party. Mediation efforts began shortly after the election.

Ketumile Masire, former president of Botswana, led the mediation process until July 2009. Masire stated that the alliances entered into by the LCD and ABC undermined the mixed-member proportional electoral model, making it ineffectual. He added that the LCD's main position—that the High Court had already decided the question of alliances—was not actually true, that the High Court had “decided not to decide,” and that the court's judgment was unhelpful. His report led civil society organizations to resume talks mediated by the Christian Council of Lesotho (CCL), but in August 2009 they were postponed. On February 21-22, the Southern African Development Community (SADC) Organ Summit Troika—Mozambican President Armando Guebuza, Swazi King Mswati III, and Zambian Defense Minister Kalombo Mwanza—visited Lesotho to restart the mediation. The troika concluded that the CCL should continue mediating and pledged to provide a facilitation team to support it. On March 11, political leaders signed the “Thaba Bosiu” declaration affirming their commitment to work for peaceful resolution of the 2007 postelectoral disputes, but the matter was not resolved by year's end. The August 16-17 SADC Summit urged stakeholders to find a solution to the lengthy dispute, including finalizing the proposed electoral law amendment bill.

By-elections to replace deceased members of parliament were held on May 25 in three constituencies. The ruling LCD won the contested constituencies. Following the by-elections, the leader of the ABC party protested the results, citing “a corrupt relationship between the Independent Electoral Commission (IEC) and the ruling party”; however, no formal complaints were filed. He subsequently withdrew from participating in all IEC-related activities. In December the National Executive Committee of the ABC decided to redeploy its members to the various IEC committees

and at year's end planned to fully participate in the upcoming local government and national elections.

There were 29 women in the 120-seat National Assembly and seven women in the 33-seat Senate. The speaker of the National Assembly, seven of 19 government ministers, two of four assistant ministers, five of 10 judges on the High Court, and the commissioner of police were women.

Approximately 98.5 percent of the population is ethnic Basotho. There were no members of minorities in the National Assembly, the Senate, or the cabinet.

Local elections were scheduled to take place in May but were postponed until 2011. Opposition parties had threatened to boycott the election over the continued allotment of 30 percent of the wards to female candidates.

The men accused in the April 2009 events surrounding the assassination attempt on the prime minister were still awaiting possible extradition from South Africa. Alleged mastermind Jessie Ramakatane's extradition case was pending in Magistrate Court. On July 29, the seven accused gunmen were found eligible for extradition in Magistrate Court; they appealed, and their extradition case was pending in Bloemfontein, South Africa's High Court.

The Government established a commission of inquiry to investigate the attacks on Makoanyane Barracks, the prime minister's residence, and certain residents of Maseru. On January 20, the commission—chaired by retired former president of the Court of Appeal Judge Hendrik Jan Stein and with members from the country, South Africa, and Botswana—convened and heard evidence from 40 witnesses. On April 16, Judge Stein released a report acknowledging a few rogue members in the army, but claiming that neither the army itself, nor any part thereof, orchestrated the April 2009 attacks. Judge Stein blamed the late Makotoko Lerotholi, who allegedly was financed by disgruntled businessman Jesse Ramakatane. The report revealed pervasive laxity in the LDF and recommended structural and other changes to widen the security network.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. There were isolated reports of government corruption during the year.

The Directorate on Corruption and Economic Offenses (DCEO) is the primary anticorruption organ and investigates corruption complaints against public sector officials. The DCEO is under the supervision of the Ministry of Justice and Human Rights. The Amendment of Prevention of Corruption and Economic Offences Act of 2006 first subjected public officers to financial disclosure laws. However, the disclosure form to be used has still not been established. The law may also be applied to private citizens if deemed necessary by the DCEO. The DCEO's official statistical report stated that from April to September, it received a total of 70 reports on subjects including bribery, fraud, abuse of power, embezzlement of public funds, and tender manipulation. Of these reports, five were closed, 15 were under preliminary investigation, seven were referred to the police, 18 were referred elsewhere (to the Directorate of Dispute Prevention and Resolution or the Labor Court), 20 were pending preliminary investigation, and five were referred to the DCEO investigatory division.

According to the DCEO, there is no baseline to measure the level of corruption in any sector including the executive, legislative, or judicial branches; the media occasionally raised allegations of corruption in the branches. Corruption exists in all sectors, but its extent was not known.

Individuals, both Basotho and foreign, who were ineligible to hold passports continued to obtain them through forgery and misrepresentation. The Passport Department's problem of corrupt officers was exacerbated by the passport backlog as people paid bribes to quickly obtain travel documents. Some passport officers embezzled funds made as payment for passport applications. Five officers were dismissed, while three remained under investigation.

Former clerk of the National Assembly Matlamukele Matete was accused of inflating the price of a photocopier purchased by his ministry. The High Court sentenced him to 10 years' imprisonment with an option to pay a fine of 50,000 maloti (\$7,140). He appealed the sentence, and in October the Court of Appeal confirmed Matete's conviction and imposed a four-year prison sentence, which Matete was serving at year's end.

Former colonel Letsolo Kholoane was forced to retire, and former captain Rakolitsoe Mahase was sentenced to six years, for forging documents in a travel scandal.

Police corruption was a problem, as confirmed by LMPS authorities. The internal affairs organs that address corruption and other offenses by police are the LMPS's

ICD and the PCA. Commonly imposed forms of disciplinary action included fines, suspension, demotion, or dismissal from service.

On August 2009 the country's first female police commissioner, Malejaka Letooane, was sentenced to six months in jail for contempt of court for authorizing the release of a vehicle from police custody contrary to the order of the Magistrate Court and later failing to appear in court when summoned to explain her actions. The chief justice granted the commissioner the right to appeal to the High Court. In October the chief justice overturned the sentence and reportedly dismissed the case altogether. However, the case concerning the vehicle release was proceeding in the Magistrate Court at year's end.

April and December press reports from the Lesotho Times indicated that Police Commissioner Malejaka Letooane was under investigation at year's end relating to a 24 million maloti (approximately \$3.4 million) tender awarded in 2008 to Ferrini USA, Inc. to supply police uniforms. The firm was initially disqualified from the tender process because it had failed to meet the stringent requirements.

"Theft of exhibits" (theft or disappearance of evidence related to a trial proceeding) was commonly reported. In addition, private transport operators claimed that police solicited bribes from taxi and bus drivers who violated traffic laws. However, no formal charges of police corruption were filed during the year. According to the ICD, from January to September there were 23 cases of corruption. One person was convicted, six were sent to the courts, and 16 were pending investigation.

Reports of corruption and fraud in the Government's Block Farming Program appeared in February. After investigation, the Office of the Ombudsman released a report in September alleging corruption by the ministers of finance and forestry and the assistant minister of agriculture and food security. Together, the three officials personally owed more than 18.5 million maloti (\$2.6 million) in loans guaranteed by the Government and directly overseen by their ministries, which had not been repaid at year's end.

On April 23, the Court of Appeal convicted former deputy commissioner of police Motsotuo Ntaote of fraud related to per diem claims for two official trips to South Africa. Ntaote was acquitted by the High Court in June 2009; however, the Court of Appeal reversed the judgment and found him guilty on one count of fraud. He was sentenced to a fine of 12,000 maloti (\$1,715) or six months in prison. The sentence, however, was suspended (no time served or fine levied if the same or similar crime is not repeated within the suspension period) for three years.

A police constable accused of soliciting a bribe appeared in court on September 13. Constable Mokhitlinyane Mokiti allegedly solicited a 940 maloti (\$134) bribe to drop car theft charges against Lebajoa Qalabatsane. He was charged with contravention of section 22(1) of the Prevention of Corruption and Economic Offence Act No. 5 of 1999. Mokiti was granted bail and was awaiting trial at year's end.

Former police superintendent Ramoetsi was convicted of extortion and sentenced to two years' imprisonment or 2,000 maloti (\$285). The sentence was suspended.

The Integrated Financial Management Information System (IFMIS), plagued by delays in 2009, was up and running during the year; IFMIS was introduced to speed up payments, improve public accounting, and impose greater control on government purchasing, accounting, and reporting. It was also adopted to halt overexpenditure by government departments and enable the Government to trace all transactions, including those suspected of embezzling government money. Its effectiveness was not yet determined.

In January the High Court sentenced the principal secretary for the Ministry of Justice and Human Rights, Pontso Lebotsa, to five years in prison or a fine of 10,000 maloti (\$1,430) for contravening government procurement regulations in 2007. The defendant appealed, the Court of Appeal confirmed the High Court judgment, and Lebotsa paid the fine. She was fired from her position.

There are no laws providing for public access to government information, and access was limited; however, Web sites of government ministries, parastatal companies, and private organizations provided some information on governmental activities. The Government Gazette and other publications could be requested from the Government Printers' Office. There were also media releases from government ministry information officers. Researchers at institutions such as the Institute of Southern African Studies, NGOs such as MISA-Lesotho, and the media complained about lack of access to government information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials often were cooperative and responsive to their views.

The independent Office of the Ombudsman (see also section 1.c., Prison and Detention Center Conditions) appeared to function without undue governmental or political interference. The office is considered effective but was constrained by low publicity, high level of centralization, shortage of staff, financing, and equipment. The ombudsman intervened in response to requests for release of unlawfully withheld salaries, reinstatement of employees illegally suspended from their jobs, compensation for persons forced to relocate by the Lesotho Highland Water Project, and compensation for and repairs to houses in communities affected by large-scale development projects.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and the formal legal code prohibit discrimination based on race, gender, disability, language, or social status. However, the constitution recognizes customary law as a parallel legal system, and under it women remained disadvantaged with regard to property rights, inheritance, contracts, and succession rights.

*Women.*—The law prohibits rape, including spousal rape, and mandates a minimum sentence of five years' imprisonment, with no option for a fine. When reported, the Government generally enforced the law effectively. Rape was reportedly commonplace. Accurate statistics were unavailable, but an estimate based on the most recent available police national crime statistics indicated that from April to December 2009, there were 823 reported cases of sexual offenses against women. Courts heard a number of rape and attempted rape cases, several of which resulted in convictions. Up-to-date statistics on the number of perpetrators prosecuted, convicted, and punished were not available.

Domestic violence against women was widespread. Although accurate statistics were unavailable, an estimate based on the most recent police national crime statistics indicated that from April to December 2009, there were 109 reported cases of assault against women. These statistics greatly understated the extent of the problem, as domestic violence is less likely to be reported than assault. Domestic violence and spousal abuse are criminal offenses defined as assault; however, few domestic violence cases were brought to trial. The law does not mandate specific penalties, but an offender can be cautioned and released, given a suspended sentence, fined, or imprisoned. Punishment depends on the severity of the assault, and judges have a wide degree of discretion in sentencing. Violence against women and children was increasingly considered socially unacceptable due, in part, to the Government advocacy and awareness programs by the Child and Gender Protection Unit (CGPU) of the police, the Department of Social Welfare, and the Ministry of Gender and Youth, Sports, and Recreation. This work was bolstered by local and regional organizations, such as the Women and Law in Southern Africa Trust, the Federation of Women Lawyers, the Lesotho Child Counseling Unit, other NGOs, and broadcast and print media campaigns. Activities include teaching young persons and parents how to report such offenses and how to access victim services.

The law does not specifically prohibit sexual harassment, and sexual harassment occurred in workplaces and was commonplace elsewhere. According to the Law Office, complaints involving sexual harassment, if reported at all, were not often reported through official channels and tended to be handled internally.

The Legal Capacity of Married Persons Act gives couples and individuals the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Government hospitals and clinics—in partnership with international and local NGOs—provided equitable access for all, regardless of the patient's background, to reproductive health services. There were no legal, social, or cultural barriers limiting access to these services, which include skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. The incidence of maternal mortality was 1,155 per 100,000 live births. There was access to contraception at minimal fee for oral pills, injectables, intrauterine contraceptive devices, emergency contraception, and implants. Male and female condoms were free and available. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV.

Women and men are accorded equal rights in civil and criminal courts. The 2006 Legal Capacity of Married Persons Act effectively eliminated de jure discrimination against women under formal (but not customary) law except in the area of inheritance, which it does not cover. The act further extends to traditional law and custom. It grants women married under custom equal rights, similar to those married under common law. The previous statutory and customary laws limited the rights of women in areas such as property rights, inheritance, and contracts. Under the dual

legal system, women have the legal and customary right to make a will and sue for divorce; however, under customary (also referred to as traditional) law, a married woman was considered a minor during the lifetime of her husband and could not enter into legally binding contracts without his consent. Since passage of the new law, the rights of women have substantially improved. Married women can obtain loans without the consent of their husbands and enjoy full economic rights under the law. However, the law does not provide for women's inheritance and custody rights. A woman married under customary law has no standing in civil court unless she has her marriage registered in the civil system. Government officials publicly criticized the discrimination of women under customary marriage.

Women's rights organizations took a leading role in educating women about their rights under customary and formal law, highlighting the importance of women's participation in the democratic process. The Ministry of Gender, Youth, Sports, and Recreation is charged with promoting the legal rights of women. It supported efforts by women's groups to sensitize society to respect the status and rights of women.

Although polygamy is not recognized by the formal legal code, it was practiced under customary law by a small minority.

Women were not discriminated against in access to employment or credit; however, on average women did not receive equal pay for substantially similar work. In some cases, women were encouraged to have a sexual relationship with a male boss to get employment or promotion. According to the Organization for Economic Cooperation and Development's Gender Institutions and Development Database, women's average earnings were approximately 53 percent of the wages that men received for equal work. Nevertheless, some of the country's most senior positions were held by women, including speaker of parliament, cabinet ministers, judges, ambassadors, the commissioner of police, government principal secretaries, the auditor general, and chief executives of some public enterprises.

*Children.*—According to the MHA, citizenship is derived by birth within the country's territory. According to the Office of the Registrar of Births and Deaths in the District Administrator's Office, all births were registered by hospitals and local clinics. Children born in private homes were registered at the offices of local chiefs, and the information was then transmitted to the District Administrator's Office for issuance of birth certificates.

By law primary education is universal; since March, compulsory; and since 2006, tuition-free for grades one through seven. Secondary education is not free, but the Government has scholarships for orphans and vulnerable children (OVCs). The education bill, making free primary education compulsory for children in grades one through seven, was passed by both houses of parliament in November 2009 and enacted into law in March. The act states that children from age six shall be enrolled in a primary school and that they should stay in school until they reach the age yet to be determined by the minister of education. A fine of not less than 1,000 maloti (\$143) or imprisonment can be imposed on a parent whose child fails to attend school regularly.

The UN Children's Fund (UNICEF) reported that a substantial number of children did not attend school. The problem was particularly prevalent in rural areas, where there were few schools. Attending school regularly was most difficult for those involved in supporting their families through subsistence activities or those whose families could not afford fees for the purchase of uniforms, books, and other school materials. According to UNICEF statistics for 2009, 80 percent of boys and 88 percent of girls attended primary school. More boys failed to attend school than girls due to the tradition of livestock herding by young boys.

Child abuse was a problem, especially for OVCs. Accurate statistics on the incidence of child abuse were not available; however, an estimate based on the most recent available police national crime statistics indicated that from April to December 2009 there were 57 reported cases of neglect of children and 23 cases of assault against children. These cases included child neglect, common assault, abduction (forced elopement), and sexual assault. The true number of child abuse cases was thought to be much greater.

The CGPU was active in fighting child abuse, particularly challenging the cultural norms that encouraged forced elopement. The CGPU has branches in all 10 districts, but a lack of resources restricted its effectiveness. The CGPU dealt with sexual and physical abuse, neglected and abandoned children, and protection of the property rights of orphans.

During the year the news media frequently published reports of violence at traditional initiation schools. These schools use traditional rituals to initiate teenage boys into manhood and are attended mainly by rural youth. While the activities of these initiation schools were kept secret, the media reported violence against students, teachers, and members of surrounding communities.

According to media reports, child prostitution was a problem. Young girls and boys, many of whom were orphans, moved to urban areas to engage in prostitution and work as sex workers, as noted by Lesotho Save the Children. A 2001 UNICEF assessment concluded that child prostitution in the country was driven by poverty and undertaken only as a last resort. The study also noted that prostituted children most often acted on their own and were apparently not controlled by organized criminal syndicates or any other third party. However, UNICEF and the Government agreed that while the numbers remained small, the trend toward the commercial sexual exploitation of children was a growing problem. According to the 2000 and 2004 reports produced by the Ministry of Labor and Employment in collaboration with UNICEF and other partners, the worst forms of child labor included sex work and prostitution. There were not enough resources within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

There is no legislation specifically addressing child prostitution or child pornography, but the Child Protection Act of 1980 and the Sexual Offenses Act of 2003 can be used to prosecute offenders. This legislation also prohibits the employment of children and young persons in commercial sex. The Sexual Offenses Act sets the minimum age for consensual sex at 18. The Children's Protection and Welfare Bill, enacted in March, specifically addresses child prostitution, child pornography, child trafficking, and related issues.

The rapid rise in the number of children created by HIV/AIDS contributed to child prostitution, child homelessness, child-headed households, and children at risk of exploitation for labor or other purposes. According to UNICEF, there were an estimated 180,000 OVCs in the country. Street children suffered from lack of access to government services, such as medical care and schooling, and were not informed about their right to receive such services...

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There are a small number of Jews but no practicing Jewish community. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with sensory and intellectual disabilities in employment, education, access to healthcare, or the provision of other state services. The Government enforced these laws within its limited ability. Although societal discrimination was common, the tradition of hiding children with disabilities from the public was no longer commonly accepted. The Association of the Disabled actively promoted the rights and needs of persons with disabilities.

Laws and regulations stipulate that persons with disabilities should have access to public buildings. Buildings completed after 1995 generally complied with the law. According to John Motloko, executive director of the Lesotho National Federation of Organizations of the Disabled, government efforts to modify buildings were hampered by the lack of a national disability and rehabilitation policy, which has been in draft form since 2000. The Ministry of Health and Social Welfare is responsible for the bill.

Information for the blind in the form of Braille and JAWS (a computer software used by visually impaired persons) was not widely available. Sign language was not provided by service providers in the Government or private sector, so signing individuals could not access many services. There were limited facilities for training deaf persons.

The Government did not effectively implement laws to ensure that persons with disabilities had access to information and communications. Media reports indicated that persons with disabilities experienced societal abuse; however, there were no reports of such abuse in prisons, educational facilities, or mental health facilities.

Election law provides for assisted voting for persons with disabilities, which was respected in practice. They are allowed to have anyone of their choosing assist them with voting, including the presiding officer at a polling station; there should also be a third person to verify that the voter's choices are respected.

The Ministry of Health and Social Welfare is responsible for protecting the rights of persons with disabilities. In partnership with the NGO Skillshare International, the Government provided leadership-training workshops for persons with disabilities and community-based rehabilitation (training community members to provide services to persons with disabilities). The community-based training assisted teachers in working with students with disabilities. The Skillshare-government partnership supported 20 income-generating projects with a minimum starting capital of

10,000 maloti (\$1,428). There was also advocacy and awareness training about the rights of persons with disabilities. These events usually centered on international events, such as Sign Language Day, White Cane Day, and Braille Day. The partnership also provided aids such as prescription eyeglasses, wheelchairs, and canes.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not address sexual orientation. It was unknown whether lesbian, gay, bisexual, and transgender (LGBT) persons faced discrimination in employment, housing, access to health care, access to education, or other areas. Homosexual conduct is taboo in society, and is not openly discussed. There were no reports of violence against LGBT persons during the year.

*Other Societal Violence or Discrimination.*—There continued to be media reports that children orphaned by HIV/AIDS, persons with HIV/AIDS, and their immediate families were stigmatized.

The law prohibits discrimination in the workplace on the basis of HIV/AIDS status. In 2006 the parliament amended the labor code to include an HIV/AIDS workplace policy. Each government ministry or department provided subsidized medicine to its employees with HIV/AIDS, and some provided subsidized food. Medicine was available to all HIV-positive citizens at subsidized prices at all government hospitals.

LDF policy states that a soldier found to be HIV-positive after induction is not retired or separated and is provided counseling and testing, and duties were adapted as appropriate.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers have the right to join and form trade unions of their own choosing without prior authorization or excessive bureaucratic requirements. Workers exercised this right in practice, although a very large percentage of the labor force was not unionized. Representatives from three major trade unions all characterized the trade union movement as fledgling and unorganized. Individual trade unions had limited contact with one another despite similar goals. Union leaders suggested that political and leadership differences and a lack of resources had kept unions small and discouraged mergers or expansion.

The apparel industry was the largest employer in the country and accounted for nearly 50 percent of formal employment. There were 45 factories with a total of 45,000 workers, making up about 80 percent of all jobs in the manufacturing sector. The textile sector dominated the country, and most unions were focused on organizing textile workers. Union management estimated that 15,000 of the country's 36,000 textile workers were unionized, and unions alleged that most factory owners in the textile industry remained staunchly opposed to unionization. Both locally and foreign-owned businesses still lacked a full understanding of the labor code's provisions regarding the right to form labor unions. The recently launched Better Work Lesotho program specifically aims to improve both compliance with labor standards and competitiveness in global supply chains. The program, supported by the Ministry of Labor and Employment, factory owners, and labor unions, also aims to increase understanding of labor rights.

The law allows unions to conduct their activities without interference. Union officials said that the Government did not interfere with their ability to organize but complained of an overall lack of government support. All trade unions must register with the Registrar of Trade Unions. The law prohibits civil servants and police from joining or forming unions but allows them to form staff associations for the purpose of collective bargaining and promoting ethical conduct of their members; both police and civil servants have established such associations. According to the Lesotho Public Servants Association (LEPSA), approximately 34 percent of the civil service had joined the association. This low rate of participation made it difficult for them to engage with the Government on worker's rights issues as the Government only recognizes staff associations representing at least 50 percent of all civil servants. LEPSA reported that some civil servants of higher grades intimidated those of lower grades into not joining the civil service staff association. Reportedly, the intimidation included threats of dismissal or transfer for noncompliance.

The law provides for a limited right to strike, but this right was not exercised in practice. In recent years very few strikes were carried out. In the private sector, the labor code requires a series of procedures workers and employers must follow before a strike is authorized. However, civil servants are not allowed to strike, and therefore all public sector strikes are unauthorized.

Under the law, the Public Service Joint Advisory Council ensures due process and to protects civil servants' rights. The council consists of an equal number of members appointed by the minister of public service and members of any association rep-

resenting at least 50 percent of civil servants. The council concludes and enforces collective bargaining agreements, prevents and resolves disputes, and provides machinery for dealing with general grievances. Further, the Public Service Tribunal handles appeals instigated by civil servants or their associations. No association represented at least 50 percent of civil servants; therefore, neither the council nor the tribunal was functioning.

The law does not address retaliation against striking workers but the police were generally present during strikes to prevent violent conduct by any party.

*b. The Right to Organize and Bargain Collectively.*—There are no restrictions on collective bargaining, and unions were allowed to bargain for wages above the minimum wage. However, a majority of employers bargained only with unions that represented at least 50 percent of their staff, and the Labor Commissioner's Office reported that unions were too weak to bargain effectively. Union leaders alleged that the unstable nature of the economy discouraged them from lobbying for increased wages and instead focused on organization and worker protections. Because collective bargaining agreements were rare, achieving job security from factory owners remained difficult. Factory owners kept more than half of their workforce on temporary contracts even if those contracts were renewed annually. Given the job insecurity and reduced benefits of temporary contracts, gaining the 50-plus-one majority required for collective bargaining was effectively impossible. Government approval was not required for collective agreements to be valid.

The law prohibits antiunion discrimination and other employer interference in union functions; however, the Government did not always implement the law. Textile and apparel unions claimed that members were sometimes treated unfairly to compel them to leave. Unions complained that the Labor Court and Labor Inspectorate were inefficient, onerous, and bureaucratic. Workers claimed they were dismissed for union involvement, but Ministry of Labor investigations often revealed they were dismissed on other grounds. Unions reported that the country's labor inspectors were usually intimidated by factory owners and unable to enforce union rights. According to the International Trade Union Confederation's 2010 Annual Survey of Violations of Trade Union Rights in Lesotho, many employers stopped union organizers from entering factory premises to organize workers or represent them in disputes. In some cases employers intimidated union organizers and members, threatening the latter with dismissal.

There are no export processing zones in the country. However, certain industries, such as textile and apparel manufacturing, enjoyed similar benefits.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forms of forced or compulsory labor; however, there were reports that such practices occurred. The country was a source and transit point for women and children subjected to trafficking in persons, specifically conditions of forced labor and forced prostitution, and for men in forced labor. Women and children in the country were subjected to involuntary domestic servitude and children, to a lesser extent, to commercial sexual exploitation. Children who have lost at least one parent to HIV/AIDS were more vulnerable to traffickers' manipulations; older children trying to feed their siblings were most likely to be lured by a trafficker's fraudulent job offer. Forced labor for domestic work, crop farming, and herding animals were reported from remote private homes, small farms, and herding outposts, respectively. Each location was outside the scope of the labor code and all but impossible to inspect.

According to Lesotho Save the Children, children often worked as herd boys, street vendors, car washers, and domestic servants. The organization reported parents were often the ones forcing children to work.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the formal sector, and the Government generally enforced these laws; however, such laws did not apply in the informal sector, where child labor was a problem.

According to the Labor Inspectorate, the labor code contains prohibitions against the employment of children and young persons in commercial, industrial, or other nonfamily enterprises involving hazardous or dangerous working conditions. The legal minimum age for employment in commercial or industrial enterprises is 15 years, or 18 years for hazardous employment. Hazardous work included mining and quarrying, carrying of heavy loads, manufacturing where chemicals were produced or used, working in places where machines were used, herding, producing or distributing tobacco, and working in places such as bars, hotels, and places of entertainment where a person could be exposed to immoral behavior. The law protects children from night work. Any employer who breaches these provisions is liable to a

fine not exceeding 20,000 maloti (\$2,857) or imprisonment for a period not exceeding 20 months or both. Employers with second or subsequent convictions are liable to imprisonment for a minimum period of two years without the option of a fine. The Ministry of Labor reported no trials or convictions during the year.

Although child labor is prohibited, the high unemployment rate, increasing levels of poverty, and high prevalence of HIV/AIDS (23 percent) resulted in children working to support themselves and their families. The Bureau of Statistics (BOS) estimated unemployment at 22.7 percent. The majority of trade unions, however, estimated unemployment to be between 40 and 50 percent. They attributed it to jobs lost in the textile and garments sector, the largest formal employer after the Government.

The BOS stated that 3 percent of children ages 6-14 years participated in economic activities; this statistic did not include children aiding their families or others without compensation. UNICEF estimated 23 percent of children between 5 and 14 were working. Two of every three of these children were engaged in subsistence farming, while the rest were engaged mainly in private households. Child labor was higher among boys (86.6 percent of child workers) than girls (13.4 percent). This was true for all economic activities considered. Herd boys were sometimes attacked by armed stock thieves, caught in fights over ownership of animals, and subjected to harsh weather conditions. In traditional rural society, these rigorous and occasionally dangerous working conditions were considered a prerequisite to manhood, essential to the livelihood of families, and beyond the reach of labor laws.

According to 2000 and 2004 reports produced by the Ministry of Labor in collaboration with UNICEF and other partners, the worst forms of child labor included herding, street work and domestic work. Most jobs performed by children were often gender specific: boys were livestock herders, carried packages for shoppers, washed cars, and collected fares for minibus taxis; girls were domestic servants; and both boys and girls worked as street vendors.

The labor survey indicates that children working in the streets typically start at the age of 12. The most common work they do is selling fruits and vegetables. Children worked more than eight hours a day, which is the maximum stipulated in the law for an adult. They also worked without breaks six or seven days a week. Domestic workers also started as young as 12 years.

The Ministry of Labor, in collaboration with the police CGPU, is responsible for investigating cases of working children. Child labor inspections are conducted as part of general labor inspections. Approximately 1,000 labor inspections were completed during the year. No child labor cases have been reported, and hence no prosecutions, convictions, or penalties have been imposed. Scarcity of resources hindered labor inspections; the labor commissioner noted the difficulty of tracking child labor because the Government had no child-labor-specific strategy or program.

The commissioner indicated that the Ministry of Labor, the CGPU, and the Ministry of Gender and Youth, Sports, and Recreation generally disseminated information on prevention of child labor as part of their other programs, but did no child-labor-specific outreach.

*e. Acceptable Conditions of Work.*—There is a sector-specific national minimum wage and a general minimum wage. The general minimum monthly wage varies from 878 to 958 maloti (\$125 to \$136). Examples of minimum monthly wages for other job categories include textile workers, 778 maloti (\$111); construction workers, 1,040 maloti (\$148); security guards, 1,181 maloti (\$168); food service workers, 1,110 maloti (\$158); and domestic workers, 339 maloti (\$48).

Minimum wages are updated every October 1 through the amended labor code minimum wage schedule. The national minimum wage does not provide a decent standard of living for a worker and family. Trade unions continue to engage the Government on the matter. Since the Wage Advisory Board started negotiations in July, there were deep divisions between the Factory Workers Union (FAWU) and Lesotho Congress of Apparel Workers Union (LECAWU), the two main textile and garments trade unions; both of which are part of the board. FAWU proposed the board increase the minimum wage for a textile worker to 1,300 maloti (\$185), while LECAWU proposed an increase to 816 maloti (\$116). FAWU believed that LECAWU's proposal does not provide a minimum "living wage, but rather a poor minimum wage," and accused the Wage Advisory Board of serving the interests of employers and not workers.

The Ministry of Labor is responsible for enforcing the minimum wage. However, budget resources impacted the enforcement of the law; in practice, businesses operating in the formal sector, including the apparel industry, were subject to more enforcement than businesses operating in the informal sector. The Labor Inspectorate reported that many locally owned businesses did not keep records of employees' salaries to facilitate labor inspections as required by law. Minimum wage provisions

do not cover significant portions of the workforce. The approximately 30,000 Basotho men working in South African mines and workers in agriculture or other informal sectors were not covered by Lesotho's labor laws.

The law stipulates standards for hours of work, including a maximum 45-hour work week, a weekly rest period of at least 24 hours, a daily minimum rest period of one hour, at least 12 days of paid leave per year, paid sick leave, and public holidays.

Required overtime is legal as long as overtime wages are paid for work in excess of the standard 45-hour workweek. The maximum overtime allowed is 11 hours per week; however, there were exemptions under special circumstances. The laws require that the premium pay for overtime be at a rate not less than one and one quarter times the employee's normal wage; any employer who requires excessive compulsory overtime shall liable to a fine not exceeding 600 maloti (\$85) or to imprisonment for a period not exceeding six months or both. Labor laws do not cover the agricultural and other informal sectors, where most workers were employed. The Labor Inspectorate stated that employers did not always observe these standards. According to the labor commissioner, employers in the retail sector were the worst violators. The most common allegations involved ignoring labor regulations for ordinary work hours, overtime, and public holidays.

The law requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner to minimize injury. It also requires a registered health and safety officer that promotes safe conduct. Employers must provide first aid kits, safety equipment, and protective clothing. However, the law does not specify the contents of first aid kits. According to health and safety inspectors in the Ministry of Labor, larger employers generally followed health and safety regulations, but smaller employers failed to appoint or train registered health and safety officers. With the exception of the mining industry, employers' compliance with health and safety regulations was generally low. Inspectors stated that employers in the retail sector were not fully compliant with standards, as they had no registered health or safety officers, complete first aid kits, or protective clothing.

Trade union representatives described textile-sector working conditions as poor or even harsh but not dangerous. Unions said that most textile factories were in prefabricated metal buildings with improper ventilation and air conditioning. Unions stated, however, that conditions were not detrimental to workers' health and could cite few examples of serious safety violations. Third party auditors hired by U.S. and European textile buyers conducted spot checks on most African Growth and Opportunity Act exporting factories, customarily sought union input, and briefed the unions on their findings. Unions believed the third party auditors kept factory owners in line with health and safety regulations.

The labor code empowers the Ministry of Labor to issue regulations on work safety, and the ministry did so. The labor code does not explicitly protect the right of workers to remove themselves from hazardous situations without prejudice to employment; however, sections of the code on safety in the workplace and dismissal imply that such a dismissal would be illegal. The law also provides for a compensation system for industrial injuries and diseases related to employment.

The commissioner of labor is charged with investigating allegations of labor law violations. Labor inspectors generally conducted unannounced inspections of a random sample of workplaces on a weekly basis. Inspections in mountain districts, however, were conducted quarterly.

The Labor Code Amendment Act of 2006 provides for the further development of HIV/AIDS policies in the workplace. The Ministry of Labor's HIV/AIDS Support Group was responsible for the rollout of the code countrywide and the translation of the act into Sesotho. The support group also provided testing and counseling services to employees in the private sector living with HIV/AIDS through funding support from the National Aids Commission. The Apparel Lesotho Alliance to Fight AIDS (ALAFA) described HIV/AIDS as the primary occupational health risk throughout the garment and textile factories. ALAFA reported that 43 percent of textile workers were infected with HIV. A total of 85 percent of textile workers were women. ALAFA characterized its success in combating HIV to a partnership between the ministries of health, trade, labor, and industry, donors, international companies, employees, and employers. In addition to space for exams, employers provided time off to see doctors, receive counseling, and participate in educational and antistigma programs. As a result, ALAFA raised HIV awareness with 90 percent of textile workers and also provided testing and treatment, reduced stigma, and dramatically reduced mother to child transmission.

Working conditions for foreign or migrant workers were similar to those of residents.

The Government supported the implementation of Better Work Lesotho, implemented by the International Labor Organization and the International Finance Corporation, in cooperation with the factories, unions, and Ministry of Labor. The Better Work program is designed to help apparel factories in the country compete in global markets, where many buyers demand compliance with international core labor standards.

---

## LIBERIA

Liberia is a constitutional republic with a population of approximately 3.5 million. In 2005 Ellen Johnson Sirleaf won multiparty presidential elections, which domestic and international observers considered generally free and fair. Since the 2003 signing of the Comprehensive Peace Agreement, which ended the 1989-2003 civil war, the UN Mission in Liberia (UNMIL) peacekeepers and the UN international police (UNPOL) have had primary responsibility for maintaining security. Efforts to train personnel for the Liberia National Police (LNP) and Armed Forces of Liberia (AFL) continued. While security forces reported to civilian authority, there were instances in which elements of the security forces acted independently.

Human rights abuses included one report of mob killing; reports of ritualistic killings; reported incidents of trial by ordeal; police abuse, harassment, and intimidation of detainees and others; harsh prison conditions; arbitrary arrest and detention; judicial inefficiency and corruption; lengthy pretrial detention and denial of due process; official corruption and impunity; violence against women, including rape, and widespread domestic violence; female genital mutilation (FGM); child abuse and sexual violence against children; human trafficking; continued racial and ethnic discrimination; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on February 27, an LNP officer shot and killed a man reportedly over a personal dispute. The killing led to mob violence in which a crowd doused the LNP officer with a flammable liquid and set him on fire. The officer died of his injuries. An AFL soldier not involved in the dispute but at the scene was also injured and died on March 10. Seven persons were charged with murder and were on trial at year's end.

In April three AFL soldiers were accused of killing two civilians. The case was dismissed due to lack of evidence, and the soldiers returned to their unit.

In June eight security officers of the Liberian Agricultural Company were acquitted of the July 2009 beating to death of a man in Grand Bassa County.

There were reports of ritualistic killings in which body parts used in indigenous rituals were removed from the victim. The total number of such killings was difficult to ascertain since police sometimes described such deaths as homicides, accidents, or suicides, even when body parts were removed. Protests against such killings occurred and sometimes resulted in riots, injuries, and deaths.

In March police arrested 18 suspects in connection with the November 2009 suspected ritualistic killing of a pregnant woman discovered in Harper. To lead the investigation, local authorities hired a "witch doctor" who identified the suspects, including prominent county citizens. The minister of justice intervened to bring the investigation into the formal judicial system; nine of the suspects were awaiting trial at year's end.

There were no developments in the July 2009 case of a high school girl in Maryland County found dead with body parts missing.

There was one reported incidence of mob violence during the year. In April a mob beat to death two men allegedly involved in an armed robbery in Paynesville.

On February 26, the body of a missing Christian girl was found at or near a mosque in Lofa County, which led to the belief that the perpetrator was Muslim. Subsequent riots between members of the predominantly Christian Lorma and Muslim Mandingo ethnic groups resulted in four deaths and 18 injuries. Eight persons were arrested in connection with the riots and were awaiting trial at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, but there were reports that police officers and other security officials employed them. Police sometimes abused, harassed, and intimidated persons, particularly during attempts to extort money on the streets.

Cases of reported police brutality were referred to the attention of police commanders. The Professional Standards Division was responsible for investigating allegations of police misconduct and referring cases for prosecution. In June the LNP began conducting performance appraisals to foster professional development among officers and to identify areas for improvement.

On March 3, LNP officers beat a foreign citizen who was photographing police conducting a search. The police also confiscated her camera and took her to LNP headquarters where she was beaten again but never arrested. The inspector general of police and diplomatic representatives intervened, and the LNP returned her camera and apologized.

In May Representative George W. Blamoh allegedly beat an LNP officer who attempted to impound his vehicle for improper parking and traffic violations. An investigation was completed and submitted to the Ministry of Justice, and Blamoh was awaiting trial at year's end.

On July 10, Deputy Speaker of the House Togbah Mulbah allegedly ordered the beating of LNP officer Lexington Beh for impounding a truck belonging to the lawmaker. The incident became politicized when partisans from the lawmaker's political party, the Congress for Democratic Change, surrounded Mulbah's residence the next day as police attempted to arrest him. Upon further investigation, an 11-count indictment was issued in July, and Mulbah was awaiting trial at year's end.

Despite being illegal, the practice of trial-by-ordeal, which involves actions such as the placement of a heated metal object on a suspect's body or the insertion of an extremity into hot oil to determine whether the defendant is telling the truth, continued in rural areas. In April the Government conducted a national conference focusing on efforts to harmonize the traditional and formal justice systems.

Mob violence and vigilantism—which resulted in part from the public's lack of confidence in the police and judicial system—resulted in deaths and injuries.

*Prison and Detention Center Conditions.*—Inadequate provisions for food, sanitation, ventilation, temperature, lighting, basic and emergency medical care, and access to potable water contributed to harsh and in some cases life-threatening conditions in the country's 15 prisons and detention centers. While the Government provided some food, many prisoners supplemented their daily meals by purchasing additional food at the prison or receiving food from visitors. With the support of the International Committee of the Red Cross (ICRC), the Bureau of Corrections undertook rehabilitation activities to improve access to clean water and sanitation facilities at Monrovia Central Prison, the Zwedru Correctional Palace, and the Robertsport and Voinjama facilities.

The UN and nongovernmental organizations (NGOs) continued to provide medical services and improve basic sanitary conditions. The ICRC also conducted an assessment on access to medical care in all 15 prisons and detention facilities.

The county prison in Voinjama, Lofa County, remained in a state of disrepair following the prison break which occurred during the February 26 violence.

According to statistics from the Bureau of Corrections, half the country's 1,524 prisoners were held at Monrovia Central Prison, which operated at more than twice its capacity due to the large number of pretrial detainees. The total prison population included 31 women and 69 juveniles. Prisons remained understaffed. Men and women were held in separate cells in larger facilities, however they were held together in some counties or cities that had only one prison cell. In many counties juveniles and adults were held together, and pretrial detainees were generally held with convicted prisoners. During the year some counties without adequate prison facilities transferred their prisoners to Monrovia.

Regular visitation hours and religious observances were generally respected. Officials from the Human Rights Division of the Ministry of Justice and Bureau of Corrections visited prisons to monitor conditions during the year. Internal reports and investigations into inhumane conditions were not publicly accessible.

The Government permitted the independent monitoring of prison conditions by local human rights groups, international NGOs, the UN, and the media. Some human rights groups, including national and international organizations, made regular visits to detainees held in police headquarters and to prisoners in Monrovia Central Prison. The ICRC visited all of the 15 prisons and detention centers in the country and ICRC visits were in accordance with standard modalities.

No ombudsman system was in place to serve on behalf of prisoners and detainees.

During the year the Government and international partners continued renovations at several county prisons. In July UNMIL, in collaboration with the Ministry of Justice, completed construction of a modern prison in Sanniquellie.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention; however, the Government did not always observe these prohibitions.

*Role of the Police and Security Apparatus.*—The Ministry of Justice has responsibility for enforcing laws, maintaining order within the country, and overseeing the LNP and the National Bureau of Investigation. An estimated 8,100 UNMIL peacekeepers and 1,300 UNPOL officers had primary responsibility for maintaining security. Approximately 460 UNPOL officers and 845 officers in the UN Formed Police Units (armed foreign police detachments assigned to UNMIL) assisted with monitoring, advising, and training the LNP. During the year 293 LNP officers were recruited, screened, trained, and deployed, primarily to Monrovia. As a result, a total of 4,039 LNP officers were in country by year's end, with 1,233 deployed outside of Monrovia and Montserrado County.

The LNP operated independently and retained arrest authority; however, the Special Security Service, which is responsible for the security of the president and other senior government officials, UNPOL, and armed UN Formed Police Units, accompanied LNP officers in joint patrols around Monrovia. There were 45 LNP Women's and Children's Protection Section (WCPS) offices with 21 of them outside of Montserrado County.

Officers of the Police Support Unit received additional training in weapons and crowd and riot control. At the end of the year 150 new officers were in training to join the 148-member unit.

Members of the Emergency Response Unit (ERU), which was established in 2008, received specialized training and were armed, unlike most LNP patrol officers. The ERU was charged with conducting special police operations in antiterrorism, hostage rescue, internal security, tactical anticrime, and search and rescue situations. The ERU increased its membership from 288 officers at the end of 2009 to 331 by year's end.

In October the LNP created an inspectorate responsible for ensuring all officers received training in revised standards of procedure, duty manuals, and policies.

The Liberian Coast Guard was commissioned in February and is responsible for enforcement of the country's maritime laws. The guard consisted of 50 members by year's end.

LNP officers were poorly equipped, ineffective, and slow to respond to criminal activity, although the police foot patrol program showed signs of improvement in strategic areas. LNP salaries were generally paid on time, but were low, contributing to widespread corruption. Police had limited transportation, logistics, communication, and forensic capabilities, and did not have the capacity to investigate adequately many crimes, including murders. Due to the lack of a crime lab and other investigative tools, prosecutors blamed losing cases in court on inadequate police investigation and evidence gathering.

*Arrest Procedures and Treatment While in Detention.*—The constitution requires warrants to make arrests and provides that detainees either be charged or released within 48 hours; however, arrests were often made without warrants, or warrants were sometimes issued without sufficient evidence, and detainees, particularly those without the means to hire a lawyer, often were held for more than 48 hours without charge. Detainees generally were informed of the charges against them upon arrest. Detainees have the right to prompt determination of the legality of their arrest, but in practice, this did not always occur. The law provides for bail for all offenses except rape, murder, armed robbery, and treason. Detainees have the right to prompt access to counsel, visits from family members, and if indigent, to an attorney provided by the state, but the Government did not always observe such rights.

Although the law provides for the right of a defendant to receive an expeditious trial, lengthy pretrial and prearrest detention remained serious problems. An estimated 85 percent of prisoners were pretrial detainees, 858 of whom were released during the year as a result of actions by the Fast Track Court to reduce prison overcrowding. Beginning in February the Ministry of Justice's notifications to the court of its intention not to prosecute in cases lacking sufficient evidence also resulted in the release of detainees.

However, with the incarceration of new detainees, prisons remained overcrowded. In some cases the length of pretrial detention exceeded the maximum length of sentence that could be imposed for the alleged crime. Judicial inefficiency, corruption, and the lack of transport, court facilities, attorneys, and qualified judges caused trial delays.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judicial system was corrupt and functioned slowly (see section 4). Judges were subject to political, social, familial, and financial pressures. Uneven application of the law and the unequal distribution of personnel and resources remained problems throughout the judicial system. Some judges were unable to hold court due to lack of security, supplies, equipment, or a courthouse. The

Professional Magistrates Training Program began in March to train university graduates for entry into magisterial courts throughout the country to improve judicial efficiency and access, particularly in the counties.

*Trial Procedures.*—Trials are public, and juries are used in circuit-court trials but not at the magistrate level. Under the constitution defendants have the right to be present, to consult with an attorney in a timely manner, and to have access to government-held evidence relevant to their case; however, these rights were not always observed. Defendants enjoy a presumption of innocence and have the right to an attorney, to confront or question witnesses against them, present evidence and witnesses on their behalf, and to appeal adverse decisions, but many of these protections were not available to defendants who could not pay bribes or afford an attorney. Some local NGOs continued to provide legal services to indigents and others who had no representation. There continued to be long delays in deciding cases.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent civil law court in Monrovia, but circuit courts in each county function as both criminal and civil courts. Specialty courts, such as the tax court, probate court, and labor court, also address civil matters. NGOs and the Government continued to establish mediation centers to reduce court caseloads. There is no specialized court to address lawsuits seeking damages for human rights violations. As with criminal courts, specialized courts were inefficient and corrupt. On September 16, legislation was passed to establish a commercial court with jurisdiction over debts incurred from commercial transactions.

*Property Restitution.*—Violence arising from land disputes decreased during the year. The Land Commission, established in August 2009, worked to resolve disputes and to harmonize traditional and formal land ownership laws. On July 26, President Sirleaf declared that the Government will exercise the right of eminent domain over disputed land in Ganta, Nimba County, after failed efforts to implement a 2007 ruling that the disputed land occupied by Gio and Mano persons should revert to the original Mandingo owners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals could generally criticize the Government publicly or privately without reprisal; however, in August the senate summoned the leaders of three civil society organizations, the Center for Democratic Empowerment, the Liberia Democracy Watch, and the Institute for Democracy and Development, for referring to the legislature's decision on the electoral threshold bill as "mentally impoverished" and "mischievous." The senate ordered the organizations to issue a letter of apology published in at least 10 newspapers and read on local radio stations for five consecutive days. The leaders were summoned once again to appear on August 26 after the apologies were not issued as directed. Although the leaders were once again ordered to issue the apologies as mandated within 48 hours or face arrest, the senate accepted the organizations' efforts to publish the apology in some of the newspapers, and no further action was taken.

The media could generally criticize the Government publicly or privately without reprisal. However, the Government did seek redress for alleged libel in the courts.

The Supreme Court directed Rodney Sieh, editor of the newspaper *Front Page Africa*, to appear before the court on November 1 to explain an article the newspaper published that the court contended was inaccurate. The case was pending at year's end.

On December 8, the senate leadership committee ordered Darius Dillon, the chief of staff to a senator, to retract derogatory statements made earlier against a senior senator from the ruling Unity Party within 72 hours or face further disciplinary action. Dillon defied the order, and the committee suspended him for 90 days without pay.

The December 2009 case, involving charges against the publisher and printer of *The Plain Truth* newspaper for sedition and libel of the president, was dropped since it exceeded the statutory period of two terms of court without being resolved.

In December 2009, the Ministry of Information allowed the *New Broom* newspaper to resume publishing following its August 2009 closure for failing to register properly. However, on November 2, the *New Broom* was ordered to pay \$5 million

for damages in the September 2009 libel case filed by President Sirleaf. The newspaper had reported that she had accepted a bribe of 143 million Liberian dollars (\$2.91 million). The New Broom was absent during the proceedings and was ordered closed until payment of damages was received; it remained closed at year's end.

The independent media were active and expressed a wide variety of views without restriction; however, journalists commonly accepted payments to publish articles, and did not always fact check their sources.

In Monrovia there were approximately a dozen newspapers that published during the year with varying degrees of regularity; six were independent dailies, and five were independent biweekly newspapers. The Government published the New Liberian newspaper. Due to the price of newspapers and transportation, the 55-75 percent illiteracy rate, and road conditions, newspaper distribution was limited to Monrovia.

Radio remained the primary means of mass communication, and stations operated without government restrictions.

During the year the radio journalist who alleged in May 2009 that the senate president pro tempore struck him did not press charges, and no action was taken.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Due to high cost, high illiteracy, and lack of infrastructure, less than 1 percent of the country's inhabitants used the Internet, according to International Telecommunication Union statistics for 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for the right of peaceful assembly, and the Government generally respected it in practice. However, on August 18, LNP officers forcibly dispersed and arrested seven residents of the Ducor Hotel area who were marching to the Capitol Building to petition lawmakers regarding a government eviction order. Those arrested were released, and no further action was taken.

There were no further developments in the March 2009 destruction of property case involving several demonstrators in Gbarnga.

*Freedom of Association.*—The constitution provides for the right of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. However, LNP and Bureau of Immigration officers occasionally subjected travelers to arbitrary searches and petty extortion at checkpoints.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government had an established system for providing protection to refugees and granted refugee status and asylum during the year. In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 refugee convention or its 1967 protocol. The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

Due to fears arising from the contested presidential run-off elections in Cote d'Ivoire, Ivoirian refugees began entering the country on November 29. At year's end, the UNHCR had registered 20,804 new Ivoirian refugees, many of whom had ethnic or economic ties to Liberians and were absorbed by local communities along the border.

During the year the UNHCR assisted in the voluntary repatriation of 1,278 Liberian refugees from other West African countries.

The Land Commission's review of land disputes between returning landowners and internally displaced persons who took over their land during the civil war and its review of disputes between villages trying to accommodate returning refugees resulted in decreased violence during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through free and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2005 Ellen Johnson Sirleaf won the national presidential elections with 59.4 percent of the vote in a runoff election; voters also selected 30 senators and 64 representatives.

The state is highly centralized, and the head of state appoints county superintendents. Local governments had no independent revenue base and relied entirely on the central government for funds. As a result there were very limited government services outside of Monrovia. Local officials were provided funds through the County Development Fund, but in some cases these funds were allegedly misused by county government officials.

In August the National Elections Commission publicized its schedule for the conduct of national elections scheduled for October 2011. Registration of political parties and independent candidates took place during the year, and by year's end there were approximately 20 registered parties.

There were five female ministers and eight female deputy ministers. There were five women in the 30-seat Senate and nine women in the 64-seat House of Representatives. There were two female associate justices on the five-seat Supreme Court. Women constituted 33 percent of local government officials and 31 percent of senior and junior ministers.

Muslims occupied senior government positions, including one minister, one deputy minister, three senators, six representatives, one Supreme Court justice, and one county superintendent.

*Section 4. Official Corruption and Government Transparency*

The law does not provide criminal penalties for corruption, which remained systemic throughout the Government, although criminal penalties do exist for economic sabotage, mismanagement of funds and other corruption-related acts. Official corruption and the sense of a culture of impunity were exacerbated by low pay levels for the civil service, lack of job training, and a lack of court convictions. The Government dismissed officials for alleged corruption and recommended others for prosecution. The Liberian Anti-Corruption Commission (LACC) and the Ministry of Justice are responsible for exposing and combating official corruption. The LACC is empowered to prosecute any case that the Ministry of Justice declines to prosecute; however, the Ministry had not declined to prosecute any such cases during the year.

The LACC, which had a minimal budget and insufficient staff, investigated eight cases and recommended four for prosecution. Included in the recommendations were former Inspector General of Police Beatrice Munah Sieh for irregularities in the appropriation of uniforms and two Ministry of Finance officials for their alleged roles in misappropriating civil service salary checks. The LACC reported 21 additional corruption cases were pending investigation by year's end.

Former Liberia Telecommunications Authority chair Albert Bropleh was acquitted on a technicality for alleged misuse of \$71,022; however, the case was under review by the Supreme Court at year's end.

Judges were susceptible to bribes from damages that they awarded in civil cases. Judges sometimes requested bribes to try cases, release detainees from prison, or find defendants not guilty in criminal cases. Defense attorneys and prosecutors sometimes suggested that defendants pay a gratuity to appease judges, prosecutors, jurors, and police officers or to secure favorable rulings from them. Jurors were also susceptible to bribes, and the Ministry of Justice increased its calls to reform the jury system.

Despite her strong emphasis on decentralization, President Sirleaf froze County Development Funds pending ongoing audits due to evidence of frequent misuse; such funding was intended to support local projects to reduce poverty. The move to recentralize administration of local development projects was widely seen as a result of inadequate local management, which often funneled development funds to support political interests of legislators rather than to reduce poverty.

The Government dismissed or suspended a number of officials for corruption. For example, in April the comptroller for the Ministry of Foreign Affairs and a senior

financial officer were dismissed for allegedly stealing \$4,500 intended for the country's embassy in Nigeria.

In May the Bureau of Immigration and Naturalization recommended six officers for prosecution for collusion in the escape of six Bangladeshi detainees. The case was pending investigation at year's end.

In June the National Security Agency arrested three Ministry of Finance officials for soliciting bribes of \$10,000 each from the Cocopa Rubber Plantation Company. The case was pending investigation at year's end.

On September 24, the Government dropped the 2007 economic sabotage case against former National Transitional Government of Liberia chair Charles Gyude Bryant due to a lack of evidence.

On October 12, President Sirleaf recommended senior officials for dismissal and referred others for further investigation for their involvement in the Carbon Harvesting Corporation deal, a carbon-credit agreement containing irregularities that would have resulted in significant loss of government revenue.

The investigation of the former assistant superintendent for development in Grand Cape Mount County was pending at year's end following his October 2009 dismissal for involvement in the disappearance of approximately \$90,000 from the Grand Cape Mount County Development Fund.

The March 2009 case against the former minister of information Lawrence Bropleh was dismissed with prejudice on December 7. The dismissal cited the prosecution's alleged failure to appear in court; however, the Ministry of Justice contested the judge's claim. A writ of prohibition to undo the judge's decision was before the Supreme Court at year's end.

Police corruption was a problem. During the year the LNP investigated reports of police misconduct or corruption, and authorities suspended or dismissed several LNP officers. For example, in August an LNP officer was charged with property theft and was awaiting trial at the end of the year.

In June a senior LNP official was accused of assaulting an individual over a personal misunderstanding. The official was suspended and ordered to pay restitution; however, no restitution was made and he remained suspended by the end of the year.

On October 9, the LNP director announced the implementation of complaint forms to be submitted by the public to report incidents of bribery or unethical practices.

In November an LNP officer was arrested for allegedly permitting his acquaintances to use his police uniform to commit acts of armed robbery. He was released and returned to duty due to a lack of evidence.

There were no developments in the September 2009 case of the former Monrovia chief of patrol indicted for looting the house of a private prosecutor.

During the year the Government continued to take steps to improve transparency.

The General Audit Commission continued its ministerial audits and referred findings to the legislature. However, the legislature did not recommend any cases to the Ministry of Justice for prosecution.

The Ministry of Finance published the national budget and quarterly financial results, and state-owned enterprises published financial statements. Periodic, short-term advisors continued to support the Ministry of Finance and other government entities during the year. Advisers helped improve financial management, purchasing, and contracting practices, and instituted financial controls that increased government revenues and helped to curb corrupt practices. However, government ministries and agencies did not always adhere to public procurement regulations, particularly with natural resource concessions. The Government made strides in adhering to the principles of the Liberia Extractive Industries Transparency Initiative.

The act establishing the LACC empowers it to create laws and regulations to combat official corruption. One such law requires public officials to disclose publicly their finances. By the end of the year, 79 officials had complied, bringing the total number since 2008 to 197 officials.

On September 2, the legislature passed the Freedom of Information Act, which provides that the Government should release government information not involving national security or military issues upon citizens' requests.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

In September the legislature confirmed the seven commissioners to the Government's Independent National Commission on Human Rights (INCHR).

There were no developments in a Ministry of Justice investigation into the April 2009 allegation of police abuse of an NGO official.

The case against former president Charles Taylor, whom the Government in 2006 transferred to the Special Court for Sierra Leone in The Hague to face war crimes charges, was ongoing at year's end.

The Truth and Reconciliation Commission (TRC) closed its office in July.

President Sirleaf submitted two of four quarterly reports mandated by the TRC Act on the Government's progress in implementing TRC recommendations. In the first report submitted in March, the president explained she was seeking the advice of the Ministry of Justice and the Law Reform Commission regarding the report's recommendations for prosecution.

The second report, due in June, was submitted to the legislature on August 30. The delay was attributed to the convening of a presidentially organized civil society task force charged with formulating a road map on how to respond to and implement the TRC's recommendations. The task force advised the president that, considering the legal, political, and security implications of the TRC's recommendations, which included the president for public sanction, implementation should not be the exclusive responsibility of the executive as the TRC act requires. The legislature delayed discussion of the report until it reconvenes in 2011.

On November 30, Richelieu "Archie" Williams, the Director General of the Liberia Civil Aviation Authority, filed a petition against the minister of justice and the INCHR chair to nullify the TRC report's recommended list of individuals to be publicly sanctioned. Williams, who appears on the list, argued the imposition of the 30-year ban would deny him due process and was therefore unconstitutional. The case was pending at year's end.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on ethnic background, sex, creed, place of origin, disability, ethnic origin, or political opinion; however, the Government did not enforce these provisions effectively.

The constitution, however, enshrines discrimination on the basis of race, and only persons who are "Negroes" or of "Negro descent" can become citizens or own land. Differences stemming from the country's civil war continued to contribute to social and political tensions among ethnic groups.

*Women.*—Rape continued to be a widespread problem. The 2006 rape law legally defined rape; however, the Government did not always effectively enforce the law. The Government worked during the year to sensitize women and men on the prevention, treatment, and prosecution of rape. The Government and NGOs attributed increased reporting of rape due to an improved understanding of what constitutes rape. The Sexual Pathways Referral program, a combined effort of the Government and NGOs, improved access to medical, psychosocial, legal, and counseling assistance for victims. The maximum sentence for first-degree rape is life imprisonment and 10 years for second-degree rape, although presiding judges had discretion to sentence less than the maximum. Accused first-degree rapists were not eligible for bail. The law does not specifically criminalize spousal rape. The WCPS unit of the LNP stated that approximately 277 rape cases were reported to the unit, of which 114 were prosecuted.

As mandated by the 2008 Gender and Sexually-Based Violence Bill, the special court for rape and other violence has exclusive original jurisdiction over cases of sexual assault including abuse of minors in Montserrado County, which includes Monrovia. In the six cases prosecuted during the year, the Government won two convictions. One perpetrator was sentenced to jail for 10 years and the other for 15 years.

In August the Liberia Bar Association called for the removal or revision of the 2006 rape law based on an argument that the provision of making first-degree rape a nonbailable offense was a violation of the rights of the accused.

The Sexual and Gender Based Violence Crimes Unit within the Ministry of Justice continued to coordinate with the special court and collaborate with NGOs to increase sensitization of sexual and gender based violence issues.

Outside of Montserrado County, the stigma of rape contributed to the pervasiveness of out-of-court settlements and obstructed prosecution of cases. Inefficiency in the justice system also prohibited timely prosecution of cases, although local NGOs pushed for prosecution and sometimes provided lawyers to indigent victims. The Government raised awareness of the issue of rape through billboards, radio broadcasts, and other publicity campaigns.

The law prohibits domestic violence; however, it remained a widespread problem. The maximum penalty for domestic violence is six months' imprisonment, but the Government did not enforce the law effectively, and cases, if reported, were generally treated as either simple or aggravated assault. The Government and the

media made some efforts to publicize the problem, and several NGOs continued programs to treat abused women and girls, and to increase awareness of their rights. LNP officers received training on sexual offenses as part of their initial training. In September the Gender Based Violence Secretariat began a review of the national action plan for domestic violence.

During the year the Ministry of Gender and Development organized workshops and seminars to combat domestic violence.

The law does not prohibit sexual harassment, and it was a major problem, including in schools and places of work. Government billboards warned against harassment in the workplace.

There are no laws restricting couples and individuals from deciding freely and responsibly the number, spacing, and timing of their children; however, information and assistance on family planning topics relevant to these issues was difficult to obtain, particularly in rural areas, where there were few health clinics. In Bong County, for example, women had to walk from one to four hours to reach a clinic, while in River Cess and Grand Kru counties, the walk could take one or two days. In Bong County 86 percent of women surveyed reported knowing about contraception, although only 35 percent reported using it, and only 20 percent had requested information or treatment about sexually transmitted diseases.

There was no indication of discrimination between men and women in diagnosis or treatment of sexually transmitted infections, including HIV. The maternal mortality rate was 994 deaths per 100,000 live births.

Women have not recovered from the setbacks caused by the war, when almost all schools were closed, and they were prevented from maintaining their traditional roles in the production, allocation, and sale of food. Thousands of women remained displaced, preventing them from pursuing livelihoods or education.

Women and men enjoy the same legal status. Women can inherit land and property, receive equal pay for equal work, and were allowed to own and manage businesses.

While women experienced some economic discrimination based on historic traditions, the Government worked to promote women in the economic sector through programs and NGO partnerships to conduct workshops and micro-credit lending programs. A number of businesses were female-owned or operated.

The Government prohibits polygyny; however, traditional laws permit men to have more than one wife. No specific office exists to ensure the legal rights of women, but the Ministry of Gender and Development was generally responsible for promoting women's rights.

*Children.*—Citizenship can be derived through parentage if at least one parent is a Liberian citizen or by birth in the country if the child is of "African" descent. If a child born in the country is not of African descent, the child cannot acquire citizenship. As a result, non-African residents, such as members of the large Lebanese community, cannot acquire or transmit citizenship. The law requires parents to register their infants within 14 days of birth; however, fewer than 5 percent of births were registered. In July the Government successfully launched a new birth registration and certification program focused on six counties.

While primary education is compulsory and tuition-free, many schools still charged informal fees to pay unpaid teachers and to cover operating costs that prevented many students from attending. Fees continued for secondary school, and the Government was unable to provide for the needs of the majority of children. In both public and private schools, families of children were required to provide their own uniforms, books, pencils, paper, and even desks.

Widespread child abuse continued, and reports of sexual violence against children increased during the year. According to an August 11 UNMIL report, 70 percent of rape victims during the preceding six months were under the age of 16. Civil society organizations reported increased incidence of rape of girls under 12, and there were 53 reported cases of child endangerment during the year.

FGM was common and traditionally performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. The most extreme form of FGM, infibulation, was not practiced. The law does not specifically prohibit FGM. Traditional institutions, such as the secret Sande Society, often performed FGM as an initiation rite, making it difficult to ascertain the number of cases. To combat harmful traditional practices like FGM, the Government trained community leaders and women's groups during the year and provided training in alternative income generating skills to FGM practitioners.

Young women and girls engaged in prostitution for money, food, and school fees. The minimum age for consensual sex is 18, and 46 out of 95 reported cases of statutory rape were brought to court in the year. Statutory rape is a first-degree rape offense and the maximum sentence for perpetrators is life imprisonment. Child por-

nography is also prohibited by law, with a penalty of up to five years imprisonment for violators.

Despite international and government attempts to reunite children separated from their families during the civil war, there were still children who lived on the streets in Monrovia. It was difficult to tell who were street children, former combatants, or internally displaced persons. Nearly all children over 10 had witnessed atrocities during the 14-year civil war, and some children had committed atrocities.

Regulation of orphanages continued to be very weak. Many unofficial orphanages also served as transit points or informal group homes for children, some of whom had living parents who had given up their children for possible adoption. Orphanages had difficulty providing basic sanitation, adequate medical care, and appropriate diet. They relied primarily on private donations and support from international organizations, such as the UN Children's Fund and the World Food Program, which provided food and care throughout the year. Many orphans lived outside these institutions. In September, 19 children were reportedly starving due to having only one meal per day in an orphanage in Maryland County. The Government closed the facility and it remained closed at year's end.

Liberia is not a party of the 1980 Hague Convention on the Civil Aspects of International Child Abduction. To address issues of child adoption and international child abduction, the moratorium on child adoption imposed by the Government in January 2009 continued during the year. For information on international parental child abduction, please see the Department of State's annual Report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no significant Jewish community in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*Persons With Disabilities.*—Although it is illegal to discriminate against persons with physical and mental disabilities, such persons did not enjoy equal access to government services. No laws mandate access to public buildings. Streets, schools, public buildings, and other facilities were generally in poor condition and inaccessible to persons with disabilities. Many citizens had permanent disabilities as a result of the civil war. Persons with disabilities faced societal discrimination, particularly in rural areas.

The National Commission on Disabilities and the Ministry of Health and Social Welfare were responsible for protecting the rights of persons with disabilities; however, they did not do so effectively. During the year the commission and ministry conducted a series of sensitization programs about persons with disabilities. NGOs provided some services to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Although the law prohibits ethnic discrimination, racial discrimination is enshrined in the constitution, which provides that only "persons who are Negroes or of Negro descent" may be citizens or own land. Many persons of Lebanese and Asian descent who were born or lived most of their lives in the country were denied citizenship and property rights as a result of this discrimination.

The country has 16 indigenous ethnic groups; each speaks a distinct primary language and was concentrated regionally. Differences involving ethnic groups continued to contribute to social and political tensions.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits sodomy, and the culture is strongly opposed to homosexuality. "Voluntary sodomy" is a misdemeanor with a penalty of up to one year's imprisonment; however, no convictions under the law occurred in recent years. There were no reported instances of violence based on sexual orientation. There were no lesbian, gay, bisexual, or transgender organizations in the country.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form or join freely independent unions of their choice without prior authorization or excessive requirements. The law also provides workers, except members of the military, police, and civil service, the right to associate in trade unions, and workers exercised this right in practice. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law prohibits unions from

engaging in partisan political activity. Workers, except members of the civil service, have the right to strike. Union power increased during the year through increased membership at major plantations; however, the country's largely illiterate workforce engaged in few economic activities beyond the subsistence level.

The law does not prohibit retaliation against strikers. However, the requirement to notify the Ministry of Labor of the intent to strike, and the ministry's resulting involvement, were thought to mitigate retaliation and there were no such incidents during the year.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law, and these laws were effectively enforced. With the exception of civil servants, all workers have the right to organize and bargain collectively.

The law prohibits antiunion discrimination, and there were no reports of such discrimination during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Families living in the interior sometimes sent young women and children to stay with relatives in Monrovia or other larger cities with the promise that the relatives would assist the women and children in pursuing educational or other opportunities. However, in some instances, these women and children were forced to work as street vendors or domestic servants.

When victims were identified, the WCPS unit of the LNP, along with partnering NGOs, worked to reunite victims with their families in the interior or referred them to safe homes.

Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment and apprenticeship of children under the age of 16 during school hours; however, child labor was widespread in almost every economic sector. The Government did not effectively enforce child labor law, and there were inconsistencies between the minimum employment age and compulsory educational requirements. For example, the minimum age for children to work at sea is 15.

In urban areas children assisted their parents as vendors in markets or hawked goods on the streets. During the year there were reports that children tapped rubber on smaller plantations and private farms. There were also reports that children worked in conditions that were likely to harm their health and safety, such as stone cutting or work that required carrying heavy loads. Some children were engaged in hazardous labor in the alluvial diamond industry and in agriculture.

The Child Labor Commission is responsible for enforcing child labor laws and policies; however, the commission was understaffed and underfunded. The Child Labor Commission coordinated efforts to provide scholarships for children to enroll in school. The Ministry of Labor's Child Labor Secretariat, the Ministry of Justice's Human Rights Division, the Ministry of Gender and Development's Human Rights Division, the Ministry of Health and Social Welfare's Department of Social Welfare, and the LNP's Women and Children Protection Section were also charged with investigating and referring for prosecution allegations of child labor. International NGOs continued to work to eliminate the worst forms of child labor by withdrawing children from hazardous work and putting at-risk children in school. Other local and international NGOs worked to raise awareness of the worst forms of child labor.

In September a special task force began confiscating goods from children peddling on the streets in Monrovia to curb child labor during school hours. The children received notes informing their parents that their goods had been confiscated. The effort included a "Back to School" rally to raise awareness of the exercise.

*e. Acceptable Conditions of Work.*—The national law requires a minimum wage of 15 Liberian dollars (\$0.30) per hour, not exceeding eight hours per day, excluding benefits, for unskilled laborers. The minimum wage laws apply only to the formal economic sector.

The law does not fix a minimum wage for agricultural workers but requires that they be paid at the rate agreed to in the collective bargaining agreement between workers' unions and their management, excluding benefits. Skilled labor has no minimum fixed wage, and the minimum wage for civil servants was 5,600 Liberian dollars (\$114) per month.

The national minimum wage did not provide a decent standard of living for a worker and family. Families dependent on minimum wage incomes also engaged in subsistence farming, small scale marketing, and begging.

The law provides for a 48-hour, six-day regular workweek with a 30-minute rest period for every five hours of work. The six-day workweek may be extended to 56

hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours. The law also provides for pay for overtime, and it prohibits excessive compulsory overtime.

The law provides for paid leave, severance benefits, and safety standards.

The Ministry of Labor's Labor Inspection Department enforced government-established health and safety standards. Officials conducted unannounced visits of consistent violators to improve standards. Enforcement of standards and inspection findings was not always consistent. The law does not give workers the right to remove themselves from dangerous situations without risking loss of employment.

Due to the country's continued severe economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions.

---

## MADAGASCAR

Madagascar, with a population of more than 20 million, is ruled by an unelected and illegal civilian regime that assumed power in a March 2009 coup with military support. Andry Nirina Rajoelina adopted the title of president of the transition, at the head of a loose coalition of former opposition politicians, and intends to remain in this position until elections are held. Former president Marc Ravalomanana, democratically elected in 2006 is in exile, and the parliament has remained suspended since then. In defiance of a negotiated agreement with the African Union (AU) and local political leaders, the regime failed to establish a legitimate transitional administration that would oversee free and open elections for the restoration of a legal government. Military leaders continue to assert their autonomy from the current political leadership, despite their tacit support of Rajoelina's de facto government. On November 17, the de facto regime held a unilateral and internationally unrecognized constitutional referendum that sparked an attempted coup by a small group of military leaders, which was resolved after almost three full days of negotiations. There were instances in which elements of the security forces acted independently of civilian control.

The following human rights problems were reported: unlawful killings and other security force abuses; harsh prison conditions, sometimes resulting in deaths; arbitrary arrest and detention; lengthy pretrial detention; censorship; intimidation and arrest of and violence against journalists; restrictions on freedoms of speech, press, and assembly; curtailment of the right of citizens to choose their government; official corruption and impunity; societal discrimination and violence against women, and trafficking of women and children; and child labor, including forced child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were several reports that the Government or its agents committed arbitrary or unlawful killings, under both the Ravalomanana government in 2009 and Rajoelina's de facto government during the year. Police and gendarmes continued to use unwarranted lethal force during pursuit and arrest.

For example, on May 20, during a Religious Leaders' Movement (HMF) protest, an armed confrontation between dissident factions of the gendarmerie's Intervention Force (FIGN) and the joint armed forces sent with the Special Intervention Force (FIS) by the de facto regime resulted in the death of a religious leader, the death of a member of the FIS, and about a dozen injured among the armed forces and civilians. There were no further developments by year's end.

On September 22, the Police Intervention Force in Toamasina shot and killed two persons accused of armed attacks after they reportedly opened fire on police. There were no further developments by year's end.

On August 28, former president Ravalomanana was tried in absentia, convicted, and sentenced to forced labor for life for the February 2009 killings by presidential guards of at least 30 protesters outside Ambohitsorohitra Palace. Ravalomanana continued to claim his innocence while exiled in South Africa.

There were no further developments in the following 2009 deaths that resulted from actions by security forces: the January deaths of 150 to 300 persons nationwide during riots; the January death of at least 44 persons trapped in a burning department store in Antananarivo; the January killing of a boy outside the MBS television station; and the April shooting deaths of two protesters by security forces.

There were no further developments in the series of small explosions in the capital between April and August 2009, for which the pro-Ravalomanana opposition was blamed.

*b. Disappearance.*—On November 11, Fetison Rakoto Adrianairina and Zafilahy Stanislas, leaders of the opposition group supported by former president Ravalomanana, and Pastor Edouard Tsarahame, a leader of the opposition group supported by former president Zafy, were arrested on charges of holding an unauthorized demonstration. Subsequently, they were moved to different prisons and eventually to an undisclosed location. Their lawyers and family were not permitted to see them or know of their whereabouts from November 20 to 25. Their trial was postponed to January 23, 2011, because the defendants did not appear for the original November 23 trial date despite being held under custody in an undisclosed location at the time.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law provide for the inviolability of the person and prohibit such practices; however, security forces subjected prisoners to physical and mental abuse.

For example, on November 20, proregime forces arrested a group of military officers who had led an attempted coup that started on November 17. A few days after their arrest, it was reported that most of the attempted coup leaders showed signs of physical abuse and two of them, General Raeolina and Colonel Coutiti, were in critical condition after beatings. A November 21 medical report conducted by the chief doctor at Tsiafahy prison on General Raeolina revealed that he had severe deep bruising in the face and chest and had been in and out of consciousness, likely as a result of physical abuse by the arresting officers. Colonels Andriamihoatra and Jadifara, both involved in the coup attempt and arrested on November 20, received medical exams on November 21 also revealing potential physical abuse by arresting officers.

On April 29, six persons were injured when Antsiranana police opened fire on a funeral procession that passed in front of the central police station. The funeral procession was protesting the death of Ninjaka Olivier, who was allegedly beaten to death two days earlier by police. There were no further developments by year's end.

There were no further developments in the following 2009 cases: the March detention and harsh treatment of Pastor Lala Rasendrasahina; the 2009 arrest and pistol whipping of a member of parliament by Gendarmerie Commanders Charles Andrianatsoavina and Lylison Rene Urbain; and the September FIS shooting of a woman in the leg in Antananarivo.

*Prison and Detention Center Conditions.*—Prison conditions were harsh and life threatening under both the Ravalomanana and Rajoelina regimes. Severe overcrowding due to weaknesses in the judicial system and inadequate prison infrastructure remained a serious problem; pervasive pretrial detention continued.

On March 11, a presidential pardon released 1,424 prisoners over the age of 70. As of June the country's 83 prisons and detention centers held approximately 18,647 prisoners. This total included approximately 736 women and girls and 424 juvenile males. Of those detained, 7,964 were in pretrial detention.

Chronic malnutrition, which affected up to two-thirds of detainees in some prisons, was the most common cause of death. The Ministry of Justice's goal in 2008 to raise prisoners' daily food ration (typically dry manioc, rice, or cassava) had not been implemented, and the situation worsened due to budget shortfalls as a result of the ongoing political crisis and the suspension of some foreign assistance. Families and nongovernmental organizations (NGOs) supplemented the daily rations of some prisoners.

For example, in June and July there were four reported deaths in Taolagnaro prison due primarily to malnutrition. In 2009, 34 deaths were recorded in the first 10 months. However, NGOs and media sources indicated that there was substantial underreporting of prison deaths. The total number of deaths in all prisons during the year was unavailable.

Malnutrition and a lack of hygiene made detainees vulnerable to disease, including epidemics. Deteriorating prison infrastructure—including a lack of sanitary facilities and potable water—resulted in skin disease, insect infestation, and other health risks. Access to medical care was limited, although NGOs reported limited success in targeted sanitation activities at several facilities in the north. Ventilation, lighting, and temperature control in facilities were inadequate, indeed hardly existed.

Church leaders and some NGOs reported that rape was commonplace in prisons and often used by prison guards and other inmates to humiliate prisoners. Other

organizations stated that while rape cases were the exception, prisoners often prostituted themselves in jail for food.

Male and female prisoners were separated. The central prison had a separate quarter for women, and there was a women's facility in Manjakandriana. Juveniles were not always held separately from the adult prison population, and some preschool-age children shared cells with their incarcerated mothers. There were at least two political detainees held under house arrest instead of imprisonment with the general prison population, but others were generally held in the same facilities. Pretrial detainees were seldom kept separate from the general prison population. Prisoners and detainees were authorized to receive weekly visits from relatives and permitted religious observance, although actual prison conditions were too harsh for prisoners to actually receive visitors or engage in worship.

There was no provision for ombudsmen to serve on behalf of prisoners and detainees.

There were no reports that the Government permitted prisoners and detainees to submit complaints on inhumane conditions to judicial authorities, or that the Government investigated or monitored prison and detention center conditions or acted to improve them.

The Government generally permitted independent monitoring of prison conditions by the International Committee of the Red Cross (ICRC), several local NGOs, and some diplomatic missions, and such visits occurred during the year. The ICRC conducted visits several times during the year to each of 30 main penitentiary facilities; the ICRC was able to hold private consultations in accordance with its standard modalities. ICRC representatives were also permitted to visit detainees in pretrial or temporary detention, as need arose.

Although the EU funded projects focused on improving prison conditions, there were no known attempts by the Government itself to do so during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not always respect these provisions in practice. The Government permitted arrest on vague charges and detained suspects for long periods without trial. There was a sharp increase in politically motivated detentions both before and after the March 2009 coup; the actual number remained disputed, but several of those arrested since then remained imprisoned (see sections 1.e. and 2.a.).

On November 23, regime forces arrested a former judge on the International Court of Justice, Raymond Ranjeva, and his pregnant daughter, accusing Ranjeva of being involved in the November 17 coup attempt. Ranjeva was released on bail a few hours later, but his daughter remained in custody for insulting regime forces and was sentenced to a month of probation on November 30.

During March demonstrations in Analakely, political and religious activists Charles and Kathy Hilaire were arrested for "offense against national security" when brochures on the HMF were found in their car. After investigations, they were released; however, approximately 50 lower-profile protestors were reportedly arrested in the same incident and remained in prison awaiting trial at year's end.

On May 15, opposition politician Ambroise Ravonison was violently arrested during a radio interview. Two other interviewees and three members of the radio's staff were injured, and the radio station's equipment vandalized. Ravonison, a French citizen, obtained a provisional release and fled the country. No action had been taken regarding the vandalism by year's end.

Journalists were arrested (see section 2.a.).

Senator Eliane, who was arrested in September 2009 for attending an illegal gathering and damaging public property, left the country. At year's end she reportedly remained abroad conducting an information campaign on the de facto regime's lack of respect for human rights.

*Role of the Police and Security Apparatus.*—The minister for internal security oversees the national police, the gendarmerie, and the coast guard, with authority for law and order in both urban and rural areas. The gendarmerie had previously been under the authority of the Ministry of Defense.

Lack of training and equipment, low salaries, and rampant corruption were problems in the national police and gendarmerie. Chronic underfunding and unclear command structures severely diminished the security forces' ability to respond effectively to the civil unrest that began in January 2009. By April 2009 security forces under the control of the de facto government began to assert effective control over demonstrations in the capital, with an accompanying reduction in violence. The creation in March 2009 of the Joint National Investigation Committee (CNME), later renamed the Special Investigation Force, (FIS), diluted the authority of the minister for internal security, as it began to pursue high-profile targets under Commanders

Charles Andrianatsoavina and Lylison Rene Urbain and independently outside regular judicial processes. Security forces routinely used excessive force during arrests and while dispersing demonstrations, employing tear gas, flash grenades, and live ammunition.

There is no systematic mechanism available for investigating security force abuses. However, victims may lodge complaints in the court of jurisdiction. This rarely, if ever, occurred.

*Arrest Procedures and Treatment While in Detention.*—Although the law requires that authorities obtain arrest warrants in all cases except those involving hot pursuit, often persons were detained and jailed based on accusations or political affiliation. Defendants have a general right to counsel and those who could not afford a lawyer were entitled to one provided by the state; however, many citizens were not aware of this right, and even if aware, most were too afraid to request one. Defendants have the right to be informed of charges against them, but this right was not always respected. A system of bail exists depending on the crime; bail was frequently denied for more severe or high-profile crimes. Magistrates often resorted to a “mandat de depot” (retaining writ) under which defendants were held in detention for the entire pretrial period. The law limits the duration of pretrial detention and regulates the use of the mandat de depot, including regulations that limit the duration of detention based on the type of crime, with a theoretical maximum of eight months for criminal cases. Family members of prisoners generally were allowed access to prisoners; however, access was more limited to certain prisoners, such as those in solitary confinement or those arrested for political reasons.

The Ministry of Justice reported that approximately 50 percent of the prison population was in pretrial detention.

The law mandates that a criminal suspect be charged or released within 48 hours of arrest; however, the Government often detained individuals for significantly longer periods before charging or releasing them. Poor record keeping, an outdated judicial system that favored keeping the accused in detention until their trial, an insufficient number of magistrates, lack of resources, and difficult access in remote areas contributed to lengthy pretrial detention, ranging from several days to several years. Many detainees spent a longer period in investigative detention than they would have spent incarcerated following a maximum sentence for the charges faced.

*Amnesty.*—On March 11, a presidential pardon released 1,424 prisoners over the age of 70.

As part of the August 2009 Charter of the Transition, the country’s four main political movements agreed to a tentative plan for an amnesty covering political activities from 2002-09. However, in December 2009 Rajoelina formally abrogated the charter, and with it the existing agreement on amnesty during the transition administration.

Shortly after taking power in March 2009, Rajoelina’s de facto government authorized the release and pardon of 48 individuals it deemed “political prisoners,” who were imprisoned under the Ravalomanana government. Twenty of these prisoners had not yet received an official pardon, and remained under poorly enforced house arrest. They included a number of nonpolitical criminals, guilty of murder and other grave human rights violations during past conflicts. Most prominent among them was Lieutenant Colonel Assolant Coutiti, who was convicted in 2004 on two counts of torture during the 2002 political conflict, in addition to prior convictions for politically motivated abductions and murder in the same conflict. Following widespread condemnation of the release, Rajoelina’s government did not release any further prisoners whose incarceration predates the current political crisis. Several opposition figures arrested during the year were released in August 2009 as a gesture of good faith in advance of implementation of the Charter of the Transition. The release was criticized, however, for requiring them to sign a letter promising not to engage in further political activities.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary was susceptible to executive influence at all levels, and corruption remained a serious problem. This worsened under the de facto government, and the use or threat of intimidation surrounded every major judicial decision since March 2009. The absence of any legislative body permitted the de facto government effectively to rule by decree, with no check on executive power. The minister of justice routinely expressed an opinion on high-profile judicial decisions to the media before the court announced them.

Military courts are reserved for the trials of military personnel and generally follow the procedures of the civil judicial system, except that military officers are included on jury panels. Defendants in military cases have access to an appeals process and generally benefit from the same rights available to civilians, although their

trials are not public. A civilian magistrate, usually joined by a panel of military officers, presides over military trials.

The law provides traditional village institutions the right to protect property and public order. Some rural areas used an informal, community-organized judicial system called “dina” to resolve civil disputes between villagers over such issues as alleged cattle rustling. This system was criticized for human rights abuses, particularly for lack of due process before imposing harsh sentences well outside the scope of formal law.

*Trial Procedures.*—The law provides for a presumption of innocence; however, the presumption of innocence was often overlooked. The constitution and law provide defendants with the right to a full defense at every stage of the proceedings, and trials are public. While the law provides that juries can be used in all cases, in practice, juries were used only in labor disputes. Defendants have the right to be present at their trials, to be informed of the charges against them, to call and confront witnesses, and to present evidence. The Government is required to provide counsel for all detainees on criminal charges who cannot afford their own attorney; however, many citizens were not aware of this right in practice. Attorneys have access to government-held evidence, but this right does not extend to defendants without attorneys. Defendants have the right to appeal convictions.

The law extends these rights to all citizens without exception; however, in practice these rights were routinely denied, as the de facto government prolonged incarceration of suspects for weeks without charge and continually postponed hearings while denying bail. For example, in June 2009 former president Ravalomanana was tried and convicted in absentia for alleged abuse of power while in office; he later asserted that he was unaware that the trial was taking place. In August the Antananarivo Criminal Court convicted Ravalomanana in absentia for his presumed involvement in the February 2009 presidential palace shootings and sentenced him to a life sentence of hard labor. At year’s end Ravalomanana remained in exile in South Africa.

*Political Prisoners and Detainees.*—No definitive numbers were available, but several well-known politicians were imprisoned under Ravalomanana’s government, most of whom were released in 2009 regardless of whether their incarceration had a criminal aspect alongside their political affiliations. In July a Ministry of Justice source stated that the de facto government had placed 102 “political prisoners” in preventive detention since 2009, many with little or no evidence of having committed criminal or civil offenses. Subsequently, some were released conditionally or with no charges being filed. Opposition leaders alleged that dozens of additional persons were detained without due process for their role in political protests, although the facts of their individual cases were unavailable.

In April 18 political detainees in the Tsiafahy top-security prison reportedly went on a hunger strike, requesting review of their cases and unconditional release. The authorities took no action.

On June 15, Manoela was arrested after speaking during opposition movement protests at Magro. On July 12, the criminal court charged Manoela with nine violations including “insulting a police officer” and sentenced him to three months’ imprisonment. He was subsequently released.

There were no further developments in the following 2009 cases of political detainees: the April arrest of Ralitera Andrianandraina, former head of security at the High Constitutional Court, for his alleged role in an attempt on Rajoelina’s life, and the August arrest of lawyer Lalaharino Rabemananjara for alleged complicity in the June and July bombings.

Some prisoners remained difficult to classify due to the effects of corruption and intimidation in the judicial process. These prisoners generally received equal treatment to that of other prisoners, and international humanitarian organizations were permitted access to them.

*Civil Judicial Procedures and Remedies.*—The judiciary’s independence and impartiality were compromised by corruption and political influence, according to Independent Anticorruption Bureau (BIANCO) investigations and public perception. The judiciary deals with all civil matters, including human rights cases. However, the courts often encountered difficulty in enforcing judgments in civil cases.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, but homes and workplaces of opposition groups were subjected to arbitrary searches without warrants. On November 23, regime forces arrested Raymond Ranjeva’s pregnant daughter and searched his house, accusing Ranjeva of being involved in the November 17 coup attempt. Ranjeva was allegedly told to turn himself in if he wanted his daughter to be released. Ranjeva obliged and was released a few hours later, but his daughter remained in custody for insult-

ing regime forces and on November 30 was sentenced to a month -long probation (see section 1.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, but both government and nongovernment groups actively impeded political criticism with threats and violence against reporters, media owners, and media outlets. Journalists were sent to jail, and government security forces attacked residences of editors or owners. A September report by international NGO Freedom House on the status of press freedom categorized the country as “not free,” diminished from the previous year’s rating of “partially free.” The report noted that “both main parties routinely ignored constitutional protections for media freedom while in power, using harassment, intimidation, and censorship to restrict media operations. As a result, news coverage became extremely partisan and polarized, while diversity of views receded.”

On January 8, two journalists of the FJKM church’s radio station Radio Fahazavana—Didier Ravoahangison and Lolo Ratsimba—were arrested and sent to prison for acts of political destabilization due to their alleged complicity in a December 2009 mutiny attempt. They received bail on February 15 and were awaiting trial at year’s end.

On March 31, a Radio Feon’Imerina journalist was arrested after the de facto regime’s prime minister announced that persons who “caused trouble” in Ambohitovo on March 29 would be sanctioned. The journalist was released the same day.

On May 20, Radio Fahazavana was closed down and 10 of its staff members—six journalists and four technicians—were arrested for an alleged attempt to endanger state security and incite a rebellion. They were released under bail on September 8 and were awaiting trial at year’s end.

On August 8, officials from the Ministry of Communications and local police forces ordered the suspension of Radio Mahafaly in Antsirabe. The station was managed by a close ally of former president Ravalomanana. At year’s end the suspension remained in effect.

On September 30, based on a Ministry of Communication directive, ministry officials and armed law enforcement elements closed Radio Fototra, owned and operated by the Green Party Hasin’I Madagasikara.

After the coup attempt on November 17, the regime sent warning letters to Ma-TV, TV Plus, and two other stations for airing statements by the attempted coup leaders. The letters implied that airing anything that could be seen as opposing the regime or calling for an end to it and thus an end to the transition could be considered a threat to public order and security and could lead to suspension and even withdrawal of operating permits.

There were 13 privately owned major daily newspapers and many other privately owned national and local news publications that were published less frequently.

Before March 2009 *Le Quotidien*, which is owned by former president Ravalomanana, was the newspaper most heavily influenced by the state; since March 2009 *La Verite* has been most closely aligned with the de facto government. The Government owned nationwide television and radio networks. There were approximately 256 other radio stations and 39 other television stations nationwide, which provided more limited geographic coverage.

The 2009 politically motivated closure of opposition media outlets, such as Radio Mada, remained in effect at year’s end.

To maintain access to sources and remain safe, journalists practiced extensive self-censorship, and many private radio stations shifted to live call-in shows to distance themselves from editorial responsibility for content.

*Internet Freedom.*—There were generally no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Public access to the Internet was limited mainly to urban areas; modern technology and the necessary infrastructure were generally absent in rural areas. According to International Telecommunication Union statistics for 2009, approximately 1.63 percent of the country’s inhabitants used the Internet.

Political groups, parties, and activists used the Internet extensively to advance their agendas, share news, and criticize other parties. Although there were allegations of technical sabotage from both sides of some Web sites during the year, the Internet was considered among the more reliable sources of information as many of the Web sites servers were outside the country and could not be regulated by the Government.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, but this right was restricted extensively during the year. Government officials and security forces regularly impeded opposition gatherings in locations around the country. The de facto regime also forbade protests during the holiday season (Christmas to New Year's Day) and during election periods (from election day until election results were official).

Opposition groups were repeatedly denied the right to hold political rallies in Antananarivo. On October 26, opposition groups sent a letter to the presidentially appointed mayor and the prefect of Antananarivo requesting an explanation for the refusal to hold a rally at three public areas in Antananarivo from October 28 to 30. Opposition leaders confirmed these places were available for the requested dates but were still not given permits. Opposition groups attempted to hold meetings on November 10 and 12 at a public stadium, but the prefecture of police denied their request. From December 1 to 3, opposition groups tried to hold rallies in various public venues in Antananarivo and applied for the proper permits, but all requests were denied.

On November 20, the Association of Mayors of Madagascar and opposition groups held a protest in Analakely. Within five minutes of the start of the protest, police forces broke up the group and arrested Guy Mazime Ralaiseheno, the leader of the Association. Ralaiseheno remained in prison at the end of the year.

Opposition groups were usually authorized to hold political rallies in provincial cities. However, on August 27, a protest in Tulear led by Elimberaza Mandrikake turned into looting of the local affiliate of the national radio. Seven opposition leaders were arrested; Mandrikake reportedly escaped and went abroad.

*Freedom of Association.*—The constitution and law provide for the right of association and permit citizens to organize political parties and associations. The Government generally respected this right in practice, although a law signed in January 2009 governing political parties imposes stringent new requirements. Parties are required to have representation in 12 regions within the first 30 months of their creation, hold regular national meetings, and participate in at least three consecutive elections, excluding the presidential election. Only legally constituted political parties would be able to present candidates. This law was not implemented before the March 2009 coup and the de facto government did not present any plans to do so.

*c. Freedom of Religion.*—For a discussion of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The constitution does not explicitly prohibit forced exile, and the Government utilized it selectively. Several opposition figures, such as former deputy prime minister Pierrot Rajaonarivelo, returned to the country during 2009 despite outstanding legal issues arising from convictions handed down in their absence; at year's end, the de facto government had not moved to arrest them.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian agencies in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

*Protection of Refugees.*—The country is not a party to the 1967 Protocol relating to the Status of Refugees (although it is party to the 1951 Convention) and has not ratified the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. The law does not include provisions for the granting of asylum or refugee status, but the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government granted refugee status or asylum and cooperated with the UNHCR and other humanitarian organizations in assisting the small number of refugees in the country.

*Stateless Persons.*—An arcane system of citizenship laws and procedures resulted in a large number of stateless persons in the minority Muslim community, many of whom have lived in the country for generations. Reliable figures remained unavailable, but Muslim leaders estimated as many as 5 percent of the estimated two

million Muslims were affected. Citizenship is transmitted through “blood”; birth in the country does not transmit citizenship. Children born to a citizen mother and noncitizen father must declare their desire for citizenship by age 18 or risk losing eligibility for citizenship. Some members of the Karana community of Indo-Pakistani origin, who failed to register for Indian, Malagasy, or French citizenship following India’s independence in 1947 and Madagascar’s independence in 1960, were no longer eligible for any of the three; this applied to their descendants as well. Members of the wider Muslim community suggested that a Muslim-sounding name alone could delay one’s citizenship application indefinitely. Lack of citizenship precluded voting rights and eligibility for a passport, which limited international travel.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens previously exercised this right in practice by voting in presidential, legislative, and municipal elections between 2006 and 2008. However, this right was effectively curtailed when opposition protests led to a coup and the overthrow of the elected government in March 2009. Following the December 2008 closure of his television station, VIVA TV, Andry Rajoelina, the former mayor of Antananarivo, led a coup in opposition to President Ravalomanana in March 2009. Unable to consolidate his rule in the face of domestic and international condemnation, from August to December 2009 Rajoelina engaged in a negotiating process. In December, after the negotiations failed to yield results acceptable to him, Rajoelina unilaterally declared his intention to organize elections for as early as March 2010. The opposition rejected this plan, pushing for a return to dialogue and an inclusive transition government. Throughout the year Rajoelina unilaterally announced roadmaps to elections that were postponed multiple times. A constitutional referendum was held on November 17 and countrywide mayoral elections, scheduled for December 20, have been postponed indefinitely. Legislative and presidential election dates are proposed for the first part of 2011; however, opposition groups and the international community have rejected the results from the constitutional referendum and the election timeline as unilateral and unrealistic.

*Elections and Political Participation.*—Indirect elections to the 33-member senate took place in 2008; then president Ravalomanana’s I Love Madagascar (TIM) party won all 22 elected seats, and the president appointed the remaining 11 members. Allegations of campaign and voting irregularities surfaced during and after the election, but no conclusive legal action was taken.

The 2007 municipal elections were initially declared free, fair, and peaceful, but local observers noted minor irregularities in some elections advantaging ruling party candidates over others. The State Council overturned results in several mayoral contests, citing localized miscounting and improper involvement of TIM candidates. By August 2008 TIM had lost 16 mayoral positions in court and gained six others. TIM did not initially interfere when Rajoelina won the mayoral race in Antananarivo, but the election marked the beginning of a conflict with then president Ravalomanana, which culminated in the March 2009 coup.

Political parties could not operate without restriction or outside inference. Parties opposing the party of the regime leader often had their individual rights, such as freedom of expression, violated. The regime often denied opposition parties the right to organize and publicize their opinions. Political parties were also heavily dominated by the urban elites from the long-standing Malagasy tribes.

Until March 2009 there were four women in the cabinet, 10 women in the 127-member national assembly, and five women in the 33-member senate. Three of the 22 appointed regional administrators were women. Under the de facto government, there are five women in the cabinet; parliament was suspended after the March 2009 coup and has not been reestablished, although a “transition” parliament has gradually been appointed by Rajoelina after a September 2010 National Conference that was seen as unilateral and remained unrecognized by the international community at year’s end.

Until March 2009 there were 11 Muslims and seven Chinese-Malagasy members in the national assembly and eight Muslims in the senate. Chinese-Malagasy and Muslims also held civil service positions. Residents of Indo-Pakistani origin were not well represented in the Government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and corruption reportedly increased after the March 2009 coup. Corruption was rampant in the national police and gendarmerie. The World Bank’s most recent Worldwide Governance Indicators reflected

that corruption was a problem, as was impunity. NGOs and the media reported that anticorruption efforts in recent years were more effective in pursuing low-level violators than in attacking corruption at the national government level.

The general lack of rule of law created a permissive environment for illegal logging and the export of rare endemic hardwoods, primarily from the country's northern forests, which were perceived to have been facilitated by bribery at several levels of government. Foreign NGOs and media reports alleged that high-level corruption, ranging from local security forces to the national government, permitted the illegal cutting and export of rosewood and ebony trees, despite laws to protect them. Chinese businessmen were caught on tape alleging that they paid de facto leader Rajoelina directly for illegal logging rights.

The Independent Anticorruption Bureau (BIANCO) is a nominally independent government agency, with a presidentially appointed director and oversight from the Committee for the Safeguard of Integrity within the presidency. BIANCO did not address the corruption and abuses of power perpetrated by security forces and civilian officials and did not play a visible role in addressing corruption problems associated with the ongoing political crisis.

In 2008 the Government created an agency to combat money laundering, SAMIFIN, and an ethics unit within each ministry. BIANCO and the Ministry of Justice signed an agreement in 2008 for increased cooperation concerning data collection and case referrals. However, the implementation has been weak due to lack of financing and political will, especially since the March 2009 coup.

Public officials at the director-general level and above, excluding the president, were subject to financial disclosure laws. In practice in 2008 only 33 percent of those required to disclose assets or income did so. Disclosure laws have never been effectively enforced.

There are no laws providing for public access to government information. Educational material on corruption, including statistics updated every quarter, was available to citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Numerous domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally unresponsive to their views, particularly after the March 2009 coup, but international human rights groups were allowed to enter the country, conduct their work, and consult freely with other groups. Domestic groups reported intimidation following the coup.

There were several domestic NGOs in the country that work on human rights, but very few have the capacity to work effectively and independently. The National Council for Election Observation continued to be a leader in the field of civic education, and provided technical support and training in several past elections. Other key organizations included the Observatory of Public Life, SOS aux Victimes du Non-droit, and Actions by Christians for the Abolition of Torture, all of whom worked to monitor human rights issues and actively participated in public and private forums on the subject. Political movements have on occasion attempted to coopt these organizations, leading to accusations of their increasing politicization, but they were not routinely suppressed or subjected to harassment.

Following the March 2009 coup, the UN and other international bodies widely criticized both the Ravalomanana government and the de facto government for human rights abuses and for their continued failure to resolve the ongoing crisis through dialogue and new elections. The UN played an active role as part of the international mediation team and the International Contact Group on Madagascar, alongside the African Union, the International Organization of the Francophonie, and the South African Development Community, which has taken the lead role in mediation efforts since the middle of the year.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit all forms of discrimination, including on the basis of race, gender, disability, language, and social status; however, no specific government institutions were designated to enforce these provisions.

*Women.*—The law prohibits rape in general but does not specifically refer to spousal rape. Penalties range from five years to life in prison, depending on factors such as the victim's age, the rapist's relationship to the victim, and whether the rapist's occupation put the individual in contact with children. Rape of a child or a pregnant woman was punishable by hard labor. An additional two to five years' imprisonment could be added in the case of rape with assault and battery, although the Government did not always enforce these penalties. In 2008 the Morals and Mi-

nors Brigade, a department in the Ministry of Interior, reported receiving 10 to 12 rape-related complaints a day countrywide. There were 217 cases of rape reported in 2008 in Antananarivo; 130 were investigated. All of these figures probably underestimated the extent of rape nationwide, but there were no reliable figures available.

The law prohibits domestic violence, but it remained a widespread problem punishable with two to five years in prison and a fine of four million ariary (\$2,000), depending on the severity of injuries and whether the victim was pregnant. In 2007 the Government's National Institute for Public Health estimated that 55 percent of women were victims of domestic violence. The UN Population Fund (UNFPA) estimated in 2006 that one of three women in the southern and southeastern section of the country would suffer from violence at some point. A 2007 Ministry of Health survey on conjugal violence, conducted in collaboration with two NGOs, found that of 400 women surveyed in Antananarivo, 45 percent were subjected to psychological violence and 35 percent to physical violence. Police and legal authorities generally intervened when physical abuse was reported. The Ministry of Health continued working with NGOs in Antananarivo and Fianarantsoa to provide victims with legal advice. Statistics on the number of domestic abusers prosecuted, convicted, or punished were unavailable. Anecdotal evidence from NGO-run welcome centers indicated that the political crisis, and its related social and economic impacts, correlated with a rise in the incidence of domestic violence, with two- or three-fold increases in cases reported.

Sex tourism was an increasing problem with the growth of the tourism industry before the 2009 coup and the economic crisis and lack of legitimate employment opportunities since the coup. The Government continued its national awareness campaign by posting signs throughout airports and hotels, including a full-page warning against engaging in sex tourism in the customs booklet given to arriving international passengers. In 2007 the Government adopted a law modifying the criminal code to define child sexual exploitation, child sex tourism, child pornography, and trafficking in persons, and stipulating penalties for violations. NGOs reported that the law was used in court on several occasions but had not yet resulted in a conviction. Law enforcement officials noted that the law was often not uniformly interpreted or applied.

Sexual harassment is against the law. Penalties vary from one to three years' imprisonment plus a fine of one to four million ariary (\$500 to \$2,000). This penalty increases to two to five years' imprisonment plus a fine of two to 10 million ariary (\$1,000 to \$5,000) if the victim was forced or pressured into sexual acts or punished for refusing such advances. However, the practice was widespread, particularly in export processing zone (EPZ) factories. The UNFPA estimated that 50 percent of women working in EPZs were victims of sexual harassment. In past years, the Government enforced sexual harassment laws when cases were brought to court; however, there were no reported court cases during the year.

Couples and individuals freely exercised their reproductive rights with no legal or policy discrimination or coercion. The Government provided free access to contraceptives and family planning information at public clinics, and services were also available in the private sector. According to the UNFPA, the modern contraceptive prevalence rate was 28 percent. Skilled attendance during childbirth was infrequent, particularly in rural areas, where there were few trained health workers. However, the Population Reference Bureau reports that 54 percent of births were attended by skilled personnel. All delivery services, including caesarean sections, were free in government health facilities. However, since much of the population lived more than two miles away from public clinics over difficult terrain, many in rural areas were unable to access reproductive health and maternity services; the Government and donors have identified this as a critical constraint, and a variety of programs were instituted to expand the availability of quality care. However, there was a lack of resources to address the issue comprehensively. The latest National Statistics Institute (INSTAT) survey conducted between November 2008 and August 2009, and issued in June concluded that the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 498, compared with 269 deaths in the 2004 report. Men and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV. While there were no legal barriers to access these services, there were enormous infrastructure inconsistencies and some social/cultural barriers and stigma based on ethnicity that limited full access.

Women generally enjoyed the same legal status as men. Under the law wives have an equal voice in selecting the location of the couple's residence and generally received half the couple's assets if the marriage ended. While widows with children inherit half of joint marital property, a husband's surviving kin have priority over widows without children—leaving them eighth in line for inheritance if there is no

prior agreement and potentially leaving them with none of the estate or a very small portion of it. In practice these requirements were not always observed.

A tradition known as “the customary third,” which provided the wife with the right to only one-third of a couple’s joint holdings, was occasionally observed. There was no special government office to ensure the legal rights of women.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in private businesses and state-owned companies. In rural areas, where most of the population is engaged in subsistence farming, more traditional social structures tended to favor entrenched gender roles. While there is little discrimination in access to employment and credit, women often did not receive equal pay for substantially similar work. Women were not permitted to work in positions that might endanger their health, safety, or morals. According to the labor and social protection codes, such positions include night shifts in the manufacturing sector and certain positions in the mining, metallurgy, and chemical industries.

A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to illiteracy, cultural traditions, societal intimidation, and a lack of knowledge of their rights, few women lodged official complaints or sought redress when their legal rights were violated or ignored.

*Children.*—Citizenship is derived from one’s parents, although children born to a citizen mother and a foreign father must declare their desire for citizenship by age 18. The country has no uniformly enforced birth registration system, and unregistered children have historically not been eligible to attend school or obtain health care services. The United Nations Children’s Fund (UNICEF) worked with the Government to provide birth certificates for both newborn children and those who did not receive a certificate at birth. According to a UNICEF study conducted during the year, 25 percent of children in the country under the age of five were not registered.

The constitution provides for tuition-free public education for all citizen children and makes primary education until age 14 compulsory.

Child abuse was a problem. Since the beginning of the political crisis, cases of child rape increasingly appeared in the media.

In 2007 the Government adopted a 2008-12 national action plan on violence against children, including child labor, sexual exploitation, and trafficking. The Ministry of Health, in collaboration with UNICEF, operated more than 14 multisector networks throughout the country to protect children from abuse and exploitation. Several ministries worked with UNICEF to develop training manuals on child rights and safeguards for officials working in child protection networks. In June 2008 the Government completed a one-year program to train and assist security forces in the protection of children.

Government statistics in 2008 indicated that 33 percent of girls and young women between the ages of 15 and 19 were married. Child marriage was especially prevalent in rural areas, where most couples were united in traditional local ceremonies outside the legal system. The legal age for marriage without parental consent was 18 years for both boys and girls.

Children engaged in prostitution for survival with or without third-party involvement. Child prostitution constituted one of the primary forms of child labor. A 2007 UNICEF study in the coastal cities of Toamasina and Nosy Be found that between 30 and 50 percent of females exploited in the commercial sex field were younger than 18 years old.

Although child abandonment is against the law, it was a significant problem due to acute poverty and lack of family support. There were few safe shelters for street children, and government agencies generally tried to place abandoned children with parents or other relatives first; orphanages and adoption were a last resort. A traditional superstition in the southeast against giving birth to twins led some parents in the region to abandon one or both of their twin children, who sometimes were left to die. However, no changes to the legal framework or enforcement policy had been adopted by year’s end.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish Community is very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities, broadly defines their rights, and provides for a national commission and regional subcommissions to promote the rights of persons with disabilities. In practice, however, these rights were rarely enforced, and the legal framework for promoting accessibility remained perfunctory. A 2005 study conducted by the NGO Handicap International found that persons with disabilities seldom had access to health care, education, employment, or accommodation for communication or other basic services, and women and girls with disabilities were often victims of physical violence. The Association Sembana Mijoro, advocating for rights of persons with disabilities, reported that children with disabilities represent only 0.5 percent of children attending school. In general, access to education for persons with disabilities was limited due to lack of adequate infrastructure, specialized institutions, and teachers.

The Ministry of Health is responsible for protecting the rights of persons with disabilities. Isolated projects at the community level had some success. In 2008 a public market in the city of Majunga gained special handicapped access; a health and transportation benefits program with identity cards was developed in the city of Fianarantsoa; and persons with disabilities had been successfully integrated into public schools in some areas where they previously had no access. With international funding in 2008, the city of Antsiranana worked to make city hall, health centers, and other administrative buildings accessible. However, reports continued that schools often rejected students with disabilities, claiming their facilities were not adequate. Local NGOs also provided evidence that persons with disabilities were routinely refused access and verbally abused by teachers throughout the education system, from primary school to university. In June 2009 a study on the integration of children with disabilities in the educational system found that their attendance rate was only 0.26 percent in 631 schools surveyed, due to the lack of specialized programs, poor understanding of the children's needs, and insufficient resources.

*National/Racial/Ethnic Minorities.*—None of the 18 tribes of the country constituted a majority. There were also minorities of Indo-Pakistani, Comoran, and Chinese heritage. Ethnicity, caste, and regional solidarity often were factors in hiring and were exploited in election campaigns. A long history of military conquest and political dominance by highland ethnic groups of Asian origin, particularly the Merina, over coastal groups of African ancestry contributed to tension between citizens of highland and coastal descent, particularly in the political sphere.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not prohibit discrimination against lesbian, gay, bisexual, and transgender (LGBT) activity, and there was general societal discrimination against the LGBT community.

Sexual orientation and gender identity were not widely discussed in the country, with public attitudes ranging from tacit acceptance to outright physical violence, particularly against transvestite sex workers. Local NGOs reported that most organizations that worked with the LGBT community did so as health service providers, often in the context of their work to combat the spread of HIV/AIDS. LGBT sex workers were frequently targets of aggression, including verbal abuse, stone throwing, and even murder. In recent years there has been an increased awareness of "gay pride" through positive media exposure, but general attitudes have not changed.

The penal code provides for a prison sentence of two to five years and a fine of two to 10 million ariary (\$1,000 to \$5,000) for acts that are "indecent or against nature with an individual of the same sex under the age of 21." There are reports of official abuses occurring at the community level, such as administrative officials denying health services to transvestite men or breaking confidentiality agreements, although no cases have ever been pursued in court.

*Other Societal Violence or Discrimination.*—Although the national HIV/AIDS rate was low at approximately 1 percent, there was stigma and discrimination attached to having HIV/AIDS. In 2007 the Government adopted a law protecting HIV/AIDS patients' rights to free and quality health care and specifying sanctions against persons who discriminated or marginalized persons with the disease. This has reportedly helped reduce discrimination, following public testimony and greater awareness of issues affecting those living with HIV/AIDS. The law was enforced by the Ministries of Health and Justice and the National Committee for the Fight Against AIDS in Madagascar.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that public and private sector workers may establish and join labor unions of their choice without prior authoriza-

tion or excessive requirements. However, those classified as essential workers, including police, military, and firefighters, may not form unions. Ministry of Civil Services and Labor statistics from 2007 indicated that 14 percent of workers in EPZ companies and 10 percent of all workers were unionized. The Government had no reliable statistics on the number of public employees participating in unions, but it was generally believed that few public employees were union members, despite the existence of several public employees' unions.

The law provides most workers with the right to strike, including in EPZs, and workers exercised this right; however, workers must first exhaust the conciliation, mediation, and arbitration procedures, which may take eight months to two and one-half years. Civil servants and maritime workers have their own labor codes. Workers in other essential services, such as magistrates, have a recognized but more restricted right to strike and are required by law to give prior notice to their employer.

*b. The Right to Organize and Bargain Collectively.*—The law provides for unions to conduct their activities without interference, and the Government generally respected this right. The law also provides workers in the private sector the right to bargain collectively; however, civil servants were not covered under such agreements.

The law prohibits antiunion discrimination by employers; however, the Ministry of Civil Services and Labor indicated that some employees did not join unions due to fear of reprisal. In the event of antiunion activity, unions or their members may file suit against the employer in civil court.

Since passage of a new EPZ law in 2008, labor laws in the EPZ vary somewhat from the country's standard labor code, notably reducing worker rights. EPZ labor contracts may now differ in terms of contract duration, restrictions on the employment of women during night shifts, and the amount of overtime permitted.

*c. Prohibition of Forced or Compulsory Labor.*—The labor code prohibits forced or compulsory labor, including by children, but at times the Government did not enforce this prohibition. Many children and women were forced into domestic servitude, commercial sexual exploitation, and sometimes street vending and mining. While prisoners and pretrial detainees can no longer be forcibly hired out to government officials for private use, government offices can hire them out for public use if the prisoners agree to the terms of employment and monetary compensation stipulated in the labor code. In addition under the *Main d'oeuvre penale* (MOP) system, prisoners could work voluntarily in prison fields or penal camps or private facilities. Except for those condemned to forced labor, they were entitled to receive a salary. There were also reports that prisoners were sent, at their own request and under state supervision, to perform remunerated work for private individuals. The MOP system was suspended on August 26, as part of the security measures called "Operation Coup de Poing," part of an effort to lessen increasing nationwide insecurity.

Forced labor of children occurred almost exclusively in the informal sector, which accounts for a large portion of the country's economy. Forced labor also occurred in stone quarries, in the mining sector, in the farming and fishing industries, and in domestic servitude.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There were laws to protect children from exploitation in the workplace and prohibit forced or compulsory labor, but the Government did not have sufficient resources or personnel to enforce these laws. Child labor was a widespread problem.

The minimum age for employment was 15 years of age, consistent with educational requirements. The law allows children to work a maximum of eight hours per day and 40 hours per week with no overtime. The law prohibits persons under the age of 18 years from working at night and at sites where there is an imminent danger to health, safety, or morals. Employers must observe a mandatory 12-hour rest period between shifts. Occupational health and safety restrictions include parental authorization and a medical visit before hiring.

The International Labor Organization's (ILO) 2007 National Survey on Child Labor in Madagascar indicated that approximately 28 percent of children between the ages of five and 17 (1.8 million children) were working on a full- or part-time basis, with an estimated 438,000 children involved in dangerous work. Children in rural areas worked mostly in agriculture, fishing, and livestock herding, while those in urban areas worked in occupations such as domestic labor, transport of goods by rickshaw, petty trading, stone quarrying, work in bars, and begging. Children also were engaged in salt production, deep sea diving, and the shrimp industry. The Ministry of Civil Services and Labor estimated that more than 19,000 children were

working in the mining towns of Ilakaka in the south, mostly in the informal sector, helping their families mine for gemstones or working as domestics. Some children were trafficked internally for the purposes of forced labor.

The Ministry of Civil Services and Labor is responsible for enforcing child labor laws and policies in the formal sector and conducted general workplace inspections during the year in response to a range of complaints. During the year the ministry had only 90 inspectors to carry out its responsibilities, making it difficult to monitor and enforce child labor provisions effectively. There is no enforcement in the much larger informal sector.

In 2007 the Government adopted a decree regulating the working conditions of children, defining the worst forms of child labor, identifying penalties for employers, and establishing the institutional framework for its implementation. NGOs reported improved awareness of the issue as a result; however, this had not been matched with more effective pursuit of labor law violators. In 2009 there was a proposal to amend the 2007 decree aimed at categorizing the types of sanctions to apply to violators, but the political crisis ended this project. During the year the Ministry of Labor organized a child labor workshop for labor inspectors in Ansirabe and established an action plan for regional child labor inspectors to use mass media and private sector monitoring to combat child labor.

The Government continued to work with the Malagasy Soccer Federation (FMF) to conduct awareness campaigns around the country to combat child labor as part of the “red card campaign,” which continued during the year with support from the FMF and the ILO International Program on the Elimination of Child Labor.

NGO-run welcome centers in Antananarivo, Tamatave, and Tulear continued to receive victims of trafficking and forced labor.

For information on child trafficking, see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*e. Acceptable Conditions of Work.*—The Ministry of Civil Services and Labor was responsible for enforcing the working conditions and minimum wages prescribed in the labor code, but it often encountered trouble enforcing these laws due to inadequate resources and insufficient personnel.

The monthly minimum wage was 70,025 ariary (\$35) for nonagricultural workers and 71,000 ariary (\$36) for agricultural workers. This did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees knew what the legal minimum wages were, those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42.5 hours in the agricultural sector. Legislation limited workers to 20 hours of overtime per week, but employees often were required to work until production targets were met. In some cases this overtime was unrecorded and unpaid.

The Government sets occupational health and safety standards for workers and workplaces. The National Fund for Social Welfare, the country’s social security agency, conducted inspections and published reports on workplace conditions, occupational health hazards, and workplace accident trends. The 90 labor inspectors in the Ministry of Civil Services and Labor were sufficient to effectively monitor conditions for workers only in the capital. Workers, including foreign or migrant workers, have an explicit right to leave a dangerous workplace without jeopardizing their employment as long as they inform their supervisors. However, this right was not always respected in practice.

---

## MALAWI

Malawi is a multiparty democracy with a population of approximately 15 million. In May 2009 Bingu wa Mutharika of the Democratic Progressive Party (DPP) was reelected president in what international observers characterized as a generally free and fair election. Constitutional power is shared between the president and the 193 national assembly members. Security forces reported to civilian authorities.

The following human rights problems were reported: police use of excessive force, which resulted in deaths and injuries; security force impunity, although the Government made some efforts to prosecute abusers; occasional mob violence; harsh and life-threatening prison conditions; arbitrary arrest and detention; lengthy pretrial detention; limits on freedom of speech and the press; official corruption; societal violence against women; trafficking in persons; and child labor.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces killed three persons during the year. Perpetrators of past abuses were occasionally punished, but investigations often were abandoned or remained inconclusive.

On July 27, while conducting a search for another individual, a police officer shot and killed Silence Kapalamula at a video store in the Majawira Trading Centre. Police claimed the shooting was in self-defense. By year's end, no action had been taken against the officer.

On September 20, police officer Godfrey Salamba struck and killed a woman and her child with his vehicle in the village of Balaka. Several eyewitnesses stated that the officer was speeding. By year's end, no action had been taken against Salamba.

On December 23, Detective Sergeant Pierson Msiska was convicted of murder and sentenced to 11 years' imprisonment with hard labor for the August 2009 beating death of Stumai Mwalwanda in Karonga.

Mobs sometimes beat, stoned, or burned suspected criminals to death.

On September 27, a mob in the Ndirande suburb of Blantyre beat Ulemu Sesani and Moses Kachala to death when they were caught breaking into a private home. No arrests were made, and the investigation continued at year's end.

No arrests had been made in the February 2009 case in which villagers in the Nkhata Bay District beat to death village headman Pegson M'nhwakwata Chirwa and then burned his body.

There were no new developments in the February 2009 killing of Laston Seunda by a mob in Tholo.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police used excessive force and other unlawful techniques, including sexual abuse, during the year. While senior officials publicly condemned prisoner mistreatment, their subordinates continued to employ unacceptable techniques. The Malawi Human Rights Commission (MHRC) and local nongovernmental organizations (NGOs) criticized police for human rights violations several times throughout the year.

On March 17, police allegedly beat Harry Mwandama of Limbe, who suffered a broken leg as a result. Mwandama was accused of illegal peddling. A police spokeswoman denied any knowledge of the beating.

On May 4, three police officers reportedly beat Mercy Lozani until she was unconscious after Lozani refused to reveal the whereabouts of a fugitive. The three officers allegedly then sexually molested Lozani's teenage daughter (see section 1.f.). The case was under investigation at year's end.

There were no developments in the July 2009 case in which police fired into an unarmed crowd in Blantyre, injuring two persons.

Chrispin Ulemu Kam'mayani, a lawyer for the MHRC that a police officer beat and arrested in August 2009, declined to press charges. It was unclear why Kam'mayani dropped the case.

During the year the Limbe Magistrate Court found that Nthethiwa Salamba, Charles Sadick, and Alexander Sadick should be charged with assaulting a police officer; the three claimed they were beaten by police after being arrested in September 2009. The police prosecutor's investigation determined no charges needed to be filed against the police officers involved. The case remained pending at year's end.

During the year police officers from the Kabula police station in Blantyre were cleared of the alleged 2008 beating of Aubrey Kasten.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and potentially life threatening. Overcrowding, inadequate nutrition, substandard sanitation, poor health facilities, and inadequate infrastructure remained serious problems. Prisons and detention centers, while generally well ventilated, had no provisions for temperature control other than wood fires. Basic emergency medical care was generally available during daytime, but unavailable after regular working hours. Referrals were made to district medical clinics for more involved cases. Potable water was available.

The prison system's 30 facilities, built to accommodate approximately 5,500 inmates, routinely held at least double that number. According to Chief Prison Commissioner MacDonald Chaona, there were 11,672 inmates in the prison system at year's end. Prison staffing remained inadequate despite efforts to recruit more staff. Daily prison rations were meager. Family members were allowed to bring other food

items and inmates were encouraged to grow vegetables and raise livestock; however, malnutrition in the prison population remained a problem.

While the exact number was not known, numerous inmates died in prison each month, largely due to HIV/AIDS, diarrhea, pneumonia, tuberculosis, and inadequate diet.

The 156 female prisoners were segregated within 16 prison compounds and monitored by female guards. Pretrial detainees often were not held separately from convicted prisoners.

At year's end, according to the Malawi Prison Service, there were 490 children in prison, either serving sentence or awaiting trial.

Prisoners were allowed to have visitors, to observe their individual religions, and to submit complaints to prison authorities.

Community service programs were available as alternatives to prison terms for first-time offenders with permanent addresses who were convicted of less serious crimes.

During the year the Government permitted domestic and international NGOs, such as Amnesty International, and the media to visit and monitor prison conditions and to donate basic supplies. The International Committee of the Red Cross (ICRC) did not visit any prisons during the year.

During the year the Government doubled the budget allocation for the Malawi Prison Service from 558.7 million Malawi kwacha (MWK) to 1.2 billion MWK (\$3.7 million to \$7.9 million). However, the bulk of the increase is slated for the construction of a new prison in Lilongwe, rather than improving current conditions.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not always observe these prohibitions in practice.

*Role of the Police and Security Apparatus.*—The Malawi Police Service (MPS), controlled by the Ministry of Internal Affairs and Public Security, has responsibility for law enforcement and maintenance of order. Police occasionally called on the army for support to help operate roadblocks and to assist in manhunts.

The police force was inefficient, poorly trained, and corrupt (see section 4). Impunity was a problem. Inadequate resources and a lack of qualified candidates from which to recruit hampered efforts to improve MPS quality. The police service maintained a disciplinary committee chaired by the inspector general of police to investigate abuses; however, resources were limited, and it met only sporadically. Officers were disciplined, but punishments often consisted of reassignment to another post or dismissal rather than more stringent sanctions.

Police continued efforts to improve their investigative skills, including training in internal investigations, victims' rights, sexual abuse, domestic violence, and trafficking in persons. Police continued to receive foreign assistance for training officials and procuring equipment.

*Arrest Procedures and Treatment While in Detention.*—The law provides the accused the right to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court within 48 hours; however, these rights were often ignored in practice. Most suspects were apprehended without a warrant if police had probable cause. While arrest warrants were normally issued by a duly authorized official based on presented evidence in cases involving corruption or white-collar crime, poorer citizens were often arrested without warrants. The use of temporary remand warrants to circumvent the 48-hour rule was widespread. Police frequently demanded bribes to authorize police bail, which was frequently granted to reduce prison overcrowding rather than on the merits of the case (see section 4). The Government provided legal services to indigent detainees; however, access was often delayed, since there were only 15 lawyers and seven paralegals working as public defenders in the country. Relatives were regularly denied access to detainees.

The Government arbitrarily arrested persons, sometimes using colonial-era antiseditious and treason laws to stifle criticism.

For example, on August 20, police arrested Levi Nyondo, general secretary of the Livingstonia Synod of the Church of Central Africa, on charges of sedition. The arrest came after Nyondo made statements critical of the Government at a funeral. Nyondo was released on bail, and the case was pending at year's end.

During the year the MHRC received six complaints of arbitrary detention related to overstay of remand, denial of bail, and unheard appeals.

The November 2009 convictions of United Democratic Front (UDF) Deputy Secretary General Hophmally Makande for "proposing violence," and Malawi Democratic Party President Kamlepo Kalua for "uttering seditious words," were overturned on appeal on February 19.

There were no further developments in the 2008 treason cases against former president Bakili Muluzi and nine other persons, most of whom had close ties to the UDF.

A total of 1,267 persons, or 11 percent of the total prison population of 11,672, were in pretrial detention. Most pretrial homicide suspects were held in pretrial detention for two to three years, but there is evidence that many detainees remained in prison awaiting trial for much longer periods. Reliable data on the exact number and situation of these long-term pretrial detainees was unavailable.

The Center for Legal Assistance, an NGO that assists prisoners with legal matters, continued to provide free legal assistance to expedite the trials of detainees, with priority given to the sick, the young, and those subjected to long trial delays.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. However, the judicial system was inefficient and handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and other trained personnel, heavy caseloads, and lack of resources.

The Malawi Defense Force (MDF) has courts martial but no military or security tribunals. Military personnel accused and tried by courts martial are afforded the same rights as persons accused in civil criminal courts. MDF courts martial can try civilians in cases concerning military operations; however, this has not occurred.

*Trial Procedures.*—Defendants are presumed innocent and have the right to a public trial but not to a trial by jury. The Ministry of Justice continued its indefinite suspension of jury trials in murder cases, since murder suspects sometimes were incarcerated for years awaiting trial by jury. Juries were used in other types of cases. Defendants have the right to be present at their trial, are entitled to an attorney, and, if indigent, to have an attorney provided at state expense. Defendants have the right to present and challenge evidence and witnesses and have access to government-held evidence relevant to their cases. The law extends the above rights to all persons. All persons have the right of appeal; however, in practice appeals were often delayed for years and sometimes never addressed by the higher court.

The judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. The Department of Public Prosecutions had 27 prosecuting attorneys and 10 paralegals, who served as lay prosecutors for minor cases in magistrate courts. Recruitment and retention of government attorneys remained a problem.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The law provides for administrative and judicial remedies for alleged wrongs; however, a lack of resources and legal professionals restricted the number of cases pursued and resulted in a large backlog. During the year the MHRC received 83 complaints of limited access to justice and 20 complaints of unfair administrative procedures.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not always respect these prohibitions in practice.

In 2009 parliament passed a law legalizing warrantless searches. The MHRC reported that police regularly entered homes of poorer citizens using special police search orders, which were issued by a supervisory police officer rather than by a court.

The Government detained the family members of persons suspected of criminal activity. For example, police regularly used "bait arrests" of relatives when a suspect could not be found to draw the wanted individual from hiding. Police also sexually molested the teenage daughter of a detainee during the year (see section 1.c.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, at times the Government attempted to limit these rights. Journalists sometimes practiced self-censorship, especially at government-owned media outlets such as the Malawi Broadcast Corporation and Television Malawi (TVM).

The Government sometimes threatened the use of colonial-era antiseditious and treason laws to stifle criticism.

The independent media were active and expressed a wide variety of views; however, the Government imposed some restrictions, such as the use of onerous licensing and registration provisions. A broad spectrum of political opinion was available

in the country's newspapers. There were 10 independent newspapers, including two dailies, one triweekly, and four weeklies.

There were 16 private radio stations that broadcast only in urban areas. State-owned TVM was the sole television broadcaster.

Journalists were harassed, intimidated, and threatened with arrest during the year. On August 26, while making a speech in Blantyre, President Mutharika threatened to arrest journalists and to close newspapers that "print lies." The president was reacting to print reports of food insecurity in the southern region of the country.

There were no developments in the February 2009 "conduct likely to cause a breach of the peace" case against Mzimba Community Radio Station Manager Sam Lwara.

The May 2009 case against Gilbert Tembo for the possession of seditious materials was dropped for lack of evidence.

The July 2009 case against Gabriel Kamlomo remained pending at year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Lack of infrastructure and the high cost of Internet connections continued to limit Internet access. According to International Telecommunications Union statistics for 2008, approximately 2 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events; however, the Government sporadically censored films that were deemed to contain culturally sensitive or sexually explicit material.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right. The Government required all organizations, including political parties, to register with the Ministry of Justice. Registrations for new political parties were routinely delayed.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The Government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion. However, in 2009 the Government deported a recognized refugee from the Democratic Republic of the Congo and an Ethiopian national with a pending asylum application. UNHCR was unable to verify if the two individuals were under threat in their respective countries of origin. No such deportations occurred during the year.

By law the Government does not accept refugees for permanent settlement. The Government cooperated with UNHCR in assisting refugees and asylum seekers but restricted refugees' ability to move freely and work outside of refugee camps.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees or the 1967 Protocol; however, no reliable statistics were available.

While no legal framework existed, the Government allowed refugees to seek both employment and educational opportunities, although it restricted these activities outside the refugee camps. Refugees with professional degrees, especially those with medical training, were given work permits to pursue employment outside the camps.

UNHCR, NGOs, and the Government collaborated to provide basic assistance, including education to children, in refugee camps.

Security forces sometimes intimidated refugees and asylum seekers. Police routinely performed detained refugees found illegally outside of camps and returned them to camps. Local citizens often accused refugees of theft and demanded their deportation.

There were no developments or arrests in the July 2009 case of a mob that reportedly killed an Ethiopian refugee accused of stealing maize.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice periodically through largely free and fair elections based on universal suffrage.

*Elections and Political Participation.*—In May 2009 Bingu wa Mutharika of the Democratic Progressive Party (DPP) was reelected president in what international observers characterized as a generally free and fair election, although there were shortcomings. Observers criticized the inequitable access to the state-owned media granted to opposition parties and candidates. Opposition parties accused the Government of using public funds for campaign purposes.

The executive branch exerted considerable influence over the unicameral national assembly, which followed a hybrid parliamentary system loosely based on both the British model and a presidential-parliamentary model; all cabinet ministers were also members of the national assembly but are not required to be.

Although the Government did not prevent the activities of opposition political parties, the parties alleged that the Government encouraged opposition party divisions. Sporadic, minor violence occurred between supporters of rival political parties.

The Government delayed the registration of new political parties, which limited their ability to operate legally. Political parties were forced to resort to the courts for judicial relief. For example, the Peoples Development Movement applied for registration in May, but its application was rejected. The party was finally registered November 2, but only after a High Court ruling compelled the Government to accept the application. The Government appealed the decision, and the case remained in the court at year's end. While parties were generally allowed to operate without restriction or outside interference, there were instances of intimidation by the ruling DPP members.

There were 43 women in the 193-seat national assembly and 10 women in the 42-member cabinet, including the country's first female vice president. Women constituted approximately 25 percent of the civil service. There were three female justices among the 27 Supreme and High Court justices.

There were six members of minorities in the national assembly.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government had some success prosecuting cases; however, officials frequently engaged in corrupt practices with impunity. The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a serious problem. President Mutharika spoke publicly against corruption and cautioned government officials to refrain from questionable activities. Efforts to combat corruption and promote transparency continued.

Police corruption continued to be a problem. On February 10, police subinspector Charles Ngoleka, officer-in-charge of the Mkanda Police Unit in Mchinji, was arrested for allegedly soliciting and receiving a bribe to release an individual on police bail. The case was pending at year's end.

Casper Chalera, the head of the Malawi Police Service Fiscal and Fraud Section, who was charged for failing to account for 589,436 MWK (\$4,040) in September 2009, was acquitted by the Blantyre Magistrate Court on March 31.

The Malawi Anti-Corruption Bureau (ACB) investigated, indicted, and prosecuted low-level corruption cases during the year; however, critics charged that the bureau generally avoided indictments of high-level government officials. The ACB was considered generally competent in its handling of low-level cases. Indictments of former high-level government officials proceeded slowly, often due to legal challenges filed in court by the accused. Surveys indicated that while a majority of citizens had been exposed to government anticorruption messages, only 15 percent knew how to report corruption to the ACB. The ACB reported that it completed 634 investigations during the year, which resulted in 152 referrals to prosecutors. A total of 25 corruption cases were prosecuted during the year, resulting in 10 convictions, 12 acquittals, and three withdrawals.

The ACB's appeal of the 2008 magistrate court acquittal of Kandi Padambo, former head of the Electricity Supply Commission, was pending at year's end.

There were no further developments in the 2008 case of Information Minister Patricia Kaliati, who was accused of accepting vehicles from a foreign company in return for a concession at a national park.

A final verdict in the 2007 corruption case against former president Muluzi was pending at year's end.

The law provides for public access to government information, and the Government granted access to citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The MHRC, an independent government agency, is charged with monitoring, auditing, promoting, and investigating violations of human rights. Continued resource shortfalls resulted in a backlog of cases, delayed production of reports, and hindered human rights monitoring. The MHRC reported that it received 460 complaints of human rights violations during the year.

UN agencies and international NGOs had offices in the country and had access to investigate human rights abuses. The ICRC delegation for southern Africa based in Harare, Zimbabwe, also covered the country.

The Office of the Ombudsman is mandated to investigate and take legal action against government officials responsible for human rights violations and other abuses. Between August 2009 and October 2010, when the ombudsman position was unoccupied, the office continued investigations of existing cases, but no new investigations were authorized. The office continued to lack adequate resources and had difficulty retaining staff. As a result, the office had only six staff members to handle the investigations process for the country. Some recommendations from the ombudsman were referred to parliament after they were ignored or challenged by government departments and agencies.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law specifically provides for equal rights for women, forbids discrimination based on language or culture, race, disability, or social status, and provides for equality and recognition before the law for every citizen. However, the capacity of government institutions to ensure equal rights for all citizens was limited.

*Women.*—The law criminalizes rape with a maximum penalty of life imprisonment. Spousal rape is not explicitly mentioned but could be prosecuted under the same rape laws. The Government generally enforced the law effectively, and convicted rapists routinely received prison sentences. Data on the prevalence of rape or spousal rape and conviction figures were unavailable; however, press reports of rape arrests and convictions were an almost daily occurrence. The judiciary continued to impose penalties on persons convicted of rape. Although the maximum penalty for rape is death, the courts generally imposed the maximum assault penalty of 14 years in prison for child rape and assault.

The 2009 case against law professor Kandako Mhone for allegedly raping a minor repeatedly since 2006 was pending at year's end.

Domestic violence, especially wife beating, was common, although women seldom discussed the problem openly, and victims rarely sought legal recourse. Legal experts and human rights workers attributed victims' reluctance to report their abusers to economic dependence on the abuser, lack of awareness of their legal rights, and fear of retribution and ostracism. The law provides a maximum penalty of life imprisonment for domestic violence. The law also recognizes that both men and women can be perpetrators as well as victims of domestic violence. Police regularly investigated cases of rape and sexual assault but did not normally intervene in domestic disputes. Police support units provided shelter to some abuse survivors and dealt with human rights and gender-based violence, but officers' capacity to assist and document cases was limited.

Sexual harassment is not specifically prohibited by law, but it can be prosecuted under existing sections of the penal code, such as indecent assault on a woman or girl, which carries up to a 14-year prison sentence, or insulting the modesty of a woman, which is a misdemeanor punishable by one year in jail. There was no available data on the extent of sexual harassment or effectiveness of government enforcement.

The Government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to use contraceptives, but relatively few citizens had access to them. The Government provided free childbirth services, but these services were unevenly distributed due to limited access to hospitals and other medical facilities in rural areas. Contraceptive use among married women between the ages 15 and 49 years old was approximately 38 percent, according to the UN Population Fund (UNFPA). Due to a shortage of doctors, nurses and midwives were a critical component of prenatal and postnatal care. According to the Population Reference Bureau, approximately 56 percent of births were attended by skilled personnel. The UNFPA estimated the maternal mortality ratio to be 510 deaths per 100,000 live births in 2008. Men and women were entitled to equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

Under the law, women have the right to full and equal protection and may not be discriminated against on the basis of gender or marital status, including in the workplace; however, discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity.

Women often had less access to legal and financial assistance, and widows often were victims of discriminatory and illegal inheritance practices in which most of an estate was taken by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights; however, awareness of women's legal rights continued to increase, and women began to protest abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution. A total of 52 percent of full-time farmers were women; however, they had limited access to agricultural extension services, training, and credit. Gender training for agricultural extension workers and the gradual introduction of rural credit programs for women increased; however, few women participated in the limited formal labor market, where they constituted less than 5 percent of managerial and administrative staff.

The law provides for a minimum level of child support, widows' rights, and maternity leave; however, only individuals who could use the formal legal system benefited from these legal protections. In a few isolated areas, widows were sometimes forced to have sex with in-laws as part of a culturally mandated "sexual cleansing" ritual following the death of the husband. In some cases, widows were "inherited" by a brother-in-law or other male relative. Although there are no laws specifically prohibiting these practices, the Government and civil society continued efforts to abolish them by raising awareness concerning the inherent dangers of such behavior, including the risk of HIV/AIDS transmission.

The Government addressed women's concerns through the Ministry of Gender, Child Development, and Community Development. The Organization for Economic Cooperation and Development's Gender, Institutions, and Development data reflected the elevated discrimination in social institutions and the high inequality to which women were subjected on a daily basis.

*Children.*—Citizenship can be derived at birth within the country or from one's parents. In 2007 the Government launched the pilot phase of the national registration and identification system, the first step in the creation of a national identification system to provide for mandatory registration of births; however, the system had not been fully implemented by year's end. There were no reports of discrimination or denial of services due to lack of birth registration.

The Government provided free primary education for all children, although education was not compulsory. However, families were responsible for paying book fees and purchasing uniforms. Students from poor families had access to a public book fund. Girls, especially in rural areas, were unable to complete even a primary education due to poverty, lack of schools, and cultural factors, and were at a serious disadvantage in finding employment.

Child abuse remained a serious problem. The press regularly reported cases of sexual abuse of children, including arrests for rape, incest, sodomy, and defilement. A 2008 study by the safe schools program in Machinga found that 90 percent of girls and 47 percent of boys in primary schools experienced some form of violence, including sexual touching by other students, sexual abuse by teachers, corporal punishment, and verbal and psychological abuse.

During the year parliament passed the Child Care, Protection, and Justice Act, which prohibits subjecting a child to any social or customary practice that is harmful to the health or general development of a child. Targeted practices included child

trafficking, forced labor, forced marriage or betrothal, and use of children as security for debts or loans.

Despite the new law, many abusive practices, including the secret initiation of girls into their future adult roles, continued. In a few traditional communities, girls averaging 12 years of age were forced to have sexual relations with older men as part of such initiation rites. “Kupimbira,” a practice that allows a poor family to receive a loan or livestock in exchange for daughters of any age, existed in some areas. The MHRC expressed concern over reports of parents forcing their daughters into marriages for food.

The new law does not specifically prohibit female genital mutilation (FGM), and it was practiced by a few small ethnic groups. In most cases, FGM was performed on girls between 10 and 15 years of age.

The widespread belief that children were unlikely to be HIV positive and that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors.

The Ministry of Gender, Child Development, and Community Development undertook activities to enhance protection and support of child victims. The ministry trained and paid small stipends to more than 800 community child protection personnel, who worked nationally to identify victims of child abuse, underage labor, and trafficking, and referred cases to district social welfare offices or the police.

The trafficking of children for sexual purposes was a problem, and child prostitution for survival without third-party involvement also occurred. The new Child Care, Protection, and Justice Act stipulates punishment up to and including life imprisonment for child traffickers.

The penal code outlaws carnal knowledge of females under the age of 16 years old and stipulates penalties up to and including the penalty of death for offenders.

A few charitable organizations attempted to reduce the number of child beggars in urban areas; however, the problem of street children remained serious, as the number of orphans whose parents died from HIV/AIDS increased. Extended family members normally cared for such children and other orphans.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State’s annual report on compliance at <http://www.travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The Employment Act prohibits discrimination in employment; however, there is no comprehensive law governing discrimination against persons with disabilities. The law provides for the support of persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society; however, extremely limited resources prevented the Government from protecting these rights in practice. Reported violations were taken seriously, and the president publicly declared that students with disabilities should have equal access to education and other government services. The Government had not mandated accessibility to buildings and services for persons with disabilities.

The Ministry of Persons with Disabilities and the Elderly is responsible for protecting the rights of persons with disabilities. There were both public and privately supported schools and training centers that assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. The Malawi Rural Development Fund provided loans to persons with disabilities to support these activities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual activity is illegal and is punishable by up to 14 years in prison in addition to corporal punishment.

On May 20, Tiwonge Chimbalanga and Steve Monjeza were found guilty of “carnal knowledge against the order of nature” and “gross indecency” and were sentenced to the maximum penalty of 14 years in prison with hard labor. On May 29, President Mutharika unconditionally pardoned them. Mutharika stated that he granted the pardon for humanitarian reasons only and stressed that homosexuality was still a crime in the country.

Societal violence and discrimination based on sexual orientation occurred. The Center for Development of the People (CEDEP) reported that several cases of violence resulting in serious injury were perpetrated against gay men during the year. These attacks were not reported to police.

A 2008 study by CEDEP found that approximately 34 percent of gay men in the country had been blackmailed or denied services such as housing or healthcare due to their sexual orientation. Additionally, 8 percent of those surveyed said they had been beaten by police or other security forces due to their sexual orientation.

*Other Societal Violence or Discrimination.*—Societal discrimination against persons living with HIV/AIDS remained an issue. Many individuals preferred to keep silent about their health rather than seek help and risk being ostracized, but campaigns by the Government and NGOs to combat the stigma had some success. The national AIDS commission maintained that discrimination was a problem in both the public and private sectors.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, except for army personnel and police, to form and join trade unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice; however, union membership was low due to the small percentage of the workforce in the formal sector, the lack of awareness of worker rights, and resistance on the part of many employees to joining unions due to fear of reprisals. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions. There is no reliable data on employment in the formal or informal sector. It is estimated that there are 1.1 million persons actively working in the formal sector. An estimated 650,000 are employed in the civil service. In 2008 the Malawi Congress of Trade Unions (MCTU) calculated that approximately 18 percent of workers in the formal sector were union members. Employers, labor unions, and the Government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited their effectiveness in implementation and enforcement of the law. The law provides for unions to conduct their activities without government interference; however, in reality the law does not apply to the vast majority of workers in the informal sectors.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor, and registration was granted routinely.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the Ministry of Labor, and workers exercised this right. A strike can take place only after all complex and time-consuming settlement procedures established in a collective agreement and conciliation efforts have failed. Ambiguities in the law regarding what services are considered to be "essential" could lead to unions having difficulties striking legally. There were, however, no instances of strikes being declared illegal during the year. Laws do not specifically prohibit retaliation against strikers. There is no prohibition on actions against unions that are not registered. Members of a registered union in "essential services" have a limited right to strike. Essential services are defined as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population, as determined by the Industrial Relations Court (IRC). While there is a definition of "essential services," there is no defined list.

Arbitration rulings were legally enforceable; however, in practice, due to lack of funding and a heavy case backlog, the IRC could not monitor cases or adequately enforce the laws.

*b. The Right to Organize and Bargain Collectively.*—Workers in the formal sector have the right to organize and bargain collectively, and the Government protected this right. Informal sector workers organized in the Malawi Union for the Informal Sector (MUFIS), which is affiliated with the MCTU, were unable to obtain the same standard of protection as formal sector workers. This inequity is the result of an administrative Ministry of Labor decision that the MUFIS does not have sufficient standing to bargain collectively. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before it can engage in collective bargaining at the enterprise level, and at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-specific labor policy development. The law was not effectively implemented due to lack of human and financial resources.

The International Trade Union Confederation reported that "many workers are afraid to join unions because of prevalent antiunion discrimination by employers." There were informal reports of employers denying union access to their premises and resisting bargaining with unions. There was also anecdotal evidence that union organizers were dismissed or had their rights violated, which deterred unionization.

A total of 10 firms held licenses to operate under export processing zone (EPZ) status, and all 10 were operational. There are no special laws or exemptions from regular labor laws in export processing zones; however, many companies in the EPZs resisted union activity, and union organizers stated they had little access to workers in the EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor. Parliament passed a Child Care, Protection, and Justice Bill that specifically outlawed forced child labor. However, there were reports that such practices occurred, particularly in tobacco farms. Forced labor is punishable by a maximum fine of 10,000 MWK (\$66) or two years' imprisonment. In practice punishments were almost always limited to fines, and the modest fines imposed were not effective in discouraging labor violations.

Although the Ministry of Labor reported no cases of forced labor, forced and bonded labor involving entire families occurred under the tenancy system. Tobacco plantation tenants had exclusive arrangements, often unwritten, with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater than the amount of money received from tobacco sales, systematically leading to a situation of debt bondage to repay the inputs and other costs.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age for employment at 14 years of age, and children between the ages of 14 to 18 years old may not work in jobs that are considered hazardous or that interfere with their education; nevertheless, child labor remained a serious and widespread problem.

A June 2008 report from the Ministry of Labor stated that more than 1.4 million children, or one of every three children, were engaged in child labor. A study in Thyolo found 41 percent of children under the age of 15 engaged in at least part-time work. Seventy-eight percent of children between the ages of 10 and 14 years old living on tenant farms worked at least part-time with their parents on the farm.

Child labor was common on tobacco farms, subsistence farms, and in domestic service. Many boys worked as vendors, and young girls in urban areas often worked outside of their families as domestic servants, receiving low or no wages. Child trafficking for agricultural work took place both internally and across borders with Zambia and Mozambique; there was also trafficking to Tanzania to work in the small-scale fishing communities.

An August 2009 report issued by Plan International stated that children working in the tobacco industry were being exposed to high levels of nicotine poisoning, equivalent to smoking 50 cigarettes a day. The Government disputed the report, arguing that Plan International's claim that 78,000 children worked in the tobacco industry was greatly inflated. Debate continued over the true extent of the problem.

Regarding the 2008 case against Lilongwe restaurant owner Mohamed Abed Ali and his employee Petro Kandindi for hiring four boys to clean a septic tank, Ali and Kandindi were convicted and ordered to pay fines and restitution to the victims.

Police and Ministry of Labor officials were responsible for enforcing child labor laws and policies; however, labor inspectors do not have law enforcement capabilities and must cooperate with the police to pursue violators. The law specifies a maximum fine of 20,000 MWK (\$132) or five years' imprisonment for violations.

The Labor Ministry continued to conduct child labor law enforcement courses for district labor officers, district social welfare officers, police, and district magistrate court officers. During the year the ministry continued inspections, particularly on agricultural estates. There were 29 district labor officers and an estimated 160 labor inspectors at year's end. Approximately 1,400 inspections were carried out during the year.

The Labor Ministry's youth committees in rural areas continued to monitor and report on child labor. Despite these efforts, enforcement by police and ministry inspectors of child labor laws was hindered by lack of funding.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The Ministry of Labor sets separate urban and rural minimum wage rates based on recommendations of the tripartite wage advisory board (TWAB), composed of representatives of labor, government, and the private sector. However, poor functioning of the TWAB resulted in delayed and inadequate wage rate revisions. The urban minimum was 142 MWK (\$0.94) per day; in all other areas, it was 105 MWK (\$0.70) per day. Minimum wage rates did not provide a decent standard of living for a worker and family. Official minimum wages

apply only to the formal sector. Wage earners often supplemented their incomes through farming activities. The Ministry of Labor lacked the resources to enforce the minimum wage effectively. However, the minimum wage was irrelevant for most citizens, who earned their livelihood outside the formal wage sector. There was no exception for foreign or migrant workers.

The maximum legal workweek is 48 hours, with a mandatory weekly 24-hour rest period. The law requires payment for overtime work and prohibits compulsory overtime. In practice these standards were not effectively enforced, and employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards; however, ministry enforcement of these standards was poor.

Workers, particularly in industrial jobs, often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, workers were unlikely to exercise this right.

The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

---

## MALI

Mali, with a population of approximately 14.5 million, is a constitutional democracy. International and domestic observers characterized the 2007 presidential election, which resulted in the reelection of President Amadou Toumani Toure, and the 2007 legislative elections as generally free and fair; however, there were some administrative irregularities. Northern Mali experienced periodic violence involving banditry, drug trafficking, ethnic violence, and the terrorist organization al-Qaida in the Islamic Maghreb (AQIM). Security forces reported to civilian authorities, although there were instances in which elements of the security forces acted independently of civilian control.

Principal human rights problems included arbitrary or unlawful deprivation of life, police abuse of civilians, poor prison conditions, arbitrary detention, lengthy pretrial detention, prolonged trial delays, executive influence over the judiciary, lack of enforcement of court orders, restrictions on freedom of speech and assembly, official corruption and impunity, domestic violence and discrimination against women, female genital mutilation (FGM), trafficking in persons, societal discrimination against black Tamasheqs, discrimination based on sexual orientation, societal discrimination against persons with HIV/AIDS, slavery-like practices and hereditary servitude relationships between ethnic groups, and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on February 22, police officers shot and killed Mamadou Coulibaly, a minibus driver in Bamako who attempted to flee a police check. In reaction to the incident, minibus drivers rioted, formed roadblocks, burned tires, threatened police officers, and pillaged the police station in the Bamako suburb of Senou. The Government did not pursue disciplinary action against the police officers involved, who alleged the first shots had been fired from the minibus.

There were no developments in the July 2009 case of minibus driver Sountou Koumba Sissoko, shot and killed by National Guardsman Lassine Goita allegedly for failing to stop at a checkpoint near the town of Kita. At year's end Goita remained in prison awaiting trial. Of the 45 persons arrested for their roles in the subsequent rioting, 25 remained in prison awaiting trial at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The terrorist organization AQIM held persons hostage during the year (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were occasional reports that police abused civilians, including using excessive force to disperse a demonstration.

On August 7, a group of up to 20 gendarmes arbitrarily rounded up and physically assaulted residents in a neighborhood of Timbuktu. Allegedly angered by an attack on one of their colleagues by a neighborhood youth, the gendarmes brought residents to a local school, doused them with gasoline, and threatened to set them ablaze if the implicated youth was not turned over. Civil authorities intervened to restore calm, but by year's end, no disciplinary action had been pursued against the gendarmes.

An August 24 report stated police in Timbuktu had beaten with batons a youth who refused to heed a police order to stop his motorbike. When news of the incident spread, a large youth group marched on police headquarters and pelted it with rocks. Although civil authorities intervened to restore calm, no charges were brought against the police, who alleged the victim had been injured in a motorbike accident.

On November 12, police belonging to the Mobile Security Group (GMS) allegedly used excessive force to disperse young demonstrators who had gathered before the Court of Appeals in Bamako to protest the detention of Mossa Ag Acharatmane and Aboubacrine Ag Fadil. The two detainees were arrested on October 31 in connection with an allegedly treasonous text they had written for the founding congress of a Tuareg association, the National Movement for the Azawad. According to press reports, the GMS police used batons to disperse the demonstrators, injuring eight and arresting three, including a journalist.

*Prison and Detention Center Conditions.*—Overall prison conditions remained poor. Prisons continued to be overcrowded. For example, as of September 28, the central prison in Bamako housed 1,794 prisoners in a facility designed to hold 400. The Sikasso Prison held close to 200 prisoners in a facility built for 50. In addition food was insufficient, and medical facilities and sanitation were inadequate, posing serious threats to health.

In Bamako men and women were placed in separate prisons, although both male and female juvenile offenders were held in the women's prison. Outside the capital, men, women, and juveniles were held in separate cells within the same prison. Arrested individuals may be held for up to 72 hours in police stations, where there are no separate holding areas for men and women. Pretrial detainees were held with convicted prisoners. Detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints by themselves or through ombudsmen to judicial authorities without censorship and to request investigations of credible allegations of inhumane conditions, although it was not known if any prisoner had done so. The Government's National Penitentiary Administration investigated and monitored prison and detention center conditions.

The Government permitted prison visits by human rights monitors, and various human rights organizations conducted visits during the year. However, nongovernmental organizations (NGOs) and other monitors were required to submit a request to the prison director, who then forwarded it to the Ministry of Justice. Approvals, which took up to one week, were routinely granted, but the weeklong delay hindered the ability of monitors to ascertain if there were human rights violations, and some NGOs and the International Committee of the Red Cross (ICRC) faced temporary resistance from prison authorities. ICRC visits were conducted in accordance with its standard modalities. In some cases prison officials did not allow NGOs to interview prisoners without third parties present. Several NGOs, including the Malian Association of Human Rights and the Malian Association of Women Lawyers, visited prisoners and worked with female and juvenile prisoners to improve their conditions.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions; however, there were reports that arbitrary arrest and detention occurred.

There were no new developments in the case of Habitat Bank of Mali Chief Executive Officer Mamadou Baba Diawara, whose conviction for fraud was overturned by the Supreme Court in 2009 but whose release was prevented by an order of the minister of justice. By year's end, Diawara remained detained, as did prison warden Sekouba Doumbia, who had released Diawara's codefendant Ismaila Haidara on the basis of the Supreme Court order.

*Role of the Police and Security Apparatus.*—Security forces include the army, air force, gendarmerie, national guard, police, and the General Directorate of State Security (DGSE). The army and air force are under the control of the civilian minister of defense. The national guard is administratively under the minister of defense; however, it is effectively under the control of the minister of internal security and civil protection. Its responsibilities include maintaining order during exceptional cir-

cumstances, such as disasters or riots. The guard also has specialized border security units. The police and gendarmerie are under the Ministry of Internal Security and Civil Protection. Police have responsibility for law enforcement and maintaining order in urban areas, while gendarmes have that responsibility in rural areas. The DGSE has authority to investigate any case and temporarily detain persons at the discretion of its director general; it usually did so only in terrorism and national security cases.

The national police force is organized into districts. Each district has a commissioner, who reports to the regional director at national headquarters. The police force was moderately effective but lacked resources and training.

*Arrest Procedures and Treatment While in Detention.*—Judicial warrants are required for arrest. Bailiffs normally deliver warrants, which stipulate when a person is scheduled to appear at a police station. While persons were usually apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, there were occasions when warrants were not based on sufficient evidence.

Detainees are brought before the judiciary and have the right to a lawyer of their choice or a state-provided lawyer if they are indigent; however, an insufficient number of lawyers—particularly outside the cities of Bamako and Mopti—often prevented access to legal representation. Detainees were granted prompt access to family members.

In cases involving a monetary debt, the arrested person frequently resolved the case at the police precinct, and the police received a portion of the recovered money.

The law provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice detainees were not always charged within 48 hours. Suspects must be transferred from a police station to a prison within 72 hours after being arrested; however, in practice detainees were sometimes held longer than 72 hours. Limited rights of bail and the granting of conditional liberty exist, particularly for minor crimes and civil matters. On occasion authorities released defendants on their own recognizance.

The law stipulates charged prisoners must be tried within one year, but this limit was frequently exceeded, and lengthy pretrial detention was a problem. Lengthy trial procedures, large numbers of detainees, judicial inefficiency, corruption, and staff shortages contributed to lengthy pretrial detention. Individuals sometimes remained in prison for several years before their cases came to trial. Many individuals lacked the financial resources needed to make bail. Approximately 67 percent of the prison population consisted of persons awaiting trial. For example, on September 28, of the 1,794 prisoners held at the central prison of Bamako, a total of 1,218 were awaiting trial.

In September the judiciary extended its second ordinary session by one month to reduce the case backlog and ease prison overcrowding. The judiciary had approximately 240 cases on the docket for the session.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the executive branch continued to exert influence over the judicial system. Corruption and limited resources affected the fairness of trials. Domestic human rights groups alleged bribery and influence peddling were widespread in the courts.

There were problems enforcing court orders.

Village chiefs and government-appointed justices of the peace decided the majority of disputes in rural areas. Justices of the peace had investigative, prosecutorial, and judicial functions. In practice these systems did not provide the same rights as civil and criminal courts.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and a mostly independent judiciary generally enforced this right. Except in the case of minors, trials generally were public and juries were used. Defendants have the right to be present and have an attorney of their choice. Court-appointed attorneys are provided for the indigent without charge. Defendants have the right to consult with their attorney, but administrative backlogs and an insufficient number of lawyers, particularly in rural areas, often prevented prompt access. Many persons could not afford an attorney. Defendants and attorneys have access to government evidence relevant to their cases. Defendants are presumed innocent and have the right to confront witnesses, to present witnesses and evidence on their behalf, and to appeal decisions to the Supreme Court. These rights extend to all citizens and all groups.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, although corruption in the judicial branch was widespread and laws are biased against women. There is no separate court system for lawsuits

seeking damages for, or cessation of, a human rights violation. There were reports that civil court orders were sometimes difficult to enforce.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Northern Mali experienced periodic violence involving bandits, smugglers, paramilitary forces, ethnic violence, and AQIM.

There were reports the paramilitary militia of Colonel Elhedji Gamou committed abuses against civilians in Kidal Region. Allegations concerned armed banditry, drug trafficking, arbitrary violence, and reprisal attacks. On April 25, Intalla ag Attaher, the traditional leader of Tuaregs in Kidal, wrote to President Amadou Toumani Toure and threatened to exile himself if Gamou's militia was not withdrawn or reined in. In response, a high-level delegation traveled to Kidal on May 2 to speak with ag Attaher about the situation. Reports indicated a moderate improvement in the militia's respect for civilians' rights in Kidal since that time.

Sporadic violence between the Ganda-Izo militia, composed of ethnic Peulh (nomadic) and Songhai (sedentary pastoralists), against neighboring Tuareg (seminomadic) factions in the area of Ansongo (Gao Region) continued. On August 2, the Government organized a "Flame of Peace" disarmament ceremony in Fafa, a small village in the Ansongo area. An estimated 400 militants from all three ethnic groups participated in the disarmament, and 367 weapons were collected and burned. Notwithstanding the new effort at peace, reports continued of livestock theft and reprisal attacks between the communities.

No prosecutions were opened regarding the violent confrontations between Peulh/Songhai and Tuaregs in June and July 2009.

During the year the terrorist organization AQIM killed persons and took hostages.

On April 19, in Niger, bandits abducted French citizen Michel Germaneau and later handed him over to AQIM. On July 25, AQIM claimed it had executed Germaneau in reprisal for a French-supported Mauritanian attack on AQIM camps in Mali on July 22, although reportedly Germaneau may already have died by the time of the July 22 raid.

On September 17, elements believed to be part of AQIM abducted seven employees—five French, one Togolese, and one Malagasy—of the French firms Areva and Satom in Arlit, Niger, and transported them to AQIM camps in northern Mali.

On February 23, AQIM released French citizen Pierre Camatte who was taken hostage in Menaka in November 2009. The release occurred after courts tried and sentenced to "time served" four AQIM operatives authorities had taken into custody in April 2009.

There were developments in the case of three Spanish aid workers kidnapped in Mauritania in November 2009 and held in northern Mali by AQIM. On March 10, AQIM released Alicia Gamez. The remaining two Spanish hostages, Albert Vilalta and Roque Pascual, were released on August 22. According to media reports, the release was in exchange for ransom payments as well as the release by Mauritanian authorities of Malian AQIM member Omar Oul Sid Ahmed Ould Mama, also known as Omar the Sahroui.

On April 16, AQIM released two Italian citizens, Sergio Cicala and his wife Philomene Kaboure, who had been held hostage in Mali since their kidnapping in December 2009 in Mauritania.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press. While the Government generally respected these rights in practice, there was a report of a journalist arrested.

The independent media were active and expressed a wide variety of views.

On November 12, Diakaridia Yossi, a journalist for the daily newspaper *L'Independant*, was taken into custody while covering the police dispersal of a demonstration in front of the Court of Appeals protesting the detention of Mossa Ag Acharatmane and Aboubacrine Ag Fadil. Yossi was apparently mistaken for one of the protestors and allegedly suffered several blows from police batons. According to press reports, Yossi was released from custody, and the director of the National Police, Niame Keita, in a meeting with journalist associations, expressed regret for the incident and provided 25,000 CFA francs (\$50) to offset Yossi's medical expenses.

In December 2009 Noumouke Sidibe, a journalist for Radio Kayira, a network of stations critical of the Government, was arrested in Kita and charged with inciting the July 2009 Kita riots through his radio broadcasts. Sidibe, who had been highly critical of local authorities in his reporting, was released on January 6 after an in-

vestigative judge determined he had not been on the air the day he was alleged to have been inciting riots.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There were numerous Internet cafes in Bamako, although home access in the capital was limited by cost. Outside of Bamako there were a few sites where the Internet was available for public use. According to International Telecommunication Union statistics for 2008, approximately 1.6 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, at times the Government did not respect this right in practice.

On March 9, police allegedly used excessive force and tear gas to disperse a protest march organized by an association representing persons dispossessed by land seizures. Local authorities attempted to ban the demonstration on March 8, but this was not effectively communicated to those involved in the demonstration. When police forces attempted to disperse the protestors, a confrontation ensued, in which six individuals were injured. Police arrested four demonstrators, who were later released.

There were no developments in the February 2009 incident of police using excessive force to disperse protesters in the Bamako neighborhood of Banconi Salembougou.

*Freedom of Association.*—The constitution provides for freedom of association, although the law prohibits associations deemed immoral. The Government generally respected freedom of association during the year.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations.

The Government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and other persons of concern.

The constitution and law specifically prohibit forced exile; the Government did not use it.

*Internally Displaced Persons (IDPs).*—The Government provided some assistance to IDPs, allowed the International Committee of the Red Cross (ICRC) access to IDPs, and permitted IDPs to accept assistance provided by humanitarian organizations. The distances involved, difficult terrain, and land mine concerns hampered assistance efforts. The Government did not attack or target IDPs or forcibly return or resettle them. Most persons internally displaced by the Tuareg rebellion in 2008-09 had returned home by the end of 2010, although few reported receiving any assistance from authorities.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. A national committee in charge of refugees operated with institutional assistance from UNHCR.

The Government's Office of International Migration is responsible for providing temporary protection to individuals who may not qualify as refugees and provided it to two Nepalese women in distress during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In 2007 voters elected President Amadou Toumani Toure to a second five-year term with 71 percent of the vote. Legislative elections were also held in 2007. Domestic and international observers characterized these elections as generally free, fair, and without evident fraud, but there were administrative irregularities.

There were developments with respect to alleged irregularities and fraud during the 2009 communal elections. An administrative tribunal annulled the results in several communes, including Yelimane, Tessalit, Bourem, and Bamako's Commune IV. The Government appointed special delegations to govern the affected communes pending new elections.

Political parties generally operated without restrictions or outside interference.

There were 15 women in the 147-member National Assembly. There were six women in the 29-seat cabinet, five women—including the chairperson—on the 33-member Supreme Court, and three women on the nine-member Constitutional Court.

The National Assembly had 15 members from historically marginalized pastoralist and nomadic ethnic minorities representing the eastern and northern regions of Gao, Timbuktu, and Kidal. The cabinet also had two members from these minorities.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Officials regularly extorted money. Corruption in the judiciary was widespread. Impunity was a problem, and police were often not held accountable for corruption. The gendarmerie conducted investigations of police officers, although the number of officers disciplined for infractions was not available. Police and gendarmes frequently extorted bribes. There were reports of uniformed police directing stopped motorists to drive to dark and isolated locations, where the officers then forcibly robbed the victims.

The constitution requires the prime minister and other cabinet members to annually submit a financial statement and written declaration of their earnings to the Supreme Court. These documents were not made public.

The Malian Anticorruption Agency (CASCA) and the independent Office of the Auditor General (OAG) are responsible for combating corruption. CASCA oversees a number of smaller anticorruption units within various government ministries and reports directly to the presidency.

The OAG's report for 2009 (released in 2010) estimated that 112 billion CFA francs (\$226 million) in revenue had been lost due to fraud and mismanagement, including lost revenue in agricultural and health programs.

During the year the OAG examined 10 entities that were discussed in its 2007 report. The examination found these entities had implemented 61 percent of the auditor general's fraud prevention and financial management recommendations. In addition there was one criminal prosecution based on corruption found in a previous year's report. On January 11, six men who had worked in the Government's Office du Niger were tried in Bamako's Court of Appeals for embezzling fees paid by farmers for irrigation water provided by the state. The court acquitted two of the men, sentenced two to time served, and sentenced the remaining two to five-year terms of imprisonment.

The law provides for public access to government information, and the Government generally granted such access for citizens and noncitizens, including foreign media. The national budget was available to the public upon request. If an information request is refused, the person who submitted the request can appeal to an administrative court, which must address the appeal within three months.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The National Commission on Human Rights (CNDH) is part of the Ministry of Justice. The CNDH is an independent institution under the constitution, and was

significantly restructured in November 2009. During the year the Government provided the commission with a headquarters, small staff, and budget increase. The commission began work on two human rights reports, including one specifically devoted to prison conditions.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on social origin and status, color, language, gender, or race, but not disability. In spite of relevant legislation, citizens were generally reluctant to file complaints or press charges of discrimination, based largely on cultural factors. Absent complaints or lawsuits, the Government did not aggressively pursue violations of these laws.

*Women.*—The law criminalizes rape and provides a penalty of five to 20 years' imprisonment; however, the Government did not enforce the law effectively. Only a small percentage of rape cases were prosecuted, since most such cases were not reported, and victims felt social pressure not to pursue charges against aggressors who were frequently close relations. There is no law specifically prohibiting spousal rape, but law enforcement officials stated the criminal laws against rape apply to spousal rape. Police and judicial authorities were willing to pursue rape cases, but stopped if parties reached an agreement prior to trial. The Bamako Court of Appeals had 48 cases of rape on its docket for the two ordinary sessions of the year; however, information on the number of convictions was not available.

Domestic violence against women, including spousal abuse, was a problem. Most cases went unreported. Spousal abuse is a crime, but the law does not specifically prohibit domestic violence. Police were reluctant to enforce laws against or intervene in cases of domestic violence. Many women were reluctant to file complaints against their husbands because they feared such allegations would be interpreted as grounds for divorce, were unable to support themselves financially, or sought to avoid social stigma. The Government's planning and statistics unit, established to track prosecutions, was not operational. Assault is punishable by prison terms of one to five years and fines of up to 500,000 CFA francs (\$1,011) or, if premeditated, up to 10 years' imprisonment.

The Ministry for the Promotion of Women, Children, and the Family distributed a guide regarding violence against women for use by health-care providers, police, lawyers, and judges.

The NGOs Action for the Defense and Promotion of Women Rights, Action for the Promotion of Household Maids, and the Association for Development and Youth operated six shelters, five in Bamako and one in Segou, for abused female domestic laborers.

The law does not prohibit sexual harassment, and it occurred frequently, including in educational establishments.

Women's ability to make decisions regarding reproduction was limited. Women faced pressure to defer responsibility to their husbands and family on reproductive issues including the number, spacing, and timing of their children and often lacked sufficient information. Women often did not have access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. According to the UN Population Fund (UNFPA), the contraceptive prevalence rate was 8 percent, with unmet need for family planning estimated at 29 percent. Reportedly, 49 percent of births were attended by skilled health personnel. Women were equally diagnosed and treated for sexually transmitted infections, including HIV, but access to health care for both men and women was limited. According to UNFPA estimates, in 2008 the maternal mortality ratio was 830 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in 22.

Family law and traditional practices favor men. Women are legally obligated to obey their husbands and are particularly vulnerable in cases of divorce, child custody, and inheritance. Women had very limited access to legal services due to their lack of education and information as well as the prohibitive cost.

While the law provides for equal property rights, traditional practices and ignorance of the law prevented women from taking full advantage of their rights. A community property marriage must be specified in the marriage contract. In addition if the type of marriage was not specified on the marriage certificate, judges presumed the marriage was polygynous. Traditional practice discriminated against women in inheritance matters, and men inherited most of the family wealth.

Women's access to employment and to economic and educational opportunities was limited. According to the National Center for Information on Women and Children, women constituted approximately 15.5 percent of the formal labor force. The Government, the country's major formal sector employer, paid women the same as men for similar work. The Ministry for the Promotion of Women, Children, and the

Family was charged with ensuring the legal rights of women. Women experienced economic discrimination due to social norms that favor men.

*Children.*—Citizenship is derived from one's father. The Government did not register all births immediately, particularly in rural areas. However, during the year, the Government conducted an administrative census to collect biometric data and assign a unique identifying number to every citizen. The process allowed the registration of children who had not been registered at birth, although the exact number of new birth certificates assigned is unknown. Several local NGOs, including Ladilikan and the Malian Association for the Promotion of the Sahel, worked with foreign partners during the year to register children at birth and to educate parents about the benefits of registration.

The constitution provides for tuition-free universal education, and the law provides for compulsory schooling from ages seven to 16; however, many children did not attend school, and parents often had to pay for their children's education as well as provide their uniform and supplies. Girls' enrollment in school was lower than boys' at all levels due to poverty, cultural tendencies to emphasize boys' education, and the early marriage of girls. According to government statistics, 56.3 percent of girls ages six to 12 and 70.4 percent of boys ages six to 12 were enrolled in primary schools in 2009. Other factors affecting school enrollment included distance to the nearest school, lack of transportation, and shortages of teachers and instructional materials.

Members of the black Tamasheq community reported that some Tamasheq children were denied educational opportunities due to slavery-like practices.

Qur'anic masters often require students under age 10, known as "garibouts," to beg for money on the streets or work as laborers in agricultural settings (see section 7.d.).

There were no comprehensive statistics on child abuse. Most child abuse cases went unreported. Sexual exploitation of children occurred. The police and the social services department under the Ministry of Social Development, Solidarity, and the Elderly investigated and intervened in some reported cases of child abuse or neglect; however, the Government provided few services for such children. The Court of Appeals of Bamako heard 35 pedophilia cases during its second ordinary session of the year; NGOs reported pedophilia cases were more likely to go to trial than rape cases because charges could be pressed by the child's guardian rather than the victim, and the anonymity of the child could be preserved, reducing the social stigma.

Female genital mutilation (FGM) was very common, particularly in rural areas, and was performed on girls between the ages of six months and six years. Approximately 92 percent of all girls and women had been subjected to FGM, although a Ministry of Health demographic study in 2006 reported that among girls and women ages 15 to 19, the rate was 85 percent. The practice was widespread in most regions with the exception of certain northern areas, occurred among most ethnic groups, was not subject to class boundaries, and was not religiously based. There are no laws specifically prohibiting FGM; however, a government decree prohibits FGM in government-funded health centers. Government information campaigns regarding FGM reached citizens throughout the country, and human rights organizations reported that FGM decreased among children of educated parents. There were reports of Burkinabe families crossing into Mali to evade stricter FGM laws in Burkina Faso.

The marriage code allows girls under the age of 15 to marry if they have parental consent and special permission from a judge. The minimum age for girls to marry without such consent is 15. Underage marriage was a problem throughout the country, with parents in some cases arranging marriages for girls as young as nine. According to local human rights organizations, judicial officials frequently accepted false documents claiming that girls under the age of 15 were old enough to marry.

There were no developments in the case of Amadou Diallo, arrested in August 2009 for planning to marry his 12-year-old daughter to her 50-year-old cousin.

The law does not specifically address child prostitution. Authorities cited child pornography as a form of indecent assault prohibited under the criminal code. Penalties for indecent assault range from five to 20 years in prison. The country has a statutory rape law that defines 18 as the minimum age for consensual sex. The law is inconsistent with the legal minimum marriage age of 15 and was not enforced.

The National Police's Division for Protection of Children and Morals sometimes arrested child prostitutes. They were usually released a few hours after their arrest.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish population was estimated at fewer than 50, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—There is no specific law protecting the rights of persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or in the provision of other state services. There is no law mandating accessibility to public buildings. The Ministry of Social Development, Solidarity, and the Elderly is charged with the protection of the rights of persons with disabilities. The ministry sponsored activities to promote opportunities for persons with disabilities to generate income and also worked with NGOs, such as the Malian Federation of Associations for Handicapped Persons, which provided basic services. There was a school for the deaf in Bamako that ostensibly falls under government responsibility, but support and resources were practically nonexistent.

*National/Racial/Ethnic Minorities.*—Societal discrimination against “black” Tamasheqs, often referred to by the label Bellah, continued. Some black Tamasheqs were deprived of civil liberties by other ethnic groups due to traditional slavery-like practices and hereditary servitude relationships between certain ethnic groups. Black Tamasheq communities in Gao and Menaka also reported systematic discrimination by local officials and others that hindered their ability to obtain identity documents or voter registration cards, locate adequate housing, protect their animals from theft, seek legal protections, obtain education, or access development aid.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no publicly visible lesbian, gay, bisexual, and transgender (LGBT) organizations in the country. The free association of LGBT organizations was impeded by a law prohibiting association “for an immoral purpose”; in 2005 the then governor of the District of Bamako cited this law to refuse official recognition to a gay rights association. Although there was no official discrimination on the basis of sexual orientation, in practice, societal discrimination was widespread.

*Other Societal Violence or Discrimination.*—Societal discrimination against persons with HIV/AIDS occurred. The Government implemented campaigns to increase awareness of HIV/AIDS and reduce discrimination against those with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form or join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights. Only the military, the gendarmerie, and the National Guard were prohibited from forming unions. An estimated 95 percent of salaried employees were organized, including teachers, magistrates, health workers, and senior civil servants.

The law allows unions to conduct their activities without interference, and the Government respected this right in practice.

Unions have the right to strike, and workers exercised this right. However, the law allows the minister of labor to order arbitration for disputes that may endanger lives, security or health, normal functioning of the economy, or involves a vital professional sector. Civil servants and workers in state-owned enterprises are required to give two weeks’ notice of a planned strike and to enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor and State Reforms. The labor code prohibits retribution against strikers, and the Government generally enforced these laws effectively.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to collective bargaining, and workers exercised this right freely. The law does not prohibit antiunion discrimination, but there were no reports of antiunion behavior or activities during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, such practices occurred.

Most adult forced labor was found in the agricultural sector, especially rice production, domestic services, gold mining, and the informal economy. Forced child labor was seen in the same sectors, but sometimes with different tasks. In informal surface mining, for example, children were used for work in small holes where adults do not fit. Some Qur’anic school masters also require children to work longer hours than is socially acceptable.

The law prohibits the contractual use of persons without their consent; penalties include a fine and hard labor. Penalties increase to 20 years' imprisonment if a person under age 15 is involved.

Many black Tamasheqs continued to be subjected to forced labor practices and hereditary servitude relationships, particularly in the eastern and northern regions of Gao, Timbuktu, and Kidal. According to NGOs, the judiciary was reluctant to act in forced labor cases.

In January a black Tamasheq woman named Timizwaq fled to Menaka and filed a legal complaint alleging she had been held as a hereditary slave and subjected to forced labor for 15 years in Inbougaretane by Hama Hama ag Adim. With the assistance of a local NGO, she obtained an out-of-court settlement whereunder ag Adim agreed to return her two children that were under his control and provide her with 20 lambs. At year's end ag Adim had returned the two children but had not provided any of the livestock.

There were developments in the cases of Nalewat, a black Tamasheq woman in Bambara-Maounde who was held as a hereditary slave and subjected to forced labor for 14 years, and Aboubakrine ag Kamotane, who filed a legal forced labor-related complaint against a man named Afna in Timbuktu. At year's end the man who had subjected Nalewat to forced labor had only paid half of the one million CFA francs (\$2,022) out-of-court settlement agreed to in 2009 and was refusing to complete the agreement. Aboubakrine ag Kamotane withdrew his legal complaint under pressure from local authorities and the gendarmerie, who had been solicited by Afna, the defendant.

There were no developments in the 2008 forced labor-related lawsuits filed by Agiachatou walet Touka against Sagoudene ag Adime, Iddar ag Ogazide against Erzaghi ag Bayes, and Tatche walet Ekadaye against Ahmed Iknane ag Bakka.

Debt bondage occurred in the salt mines of Taoudenni, in the North. Individuals, primarily of Songhai ethnicity, including some children, worked as salt miners to pay off debts owed to businessmen in Timbuktu.

Please also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code has provisions that pertain to child labor; however, these were often ignored in practice. Child labor was a problem. Child labor was concentrated in the agricultural sector, especially rice production, domestic services, gold mining, Qur'anic schools, and the informal economy.

While the labor code sets the minimum age for employment at 14, with certain exceptions, an ordinance pertaining to children sets the minimum employment age at 15. The labor code permits children between the ages of 12 and 14 to engage in domestic or light seasonal work, and limits the number of hours they may work. No child is permitted to be employed for more than eight hours per day under any circumstances. Girls who are 16 to 18 cannot be employed for more than six hours per day. However, these regulations were not enforced in practice.

Approximately half of children between the ages of seven and 14 were economically active, and more than 40 percent of children in this age group were subjected to the worst forms of child labor. Child trafficking occurred. Children, especially girls, were used for forced domestic labor. Child labor in the mining sector, including salt mining in Taoudenni and gold mining, was also a problem. Black Tamasheq children were forced to work as domestic and agricultural laborers.

An unknown number of primary school-aged children throughout the country, mostly under age 10, attended part-time Qur'anic schools that were funded by students and their parents and taught only the Qur'an. As part of their work requirement, Qur'anic masters often required students, known as "garibouts," to beg for money on the streets or work as laborers in agricultural settings.

Authorities enforced labor code provisions, including those related to child labor, through inspectors from the Ministry of Labor and State Reforms, which conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, which operated only in the formal sector. The Ministry of Labor and State Reforms employed approximately 50 labor inspectors, up from eight in 2007.

A 43-member national committee for child labor and trafficking issues worked to develop a list of the worst forms of child labor. The committee was composed of 13 ministries as well as NGOs, and was chaired by the Ministry of Labor and State Reforms. In February 2009 the Government finalized a list of hazardous occupations in which children are prohibited from working. In addition the Government finished elaborating a National Action Plan to combat child labor, although it has not yet been adopted by the Council of Ministers. The Government regularly acts in a supporting role for donor projects dealing with child labor.

*e. Acceptable Conditions of Work.*—The national minimum wage was 28,465 CFA francs (\$58) per month, which did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. Persons working in the informal and subsistence sectors did not receive the minimum wage. The labor code specifies conditions of employment, including hours, wages, and social security; however, many employers either ignored or did not comply completely with the regulations. The Ministry of Labor is also responsible for enforcing the minimum wage, but it did not do so effectively.

The legal workweek is 40 hours, except for work in the agricultural sector. The legal workweek for agricultural employees ranges from 42 to 48 hours, depending on the season. The law requires a weekly 24-hour rest period. Workers have to be paid overtime for additional hours. The law limits overtime to eight hours per week. Labor inspectors usually visited work sites only after complaints were filed by labor unions. Legal standards pertaining to hours of work were not always enforced.

The law provides a broad range of legal protections against hazards in the workplace; however, authorities did not effectively enforce these standards. Workers' groups brought pressure on employers to respect sections of the regulations. With high unemployment, however, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service oversees these standards but limited enforcement to the formal sector. It was not effective in investigating and enforcing workers' safety and was insufficiently funded for its responsibilities. Workers had the right to remove themselves from dangerous work situations and to request an investigation by the Social Security Department, which is responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

## MAURITANIA

Mauritania, with an estimated population of 3.2 million, is a highly centralized Islamic republic governed by President Mohamed Ould Abdel Aziz, whose election in July 2009 ended the 11-month political crisis caused by the 2008 coup d'état against former president Sidi Ould Cheikh Abdallahi. The presidential election, declared generally free and fair by international observers, followed the June 2009 Dakar Accord, a consensual agreement brokered by Senegalese President Wade and the international community to end the country's political stalemate. Following the election, the political situation stabilized, although the new authorities have been slow to respond to opposition calls for an inclusive political dialogue agreed under the Dakar Accord. The majority party Union for the Republic (UPR) overwhelmingly won the November 2009 senatorial elections, which the opposition denounced as tainted by political influence and tribal pressures. Security forces reported to civilian authorities.

Human rights abuses included mistreatment of detainees and prisoners; security force impunity; lengthy pretrial detention; harsh prison conditions; arbitrary arrests; limits on freedom of the press and assembly; corruption; discrimination against women; female genital mutilation (FGM); child marriage; political marginalization of southern-based ethnic groups; racial and ethnic discrimination; slavery and slavery-related practices; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit torture; however, security forces allegedly tortured detainees to extract confessions. Torture methods reportedly included electric shocks, burnings, beatings, pulling out of hair, and sexual violence. However, according to the Mauritanian Human Rights Association, there were no documented cases of torture this year.

There was no government response to the April 2009 alleged torture of and denial of medical treatment for suspected terrorist Cheikhani Ould Sidina. The allegation was made by a spokesman for the families of imprisoned Islamists following Sidina's death in prison.

There was no government response to the August 2009 alleged torture of Mohamed Ould Zeidane after he was arrested and detained for questioning related to his brothers suicide bomb attack near the French embassy.

There were no reports that the Government investigated the September 2009 case in which Nouakchott Prison guards tortured convicted terrorist suspect Khadim Ould Semane. Al Jazeera Television had broadcast images of guards beating and water boarding Semane and aired a telephone interview with Semane in which he stated that he was subjected to electric shocks and degrading treatment.

There were no reports that authorities investigated the 2008 case in which police tortured suspected terrorists Abdel Kerim Ben Veraz El Baraoui, Ahmed El Moctar Ould Semane, and Cheikh Ould Salem. The suspects' lawyers had claimed that police tortured their clients by hanging them by their feet and using cigarettes to burn their bodies.

There were no further developments in the 2008 reported torture of 39 terrorist suspects involved in the 2007 killings of four French citizens and the 2008 attack on the Israeli embassy.

*Prison and Detention Center Conditions.*—Prison conditions were harsh, and the Government's capacity to administer detention facilities remained poor. There were credible reports of torture, beatings, and abuse in police detention centers, several prisons throughout the country, and gendarmerie and military facilities.

Funds to improve prison conditions remained inadequate. The situation of overcrowding, violence among inmates, and poor medical care in prisons remained the same. Many prisoners were unable to leave their extremely crowded cells or breathe fresh air for months or years at a time.

Serious overcrowding contributed to the spread of diseases, prisoners with health conditions received little or no care, and medical supplies remained insufficient. For example, the Dar Naim Prison held approximately 1,200 prisoners, although it was designed to hold 300. Reports of malnutrition, poor health, and deficient hygiene conditions at the Dar Naim Prison continued. There were reports of four deaths due to illness and unsanitary conditions at the prison. There was no reported investigation of the deaths by year's end.

Nongovernmental organizations (NGOs) such as the Association of Female Heads of Family (AFCF) continued to denounce overcrowding and long preventive detentions. Prison overcrowding was exacerbated by the high number of pretrial detainees.

During the year the Government began construction in Nouadhibou of a new prison with capacity for 300 prisoners. The prison was not completed by year end.

Pretrial detainees were frequently held with convicted and dangerous prisoners. Pretrial terrorist suspects were held in separate areas from the general prison population in Nouakchott Central Prison.

Due to poor security conditions and the fact that dangerous prisoners shared cells with nondangerous ones, prisoners also lived in a climate of violence, and some had to pay bribes to other prisoners to avoid being brutalized and harassed.

According to Ministry of Justice statistics, there was a total of 1,700 prisoners with 955 serving sentences and 700 in preventive detention. There were 62 female prisoners with 13 serving sentences and 49 in preventive detention.

As in the previous year, there were reports on the poor prison conditions of terrorist suspects. On April 5, Salafist prisoners issued a press release stating they were giving up family visits for one day to protest prison conditions and they also threatened to start a hunger strike if their right to a speedy trial was not respected. The hunger strike did not occur during the year.

According to media sources, prisoner Mohamed Ould Elhoudrami was transferred from Dar Enaim prison to a hospital after commencing a hunger strike on November 8. However, the Web site Tawary reported he was transferred to the hospital because he was in critical condition with cancer and needed daily treatment. Elhoudrami was arrested on October 7 after being accused of fraud by President Aziz, who described him as dangerous in a televised interview with the media.

In August 2009 local press reported that Amar Ould Saleh, a terrorist suspect, was dying from tuberculosis and was not receiving medical treatment or medication. Ould Saleh was tried and sentenced to 10 years in prison on October 22; subsequently, he received continuing treatment at the prison health unit.

The Mauritanian Bar Association's (ONA) August 2009 report criticized "the non-respect of human lives in prisons" and highlighted the April 2009 death of terrorist suspect Chikhani Ould Sidina, reportedly due to negligence and denial of medical treatment. The report also highlighted the August 2009 death, under mysterious circumstances, of Dar Naim Prison inmate Sidi Ould Samba. There was no government response to the report's findings or investigations of these deaths by year's end.

The Government responded to the August 2009 denunciation of poor prison conditions and long detention periods for Salafist prisoners by terrorist suspect Taher Ould Biye, imprisoned in Nouakchott Central Prison, by conducting terrorism trials in May. These trials led to the conviction of 56 Salafist terrorist suspects, including Taher Ould Biye who received an eight-year prison sentence.

In September 2009 families of Salafist detainees protested poor detention conditions in front of the Nouakchott Central Prison. The wife of detainee El Mami Ould Othman stated he was in declining health with deficient medical attention. El Mami Ould Othman was tried and received a sentence of five years on October 22, then received a presidential pardon on November 16.

Women and minors under 18 years of age were held in two separate facilities. Sexual violence reportedly occurred in the women's prison, which employed both male and female guards. Children of female prisoners remained with their mothers, or the Ministry of Justice gave temporary custody of the children to another family member. International NGOs, such as the Noura Foundation, Caritas, and Terre des Hommes provided educational and economic opportunities for current and former juvenile and female detainees.

The Government permitted prison visits by NGOs, diplomats, and international human rights observers. The International Committee of the Red Cross (ICRC) had access to prisons and conducted multiple prison visits in accordance with its standard modalities, including visits to terrorism suspects, and distributed hygiene items and books.

The Center for the Reeducation of Minors in Conflict with the Law, whose goal is to provide a space for the social reintegration of children and youth, held a total of 29 children during the year.

In response to widespread criticism and as a follow up to 2009 visits by the fourth district judge and the Ministry of Justice's inspector general, Minister of Justice Abidine Ould El Kheir visited all prisons in April and May and met with inmates to discuss their grievances. On April 21, the Ministry of Justice issued a statement on its commitment to improving prison conditions, particularly nutrition and health, as well as assuring speedy trials. The statement included the following measures: hiring of 18 health care professionals, including a dermatologist, a dentist, and a psychiatrist; signing of an agreement with a pharmaceutical distributor to provide medicine to prisoners; and hiring of a company to clean septic tanks. During the year the Ministry of Justice and the Commission for Human Rights, Humanitarian Action, and Relations with Civil Society provided a medical unit and ambulance, hired an agency responsible for sanitation, and improved the quantity and the quality of food. The Ministry of Justice also stated that new food stocks were acquired for prisoners and would be renewed quarterly.

During the year the total number of detainees was reduced through conditional release and parole.

In September 2009 the fourth district judge visited the Dar Naim Prison to study the situation of incarcerated minors. No statements or reports on the visit were issued during the year. Also in September 2009, the Ministry of Justice's inspector general and the prison director visited the Central Prison and heard demands from Salafist detainees in response to continuing protests by their families. The Government made no statements or efforts to improve the detention conditions during the year.

As in the previous year, the Commission of Human Rights, Humanitarian Action, and Relations with Civil Society distributed food, hygiene kits, and recreational items to detention centers in Nouadhibou and Nouakchott.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, but the authorities did not observe these prohibitions.

There were cases of arbitrary arrest and detention of journalists (see section 2.a.). Under the previous military junta known as the High State Council (HSC), the military arrested a number of political figures and journalists without charge or hearings. These individuals were released by the end of the year with the exception of Ahmed Ould Khattri, former director of the Agency for the Promotion of Popular Savings and Credit Accounts.

In response to the 2009 Mauritanian National Bar Association (ONA) reports which highlighted multiple cases of arbitrary detentions and individuals kept in prison without being charged, tried, or released despite court orders for their release, three teams of inspectors from the Ministry of Justice clarified the status of the detainees and brought their cases to trial during the year. ONA stated that the Government also formally responded to its report during the year.

The Al Qaeda in the Lands of the Islamic Maghreb (AQIM) members responsible for the 2007 Aleg murders of French tourists were tried and sentenced to death in May.

Police reportedly held suspects involved in the February 2008 attack against the Israeli Embassy in incommunicado military detention for a period of time. These individuals had not been tried by year's end.

The children's penal code states that a minor's preventive detention cannot exceed six months. However, the ONA also reported a high number of individuals, including minors, who remained in preventive detention for extended periods of time due to judicial ineptitude.

*Role of the Police and Security Apparatus.*—The National Police, under the Ministry of the Interior, is responsible for law enforcement and maintaining order in urban areas. The National Guard, also under the Ministry of Interior, performs limited police functions in keeping with their peacetime role as security support at government facilities. The National Guard may also be called on by regional authorities to restore civil order during large-scale disturbances such as rioting. The gendarmerie, a specialized paramilitary group under the Ministry of Defense, is responsible for maintaining civil order in and outside metropolitan areas, as well as providing law enforcement services in rural areas.

The police were poorly paid, trained, and ill-equipped. Corruption and impunity were serious problems. Police regularly demanded bribes at nightly roadblocks in Nouakchott and at checkpoints between cities. While having a notable effect in increasing security, there were numerous reports of police arbitrarily detaining individuals for a few hours or overnight at roadblocks in Nouakchott or other towns. According to these reports, police detained motorists or passengers without asking for identity papers, vehicle registration, or without searching the vehicles. Police in some regions arrested former criminals and demanded bribes for their release, and some indicted detainees were released before trial without explanation. The Government rarely held security officials accountable or prosecuted them for abuses.

*Arrest Procedures and Treatment While in Detention.*—The application of constitutional safeguards continued to vary widely from case to case. The law requires duly authorized arrest warrants, but they were not commonly used. The law requires that courts review the legality of a person's detention within 48 hours of arrest; however, the police can extend the period for an additional 48 hours, and a prosecutor or court can detain persons for up to 15 days in national security cases. Authorities generally respected the two-week detention period for terrorism suspects to be formally arraigned or released in national security cases. Only after the prosecutor submits charges does a suspect have the right to contact an attorney. By law attorneys for the indigent are provided at state expense, but in practice this did not occur. Lawyers highlighted the lengthy incarceration of detainees and delays in organizing court hearings. There was a bail system, but sometimes judges refused lawyers' requests for bail or set inordinately high bail amounts.

Preventive detention continued to be a problem. According to a November 2009 ONA report, 60 percent of detainees in the Dar Naim Prison were held in preventive detention under judicial order to prevent them from fleeing from prosecution or committing crimes. The ONA reported that most preventive detentions were in violation of the penal code since individual cases have never been tried. The Dar Naim Prison director regularly informed court authorities of the number of prisoners in preventive detention, but judicial actions were rarely taken. The ONA's August 2009 report stated that some detainees had been in preventive detention since 2002 and highlighted six detainees in preventive detention since 2006, two since 2007, and eight since 2008. Some were detained for minor offenses such as stealing cell phones or complicity in theft. According to the Ministry of Justice, all these cases were sent to trial following the report produced by ministry inspection teams. The ONA also reported that the Government did respond to their report.

On July 18, police arrested Arabic daily Al Hayat journalist Mohamed Ould Abdel Latif when he was interviewing merchants for an article. Latif remained in custody for two weeks without charges and was released without explanation.

*Amnesty.*—On September 9 and November 16, President Aziz pardoned a total of 52 prisoners who were accused of collusion with AQIM.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, it was not independent in practice. The executive branch continued to exercise significant influence over the judiciary through its ability to appoint and pressure judges. In addition poorly educated and trained judges were susceptible to social, financial, and tribal pressures, which limited judicial fairness. International donors funded training for prosecutors and judges during the year to increase judicial efficiency. The ONA released reports in February and March criticizing the lack of independent judges and the court system. On September 8, the Government announced an overhaul of judges and the justice system; however, this initiative was not implemented by year's end.

*Trial Procedures.*—The law provides for due process. Defendants enjoy a presumption of innocence. They have a right to a public trial, but juries are not used. Defendants have the right to consult with an attorney and to be present during their trial. However, the ONA's February report stated that lawyers had been denied access to their clients. By law, all defendants, regardless of the court or their ability to pay, have the legal right to representation by counsel during proceedings. If defendants lack the ability to pay for counsel, the court should appoint an attorney from a list prepared by ONA, which provides a defense free of charge. However, this measure was rarely enforced during the year. Defendants have the right to appeal. Defendants can confront or question witnesses and present witnesses and evidence in both civil and criminal cases. In theory defendants have access to government-held evidence, but access was difficult in practice. These rights were also extended to minorities. The foregoing rights generally were observed in practice, but did not extend equally to women.

Sharia provides the legal principles upon which the law and legal procedure are based; the courts did not treat women equally in all cases. Lawyers also reported that, in some cases, the unequal treatment of women was based on considerations such as a woman's caste or nationality.

A special court hears cases involving minors under the age of 18. Children who appeared before the court received more lenient sentences than adults, and extenuating circumstances received greater consideration in juvenile cases. The minimum age for children to be tried is 12 years old. Those between the ages of 12 and 18 are tried and, if convicted, sentenced to detention centers for minors.

During the year there was no government response to the ONA's 2009 findings that denounced violations of the legal code and procedural rules for political purposes, particularly in high-profile cases.

There were no developments in the case of Ahmed Ould Khattri, former director of the Agency for the Promotion of Popular Savings and Credit Accounts, who was arrested in January 2009 for alleged mismanagement before the Mauritanian Central bank launched an investigation and before a judge reviewed the case. Ould Khattri was not charged or tried by year's end.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The Administrative Court has the jurisdiction to hear complaints of human rights violations. NGO representatives stated they collaborated with the court, but the court was not impartial in practice. There are administrative and judiciary remedies through the social chamber of the Court of Appeals and through the Supreme Court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Individuals could criticize the Government publicly or privately, and independent media were active and generally expressed a wide variety of views with limited restrictions. There were no reports of police questioning and detaining journalists during the year. However, some journalists practiced self-censorship in covering areas deemed sensitive, including the military, corruption, and Sharia, and there were reports of intimidation of journalists who covered sensitive issues. Government media—including TV Mauritania, Radio Mauritania, and daily newspapers Horizons (in French) and Chaab (in Arabic)—mostly focused on official news, but provided limited coverage of opposition activities and views through the year. TV Mauritania occasionally broadcast programs covering some opposition activities.

On February 25, Ahmed Ould Cheikh, president of the Rally of Press Editors and editor of the weekly newspaper Le Calame stated that the independent press refused to participate in the TV Mauritania program Press Club to protest previous censorship. According to the Mauritanian Press Association, which represents the journalists' union, TV Mauritania censored statements on national unity, toxic waste generated by foreign companies, and other sensitive topics by journalist Kissima Diagana, editor of weekly newspaper La Tribune.

On February 26, Hanevy Ould Dehah, director of the news Web site Taqadoumy, received a presidential pardon after being detained since December 2009 despite having served his sentence for crimes against Islam and paying all imposed fines and legal fees. Dehah, who was originally arrested in June 2009 on charges of defamation of presidential candidate Ibrahima Sarr for publishing an article stating that

Sarr bought a house with campaign money from General Aziz. Dehah, was sentenced in August 2009 to six months in prison and fined 30,000 ouguiya (\$111) for committing acts contrary to Islam and decency. The sentencing judge accused Dehah of creating a space allowing individuals to express anti-Islamic and indecent views, based on a female reader's comments made on the Taqadomy site calling for increased sexual freedom.

On April 24, gendarmes confiscated a video filmed by Al Jazeera in the Tagant Region. According to Al Jazeera, the video contained images of alleged toxic waste landfills. Sources close to the Government argued these landfills contained chemicals used as pesticides in the 1970s by the African Agriculture Organization.

On July 2, the National Assembly passed a law to liberalize the audiovisual sector, which has been traditionally state-owned. The law allows for the creation of private radio stations and television channels. There were no private stations or channels launched during the year.

On September 15, the Mauritanian Press Rally (RPM) announced there would be a press blackout on September 19 to protest "the deplorable situation of the press sector." However, the blackout did not occur. The RPM was protesting the rise in the cost of printing newspapers, the lack of government support, and the press' exclusion from coverage of some major events.

Unlike the previous year, journalists for the Web site Taqadomy were not arrested or detained due to their online articles or comments.

The 2008 suspension of privately owned Radio Citoyenne's broadcasts and other radio and television programs devoted to civic education continued during the year.

The charges against journalists Mohamed Nema Oumar and Mohamed Ould Abdellatif were dropped during the year. Oumar and Abdellatif were detained and charged with defamation in 2008 following the publication of an AL-hurriya newspaper article accusing three judges of corruption.

There were no developments in the 2008 case of trade union activists' assault on Al Jazeera cameraman Mohamed Ould Moustafa due to his film coverage of postcoup opposition activities.

*Internet Freedom.*—Unlike the previous year, there were no reports of government restrictions on Internet access.

Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail.

Internet access was available in urban areas throughout the country, with home access common among the affluent, and cyber cafes serving the remainder of the population. According to International Telecommunication Union statistics for 2009, approximately 2.28 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—Unlike the previous year, there were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly. The law requires that organizers apply to the local prefect (hakim) for permission to hold large meetings or assemblies. Permission was generally approved, but on some occasions the authorities denied permission to hold demonstrations.

Unlike the previous year, numerous incidents of security forces forcefully dispersing opposition demonstrations did not occur. However, on May 5, antiriot police brutally repressed a demonstration by employees of the municipality of Ksar. The event was led by the local collectivities National Union to demand payment of wage arrears and contributions to the national social security system.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right.

All political parties and local NGOs must register with the Ministry of the Interior. The Government encouraged local NGOs to join the Government-sponsored Civil Society Platform during the year. NGOs that are members of the platform do not receive government funding.

The country has approximately 77 registered political parties and numerous NGOs, which generally functioned openly, issued public statements, and chose their own leadership. The Government generally did not prevent unrecognized political parties or NGOs from functioning. However, on July 5, the Ministry of the Interior ordered the international NGO National Democratic Institute (NDI) to suspend its operations because it lacked formal accreditation, although NDI had attempted to obtain accreditation since 2005. The ministry stated NDI had been operating illegally for years. There were no developments, and NDI remained suspended at year's end.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The Government generally respected these rights, but persons lacking identity cards could not travel freely in some regions. Unlike the previous year, authorities did not restrict international travel of some opposition members.

During the year the Government, in response to an increased terrorist threat, set up mobile roadblocks where gendarmerie, police, or customs officials checked the papers of travelers and often demanded bribes.

The law does not prohibit forced exile, and there were no reports that the Government used it.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration, and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern; however, the Government lacked resources to support these persons effectively. The National Agency for the Welcome and Reintegration of Refugees (ANAIR) oversees the reintegration of repatriated refugees, provides administration and identification support, and contributes to social and economic development of resettlement areas. However, reintegration of returnees into communities was challenging due to deficient sanitation, health, and education infrastructure, as well as land disputes. The majority of Afro-Mauritanian returnees were unable to obtain identity cards, and birth certificates.

During the year ANAIR offered reintegration programs such as summer camps for refugee children and training sessions for women. President Aziz's government also conducted a census of former teachers among returnees to reinstate them in their positions with the Ministry of Education. However, returnee associations complained that reintegration efforts as well as settlement of land disputes were slow.

There were 19,000 Afro-Mauritanian refugees returned from Senegal as part of the official repatriation program that ended in December 2009. However some 7,000 repatriation requests were stalled at various stages of processing and not completed by the program's end. On July 13, the Government, UNHCR, and Senegal agreed to resume the limited repatriation of up to 2,400 individuals whose cases had been approved previously, but not acted upon. According to ANAIR, 1,385 refugees were repatriated during the year.

*Protection of Refugees.*—Decree 2005/022, which sets forth the procedures for implementation of International Refugee Conventions, adopts the principles set forth in the 1951 Convention relating to the Status of Refugees and the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa. However, according to the National Forum of Organizations for Human Rights, legal implementation of the conventions did not occur during the year.

The country's laws provide for the granting of asylum or refugee status and the Government has established a system for providing protection to refugees. The National Consultative Commission for Refugees (CNCR) is the national body for the determination of refugee status. UNHCR carries out refugee status determinations under its mandate and presents cases to the CNCR for recognition. The Government granted refugee status and accepted refugees recognized by UNHCR. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedoms would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government provided protection to approximately 717 refugees during the year.

During the year the Government worked with the European Commission and the Government of Spain to return migrants to their countries of origin after attempts to reach the Canary Islands by sea. The Government operated a migrant reception center in the Nouadhibou region with the assistance of the Mauritanian Red Crescent and Spanish Red Cross to process returned migrants and to provide nutritional and medical care. International NGOs criticized overcrowding and poor detention conditions at the Nouadhibou migrant reception center. During the year there was no government response to a Spanish NGO's 2008 report that recommended the center's closure based on its alleged operations outside of legal frameworks.

The Government gave UNHCR access to returned migrants to determine if they were eligible for refugee status. In view of freedom of movement agreements with the Economic Community of West African States, the Government allowed West Af-

rican migrants to remain, deporting only those found illegally seeking to reach the Canary Islands.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic generally free and fair elections based on universal suffrage.

*Elections and Political Participation.*—The country returned to constitutional rule in June 2009 following the voluntary resignation of then president Abdallahi and the formation of a Transitional Government of National Unity.

The country enjoyed a peaceful transition from military rule under the HSC to a democratically elected government with the July 2009 presidential election in which former HSC leader General Aziz won 53 percent of the vote. Although some opposition groups claimed the election was fraudulent and requested an investigation, other national and international observers judged the election to be generally free and fair, and the Constitutional Council certified the election.

The 95-person National Assembly includes representatives from 12 of the 25 parties that contested the 2006 legislative elections as well as 41 independents. Senate elections held in November 2009 resulted in the ruling UPR party winning 13 of 16 seats. The Islamic party Tawassoul and independent candidates won the remaining seats. The opposition Rally of Democratic Forces party lost a seat. The opposition and independent candidates denounced strong pressures from the authorities on municipal advisors to vote for majority party candidates and to convince independent candidates to step down. No investigations were launched by year's end.

Political parties operated without restrictions, and there were no reports of restrictions on opposition opponents.

There were 15 women in the National Assembly and nine women in the 56-seat Senate. The 28-member cabinet included five women, three Black Moors, and six Afro-Mauritanians.

The electoral law requires that women make up at least 20 percent of candidates on legislative candidate lists.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not enforce the law effectively, and officials often engaged in corrupt practices with impunity. Corrupt practices were widely believed to exist at all levels of government, and the World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem. Government officials reportedly received frequent favors from authorities, such as unauthorized exemption from taxes, special grants of land, and preferential treatment during bidding on government projects. Corruption was most pervasive in government procurement, bank loans, fishing license distribution, land distribution, and tax payments. The Ministry of the Interior's Economic Crimes Brigade and the Office of the Inspector General were responsible for investigating corruption. President Aziz's government placed fighting corruption at the top of its agenda and made high-profile arrests during the year. Corruption and impunity were also serious problems in the police force, and the Government rarely held security officials accountable or prosecuted them for abuses. Judicial corruption was also a problem.

The Government implemented anticorruption measures such as a census of government officials that resulted in the identification of 5,000 "ghost" employees. Additionally, it enforced laws prohibiting the use of government vehicles outside working hours and eliminated benefits such as free housing for high-level government officials.

On April 28, the Accounts Court ordered the former minister of finance during the 2009 Transitional Government, Sidi Ould Salem, to reimburse 417 million ouguiya (\$1.6 million) to the state treasury. The court accused Salem of making unjustified expenditures while he was general manager of The Society of Construction and Real Estate Management.

On May 13, former prime minister Yahya Ould Ahmed El Waghef was summoned to court to answer charges related to the "tainted rice scandal" for which he was held in jail for a few weeks after the 2008 coup d'état. Waghef allegedly approved the purchase of tainted rice that was planned for free distribution. His court appearance was later postponed, without a new appearance date specified, and there was no development in the case by year's end.

On May 15, the Economic Crimes Brigade arrested three Mauritanian Gas Company managers for alleged invoice falsification totaling 35 million ouguiya

(\$132,000). The managers were ordered to repay the money, which they reportedly did during the year.

On June 14, Nouakchott Port Tax Inspector Cheikh Ould Maouloud was arrested for misappropriating approximately two billion ouguiya (seven million dollars). His case remained pending at year's end.

In June the Internal Revenue Office launched a tax collection campaign and ordered the main banks to pay back taxes totaling between 400 million and 1.8 billion ouguiya each (\$1.4 to \$6.2 million). The banks contested the amounts and contacted the Ministry of Finance to resolve the crisis, which threatened the solvency of the national bank system. The issue was resolved through an agreement between the Central Bank and the primary banks.

On June 6, former wali (governor) of Nouakchott, Sidi Brahim Ould Maouloud, was arrested for illegally transferring 1,700 plots of land in Toujounine to Oumar Ould M'Haiham, a former government official. Maouloud was released the same day. M'Haiham and 12 other persons accused of selling the illegally acquired plots were arrested June 7 and later convicted. Their sentences were pending at year's end.

On August 26, Human Rights Commissioner Mohamed Lemine Ould Daddeh was fired for mismanagement, following an audit by the Office of the Inspector General, and ordered to reimburse 271 million ouguiya (\$934,482) within 15 days or face incarceration. Daddeh requested an extension of the payment deadline, but failed to submit reimbursement and was arrested on September 20. He was awaiting trial at year's end.

In September 2009 a Global Fund to Fight Aids, Tuberculosis, and Malaria investigation uncovered widespread corruption in the management of the fund's grant to the country. In October 2009 the Economic Crimes Brigade arrested the country program coordinator, his executive secretary, and two other individuals; however, their trial had not begun by year's end.

The former central bank governor, Sidel Mokhtar Ould Nagi, and his deputy, Mahomed Ould Oumarou, were released without trial during the year. They were charged in December 2009 with treason, forgery, mismanagement, and diversion of approximately 24 billion ouguiya (\$88 million) in 2000-01.

On January 4, Mohamed Ould Noueiguedh, former chairman and chief executive officer of the National Bank of Mauritania; Crif Ould Abdallahi, chairman of the board of the Islamic Bank of Mauritania; and businessman Abdou Maham were released after a mediation effort led by El Hacem Ould Dedew. The public prosecutor had charged them in December 2009 with conspiracy to defraud the Central Bank of 14 billion ouguiya (\$52 million).

The Government did not enforce the requirement for senior officials, including the president, to file a declaration of their personal assets. However, President Aziz publicly declared his assets in October due to public pressure.

The law provides for public access to government information, and the Government granted such access to citizens and noncitizens, including foreign media during the year.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The Government met with local NGO monitors during the year and cooperated during visits by the UN, ICRC, and Amnesty International. UN Special Rapporteur on Contemporary Forms of Slavery, Gulnara Shahinian, visited the country from October to November 2009 to study actions taken by the Government to end slavery. The special rapporteur's report was released in August, and the Government provided its response during the September Human Rights Council session in Geneva.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law provide for equality for all citizens regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda; however, the Government often favored individuals on the basis of racial and tribal affiliation, social status, and political ties. Societal discrimination against women, trafficking in persons, and racial and ethnic discrimination were problems.

*Women.*—According to NGOs, the incidence of both reported and unreported rape continued to be high, and rape was considered a serious problem. Rape, including spousal rape, is illegal; however, the Government did not enforce the law effectively. According to the penal code, rapists who are single men faced penalties of forced

labor and flagellation. Married rapists could be subject to the death penalty. However, rape cases rarely went to trial. Several cases were reported of wealthy rape suspects avoiding prosecution or, if prosecuted, avoiding prison. Families of the victim commonly reached an agreement with the rapist for monetary compensation. National statistics on arrests, prosecutions, and convictions for rape were unavailable. Human rights activists and lawyers reported that rape victims were stigmatized, persecuted, and even imprisoned. Since rape was tied to the concept of “Zina” or sinful sexual relations outside marriage, judges may hold the victim responsible for the rape.

Domestic violence was considered a serious problem. Spousal abuse and domestic violence are illegal; however, the Government did not enforce the law effectively, and most cases went unreported. There are no specific penalties for domestic violence, and convictions were very rare. There were no reliable government statistics on prosecutions, convictions, and sentences for domestic violence. According to 2009 statistics, the AFCF provided legal assistance to 1,152 domestic violence victims.

Police and the judiciary occasionally intervened in domestic abuse cases, but women rarely sought legal redress, relying instead on family, NGOs, and community leaders to resolve domestic disputes. NGOs reported that in certain cases they had sought help from the police for victims of domestic violence, but the police declined to intervene. AFCF and other women’s NGOs provided psychologists and shelter to some victims.

Traditional forms of mistreatment of women appeared to decline during the year. One form of such mistreatment was the forced feeding of adolescent girls (gavage) prior to marriage, which was practiced only among White Moor tribal groups. Increased government, media, and civil society attention to the problem led to a marked decline in traditional views encouraging female obesity despite the health risks. Nevertheless, overeating to conform to cultural standards remained an issue, mostly in rural areas. Many urban women endangered their health by taking pills to gain weight or increase their appetite.

Women’s NGOs reported sexual harassment was a common problem at the workplace, but there are no laws or penalties against it.

Men and women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV. The Government recognized the right of individuals and couples to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, violence or coercion. However, reproductive issues were a sensitive topic. Some women’s NGOs, such as the Mauritanian Association for the Health of Women and Child (AMSME) and AFCF, focused on reproductive rights. The incidence of infant mortality under five years old is 122 deaths per 1,000 live births.

AFCF stressed that poor women and women from traditionally lower castes such as slaves and former slaves had insufficient access to contraception, obstetric and postpartum care, skilled attendance during childbirth, and treatment for sexually transmitted infections, including HIV. AMSME, which operated a center for rape victims, provided emergency contraception to victims.

Women have legal rights to property and child custody and, among the more modern and urbanized population, these rights were recognized. Nevertheless, divorced women could potentially lose child custody if they remarried. By local tradition, a woman’s first marriage requires parental consent. In accordance with the personal status code, men can marry up to four women but are required to request spousal consent before marrying again. Women were encouraged by government awareness programs to obtain a contractual agreement at the time of marriage stipulating that the marriage ends if the husband marries a second wife. This practice was common in Moor society. Nevertheless, women who did not establish a solid contract remained unprotected. In addition the validity of and right to establish prenuptial agreements was not always respected.

In practice polygamy continued to be rare among Moors but was gaining in popularity. It was common among other ethnic groups. Arranged marriages were increasingly rare, particularly among the Moor population. Also there was cultural resistance to marriages among members of different castes, and NGOs reported powerful individuals used the judicial system to intimidate and persecute members of their families who married below their social rank.

Women still faced legal discrimination, and they were considered minors in the eyes of the law. According to Sharia, the testimony of two women was necessary to equal that of one man. The courts granted only half as large an indemnity to the family of a woman who was killed as was awarded for a man’s death. Formulas applied to property distribution varied widely from case to case. The personal status code provides a framework for the consistent application of secular law and Sharia-based family law, but the code had yet to be implemented. Human rights lawyers

reported that judges treated differently cases concerning White Moor women, slave, or lower-caste women, and foreign women.

Women did not face legal discrimination in areas not addressed specifically by Sharia. The law provides that men and women should receive equal pay for equal work. The two largest employers, the civil service and the state mining company, observed this law, although it was not universally applied in practice. In the modern wage sector, women also received family benefits, including three months of maternity leave.

The Government sought to open new employment opportunities for women in areas that were traditionally filled by men, such as diplomacy, health care, communications, police, and customs services. Women continued to become more involved in the fishing industry and established several women's fishing cooperatives.

The Ministry of Social, Child, and Family Affairs (MASEF) continued its two-year program in cooperation with the UN Population Fund to promote a sociocultural and legislative environment that favors gender equality and reduces gender violence. The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. Women's groups and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights. The secretariat, in collaboration with the German Society for Technical Development (GTZ), publicized women's rights and organized workshops regarding their rights.

*Children.*—By law citizenship is derived from one's father. Citizenship can be derived from one's mother under the following two conditions: if the mother is a citizen and the father's nationality is unknown and if the child was born in country to a citizen mother and repudiates the father's nationality a year before reaching majority. Children born abroad to citizen parents can acquire the country's citizenship one year before reaching majority. Minor children of parents who have become naturalized citizens are also eligible for citizenship.

In general the Government registered births immediately; however, in the South, many citizens reported not having birth certificates or national identity papers. In addition some slaves did not have birth certificates. There was no official data on the number of births that went unregistered.

The law makes special provision for children's welfare, and there were government programs to care for abandoned children; however, inadequate funding hampered these programs' effectiveness.

School attendance is mandatory for six years of universal primary education. However, the law was not effectively enforced.

Public education was free through university level. Classes were fully integrated, including boys and girls from all social and ethnic groups. Children of slave caste families were allowed to attend school, but many did not receive an education. There were no legal restrictions on the education of girls. Almost all children, regardless of gender or ethnic group, attended Koranic school between the ages of five and seven years old and gained at least rudimentary skills in reading and writing Arabic.

FGM was practiced by all ethnic groups and performed on young girls, often on the seventh day after birth and almost always before the age of six months. The child protection penal code states that any act or attempt to damage a female child's sexual organs is punishable by imprisonment and a 120,000 to 300,000 ouguiya (\$460 to \$1,153) penalty. The most recent statistics on FGM indicated a decrease in incidence from 71 percent in 2001 to 65 percent in 2007, mainly due to a decrease in the urban sector. Infibulation, the most severe form of excision, was not practiced.

The Government and international NGOs continued to coordinate anti-FGM efforts focused on eradicating the practice in hospitals, discouraging midwives from practicing FGM, and educating the population. The Government, the UN Population Fund, the UN Children's Fund (UNICEF), and the national Imams' Association joined other civil society members to emphasize the serious health risks of FGM and that FGM was not a religious requirement. Government hospitals and licensed medical practitioners were barred from performing FGM, and several government agencies worked to prevent others from perpetrating it. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice. On January 11, 30 religious leaders declared a fatwa (Islamic ruling) against FGM following a two-day round table organized by the Forum of Islamic Thought and Dialogue Between Cultures. The Government and civil society organized a Zero Tolerance Day on February 6 to raise awareness about FGM.

Events focusing on raising women's awareness of FGM were organized in Hodh El Ghabri on February 2 by MASEF and the GTZ. On May 24, communities in the

Brakna region renounced FGM at events organized by UNICEF, the NGO Tostan, and the MASEF.

In theory the legal marriage age is 18 years old, but the law rarely was enforced, and there were widespread reports of child marriages. Since consensual sex outside of marriage is illegal, a “weli” (tutor) can present a case to local authorities requesting permission be granted to a woman younger than 18 years old to marry. In practice this permission is granted frequently.

There is a law prohibiting adult sexual relations with a child with penalties of six months to two years of imprisonment and a 120,000 to 180,000 ouguiya (\$414 to \$620) fine.

There is a law prohibiting child pornography with penalties of two months to one year imprisonment and a 160,000 to 300,000 ouguiya (\$550 to \$1,034) fine.

Local NGOs estimated that there were 1,000 street children, largely as a result of poverty and the urbanization of formerly nomadic families. There was limited government assistance to street children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—A very small number of expatriates practiced Judaism.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical disabilities in education, employment, or the provision of other state services, and there were no reports of governmental or societal discrimination against persons with disabilities. Persons with disabilities generally did not have access to buildings, and there were no government programs to provide such access. The Government did not mandate preference in employment, education, or public accessibility for persons with disabilities, although it did provide some rehabilitation and other assistance for such persons. The MASEF oversees social reinsertion programs for persons with disabilities. On June 10, the Council of Ministers approved a decree on the organization and function of the National Multisectoral Commission for the Promotion of Handicapped People. The commission was not operational by year’s end.

*National/Racial/Ethnic Minorities.*—Ethnic minorities faced governmental discrimination. The inconsistent issuance of national identification cards, which were required for voting, effectively disenfranchised many members of southern minority groups. Racial and cultural tension and discrimination also arose from the geographic and cultural divides between Moors and Afro-Mauritanians. The Moors are divided among numerous ethno-linguistic tribal and clan groups and further distinguished as either White Moor or Black Moor, although it was often difficult to distinguish between the two by skin color. White Moor tribes and clans, many of whom are dark-skinned after centuries of intermarriage with Berbers and sub-Saharan African groups, dominated positions in government and business. The Black Moors (also called Haratines or freed slaves) remain politically and economically weaker than White Moors. Afro-Mauritanian ethnic groups, which include the Halpulaar (the largest non-Moor group), Wolof, and Soninke, are concentrated in the south and urban areas. Afro-Mauritanians were underrepresented in the Government and military.

The constitution designates Arabic as the official language and Arabic, Pulaar, Soninke, and Wolof as the country’s national languages. The Government continued to encourage French and Arabic bilingualism within the school system, as opposed to previous efforts at “Arabization.” Neither the Afro-Mauritanian national languages nor the local Hassaniya Arabic dialect were used as languages of instruction. In February university riots between French-speaking Afro-Mauritanian and Arabic-speaking Moor students broke out after Prime Minister Laghdaf and the minister of culture made public comments stressing that Arabic is the state’s official language. The controversy came to an end after government officials met with students to dispel fears about the “Arabization” of the educational system.

Ethnic rivalry contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among parties were increasingly important. Black Moors and Afro-Mauritanians continued to be underrepresented in mid- to high-level public and private sector jobs.

There were numerous reports of land disputes between former slaves, Afro-Mauritanians, and Moors. According to human rights activists and press reports,

local authorities allowed Moors to expropriate land occupied by former slaves and Afro-Mauritanians or obstruct access to water and pastures.

The perpetrators in Kifa, who physically attacked the former slave family Ehel Brahim and wounded Fatimetou Mint Brahim and her children following a land dispute in August 2009, remained unpunished by year's end.

Human rights NGOs reported numerous cases of heritage disputes between slaves or former slaves and their masters. Traditionally, slave masters inherited their slaves' possessions. There were no developments in the case of Salma Mint Jiddou, a Nouakchott widow, whose inheritance was claimed by her husband's owners in March 2009.

There were no developments regarding the family of Zeinabou Mint Brahim, which was deprived of its inheritance by Cheikh Mohamedou Ould Cheikh Hamadoullah, who claimed Mint Brahim was his slave. Despite a 2009 court ruling establishing Mint Brahim's brothers and sister as the rightful heirs, the authorities did not enforce the ruling by year's end.

The Government's 2009 Program to Eradicate the Effects of Slavery continued during the year. The program's goals were to reduce poverty among 44,750 former slaves in the Assaba, Brakna, Gorgol, and Hodh Chargui regions and improve access to water, health, education, and income-generating opportunities. The Government also continued its collaborative program with the UN and a foreign donor on conflict prevention program aimed at promoting democratic values and the rights of marginalized populations, including former slaves. According to the NGO SOS Esclaves, these programs focused on fighting poverty and the effects of slavery rather than the practice of slavery itself.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Under Sharia homosexual acts between males are punishable by death if witnessed by four individuals; however, there was no evidence of either societal violence or systematic government discrimination based on sexual orientation, and there were no criminal prosecutions during the year. There were no organizations advocating for sexual orientation or gender-identity rights, but there were no legal impediments to the operation of such groups.

*Other Societal Violence or Discrimination.*—There was no evidence of systematic discrimination by either society or the Government against persons with HIV/AIDS; however, taboos and beliefs associated with the disease caused victims in some areas to face isolation or exclusion.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without authorization or excessive requirements, and workers exercised this right. The law also provides for freedom of association, and workers exercised this right in practice. All workers except members of the armed forces and police were free to associate in and establish unions at the local and national levels. The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in regularly paid positions. Nearly 90 percent of industrial and commercial workers, however, were unionized.

To be legally recognized, a union must have the authorization of the public prosecutor, who can provisionally suspend a trade union at the request of the Ministry of the Interior if it believes that the union has not complied with the law. The Government has the discretion to decide whether to recognize a trade union.

The law provides workers with the right to strike, and workers exercised this right during the year. However, long and complex procedures must be followed before a legal strike can be called. The General Confederation of Mauritanian Workers (CGTM) led a strike of government employees for three days in March. According to the CGTM, neither the Ministry of Health nor the Ministry of Education referred the matter to the Ministry for the Civil Service and Labor for negotiation. Therefore, the CGTM grievance remained unresolved at year's end.

According to the CGTM, the Government funded the participation of several trade union participants at the International Labor Organization (ILO) conference in June, but refused to fund the participation of CGTM and did not provide a reason for this action. CGTM submitted a complaint to the ILO citing discrimination due to the fact that the confederation was against the 2008 August coup.

The Government can dissolve a union for what it considered an illegal or politically motivated strike; however, no unions were disbanded during the year. Workers must provide advance notice of at least 10 working days for any strike. Workers are not allowed to hold sit-ins or to block nonstriking workers from entering work premises.

*b. The Right to Organize and Bargain Collectively.*—The law provides that unions may organize workers freely without government or employer interference, and workers generally exercised this right in practice. However, the head of government decides how negotiations are conducted once the Ministry for the Civil Service agrees on negotiations.

Laws provide workers with protection against antiunion discrimination; however, national human rights groups reported that authorities did not actively investigate alleged antiunion practices in some private firms owned by very wealthy citizens. There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, men, women, and children were trafficked for domestic service, street begging for unscrupulous religious teachers, and slave-like relationships as a domestic servant or herder. The antislavery law criminalizes the practice of slavery and imposes penalties on government officials who do not take action on reported cases; however, no cases were prosecuted during the year. The Government organized training workshops about the law for administrative authorities and judges. Also the Program to Eradicate the Consequences of Slavery provides one billion ouguiya (\$3.4 million) in development assistance to communities of former slaves. However, this is economically focused development assistance rather than social and legal enforcement of the anti-slavery law.

Government efforts were not sufficient to enforce the antislavery law. No cases have been successfully prosecuted under the antislavery law despite the fact that de facto slavery exists in Mauritania.

The labor code also includes criminal penalties for contracting to benefit from forced labor and for exploiting forced labor as part of an organized criminal network. Slavery-like practices, typically flowing from ancestral master-slave relationships and involving adults and children, continued in rural areas where education levels were generally low and a need existed for herding livestock, tending fields, and other manual labor.

Forced labor also occurred in urban centers where young children, often girls, were retained as unpaid household servants. Some individuals self-identified as slaves or masters and were unaware that slavery had been abolished. Human rights groups reported that persons in slave-like relationships were persuaded by their masters to deny the relationship to activists.

Voluntary servitude continued with some former slaves and descendants of slaves, who were victims of social discrimination and lacked professional skills needed for economic advancement, continued to work for former masters in exchange for some combination of money, lodging, food, or medical care. The reasons for the persistence of such practices varied widely among the different ethnic groups; however, a barter economy, poverty, and persistent drought provided few economic alternatives for many and left some former slaves and descendants of slaves vulnerable to exploitation by former masters. Adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude, performing domestic duties, tending fields, or herding animals.

There were reports that some former slaves continued to work for their former masters or others without remuneration to retain access to land they traditionally farmed. Although the law provides for distribution of land to the landless, including to former slaves, it has been enforced in only a few cases. NGO observers suggest that deeply embedded psychological and tribal bonds also made it difficult for many individuals, who had generations of forebearers who were slaves, to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because they believed their slave status had been divinely ordained and they feared religious sanction if that bond were broken. Former slaves were subjected often to social discrimination and were limited professionally to performing manual labor in markets, airports, and water ports.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides that children under the age of 12 cannot be employed for light work; cannot be employed in the nonagricultural sector if under the age of 14; and cannot be employed if under the age of 13 in the agricultural sector unless the minister of labor grants an exception due to local circumstances. However, child labor in the informal sector was common and a significant problem, particularly within poorer inner city areas. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage. They should not work over eight

hours a day and should have one or several one-hour breaks. Children are also prohibited from engaging in night work.

Several reports suggested that young girls from remote regions, and possibly from western Mali, were forced to work as unpaid housemaids in some wealthy urban homes.

An unknown number of “talibes” (young students), nearly all from Halpulaar tribes, begged in the streets as part of an arrangement with their “marabouts” (religious teachers) for receiving religious instruction. There were reliable reports that a small number of marabouts forced their talibes to beg for over 12 hours a day and provided them with insufficient food and shelter. The Government continued a program to reduce the number of talibes and partnered with NGOs to provide talibes with basic medical and nutritional care.

Street gang leaders forced children to steal, beg, and sell drugs. There were reports that children were forced to work in agriculture, construction, fishing, and cattle herding. NGOs reported that slavery-related practices and slavery itself persisted in isolated areas of the country where a barter economy still prevailed and also in urban centers including Nouakchott.

Young children in the countryside were commonly employed in herding; cultivation of subsistence crops, such as rice, millet, and sorghum; fishing; and other significant labor in support of their families’ activities. Young children in urban areas often drove donkey carts and delivered water and building materials. In keeping with longstanding tradition, many children served apprenticeships in small industries, such as metalworking, carpentry, vehicle repair, masonry, and in the informal sector. Reporting by some human rights NGOs, including SOS Esclaves, strongly suggested that domestic employment of girls as young as the age of seven, often unpaid, continued to be a problem. There was no child labor in the modern industrial sector.

According to the joint report for the year by the Ministry of Social Affairs and UNICEF, the greatest obstacle to the national strategy and three-year plan of action for the protection of children was the absence of coordination mechanisms and the lack of human and technical resources in the Ministry of Social Affairs, which is the principal agency in charge of the promotion and protection of children’s rights.

In addition according to the evaluation report of the National Poverty Reduction Strategy, the protection of children was not explicitly addressed within the general strategy to fight poverty, and a lack of financial resources hampered significant efforts.

There was a labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities, but the eight regional inspectors and 30 inspector/controllers lacked the basic resources, such as transport and office equipment, needed to enforce existing child labor and other labor laws.

See also the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The nationally mandated minimum monthly wage for adults, which was not enforced, was 21,150 ouguiya (\$81), and it did not provide a decent standard of living for a worker and family. All workers are covered by the minimum wage law. Many labor unions denounced modern slavery conditions in several formal sectors such as the food-processing industry. In these sectors, workers do not have contracts or pay stubs. Their salaries were below the official minimum wage, and they worked in very unfavorable conditions. Sometimes they were not paid for several months. The CGTM reported that the Government did not give aid or compensation to these workers during the year.

The standard legal nonagricultural workweek could not exceed either 40 hours or six days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories could work 56 hours per week. All employees must be given at least one 24-hour period of rest per week. There are no legal provisions regarding compulsory overtime.

The Labor Directorate of the Ministry of Labor was responsible for enforcement of the labor laws, but there was a lack of effective enforcement due to inadequate funding.

The Government set health and safety standards. The Ministry of Labor was responsible for enforcing these standards, but did so inconsistently due to inadequate funding. In principle workers could remove themselves from hazardous conditions without risking loss of employment, but in practice they could not.

## MAURITIUS

Mauritius is a constitutional parliamentary democracy of approximately 1.3 million citizens governed by a prime minister, a council of ministers, and a National Assembly. The Alliance of the Future, a coalition led by Prime Minister Navinchandra Ramgoolam, won the majority of National Assembly seats in the May 5 election, which was judged by international and local observers to be generally free and fair. Security forces reported to civilian authorities.

The following human rights problems were reported: security force abuse of suspects and detainees; prison overcrowding; restrictions on media freedom; official corruption; violence and societal discrimination against women; abuse and sexual exploitation of children; some abuse based on sexual orientation; discrimination against persons living with HIV/AIDS; restrictions on labor rights, antiunion discrimination, and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

There were no further developments regarding the lower court's May 2009 exoneration for lack of evidence of four police officers involved in the 2006 death in custody of Rajesh Ramlugon; the officers were initially accused of abuse of authority and concealing evidence. In June 2009 the L'Express newspaper reported that the director of public prosecutions (DPP) appealed the exoneration to the Supreme Court. The officers remained free on bail.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there continued to be reports of police abuses.

According to media reports, on December 29, motorcyclist Wesley Agathe narrowly avoided hitting a plainclothes police officer, who allegedly had been pushed in front of Agathe's bike by five other plainclothes officers. Agathe stopped his motorbike to reproach the six plainclothes officers for the near collision and reported the incident to uniformed police officers who drove towards him. During the incident one of the six plainclothes police officers accused him of stealing a mobile phone and 7,000 rupees (\$229). The six officers then took Agathe to the Pamplemousses police station and, in view of two other uniformed police officers at the station, beat Agathe so severely that he lost consciousness and sustained bruises on his face and neck. Agathe was subsequently released without charge. The police officers involved in the beating retained their positions pending an investigation.

According to July 4 media reports, some of the 34 inmates who escaped from Grand River North West Prison on June 27 were observed with bruises and facial swelling after they were recaptured and transferred to the Beau Bassin Central Prison. A detainee's relative reported that prison guards had beaten some of the inmates.

There were no developments in the September 2009 case of a man whom the police allegedly beat and sexually assaulted. The police investigation of the case continued during the year.

*Prison and Detention Center Conditions.*—The media reported cases of prisoner abuse, overcrowding, and drug abuse in the country's five prisons. Unlike in the previous year, no data was available on the number of abuse complaints filed by prisoners.

As of November 30, the Central Prison, which has a capacity of 1,064, held 1,476 prisoners, including 138 female prisoners and 1,338 male prisoners. Three boys and three girls were held in juvenile prisons. Pretrial detainees were held together with convicted prisoners.

There were no developments in the February 2009 death of an inmate in Central Prison who died after being stabbed by another prisoner. A police investigation was still ongoing at year's end.

Prisoners and detainees had access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

The Government permitted prison visits by independent observers, including the press, the National Human Rights Commission (NHRC), local nongovernmental organizations (NGOs), and the UN. The local NGO Association Kinouete also ran programs to rehabilitate prisoners.

The country had no ombudsman to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders, circumstances of confinement for juvenile offenders, or improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond the maximum sentence for the charged offense.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The police force is headed by a police commissioner who has authority over all police and other security forces, including the Coast Guard and Special Mobile Forces, a paramilitary unit that shares responsibility with police for internal security. The police commissioner reports directly to the Prime Minister's Office. Police corruption and abuse of detainees were problems. The Office of the Ombudsperson, the NHRC, and the Police Complaints Bureau investigated security force abuses.

By October 31, the NHRC had received 26 complaints of physical or verbal abuse by police: nine complaints were withdrawn or dismissed for lack of evidence, and 17 cases remained under investigation. The NHRC may report cases of police abuse to the Office of the DPP.

Orientation training for all new police recruits included a segment on human rights. Management-level officers were required to take a refresher course every five years. More than 200 police officers who qualified on the basis of years of experience participated in human rights courses during the year.

*Arrest Procedures and Treatment While in Detention.*—The constitution and law require that arrest warrants be based on sufficient evidence and issued by a duly authorized official and that the accused be read his or her rights, including the right to remain silent and the right to an attorney. The law requires that suspects be brought before the local district magistrate within 48 hours. Police generally respected these rights, although police sometimes delayed suspects' access to defense counsel. Detainees generally had prompt access to family members, although minors and those who did not know their rights were less likely to be provided such access. Indigent detainees facing serious criminal charges were provided an attorney at state expense. A suspect can be detained for up to a week, after which the suspect may bring the issue of bail before a magistrate. Alternatively, a suspect may be released on bail the same day as an arrest, if police concur. Individuals charged with drug trafficking may be detained for up to 36 hours without access to legal counsel or bail.

Due to a backlogged court system, approximately 20 percent of the prison population was in pretrial detention. Pretrial detainees generally remained in remand for one to two years before being tried. In practice judges applied time served in remand to subsequent sentences.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—Defendants enjoy a presumption of innocence, and trials are public. Juries are only used in murder trials. Defendants have the right to be present and to consult an attorney in a timely manner. An attorney is provided at public expense when indigent defendants face serious criminal charges. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. Defendants and attorneys have access to government-held evidence relevant to their cases, and defendants have the right of appeal. These rights were respected in practice, although an extensive case backlog delayed the process, particularly for obtaining government-held evidence. The law extends the above rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters. The law provides access to a court to bring lawsuits seeking damages for human rights violations. The constitution provides for an ombudsman to investigate complaints from the public and members of parliament against government institutions and to seek redress for injustices committed by a public officer or authority in official duties as an alternative to the court system. The om-

budsman has the authority to make recommendations but cannot impose penalties on a government agency.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, at times the Government did not respect these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal. The independent media were active and expressed a wide variety of views.

The Government owned the sole domestic television network, Mauritius Broadcasting Corporation (MBC) TV, and opposition parties and media experts regularly criticized the station for its progovernment bias and unfair coverage of National Assembly debates. International television networks were available by subscription or via a cable box.

During the year La Sentinelle group, a media conglomerate, noted that since 2005 government agencies had gradually stopped buying advertising space in its publications after newspapers it owned criticized the Government. In May various government agencies cancelled their subscriptions to L'Express newspaper, a member of La Sentinelle group. At year's end the boycott was still ongoing.

On May 27, police prevented journalists from L'Express and 5-Plus Dimanche newspaper, also operated by La Sentinelle group, from attending a news conference given by the finance minister. On May 31, La Sentinelle requested a Supreme Court injunction to prevent such action. The court heard both parties and on June 14, the attorney general and La Sentinelle Group signed before a Supreme Court judge an agreement that terminated the boycott of the group's journalists and photographers.

The prime minister regularly warned the press about tougher media laws that were being developed.

The Satanic Verses continued to be banned, as it has been since 1989; however, authorities did not fine bookstores for carrying the book during the year.

Officials used libel laws to suppress media criticism of political leaders.

For example, on July 1, police arrested chief editor Ananda Rajoo of the weekly Le Nouveau Militant for libel for an August 2009 article questioning the Government's official statistics on the H1N1 flu outbreak; Rajoo was released on bail the same day. On October 7, the DPP dropped charges against the chief editor.

On October 4, police arrested chief editor Dharmanand Dooharika of the weekly Samedi Plus for libel for a September 2009 article questioning the appointment of a manager in the national aviation company. Dooharikao was brought to court and released on bail the same day.

On September 16 and 17, the University of Mauritius and the UN Educational, Scientific, and Cultural Organization sponsored a conference on press freedom.

*Internet Freedom.*—There were no government restrictions on the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 23 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The law prohibits forced exile, and the Government did not use it.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, or the 1969 African Union Convention Governing the Specific Aspects of the Refugee Problem in Africa, nor do its laws provide for the granting of asylum or refugee status. The Government has not established a system for providing protection to refugees. However, in practice, the Government has not expelled or returned refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The six Iraqis who in 2008 were detained for entering the country with fraudulent documents, granted refugee status by the UNHCR, and released on bail in March 2009 departed the country on January 19 for an evacuation transit center in Romania; the six were assisted by Amnesty International and the UN Development Program.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—International and local observers characterized the May 5 national election as generally free and fair. The constitution provides for 62 National Assembly seats to be filled by election. It also provides for the Electoral Supervisory Commission to allocate up to eight additional seats to unsuccessful candidates from minority communities through a “best loser system” (BLS). In the May 5 election, the ruling Alliance of the Future (AF), led by the Labor Party, won 41 parliamentary seats; the Alliance of the Heart (AH), led by the Mauritian Militant Movement (MMM), won 18; the Mouvement Rodriguais (MR) won two; and the Mauritian Solidarity Front won one seat. Under the BLS, the AF subsequently obtained four additional seats, the AH two, and the Organization for the Rodriguan People one seat.

Problems noted by international observers in the May 5 election included unequal representation due to electoral constituencies not being redrawn; inability of persons who turned 18 between January 2009 and May 2010 to vote due to use of the 2009 voters roll; lack of accommodation to facilitate voting for persons with disabilities; and lack of legal authority to provide domestic election observers. Various candidates also claimed that some politicians distributed gifts in their constituencies prior to the election and that some polling materials were not available in Creole, a language spoken by more than 90 percent of the population.

Opposition parties stated that the Government-owned television station MBC TV favored the ruling party. Opposition and MMM leader Paul Berenger claimed that MBC TV provided more airtime to and better picture quality of the prime minister. On April 13, MMM filed a complaint with the Independent Broadcasting Authority (IBA), an independent regulatory body, regarding airtime provided to the ruling party on March 31, when Prime Minister Ramgoolam announced the dissolution of the Government and presented the new government alliance. On April 15, the IBA ruled in favor of the MBC.

The constitution requires all candidates to declare themselves as belonging to one of the following four “communities”: Hindu, Muslim, Sino-Mauritian, or general population (all persons who do not belong to one of the other three categories). The BLS is based on the demographic makeup of the country as found in the 1972 census. However, there were concerns that the 1972 census results no longer reflected the country’s demographic composition. Various political observers charged that the BLS undermined national unity and promoted discrimination.

Political parties operated without restriction or outside interference.

There were 13 women in the 70-seat National Assembly. Following the May 5 National Assembly elections, there were three female ministers in the 25-member cabinet. Of the 17 Supreme Court judges, seven were women.

Although historically the Hindu majority dominated politics, no groups were excluded from the political system. In the National Assembly there were 37 Hindus, 21 members of the general population, 11 Muslims, and one Sino-Mauritian. In the cabinet there were 17 Hindus, four Muslims, three members of the general population, and one Sino-Mauritian.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, but the Government did not implement these laws effectively. There was a widespread public perception of corruption in the legislative and executive branches. The World Bank’s Worldwide Governance Indicators reflected that corruption was a problem.

On December 17, police arrested Johnson Roussety, the leader of the Rodrigues Regional Assembly and an MR member, for traffic of influence in forcing a civil servant to employ 200 workers who were allegedly MR partisans.

During the year the Governmental Independent Commission Against Corruption (ICAC) registered 73 complaints of corruption against police officers: 35 cases were rejected for irrelevancy, 15 cases remained under investigation, one case was referred to the DPP, and 22 were discontinued for lack of substantiation.

The ICAC continued to investigate the following 2009 cases: the overpayment by the District Council of Pamplemousses-Riviere du Rempart of a cleaning contract and the alleged bribery by the former director of the National Art Gallery.

The case of the former chairman of the Mauritius Ports Authority who allegedly accepted a bribe in 2006 from a Dutch dredging company was heard before the court on September 9 and December 9. No further information was available at year's end.

Ministers of Mauritius and commissioners of the Rodrigues Island Regional Assembly are required to publicly disclose the assets of spouses, children, and grandchildren upon taking office and at the dissolution of the National Assembly or of the Rodrigues Regional Assembly.

There is no law that provides public access to government information; however, members of the public may request information by writing to the permanent secretary of the appropriate ministry. The Government generally complied with requests from citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views. In contrast to the previous year, there were no reports that police harassed any NGO staff.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other international organizations.

The president appoints an ombudsman to investigate complaints against public servants, police officers, and prison guards. Individual citizens, council ministers, or members of the National Assembly may request that the ombudsman initiate an investigation. The ombudsman makes recommendations to the appropriate government office for injustices committed by a public officer or authority carrying out official duties as an alternative to filing charges in the court system.

The NHRC enjoyed the Government's cooperation and operated without government or party interference. The NHRC had adequate resources and was considered effective. The Commission did not issue a report during the year.

In January, as called for by a February 2009 act of parliament, the Truth and Justice Commission (TJC) became operational. The TJC is mandated to conduct inquiries into slavery and indentured labor during the colonial period, determine appropriate measures to be extended to descendants of slaves and indentured laborers, inquire into complaints by persons aggrieved by dispossession or prescription of land in which they claimed to have an interest, and prepare a comprehensive report of its findings. The commission did not issue a report during the year.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law specifically prohibit discrimination on the basis of race, caste, place of origin, political opinion, color, gender, disability, or language. While the Government generally enforced these provisions, some societal discrimination occurred.

*Women.*—The law prohibits rape, including spousal rape, and police and the judicial system enforced the law; however, rape was widespread. The penalty for rape is 20 years' imprisonment with a fine not to exceed 200,000 rupees (\$6,557). As of November 1, the police Family Support Bureau had received six reports of rape cases; no statistics on prosecutions were available at year's end. Many victims chose not to report or file charges against their attackers due to cultural pressures and fear of retaliation.

The law criminalizes domestic violence; however, it was a major problem. Domestic violence activists stated that police did not effectively enforce the law. Penalties for domestic violence ranged from 10 years' imprisonment to 20 years' imprisonment with a fine not to exceed 200,000 rupees (\$6,557) if aggravating circumstances were involved. Anyone found guilty of violating a protection order may be fined up to 25,000 rupees (\$819) or imprisoned for up to two years. The local NGO SOS Femmes reported that women remained in abusive situations for fear of losing fi-

nancial support and that few filed complaints against their abusers. The Ministry of Gender Equality, Child Development, and Family Welfare maintained an abuse hotline and a Web site on legal protections for victims.

Sexual harassment was a problem, and the Government was not effective at enforcing prohibitions against it. The law prohibits sexual harassment, which is punishable by up to two years' imprisonment. During the year the Sex Discrimination Division of the NHRC received 20 complaints, of which two involved sex discrimination, four involved sexual harassment, and 14 involved moral harassment, a term used to refer to nonsexual harassment. At year's end four cases remained under investigation, authorities dismissed three for lack of evidence, plaintiffs withdrew one case, five cases were referred to other authorities for appropriate action, and the commission completed seven investigations.

The law provides for the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Couples and individuals were able to access contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. The maternal mortality ratio was 36 per 100,000 live births. Women were equally treated for sexually transmitted infections, including HIV.

Men and women enjoy the same rights under the constitution and the law, and these rights were upheld in the courts. The Ministry of Gender Equality, Child Development and Family Welfare is mandated to promote the rights of women. The National Women Entrepreneur Council, a semiautonomous government body under the ministry, is responsible for promoting the economic empowerment of women.

Women played subordinate roles in society, and societal discrimination continued; however, women had equal access to education, employment, and government services. Women had equal access to credit and could own or manage businesses; however, in the private sector, women were paid less than men for substantially similar work. The law criminalizes the abandonment of one's family or pregnant spouse for more than two months and the nonpayment of court-ordered food support. The law affords women broadly defined wage protections, and authorities generally respected the law in practice. The law protects women from being forced to carry loads above certain weight limits.

*Children.*—Citizenship is derived by birth within the country's territory. All births were registered, and the law provides for late registration. Failure to register births resulted in denial of some public services.

Child abuse was more widespread than was acknowledged publicly, according to NGOs. The law criminalizes certain acts compromising the health, security, or morality of a child. The state-funded National Children's Council, the Ministry of Gender Equality, Child Development, and Family Welfare, and the Office of the Ombudsperson for Children provided counseling, investigated reports of child abuse, and took remedial action to protect affected children. The Police Unit for the Protection of Minors conducted public education programs on the sexual abuse of minors.

On September 13, in Richelieu, the body of seven-year-old Patricia Martin was found. The postmortem examination revealed that she was raped and burned alive. Police arrested her uncle, Marie Jose Tristan Casimir, on the same day. He remained in police detention at year's end.

The police completed their investigation into the January 2009 case of a 15-year-old boy from Rodrigues Island who filed a complaint of an indecent act against a foreign citizen with permanent resident status. The case was referred to the DPP.

There were no updates available in the following 2008 cases of child abuse: the January arrest of a foreign resident for sexually exploiting a 12-year-old girl with the consent of her aunt and uncle; the June arrest of a woman for sexually exploiting a 13-year-old girl; and the July arrest of three men for sexually exploiting a 12-year-old girl.

Child prostitution was a problem, and the Government targeted the practice as a law enforcement and prevention priority. The law prohibits child prostitution and child pornography and provides for a maximum penalty of 15 years' imprisonment for child trafficking. The minimum age for consensual sex is 16 years. Any person found guilty of statutory rape may face a sentence of up to 20 years' imprisonment and a fine not exceeding 100,000 rupees (\$3,278).

The Government assisted victims of child abuse by offering counseling at a drop-in center in Port Louis and referring victims to government-supported NGO shelters. Both medical treatment and psychological support were available at public clinics and NGO centers. For example, the national Children's Council operated a daycare center in Baie du Tombeau to help single mothers and abused children find employment.

Mauritius is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—Approximately 120 Jews resided in the country. There were no reports of anti-Semitic acts during the year.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. The Training and Employment of Disabled Persons Board effectively enforced the law. The law requires that buildings be accessible for persons with disabilities; however, many older buildings remained inaccessible. The law requires organizations employing more than 35 persons to set aside at least 3 percent of their positions for persons with disabilities, and the Government enforced this law. The Government effectively implemented programs to ensure that persons with disabilities had access to information and communications. The state-run television station aired a weekly news program for persons with disabilities. The Government does not restrict the right of persons with disabilities to vote or participate in civic activities; however, during the May 5 legislative elections, private radio stations reported that a few such persons were not able to vote because the polling stations were not accessible.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not criminalize homosexuality; however, it criminalizes the act of sodomy, and this prohibition is equally applied to gay, lesbian and heterosexual couples.

Lesbian, gay, bisexual, and transgender victims of verbal abuse or violence within the family reported such incidents to local NGO Collectif Arc en Ciel; however, victims refused to file complaints with police for fear of reprisal.

On September 14, the daily L'Express reported that a group of young men assaulted a gay man by throwing a rock at him. The victim, who suffered a leg fracture, filed a complaint against his assailants. A police investigation was ongoing at year's end.

At year's end there were no reports of governmental or societal discrimination based on sexual orientation in employment and occupation, housing, statelessness, or access to education or health care.

*Other Societal Violence or Discrimination.*—The law provides that persons living with HIV/AIDS be free from stigmatization and discrimination; however, there were reports of discrimination against such persons and their relatives.

Unlike in the previous year, there were no reports that HIV-positive detainees at the Central Prison were forced to wear yellow badges so that they could be easily identified during routine medical checkups.

During the year the local NGO PILS recorded six cases of discrimination against HIV/AIDS patients and their relatives. Unlike in the previous year, there were no reports of denial of access to public health care services; however, PILS reported that breach of confidentiality regarding HIV/AIDS patients' medical records in public hospitals remained a problem.

In August 2009 Le Mauricien newspaper reported that four police officers verbally and physically abused a Vivre+ social worker collecting for charity on the streets. During the incident the officers also revealed the NGO worker's HIV status to on-lookers. The NGO worker filed a complaint with the Police Complaints Investigation Bureau; however, no action was taken against the four police officers.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provide for the right of workers, including foreign workers, to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. With the exception of police, the Special Mobile Force, and persons in government services who were not executive officials, workers were free to form and join unions and to organize in all sectors, including in the Export Oriented Enterprises (EOE), formerly known as the Export Processing Zone; however, the law grants authorities the right to cancel a union's registration if it fails to comply with certain legal obligations. The law provides for a commission to investigate and mediate labor disputes and a program to provide unemployment benefits and job training.

The law allows unions to conduct their activities without government interference and provides for the right to strike; however, it also establishes a required process for declaring a legal strike. This process calls for labor disputes to be reported to the Commission for Conciliation and Mediation (CCM) only after meaningful negotiations have occurred and a deadlock has been reached between the parties involved, a process that is not to exceed 90 days unless the parties involved agree. Once deadlock has been reported to the CCM, the commission has 30 days to resolve the dispute, or longer if both parties agree. If the dispute is not resolved at the commission level, parties can take the dispute to the Tribunal for Voluntary Arbitration (TVA) for settlement or go on strike within 45 days, provided the union has given the labor minister 10 days notice of the upcoming strike. The prime minister may petition the Supreme Court to prohibit the continuation of a strike deemed a danger to the life, health, or personal safety of the population. The prime minister may also apply to the TVA for the establishment of a minimum service if such service does not exist.

Worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals were unjustified. On January 14, authorities reportedly deported 62 foreign workers who participated in illegal strikes.

*b. The Right to Organize and Bargain Collectively.*—The law protects collective bargaining, and workers exercised this right. The National Remuneration Board (NRB), whose chairman is appointed by the minister of labor, set minimum wages for nonmanagerial workers, although most unions collectively negotiated wages higher than those set by the NRB.

The law prohibits antiunion discrimination; however, the Government did not always respect this right.

On August 25, the Government-owned MBC suspended trade unionist Rehana Ameer for allegedly sending an anonymous letter to MBC employees criticizing management practices. On December 3, MBC dismissed Ameer for allegedly authoring the letter and for speaking to the media about her suspension. Ameer claimed that she was suspended as a result of her trade union activities. Since 2008 four MBC trade union activists were suspended or dismissed.

The law does not provide for the reinstatement of dismissed employees; however, employees can resort to the Industrial Relations Court to seek redress.

National labor laws cover workers in the EOE; however, EOE-specific labor laws authorize longer working hours, including 10 hours per week of mandatory paid overtime at a higher wage than for ordinary working hours. Some employers reportedly established employer-controlled work councils for EOE workers, effectively blocking union efforts to organize at the enterprise level. Approximately 59,000 persons worked in the EOE; only 10 percent belonged to unions.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, child labor occurred in the informal sector or in shops. There was no report of forced child labor during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children below 16 years of age and prohibits the employment of children between 16 and 18 years old in work that is dangerous, unhealthy, or otherwise unsuitable for young persons. While the Government generally respected this law, child labor occurred. According to the law, the penalties for employing a child are a fine of no more than 10,000 rupees (\$328) and imprisonment not to exceed one year.

Children worked in the informal sector as street traders, in small businesses, in restaurants, in agriculture, and in small apparel workshops.

The Ministry of Labor, Industrial Relations, and Employment (MOL) is responsible for the enforcement of child labor laws and employed 45 inspectors to conduct frequent inspections.

The MOL developed vocational training programs to prevent employment of under-age children and conducted programs to identify street children.

*e. Acceptable Conditions of Work.*—The Government established minimum wages, which varied by sector, and mandated that the minimum wage rise each year based on the inflation rate. The minimum wage for an unskilled domestic worker in the EOE was approximately 607 rupees (\$20) per week, while the minimum wage for an unskilled domestic factory worker outside the EOE was approximately 794 rupees (\$26) per week. Although these wages did not provide a decent standard of living for a worker and family, the actual market wage for most workers was much higher due to a labor shortage and collective bargaining. The MOL effectively enforced the minimum wage law.

The standard legal workweek in the EOE was 45 hours. According to the Mauritius Labor Congress, 10 hours of overtime a week is mandatory at certain textile factories in the EOE. By law no worker can be forced to work more than eight hours a day, six days a week. Those who work more than their stipulated hours must be remunerated at one and a half times the normal salary. Those who work during their stipulated hours on public holidays are remunerated at double their normal salary. For industrial positions, workers are not permitted to work more than 10 hours a day. If the worker has worked until or past 10 p.m., the employer cannot require work to resume until at least 11 hours have elapsed. These standards were generally enforced for both foreign and domestic workers. Unions have reported cases of underpayment for overtime in the textile and apparel industries due to differences in existing legislation and remuneration orders for the calculation of overtime hours. The law provides that in such cases the MOL is required to investigate, and employers are encouraged to take remedial actions, failing which a court action is initiated.

On February 22, police reportedly freed three Bangladeshi workers who alleged that their employer had confined them to their dormitories for a few hours following an argument regarding unsanitary conditions in their dormitory. One of the workers alleged that the employer beat him daily.

The Government set health and safety standards, and MOL officials inspected working conditions; however, the inadequate number of inspectors limited the Government's enforcement ability. Voluntary employer compliance with safety regulations helped reduce the number of occupational accidents. There were reports of foreign workers living in dormitories with unsanitary conditions. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

---

## MOZAMBIQUE

Mozambique has a democratic constitution and an estimated population of 22.4 million. President Armando Guebuza was reelected in October 2009 in a contest criticized by several national and international observers, including the EU and the Commonwealth, as lacking a "level playing field" and faulted for lacking transparency, integrity, impartiality, and independence. Domestic and foreign observer groups and local civil society expressed concern over the electoral procedures that preceded the balloting, particularly the exclusion of six of nine presidential candidates and disqualification of one opposition party's parliamentary candidates from seven of 11 provinces. Freedom House has since removed the country from its list of electoral democracies. There were instances in which elements of the security forces acted independently of civilian control.

Incidents of serious human rights abuses, including vigilante killings, occurred during the year. Security forces continued to commit unlawful killings. Prison conditions remained harsh and life threatening, resulting in several deaths. Arbitrary arrest and detention, as well as lengthy pretrial detention, were problems. An understaffed and inadequately trained judiciary was inefficient and influenced by the ruling party. Political and judicial decisions involving independent media outlets constrained press freedom. Societal problems including domestic violence, discrimination against women, abuse, exploitation, and forced labor of children, trafficking in women and children, and discrimination against persons with HIV/AIDS remained widespread.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, human rights activists and domestic media sources reported that security forces arbitrarily killed some persons during the year, including at least 13 during the violent protests on September 1 and 2.

According to a 2010 report by international nongovernmental organization (NGO) Amnesty International (AI), police were responsible for a number of human rights violations, including extrajudicial executions, excessive use of force sometimes resulting in death, arbitrary arrests and detentions, as well as torture and other cruel, inhuman and degrading treatment and deaths in custody. In the majority of cases no investigations were carried out, and police officers were not disciplined. AI noted

that victims and/or their families did not receive any information and were left without remedies or justice.

Examples of arbitrary or unlawful killing by police included:

On March 29, a Maputo police officer shot and killed a citizen after a verbal altercation. There were no further developments by year's end.

On April 9, a police officer in Beira was detained for killing a civilian. The investigation was ongoing at year's end.

On September 7, a Matola police officer shot and killed an unarmed person alleged to have stolen a chicken. There were no further developments by year's end.

There were no further developments in the September 2009 killing of a man by police for stealing a vehicle's side mirror.

High levels of crime in and around Maputo City and continued violence against police by criminal gangs were likely factors in the number of unlawful killings committed by security forces. During the year 10 police officers in Maputo City were killed; gangs were suspected in each case.

There was no further information available in the following 2008 cases: the February killing of five persons in Maputo and at least one other person in Chokwe who were protesting increases in the cost of living, and the August shooting death of a person in Maputo by a police officer during a personal dispute.

There were a few reports of death resulting from police abuse. For example, in May eight prison guards in Gaza Province tied up and beat to death a prisoner in Mabalane Prison. The Ministry of Justice conducted an investigation, and the guards were suspended. No charges had been filed by year's end.

Killings by vigilante groups continued to be a problem. For example, there were 14 reported lynchings in the city of Beira and nine lynchings in the city of Manica during the year. While the Government strongly condemned the killings, it was unable to identify the perpetrators and bring them to justice. The League of Human Rights (LDH) and other civil society groups claimed these killings were related to the increased cost of living, high unemployment rates, sustained high levels of crime, lack of police presence in outlying metropolitan neighborhoods, and an ineffective justice system. Most targets of such killings were suspected muggers, thieves, sexual abusers, and drug dealers.

There were no developments in the 2009 and 2008 deaths of several persons at the hands of vigilante groups in Chimoio, Maputo, Matola, and Chokwe districts, including the death of three Mozambican Red Cross volunteers in Quinga accused of causing an outbreak of cholera (whose teams were using chlorine to purify water; cholera and chlorine are similar words in Portuguese) and the burning to death of a 13-year-old boy in Beira for stealing ducks.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the constitution and law prohibit such practices, police frequently used excessive force and harsh physical abuse when apprehending, interrogating, and detaining criminal suspects and prisoners. During the year human rights advocates and the media reported occurrences of torture and other cruel treatment, including several cases involving sexual abuse of women, beatings, and prolonged detention.

In March an LDH visit to Maputo's maximum security prison (Machava) confirmed numerous incidents of guards physically abusing prisoners. The LDH found that guards handcuffed prisoners to trees and then flogged them. The prison authorities later confirmed nine prisoners had been abused in this manner. Two prison guards were suspended and criminally charged for the abuse. In May the minister of justice suspended both the management and the guard commander of the prison. As a result of LDH's report, the minister of justice ordered a full inquiry into the Machava Prison incident and personally made visits to several of the region's prisons to assess the conditions. After finding abuses, the ministry and the LDH created a joint declaration on prison reform and established a Prison Reform Group responsible for making changes to the prison system.

There were also reports of similar severe beatings at several other prisons; in May, one death resulted from these beatings at Mabalane Prison in Gaza Province. After an investigation by the Ministry of Justice, one prison guard was suspended but not criminally charged.

There were no further developments in the March 2009 suffocation deaths of 13 prisoners in an overcrowded cell in Mogincual.

Unlike the previous year, there were no reports that excessive use of force by police resulted in death and injuries to strikers.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and potentially life threatening; overcrowding, inadequate nutrition, substandard sanita-

tion, poor health facilities, and prisons in poor physical condition remained serious problems.

The Administration for Prison Services, under the Ministry of Justice, operated 184 prisons in 10 provinces. The Ministry of Interior and the police are responsible for jails at police stations. During the year there were 14,936 prisoners, approximately 66 percent of whom had been convicted and the rest awaiting trial. The National Prisons Service spends approximately 3,600 meticais (\$105) per month to house, feed, clothe, educate, and provide medical care for each prisoner.

Overcrowding remained the most serious problem. During the year the LDH noted once again that many prisons held more than three times the number of prisoners for which they were built and that often prisoners slept in bathrooms, standing up, or in shifts.

For example, as of August Maputo Central Prison held 2,695 prisoners in a facility designed to hold 800, and the Nampula Provincial Jail held 401 prisoners in a facility for 100.

In August the director general of prisons was replaced due to his failure to alleviate the overcrowding problem in the prisons.

During the year the LDH made numerous visits to prisons and detention facilities. Based on those visits, the LDH continued to note the following conditions in the prisons: harsh detention, inadequate food, poor hygiene, overcrowding, adults and juveniles held together, prisoners kept beyond their sentences, and the LDH stated that many facilities were "physically inadequate."

Reports continued that most prisoners received only one meal a day. In many cases prison officials were not able to provide even basic food to the prison population. In the prisons visited, the LDH characterized the provision of food as "poor," consisting mainly of corn meal and beans. It was customary for families to bring food to prisoners; however, there continued to be occasional reports that guards demanded bribes in exchange for delivering food to prisoners. In several prisons inmates engaged in prostitution in exchange for food, according to the LDH. According to the UN Interregional Crime and Justice Research Institute (UNICRI), 10 percent of juvenile offenders were women, and some juveniles had been held with adult populations in pretrial detention for as long as nine months. Juveniles were also intermixed with adults in the general prison population.

The LDH found malaria, tuberculosis, and HIV/AIDS to be commonplace among prisoners in nearly all prisons. The LDH also found other illnesses caused by malnutrition, including paralysis and blindness. Both healthy and sick prisoners regularly were kept in the same cells. Provisions for sanitation, ventilation, temperature, lighting, basic and emergency medical care and access to potable water were inadequate.

In July an inmate gave birth inside the Ndlavela Jail, in the city of Matola in Maputo Province, because the prison had no vehicle for the transportation of personnel or inmates to health facilities.

According to the LDH and confirmed by a report issued by the UNICRI, pretrial detainees were held with convicted prisoners.

There continued to be many reported deaths in prison, the vast majority due to illness and disease, at rates much higher than the general population. During the first four months of the year, at least nine prisoners in Nampula's jail had died of tuberculosis.

International and domestic human rights groups had access to prisoners, although at the discretion of Ministries of Justice and Interior. The LDH reported no problems obtaining credentials to visit prisons. Moreover LDH president and founder Maria Alice Mabota announced in 2009 that the LDH had entered into a memorandum of understanding with the Ministry of Justice allowing it to visit prisons unannounced. The LDH confirmed these visitation rights continued during the year. The LDH agreed to provide to the ministry any reports it planned to issue but would be free to publish its own independent findings.

Prisoners generally were allowed access to visitors and permitted religious observances. On several occasions during the year, prisoners and detainees submitted complaints about their treatment to authorities; such complaints were also reported in the local press. The Ministry of Justice investigated a number of these complaints in Machava and Gaza prisons, resulting in changes in procedures and disciplining of personnel.

Following reports of beatings and killings of prisoners at Machava Prison in March, Ministry of Justice officials announced investigations of conditions, and publicly criticized prison officials and prison conditions. The officials acknowledged serious mistreatment of prisoners had occurred, and several senior officials in the prison service were either administratively disciplined or dismissed.

The Ministry of Justice and prison service acknowledged during the year that pretrial detention, bail, and recordkeeping procedures were inadequate and announced efforts to improve their systems and lessen the possibility of prisoners serving time in excess of their sentences or maximum legal detention periods.

*d. Arbitrary Arrest or Detention.*—While the constitution and law prohibit arbitrary arrest and detention, both practices continued to occur.

*Role of the Police and Security Apparatus.*—Forces under the Ministry of Interior, including the Criminal Investigative Police (PIC), the national police (PRM), and the Rapid Intervention Force (FIR), are responsible for internal security. An additional security body, the State Information and Security Service, reports directly to the president. The Casa Militar (Presidential Guard) provides security for the president. The armed forces are responsible for external security.

Police routinely removed their identification at checkpoints after dark and refused to identify themselves or their police precincts.

For example, the following incidents involving police occurred: (1) on January 15, two police officers in Nampula robbed an armored car; (2) on April 11, eight police officers in Zambezia were dismissed after being convicted of crimes; (3) on February 3, a total of 16 police officers in Sofala were dismissed due to criminal acts; and (4) on March 30, three recent police graduates in Manica were arrested for breaking and entering a local residence.

The most common reasons for disciplinary action, according to Maputo's police chief, were collaboration with criminals, extortion of goods and money, excessive alcohol consumption, and abandonment of post. In May 2009 police officials told AI that 356 police officers had been disciplined since 2005 for breaching disciplinary regulations. Of these, 108 were expelled from the police force, and 37 were convicted of criminal offenses. AI stated, however, police discipline was inadequate and prosecution rare.

Implementation of the 2003-12 strategic plan of action and modernization for the PRM continued; seven of its nine "guiding principles" reflected respect for human rights. While the plan acknowledged the problem of abuse of police powers, it made no specific provision for ensuring greater accountability for such abuses.

*Arrest Procedures and Treatment While in Detention.*—Although the law provides that persons be arrested with warrants issued by a judge or prosecutor (except persons caught in the act of committing a crime), police continued to arrest and detain citizens arbitrarily. By law the maximum length of investigative detention without a warrant is 48 hours, during which time a detainee has the right to judicial review of the case. The individual may be detained another 90 days while the PIC continues its investigation. When a person is accused of a crime carrying a sentence of more than eight years, the individual may be detained up to an additional 84 days without being charged formally. With court approval, such detainees may be held for two more periods of 84 days each without charge while the police complete their investigation. The law provides that when the prescribed period for investigation has been completed and no charges have been brought, the detainee must be released. In many cases the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends. The law provides that citizens have access to the courts as well as the right to representation, regardless of ability to pay for such services. However, due to a shortage of legal professionals, indigent defendants frequently had no legal representation.

The bail system remained poorly defined. Prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes for releasing prisoners.

Excessively long pretrial detention continued to be a serious problem, due in part to an inadequate number of judges and prosecutors and poor communication among authorities. Approximately 34 percent of the inmates were in pretrial detention. In many cases authorities held inmates in the prison system for more than three years before their trials began. Media reported a case of one pretrial detainee in a Maputo prison who had been waiting for more than five years for his trial to begin.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, according to civil society groups, the executive branch and the ruling Front for the Liberation of Mozambique (Frelimo) heavily influenced an understaffed and inadequately trained judiciary, particularly in the lower tiers. The judicial system continued to suffer from a lack of transparency and often did not comply with the principles of promotion and protection of human rights.

Intermediate appeals court and district court judges may rule on criminal cases with penalties ranging between eight and 12 years' imprisonment. Alternative

measures such as work brigades, conditional release for prisoners who have completed half of their sentences, and traveling tribunals continued to be employed.

*Trial Procedures.*—Persons accused of crimes against the Government are tried publicly in regular civilian courts under standard criminal judicial procedures. Members of the media may attend trials, although space limitations excluded the general public. A judge may order a trial closed to the media in the interest of national security or to protect the privacy of the plaintiff in a sexual assault case. Article 12 of the judicial organization law “prohibits the production and public transmission of images and sounds at trials.” There is no trial by jury.

In regular courts accused persons are presumed innocent and have the right to legal counsel and appeal; however, authorities did not always respect these rights. Although the law specifically provides for public defenders for the accused, such assistance generally was not available in practice, particularly in rural areas. In some instances prisoners were required to pay their legal aid attorneys to persuade them to provide “free” legal assistance.

The Mozambican Legal Aid Institute, an organization under the Ministry of Justice, worked to ensure that accused persons were provided with court-appointed legal counsel if requested. However, due to a lack of trained lawyers, this was rarely possible. The LDH reported that most citizens remained unaware of this right, and many had no access to legal counsel. Some NGOs offered limited legal counsel at little or no cost to both defendants and prisoners. Only judges or lawyers may confront or question witnesses, although all citizens have a right to self-defense. As such, they are allowed to present witnesses and evidence on their own behalf and have access to government-held evidence.

Outside the formal court system, local customary courts and traditional authority figures often adjudicated matters such as estate and divorce cases. Local arbiters with no formal training presided at customary courts.

*Political Prisoners and Detainees.*—Unlike the previous year, there were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—While the law provides for an independent and impartial judiciary in civil matters, in practice the judiciary was subject to political interference. Although in theory citizens have access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations, in practice this did not occur.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, opposition party members alleged that government intelligence services and ruling party activists continued without warrants to monitor telephone calls and e-mails, conduct surveillance of their offices, follow opposition members, use informants, and disrupt party activities in certain areas, including in Gaza and Zambezia provinces.

By law police are required to be in possession of a warrant to enter homes and businesses, but this practice was not always followed.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and statutes provide for freedom of speech and of the press and the Government generally respected these rights in practice. Individuals can generally criticize the Government publicly or privately without reprisal; however, some persons expressed fear that the Government monitored their private telephone and e-mail communications. Some journalists reported receiving anonymous threats. In response to the violent protests which occurred on September 1 and 2, the Government disabled the local cell phone-texting system, the protesters’ primary method of communication, and subsequently required that all purchasers and owners of prepaid cell phones register with cell service providers.

On February 10, the Media Institute for Southern Africa (MISA) reported that despite the press freedom guarantees in the constitution and the 1991 Press Law, other legislation inhibits the media. For example, a clause in the law on crimes against state security treats libel against the president, prime minister, and other senior political and judicial figures as a security offense.

On February 10 and other occasions, the press reported that journalists attempting to interview opposition leader Afonso Dhlakama were threatened, harassed, and intimidated by members of the national police (PRM) stationed outside his residence.

On March 15, Escorpiao reported the Gondola district police commander in Manica Province threatened the local MISA president and other journalists for printing unflattering reports about him.

On May 20, Salomao Moyana, editor of Magazine Independente (MI), reported receiving death threats. Also in May a MISA-Mozambique report cited frequent anonymous threats to journalists.

During the civil unrest of September 1-2, some officials accused local independent television station STV of giving the demonstrators excessive coverage. For several hours, SOICO Televisao (STV) and the Government station Televisao de Mocambique (TVM) halted coverage of the demonstrations, reportedly at the behest of government officials.

By some estimates newspapers reached approximately one million of the country's 22.4 million citizens. The print media was published exclusively in the Portuguese language and was thus not accessible to a majority of the population. The Government maintained majority ownership of Noticias, the main newspaper and one of three dailies with nationwide distribution. Noticias, Diario de Mocambique, and the weekly Domingo largely mirrored the views of the ruling party. O Pais and Savana, among others, reported news items critical of government policies.

Some journalists reported self-censorship amongst media practitioners and were hesitant to report on sensitive topics. Some media officials believed a connection existed between critical reporting and cancellation of government and ruling party advertising contracts. The largest advertising revenue streams for local media come from government ministries and state-controlled businesses.

International media were allowed to operate freely.

Numerous private community and regional radio stations operated throughout the country. Radio Mocambique, which received 60 percent of its operating budget from the Government, was the most influential media service with the largest audience. Although it broadcast debates on important issues, Radio Mocambique tended to invite participants who were less critical of the Government.

The Government supplied more than half of the operating budget of TVM, the television station that contends with STV for the largest viewership. TVM's news coverage demonstrated a bias favoring the incumbent government and ruling party Frelimo.

*Internet Freedom.*—Internet access was modest, and online communications did not play a significant role. Although there were no government restrictions on access to the Internet, opposition party members reported that government intelligence agents monitored e-mail. There were no confirmed instances of the Government attempting to collect personally identifiable information of a person. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail and through political blogs, as well as small-scale use of social media. While public access to the Internet continued to expand, particularly in the larger cities, lack of infrastructure in rural areas and installation costs limited overall use. Cell phones were widely available and frequently used, including for text messaging. According to International Telecommunication Union statistics for 2008, approximately 1.5 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly. Although the Government generally respected this right in practice, in August police stopped a demonstration called by war veterans demanding better living conditions and jailed its leader, whom they subsequently released.

In September demonstrators in several cities protested price increases on basic foodstuffs, water, and energy. Some erected barricades, burned tires, set cars on fire, threw stones at passing motorists, looted stores, and vandalized government offices, including power purchase outlets. Police used tear gas, rubber bullets, and live ammunition, and shot and killed between 13 and 18 persons in Maputo and Matola; several hundred others were also injured. Several dead and wounded were also reported in the central provinces of Manica and Sofala. AI called upon the Government to cease the use of live ammunition, and several local human rights groups criticized the Government for improper use of deadly force, as well as poor tactics, untrained personnel, and lack of preparation. The Center for Public Integrity (CIP) called the police "unprepared, ill-trained and corrupt." There were no further developments by year's end. However, on October 12, President Guebuza announced the transfer of Interior Minister Pacheco to the post of minister of agriculture.

*Freedom of Association.*—The constitution and law generally provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—While the law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, the Government sometimes infringed upon these rights in practice.

Traffic checkpoints are under the jurisdiction of traffic police. Checkpoints occasionally affected freedom of movement, and according to press reports, authorities often abused and demanded bribes from citizens at them. Police sometimes stopped foreigners and ordered them to present original passports or resident papers, refused to accept notarized copies, and fined or detained those who failed to show proper documents. Police also routinely harassed, detained, and extorted bribes from local citizens for failure to carry identity papers.

The Government respected the law forbidding forced exile.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting several thousand recognized refugees and asylum seekers.

The Government continued to work closely with the UNHCR to implement a local integration program for refugees, primarily from Somalia, Ethiopia and the Great Lakes region, at the Maratane camp in Nampula Province.

The Government provided modest assistance to Zimbabwean citizens crossing the border into the country. However, it considered Zimbabweans as economic migrants and supported a role for the UNHCR in providing assistance and protection to this group.

The Government allows refugee movement within the country. Refugees must formally request authorization to move outside the geographic region in which they have been registered, but they are free to settle elsewhere in the country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In November 2009 the National Elections Commission (CNE) announced that Armando Guebuza of the ruling Frelimo party had been elected president in the October multiparty general elections. While domestic and international observers noted that voting day procedures generally followed international norms, they also documented irregularities during voter registration, the campaign, and in the vote count. Frelimo used significant state funds and resources for campaign purposes, in violation of electoral law.

The main opposition parties, Renamo and Democratic Movement of Mozambique (MDM), complained of election fraud and noted Frelimo agitators and provocateurs routinely disrupted campaign stops, drowning out speakers and candidates by revving motors, playing instruments, shouting, and occasionally throwing stones. They alleged local authorities failed to respond to such provocative acts and that Frelimo candidates suffered no such impediments during their campaigns. Opposition parties also accused Frelimo of using state funds and resources for campaign purposes, in violation of electoral law, as was corroborated by independent reporting.

The Electoral Institute for Southern Africa (EISA) questioned the transparency, integrity, impartiality, and independence of the CNE. EISA noted that improvements were required to “level the playing field, afford equal opportunity to all, and improve the transparency of the electoral process.” The CNE disqualified several political parties and candidates from participating in legislative elections. The MDM, for example, was stricken from nine of 13 legislative districts. The CNE’s action, which included backdating documents and other questionable acts, provoked protests from the diplomatic community, objections by civil society, and extensive commentary in the media. Also the Constitutional Council (CC) disqualified six of nine presidential candidates for application irregularities. In contravention of law and its own past practice, the CC did not provide the rejected candidates with notice or an opportunity to respond.

In response to these various actions by the CC and the CNE, the CIP called for an independent audit of electoral processes and highlighted several significant flaws in the electoral process. Under an agreed-upon set of governance initiatives reached in March, the Government granted MDM formal status in the National Assembly, which entitled its eight members of parliament to certain financial and logistical

support, and the Government committed to enacting a new electoral law. The Government announced a two-year legislative process to achieve this electoral reform.

Frelimo and the executive branch continue to dominate the political process and their influence continued to grow. In the October 2009 elections, Frelimo secured approximately 75 percent of the presidential vote and more than 75 percent of the seats in parliament. Frelimo mayors were elected in 42 of 43 municipalities, and it was the largest party in municipal assemblies, controlling 79.8 percent of all seats. Frelimo gained a sufficient majority in the National Assembly to amend the constitution without the support of other parties.

During the year opposition political parties were permitted to operate but were sometimes subject to some restrictions including unlawful arrest, and other interference by the ruling party and the Government. In September, following violent protests in Maputo, police arrested several Renamo members in Nampula, accusing them of making further preparations for violent protests. Renamo sources said the members had been organizing local party meetings unconnected to the protests. All those detained were subsequently released.

Women, such as the former prime minister and members of many ethnic groups, held key positions in both the legislative and executive branches. There was no evidence that women or specific ethnic groups were excluded from participation in the political process. Eight of the 29 ministers were women. Women held 91 of 250 seats in the National Assembly. The National Assembly also had an office dedicated to raising awareness of women's issues, including family law, domestic violence, and antitrafficking in persons measures. There were no women on the Supreme Court.

#### *Section 4. Official Corruption and Government Transparency*

While the law provides criminal penalties for official corruption, the Government often did not implement the law effectively, and officials engaged in corrupt practices with impunity. Corruption in the executive and legislative branches was generally perceived to be widespread. The World Bank's Worldwide Governance Indicators reflected that corruption was a serious problem. Petty corruption by low-level government officials to supplement low salaries and high-level corruption by a small group of politically and economically connected elites continued to be the norm. In some cases high-level bribery was related to narcotics trafficking.

On April 23, Noticias reported that in the district of Muanze in Sofala Province, a local administrator lamented the losses attributable to nonexistent teachers and civil servants.

On May 4, Ministry of Education spokesperson Manuel Rego, acknowledged that ministry functionaries engaged in sexual harassment of students and demanded from students illegal payments to matriculate, to pass, and to receive better grades, among other matters.

On May 10, the daily *Escorpiao* reported that Customs Director Orlando Jose, widely regarded as active in combating corruption, was murdered by unknown assailants suspected of links to organized crime and corrupt officials. There were no further developments by year's end.

On November 30, the Maputo Provincial Court, sitting in nearby Matola, sentenced 16 civil servants to prison terms between three and 21 years for corrupt schemes that resulted in the theft of about 2.8 million meticaís (\$82,000).

On December 7, two senior executives of the national data processing center were convicted of embezzling approximately 3.3 million meticaís (\$97,000) and sentenced to jail terms of 12 years.

On December 9, former interior minister Almerino Manhenje and two associates were tried for stealing approximately 1.2 million meticaís (\$35,000). The verdict was pending at year's end.

There were no further developments in any of the following cases of corruption from 2009: the chairperson and others associated with the Mozambican Airports Company charged with diversion of state funds; four officials from Tete's Provincial Directorate of Planning and Finance charged with embezzlement; five employees of the Manica Provincial Department of Finance charged with illegally obtaining state funds; and the 2007 and 2008 corruption investigations of the deputy director of Maputo Central Prison and six health services administrators in Cabo Delgado Province.

Corruption and extortion by police were widespread, and impunity remained a serious problem. Police regularly detained persons for arbitrary reasons and demanded identification documents solely to extort payments. Many crime victims reportedly declined to seek police assistance because of expected demands for bribes and a lack of confidence that the police would help. Corruption largely resulted from a lack of checks and balances, minimal accountability, and a culture of impunity. Local NGOs, such as the CIP, and media groups continued to be the main civic

forces fighting corruption, reporting on and investigating numerous corruption cases.

The law requires that all members of the Government declare and report their assets with the Constitutional Council, but it does not require that such information be made available to the general public. Consequently, the general public does not know whether the required declarations and reports have been submitted.

The Central Office for the Combat of Corruption functions as an autonomous unit under the Attorney General's Office with its own state budget. It investigates theft of state funds in the central government and in provincial administrations.

There are no laws providing for public access to government information, and in practice the Government failed to respond to citizens' requests for or restricted citizens' access to government information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although at times slow, government officials often were cooperative and responsive to the views of domestic and international human rights groups. The registration and activities of foreign NGOs are subject to governmental regulation. Some foreign NGOs and religious groups reported that such registration regularly required several months.

In August 2009 the Ministry of Justice agreed to work with the UN to draft and issue in 2011 its own human rights report. There were no progress reports issued during the year.

Despite a 2005 constitutional amendment creating an independent ombudsman position to investigate allegations of abuses, including human rights violations, no person had been named to the position by year's end.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, but in practice discrimination persisted against women and persons with HIV/AIDS.

*Women.*—The law prohibits rape, including spousal rape, but it was not effectively enforced. Penalties range from two to eight years' imprisonment if the victim is 12 years of age or older and eight to 12 years' imprisonment if the victim is under the age of 12. While there were no official estimates as to the extent of spousal rape, it was regarded as a common problem. According to NGO reports, many families preferred to settle such matters privately through financial remuneration rather than through the formal judicial system. There were no reports of rape cases prosecuted during the year.

In July 2009 parliament passed a domestic violence law that prohibits violence against women and nonconsensual sex, including between married individuals. The law also provides penalties of up to 12 years' imprisonment for engaging in sexual activity while knowingly infected with a contagious disease. No cases were brought to trial during the year.

Domestic violence against women, particularly spousal rape and beatings, remained widespread, and despite the new domestic violence law, NGOs reported that many women believed it was acceptable for their husbands to beat them. Cultural pressures discouraged women from taking legal action against abusive spouses. On April 20, the Ministry of Women and Social Action (MIMAS) acknowledged that a national plan approved in 2008 to combat violence against women had been announced but not yet implemented in five provinces—Niassa, Tete, Sofala, Inhambane, and Gaza, and in Maputo City—and was altogether unknown in the rest of the country. MIMAS Minister Yolanda Cintura suggested that the plan would be implemented in "a few years." A survey indicated that 21 percent of female respondents reported an act of physical or sexual violence perpetrated by a man during the past year.

On June 25, O Pais reported that violence against women and children was increasing. During the first quarter of the year, more than 1,700 cases were reported.

The Government and NGOs often worked together to combat domestic violence. The PRM operated special women's and children's units in police squadrons that received high numbers of cases of domestic violence, sexual assault, and violence against children; the units provided assistance to victims and their families. All of the 30 police squadrons in Maputo had women's and children's centers. In addition, all police squadrons in the country are in the process of installing a "green line" (a free telephone line) to receive complaints of violence against women and children. The lines were not fully operational by year's end.

Sexual harassment is illegal; however, it was pervasive in business, government, and schools. Although no formal data existed, the media reported numerous instances of harassment during the year. The relevant sexual harassment law is based on the 1920s Portuguese penal code; sexual harassment charges are usually regarded as acts of "indecent" with a maximum penalty of two years' imprisonment.

The Government generally recognized the right of couples and individuals to decide the number and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of MIMAS. There were no restrictions on the right to contraceptives, but the continued high rate of HIV/AIDS suggested that they were not sufficiently used. The UN Population Fund (UNFPA) estimated that approximately 17 percent of married women between the ages of 15 and 49 used some form of contraception. Because there were few doctors and nurses in the country, most women gave birth at home and received little or no prenatal and postnatal care, unless the mother or child suffered health complications.

A May 5 Ministry of Health study concluded that more than 11 women died daily due to pregnancy-related complications, and that three-fourths of such deaths were preventable. The UNFPA estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 550 in 2008. The Population Reference Bureau estimated that approximately 44 percent of births were attended by skilled personnel.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV/AIDS.

"Purification," whereby a widow is obligated to have unprotected sex with a member of her deceased husband's family, continued to be practiced, particularly in rural areas. A Save the Children report on inheritance practices noted that 60 percent of women cited discrimination in the inheritance process and highlighted cases in which women lost inheritance rights for not being "purified" following the death of their husbands.

With the exception of some ethnic and religious groups, the groom's family provided a dowry to the bride's family, usually in the form of money, livestock, or other goods. Among Muslims, the bride's family usually paid for the wedding and provided gifts. Some believed that these exchanges contributed to violence against women and other inequalities, due to the perception that the women subsequently were "owned" by their husbands.

The Family Law, which took effect in 2005, sets the minimum age of marriage for both genders at 18 for those with parental consent, and 21 for those without it. The law also eliminates husbands' de facto status as heads of family, and legalizes civil, religious, and common-law unions. While the law does not recognize new cases of polygamy, it grants women already in polygamous marriages full marital and inheritance rights. The law more precisely defines women's legal rights with regard to property, child custody, and other issues. However, nearly five years after taking effect, a survey conducted by the NGO MULEIDE found that approximately 63 percent of women remained uninformed about the law.

Customary law was practiced in many areas. In some regions, particularly the northern provinces, women had limited access to the formal judicial system for enforcement of rights provided under the civil code and instead relied on customary law to settle disputes. Under customary law women have no rights to inherit an interest in land.

Women continued to experience economic discrimination, and they were three times less likely than men to be represented in the public and formal private employment sectors. They often received lower pay than men for the same work and were less likely to have access to credit.

*Children.*—Citizenship can be obtained by birth either in the country or of a citizen parent. Particularly in rural areas, births often were not registered immediately. Children who wish to start school at age six must be registered. Failure to register can also prevent one from obtaining health care and public documents, such as identity cards or passports.

Education is compulsory through age 12, but enforcement was inconsistent. Public education tuition is free, but most families paid enrollment fees for each child and purchased books, uniforms, and other school supplies. Children who have a certificate that testifies that their parents' incomes are below a certain level are exempt from fees, but for most families, fees and associated costs remained a significant financial burden. Despite joint government-NGO initiatives in some localities and districts to improve girls' school attendance, Save the Children's May 5 Report on Mothers noted that school attendance for girls continues to be significantly lower than for boys, especially at the secondary and higher levels.

The UN Children's Fund noted that child abuse was a growing concern. Most child abuse cases involved sexual abuse, physical abuse, or negligence. Several cases of fathers sexually abusing their daughters were reported. Sexual abuse in schools was a growing problem. There were numerous press reports during the year focusing on the large numbers of high school-age girls becoming pregnant as a result of being coerced into having sex by their teachers.

Local custom, primarily in the northern provinces and in Muslim and South Asian communities, allowed underage marriage. Without specifying prison terms or fine amounts, the law prohibits pornography, child prostitution, and sexual abuse of children under 16; however, exploitation of children below the age of 15 and child prostitution remained a problem. No instances of prosecution were reported. Child prostitution appeared to be most prevalent in Maputo, Nampula, Beira, at border towns, and at overnight stopping points along key transportation routes. Child prostitution reportedly was growing in the Maputo, Beira, Chimoio, and Nacala areas, which had highly mobile populations and a large number of transport workers. Child prostitution also was reported in Sofala and Zambezia provinces. Some NGOs provided health care, counseling, and training in other vocations to children engaged in prostitution.

Zimbabwean children, many of whom entered the country alone, continued to face labor exploitation and discrimination. They lacked protection due to inadequate documentation and had limited access to schools and other social welfare institutions. Coercion, both physical and economic, of Zimbabwean girls into the sex industry was common, particularly in Manica Province.

Child beggars, who appeared to be living on the streets, were visible in major urban areas, but no nationwide figures were available.

Several government agencies, including the Ministry of Health and the Ministry of Women and Social Action, implemented programs to provide health assistance and vocational education for HIV/AIDS orphans, but as parents continued to die, the number of orphans increased.

The Maputo City Office of Women and Social Action continued its program to rescue abandoned orphans and assist single mothers who headed families of three or more persons. It also offered special classes in local schools to children of broken homes. NGOs sponsored food, shelter, and education programs in all major cities.

While the Government continued to stress the importance of children's rights and welfare, significant problems remained. In 2008 the National Assembly passed a law on child protection. The law contains sections dealing with protection against physical and sexual abuse; removal from parents who are unable to defend, assist, and educate them; and the establishment of minors' courts to deal with matters of adoption, maintenance, and regulating parental power. By year's end no cases had been taken to court.

The Network against the Abuse of Minors (Rede Came) continued its efforts to put into practice the child protection law's provisions. It maintained a hotline call center and responded to hundreds of calls but lacked the resources to deliver meaningful assistance on a large scale.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—There was a very small Jewish population, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law stipulate that citizens with disabilities shall fully enjoy the same rights as all other citizens. However, the Government provided few resources to implement this provision, and persons with disabilities frequently could be seen begging at traffic intersections, often accompanied by able-bodied persons. Discrimination was common against persons with disabilities in employment, education, access to health care, and the provision of other state services. The law does not mandate access to buildings for persons with disabilities, but the Ministry of Public Works and Habitation worked to ensure that public buildings in Maputo city provided access for persons with disabilities. Electoral law provides for the needs of voters with disabilities in the polling booths.

Concerns of persons with disabilities included lack of access to socioeconomic opportunities and employment, limited access to buildings and transportation, and a lack of wheelchairs. Facilities with special access were rare. There were few job opportunities for persons with disabilities in the formal sector.

The country's only psychiatric hospital was overwhelmed with patients and lacked the means to guarantee basic nutrition, medicine, or shelter. Doctors at the hospital also reported that many families abandoned members with disabilities.

Veterans with disabilities continued to complain about not receiving pensions.

The Ministry of Women and Social Action is responsible for protecting the rights of persons with disabilities. The four-year National Action Plan in the Area of Disabilities announced in 2006 had not received any financing for implementation by year's end.

The city of Maputo offered free bus passes to persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were reports of tension between Chinese guest workers, often employed in construction, and citizens in the cities of Maputo and Beira. There were reports also of mistreatment by Chinese companies of local employees. For example, on May 5, Noticias reported that Minister of Labor Helena Taipo had cancelled the work permit of one Ding Zhengming for abusing domestic employees at CCM Construction Ltd. in Maputo.

There were reports of discrimination by police against Zimbabwean and Somali immigrants during the year.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were occasional reports of such discrimination, and the LDH reported cases of discrimination against gay men and lesbians in the courts. The Workers Law includes an article that prevents discrimination in the workplace based on a number of factors, including sexual orientation.

The Government does not track and report discrimination or crimes against individuals based on sexual orientation or gender identity, nor were such abuses reported in the media.

*Other Societal Violence or Discrimination.*—The law prohibits discrimination against workers on the basis of HIV/AIDS status, and the Ministry of Labor generally intervened in cases of perceived discrimination by employers. The Ministry of Labor reported receiving more than 100 cases annually of workers being dismissed by their employers for having HIV/AIDS. Often workers were obligated by the employer to take HIV/AIDS tests. In response to these violations, the ministry registered the complaints and confronted companies responsible for dismissals.

Kukuyana, a national network of women with HIV/AIDS, reported that many women were expelled from their homes and/or abandoned by their husbands and relatives because they were HIV positive. It also reported that some women who were widowed by HIV/AIDS were accused of being witches who purposely killed their husbands to acquire belongings, and in retribution they were deprived of all possessions.

Because some traditional healers assert that their body parts contained special curative or sexual strength, persons with albinism were the subject of violent attacks that resulted in mutilation or death. LDH researchers reported that attacks had increased and that children were frequent victims of these mutilations.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provide that all workers are free to form and join a trade union of their choice without previous authorization or excessive requirements, except for firefighters, members of the judicial authorities, and prison guards; workers exercised these rights in practice. Because the Mozambican Workers Association rarely, if ever, takes action to defend workers' rights, some unions alleged the Association was under the influence of Frelimo and the Government. By law both private and public workers are permitted to form unions and to strike. Concerted work actions, such as strikes, were infrequent but did occur.

On June 6, workers went on strike for 24 days against their Chinese employer at the site of new national stadium in the Maputo suburb of Zimpeto. They did not receive the demanded pay increase of 20 percent, but the employer did agree to make available bread and tea for work days exceeding eight hours, and to pay wages for the days not worked during the strike. Chinese counterparts of the local workers did not participate in the strike.

*b. The Right to Organize and Bargain Collectively.*—Although the law provides for the right of workers to organize and engage in collective bargaining, such contracts covered less than 2 percent of the work force. Unions were responsible for negotiating wage increases.

The law prohibits antiunion discrimination; however, there were reports that many companies continued to engage in antiunion discrimination by replacing persons at the end of contracts, dismissing workers for striking, and not abiding by collective bargaining agreements.

There are no special laws or exemption from regular labor laws in the export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. Nonetheless, domestic servitude occurred. There were also numerous reports of children forced to work as domestic workers and in the agricultural sector.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits child labor; however, it remained a problem. In the formal economy, the minimum working age without restrictions is 18 years of age. The law permits children between ages 15 and 18 to work, but the employer is required to provide for their education and professional training and to ensure that conditions of work are not damaging to their physical and moral development. Children between the ages of 12 and 15 are permitted to work under special conditions authorized jointly by the Ministries of Labor, Health, and Education. For children under the age of 18, the maximum workweek is 38 hours, the maximum workday is seven hours, and they are not permitted to work in occupations that are unhealthy or dangerous or require significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher.

Although the law prohibits forced and bonded labor by children, it was considered to be a common problem, especially in rural areas. Often out of economic necessity, especially in rural areas, parents often forced their children to work, particularly in commercial agriculture, as domestic employees, or in prostitution. Children, including those under age 15, commonly worked on family farms in seasonal harvests or on commercial plantations, where they picked cotton or tea leaves and were paid on a piecework basis for work completed rather than an hourly minimum wage.

On June 14, Noticias reported that the International Labor Organization, as part of its 98th annual conference in Geneva, pointed to the country as "one of the countries that has the highest rate of child labor" in the world.

The Ministry of Labor regulates child labor in both the informal and formal sectors. Labor inspectors may obtain court orders and use police to enforce compliance with child labor provisions. Violations of child labor provisions are punishable with fines ranging from one to 40 months of salary at minimum wage. Enforcement mechanisms generally were adequate in the formal sector but remained poor in the informal sector. The labor inspectorate and police forces lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside the capital where a majority of the abuses occurred. Although the Government provided training for police on child prostitution and abuse, there was no specialized child labor training for the labor inspectorate. The Government disseminated information and provided education about the dangers of child labor to the general public.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*e. Acceptable Conditions of Work.*—Trade unions estimated that a minimum livable monthly wage to provide for a family of five was approximately 6,460 meticaís (\$189). There are 11 different minimum wages averaging approximately 2,300 meticaís (\$68) across nine employment sectors: agriculture; mining; fisheries; manufacturing; electricity, gas and water; construction; financial; nonfinancial; and state employees. The national minimum wage does not provide an adequate standard of living for a worker and family.

Although the industrial sector frequently paid above minimum wage, there were few industrial jobs outside of the Maputo area. In addition less than 10 percent of workers held salaried positions, and the majority of the labor force worked in subsistence farming. Many workers used a variety of strategies to survive, including holding a second job, maintaining their own gardens, or depending on the income of other family members.

The Ministry of Labor is responsible for enforcing the minimum wage rates in the private sector and the Ministry of Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. Workers generally received benefits, such as transportation and food, in addition to wages. The standard legal workweek is 40 hours but can be extended to 48 hours. After 48 hours overtime must be paid at 50 percent over the base hourly salary. Overtime is limited by law to two hours per day and 100 hours per year. The law provides for one hour of rest per day. Foreign workers are protected under the law.

On April 27, Minister of Labor Helena Taipo cancelled the work permit of a Zimbabwean citizen, Stewart Goss, for abusing local workers in Manica and Tete provinces, and for limiting trade union activity and freedom of speech.

On May 28, the Mozambican News Agency reported that workers at the Maputo International Airport accused their employer, Anhui Foreign Economic Construction, of beatings, firing without cause, and failing to enroll them in the social security system.

On June 28, the Ministry of Labor announced fines against 44 companies for requiring their employees to work on the Mozambican Independence Day holiday.

On July 8, Noticias reported 150 workers on the National Highway 1 near Xai Xai in Gaza Province had gone on strike to protest a lack of formal employment contracts, failure to pay overtime, failure to provide medical care or medications, firing without cause, and physical abuse.

Frequent worker complaints included failure by employers to deposit social security contributions that had been deducted from wages, inability to obtain social security benefits, unlawful firings, and intimidation of union members.

In the small formal sector, health and environmental laws were in place to protect workers; however, the Ministry of Labor did not effectively enforce these laws, and the Government only occasionally closed firms for noncompliance. There continued to be significant violations of labor laws in many companies and services.

Foreign experts, including much-needed medical professionals, continued to have difficulty obtaining work visas.

In theory workers have the right to remove themselves from situations that endangered their health and safety without jeopardy to their employment; in practice, however, threats of dismissal and peer pressure restricted this right. There were no special provisions for foreign and migrant workers.

## NAMIBIA

Namibia is a multiparty democracy with a population of approximately 2.2 million. The presidential and parliamentary elections held in November 2009 resulted in the reelection of President Hifikepunye Pohamba and the retention by the ruling South West Africa People's Organization (SWAPO) of its parliamentary majority. Despite some irregularities, international observers characterized the election as generally free and fair. In March the High Court dismissed a challenge to the election outcome filed by nine opposition parties; however, in September the Supreme Court overturned the decision and sent the case back to the High Court, where the case remained pending at year's end. Security forces reported to civilian authorities.

Human rights problems included police use of excessive force; prison overcrowding and poor conditions in detention centers; arbitrary arrest, prolonged pretrial detention, and long delays in trials; criticism of nongovernmental organizations (NGOs); harassment and political intimidation of opposition members; and official corruption. Societal abuses included violence against women and children, including rape and child abuse; discrimination against women, ethnic minorities, and indigenous people; child trafficking; discrimination and violence based on sexual orientation and gender identity; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

There were no developments in the 2008 case in which a police officer shot and killed a demonstrator who stabbed a police constable during a political rally.

On April 22, seven of the nine police officers accused of killing a suspect during interrogation in 2006 were found guilty of culpable homicide, assault with intent to do grievous bodily harm, and obstructing the course of justice. Five of the officers were fined 10,000 Namibian dollars (\$1,430) each; the other two were each fined 8,000 Namibian dollars (\$1,144).

The Government took no action during the year to investigate five of six mass graves discovered in 2008 along the country's border with Angola. In 2008 the Government investigated the sixth grave, which contained the remains of five political activists who were killed without trial by South African security forces in 1972; government officials claimed the site was well known and did not represent a new finding. In 2008 the UN requested the Government confirm allegations filed by the National Society for Human Rights—renamed Namibian Rights and Responsibilities,

Inc. (NAMRIGHTS) during the year—that the graves could be linked to “enforced disappearances” in the Caprivi and Kavango regions between 1994 and 2003.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police sometimes used excessive force when apprehending, interrogating, and detaining criminal suspects.

During the year NAMRIGHTS accused Windhoek City police of mistreating suspects, some of whom allegedly had been held in a secret cell to allow time for their injuries to heal before they were handed over to the Namibian Police Force (NAMPOL). In 2009 local media reported the same allegation. Police denied the accusations, and no investigation had been conducted by year’s end.

On March 21, NAMPOL officers allegedly attacked and arrested Kamati Ndeyanele, a bystander in a vigilante attack. According to NAMRIGHTS, the officers were told they had arrested the wrong suspect but they warned those concerned not to interfere or else risk serious consequences. Kamati was detained and released the next day.

In May David Shidinifa, a captain in the Namibia Defense Force (NDF), filed charges of assault and robbery against Windhoek City police officers, who allegedly kicked and robbed him on May 8 of 3,000 Namibia dollars (\$429) and 900 euros (\$1,252) when they arrested him for driving under the influence of alcohol. The trial had not begun by year’s end.

On July 12, two NAMPOL officers shot in the leg Victor Tutangane, whom they mistakenly suspected of illegally crossing the border with Zambia. According to NAMRIGHTS, police waited several hours before taking Tutangane to the Katima Mulilo State Hospital, where he was discharged the next day. Even after realizing that Tutangane was innocent, police retained Tutangane’s identity card and border pass, which remained in police possession at year’s end.

According to NAMRIGHTS, on the night of September 10, Windhoek City police assaulted and beat John Haufila until he lost consciousness. The attack occurred at the Wanaheda Police Station in view of NAMPOL officers, who did not intervene, according to Haufila. NAMPOL officers subsequently instructed city police to take Haufila to the hospital, where police allegedly told doctors his injuries resulted from a fall, according to Haufila. Police later opened a case against Haufila, claiming he had prevented them from executing their duties. On September 13, police released Haufila on bail, and the case was pending at year’s end.

In September the Namibian Press Agency and NAMRIGHTS reported that a woman from the town of Helao Nafidi suffered a miscarriage as a result of a September 4 assault by NAMPOL officers. NAMRIGHTS claimed that three police officers assaulted the woman after accusing her boyfriend of reckless driving. No charges were filed against the officers.

The trial of four police officers accused of assaulting two residents of Kalkrand in 2009 continued at year’s end.

Unlike in 2009 there were no reports that police use of force to disperse demonstrators resulted in injuries.

*Prison and Detention Center Conditions.*—Prisons were generally overcrowded, and some were poorly maintained and lacked basic sanitation; however, the Government continued to make significant improvements during the year. Unlike in previous years, all prisoners—although not pretrial detainees—had access to water, toiletries, washing facilities, and three daily meals, according to the Ombudsman’s Office, which previously criticized prison conditions throughout the country. Conditions in detention centers and police holding cells—sometimes located inside prisons—remained poor, and there were reports that guards at detention centers sometimes abused prisoners.

In December a former inmate at the Ondagwa Prison instituted legal action against the Ministry of Health and Social Services after his health deteriorated as a result of taking expired medicine prescribed by the prison hospital staff. The trial had not begun by year’s end.

On December 1, the country had a total prison population of 4,251 inmates in its 13 prisons, according to the Windhoek Observer newspaper; the country’s prisons were built to hold 4,475 inmates. Nevertheless, overcrowding remained a problem in some of the country’s largest prisons. For example, Oluno Prison in the north was designed to accommodate 557 inmates, but in December it held 1,013 prisoners.

Conditions in police holding cells were poor. After a June visit to police holding cells in the south, Margaret Mensah-Williams, the vice chairperson of the National Council, characterized conditions as inhumane. Mensah-Williams cited dirty and cold cells, insufficient blankets, poor food, unhygienic kitchen utensils and pots, poor

lighting in cells, and improperly functioning toilets. In September there were 3,152 suspects in holding cells.

The Government would not comment on the deaths during the year of three Caprivi detainees; 18 detainees have died since the majority of suspects were arrested in 1999 (see section 1.e.).

Unlike in past years, there were no reports that detainees were held with convicted prisoners, but juveniles in rural facilities were sometimes held with adults.

There were no developments in the investigation of the 2009 sexual assault of a 15-year-old boy imprisoned with adult males; the boy had been arrested for theft.

Prisoners and detainees had reasonable access to visitors and were permitted to participate in religious observances. Victims of prison abuse were able to pursue legal remedies, although lengthy delays were common.

For example, the trial of five Keetmanshoop police officers and their station commander for negligence in connection with the 2007 death of Noel Thompson continued at year's end.

The Ombudsman's Office investigated credible allegations of inhumane conditions, documented results, and made written recommendations; however, it was not authorized to intervene in individual cases. The Government investigated and monitored prison and detention center conditions.

The Government continued to grant both local and international NGOs regular access to prisons and prisoners. The International Committee of the Red Cross (ICRC) and the Southern African Development Community (SADC) Lawyers Association visited prisons and detention centers. The Government required that media representatives seeking to visit prisons apply in writing to the commissioner for prisons; however, the Government rarely acceded to such requests.

Government initiatives to improve prison conditions continued. During the year the Office of the Ombudsman reported improved conditions in several prisons as a result of renovations; a 2008 ombudsman's report cited police cells for poor sanitary conditions, overcrowding, insufficient food, unsafe infrastructure, and lack of access to medical care and potable water. Prisoners in Gobabis, Luderitz, Keetmanshoop, Walvis Bay, Swakopmund, and Hardap were reportedly less crowded, had access to potable water, and were provided toiletries. Prisoners also received three meals a day, although the ombudsman received prisoner complaints about insufficient quantity of food. A nurse at each prison cared for sick inmates and dispensed basic medication. Inmates with serious health problems were referred to state hospitals.

All prisoners, but not pretrial detainees, had the opportunity to take adult literacy classes and coursework leading to a high school diploma. Some inmates took university-level classes through a distance education program during the year and had access to lecturers from the country's universities as well as library privileges on some campuses.

At Windhoek Central Prison and the Elizabeth Nepemba Rehabilitation Center, during the year the Government introduced a case management system that classifies inmates according to risk (nature of crime and length of sentence) and assigns housing, training, and counseling based on this model. The pilot project was used an incentive system to encourage good behavior.

At Windhoek Central Prison, the country's second largest penitentiary, inmates were transferred during the year to reduce overcrowding, and additional staff was hired to provide better services. In addition to educational courses, counseling, and cognitive skills classes, the prison conducted skills training workshops in car mechanics, tailoring, upholstery, welding, and wood working to provide inmates with marketable skills and to reduce recidivism. However, pretrial detainees were ineligible to participate in any of the prison's counseling, skills training, or academic offerings. During the year the prison also instituted a substance abuse program for inmates battling addiction.

A pilot program to place youths in shelters and foster homes as an alternative to incarceration was formalized during the year and became an integral part of the prisons and rehabilitation services. During the year the Government's community service program, which provides an alternative to incarceration for adults and juveniles convicted of petty crimes, also became an integral part of the prisons and rehabilitation services. The NGO CHANGE, led by a former deputy minister for prisons, offered counseling, skills training, and job placement to former inmates.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest or detention; however, the Government did not always observe these prohibitions.

*Role of the Police and Security Apparatus.*—NAMPOL, which has approximately 12,000 employees, is under the Ministry of Safety and Security. The NDF, which has approximately 16,000 members, is under the Ministry of Defense. Both

NAMPOL and the NDF were responsible for internal security. NAMPOL is highly centralized with regional commands responsible to the inspector general of police. Approximately half of NAMPOL's overall complement is assigned to the Special Field Force (SFF), a paramilitary unit composed primarily of combatants from the former People's Liberation Army of Namibia. SFF members were assigned to guard duty, checkpoints, and the maintenance of public order. Police corruption and impunity were problems (see section 4). NAMPOL lacked the resources, training, and personnel to effectively deter or investigate street crime.

Police continued to receive human rights training designed by the Windhoek-based NGO Legal Assistance Center (LAC). Some officers attended training programs with human rights components, including human trafficking, at the International Law Enforcement Academy in Gaborone, Botswana.

According to NAMRIGHTS, police officers continued to threaten prostitutes with arrest if they did not provide free sex.

In August NAMRIGHTS and the media reported that a 17-year-old girl filed criminal and incest charges against her father, a police officer in the Very Important Persons Protection Unit, who allegedly raped her in June. NAMRIGHTS claimed that the police obstructed investigations into the girl's case. The trial had not begun at year's end.

*Arrest Procedures and Treatment While in Detention.*—Arrest warrants are not required in all cases, such as when a suspect is apprehended during the commission of a crime. Persons arrested must be informed of the reason for their arrest and brought before a magistrate within 48 hours of their detention, but the Government did not always respect these provisions in practice. Detainees generally were promptly informed of the charges against them. Those accused are entitled to defense by the legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel. However, many prisoners could not afford counsel, and indigent persons were not always provided counsel primarily due to an insufficient number of public defenders. There is a functioning bail system, and detainees generally were allowed prompt access to family members. Under a state of emergency, however, the constitution permits detention without trial, although the names of detainees must be published in the Government's gazette within 14 days, and an advisory board appointed by the president must review their cases.

The Government abused and arbitrarily arrested persons during the year (see section 1.c.). NAMRIGHTS recorded 10 cases of arbitrary arrest during the year.

No action was taken against Windhoek City police who in February 2009 allegedly assaulted, arrested, and detained without charge Timoteus Amunyela.

There were no developments in the 2009 incident in which an intoxicated police officer allegedly arbitrarily arrested and assaulted Lukas Nekongo.

Lengthy pretrial detention was a problem. Approximately 8 percent of the general prison population was awaiting trial. The lack of qualified magistrates and other court officials, high cost of legal aid, slow or incomplete police investigations, and continued postponement of cases resulted in a serious backlog of criminal cases and delays of years between arrest and trial. During the year the High Court began to implement some proposals to improve the pace of administering justice, including granting increased case management powers to judges; litigants generally determined the pace of trials.

In August President Pohamba granted amnesty to prisoners convicted of minor criminal offenses who fell into the following categories: those serving sentences of two years or less; those who had served more than half of their sentences; those who were age 60 and older and had a record of good behavior; and those whose conditional release on parole was approved on or before August 26. The Government did not release the number of prisoners granted amnesty.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and, while the courts continued to act independently and at times made judgments and rulings critical of the Government, inefficiency and a lack of resources hampered the judicial system.

Military courts try members of the military only and do not provide the same rights as civil criminal courts. Customary courts heard most civil and petty criminal cases in rural areas. The law delineates which offenses may be dealt with under the customary system.

Most rural citizens first encountered the legal system through the customary courts, which deal with infractions of local customs among members of the same ethnic group. The law delineates the roles, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with the constitution.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, but this right was limited by long delays in hearing cases in the regular courts and

the uneven application of constitutional protections in the customary system. The law provides for public trials but not use of juries. Defendants have the right to be present at trial, to consult with an attorney in a timely manner, and, with their attorneys, to have access to government-held evidence. Indigent defendants are entitled to a lawyer provided by the state; however, this often did not occur due to an insufficient number of public defenders. Defendants are presumed innocent, can confront witnesses, can present witnesses and evidence on their behalf, and have the right of appeal. The law extends these rights to all citizens.

More than a decade after Caprivi separatists attacked government facilities in the contested region in 1999, 113 Caprivians accused of treason had yet to have their cases resolved. The enormity of the state's case, resource constraints, and legal wrangling continued to delay the Caprivi trial, which consisted of five trials or hearings:

The main trial in which 113 detainees alleged to have participated in the 1999 attacks were being charged with a total of 278 counts related to treasonous activities; 18 of the accused have died in prison, including three during the year; the Government did not release the cause of those deaths that occurred during the year. The trial of two ethnic Mafwe witnesses, who were part of the main trial and appeared in court in 2006 on charges of perjury and obstruction of justice for denying statements they had made to investigators in the Caprivi treason trial, was scheduled to resume in February 2011; the two were released on bail during the year.

The trial of 10 secessionists, who were convicted of treason in 2007 and sentenced to more than 30 years. In July 2009 the judge ruled that the 10 could appeal to the Supreme Court against the length of the sentences they received.

The "Trial Within a Trial," a hearing that began in April 2009 to determine the admissibility of allegedly self-incriminating statements made by 26 of the defendants before various magistrates. In September the Supreme Court turned down a request by the state to appeal part of a judgment in which presiding High Court Judge Elton Hoff ruled that alleged confessions made by 26 of the men being prosecuted in the treason trial could not be used as evidence against them. The Supreme Court justices called for the speedy resolution of the trial, in its seventh year.

The trial of Albius Moto Liseli, whose 2009 arrest made him the last man arrested in connection with the Caprivi separatist plot. Liseli's High Court trial began in June, was postponed to September, and continued at year's end.

Civil suits by defendants who claimed to have been tortured at the time of their arrests. During the year the High Court ruled in favor of the ministers of home affairs and defense in three more civil suits. By year's end the High Court had dismissed eight civil claims against the ministers of home affairs and defense, 24 cases had been settled out of court, and 90 cases remained pending. The LAC continued to represent detainees.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There exists an independent judiciary in civil matters, which is widely perceived as impartial. The law provides for access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. The constitution provides for administrative justice as well as judicial remedies for alleged wrongs. Civil court orders generally were enforced.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The Communications Act, popularly known as the "Spy Bill," which was passed in November 2009, was not fully implemented during the year. The act allows the intelligence services to monitor e-mails and Internet usage with authorization from a magistrate. The legislation also permits the interception of telephone calls and cell phone text messages. Opponents of the law considered it an invasion of privacy and a violation of the right to free expression.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and unlike in the preceding year, the Government generally respected this right. Some independent and government journalists practiced self-censorship.

Individuals could criticize the Government publicly or privately without reprisal. The clause of the 2009 Communications Act that provides for interception centers to allow the Government to tap telephones, intercept e-mails, and monitor Internet traffic had not been implemented by year's end. Provisions regarding interconnection fees, tariffs and allocation of frequencies, the promotion of competition, and the

establishment of the Communications Regulatory Authority of Namibia were implemented during the year.

There were four daily national newspapers, three of which were independent, and four independent weekly newspapers. The Government ran one newspaper and a press agency, whose boards were appointed by the minister of information and communication technology. The Government shared equal ownership of a regional weekly newspaper with the Government of Zimbabwe. The ruling SWAPO party owned one publication.

Unlike in the previous year, there were no reports that the SWAPO Party Elders' Council pressured newspapers to stop publishing cell phone text messages that criticized the Government. There also were no reports that prominent politicians publicly criticized media outlets, newspapers, or their staffs.

Unlike in the previous year, the Electoral Commission of Namibia (ECN) provided independent newspaper The Namibian with election information; in 2009 the ECN director refused to provide such information, citing a cabinet resolution prohibiting the Government and its agencies from advertising or buying copies of The Namibian.

The Government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television, which were the most widely broadcast and influential media in the country. NBC's television and nine radio services broadcast in English and indigenous languages. There were 12 private radio stations and one private television network, One Africa TV. SWAPO owned 51 percent of the country's sole cable and satellite television provider.

Throughout the year NBC continued to exclude political topics from its popular radio call-in programs. NBC Director Albertus Aochamub required the host of morning radio program Keetute to address only themes provided by the NBC central office; the program had previously featured stories that sometimes criticized the Government and ruling party.

Unlike in previous years, no foreign journalists were arrested.

No media alerts against the country were issued during the year by the Media Institute of Southern Africa; the institute issued 12 alerts between 2008 and 2009, including three in which the Government was cited for banning journalists from covering events; two for passage of the Communications Bill; and one for the 2008 arrest of journalist Bonita Nuttall.

Unlike in previous years, no officials used libel charges to suppress criticism by journalists and civil society activists.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, the Communications Act provides that the intelligence services can monitor e-mails and Internet usage with authorization from any magistrate.

According to International Telecommunication Union statistics for 2009, approximately 5 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were reports during the year of government restrictions on academic freedom. Some academics claimed they were discouraged by their institutions from speaking at events hosted by organizations that criticized the Government or the SWAPO party. Others claimed they were discouraged from publishing materials critical of the Government or the SWAPO party. All government-owned institutions of higher learning, including the University of Namibia, Polytechnic of Namibia, and the Windhoek College of Education, continued to ban holding of political events on their campuses.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and with some exceptions the Government generally respected this right.

In August police denied permits for protest marches by the opposition Rally for Democracy and Progress (RDP) party and NGOs during the week-long SADC Heads of State Summit. Police claimed insufficient resources to protect marchers "due to a heavy schedule." The local NGO Forum challenged the prohibition, and the High Court overturned the police ban as unconstitutional. However, the summit was near completion when the judgment was handed down, and protesters could not reorganize the marches.

SWAPO supporters continued to prohibit RDP members from campaigning in some towns and villages.

No action was taken against police who forcibly dispersed approximately 500 young members of the "Children of the Liberation Struggle," who in May 2009 had taken control of a bridge and demanded to see the president; six of the demonstrators were hospitalized as a result of their injuries.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the UN Office of the High Commissioner for Refugees (UNHCR) and other humanitarian organizations in protecting and assisting refugees, returning refugees, asylum seekers, and other persons of concern.

The Government continued to limit the freedom of travel of Cuban doctors working in the country under a Cuban bilateral assistance program. These doctors were generally not allowed to travel within or from the country without consent from the Cuban embassy, which held their passports.

The constitution prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the UNHCR, approximately 7,480 refugees and asylum seekers resided in Osire Settlement, formerly called the Osire Refugee Camp, while approximately 1,230 lived outside the settlement. Angolans represented 75 percent of the population, with another 20 percent from the Democratic Republic of Congo, Rwanda, and Burundi. The Government continued to issue identification cards to all refugees to facilitate travel outside the settlement. Nevertheless, some refugees complained they still were prevented from working outside the settlement.

The 41 Congolese refugees who in 2009 voluntarily departed Osire Settlement and sought asylum in Botswana were deported to the Democratic Republic of Congo during the year by the Botswana government.

The Government continued to maintain strict control over civilian access to the Osire Settlement; however, the ICRC, UNHCR, and the UNHCR's NGO partners had regular and unrestricted access to the camp.

The Government also provided temporary protection to certain individuals who may not qualify as refugees under the 1951 refugee convention or its 1967 protocol.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic and free elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In presidential and parliamentary elections held in November 2009, SWAPO candidate Hifikepunye Pohamba was reelected president with 76 percent of the vote, and SWAPO candidates won 54 of 72 elected National Assembly seats. International observers characterized the election as generally free and fair, despite an inefficient vote tabulation system and unequal access to media coverage and campaign financing. Nine opposition parties, however, claimed the election was marred by irregularities and petitioned the High Court either to annul the results and order new elections or to order a recount. In March the High Court dismissed the case on technical grounds, citing the opposition's failure to submit the court application on time. The opposition appealed the High Court's ruling, and on September 6, the Supreme Court unanimously ruled that the opposition parties' court application was properly filed. The Supreme Court ordered the High Court to hear the merits of the opposition parties' case, and it instructed SWAPO and the ECN to pay the legal costs of the appellants, which were estimated to exceed one million Namibian dollars (\$143,000).

In November the National Assembly passed an amendment to the Special Advisors and Regional Representatives Appointment Act of 1990 allowing the president to appoint regional governors; in the past regional counselors selected governors from among their peers. Critics charged that the amendment would tighten SWAPO control over local leaders.

Individuals and political party nominees could declare their candidacies freely and stand for election in accordance with the law. The Government did not officially restrict the right of political opponents to organize, seek votes, or publicize their views, but SWAPO supporters sometimes disrupted rallies and campaigns of opposi-

tion parties, particularly the RDP. The majority Ovambo tribe dominated the political system. There continued to be reports that individuals who were not members of the majority SWAPO party had difficulty finding civil service employment or obtaining government tenders.

Clashes between SWAPO and opposition members resulted in injuries during the November regional and local authority elections.

For example, on November 20, a fight between supporters of SWAPO and the Democratic Turnhalle Alliance (DTA) occurred after DTA supporters drove a convoy through a largely SWAPO neighborhood in the town of Opuwo; two SWAPO members were severely injured after the two groups threw stones and bottles at each other. Three persons were arrested, and their trial continued at year's end.

There were no developments in the 2009 incident in which a SWAPO supporter armed with a pistol allegedly attacked RDP member Sam Hamunyela.

Investigations into the 2008 incident in which opposition party leaders were charged with advocating a boycott of a parliamentary by-election were still pending at year's end.

Women held 24 seats in the 78-seat National Assembly, which included six appointed seats and 72 elected ones. There were five female ministers and four female deputy ministers among the 41 ministerial and deputy ministerial incumbents. There were three female judges among the 11 permanent judges of the High Court.

Historic economic and educational disadvantages limited the participation of the indigenous San ethnic group in politics. Following the 2009 elections, the sole San representative in the National Assembly, a SWAPO member, lost his seat. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the cabinet. Members of smaller ethnic groups held the offices of deputy prime minister, speaker of the National Assembly, and deputy chairperson of the National Council.

#### *Section 4. Official Corruption and Government Transparency*

Although the law prohibits corruption and the Government took steps to address the problem, officials continued to engage in corrupt practices. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a problem. During the year the Anti-Corruption Commission (ACC) organized awareness campaigns and held workshops for government officials, politicians, civil society, church leaders, and school children on the dangers of corruption. The ACC also created a telephone line for the public to anonymously report suspected corruption.

During the year the ACC conducted several investigations into corruption.

For example, in March the ACC arrested businessman Antoine Mbok and an unnamed employee of the Ministry of Finance for allegedly intercepting checks worth four million Namibian dollars (\$572,000) and depositing them into Mbok's private bank account. Both the Finance Ministry employee and Mbok were denied bail and remained in police custody. The trial had not begun by year's end.

In June the courts sentenced Sackey Namugongo, a former deputy director of the Ministry of Environment and Tourism, to eight years in prison for accepting 332,500 Namibian dollars (\$47,547) in exchange for promising to issue illegal gambling licenses to prospective business investors in 2006. Namugongo, who was convicted on 19 charges, was the most senior government official to date to have been convicted under the 2003 Anti-Corruption Act.

In June authorities arrested Dawid Boois, the governor of Karas Region, on 24 counts of corruption. Boois was accused of pocketing a monthly housing subsidy of 7,500 Namibian dollars (\$1,072) over a 24-month period while living in a rent-free house owned by the Karas Regional Council. Boois' trial continued at year's end.

In July former NBC director general Gerry Munyama admitted in the High Court that he was not authorized to open a bank account to channel funds from NBC's overdraft account to cover operational expenditures. The state responded that the admission did not constitute a guilty plea and proceeded with the trial, which continued at year's end.

In July media sources reported that former State House deputy director Abisai Shaningwa used his new position as Omusati regional council director of planning to funnel nearly 1.5 million Namibian dollars (\$214,500) to build 27 public toilets in his region. The ACC conducted an investigation into the possible involvement of Omusati public officials in the high-priced toilet scam but had not released the results by year's end.

In December Prime Minister Nahas Angula confirmed that five senior managers of the Government Institutions Pension Fund had been asked to take voluntary leave to facilitate a probe into the Development Capital Portfolio (DCP), which had lent more than 661 million Namibian dollars (\$9.5 million) to 21 Namibian compa-

nies through the DCP from the late 1990s to 2002. Many of the loans were never repaid, and a 2006 audit revealed that the loans were fraught with problems.

There were no developments in the following 2009 corruption cases: the investigation of the Bethanie Village Council for alleged mismanagement of funds, tender irregularities, and abuse of power; the court case against Public Service Commissioner Teckla Lameck, businessman Kongo Mokaxwa, and Chinese national Yang Fan, who were alleged to have received kickbacks of 42 million Namibian dollars (\$6,006,000); and the investigation of Immanuel Mulunga, the country's petroleum commissioner, regarding his role in a shareholding dispute over an exclusive exploration license for methane gas.

Security force corruption and impunity were problems. Although some security force members accused of abuse and corruption were arrested and tried in military courts or the civilian criminal system, the Government took no action against others.

There were no developments in the following 2009 corruption cases involving security force personnel: the bribery case against traffic officer Jacobus Coetzee, who resigned from his position and remained free on bail at year's end; the case against police constables Chris Garoeb and Paul Jarson, who allegedly impersonated immigration officials and defrauded a foreign tourist; and the investigation of Lieutenant General Martin Shalli, who was suspended from the NDF in 2009 on unspecified claims of corruption.

In February Lotti Uusiku, the suspended former commanding officer of the special branch, and Joseph Kamati, the former head of the police finance division, were found guilty of theft in 2006. Uusiku, who was convicted on four counts of theft, was fined 25,800 Namibian dollars (\$3,685), while Kamati was fined \$1,800 Namibian dollars (\$257).

In February Andrew Iyambo, the deputy commissioner of police for Erongo Region, was found guilty of soliciting a personal donation under an official guise in 2006. Iyambo, who was fined 8,000 Namibian dollars (\$1,141), resigned in March. In 2009 Iyambo was acquitted of charges related to his involvement in a car accident.

In March the ACC arrested NDF Lieutenant-Commander Simiran Elia Ndiyaamena for allegedly demanding 10,000 Namibian dollars (\$1,430) from the owner of a lodge at Walvis Bay in exchange for booking accommodations for members of the Chinese army during the year.

In July The Namibian newspaper reported that although former assistant commissioner of prisons Nelzin Martin was suspended in 2005 on corruption charges—which were dropped in 2007 for lack of evidence—he remained on the payroll despite not being reinstated due to separate internal corruption charges.

Public officials were subject to financial disclosure laws. However, civil society organizations charged that financial disclosure laws did not preclude government officials from engaging in private business that conflicted with their government duties. Government institutions, including the ACC, the Office of the Ombudsman, and the Office of the Auditor General, were responsible for combating public corruption.

No laws provide for public access to government information, and media outlets generally found the Government unwilling to provide information, including salary scales, for public officials.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Unlike in previous years, there were no reports that government officials publicly disapproved of NGO criticism directed at government policies or SWAPO.

NAMRIGHTS and the LAC, both independent organizations, were the primary human rights NGOs in the country, and the police regularly met with both. The LAC often assisted police with human rights training, while NAMRIGHTS reported incidents of police brutality and abuse of power.

The suit filed by NAMRIGHTS Director Phil ya Nangoloh against SWAPO newspaper Namibia Today continued at year's end; in August 2009 ya Nangoloh sued the newspaper for 250,000 Namibian dollars (\$35,750) for calling him "a noted twister of facts and pathological liar."

The Government generally cooperated with international human rights organizations, and the ICRC and other international bodies made visits during the year.

There was an autonomous ombudsman, with whom the Government cooperated; he was considered effective in addressing some corruption and human rights problems.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, creed, gender, language, disability, social status, or religion, and specifically prohibit “the practice and ideology of apartheid”; however, the Government did not effectively enforce these prohibitions.

*Women.*—The law defines rape in broad terms and allows for the prosecution of spousal rape. Numerous cases of rape were prosecuted during the year, and the Government generally enforced rape penalties, which provide for sentences of between five and 45 years’ imprisonment. According to police statistics for 2009, 11,882 cases of gender-based violence were reported, 1,036 of which involved rape. A number of factors continued to hamper rape prosecutions, including lack of police transport, poor communication between police stations, lack of expertise in dealing with child rape complainants, and the withdrawal of cases by rape complainants after they filed charges.

The law prohibits domestic violence; however, the problem was widespread. Penalties for domestic violence, which includes physical abuse, sexual abuse, economic abuse, intimidation, harassment and serious emotional, verbal or psychological abuse, range from a fine of 300 Namibian dollars (\$43) to 10 years’ imprisonment and a fine for assault with intent to cause grievous bodily harm. No information was available on enforcement of the law. When reported, the Woman and Child Protection Unit of the Namibian Police intervened in domestic violence cases.

During the year the LAC produced comic book inserts in major publications that addressed major social issues, including unwanted pregnancies, corporal punishment, rape, and domestic violence.

There were 15 women’s and children’s shelters staffed with police officers trained to assist victims of sexual assault. During the year the People’s Education, Assistance, and Counseling for Empowerment Center and other NGOs continued to provide training to these units. In some magistrates’ courts, there were special courtrooms to protect vulnerable witnesses from open testimony; the courtrooms featured a cubicle made of one-way glass and child-friendly waiting rooms. During the year the Government began renovating and converting houses in all 13 regions into shelters for victims of gender-based violence.

The Government does not keep statistics on sex tourism, and there were no reliable estimates of its prevalence.

The law explicitly prohibits sexual harassment in the workplace and requires employers to take reasonable steps to protect employees from such harassment. Employees who leave their jobs due to sexual harassment are entitled to reinstatement or compensation. No sexual harassment cases have ever been filed.

There were no government restrictions on family planning. The Government and NGOs provided for equitable access to contraception to all citizens, although those who lived in urban areas had better access to skilled attendance during childbirth and postpartum care than those who lived in rural areas. According to statistics released during the year by the Ministry of Health and Social Services, the country’s maternal mortality ratio in 2006 was 449 per 100,000 live births, a near doubling of the rate in 1992; the high rate was attributed to the general lack of access to effective health care. The Government and NGOs continued to make a strong effort to educate men and women equally in the diagnosis and treatment of sexually transmitted infections, including HIV.

The Government has no policy to forcibly sterilize HIV-positive women. However, during the year the 2008 forced sterilization case filed by 15 women (now 16) reached the High Court. The case began in 2008, when 15 women filed suit against the Government after they were allegedly sterilized against their will by doctors performing their caesarean sections at state hospitals. Each of the 16 plaintiffs was suing the Government for 1.2 million Namibian dollars (\$171,000) in damages for breach of duty by the medical staff employed in state-run hospitals and for discrimination due to the women’s HIV-positive status. Attorneys for the Government claimed the women gave written consent to be sterilized before the procedures were carried out. The plaintiffs, who admit signing consent forms, charged that they were not properly informed of the consequences.

The law prohibits discrimination, including employment discrimination; however, men dominated positions in upper management in both the private and the public sectors. The Ministry of Labor and Social Welfare and the Employment Equity Commission, which report to the minister of labor, were responsible for problems involving discrimination in employment; however, neither was effective due to the backlog of cases.

The law prohibits discriminatory practices against women married under civil law, but women who married under customary law continued to face legal and cul-

tural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children continued. The custom by which a widow or widower married the brother or sister of the deceased to ensure that the surviving spouse and children were cared for was still practiced in some areas of the country. A University of Namibia study based on data collected in 2002 found that the practice of widow inheritance (levirate) and widower inheritance (sororate) were still common among the Owambo, Herero, Lozi, and to a lesser extent the Kavango.

The Ministry of Gender Equality and Child Welfare was responsible for advocating for women's rights. The Ministry of Justice's Law Reform and Development Commission advocated for women's rights in legislation.

*Children.*—The constitution provides for citizenship by birth within the country's territory or from one's parents. According to a 2006 survey conducted by the Government, approximately 40 percent of children—many of whom were born at home in rural areas—did not possess birth certificates, which are necessary to apply for social grants. Although prohibited by law, teachers in regions bordering Angola, Zambia, Zimbabwe, and Botswana reportedly often refused to teach children who could not prove their citizenship. Mothers who delayed registration often faced a difficult process and long delays, particularly if parents had died and death certificates or other needed documents had never been obtained.

Efforts by the Ministry of Home Affairs and Immigration, in partnership with the UN Children's Fund (UNICEF), to provide birth certificates for newborns at clinics and hospitals throughout the country increased birth registration levels for children under five years old from 67.4 percent in 2007 to 75 percent during the year. During this period the Government, in conjunction with UNICEF, also opened 21 hospital-based birth registration facilities at all large hospitals and 22 subregional offices primarily in rural areas. The Government also deployed mobile units to towns and villages countrywide to facilitate the issuance of birth certificates and identity documents and registered an additional 39,000 children between 2008 and 2009. The project primarily focused on orphans and vulnerable children; however, the mobile units also targeted San children, and NGOs reported a decrease in San complaints of being unable to obtain proper identification documents.

Although the constitution provides children until the age of 16 with the right to compulsory, free, and universal primary and junior secondary education (grades one through 10), the numerous fees—including for uniforms, books, boarding costs, and school improvement—placed a heavy burden on poor families and precluded some children from attending. For example, in September The Namibian reported that school principals in the town of Okahandja refused to enroll first grade students whose parents had not paid their school fees in full. The schools were eventually instructed by the Ministry of Education to register the students. In general, more girls than boys were enrolled in secondary schools. Many San children and children from destitute families did not attend school, but the Government continued to provide mobile schools for children who lived in semi-permanent settlements.

Child abuse was a serious problem, and authorities vigorously prosecuted crimes against children, particularly rape and incest. According to police records and media reports, at least 800 children and juveniles were killed, raped, or assaulted during the year.

The law protects children less than 18 years of age by criminalizing the actions of the client or pimp in cases of sexual exploitation, child pornography, and child prostitution. The minimum legal age for consensual sex is 16, and the penalty for statutory rape is a minimum of five years in prison. No law specifically prohibits child pornography. The Government continued to provide training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children worked to reduce the trauma suffered by abused children.

Some child prostitution occurred without third-party involvement as a means of survival among HIV/AIDS orphans and other vulnerable children. The growing number of HIV/AIDS orphans increased the vulnerability of children to sexual abuse and exploitation.

Female genital mutilation was rarely practiced. The women's rights organizations Sister Namibia and the Women's Leadership Center continued to condemn cultural practices of initiation sex for young girls, dry sex (the practice of applying astringents to the vagina before sexual intercourse to enhance male pleasure), the stretching of the labia minora, widow inheritance, and marital rape.

During the year there were numerous cases in which parents, usually young mothers, abandoned and sometimes killed newborns for whom they believed they were not able to care.

The law prohibits marriage before the age of 18; however, child marriage occurred.

During the year the Government continued to take several steps to provide medical care, school fees, social grants, and other assistance to HIV/AIDS orphans and other vulnerable children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—There was a very small Jewish community and no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—While discrimination on the basis of disability is not addressed in the constitution, the law prohibits discrimination against persons with physical and mental disabilities in employment, health care, education, or the provision of any state services. Enforcement in this area was ineffective, and societal discrimination persisted.

The Government does not require special access to public buildings, and some ministries remained inaccessible. However, during the year the Government continued to require that all new government buildings include ramps. In addition, some street corners in the capital were outfitted with special signal crossings for the visually impaired. In September the chief executive officer of the City of Windhoek toured the city in a wheelchair to test the city's accessibility for persons with disabilities. While he found that most establishments catered sufficiently to persons with special needs, he recommended some changes, such as lowering the height of customer counters.

The Office of the Prime Minister's Disability Advisory Unit was responsible for assisting persons with disabilities.

During the year there were reports that two albino persons were killed and that their body parts were missing or mutilated, factors consistent with ritual killings. No arrests had been made by year's end.

*National/Racial/Ethnic Minorities.*—Despite constitutional prohibitions, societal, racial, and ethnic discrimination persisted. Some citizens continued to accuse the Government of providing more development assistance and professional opportunities to the majority Ovambo ethnic group. The media occasionally carried reports of farm workers, mostly black, suffering discrimination in remote areas by mostly white farm owners.

*Indigenous People.*—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, the San and other indigenous citizens, such as the Ovatoe, have been unable to exercise these rights fully as a result of minimal access to education, limited economic opportunities, and their relative isolation. Indigenous lands were effectively demarcated but poorly managed. On August 9, the country observed for the first time the International Day of the World's Indigenous People, to promote and protect the rights of indigenous populations. NGOs such as the Working Group of Indigenous Minorities and Southern Africa and the LAC helped San communities assert their basic human rights during the year.

The Government has authority to confer recognition or withhold it from traditional leaders even in opposition to local preference. This authority was controversial because of local leaders' influence on local issues, including local police powers. There were continued allegations that the Government withheld recognition from traditional leaders for political reasons.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not prohibit homosexual conduct; however, sodomy between males is illegal, and the practice of homosexual activity was discouraged.

Unlike in previous years, there were no reports that politicians made derogatory public comments about the lesbian, gay, bisexual, and transgender (LGBT) community.

In May the LGBT community held a march to protest the sentencing of a gay couple in Malawi; police provided an escort. However, Out-right Namibia, an organization that advocates for LGBT rights, reported that police generally did not take complaints of violence against LGBT persons seriously. Out-right Namibia claimed police often ridiculed LGBT persons when they reported cases of abuse.

Societal discrimination against the LGBT community continued. In July the company Cash Crusaders denied employment to Annanias "Tingy" Haufiku, a transves-

tite. The company manager allegedly told Haufiku the company did not employ “mofies” (gays). The LAC filed a case on Haufiku’s behalf, and it continued at year’s end.

*Other Societal Violence or Discrimination.*—Societal discrimination against and stigmatization of persons living with HIV/AIDS remained a problem. However, unlike in the previous year, there were no reports of employment discrimination based on HIV/AIDS status. The Government supported the work of the Namibia Business Coalition against HIV/AIDS to eliminate discrimination in the work place.

In July the state lifted travel restrictions that barred persons with HIV from entering, staying, or seeking residence in the country; the statute had not been enforced.

The trial of 16 HIV-positive women who claimed they were sterilized against their will by doctors performing their caesarean sections at state hospitals continued at year’s end (see section 6, Women).

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right to form and join trade unions without previous authorization or excessive requirements, and the Government generally enforced this law; however, workers in essential services were prohibited from joining unions. Approximately 25 percent of employees in the formal sector belonged to some form of union or employers’ organization, while almost 4 percent of unemployed persons belonged to such organizations. Workers were not required to join employers’ organizations.

The labor code provides for the protection of all workers, but farm workers and domestic servants working on rural and remote farms often did not know their rights, and in attempting to organize these workers unions experienced obstacles, such as being prohibited from entering commercial farms. As a result, some farm workers reportedly suffered abuse by employers such as poor access to health care. During the year the Government continued efforts to train labor inspectors and educate workers on their rights.

Except for workers in public health, safety, and other essential services, workers have the right to strike once conciliation procedures are exhausted and 48 hours’ notice has been given to the employer and labor commissioner. Strike action can be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must first be submitted to conciliation and are then referred to a labor court for arbitration if conciliation is unsuccessful. The law protects workers engaged in legal strikes from unfair dismissal. The law also specifically protects both union organizers and striking workers from retaliation by employers; however, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays in such cases.

*b. The Right to Organize and Bargain Collectively.*—The law provides employees with the right to bargain individually or collectively and to recognize the exclusive collective bargaining power of the union when a majority of the workers are members of that union; workers exercised these rights in practice. Collective bargaining was not practiced widely outside the mining, construction, agriculture, and public service sectors. Almost all collective bargaining was at the workplace and company level. The Ministry of Labor continued to cite lack of information and basic negotiation skills as factors hampering workers’ ability to bargain with employers successfully. The majority of trade unions were officially affiliated with SWAPO, which many argued limited their independence in promoting worker rights.

The law provides for arbitration and conciliation to resolve labor disputes more quickly. In 2009 the Supreme Court declared unconstitutional a provision in the 2007 Labor Act that prohibited employers from hiring third-party temporary or contract workers (“scabs”). During the year the Government began to make changes to the law to regulate private employment agencies.

The law prohibits antiunion discrimination, and there were no instances of companies failing to reinstate workers who were fired for legal union activities.

There are export processing zones (EPZs) at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs, and unions have been active in the EPZs since their establishment.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, it occurred. There continued to be media reports that farm workers on communal farms and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers, including physical punishment and prolonged work hours. Given the Ministry of Labor’s resource constraints in vehicles, budget, and personnel, as well as difficulty in gaining access to some large communal and family-owned commercial

farms and private households, labor inspectors sometimes found it difficult to investigate possible labor code violations. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides that persons found guilty of employing children can face a maximum fine of 20,000 Namibian dollars (\$2,860) and/or up to four years' imprisonment; however, child labor continued to be a problem. The minimum age for employment is 14, with higher age requirements for night work and in certain sectors such as mining and construction. The minimum age was inconsistent with the age for completing education requirements. Children worked mostly on private and commercial farms, herded livestock, worked as child minders or domestic servants, and worked in family businesses. Some children assisted parents working in the charcoal industry. There continued to be media reports that children on communal farms and domestic workers were subject to strict control by employers, including physical punishment, excessive work hours, and not being allowed to attend school.

Sectors in which children were involved in the worst forms of child labor included agriculture and livestock, domestic service, charcoal production, and the commercial sex industry sectors. In 2009 the Ministry of Labor carried out investigations around the country of suspected incidents of child labor in the agricultural sector. The investigations exposed more than 111 child labor cases, and the guilty employers were issued compliance orders. Those employers who failed to comply within 30 days were expected to face criminal charges and prosecution. Smaller-scale labor inspections continued on a regular basis. There were no prosecutions by year's end.

The Ministry of Gender Equality and Child Welfare continued to conduct several programs aimed at encouraging parents and guardians to allow children to attend school.

The Government does not have a separate institution to implement and enforce child labor laws, but it generally used regular labor inspections as well as other monitoring mechanisms for orphans and other vulnerable children. Enforcement was limited. There were 36 labor inspectors, and all were trained in identifying the worst forms of child labor; however, no inspector focused exclusively on children's services.

The Government had several programs aimed at supporting children to stay in school and away from the labor market. The Ministry of Gender Equality and Child Welfare and the Ministry of Health and Social Services coordinated welfare programs for orphans, including those affected by HIV/AIDS, by providing grants and scholarships to keep them in school. In partnership with the International Labor Organization, the Government also participated in a four-year program to withdraw and prevent children from exploitive labor in agriculture and adult-coerced criminal activity. The Government continued to distribute a comprehensive guide on the newly implemented labor law, which included a section on child labor. The Government also continued to work with NGOs such as Project Hope to assist victims of child labor.

*e. Acceptable Conditions of Work.*—There was no statutory minimum wage law, but the mining, construction, security, and agricultural sectors set basic levels of pay through collective bargaining. Average wages for unskilled workers did not provide a decent standard of living for a worker and family, especially since the average wage earner supported an extended family. Wage levels for the less educated majority remained very low.

The standard legal workweek is 45 hours with at least one 36-hour rest period per week. An employer may require no more than 10 hours per week of overtime, and the law requires premium pay for overtime work. The law mandates 24 workdays of annual leave per year, at least 36 workdays of sick leave over a three-year period, and three months of maternity leave paid by the employer and the Social Security Commission. However, the Ministry of Labor did not always enforce these provisions.

Concerns continued that Chinese firms failed to adhere to the labor code, in part by allegedly hiring and firing workers at will, ignoring occupational health and safety measures, failing to pay established minimum wages and benefits in certain industries, failing to respect work-hour regulations for public holidays and Sundays, and requiring construction workers to sleep on site. Investigations into such allegations continued at year's end.

The Ministry of Labor and Social Welfare mandates occupational health and safety standards, and the Labor Act empowers the president to enforce these standards through inspections and criminal penalties. Inspections occurred proactively, reactively, and at random; however, the Government did not always enforce labor laws effectively. The Ministry of Labor lacked an adequate number of trained inspectors

to monitor adherence, especially in small family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers could not exercise this right in practice. Migrant workers often did not enjoy the same rights as citizens.

## NIGER

Niger, a republic with a population of approximately 15 million, is in transition toward restoring a democratic government following the February military seizure of power that deposed former president Mamadou Tandja and his government. Tandja's presidential mandate ended in December 2009 after serving two consecutive five-year terms; however, he attempted during 2009 to manipulate political events to prolong his rule. Tandja replaced the 1999 constitution, which he could not amend legally, with one that gave more power to the presidency and removed term limits. Disregarding the formal ruling of Niger's Constitutional Court and pro-democracy complaints from the civil society and political parties, Tandja conducted a costly referendum resulting in a new constitution without term limits and a new Sixth Republic that consolidated presidential powers. The Economic Community of West African States (ECOWAS) designated a mediator to try to end the political crisis; however, three rounds of discussions failed to break the impasse. On February 18, a military junta deposed Tandja and announced that a new provisional government would be led by the Supreme Council for the Restoration of Democracy (CSRD). The CSRD invalidated Tandja's constitution, dismissed his appointees, and stated its intention to move promptly to restore democracy, through elections. Under CSRD rule, security forces did not report to civilian authorities.

Human rights abuses included extrajudicial killings and use of excessive force by security forces, poor jail and prison conditions, arbitrary arrest and detention, prolonged pretrial detention, executive interference in the judiciary, restrictions on press freedom, forcible dispersal of demonstrators, restrictions on freedom of movement, official corruption and impunity, societal discrimination and violence against women, female genital mutilation (FGM), trafficking in persons, slavery, and child labor.

The armed conflict between the Government and the Tuareg in northern Niger ended following a 2009 peace arrangement brokered by Libya. The subsequent surrender of arms by Tuareg groups was followed by the lifting of the state of alert in the North. During the year there were reports of sporadic acts of "banditry" on main roads and incursions by members of al-Qaida in the Lands of the Islamic Maghreb (AQIM) into Nigerien territory. Between March 9 and 21, various delegations from the Tuareg rebel groups including the Movement of Nigeriens for Justice, the Nigerien Patriotic Front, and the Front of Forces for Rectification met with the CSRD president; they reaffirmed their commitment to work on sustaining peace, to follow through on commitments made during negotiations, and to help strengthen national unity. They urged the CSRD president and the Transition Government of Niger (TGON) to complete the 2009 peace process.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the CSRD and the TGON or its agents committed any arbitrary or unlawful killings; however, there were reports that three security agents died during the February power seizure.

On November 8, the ECOWAS Court of Justice held hearings on the TGON's investigation into the army's 2007 killing of six civilians and an off-duty police officer near Tiguiddit. At year's end, a verdict was pending.

Disputes between herders and farmers over land rights and grazing areas continued and resulted in several deaths. Additionally, armed bandits and bands of AQIM militants attacked Nigerien and foreign travelers in northern Niger.

On June 27, a group of armed individuals, reportedly from Mali, attacked a herders' camp near Tirezawan. Four of the attackers were killed. They returned on July 4, resulting in the death of one herder and one attacker, several injuries, and stolen livestock.

On July 8, another group raided a camp near Tirezawan. They slaughtered an estimated 10 cows and bulls and took away several others. They also kidnapped three community members (Gordi, Moussa Zouli, and Gagou Dali) who were released in

August following the intervention of Nigerien officials. On July 14, Daoudoua camp herders (in the same area) reported that three of their peers (Ali Gueno, Djimraou, and Djodi) had been kidnapped along with their animals. Kidnappers killed all three hostages, and the bodies of two were found near the Malian village of Deloumane.

On August 5, several armed bandits, reportedly coming from Mali on motorcycles, attacked the nomad camp of Tintakaret and stole several hundred head of livestock and other valuables.

There were no developments in the 2009 killings of seven passengers near Bani Bangou, Tillabery, 13 herders in the same area, as well as the death of one young man and three persons in a nomad camp.

On September 3, the Government announced that security forces arrested a group of 15 bandits who attacked the village of Tafougue and stole 12 camels. Security forces seized several weapons and ammunition and recovered seven camels.

On March 8, the Government reported that a group of individuals (later identified as AQIM members) attacked the military outpost of Tiloa, near the border with Mali, in the Tillabery Region. Assaultants killed five government soldiers, destroyed one army vehicle, and stole another. The army reported that it killed three assaultants and destroyed one of their vehicles.

On April 11, armed bandits attacked several trucks transporting goods near Agadez, killing two passengers. Nine others suffered minor injuries. The criminals stole a large sum of money. Security forces were deployed to track the bandits, but there were no reports of arrests.

On May 11, unidentified armed persons opened fire on a vehicle transporting four employees of a mining company near the northern town of Arlit. They killed one passenger, took a weapon, and stole the vehicle.

*b. Disappearance.*—Although there were no reports of politically motivated disappearances, on April 22, armed men later identified as AQIM militants, kidnapped Michel Germaneau, a French national, and Ouaghi Abidine, his Algerian aide, near the town of Tiguidan Tessoum, near the borders with Algeria and Mali. Despite efforts to track the assaultants, the kidnappers were able to take the hostages to northern Mali. AQIM released Abidine on April 29 but executed Germaneau on July 25.

On September 16, AQIM abducted five French, a Togolese, and a Malagasy who worked for the French uranium mining company Areva in Arlit, Agadez Region. The hostages were taken to northern Mali, where they were presumed to be held at year's end.

Investigations continued into the December 2009 murder of Saudi citizens by armed individuals near Tillabery. In addition to those detained in Niamey, other individuals found in possession of the victims' belongings were arrested and jailed in Agadez. In August the investigating judge traveled to Saudi Arabia to record testimony from the two Saudis who escaped the attack and from the families of the deceased.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that security forces beat civilians and that the police forcibly dispersed and injured demonstrators.

On January 19, gendarmerie cadets stormed Koira Tegui village near Niamey and beat at least 10 civilians following a brawl between one of their colleagues and a villager. While there were reports that gendarmerie officials tried to stop the incident, there was no indication that villagers filed complaints or that any action had been taken against the gendarmes.

*Prison and Detention Center Conditions.*—At year's end, there were 38 penitentiaries with a total of approximately 7,000 detainees with an estimated 3.2 percent (224) of them female. Prison conditions were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. The Niamey Civil Prison, a facility built for 350, held 750 inmates, including 460 awaiting trial. Pretrial detainees were held with convicted prisoners.

Although family visits were allowed and prisoners could receive supplemental food, medicine, and other items, nutrition, sanitation, and health conditions were poor, and deaths occurred from HIV/AIDS, tuberculosis, and malaria. Prisoners and detainees had reasonable access to visitors and were permitted religious observance; all penitentiaries had places of worship. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship. Judicial authorities and the Government Observatory on Human Rights and Fundamental Liberties (ONDHLF) investigated and monitored prison and detention center conditions and credible allegations of inhumane conditions; public and private media covered their visits.

There were reports of corruption among prison staff (see section 4).

Human rights observers, including the International Committee of the Red Cross (ICRC), the ONDHLF, human rights groups, and media representatives were granted unrestricted access to prisons and detention centers and conducted visits during the year. ICRC visits were conducted in accordance with its standard modalities.

The ONDHLF and human rights groups make recommendations to the Government on alternatives to incarceration for nonviolent offenders. The Government established a law on the implementation of "general interest work" programs in juvenile courts.

On April 19, the Ministry of Justice, in partnership with the Project to Support Justice and the Rule of Law, chaired a training session for prison wardens, bailiffs, and other penitentiary staff on penitentiary regulations, budget management, human resources management, security, and conflict management.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; however, police violated these provisions.

*Role of the Police and Security Apparatus.*—The armed forces, under the Defense Ministry, are responsible for internal and external security. The gendarmerie, also under the Defense Ministry, has primary responsibility for rural security. The National Guard, under the Interior Ministry, is responsible for domestic security and the protection of high-level officials and government buildings. The national police, also under the Interior Ministry, are responsible for urban law enforcement.

The police were ineffective, largely due to a lack of basic supplies such as vehicle fuel, radios, and other investigatory and law enforcement equipment. Patrols were sporadic, and emergency response time in Niamey could take 45 minutes. Police training was minimal, and only specialized police units had basic weapons-handling skills. Citizens complained that security forces did not adequately police border regions and remote rural areas. Corruption remained an ongoing problem. The gendarmerie is responsible for investigation of police abuses; however, police impunity was a widespread problem.

*Arrest Procedures and Treatment While in Detention.*—The constitution and law require a warrant for an arrest, and this generally was observed in practice. Judges and prosecutors weigh evidence and issue warrants accordingly. Although there is an independent judiciary, there were reports of persons being detained without clear charges. The law allows individuals to be detained for an initial period of 48 hours without charges, and an additional 48 hours if police need more time to gather evidence. Detainees have a right to prompt judicial determination, and this generally occurred in practice. Security forces usually informed detainees of the charges against them promptly; however, detainees involved with sensitive cases were sometimes held longer than legally permitted. There is a functioning bail system for crimes carrying a sentence of less than 10 years. Those arrested must be notified of their right to a lawyer within 24 hours, and law enforcement officials generally observed this practice. Indigents are usually provided a lawyer by the Government. Widespread ignorance of the law and lack of financial means prevented many from fully exercising their right to an attorney and the bail system.

Security forces arrested and detained a journalist and political leaders during the year.

On February 18, former president Tandja and key members of his cabinet were deposed and arrested following a military seizure of power. Tandja was placed under house arrest and continued to be held in a government guest house at year's end. The former prime minister and the ministers of interior, justice, economy and finance, mining and industry, and equipment were detained at military barracks for several days, then released and placed under house arrest. The CSRD subsequently lifted the house arrest measure for all except the former minister of interior, Albade Abouba.

On March 15, police detained for questioning former minister of communication and government spokesman Moctar Kassoum. On March 7, Kassoum had stated that Tandja's detention could create "hatred" and the junta "could not deny certain citizens their freedoms, leave others free, and talk of reconciliation." On March 14, a new pro-Tandja organization led by Kassoum issued a public statement calling for release of Tandja and Albade for the sake of "national reconciliation." Kassoum was released on March 18.

At the end of March, police held at least 17 former ministers and general managers of state-owned enterprises for questioning. On March 30, police denied the detainees access to lawyers. On April 2, the police released 14 of them, but kept many under house arrest and surveillance for an additional five days. The other three were released a few days later.

On March 29, the police jailed Rhissa Ag Boula, former minister and rebel Tuareg leader. Reportedly, his arrest was based on a previous final court decision (and therefore not related to other detentions during the same period) concerning the killing of an Agadez regional political leader. In 2008 the Niamey Court of Appeals sentenced Rhissa to death in his absence for ordering the killing. Authorities released Rhissa on July 5 and allowed him to leave the country. On December 4, the Niamey Court of Appeals acquitted Rhissa.

On October 15, security forces arrested Colonel Abdoulaye Badie, former CSRD permanent secretary; Colonel Abdou Sidikou Issa, National Guard Commander; Colonel Amadou Diallo, minister of equipment; and Colonel Aboubacar Amadou Sanda. On October 20, police arrested former director of state intelligence Seyni Chekaraou. According to the CSRD, all of those arrested had been involved in activities aimed at destabilizing the regime. On November 17, security forces arrested Colonel Hassane Mossi, air force chief of staff. On November 26, they arrested Lieutenant Issaka Abdou, an aide to the CSRD president. While Chekaraou and Abdou were released a few days after their detention, the five other officers remained in detention at year's end.

The three former National Assembly deputies and two administrative staff jailed in September 2009 were released following the February military seizure of power. However, in October the Niamey Appeals Court prosecutor-general annulled all existing proceedings against former parliamentarians and referred the case to a lower court to restart legal proceedings. The judge was expected to determine whether a new prosecution of the former National Assembly deputies would take place. A decision was pending at year's end.

Police occasionally conducted sweeps to detain suspected criminals.

There were serious backlogs in the judicial system. Although the law provides for maximum pretrial confinement of 30 months for serious crimes and 12 months for minor offenses (with special extensions in certain sensitive cases), some detainees waited as long as six years to be tried. During the year 60 percent of the prisoners in Niamey's Civil Prison were awaiting trial. Trial delays were caused by lengthy legal procedures, inadequate resources, staff shortages, and corruption.

*Amnesty.*—The constitution provides for an amnesty to cover the “authors, co-authors, and accomplices” of the February 18 military seizure of power. It did not retain the previous constitution's provision of amnesty for persons involved in the 1996 and 1999 coups. As a consequence, family members of slain president Bare lodged a complaint with the Tribunal of First Instance of Niamey in order to bring to justice those involved in the murder.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the executive branch sometimes interfered with the judicial process. Corruption and inefficiency were problems. Judges sometimes feared reassignment to lower positions or to remote areas of the country if they rendered a decision unfavorable to the Government. In civil matters, there were reports that family and business ties influenced lower court decisions. In some instances, judges granted provisional release pending trial to high-profile defendants, who were seldom called back for trial, had complete freedom of movement, and could leave the country.

Customary courts and traditional mediation do not provide the same legal protections as the formal court system. Traditional chiefs can act as mediators and counselors. They have authority to arbitrate many customary law matters, including marriage, inheritance, land, and community disputes, but not all civil issues. Chiefs received government stipends but had no police or judicial powers.

Customary courts, based largely on Islamic law and local tradition, are located only in large towns and cities and try civil law cases. A legal practitioner with basic legal training, advised by an assessor with knowledge of the traditions, heads these courts. The judicial actions of chiefs and customary courts are not regulated by formal law, and defendants can appeal a verdict in the formal court system.

*Trial Procedures.*—The law affirms the presumption of innocence. Trials are public, and juries are used. Defendants have the right to counsel, which is at public expense for minors and indigent defendants charged with crimes carrying a sentence of at least 10 years. Those arrested must be notified of their right to a lawyer within 24 hours of detention. Defendants also have the right to be present at trial, confront witnesses, and present witnesses on their own behalf. The Government has a legal obligation to inform defendants of all evidence against them, and defendants have access to government-held evidence. Defendants may appeal verdicts, first to the Court of Appeals and then to the Supreme Court. However, widespread ignorance of the law prevented many accused from taking full advantage of these rights.

On April 19, the minister of justice officially launched a national campaign to disseminate information brochures on citizens' rights and obligations. The project, with support from the EU, was expected to disseminate 222,000 brochures covering 22 topics such as the court system, criminal and civil procedure, child protection before the court, divorce or repudiation, rape and sexual harassment, administrative redress, labor disputes, and commerce and real estate.

Women do not have equal legal status with men in customary courts and traditional mediation and do not enjoy the same access to legal redress.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees. However, following the February 18 military seizure of power, Tandja and Abouba remained in detention. On June 29, the CSRD president stated that "the Nigerien people will decide how to handle this case." International visitors, human rights and humanitarian groups, and the families of the detainees were allowed access and reported them to be healthy and well-treated. In November the ECOWAS Court of Justice ordered Tandja's release. In December the TGON lifted Tandja's legal immunity, paving the way for his prosecution on embezzlement charges.

*Civil Judicial Procedures and Remedies.*—Courts of civil procedure exist in each major city. These courts are generally independent and impartial, and there is access to seek damages for and cessation of human rights violations. These courts hear lawsuits related to civil matters and can apply judicial remedies, while a single appellate court is responsible for administrative remedies.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law generally prohibit such actions, and the Government generally respected these prohibitions; however, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Before the military seizure of power, the actual autocratic rule imposed by former president Tandja included a tailor-made constitution, established a National Assembly, judiciary, and a compliant media-regulation body; he restricted basic freedoms and curtailed press freedom. After Tandja was deposed, the constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. Although individuals generally could criticize the Government publicly or privately without reprisal, the Government attempted to impede criticism.

Throughout the year, the Government published a daily newspaper. There were approximately 45 private newspapers, some of which were affiliated loosely with political parties. The private press criticized government actions.

Radio was the most widely accessible medium. A government-owned radio station provided news and other programs in French and local languages. There were 15 private radio stations; eight were locally owned and featured news in local languages. Private radio stations were generally less critical of the Government than private newspapers.

The two government-owned television stations broadcast in French and the major national languages. Three private television stations broadcast local and foreign programming and also began a daily newscast. A fourth private channel broadcast religious programming. International channels were available in Niamey.

The Government did not allow international media to operate freely, especially when covering events in the north. BBC World Service was available in Niamey and Zinder. Private radio stations carried Voice of America and Deutsche Welle.

On June 17, the governor of Agadez summoned Raliou Hamed Assaleh, director of Radio Sahara FM, to reprimand him for reopening his radio station and starting broadcasts without the governor's authorization. Raliou explained that he had received a notification from the National Communication Institute (ONC), with a copy to the governor, but the latter told him that he needed to inform authorities before proceeding. Radio Sahara continued its programs unimpeded.

On September 19, police summoned Moussa Aksar, editor of the independent newspaper L'Evenement regarding interviews he gave to foreign press about the September 16 kidnappings from the Areva mining site in Arlit. After being questioned and held several hours without charge, he was released.

After Tandja was deposed, independent media were active and expressed a wide variety of views without restriction.

On June 11, the ONC reopened Sahara FM, a private radio station in Agadez, which the High Council on Communication closed in 2008 for broadcasting interviews with alleged victims of abuse by government troops.

On October 11, the ONC granted new operating licenses for three private television stations, four commercial radio stations, and eight community radio stations, in addition to six-month license extensions for two private television stations and two community radio stations.

On March 11, the Tribunal of First Instance of Niamey cleared Ali Soumana of *Le Courrier* on all charges in the August 2009 case regarding a report that claimed that the National Human Rights and Fundamental Liberties Commission misused 350 million CFA (\$708,000) allocated for oversight of the August 2009 constitutional referendum.

From March 29 to 31, the Government hosted a forum to discuss ways to improve the media climate, including replacing jail sentences with fines for press infractions and improving working conditions for journalists. The prime minister announced that the CSRD president had decided to reopen the “Maison de la Presse,” a media center and venue for training and seminars, which Tandja’s minister of communications shut in 2008. On June 4, the Government adopted a new law on the decriminalization of press offenses as recommended by the forum. In addition to reopening the media center, this law resulted in the emergence of a private radio station, allocation of new operating licenses, and creation of a voluntary media ethics watchdog. Journalists, in turn, created an independent organization to monitor all broadcasts and publications to avoid possible abuses of press freedom.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Although individuals and groups could engage in the peaceful expression of views via the Internet, few residents have access to it. According to International Telecommunication Union statistics for 2008, only approximately 0.5 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, police forcibly dispersed demonstrators. The TGON retained authority to prohibit gatherings under tense social conditions or if organizers did not provide 48 hour advance notice.

On April 12, hundreds of middle and high school students clashed with police in Niamey during a demonstration denouncing the Government’s failure to implement an agreement aimed at improving conditions in schools. Several persons suffered minor injuries.

On August 22, police in Agadez clashed with “mototaxi” operators who were demonstrating against the arrest of one of their peers. Motorcycle operators demonstrated in the streets and burned tires. A teargas fragment injured one of the demonstrators. The police arrested an estimated 40 protesters but released them the following day.

*Freedom of Association.*—Although the law provides for freedom of association, political parties based on ethnicity, religion, or region are not permitted.

During the year the Government shut three civil society associations.

In April the minister of interior dissolved the “Refoundation, Restoration, and Respectability” association led by former minister of communication Kassoum.

On May 10, the minister of interior dissolved the “Magama Foundation” led by Laraba Tandja, the former first lady.

On November 2, the minister of interior dissolved the Organization of Niger’s Consumers led by Nouhou Arzika, a Tandja supporter.

*c. Freedom of Religion.*—For a description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the TGON restricted freedom of movement for some political leaders.

Security forces at checkpoints throughout the country monitored the movement of persons and goods, particularly near major population centers, and sometimes demanded bribes. Transportation unions and civil society groups continued to criticize such practices. During the year gunmen robbed and killed travelers.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, and other persons of concern.

Following the February military seizure of power, several former officials were placed under house arrest. In March and April, several former ministers and state-

owned company managers were placed under house arrest and surveillance. All were released by mid-April except for former president Tandja and former minister of interior Abouba.

On May 3, police in Konni stopped a delegation of the Rally for Democracy and Progress political party that was traveling upcountry. Police, who stated that they received orders from “high up,” forced the delegation to return to Niamey.

The law prohibits forced exile, and there were no reports that the Government used it.

*Internally Displaced Persons (IDPs).*—Famine and floods during the year displaced many persons.

International humanitarian organizations reported that community conflict between farmers and herders, and rural communities and bandits, especially in northern Tillabery Region, caused displacement. In addition there have been reports of sporadic acts of “banditry” on main roads and incursions by members of AQIM into Nigerien territory. Because of the pressures of desertification and population growth on subsistence farming and livestock herding, the main activities in this region, competition among farmers and herders for limited natural resources increased in recent years.

The Government and humanitarian organizations provided assistance for IDPs. On March 5, the TGON appealed to the international community for assistance to address the food crisis that affected over half of the country’s population. On April 2, the TGON announced that, especially in the Zinder and Maradi regions, some primary schools were totally or partially empty because children had left with their parents in search of food.

In early August, persistent floods caused residents to evacuate several districts in Niamey. At least 770 households and 500 hectares of farmland were affected, leaving an estimated 6,000 individuals without shelter. Local authorities, with the help of humanitarian organizations, resettled displaced flood victims in public buildings and other shelters. Heavy rains in Goure, Zinder, left approximately 11,000 residents homeless.

*Protection of Refugees.*—The laws do not provide for granting asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees or the 1967 Protocol, and the Government has not established a system for providing protection to refugees. In practice the Government did not routinely grant refugee status or asylum, but provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year the Government also provided temporary protection to approximately 350 individuals who may not qualify as refugees under the 1951 Convention or the 1967 Protocol.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully. Following the February 18 military seizure of power, the CSRD implemented a constitution under which citizens exercised this right in free and fair elections based on universal suffrage, beginning with the October 31 constitutional referendum. National elections are scheduled for the first quarter of 2011.

*Elections and Political Participation.*—The CSRD, which assumed executive and legislative powers after deposing Tandja and his cabinet in February, established the TGON, which included a largely civilian cabinet, a National Consultative Council in lieu of the dismissed parliament, a Transition Constitutional Council in place of the dissolved Constitutional Court, a State Court in lieu of the dissolved Supreme Court, an Audit Court, a National Communication Observatory in place of the High Council on Communication, and a Fundamental Texts Committee charged with drafting a new constitution, electoral code, political parties charter, statutes of the opposition, and other laws.

The new constitution and other relevant statutes, which were drafted through a consultative process involving political parties, civil society organizations, traditional and religious leaders, women and youth groups, business representatives, academics, and other resource persons, was designed to provide the country with new and strengthened democratic institutions. Transition authorities also revamped the Independent National Electoral Commission, which prepared the timeline and budget for a constitutional referendum and a series of elections.

On November 25, the CSRD president enacted the new constitution that voters approved on October 31 via a referendum that international observers described as generally free and fair, despite minor difficulties on polling day. The only irregular-

ities were logistical problems delivering materials to polling places on time. Local elections were scheduled for January 8, 2011, and first-round presidential elections in conjunction with parliamentary elections for January 31. Second-round runoff presidential elections (if required) are scheduled for March 12, 2011, and inauguration of the new president is scheduled to take place on April 6, 2011.

Political parties operated without restriction or outside interference. Individuals and political parties could freely declare candidacies and stand for election.

The law mandates that women fill at least a quarter of senior government positions and at least a tenth of elected seats. There were five female ministers in the 21-member transition cabinet and five of the country's 20 ambassadors were women.

All major ethnic groups were represented at all levels of government. There were eight seats in the dissolved National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem. The Government publicly acknowledged corruption as a problem.

Civil servants sometimes demanded bribes to provide public services. A poorly financed and trained law enforcement system and weak administrative controls compounded corruption. Other underlying causes were poverty; low salaries; the politicization of the public service; the influence of traditional kinship, ethnic, and family ties on decision making; a culture of impunity; and a lack of civic education.

There were reports of corruption among prison staff. Officials demanded bribes to let prisoners leave prison for the day and serve their sentences in the evenings or serve their sentences in the national hospital in Niamey.

On April 15, the TGON created the State Audit Court to sanitize public finances and to provide for transparency in the management of public funds. The court oversees the management of all government agencies and development projects funded by external resources, as well as the implementation of the budget. It also oversees the accounts of political parties and government officials' statements of personal assets submitted to the Constitutional Court. If requested by the National Assembly, the State Audit Court will conduct investigations regarding the implementation of public revenues and expenses. The court also has authority to sanction any fraud in the management of public resources.

On May 11, the CSRD president signed a decree creating the Commission on Economic, Financial, and Fiscal Crime. The commission, which includes customs, treasury, and imports inspectors; military officers; judges; labor union representatives; managers; and accountants, was intended to combat economic, financial, and fiscal delinquency and promote good governance through proper management of public resources. It is responsible for processing administrative investigations, reviewing economic and fiscal reports, processing inspection reports from all levels of government, using audits to recover money owed to the state and its agencies, and making recommendations and proposing measures for "cleansing" and improving the management of property of the state and its agents. The commission was charged with investigating at least 50 high-profile, corrupt, mismanaged, and delinquent accounts nationwide. By year's end, the commission had determined that 64 billion CFA (\$129 million) was owed over the 2000-10 period, and had collected approximately five billion CFA (\$10 million). Of the missing funds, 57 billion CFA (\$115 million) was due to embezzlement and seven billion CFA (\$14 million) was due to unpaid taxes. The commission transferred 34 of the 50 cases to the courts for further investigation, prosecution, and trial.

On June 15, police detained former president Mamadou Tandja's son Hadia Toulaye Tandja, Manager of Multimedia Communications Ibrahim Hamidou, former minister of mines Mohamed Abdoulahi, and former Ministry of Mines secretary general Massalabi Oumarou in connection with this case. On June 18, the Tribunal of First Instance of Niamey arraigned Hadia Toulaye Tandja for influence peddling and money laundering and the other three for complicity; the judge ordered their transfer to prison. Hadia Toulaye Tandja and Abdoulahi were detained at Say prison, Hamidou at Koutoukale, and Oumarou at Niamey. No trial date had been set by year's end.

On July 8, the TGON created a National Committee for the Coordination of Actions relating to Money Laundering and Terrorism Financing, in compliance with the Intergovernmental Group for Action against Money Laundering and Terrorism Financing in West Africa. The committee was charged with formulating a national

strategy for the fight against money laundering and terrorism financing and to make recommendations on improving national policy on these issues.

On September 11, the minister of justice chaired the installation of the Center for Legal Assistance and Citizen Action, created by the country's section of Transparency International, with support from the EU. The center tries to educate the population on the fight against corruption and to assist victims and witnesses of corrupt practices in preparing legal complaints.

On July 29, police detained former prime minister and current National Movement for a Development Society party leader and presidential candidate Seini Oumarou, former minister of commerce Sala Habi, and two other officials of the Ministry of Commerce on charges of embezzlement of public funds. On August 2, a judge at the Tribunal of First Instance of Niamey arraigned them and released them on bail. At year's end, no date had been set for their trial.

On August 3, police detained former national treasury director Siddo Elhadj on charges of illegally granting a waiver that allowed a foreign businessman to abscond with two billion CFA (\$4.1 million) intended as a security deposit in the organization of the 2009 Hajj. The judge ordered his transfer to Kollo prison pending his trial at a date that had not been determined at year's end.

On November 23, police detained Amadou Dioffo, director general of Sonidep (fuel importation and distribution company) for the mismanagement of a government special account for the amount of 3.6 billion CFA (\$7.2 million) opened by Sonidep. On November 28, Dioffo appeared before the Tribunal of Niamey, where the judge arraigned him and ordered his transfer to Tillabery Prison pending a trial at a date that had not been determined at year's end.

There were no further developments in the July 2009 corruption case involving a purported memorandum of agreement between Multimedia Communications and one of then-president Tandja's sons, Hadia Toulaye Tandja, on the one hand, and an Australian mining firm on the other, detailing the creation of a company called "Niger Uranium Ventures SA."

There were developments in the 2009 "illicit enrichment" and money laundering case against former prime minister Hama Amadou. On December 3, the Tribunal of Niamey discharged the defendant for lack of evidence.

There were developments in the 2008 illicit enrichment and fraud case against former justice minister Maty Elhadji Moussa. On December 2, the State Court discharged the defendant for lack of evidence.

Articles 51 and 52 of the constitution require the president of the republic, presidents of other government institutions, and cabinet members to submit written statements of their personal property and other assets to the Constitutional Court upon assuming office. These statements are to be updated annually and at the end of an individual's tenure. Initial statements and updates are published in the National Register and the press. Copies of the statements are forwarded to the Government's fiscal services. Any discrepancies between the initial and the updated statements must be explained. The Constitutional Court has authority to assess discrepancies. The designated officials are not allowed to purchase or rent, by themselves or through other parties, any government-owned property, or to bid for public or private government contracts.

The State Inspectorate and the country's courts are responsible for combating government corruption.

There are no laws that provide for public access to government information; however, many documents could be obtained from individual ministries and the National Archives. The Commission on Fundamental Text was charged with drafting a national policy on access to public information, but had not completed the document at year's end. The TGON granted access to government information to both citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but insecurity in the North limited the ability of human rights groups to investigate human rights violations.

The TGON created the ONDHLF on May 20, and its members sworn in on August 18. It was supposed to operate without government interference but lacked resources to implement an action plan.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and statutes prohibit discrimination based on race, gender, disability, language, or social status, and the Government generally effectively enforced these prohibitions.

*Women.*—Rape is punishable by 10 to 30 years in prison, depending on the circumstances and age of the victim. The law does not explicitly recognize spousal rape, but appears to cover it in practice. Authorities made efforts to enforce the law. Although statistics were not available, the Court of Appeals tried several criminal rape cases during the year. Rape is a widespread problem. Between October 18 and 22, the Tahoua Court of Assizes tried four rape cases and convicted all defendants. On March 2, the Niamey Court of Assizes had 12 rape cases on its calendar. On March 15, it sentenced one guilty party to 10 years' imprisonment and awarded 1.5 million CFA (\$3,033) in damages to the victim. On March 22, a defendant guilty of the rape of a 13-year-old girl was sentenced to six years' imprisonment, and one million CFA (\$2,022) in damages was awarded to the survivor. On November 22, the Niamey court of Assizes announced 12 new rape cases to be tried during its session. Spousal rape was not frequently prosecuted, as survivors often sought to resolve the issue within the family or were pressured to do so.

Domestic violence against women was widespread, although reliable statistics were not available regarding numbers of occurrences, prosecutions, or convictions. Husbands commonly beat their wives. The law does not explicitly prohibit domestic violence; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from two months in prison and a 10,000 CFA (\$21) fine to 30 years' imprisonment. The Government tried with limited success to enforce these laws; courts prosecuted cases of domestic violence when they received complaints. Charges stemming from family disputes were often dropped in favor of traditional dispute resolution mechanisms. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the redress offered by the legal system and fear of repudiation or being stigmatized. The Ministry of Population, Women's Promotion, and Children's Protection, international organizations, NGOs, and women's organizations conducted public awareness campaigns on violence against women through several events that received wide media coverage.

Sexual harassment is a crime punishable by prison sentences from three to six months and fines of 10,000 to 100,000 CFA (\$21 to \$202). If the violator is in a position of authority over the victim, the prison sentence is three months to one year and the fine is increased to 20,000 to 200,000 CFA (\$42 to \$404). Sexual harassment was common. Courts enforced applicable laws as cases were reported.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. While the law protects reproductive rights, information regarding reproductive rights was not readily available. There were no restrictions on the right of access to contraceptives. Health clinics and local health NGOs were permitted to disseminate information on family planning freely under the guidance of the Ministry of Public Health. According to the ministry, use of contraceptives increased from 8.5 percent in 2006 to 16.5 percent during the year.

Men and women received equal access to diagnosis and treatment for sexually transmitted diseases, including HIV. Since 2007 the Government has provided free health care for children up to five years of age, which contributed to increased access to health centers for women's general and essential obstetric and postpartum care, including prevention of mother-to-child transmission of HIV. Due to a shortage of skilled health professionals and limited resources, some women used traditional midwives (matrones) during childbirth and were referred to hospitals only when the mother or child suffered more serious health complications. According to the Population Reference Bureau, in 2008 approximately 16 percent of births were attended by skilled personnel and the UN Population Fund estimated the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) to be 820, and a woman's lifetime risk of maternal death was one in 16.

Although the constitution provides for equal rights regardless of gender, women do not have the same rights as men under family law in customary courts. Legal rights as head of household apply only to men; a divorced or widowed woman, even with children, was not considered to be a head of household. Traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women helped with subsistence farming and did most of the childrearing, cooking, water- and wood-gathering, and other work. Despite constituting 47 percent of the formal sector work force, only 26 percent of the civil service and 22 percent of professionals were women in 2006.

In the absence of a formal will stating otherwise, women received one-third of a deceased parent's property. In the East, there were reports that some husbands cloistered their wives and prevented them from leaving their homes unless escorted by a male relative and, even with an escort, they were usually permitted to leave the house only after dark.

In the civil service and the formal sector, there was no indication that women experienced discrimination in access to employment or pay for similar work.

The country has adopted several laws and regulations for the development of women. The law mandates that women fill at least one-fourth of senior government positions and at least 10 percent of elected seats to increase their presence in decision-making positions. The Government also had programs to provide microcredit, access to clean water, and access to health services for women.

*Children.*—Citizenship is derived from one's parents. Birth registration, especially in remote rural areas and in nomadic communities, did not take place promptly due to a lack of awareness, remoteness of government services, or inadequate resources. With the support of the UN Children's Fund (UNICEF), the Government worked to address this problem. The Government's failure to register births did not result in denial of public services, although it has complicated the process of qualifying as a candidate for public office. In principle the six years of elementary education was compulsory, tuition-free, and universal from the age of six; in practice only a fraction of children attended school. Boys constituted 56 percent of those who finished primary school. In 2008 the Government estimated that 45.6 percent of primary-school-age girls and only 12.46 percent of secondary-school-age girls were enrolled; even fewer attended regularly. Most parents kept young girls at home to work, and girls rarely attended school for more than a few years.

Violence against and abuse of children was common. Each of the 10 district courts and 36 magistrate courts had at least one judge who addressed children's issues, including child labor. All judicial police sections at the regional and district levels may handle cases involving juveniles and refer them to judges. The Government also collaborated with UNICEF and the International Labor Organization (ILO) in programs designed to improve enforcement of the law and to sensitize civil servants, parents, traditional chiefs, and other key actors on children's rights.

Female genital mutilation (FGM) is against the law and punishable by six months to three years in prison. If an FGM victim dies, the practitioner can be sentenced to 10 to 20 years' imprisonment. Certain ethnic groups practiced FGM, predominantly the Fulani and Djerma in western Niger. According to UNICEF, the FGM rate decreased from 5 percent in 1998 to 2.2 percent in 2006. However, a 2008 UN Office for the Coordination of Humanitarian Affairs report stated that circumcisers traveled from Burkina Faso to Niger to carry out FGM on nomad Gourmantche girls as part of a rising trend of cross-border FGM. FGM was practiced on young girls, with clitoridectomy the most common form. The Government actively combated FGM, continuing its close collaboration with local NGOs, community leaders, UNICEF, and other donors to distribute educational materials at health centers and participate in educational events.

On January 14, following a complaint lodged by the Nigerien Committee against Harmful Traditional Practices (CONIPRAT), a women's rights NGO, against three women practitioners of FGM, the lower court in Kollo, Tillabery Region, sentenced each defendant to an eight-month suspended sentence and a 40,000 CFA (\$80) fine. On February 6, in Tamou, Say District, the minister of population, women's promotion, and child protection, chaired the celebration of the International Day of "Zero Tolerance" of FGM, during which the community issued a public statement pledging to abandon the practice of FGM. On November 27, authorities arrested a woman in a village near Niamey and charged her with seven cases of FGM, performed on seven children between the ages of two months to three years. They also arrested the children's mothers. CONIPRAT called for the woman to be prosecuted to the full extent of the law, given her history and the age of the victims. No date was determined for hearings. In December the court and mental health specialists determined that the FGM performer was mentally impaired. Authorities removed her from custody and placed her under medical care.

Child marriage was a problem, especially in rural areas. The law allows a girl deemed to be "sufficiently mature" to marry at 15. Some families entered into marriage agreements under which girls from rural areas as young as 12 or even younger were sent to their husband's families under the "supervision" of their mothers-in-law. The Ministry of Population, Women's Promotion, and Child Protection cooperated with women's associations to sensitize traditional chiefs and religious leaders of rural communities to the problem of underage marriage.

Child prostitution was a problem. The Penal Code criminalizes the procurement of a minor for the purpose of prostitution. Although there was no precise age of con-

sent, the law prohibits “indecent” acts toward minors. It was left to judges to determine what constituted an indecent act. Such activity and a corollary statute against “the incitement of minors to wrongdoing” were punishable by three to five years in prison. This provision also applies to child pornography. There were reports that some child prostitution existed along the main East-West highway, particularly between the cities of Birni n’Konni and Zinder along the Niger-Nigeria border. There was also evidence of young girls working mainly as domestic servants and occasionally as prostitutes, sometimes with the complicity of their families. The constitution and law require the Government to promote children’s welfare; however, minimal financial resources were allotted for this purpose. The Government continued its multifaceted public education campaign on children’s rights. This included forced labor issues, efforts to improve girls’ education, the dangers of child marriage, improvements in birth registration, and efforts to withdraw children from the labor force and reenroll them in schools and vocational training programs.

Infanticide occurred, and at least half of the female prison population was charged with this crime.

Many displaced boys from rural areas were indentured to Islamic schools and begged on the streets of larger cities. Hundreds of children were displaced by the famine and floods. Displaced children had access to government services (see section 2.d., IDPs).

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no significant Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, and access to health care and other government services, and the Government generally enforced these provisions. The law mandates that the state provide for such individuals, but there were no specific regulations mandating accessibility to buildings, transportation, and education for persons with disabilities. The Government provides limited health care to persons with disabilities. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population, Women’s Promotion, and Children’s Protection is responsible for protecting the rights of persons with disabilities, including those with sensory or intellectual disabilities.

There were no reports of abuse of persons with disabilities in educational facilities. In May the country adopted a law determining regulations for the social protection of persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing sexual orientation. There were no known organizations of lesbian, gay, bisexual, or transgender persons and no reports of violence against individuals based on their sexual orientation or gender identity. However, gay persons experienced societal discrimination.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS experienced societal discrimination. There were strong government efforts to discourage such discrimination. The Government continued its antidiscrimination campaign in conjunction with several other organizations working on HIV/AIDS issues.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law allow all workers to form and join trade unions without previous authorization or excessive requirements, and workers exercised this right.

The country had a total workforce of 4.36 million in 2008. Only 20 percent of this number, mainly from the public sector (7 percent) and the parastatal and formal private sectors (13 percent), belonged to trade unions. Approximately 80 percent of the workforce worked in the nonunionized subsistence agricultural and small trading sector.

The constitution and statutes provide for the right to strike, except for police and other security forces, and workers exercised this right. The labor code does not contain provisions that restrict the right to strike. Workers need only give employers at least three days’ advance notice. On several occasions during the year, the TGON filed lawsuits before the Tribunal of Niamey, which ruled some strikes proposed by unions to be illegal on the grounds that they involved political rather than labor

issues. There were several strikes during the year, mainly in the education sector. From late September until November, the Syndicat National des Enseignants et Chercheurs du Supérieur (higher education teachers' union—SNECS) observed a series of strikes to protest recent reforms proposed by the Government, relating to the national university's bylaws including the appointment of the university rector by the Government (as opposed to the current practice of electing the rector from among faculty members); the transformation of the regional University Institutes of Technology into full-fledged universities; and the redeployment of teachers nationwide. The SNECS demanded that the university's "autonomy" be maintained and that any reform be discussed with all stakeholders of the higher education system. It further demanded the resignation of the minister of higher education. On one occasion, the TGON filed a lawsuit and won when the court ruled that the strike was illegal. The TGON took no further legal action until the resolution of the crisis via negotiation in late November.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and unions exercised their right to bargain collectively for wages above the legal minimum and for more favorable working conditions. Collective bargaining also existed in the public sector. There were several collective agreements during the year, although the exact number is not available. During Tandja's tenure, the Government often harassed labor unions that opposed its actions. There were no reports of antiunion activities or employer interference under the TGON.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, except for legally convicted prisoners, and prohibits slavery. It does not, however, specifically prohibit forced or compulsory labor by children, and such practices occurred. In general the Government did not adequately enforce the anti-slavery laws. A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities, particularly in remote northern and western regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste sometimes worked without pay for those above them in the social order. Estimates of numbers vary widely, from a 2004 estimate of 8,800 persons to a 2003 estimate of 43,000. Such persons are forced to work without pay for their masters throughout their lives, primarily herding cattle, working on farmland, or working as domestic servants. Children become the property of their masters and can be passed from one owner to another as gifts or as part of a dowry. Abusers force girls to start work as domestic servants at a very young age. Girls may be sexually abused by men in the household or forced to marry at a young age.

Although the Government publicly banned slavery in 2003, slaves continued to be liberated and given manumission certificates. Individuals had the legal right to change their situation, and it was illegal for their masters to retain them; but most victims of slavery did not act on their rights. Fear, physical or social coercion, and lack of viable economic alternatives for freed slaves were factors in maintaining the slave-master relationship.

On April 27 and 28, the Ministry of Labor, with support from International Labor Organization's International Program for the Elimination of Child Labor (ILO/IPEC), organized a workshop to educate 22 musicians, actors, and comedians about the worst forms of child labor and how they can fight against it by raising public awareness through songs, plays, skits, dances, and other action.

On June 8, upon a complaint lodged by the country's branch of the Coalition of African NGOs Working with Children (CONAFE-Niger), the tribunal of Madaoua arrested two suspected traffickers who used five girls under the age of 15 in a prostitution ring. CONAFE-Niger retained legal counsel for the girls and on June 29, each defendant received a six-month suspended sentence and a 50,000 CFA (\$100) fine. CONAFE-Niger, gave the girls counseling, training, and material support to start their own businesses.

On August 9 and 10, the Ministry of Labor, in conjunction with ILO/IPEC, organized a capacity-building workshop in Niamey for labor unions, employers' organizations, government agencies, implementing agencies, and the media, based on results of a previous training program entitled "Understanding and Fighting Children's Use in Domestic Labor in Francophone Africa," held in Morocco.

On September 2, the Nigerien Association for the Defense of Human Rights, in collaboration with the Ministries of Defense and Justice, organized a capacity-building workshop for police, gendarmes, and national guard on the protection of human rights including gender issues, child protection, and trafficking in persons.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14, except as authorized by decree; however, child labor was a problem, and the Government did not effectively enforce the law. A 1967 labor decree also regulates child labor. Children under the age of 12 are prohibited from working. Twelve- and 13-year-olds may perform non-industrial light work for a maximum of two hours per day outside of school hours with a labor inspector's authorization, as long as such work does not impede their schooling. Light work is defined as including some domestic work, fruit picking and sorting, and other light, nonindustrial labor. Those children 14 to 18 years of age may work a maximum of 4.5 hours per day. Children may not perform work that requires force greater than their strength, may damage their health or development, is risky, or is likely to undermine their morality. The law requires employers to provide minimum sanitary working conditions for children.

In 2008 the country's unions and women's associations stated that 46 percent of school-age children worked under difficult conditions, performing work beyond their physical abilities in mines, slaughterhouses, and domestic work.

Children worked in the agricultural, commercial, handicraft, and domestic service sectors. The majority of rural children regularly worked with their families from an early age helping in the fields, pounding grain, tending animals, gathering firewood and water, and doing similar tasks. Some boys were kept out of school to work as beggars alongside blind relatives. Others were sent to Islamic schools where their teachers made them beg and do manual labor. Child labor also occurred in largely unregulated artisanal gold mining operations, as well as in trona (a source of sodium carbonate compounds), salt, and gypsum mines. Children working in gold mines were particularly vulnerable to poor ventilation, collapse hazards, insufficient lighting, and alcohol and substance abuse. Young boys from neighboring countries were trafficked into the country to work in mines, in quarries, on farms, as mechanics, or as welders.

Child trafficking, prostitution, forced labor, and traditional caste-based servitude and slavery occurred. There were reports that some child prostitution existed along the main East-West highway, particularly between the towns of Birni, N'Konni, and Zinder along the Niger-Nigeria border. In all regions, some local religious teachers and loosely organized clandestine networks induced young boys to work as beggars and manual laborers and young girls to work mainly as domestic servants and occasionally as prostitutes, sometimes with the complicity of their families. Children were also internally trafficked for work in mines (see section 7.c.).

Inspectors of the Ministry of Labor are responsible for enforcing child labor laws; however, resource constraints limited their ability to do so, and there were no child labor inspections during the year.

The Ministry of Mining reportedly sought to make artisanal mining licenses contingent upon agreements not to use child labor, but this proposal was not adopted.

The Government also worked with international partners to provide relevant education as an inducement to parents to keep their children in school. The Ministry of Basic Education conducted training sessions to help educators meet the special needs of child laborers. The Government cooperated with a foreign government-funded project that was implemented by ILO/IPEC to eliminate child labor in the mining sector. The Government supported a 2006-10 foreign donor program with funds of 1.5 billion CFA (\$3.3 million) for the prevention and elimination of child labor in mining in West Africa, implemented by ILO/IPEC. The project was launched in 2006 and targeted approximately 3,000 children. On July 18 to 23, following an invitation by the Ministry of Labor, officials from the ILO Dakar Regional Office visited to initiate consultations for developing a "decent work" (acceptable conditions of work) program for the country.

In December 2009 the Child Labor division of the Ministry of Labor, in conjunction with ILO/IPEC, organized a session for its members and local and international partners to approve Niger's report in line with the "Cross-Border Survey on Child Labor in Traditional Gold Mining in Burkina Faso, Mali, and Niger." The study was completed during the year and was awaiting adoption by the Government.

On January 21, the Child Labor division of the Ministry of Labor in conjunction with ILO/IPEC organized a sensitization session for its members and local and international partners in line with its policy of "strengthening the institutional capacity of the national child labor division and supporting the installation of a pilot system to monitor child labor in the regions of Dosso, Maradi, Tillabery, Tahoua, Zinder, and Niamey Commune V." The session provided participants with information and training tools to address problems related to child labor.

On June 7 to 9, Cameroon, the Central African Republic, Niger, Nigeria, Sudan, and Chad, with support from UNICEF, held a regional conference on the enrollment of children in armed groups and conflicts. In a joint declaration, the six countries outlined their commitment to child protection in line with global standards, including those in the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict. The declaration also seeks to enhance education and employment opportunities for children once they have left armed groups. A committee has been established to monitor implementation of the outcome. The country has neither ratified nor signed the optional protocol. The Ministry of Women's Promotion and Children's Protection is working with other government agencies, and international organization and NGO partners are advocating ratification of the protocol.

By year's end, the Government had not adopted the National Action Plan on the Fight against the Worst Forms of Child Labor. With the adoption of an antitrafficking law on December 16, the ECOWAS policy will be effectively implemented. The Ministry of Labor had approximately 100 inspectors deployed nationwide.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The labor code establishes a minimum wage only for salaried workers in the formal sector with fixed (contractual) terms of employment. Minimum wages are set for each class and category within the formal sector; however, minimum wages did not provide a decent standard of living for workers and their families. As of 2006, the lowest minimum wage was 28,000 CFA (\$57) per month, with an additional 1,000 CFA (\$2) added per child per month. The Ministry of Labor effectively enforced minimum wages only in the regulated formal sector.

The formal sector legal workweek was 40 hours with a minimum of one 24-hour rest period; however, the Ministry of Labor authorized longer workweeks of up to 72 hours for certain occupations such as private security guards, domestic workers, and drivers. Premium pay must be paid for overtime, although the rate is not set by law; employees of each enterprise or government agency negotiate with their employer to set the rate. These formal sector standards were effectively enforced.

The labor code establishes occupational safety and health standards. The Ministry of Labor is responsible for enforcing these standards, although staff shortages caused inspectors to focus on safety violations only in the most dangerous industries: mining, building, and manufacturing. The Government effectively enforced standards within these three industries, except that gold mining was largely unregulated. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases did not receive information about the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs. In practice, however, especially in the nonunionized, informal sector, it was unlikely that they could exercise this right without jeopardizing their employment. There are no exceptions from such protections for migrant or foreign workers.

---

## NIGERIA

Nigeria is a federal republic of 36 states and a federal capital territory, with a population of about 150 million. In 2007 Umaru Musa Yar'Adua of the ruling People's Democratic Party (PDP) was elected to a four-year term as president, along with Vice President Goodluck Jonathan, also of the PDP. The election was marred by what international and domestic observers characterized as massive fraud and serious irregularities, including vote rigging and political violence. Vice President Jonathan became acting president on February 9 after the National Assembly conferred presidential authority on him during President Yar'Adua's prolonged illness. On May 5, Jonathan assumed the presidency following Yar'Adua's death. There were numerous instances in which elements of the security forces acted independently of civilian control.

Human rights problems during the year included the abridgement of citizens' right to change their government; politically motivated and extrajudicial killings by security forces, including summary executions; torture, rape, and other cruel, inhuman or degrading treatment of prisoners, detainees, and criminal suspects; harsh and life-threatening prison and detention center conditions; arbitrary arrest and detention; prolonged pretrial detention; denial of fair public trial; executive influence

on the judiciary and judicial corruption; infringement on citizens' privacy rights; restrictions on freedom of speech, press, assembly, religion, and movement; official corruption and impunity; violence and discrimination against women; the killing of children suspected of witchcraft; female genital mutilation (FGM); child abuse and child sexual exploitation; societal violence; ethnic, regional, and religious discrimination and violence; vigilante killings; trafficking in persons for the purpose of prostitution and forced labor; discrimination against persons with disabilities; discrimination based on sexual orientation and gender identity; child labor; forced and bonded labor; and abductions by militant groups.

By October 9, although most militant groups in the Niger Delta had accepted then president Yar'Adua's offer of amnesty, by year's end killings and kidnappings by militant groups began to increase, although not to previous levels.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents committed numerous extrajudicial killings.

According to credible eyewitness accounts, uniformed security forces participated in killings during ethnic violence in Plateau State.

Security forces were responsible for killings during attempts to apprehend religious extremists.

National police, army, and other security forces committed extrajudicial killings and used lethal and excessive force to apprehend criminals and suspects, as well as to disperse protesters. According to a December 2009 Amnesty International (AI) report, security services executed detainees in custody, suspected armed robbers under arrest, persons who refused to pay bribes, and persons stopped during road checks. While not confirming the report, Parry Osayande, the retired police deputy inspector general in Nasarawa State, told reporters in 2009 that police killed hundreds of detainees annually, which he blamed on lack of training and inadequate funding. Authorities generally did not hold police accountable for the use of excessive or deadly force or for the deaths of persons in custody. Police generally operated with impunity in the illegal apprehension, detention, and sometimes execution of criminal suspects. The reports of state or federal panels of inquiry investigating suspicious deaths were not published.

During the year the Joint Task Force (JTF), a unit formed in 2003 to restore stability in the Niger Delta and composed of elements of the military, police, and security services, conducted raids on militant groups and criminal suspects in the Niger Delta, resulting in numerous deaths and injuries to both alleged criminals and civilians alike. Credible reports also indicated that other military personnel and paramilitary mobile police carried out summary executions, assaults, and other abuses across the Niger Delta (see section 1.g.).

On June 29, the mother of Salisu Ahmadu found his body in a Jos mortuary after he was missing for five days. He was arrested earlier for driving a motorcycle during a government crackdown on commercial motorcycle ("okada") drivers. His mother stated that she saw injuries and two gunshot wounds on his body.

In April 2009 police in Mowe, Ogun State, indiscriminately fired into the home of Patrick Akama, who had called police because his home was being burgled. Akama died instantly.

In April a Maiduguri high court found that in July 2009 police detained and subsequently killed Baba Fagu, the father-in-law of then Boko Haram leader Muhammad Yusuf. The court ordered the federal and state governments to pay 100 million naira (\$667,000) as compensation to Fagu's family. The police stated that they would appeal the judgment. Fagu's death followed violent clashes between police and militant members of Boko Haram in four northern states in July 2009 which resulted in more than 700 deaths; quick burials in mass graves precluded an accurate accounting of the dead. Numerous injuries resulted, and the Red Cross estimated that about 4,000 persons were displaced. The clashes were preceded by Boko Haram attacks on police stations and government buildings in Bauchi and Maiduguri. There were reports of summary executions, use of excessive force, and widespread arrests of suspected extremists, many based on little or no evidence. Corpses of militants were found at police stations, and there were numerous reports that police pulled persons from cars and summarily shot them. According to AI, in July 2009 security forces killed an estimated 200 alleged members of the sect trying to flee Maiduguri. Religious leaders condemned the philosophy and actions of Boko Haram but criticized the Government's use of excessive force and its failure to address the social problems, including poverty and lack of education, underlying the violence.

Also in July 2009 soldiers arrested Yusuf. Credible media reports claimed that police executed Yusuf, whose bruised body subsequently was seen at state police headquarters with multiple bullet wounds. While police initially admitted killing Yusuf in custody, they subsequently claimed he was killed while trying to escape. Buji Fai, a former state government official suspected of funding Boko Haram, also reportedly was killed in custody along with Fagu. In August 2009 then president Yar'Adua pledged to conduct a full investigation of the Boko Haram uprising, including the circumstances surrounding Yusuf's death, but authorities had not publicly released the results of the investigation by year's end.

In October 2009 a soldier shot Friday Ojieh at close range in his office in Ikeja, Lagos. The soldier claimed self-defense, but the victim's aunt questioned this explanation as the young man had some money in one hand and his cell phone in the other.

In December 2009 AI published *Killing at Will: Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria*, which documented 39 cases of security force killings and enforced disappearances based on interviews and research conducted between July 2007 and July 2009. According to the report national police conducted hundreds of extrajudicial executions, other unlawful killings, and enforced disappearances each year. Victims were not picked at random and, in a country where "bribes guarantee safety," those who could not afford to pay were at risk of being shot or tortured to death. The majority of cases were not investigated, and perpetrators were not punished. When investigations did occur, they did not comply with international standards, and officers suspected of extrajudicial executions generally were sent away on training or transferred to other states instead of being prosecuted. Police often claimed that the victim was an armed robber killed in an exchange of gunfire or a suspect killed while trying to escape police custody. AI charged that Police Force Order 237, which permits officers to shoot suspects and detainees who attempt to escape or avoid arrest, "lets the police get away with murder."

In December 2009 in the northern state of Bauchi, a clash between members of the Islamic Kala-Kato sect, town residents, and security forces resulted in some 40 deaths, including children, in fighting that lasted about three hours. The conflict started when residents complained to police about aggressive open-air preaching against other Muslim groups. Police arrested 20 persons, including children, for allegedly fighting and burning homes. Police claimed that they killed sect leader Mallam Badamasi and recovered "bomb-making tools and explosives."

No action was taken against the four police officers from Ede, Osun State, who in 2008 beat to death Misitura Ademola following her arrest for theft; or the police officers in Oshogbo, Osun State, who in 2008 beat to death Dauda Najeem while attempting to extract a confession of theft.

Authorities charged a police officer with responsibility in the 2008 death of bank manager Modebayo Awosika, who was shot in the head for failing to stop after his car collided with a police vehicle in Lagos. In November during the trial of a police officer implicated in the case, police admitted that a police officer had killed the victim; a second officer remained at large at year's end.

A panel established by Plateau State to investigate the killings of about 700 civilians by security forces in the Jos North local government area in 2008 attributed the violence to provocation by religious leaders as well as violence by political parties and local government officials; however, the panel's full report was not released by year's end, and no one was charged or punished for any of the killings. A second panel called by the president to investigate the incident began public hearings and submitted its recommendations in September; however, by year's end none of the recommendations was implemented.

According to the 2009 AI report, police officers from the Ketu antirobbery squad arrested persons attending a 2008 community party and released only those who could pay a fine. One of the detainees unable to pay died after being beaten with an iron bar and rifle butt.

No investigation was conducted into the 2008 police killings of more than 50 persons in Ogaminana, Kogi State; police reportedly attacked the village in reprisal for the killing of a colleague by local youths.

In April 2009, after receiving a second petition from the Osun State Civil Societies Coalition against Corruption and Rights Violations, a team of police investigators visited Oshogbo to examine three extrajudicial killings that occurred in 2008 and seven that occurred in prior years. The investigators did not release a report on their findings by year's end, despite multiple petitions.

Police use of excessive force, including live ammunition, to disperse demonstrators resulted in numerous killings during the year.

For example, on April 3, Lagos police reportedly fired live ammunition into a crowd of young protesters and killed two persons. The crowd was protesting the police force's killing of another man two days earlier who was suspected of spray-painting graffiti. A Lagos police spokesperson later dismissed the accusation, and stated that no one was killed.

In October AI released the report *Port Harcourt Demolitions: Excessive Use of Force Against Demonstrators*, which documented an attack in October 2009 in which police and the JTF fired into a crowd of citizens peacefully protesting the proposed demolition of their homes. The report stated that at least 12 persons were shot and seriously injured, and witnesses claimed that they saw six bodies in a police vehicle.

There were no developments in several 2008 police killings of demonstrators, including the shooting deaths of three youths in Okeagbe, Ondo State, and the killings of four demonstrators in Kaduna State.

Violence and lethal force at unauthorized police and military roadblocks and checkpoints continued during the year, despite numerous announcements by the police inspector general that independent police roadblocks would be eliminated and offenders punished. According to AI's December 2009 report, police often stopped commercial drivers and asked them to pay a bribe, the amount of which was determined by the weight of the vehicle. Police shot drivers who refused to pay and also shot them when a disagreement occurred over the price, or when it was unclear whether a bribe had been paid.

Bystanders sometimes were shot by mistake. In April 2009, three-year-old Kausarat Saliu was killed by a police bullet in Ketu that had first penetrated her father's hand after their car had been stopped. When the father ran towards the police officer that shot his daughter, the police proceeded to assault her parents and detained both of them. A federal high court judge ordered the Lagos State Police and the officer to pay the family a fine of 32 million naira (\$200,000) in damages, stating that no one is above the law. By year's end the family reported they had received no payment.

In May 2009 at a checkpoint in Emene, Enugu State, police shot Aneke Okorie, who later died on his way to the hospital. An eyewitness told AI that a police officer shot Okorie in the stomach and then hung his gun around Okorie's neck to suggest that the officer had been attacked by an armed robber. When radio reports in Enugu State claimed that police had killed an armed robber, the eyewitness and community leaders wrote a petition to the inspector general of police stating that Okorie was innocent and asking that the perpetrators be brought to justice. Authorities arrested the three police officers involved in the shooting and dismissed one, who awaited trial at year's end.

In September 2009 in Festac, Lagos State, five police officers stopped the car of Lagos State University student Michael Egwu at a checkpoint and demanded documentation, which Egwu produced. According to eyewitnesses, the officers subsequently demanded money, and an argument ensued, during which one of the police officers shot and killed Egwu. News reports claimed an officer was in custody over the incident, but there was no confirmation by year's end.

In November 2009 a 70-year-old man on the way home from the wedding of his son died after being shot in the head at a police checkpoint in Osogbo, Osun State. The man had refused to pay a 20-naira (13-cent) bribe. According to news reports, fellow officers removed the intoxicated police officer from the scene.

In December 2009 at Ado-Awaye, Oyo State, two police officers stopped 15 youths traveling by motorcycle, fired into the air to frighten them, and then shot and killed one of the youths. One officer was arrested; the other officer fled the scene, was dismissed in absentia, and remained at large at year's end.

In December 2009 the district coroner absolved police of any involvement in the 2008 killing in Lagos of journalist Abayomi Ogundeji and ruled that armed thieves were responsible. Police also claimed that Ogundeji had been killed by thieves, but a coroner's inquest in July implicated police in the killing after eyewitness accounts described the victim's unwillingness to get out of his car at a police roadblock. One of the eyewitnesses was shot and killed a few days before the inquest. The district coroner, however, accused police of failing to conduct a proper investigation.

Despite police pledges fully to disclose details of the prosecution into the 2008 shooting death of Gabriel Mordi at a checkpoint in Agbor, Delta State, police officers responsible for the killing were quietly redeployed to other locations in 2009.

Police and military personnel used excessive and sometimes deadly force to quell civil unrest, property vandalism, and interethnic violence.

For example, in October 2009, in Biu, Borno State, two of 100 motorcycle riders protesting the enforcement of a requirement to wear crash helmets were killed dur-

ing a confrontation with police; several riders also were injured. A mob retaliated by burning Biu government offices.

Ethno-religious violence, often triggered by disputes between farmers and herders, resulted in deaths and displacement during the year. The most deadly examples of such conflict were in Jos and the farmlands surrounding the city. In two major attacks in January and March, and later smaller scale attacks, up to 1,000 persons, mostly women, children and the elderly, were killed (see section 6).

Organized extremist groups such as Boko Haram attacked police and security forces during the year. Targeted attacks on police officials, their families, and police stations contributed to the increase in overall levels of violence. For example, on September 7, Boko Haram members attacked the Bauchi State prison to free other members of their group, resulting in the deaths of seven guards and police officers. Reports indicated that 732 prisoners escaped, most of whom authorities recaptured within four days (see section 6).

There were credible reports that traditional leaders were involved in killings.

For example, in January 2009, the Ovie of Ozoro, a traditional ruler, and several of his supporters attacked Eugene Ebiri, an individual with mental disabilities who lived in Isoko North Local Government Area, Delta State. Ebiri's offense reportedly involved sitting on the Ovie's throne. He subsequently died, according to the Network on Police Reform in Nigeria (NOPRIN), a network of 46 civil society organizations dedicated to police reform and accountability. Ebiri's body was taken to a mortuary, where it was located later by the family after police authorities refused to provide any information on the death. No action was taken against the perpetrators by year's end.

There continued to be reports of street mobs killing suspected criminals during the year. There were no arrests reported from these mob actions and no developments in cases from previous years.

The torturing and killing of children accused of witchcraft resulted in numerous deaths during the year (see section 6).

Killings carried out by organized gangs of armed robbers remained common during the year. In many regions groups of street youths, known as "area boys," operated illegal highway checkpoints at which they demanded money from motorists.

*b. Disappearance.*—Continuing abductions of civilians by militant and criminal groups occurred in connection with the conflict in the Niger Delta, particularly in Port Harcourt (see section 1.g.). On August 9, in an effort to address the increasing number of kidnappings, the Nigeria Police Force (NPF) reported that 10 police officers were dismissed or were being prosecuted for collaborating with kidnappers.

There was also a significant increase in abductions, some of which may have been politically motivated, in other parts of the country. Earlier kidnappings involved international oil workers and perceived high-value targets. During the year, however, kidnappings occurred against the middle class as a means of generating quick cash, and against political opponents for political gain. Criminals also kidnapped senior religious leaders.

While kidnappings for ransom commonly occurred in the south, they became more widespread as a money-making "venture."

Infants were abducted; an eight-month-old boy was kidnapped in Port Harcourt in February.

On April 8, more than 50 doctors from the main teaching hospital in Benin City went on strike after unidentified gunmen abducted the chief doctor on his way home from work. The protesting doctors demanded that authorities find the captors and increase security. In May doctors again went on strike to draw attention to the five doctors who had been kidnapped in Benin City within one week, claiming "doctors had become the prime targets of kidnapping."

On May 12, captors abducted and later killed Philomena Udoma, the 69-year-old mother of Akwa Ibom gubernatorial candidate Iniekong Udonwa. They abandoned her body at the side of a rural road. Her candidate son was captured from the family home at the same time, wounded by a gunshot, and then left behind because of the severity of his wounds.

On June 7, individuals kidnapped Halima Adamu, the wife of the speaker of the Jigawa State House of Assembly. Police arrived at the scene, chased, injured, and arrested four men after a gun battle. Two of the suspects died on the way to the hospital, while the remaining two died the next day.

On June 22, kidnappers abducted a British citizen in central Abuja and took him to a hideout while demanding a ransom. Police rescued the victim and arrested the suspected kidnappers. Reportedly no ransom was paid.

The June 27 kidnapping of Ndubuisi Nwobu, Anambra State chairman of the Action Congress Party, ended two days later with his safe release. Both the family and police denied payment of a ransom.

During an Akwa Ibom raid on July 8, police killed three kidnapers in their effort to free kidnap victim Akpan Timothy Akpan, the brother of Senator Effiong Bob. Police confiscated four AK-47 rifles and 145 rounds of ammunition.

On August 27, four armed gunmen abducted Tafawa Balewa, a prominent supporter of President Jonathan, from his office in Abuja and took him to a forest area, where a gun battle with police ensued. Police arrested two suspects. A reported ransom of 100 million naira (\$660,000), later reduced to 7 million naira (\$46,000) was demanded; it was not known if the ransom was paid.

On August 30, police rescued the ten-year-old son of Adamu Dahiru, a candidate for the House of Representatives, kidnapped by gunmen from his home in Bauchi. Neither the family nor police would confirm payment of a ransom.

On September 1, police posted public photos and information about two men, one of who was a former police officer, wanted for the kidnap and murder of Lotachukwu Ezeudu, a student from Enugu. Authorities offered a financial reward for information leading to the arrest of either suspect.

No arrests or prosecutions occurred in the following 2009 cases: the March abduction of seven-year-old Etiosa Aghobahi; the April abduction of five Canadian citizens on a Rotary exchange program; the August abduction of two Kogi State council chairmen; the September abduction of Waje Yayok, secretary to the Government of Kaduna State; the October abduction of the 78-year-old father of Chukwuma Soludo, a former central bank governor and the PDP candidate for governor of Anambra State.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution and law prohibit such practices and provide for punishment of such abuses, torture is not criminalized, and security services personnel, including police, military, and State Security Service (SSS) officers, regularly tortured, beat, and abused demonstrators, criminal suspects, detainees, and convicted prisoners. Police mistreated civilians to extort money. The law prohibits the introduction into trials of evidence and confessions obtained through torture; however, police often used torture to extract confessions.

JTF use of excessive force during raids on militant groups and criminal suspects in the Niger Delta resulted in deaths, injuries, mass rape, displacement of civilians, and other abuses in the Delta region (see section 1.g.).

In May, the Open Society Justice Initiative, together with the NOPRIN, released a 138-page report, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, with first-hand reports from investigations at over 400 police stations. Describing summary executions of suspects, torture as a means of investigation, rape, and extortion, the report claimed that the Government had acknowledged these problems but had actually allowed the abuse to continue with “a stunning degree of impunity.”

In August police called 17-year-old radio mechanic Osadebamwen Okonigene to a police station in Edo State to repair electronics. When he arrived, police allegedly detained and tortured him for three days over an allegation of theft. His father went to the police station to find his son and discovered that he had been beaten and burned; the boy was taken to the local hospital, where he recovered. Police stated that any officer found culpable would be disciplined or prosecuted; a court case was pending at year’s end.

On September 6, an unnamed government official and his police escort encountered a Lagos traffic jam. The police officers jumped into the traffic, armed with long rifles and wielding long horsewhips. They proceeded to hit the stopped cars with their rifle butts and then, angered because the traffic did not move, they began to flog drivers with the whips to clear the road. Security forces’ use of bullwhips was declared illegal by the Lagos State governor in 2009; in this case, the federal police ignored state law. Authorities took no action against police.

Police commonly used a technique called “parading” of arrestees. Parading involved literally walking the persons through public spaces, subjecting the arrestee to public ridicule and abuse. Taunts, food, and objects are often thrown. Police defended this practice with the argument that public humiliation helps deter crime. In November a 15 year-old girl was paraded through the Lekki area of Lagos along with her 50-year-old father who was accused of raping his daughter and fathering her child. The father, the girl, and the baby were paraded by the deputy Lagos police public relations officer.

Citing the nongovernmental organization (NGO) Social Justice and Advocacy Initiative, the December 2009 AI report noted that “intimidation, torture, and extortion of detainees” remained “entrenched practices” in the criminal justice system. The National Human Rights Commission (NHRC) claimed that “most cases in court are prosecuted by the police based on confessions obtained under circumstances of torture.”

In August 2009 the Economic and Financial Crimes Commission (EFCC) arrested and detained without charge student leader Abduliahi Ebiloma. In July 2009 Ebiloma had asked to meet with the education minister to discuss the teachers' strike and the removal of the minister; the minister had rejected his request. During his 78-day detention Ebiloma was beaten, shocked with electrodes attached to his torso, and not allowed to confer with an attorney. In October 2009 he was released without explanation, and his case was in the court system at year's end. The case was repeatedly continued at the request of prosecutors during the year. Ebiloma was suspended from his university and was denied access to transcripts while awaiting a court decision.

Police and military use of excessive force in quelling the July 2009 uprising in Boko Haram communities resulted in numerous deaths and injuries (see section 1.a.).

Police occasionally beat children. For example, in July 2009, police in Iket, Akwa Ibom, entered a shelter that held 150 children accused of witchcraft. When the children tried to prevent the arrest of staff members, police beat children, rendering two girls unconscious (see section 6.).

Security forces beat journalists during the year (see section 2.a.).

According to credible reports, during the year security forces committed rape and other forms of sexual violence against women and girls with impunity. Police officials acknowledged that rape was a problem. In May, the Open Society Justice Initiative reported that rape was "a routine but unspoken aspect of policing" and was "one of the fringe benefits attached to night patrol." In January, a police officer allegedly impregnated 24-year-old homicide suspect Halima Abdu while she was detained in Maiduguri. Authorities arrested the officer, but no public information was available as to his whereabouts.

AI reported in December 2009 that police frequently raped women in detention but that victims did not report the abuse because of the social stigma attached to rape and the fact that police officers had committed these crimes. In 2008 the NHRC reported a sharp increase in reported cases of rape and sexual abuse, particularly of minors and women in prisons and detention centers.

Varying Sharia penal codes existed in 12 northern states, and Sharia courts delivered "hadd" sentences. For example, such sentences included caning for minor offenses such as petty theft, public consumption of alcohol, and prostitution; it was unknown if any of the sentences were carried out during the year. Numerous Sharia cases from previous years awaited appeal or implementation of sentence, including pending amputation sentences in Jigawa, Bauchi, Niger, Kano, and Zamfara States. To date, the only amputation sentence carried out involved a victim who refused to appeal his 1999 conviction.

Statutory law mandates that state governors either impose a stay or implement amputation or death sentences. Authorities often did not carry out sentences under Sharia due to the lengthy process for appeals. Because no relevant case had been appealed to the federal level, federal appellate courts had yet to decide whether such punishments violated the constitution. Courts consistently overturned stoning and amputation sentences on procedural or evidentiary grounds, but the sentences had not been challenged on constitutional grounds. Caning is also a punishment under common law in the Northern Region penal code and was not challenged in the courts as a violation of statutory law. In some cases, convicted persons paid fines or went to jail instead of being caned. Sharia courts usually carried out caning immediately, while the Sharia criminal procedure code allows defendants 30 days to appeal sentences involving mutilation or death. Appeals often took months or years to decide.

Ethnic or communal clashes resulted in deaths and injuries during the year (see section 1.a.).

*Prison and Detention Center Conditions.*—Prison and detention conditions remained harsh and life-threatening. Most of the country's 227 prisons were 70 to 80 years old and lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in dangerous and unsanitary conditions. The federal government operated all the country's prisons, but maintained few pretrial jail facilities. Of the total prison population, 73 percent was not yet convicted. There were no regular outside monitors of the prisons, no statistics on mistreatment of prisoners, or on the availability of food or medical care.

Prison illnesses included HIV/AIDS, malaria, and tuberculosis. Inmates with these illnesses lived with the regular population. Although authorities made an effort to isolate persons with communicable diseases, the facilities often lacked the space to do so. No reliable statistics exist on prison deaths.

The office of the controller general of prisons released statistics at the end of August showing that the country's prisons held 48,000 inmates. Individual prisons held

up to 275 percent of their designed capacity. For example, the prison in Ikoyi had a capacity of 800 prisoners but held more than 1,900. Makurdi prison in Benue State, with a capacity of 240 prisoners, housed 456, while Port Harcourt prisons, with a capacity of 804 prisoners, held 2,924. Of the inmate population, about 2 percent were female and 1 percent juveniles.

Authorities sometimes held female and male prisoners together, especially in rural areas, and prisons had no facilities to care for pregnant women or nursing mothers. Infants born to inmate mothers usually remained with the mother until weaned.

Although the law precludes the imprisonment of children, in 2008 more than 300 children lived in the country's prisons, many of whom were born there. Despite a government order to identify and release such children and their mothers, authorities had not solved the problem by year's end.

Political prisoners were held with the general prison population, not separately.

Prison authorities allowed visitors within a scheduled timeframe. Few visitors came due to lack of family resources and travel distance. Prisoners could attend religious observances, although prisons often did not have equal facilities for both Muslim and Christian worship. In some prisons outside clergy constructed chapels or mosques.

Prisoner complaints centered on access to court proceedings; in many cases, there was no transportation to take an inmate to a court hearing. No effective system existed for monitoring prisons for inhumane conditions. All prisons suffered from poor facilities, overcrowding, and lack of resources.

The Government provided access to prisons for monitoring conditions, although few outside visits occurred. The local Red Cross made attempts to visit prisons, but could not maintain a regular visit schedule. Authorities inconsistently maintained records for individual prisoners in paper form, but without making them widely accessible.

The Government did not make widespread improvements to prisons during the year, but individual prison administrations made attempts to obtain donations to benefit the inmates. For example, benefactors contributed equipment and materials for workshops. In September the first lady of Kano State paid the fines of 15 female inmates, allowing their release from overcrowded prisons.

Those awaiting trial suffered more than those already convicted due to lack of funding for their care. Inadequate medical treatment caused many prisoners to die of treatable illnesses. In October 2009 Jerry Manwe, the chair of the House Committee on the Interior, made a surprise visit to the Kaduna State Prison, after which he called conditions "deplorable" and criticized the lack of facilities. The deputy controller of prisons responded that the prisons lacked safe water, electricity, and basic infrastructure.

The country also operated 86 satellite prisons, 11 farm centers, eight zonal offices, and six directorates, all of which held prisoners and detainees. Conditions in these facilities were no better than in the other prisons.

Disease was pervasive in cramped, poorly ventilated prison facilities, and chronic shortages of medical supplies were reported. Only those with money or whose relatives brought food regularly had sufficient food; prison officials routinely stole money provided for food for prisoners. Poor inmates often relied on handouts from others to survive. Prison officials, police, and other security forces often denied inmates food and medical treatment as punishment or to extort money.

During a visit to Niger State's Minna Old Prison on September 2, an observer noted that women were housed in a separate cell building and slept on bunk beds under mosquito nets which the wife of the governor provided. By contrast, the 252 male prisoners slept on bare floors with no bedding in a prison built in 1937 to house 149 prisoners.

Inmates died from harsh conditions and denial of proper medical treatment during the year; however, an accurate count was not available from prison authorities.

Prisoners with mental disabilities were incarcerated with the general prison population, and no mental health care was provided.

The country does not provide services of an ombudsman who can serve on behalf of prisoners and detainees to consider such matters as creating alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail or recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, police and security forces continued to employ these practices. The JTF arbitrarily arrested hundreds of persons during the year during

sweeps for militants, and security forces made arbitrary arrests in Plateau State following ethnic violence.

The NOPRIN is a group of 46 civil society organizations dedicated to promoting police accountability. The organization partnered with the NHRC and the National Committee on Torture to hold a series of six public tribunals in each geopolitical zone of the country to provide an opportunity for victims and their families to put cases before a panel of judges in order to seek redress and public exposure of police abuses. The public hearings were well attended, received press coverage, and brought justice to the small number of complainants heard.

*Role of the Police and Security Apparatus.*—The NPF reports to the inspector general of police, who is appointed by the president and responsible for law-enforcement operations. An assistant inspector general commanded each NPF state unit. The constitution prohibits state and local governments from organizing their own police forces; however, state governors may direct federal police for local emergency actions. The SSS is responsible for internal security and reports to the president through the national security advisor. Due to the police's inability to control societal violence, the Government continued to rely on the army in some cases.

The NPF committed human rights abuses and generally operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects. The SSS also committed human rights abuses, particularly in restricting freedom of speech and press.

Police officers themselves were not immune to harassment. For example, Emcy Munlip, a female police corporal serving in Rivers State, refused the advances of her commander, David Obike Eme. He directed that she would no longer have government housing privileges and immediately evicted her with her belongings.

According to AI's December 2009 report, only a fraction of the NPF annual budget reached state and local police stations, and the lack of funding contributed to many police failures. Officers worked without basic equipment and sometimes made crime victims pay for the gasoline and stationery necessary to conduct an investigation. Such lack of resources contributed to corruption (see section 4).

*Arrest Procedures and Treatment While in Detention.*—Police and security forces have authority to arrest without warrant, if they have a reasonable suspicion that a person committed an offense, a power they often abused. By law police may detain persons for 48 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest, to transport the accused to a police station for processing within a reasonable time, and to allow suspects to engage counsel and post bail. However, police routinely detained suspects without informing them of the charges or allowing access to counsel and family members. Provision of bail was often arbitrary or subject to extrajudicial influence. Conditions of bail set by judges often were too stringent to be met. In many areas with no functioning bail system, suspects remained incarcerated indefinitely in investigative detention within the prison system. Detainees were kept incommunicado for long periods. Numerous detainees alleged that police demanded bribes to take them to court to have their cases heard. If family members wanted to attend a trial, police often demanded additional payment.

Persons who happened to be in the vicinity of a crime reportedly were held for interrogation for periods ranging from a few hours to several months. After their release, authorities frequently asked them to return for further questioning.

Security forces arbitrarily arrested numerous persons during the year. During the January to March fighting between ethnic groups in Plateau State, and, after the Jos bombings in December, authorities arrested hundreds of persons in Jos, many based on little or no evidence of involvement (see sections 1.a. and 6). Some bystanders gained release within a few days; however, an unknown number of persons were held without bail or charges at year's end.

Security forces detained journalists and demonstrators during the year (see sections 2.a. and 2.b.).

The EFCC reportedly singled out political opponents of the governing party in its arrest and detention of state, local, and federal government officials on corruption charges during the year (see sections 1.c. and 4).

The rape of women in detention by police was a problem (see section 1.c.).

On September 3, a combined team of police and soldiers in Ebonyi State arrested 14 suspected members of the Movement for the Actualization of the Sovereign State of Biafra for treason for holding a peaceful meeting and wearing shirts or caps with a Biafran insignia. At year's end there was no information on the status of these cases.

Lengthy pretrial detention remained a serious problem, and human rights groups reported that detainees awaiting trial constituted 73 percent of the prison popu-

lation, with some awaiting trial more than 10 years. At year's end 35,000 pretrial detainees resided in the country's prisons, out of a total of 48,000 prisoners. Serious trial backlogs, endemic corruption, and undue political influence continued to hamper the judicial system. Multiple adjournments in some cases resulted in serious delays. Many detainees were denied trials because police lacked vehicles to transport them to court on their trial dates. In Makurdi prison, where 78 percent of prisoners were awaiting trial, pretrial detainees held a protest in November 2009 because so many were unable to make their court dates due to lack of transportation.

The NHRC reported that some detainees were held because authorities had lost their case files. Some state governments released inmates already detained for longer than the potential maximum sentence they would have received if they had been convicted. Although detainees had the right to submit complaints to the NHRC, the commission had no power to respond. Detainees could try to complain to the courts but often found this approach impossible. Even detainees with legal representation often waited years to gain access to the courts.

In April the attorney general created a prisons decongestion committee in response to controversies over the large number of inmates in prisons and the overstretched facilities. The committee did not release the results of its work by year's end.

On June 15, the National Economic Council announced a decision directing state governors to sign death warrants immediately for the 870 death-row inmates in the country's prisons for the purpose of reducing overcrowding. Such action led to an immediate and vocal reaction by NGOs, the African Union's human rights body, and the Economic Community of West African States (ECOWAS), which implored the Government not to implement such a plan. Public opinion cited the lack of fair trials and citizens' rights of appeal. Authorities did not carry out the executions by year's end.

During the week of August 23, the chief judge of Niger State made spot visits to state prisons as part of an annual effort to reduce overcrowded conditions. He released inmates on several grounds, such as humanitarian and medical reasons, the weak legal cases of pretrial inmates, remorse, and good behavior while in prison.

In August 2009 Lagos State Governor Babatunde Fashola granted amnesty to three death-row inmates; the sentences of 29 death-row inmates were commuted to life in prison, and eight others were commuted to various jail terms. The governor stated he wanted to give the prisoners "hope of changing their behaviors and being rehabilitated into society."

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judicial branch remained susceptible to pressure from the executive, the legislative branch, and business. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Judges frequently failed to appear for trials, often because they were pursuing other sources of income and sometimes because of threats against them. In addition, court officials often lacked the proper equipment, training, and motivation to perform their duties, with lack of motivation primarily due to inadequate compensation. During the year supreme court judges called for a more independent judiciary.

The Ministry of Justice implemented strict requirements for the education and the length of service for judges at the federal and state level; however, there were no requirements or monitoring bodies for judges at the local level, which resulted in corruption and miscarriages of justice in those courts.

Military courts tried only military personnel.

Sharia and customary (traditional) courts of appeal function in 12 states and the Federal Capital Territory (FCT). The constitution also provides that the Government establish a federal Sharia court of appeal and a final court of appeal, but these courts were not established by year's end.

The constitution provides that states may establish courts based on common-law or customary-law systems. The law also provides that states may elect to use the Sharia penal code in the courts. While Sharia courts have been in operation throughout the north for centuries, in 2000 Sharia courts were empowered to also hear criminal cases and pass sentences based on the Sharia penal code, which outlines "hadd" offenses and punishments, including caning, amputation, and death by stoning.

The nature of a case usually determined which court had jurisdiction. The return to the Sharia courts stemmed at least in part from inefficiency, expense, and corruption in the regular court system.

Defendants have the right to challenge the constitutionality of Sharia criminal statutes through the common-law appellate courts; however, no challenges with ade-

quate legal standing reached the common-law appellate system. The highest appellate court for Sharia remained the Supreme Court, staffed by common-law judges not required to have any formal training in the Sharia penal code.

*Trial Procedures.*—The constitution provides for public trials in the regular court system and individual rights in criminal and civil cases. The law does not provide for juries. A defendant is presumed innocent and has the right to be present, confront witnesses, present evidence and witnesses, be represented by legal counsel, and have access to government-held evidence; however, these rights were not always respected. Although an accused person is entitled to counsel of his choice, there is no law preventing a trial from going forward without counsel, except for certain offenses for which the penalty is death. The Legal Aid Act provides for the appointment of counsel in such cases and stipulates that a trial should not go forward without it. Defendants have the right of appeal.

In both common-law and customary courts (including Sharia), indigent persons without representation were more likely to have their sentences carried out immediately, although all convicted persons have the right to appeal. The federal government instituted a panel of legal scholars in 2003 to draft a uniform Sharia penal code to replace divergent Sharia codes adopted by various northern states; however, the panel did not produce a report, and states continued to apply their individual codes.

There were no legal provisions in common law barring women or other groups from testifying in civil or criminal proceedings or giving their testimony less weight, but the testimony of women and non-Muslims usually was accorded less weight in Sharia courts. Some “qadis” (Sharia court judges) allowed separate evidentiary requirements to prove adultery or fornication for male and female defendants. For women pregnancy was deemed permissible evidence in some Sharia courts. By contrast men could only be convicted by confessing to the crime or by eyewitness testimony. Sharia courts provided women with certain benefits, including increased access to divorce, child custody, and alimony, as to get an audience in a Sharia court was significantly easier, faster, and cheaper than in a common law court.

There was a lack of due process in numerous trials. For example, in April 2009, the army convicted 27 enlisted soldiers who had served as UN peacekeepers of mutiny and sentenced them to life in prison; the soldiers had protested after officers had stolen their stipend during deployment. After the case garnered international media attention, prison guards took reprisals against the jailed soldiers. The army reduced the sentences of the 27 to seven years. Meanwhile, the army found the officers guilty of theft and reassigned or forced them to retire; however, none received a prison sentence. In September the defense attorney appealed to the new army chief of staff to review these sentences.

At the end of the year, a Lagos court released Major Hamza al-Mustapha, who had been held without trial since 1998. Authorities arrested him on treason charges for alleged assassination attempts on former president Olusegun Obasanjo and other prominent prodemocracy activists. Al-Mustapha was an army intelligence officer on the staff of the former military leader Sonny Abacha. Saying the prosecution had not made its case, the judge discharged al-Mustapha and acquitted him.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, persons arrested in previous years for alleged treason remained in detention at year’s end.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary in civil matters. However, the executive, the legislature, and business interests exerted undue influence and pressure in civil cases. Official corruption and lack of will to implement court decisions also interfered with due process. The law provides for access to the courts for redress of grievances, and courts can award damages and issue injunctions to stop or prevent a human rights violation. However, the decisions of civil courts were difficult to enforce.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, but authorities infringed on these rights during the year, and police raided homes without warrants.

The Federal Capital Development Authority (FCDA) continued to demolish homes and businesses illegally in the FCT that allegedly did not comply with the city’s master plan. The FCT government typically claimed that demolished homes, businesses, or churches lacked proper permits, even if owners were able to produce paperwork indicating the structures were built legally. There was no transparent legal process for deciding which homes would be demolished, and persons whose homes were destroyed had no recourse to appeal and received no compensation. According to the Swiss-based Center on Housing Rights and Evictions, authorities demolished more than 800,000 homes in the Abuja area since 2003. There was widespread opin-

ion that the demolitions were primarily motivated by corruption and discrimination based on socioeconomic class, since mostly lower- and middle-class persons lost their homes and property, which, once vacated, were sold to wealthy persons with connections to government officials.

A long effort by the Rivers State governor to demolish slums on 21 Port Harcourt waterfront sites, which would displace 200,000 residents, came to the courts in July when the members of the Ijaw ethnic group filed a suit to stop the demolition and resettlement. The Government sought to clear out “poorly built structures” and to replace them with schools and commercial and residential buildings in an urban renewal program paid by investors. Residents protested evictions without adequate planning made for replacement housing for the poor. State payments were made to landlords, but this money did not reach the residents in order to facilitate their relocation. On August 29, First Lady Patience Jonathan, a native of Rivers State, visited the area and joined the debate in a public disagreement with the governor about the demolitions (see sections 1.a and 2.d.). In October, AI published a report on the demolitions and displacement of residents, and called for an investigation by the federal government of police use of excessive force, and the adoption of new laws addressing the use of lethal force that would bring the country’s laws into agreement with those permitted under international human rights law and standards. On October 24, a lawsuit was filed against the state and federal governments for use of excessive force and loss of property. At year’s end no action on the court case was made public.

The Government also destroyed the homes of suspected opponents. For example, in January 2009 the JTF expanded its operations beyond the Niger Delta to raze 10 villages of the Abala community in Abia State. Residents were injured, and more than 80 homes were destroyed. The JTF, in conjunction with Abia State vigilante services and police forces, accused residents of sheltering armed robbers. No action was taken against the soldiers and vigilantes.

In April 2009 authorities expelled 2,000 Fulani nomads from the Wase Local Government Council in Plateau State after disputes over grazing their cattle on farmlands; in May 2009 another 700 nomads were expelled from Borno State (see section 6).

In July 2009 a Lagos State government special task force demolished hundreds of homes and buildings along the route of the Lagos-Badagry highway to make way for a major road expansion project. Authorities warned that only homeowners able to provide genuine title documents would be compensated and, alleging fraud, denied the claims of many homeowners.

After the July 2009 uprising by Boko Haram, the Government of Niger State forcibly relocated 1,200 members of the Darul Islam sect (see section 2.d.).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—The Niger Delta region is home to a large oil industry which produced about two million barrels of crude oil per day at year’s end. Particularly since 2006, militant groups have used violence, including kidnapping oil company workers, to demand greater control of the region’s resources. Kidnapping for ransom, armed robberies, gang wars, and fighting connected to the theft of crude oil, known as illegal oil bunkering, continued during the year and contributed to the region’s general insecurity and lack of economic vitality. The Government’s amnesty program reduced the level of conflict for much of the year; however, an increase in violence and kidnappings began in October and continued at year’s end.

Criminal gangs, called “cults” in some areas, have copied the methods of more sophisticated militants to amass wealth and power. In a recent trend, kidnappings targeted businessmen, doctors, teachers, religious leaders, foreign residents, and others. Gangs extended their reach beyond the core Niger Delta states, where they originated as politically sponsored thugs to intimidate opponents and to aid election rigging. Kidnappings committed primarily for ransom increased throughout the country, including in the north. In the previous three years power struggles between gangs resulted in extensive property damage and hundreds of deaths, including of civilian bystanders.

In June 2009 the Government announced a general and unconditional amnesty for militants in the Niger Delta, and almost all major militant leaders accepted the offer by the October 2009 deadline. Authorities established a training camp in Obubra, Cross River State, and some of an estimated 20,000 former militants had completed training in nonviolence by year’s end. Many militants expressed interest in vocational training as well. They received stipends during rehabilitation. The amnesty program resulted in a decline in militant violence; however, some observers expressed concern that the militants’ amnesty payments were being used to purchase more arms.

*Killings.*—The JTF was responsible for numerous killings during the year, but no investigations were conducted.

In December the JTF attempted to raid a camp of Niger Delta militant leader John Togo. A human rights group reported that the JTF killed nine civilians in the Ayakoromo community of Delta State during the raid. The observers took video evidence of destroyed homes and villagers with bullet wounds including a body with a head wound. Hundreds of displaced persons fled to Warri. A military spokesman acknowledged the JTF may have killed civilians, but insisted that only militants were targeted.

In February 2009 the JTF reportedly killed 10 persons during an attack on a community in Rivers State.

In June 2009 militants attacked two police officers escorting a Scottish oil services worker from Port Harcourt; one of the officers died from his injuries. No arrests were made.

In August 2009 soldiers shot and killed Clement Nwode in Abakaliki, Ebonyi State, claiming he was a militant involved in the Ezza-Ezillo community clashes in the state.

In October 2009 in the Bundu waterfront neighborhood of Port Harcourt, JTF troops first shot firearms into the air to disperse a crowd demonstrating against a planned demolition, and then shot into the crowd. At least one death occurred, and at least 12 persons were injured (see sections 1. a. and 2.d.).

No developments occurred in the following 2008 JTF killings in the Niger Delta: the March killing of four men near Isaka in the Okrika Local Government Area, Rivers State, which was widely reported as an overreaction after JTF officials were killed by militants; and the July killing of 12 suspected militants in Bayelsa and Rivers States. There also were no developments in the following 2008 deaths that resulted from clashes between the JTF and armed militants: the August deaths of 35 persons in Bayelsa, Delta, and Rivers States; and the September deaths of an estimated 15 to 30 persons in the Elem Tombia and Ogboma communities of Rivers State in a reprisal JTF attack after officers were killed. The JTF never apologized for the deaths.

Militants were responsible for numerous killings. For example, in July 2009 a gang of unidentified gunmen ambushed a convoy of police escorting foreign workers to their offices at a bottling company in the city of Aba, Abia State, and killed five police officers. No arrests were made.

*Abductions.*—Family members did not report most kidnappings, and no reliable statistics existed. In the past, kidnappers targeted foreign nationals, but an increasing number of middle class citizens, including women and children, were abducted. Police reported that most kidnappings involved the complicity of persons close to the victim's family, including relatives.

Government authorities responded to kidnappings in the Niger Delta by deploying the JTF, which reportedly used excessive force and engaged militants and criminals in gun battles.

In some areas tensions remained high between oil-producing communities and oil company employees and contractors. Foreign oil company contractors were kidnapped for ransom, such as the capture of seven foreign workers from an offshore oil rig on November 8. Nineteen workers, both citizen and foreign, were rescued in a military raid November 17.

While kidnappings perpetrated by militant groups were generally for ransom, they sometimes publicized the acts as an expression of grievances about lack of economic development, local control of oil revenues, or prisoner releases. Oil facility guards and JTF soldiers were among those killed in these incidents. During the year criminals continued to kidnap the relatives (usually children or parents) of prominent state politicians for ransom or to force payment for services such as protection details and voter intimidation during elections.

On March 1, South African sound engineer Nick Greyling, two Nigerian sports commentators, a cameraman, and 21 other passengers were taken hostage after their bus was attacked by gunmen near Lagos. Greyling and his associates were released four days later; it was not confirmed if a ransom was paid.

In January 2009 unknown persons abducted Chief Nelson Effiong, the house speaker of Akwa Ibom State; he was released unharmed with no official report of a ransom paid.

Also in January 2009 gunmen hijacked a foreign oil supply vessel, took nine crewmembers hostage, and demanded a ransom of \$25 million. Four days later all crewmembers were released safely with no public report of a ransom being paid.

In separate incidents in February 2009, criminals kidnapped the wife of a former petroleum minister, an electoral commission member of Rivers State, and an AGIP

Oil Nigeria employee. The victims were released safely, with no public report of ransoms being paid.

In June 2009 in Enugu State, gunmen abducted Uchenna Ani, a UN Development Program (UNDP) employee. On June 10, Ani was released after his family reportedly refused to pay a ransom.

*Physical Abuse, Punishment, and Torture.*—In January 2009, following the razing of 10 villages in Abala, Abia State, the Abia State vigilante forces, local security forces hired by the state government, arrested five members of the Abala community and placed them in jails in Umuahia, Aba, and in Owerri, Imo State. Police reportedly beat detainees regularly with the butts of guns and knives. One of the detainees, Ikechukwu Nwagbara, was released after two months, but the location of the remaining four detainees remained unknown at year's end.

In June 2009, during another JTF attack in the same area of Abia State, JTF forces allegedly raped numerous women and girls. Thousands of residents were displaced, property was destroyed, and refugees in camps were left without adequate food and water. No arrests were made in connection with the attack, which triggered extensive media criticism.

*Other Conflict-Related Abuses.*—In May and June 2009 the JTF conducted a military offensive against Tom Polo, an ethnic Ijaw and one of the country's most influential and effective militant leaders. Using helicopter gunships the JTF destroyed Tom Polo's base in Gbaramatu Kingdom, attacked communities suspected of harboring militants, killed and injured numerous persons, and scattered survivors into local creeks. JTF patrol boats closed waterways while searching for militants. Civil society groups and Ijaw leaders reported the destruction of Oporoza, Benikrukru, Okenroekoko, and two other communities. Tens of thousands of persons were either displaced or lost their livelihoods because of the attacks. Critics charged that the attacks reduced security in the area because Tom Polo's followers escaped with their arsenal intact and moved into surrounding communities.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government sometimes restricted these rights in practice. Security forces beat, detained, and harassed journalists, sometimes for reporting on sensitive issues such as the president's health. Journalists practiced self-censorship, and local NGOs claimed that newspaper editors and owners did not report some killings and other human rights abuses, due in part to government intimidation.

A large and vibrant private domestic press frequently criticized the Government. Only one national, government-owned daily newspaper was published. State and local governments owned daily or weekly newspapers. These state-owned publications tended to be poorly produced, had limited circulation, and required large state subsidies. There were 15 privately owned major daily newspapers, six weekly news-magazines, and several sensationalist evening newspapers and tabloid publications.

Government authorities attempted to impede public criticism.

On April 1, a team of more than 50 armed police officers and 100 armed vigilantes from Imo State allegedly broke into the offices of Excelsior Press Limited, destroyed equipment, stole 3.7 million naira (\$24,000), and impounded books and other materials printed for the Alliance for Good Governance of Imo State, a political group.

During the year three journalists were killed.

On April 24, Muslim rioters killed Nathan S. Dabak and Sunday Gyang Bwede, both journalists for *The Light Bearer*, a publication of the Church of Christ in Nigeria, while the two covered sectarian violence in Plateau State. No separate police investigation occurred. Also on April 24, in a separate incident two unknown assailants shot and killed Edo Sule Ugbagwu, a judiciary correspondent with *The Nation* newspaper in a home invasion in which no robbery occurred. Security forces investigated the murder, but it remained unsolved at year's end.

In the January 17 crisis in Jos, Christian journalists lost their equipment, and were harassed and wounded by rioters whom witnesses suspected of being Fulani herdsmen. On March 7, an angry crowd of mourners attending a Christian mass funeral in Jos assaulted state radio reporter Murtala Sani, a Muslim reporter who was assigned to cover the funeral. Police fired into the air to disperse the attackers. Sani was taken to a nearby hospital, treated, and released.

There were no developments in the September 2009 killing of Bayo Ohu, a journalist with *The Guardian*.

There were no developments in the separate killings of journalists Paul Abayomi Ogundeji and Eiphraim Audu in 2008.

Journalists received death threats during the year. In April following the Government's decision to remove Independent National Electoral Commission (INEC) Chairman Maurice Iwu from his position, four journalists covering his removal for different news sources received anonymous death threats.

On July 11, unknown assailants kidnapped four journalists returning to Lagos from a meeting of the Nigerian Union of Journalists in Akwa Ibom State. The journalists, Wahab Oba, Adolphus Okoronkwo, Sylva Okereke, and Sola Oyeyipo, and their driver were held for a week. The kidnappers allegedly demanded a ransom of 250 million naira (\$1.7 million), but released the journalists under pressure from the police. The governor removed the traditional ruler of the nearby local government, Eze Vincent Okezie Uche, from his position and charged him in court for allegedly sponsoring the kidnapping. The governor also suspended three other traditional rulers for their part in the kidnapping plot. The cases remained under investigation at year's end.

Security forces beat journalists.

For example, on January 21, Governor Ikedi Ohakim of Imo State sent a team of armed police to abduct Internet journalist Ikenna Samuelson Iwuoha from his home. They allegedly brought the journalist to the governor's office, where he allegedly was beaten by the governor himself and then detained by police without access to medical care. Iwuoha later was charged with eight counts of libel against the governor. Iwuoha later filed a lawsuit against the governor for his beating and ill treatment while in custody. His case had not come to trial by year's end.

On March 15, the chief security officer for the Nasarawa state governor allegedly beat This Day reporter George Oko and National Life reporter Joseph Erunkeat at a political rally as they attempted to record the event. The journalists received medical treatment, but lost their equipment, including cameras, tape recorders, and cell phones; and unspecified amounts of money.

On June 22, security agents allegedly attacked journalists for covering a brawl that erupted inside the House of Representatives. Two reporters from the Nigerian Compass, Wole Oladimeji and Julius Toba, allegedly were shoved, slapped and detained while trying to prevent guards from taking the camera of a Vanguard photographer who had taken pictures of the fight.

There were no arrests in the June 2009 Delta State case in which police assaulted six journalists, seized their identification cards, and prevented them from covering the demolition of several buildings built on government land without official approval. The inspector general subsequently apologized to the six journalists, and the Ministry of Lands paid to replace a journalist's eyeglasses that were broken during the assault.

No arrests were made in the January 2009 case in which unidentified gunmen broke into the apartment of The Scroll editor Janet Mba. Mba had called police before the gunmen entered the apartment, and they fled when police arrived.

No developments occurred in the 2008 attack on a Channels TV cameraman who attempted to take pictures of a raid on the house of Niger Delta Peoples Volunteer Force leader Asari Dokubo, or the beating by police officers in Lagos of three journalists for attempting to cover an opposition political rally.

Security forces detained journalists and seized newspapers. For example, in March 2009 police in Bayelsa State arrested and detained Akin Orimolade, the Abuja bureau chief of the newspaper National Life, and accused him of publishing a report that defamed Governor Timipre Sylva. Police held Orimolade for one week until Sylva ordered his unconditional release.

No new developments occurred in the March 2009 case in which police detained Olusola Fabiyi, a journalist from the independent newspaper The Punch, alleging that he failed to disclose the source of a story that a PDP governor in a northern state plotted to kill former Lagos governor Ahmed Tinubu. After interrogation, police released Fabiyi on bail.

There were no new developments in the July 2009 case in which police arrested and detained for six hours editor Shaka Momodu of a Lagos-based private newspaper for publishing allegedly defamatory information about a prominent businessman.

No charges have been filed in the 2008 case in which SSS agents raided the offices of the newspaper Leadership, seized several computers, and arrested and detained Leadership publisher Sam Nda Isaiah; the agents questioned him for two days about a story reporting that President Yar'Adua was critically ill.

There were no developments in the following 2008 cases of arbitrary arrest: the arrest without charge of online editor Jonathan Elendu after he published several reports speculating about the president's health; the arrest of Murtala Muhammad for speculating on the president's health in his online magazine Web site; and the arrests of Daily editor Abdulrazaque Bello Barkindo, Weekend editor Laura

Olugbemi, and Weekend's former associate editor Simon Imoboswam for "defamation of character" after the three published articles about the president's health.

There were 19 independently owned, private radio stations. The Government owned one radio network with 34 stations.

In December 2009 Kano station Freedom Radio was removed from state government advertising and communication linkages after it broadcast reports critical of the state government. After a nine-month suspension the linkages were restored with Freedom Radio's management asserting the station would remain independent and continue to place the public interest first.

In May 2009 the National Broadcasting Commission (NBC) ordered the closure of a private radio station in Akure, Ondo State, for failure to pay a fine imposed for broadcasting an interview with opposition political leaders; the NBC claimed the interview was "capable of inciting people to violence on the eve of an April 24 local election." Later that month, the Ondo State High Court ordered the NBC to allow the station to resume broadcasting, stating that it had not followed due process.

In September 2009 security agents in Owerri, Imo State, detained and beat Wale Oluokun, a Radio Nigeria correspondent, after he reported on youths with visual disabilities who had marched on state offices to protest government neglect. Oluokun stated he was taken to the chief security officer, who took off his shoe and beat the reporter, followed by more beatings by the security officer's subordinates. Oluokun, who was hospitalized, claimed this was the second beating he had received from security personnel after a radio report.

There were 14 independently owned private television stations and two privately owned direct-to-home satellite network stations. The Government owned one television network, the Nigerian Television Authority, with 96 affiliate stations. The law requires local television stations to limit programming from other countries to 40 percent and restricts foreign content of satellite broadcasting to 20 percent. In 2008 NBC chief executive Yomi Bolarinwa ordered that all local prime-time news broadcasts contain no more than 20 percent foreign content and that international news be broadcast live. The 2004 NBC's prohibition of live broadcasts of foreign news and programs remained in force but did not apply to international cable or satellite services.

Because newspapers and television were relatively expensive and literacy levels low, radio remained the most important medium of mass communication and information. The Government controlled much of the electronic media through the NBC, which was responsible for monitoring and deregulating broadcast media.

The Government suspended television and radio stations. For example, in May 2009 the NBC suspended for two weeks the broadcast license of radio station Adaba 88.5 FM, based in Akure, because it had not paid a fine for political reporting that constituted "incitement to violence."

Hamsu Lamido, a filmmaker who was arbitrarily arrested in 2008 for releasing a film before submitting it to the state censorship board, was released on bail after three months. In September, Lamido filed a lawsuit against the censorship board for defamation of character, which he won with an out of court settlement.

Libel is a civil offense and requires defendants to prove the truth of opinion or value judgment contained in news reports or commentaries, or pay penalties. This limited the circumstances in which media defendants could rely on the defense of "fair comment on matters of public interest" and restricted the right to freedom of expression. Penalties for defamation of character included two years' imprisonment and possible fines.

No actions were taken during the year to promote or improve freedom of the press.

*Internet Freedom.*—There were few government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups generally engaged in peaceful expression of views via the Internet, including by e-mail, with few exceptions. According to the International Telecommunications Union, approximately 29 percent of the population had access to the Internet.

Several Internet news sites critical of the Government experienced server problems, which site owners attributed to government interference. Such disruptions usually lasted a few hours.

In March, a Kaduna Sharia court ordered the immediate suspension of all debates on blogs and on the online social networking sites Facebook and Twitter regarding the 1999 amputation of Bello Buba Jangebe's right hand as punishment for stealing a cow. The court issued a restraining order to prevent an NGO, the Civil Rights Congress, from discussing the decade-old case in its online forums. The presiding judge stated the defendants, as Muslims, had no right to question any judgment

given by a Sharia court. The judge's order represented the first of its kind restricting Internet freedom.

There were no reports of government attempts to collect or disclose personally identifiable information in connection with a person's peaceful expression of political, religious, or ideological opinion or belief.

*Academic Freedom and Cultural Events.*—The federal government continued to restrict academic freedom by controlling elementary and secondary curriculums, including mandating religious instruction.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, police effectively precluded antigovernment rallies by prohibiting any rally they deemed could result in violence, which. In areas that experienced societal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

The Government occasionally banned gatherings whose political, ethnic, or religious nature might lead to unrest. Open-air religious services held away from places of worship remained prohibited in many states fearing that they might heighten interreligious tensions. Kaduna State continued to enforce a ban on processions, rallies, demonstrations, and meetings in public places on a case-by-case basis.

In February a weeklong annual musical festival in Kano, sponsored by the Alliance Francaise and with the patronage of the Emir, was canceled with only a few hours' notice because of a conflict with the Kano Censorship Board: one of the many local performers had apparently not registered in time for performance approval.

The March 10 rally by the Save Nigeria Group (SNG) in Abuja was peaceful, as the crowd clamored for more information from government during the illness and absence of then-president Yar'Adua. The group was nonviolent and nonconfrontational as police were brought in, antiriot vans were stationed in the central area, and fortified construction trucks barricaded the entrance of the National Assembly's gate.

On March 16, hundreds of youths chanting antigovernment slogans, joined by notable celebrities, forced their way through the gate of the National Assembly. They had sent letters prior to the march requesting meetings with lawmakers but a police spokesperson stated no request was received. Armed police prevented the group from entering the National Assembly buildings.

On July 19, security forces turned a mass rally of youths away from the governor's office in Kano, preventing the youths from presenting a petition about the upcoming elections. Earlier, after initially being stopped by police, a leadership group was granted access to see the Emir of Kano, who spoke with the youths about their desire to express their ideas peacefully to leaders.

On July 29, a peaceful rally by the SNG was disrupted in Yenagoa, Bayelsa State, when youths reportedly attacked the demonstrators with cutlasses and bottles. The SNG had earlier received a government permit for the rally; two police officers were injured along with two activists. Police arrested three of the attackers.

Security forces used excessive force to disperse demonstrators during the year, resulting in numerous deaths and injuries (see section 1.a.).

*Freedom of Association.*—The constitution and law provide for the right to associate freely with other persons in political parties, trade unions, or special interest organizations, and the Government generally respected this right in practice. The constitution and law allow the free formation of political parties. There were 62 parties registered with INEC at year's end.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at <http://www.state.gov/g/drl/irf/rpt>

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, security officials restricted freedom of movement at times by enforcing curfews in areas experiencing ethno-religious violence and routinely set up roadblocks and checkpoints to extort money from travelers. Security officials continued to use excessive force at checkpoints and roadblocks, which were sometimes maintained every few miles.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers through the National Commission for Refugees (NCFR), its federal commissioner, and the National Emergency Management Agency (NEMA). The Eligibility Committee, on which the UNHCR has observer status, governed the granting of refugee status, asylum, and resettlement, and it also reviewed refugee resettlement.

During the year state officials imposed dusk-to-dawn curfews in response to sectarian conflicts. For example, curfews were imposed from January through May in Jos, Plateau State, following ethno-religious violence.

There are no legal grounds for forced exile, and there were no examples of formal legal proceedings to exile a citizen. However, there were citizens who self-exiled for political reasons, such as Nuhu Ribadu, former Chairman of the EFCC, who left the country in January 2009 after threats on his life. Ribadu voluntarily returned in June.

#### Internally Displaced Persons (IDPS)

The NCFR estimated a total of one million IDPs at one time or another during the year. There was no national registration of internally displaced citizens, and no accurate count. There were many causes of displacement, including boundary and border disputes, sectarian and communal violence, localized political violence, forced evictions, conflict in the Niger Delta and Plateau State, the Government's use of force in efforts to eliminate extremist sects, such as Boko Haram, altered cattle grazing patterns due to climate change, and major flooding in the northwest. Government response to IDPs was uneven depending on the state affected. Federal NCFR budgets did not cover the need; state and federal emergency management resources were inadequate. A national IDP policy was under development but had not been signed by year's end.

In January and March violent ethnic clashes near Jos caused up to 30,000 persons to flee their homes for relative sanctuary in other villages or nearby Bauchi State. NEMA worked with civil society and religious groups in an attempt to provide food and shelter to IDPs. Bauchi State offered homes to families fleeing the violence, scattered them around the state to integrate them into small communities, and gave many families land to build a house and to have a plot to farm. At year's end most of these IDPs either moved back to their villages, or took up residence with family members; 5,000 IDPs permanently relocated to Bauchi State.

Ethnic disputes over land and political power along the borders of Benue, Taraba, and Ebonyi States resulted in the displacement of hundreds of persons. The governors of Benue, Taraba, and Ebonyi States attempted to quell the violence through meetings with local leaders, curfews, and development programs. The federal government deployed mobile police units to affected areas to prevent further violence.

The FCDA's continued demolition of illegal homes, businesses, and churches in the FCT left hundreds of persons homeless. A 2008 report by the Center on Housing Rights and Evictions and the Social and Economic Rights Action Center estimated that 800,000 persons were evicted in the FCT between 2003 and 2007.

During the year authorities in Port Harcourt forcibly displaced residents on the waterfront in an area slated for redevelopment, an action that left thousands of residents homeless (see Section 1.f.). In October AI released the report *Just Move Them: Forced Evictions in Port Harcourt, Nigeria* documenting the forced eviction of tens of thousands of persons along the waterfront communities of Port Harcourt beginning in 2009.

On February 21, state government authorities dislodged the Islamic sect, Islahudeen, from Niger State. Bulldozers razed the sect's central mosque and other buildings, dispersing the residents. A government spokesman declared the sect was preparing to cause violence.

In August 2009, following the July uprising by Boko Haram militants across four northern states, Niger State police forces raided the compound of Darul Islam, an Islamic sect. According to state officials, civil society groups, and press reports, police arrested approximately 4,000 persons, detained them for questioning, and searched the compound for weapons. Although no weapons were immediately found, the Government forcibly relocated sect members, including children, in an effort to disperse the sect's members before any violence could develop in their isolated village. The Government provided no notice and minimal compensation to residents, evicted approximately 1,250 members from their village, and sent them by bus to their states of origin. Another 300 members were deported to Niger after police determined that they lacked proper citizenship documentation. Family members were moved into vacant schools and government buildings in their states of origin, where the lack of sanitation, food, and sleeping facilities resulted in outbreaks of cholera among sequestered groups. Police claimed that the arrests and evictions were intended to preempt the violence that had occurred the previous month in Boko Haram communities and that police had received reports that the community was forcibly holding women and children. However, human rights observers stated that the Government violated the constitutional and human rights of thousands of innocent persons.

Since early 2009 as many as 1,000 fishermen and their families from the Bakassi Peninsula sought refuge near Calabar due to reported violence by Cameroonian po-

lice forces. This area was part of the lands which the International Court of Justice awarded to Cameroon pursuant to the 2007 Greentree agreement to settle the disputed land border between the two nations. Rivers State emergency services was trying to provide permanent housing and services for displaced citizens at year's end.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the UNHCR, the country had 8,747 refugees at year's end, most of whom were from Liberia, Cameroon, and the Democratic Republic of Congo. At year's end 5,316 Liberian refugees remained near Lagos, waiting either for repatriation, resettlement, or local integration. In addition, the UNHCR provided for 1,120 refugees from the Democratic Republic of Congo, Sudan, Chad, and other West African nations. There were 1,994 Nigerians who had been living on the Cameroonian side of the new border and were now settled in Bakassi, Cross River State, who are not considered refugees. Also 1,815 persons had requested asylum, 66 percent of them from the Democratic Republic of Congo.

The NCFR established a camp in a remote area of Taraba State for refugees from Cameroon. An office operated by the NCFR in Maiduguri, Borno State, assisted refugees from Chad, but there was no official camp in that location.

Refugee status for persons displaced by the civil war in Sierra Leone terminated in January 2009, when the camps were closed. Subsequently, 553 persons were repatriated to Sierra Leone. Another 240 refugees who requested residency were provided two-year residency permits and help in obtaining passports from Sierra Leone; the refugees also received job training and small grants from the UNHCR to begin their lives in the country.

As a result of repatriation and local integration, overcrowding in refugee camps decreased during the year. The camp at Oru, near Lagos, was decommissioned, although refugees continued to occupy buildings without permission. The UNHCR provided food, education, and job skills training, and refugees were able to move and work freely in the country. However, refugees, like citizens, had poor access to the police and courts and few opportunities for employment.

The Government also provided temporary protection to a few hundred individuals who may not qualify as refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully through periodic, free, and fair elections held on the basis of universal suffrage. The Government, however, abridged citizens' right to change their government during the 2007 national and state elections, which were conducted amid widespread fraud and numerous incidents of violence.

*Elections and Political Participation.*—In May 2007 Umaru Musa Yar'Adua was sworn in as president with his vice president, Goodluck Jonathan. The inauguration marked the first transition from one elected civilian presidential administration to another since the country gained independence from the United Kingdom in 1960. Forty-three parties participated in the national assembly elections, and 50 parties were listed on the ballot in the presidential election. However, the presidential, national assembly, gubernatorial, and state-level elections were marred by poor organization, widespread fraud, and numerous incidents of violence. Although the INEC claimed a 60-percent voter turnout nationwide, most independent observers estimated it was less than 20 percent. All major international and domestic independent observer groups questioned the fairness of the elections and cited problems throughout the country, including ballot stuffing, intentional miscounting at both polling stations and the ballot-compilation stages, underage voting, multiple voting, intimidation, violence, and at least 300 deaths, including some politically motivated killings. Although all parties participated in the misconduct, observers cited violations by the ruling PDP significantly more often than those by other parties.

In 2007 as part of his pledge to address the shortcomings in the electoral system, President Yar'Adua established the Electoral Reforms Committee, consisting of governmental and NGO representatives, which was charged with bringing the electoral process to international standards. The committee submitted its report to President Yar'Adua in December 2008, citing lack of independence for the INEC and state electoral committees as key deficiencies in the 2007 electoral process. The adminis-

tration rejected crucial reforms outright, and forwarded seven of its own reforms to the National Assembly, where they languished without action.

Following the elections, election tribunals received more than 1,250 legal motions filed across the country to overturn the results of individual elections for all levels of government posts, including the presidency. Both major rival candidates of Yar'Adua—Atiku Abubakar and Muhammadu Buhari—petitioned for the annulment of the presidential race. The tribunal upheld the election, but Abubakar and Buhari appealed to the Supreme Court. In December 2008 in a 4-to-3 decision, the Supreme Court rejected the appeals, thereby upholding the election of President Yar'Adua. During the year courts continued to hear and adjudicate cases related to the 2007 elections.

Political violence occurred at federal, state, and local levels, as well as within political parties. The Government made little effort to investigate or bring charges in any cases of political violence.

Following the removal of Adamawa State house speaker and his deputy on April 5, about 200 PDP loyalist youths invaded the assembly complex, overpowered security guards, and threatened to burn the building. The youths protested the forced resignations of the speaker and his deputy, and the appointment of the new speaker, who had just defected from the minority party, Action Congress.

Violence marred local elections during the year. In the April local area elections in the FCT, 41 persons were arrested because of violence at the polls. Charges included brandishing machetes and knives in an attempt to disrupt ballot counting; blocking the major road in the area, stranding several hundred cars; and smashing windshields and injuring motorists in protest over election results.

On May 6, four unidentified gunmen opened fire as they raided the campaign office of a senate aspirant in Oyo State, injuring two aides, who were hospitalized. No arrests were made by year's end.

On May 7, a violent clash between two factions of the PDP in Osun State killed two persons, and injured 25 others. The violence occurred during a political gathering when about 40 thugs allegedly stormed the meeting. No arrests were made public.

On July 21, hoodlums armed with guns, machetes, and sticks attacked Oyo State elected officials at a village ceremony to inaugurate a new water well system. The attackers reportedly arrived at the scene in two 18-seat buses, and injured aides of the senate leader and a house committee chairman. Eight victims were hospitalized, and six vehicles were vandalized in the attack.

On August 7, hours after his official declaration to run for a house seat from Edo State, candidate Oghogho Omorogbe was confronted by a group of five gunmen, and shot. No arrests were made by year's end.

On August 9, clashes between the All Nigeria People Party (ANPP) and PDP supporters in Zamfara State killed at least three persons, injured many others, and left at least six vehicles burned. The violence occurred when supporters of the ruling PDP governor sought to prevent the rival ANPP senate candidate from holding a rally.

On August 28, a PDP rally in Maiduguri, Borno State, to introduce the support group for reelection of the president was marred by at least one death when armed youths invaded the meeting with knives and cutlasses. Police and security services broke up the fight with tear gas. No arrests were reported.

Also on August 28, unknown gunmen killed a personal assistant to the Bauchi State governor, the latest of five attacks on politicians in Bauchi State.

On June 24, the Senate confirmed the appointment of Professor Attahiru Jega as chairman of the INEC, to replace Maurice Iwu. Iwu had supervised the seriously flawed 2007 elections. Chairman Jega proceeded to nominate some new electoral commissioners, and promised to conduct credible elections in 2011. At year's end Jega continued to enjoy popular support for the changes he was making in preparation for the 2011 elections.

During the year the INEC registered new political parties, bringing the total number of parties to 62. Establishing a political party was relatively easy if the required fees were paid. Parties generally formed around individuals rather than on ideological grounds. Allegations continued that the PDP established new parties to confuse voters with large numbers of candidates.

Membership in the majority party, PDP, conferred advantages, primarily in employment. Police arbitrarily arrested opposition leaders.

In June 2009 the Bauchi State house of assembly impeached Deputy Governor Muhammad Gaba Gadi, who refused to move to the PDP along with the governor in April, for alleged financial wrongdoing. Legislators reportedly were offered 10 million naira (\$67,000) each for their signatures.

In August citizens in the diaspora petitioned the INEC to be able to vote in the 2011 national elections, but the required technology and organization were not available. According to the petitioners, of the 20 million citizens living abroad, approximately five million would be eligible to vote.

Men continued to account for more than 90 percent of the country's appointed and elected officials in more than 500 ministerial and national assembly positions. There were only eight female ministers out of 42, eight female senators out of 109, and 25 female representatives out of 360. Although there were no female governors, four of 36 states had female deputy governors. President Jonathan appointed a woman as the minister of petroleum resources, a key cabinet position.

To promote national unity and loyalty, the law mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country. The current administration demonstrates this diversity. President Jonathan is an Ijaw from the southern state of Bayelsa, the vice president is a Hausa Fulani from the northern state of Kaduna, the senate president is an Idoma from the central state of Benue, and the speaker of the house is Yoruba from the southwest state of Ogun. The Government attempted to balance other key positions among the different regions and ethnic groups. The majority PDP party also engaged in "zoning," a practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. This practice has become an issue as Jonathan's transition from vice president to president after the death of former President Yar'Adua, a northerner, upset the prior rotational scheme. With more than 250 ethnic groups, it was difficult to ensure representation of every group in the Government.

#### *Section 4. Official Corruption and Government Transparency*

Corruption was massive, widespread, and pervasive at all levels of government and throughout the security forces. The constitution provides immunity from civil and criminal prosecution to the president, vice president, governors, and deputy governors while in office.

There was a widespread perception that judges were easily bribed and that litigants could not rely on the courts to render impartial judgments. Citizens encountered long delays and frequent requests from judicial officials for bribes to expedite cases or obtain a favorable ruling.

Police corruption remained rampant, particularly at highway checkpoints. Police routinely stopped drivers who had committed no traffic infractions, refusing to allow them to continue until they paid bribes. The police inspector general attempted to strengthen the Police Monitoring Unit, which was charged with visiting police stations to search officers for signs of accepting bribes; however, the unit was ineffective and made no arrests by year's end. Citizens could report incidents of police corruption to the NHRC; however, it had no power to act on such complaints, and no other mechanism was available to investigate security force abuse.

On August 17, Human Rights Watch (HRW) released *Everyone's in on the Game*, a report on corruption and human rights abuses by the police. HRW compiled information from 145 interviews, and documented pervasive police extortion with impunity committed by police officers throughout the country. Police demanded bribes, threatened arrest and physical harm, and enforced a system of "returns" in which officers were compelled to pay up the chain of command a share of the money they extorted from the public. This system undermined the rule of law and created a large disincentive for superior officers to hold their subordinates accountable for extortion and other abuses.

Public officials, including president, vice president, governors, deputy governors, and legislators (at both federal and state levels) were subject to financial disclosure laws, including the requirement to declare their assets before assuming and after leaving office. Violators are subject to prosecution, but cases rarely came to conclusion.

The EFCC's anticorruption efforts were largely ineffectual. The 2008 replacement of its internationally respected chairman, Nuhu Ribadu, and transfer of many of its senior personnel raised questions about the Government's commitment to fighting corruption.

Despite the arrest of several high-ranking officials by the EFCC, allegations continued that agency investigations targeted individuals who were out of favor with the Government, while those who were in favor continued their activities with impunity. Since 2007 the EFCC has indicted 13 former state governors on corruption charges; only one of those governors, Lucky Igbinedion of Edo State, was convicted, in this case through a plea bargain. The courts have granted bail to all the others: Ayo Fayose, Ekiti; Joshua Dariye, Plateau; Saminu Turaki, Jigawa; Orji Uzor Kalu,

Abia; James Ibori, Delta; Jolly Nyame, Taraba; Chimaroke Nnamani, Enugu; Michael Batmang, Plateau; Boni Haruna, Adamawa; Rasheed Ladoja, Oyo; Abdullahi Adamu, Nasarawa; and Attahiru Bafarawa, Sokoto.

Former Delta State governor James Ibori was acquitted on 170 counts of corruption charges. He continued to face court charges in the United Kingdom for money laundering and other financial crimes stemming from embezzlement during his government tenure. At year's end Ibori faced extradition from Dubai to London. The EFCC cooperated with London police on the case, and EFCC Chairperson Farida Waziri told media sources she was under no pressure to drop the case.

According to the results of an investigation by a foreign legislative body released in February, Atiku Abubakar, a former vice president and former presidential candidate, and his wife, Jennifer Douglas Abubakar, removed more than \$40 million in suspect funds from the country between 2000 and 2008. The sum reportedly included at least \$1.7 million in bribe payments from a foreign corporation. By the end of the year the EFCC took no action on this published report.

On February 21, the EFCC authorities arrested former Nasarawa State governor Abdullahi Adamu on allegations of the fraudulent awarding of contracts and stealing of public funds estimated at 15 billion naira (\$100 million) during his eight years in office which ended in 2007. The court immediately granted Adamu bail. Supporters questioned the timing of the charges; the announcement came just days after Adamu declared his intention to run for governor again. At year's end Adamu's motion to dismiss the case was pending in the Federal High Court in Lafia, Nasarawa.

On May 3, authorities arraigned former PDP National Chairman Vincent Ogbulafor on 17 criminal counts of corruption and money laundering in the amount of 2.3 billion naira (\$15 million). Ogbulafor filed a petition to dismiss the charges. The case remained active at year's end.

On August 1, the Nigeria Extractive Industries Transparency Initiative (NEITI) board fired NEITI's executive director over allegations including double payment of salaries, expense account payments for trips not taken, and payments of honoraria and other allowances not authorized for government staff. The report came from an employee who was later dismissed. No charges were filed.

In November the EFCC detained ten expatriate and Nigerian employees of Halliburton and its subsidiaries in connection with the \$180-million bribery scandal that occurred between 1995 and 2005. The EFCC released the employees but held their passports and required that they remain in the country, pending subsequent legal action.

In August, Attorney General Mohammed Adoke announced that the Government could not authenticate the Pius Okigbo Panel report on former military president and general Ibrahim Babangida which charged that Babangida mismanaged 12.4 billion naira (\$82 million) during his administration. The civil society group Socio-Economic Rights and Accountability Project accused the attorney general of a cover-up by refusing to accept its copy of the report, which the organization forwarded to Adoke in May after he was unable to locate the original.

In June 2009 the newly appointed Central Bank Governor Lamido Sanusi fired the managing directors of eight banks with large portfolios of nonperforming loans.

In August 2009 the central bank governor replaced the heads of four banks after the banks failed corporate governance audits. In October 2009 Sanusi replaced the heads of four additional banks for the same reasons. Legal proceedings broadened by year's end to include a total of 29 bank executives. Among the bank executives facing charges, one faced a 25-count criminal charge for fraud of more than 160 billion naira (\$1 billion), while another faced a 22-count criminal charge of the fraud of 350 billion naira (\$2.3 billion).

In October 2009 the courts convicted former Nigerian Ports Authority (NPA) board chairman Bode George and five other commissioners of abuse of public office in the improper awarding of contracts. George was sentenced to 30 months in prison without the option of paying a fine.

In December 2009 the EFCC arrested former Sokoto State governor Attahiru Bafarawa, who was attending an opposition meeting to plan a new "mega" opposition party. Bafarawa was charged with embezzlement of public funds in 2007, which he denied. Observers charged that the arrest was an attempt to harass opponents of the ruling party. The court granted Bafarawa bail, and his case is pending.

The corruption trial of former Ekiti State governor Ayodele Fayose in March was moved at his request to the Ekiti courts, rather than Lagos, where the EFCC originally brought charges. In 2006 he was accused of laundering 1.4 billion naira (\$9 million) while in office. The case continued at year's end.

Trials also remained pending in the 2008 corruption cases against former aviation ministers Femi Fani-Kayode and Babalola Borishade for the alleged embezzlement

of 19.5 billion naira (\$130 million), former Adamawa State governor Boni Haruna for misappropriating 93 million naira (\$620,000), and the former chairman of the NPA board of directors and five other NPA members for illegally awarding contracts worth 84 billion naira (\$558 million).

No laws provide for access to government information, and in practice the Government provided limited access. In contrast, the Rivers State government for the first time published information on its 2010 state budget allocations and expenditures.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were sometimes cooperative and responsive to their views.

The NHRC, which the Government tasked with monitoring and protecting human rights, maintained zonal affiliates in the country's six political regions. Since its inception, the NHRC's operations have been limited by insufficient funding. The commission also lacked an independent budget and judicial authority, and could only make nonbinding recommendations to the Government. The commission published periodic reports detailing specific human rights abuses, including torture and poor prison conditions. The Government removed two prior effective and outspoken NHRC executive secretaries without public justification. The current leader, a former official of the justice ministry, was outspoken and publicly advocated for human rights and an independent budget. The president is empowered by law to remove the NHRC executive secretary if the public is not being well served.

During the year the Government arbitrarily arrested NGO members.

For example, in May two members of the Civil Liberties Organization (CLO) were attacked by air force police in Lagos after they tried to investigate the case of Ebere Ihiedo, whom air force officers beat almost to death at a base in Ikeja, Lagos, for a minor traffic offense. Senior officials made no attempt to investigate the incident by year's end. CLO members attempted to press charges at the hospital where they received treatment after the attack, but the doctor refused to issue them a medical certificate due to fear of retaliation from air force officers.

On November 9, a group of EFCC officers and mobile police visited the Child Rights and Rehabilitation Network (CRARN) shelter to arrest Sam Itauma, the director of the CRARN, at the request of the state governor. When reached by telephone, Itauma was asked to appear at EFCC offices to answer charges of fraud. In the director's absence, police attempted to arrest other personnel as children and other staff obstructed the arrests. Four children were beaten and required medical attention.

In May 2009 members of the Eagle Squad, a special police force sponsored by the Government of Osun State, arrested 12 leaders of the Osun State Civil Societies Coalition Against Corruption and Rights Violations; the arrests occurred immediately after revocation of bail for the 12, who were arrested in 2008 for protesting an election tribunal decision.

The Government cooperated with international nongovernmental organizations and permitted visits by UN representatives or other organizations during the year. The Government did not interfere with international human rights organizations which visited the country to research human rights violations, police abuses, and ethnic conflicts. HRW, AI, and various UN agencies published reports.

Civil society groups requested both the UN Special Representative for the Prevention of Genocide and the International Criminal Court to visit Jos and launch investigations into the ethnic violence and government's lack of response. No visits had occurred by year's end.

On August 17, HRW released *Everyone's in on the Game*, a compilation of 145 interviews on corruption and human rights abuses by the police force between 2008 and 2010 (see section 4).

The Open Society Justice Initiative and the NOPRIN published a 129-page report, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force* (see sections 1.a and 4).

In December 2009 AI published *Killing at Will: Extrajudicial Executions and Other Unlawful Killings by the Police in Nigeria*, which documented 39 cases of security force killings and enforced disappearances and was based on interviews and research conducted between July 2007 and July 2009 (see section 1.a.).

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion; however, the Government did

not enforce the law effectively. The constitution prohibits discrimination based on the circumstances of a person's birth. However, the constitution does not explicitly prohibit discrimination based on disability.

*Women.*—The law criminalizes rape and provides penalties of 10 years' to life imprisonment, as well as fines of 200,000 naira (\$1,330) for those convicted of rape, but societal pressure and the stigma associated with being a rape victim reduced both the percentage of rapes reported and the penalties imposed for conviction. The law recognizes spousal rape as a separate offense; however, spousal rape was difficult to prove in court, and no such prosecutions were reported during the year. Rape continued to be epidemic in universities. In 2006 AI issued a report criticizing the judicial system for a conviction rate of only 10 percent of the total number of rape prosecutions.

In May the Open Society Justice Initiative released a report on corruption within the country's police force that highlighted the problem of rape of arrested prostitutes by police. The report described police officers raping women who could not pay as little as 1,000 naira (\$6) for their release. Police allegedly raped women who came to report crimes at police stations. The report also claimed that officers, both male and female, sodomized women with bottles and metal pipes.

In August, HRW released a report detailing widespread police abuse of power, including acts, or threats, of rape or sexual assault, as a means to extort bribes from female detainees or women traveling between road checkpoints.

Female students of Delta State University, Asaba, in November complained of frequent rape incidents in their dormitories. The school authorities claimed the charges were untrue. A reporter documented several rapes where there were no arrests and school authorities blamed the victims insisting they were "not careful enough."

In October 2009 the Government implemented its Niger Delta amnesty program to rehabilitate former militants. In November 2009 a group was relocated adjacent to the University of Port Harcourt, where shortly afterward the former militants raped dozens of female students. There were no arrests reported, but the federal and Rivers State governments relocated the former militants to an unknown location. No action against perpetrators was taken during the year.

According to the 2008 Nigeria Demographic and Health Survey (NDHS), three percent of married women between the ages of 15 and 49 years experienced spousal rape.

The constitution provides for equality and freedom from discrimination; however, no laws criminalize gender-based violence, and some federal laws condone such violence. For example, the penal code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, speech, facial disfigurement, or life-threatening injuries. Penalties for the sexual assault of a man exceed the penalties for the same offense against a woman.

Domestic violence was widespread and often considered socially acceptable. In a survey released in November 2009, 28 percent of women reported experiencing violence after age 15, the majority of which was inflicted by a husband or partner. Police did not intervene in domestic disputes. In rural areas courts and police were reluctant to intervene to protect women who formally accused their husbands of abuse if the level of alleged abuse did not exceed customary norms in the areas. According to the 2008 NDHS, 43 percent of women and 30 percent of men between the ages of 15 and 49 agreed that a husband was justified in hitting or beating his wife for at least one of five specified reasons, including burning food and arguing.

Project Alert on Violence Against Women, a local NGO, continued various outreach efforts to combat domestic violence, including training programs to sensitize police to domestic violence, support groups and programs for male abusers, and assistance to faith-based organizations in counseling victims of domestic abuse. Project Alert also operated a shelter, Sophia's Place, for victims of domestic violence, which offered services such as counseling, legal aid, and acquisition of skills. The Women's Rights Advancement and Protection Alternative also served as a leading voice in the campaign against violence against women and continuously advocated passage of legislation to protect women's rights.

On June 10, the Government deposed the traditional ruler of Akure Kingdom in Ondo State after he attacked one of his wives in the street in full view of witnesses. Police stated that they would press assault charges against the perpetrator, and the actions were widely criticized in Ondo State and Abuja. In a countermeasure, the accused filed an injunction naming police and the courts and asking the court to drop the case. The courts had not begun to hear the case by year's end.

Sexual harassment remained a common problem. No statutes prohibit sexual harassment, but authorities may prosecute violent forms under assault statutes. The practice of demanding sexual favors in exchange for employment or university

grades was common. Women suffered harassment for social and religious reasons in some regions. *Purdah*, the cultural practice of secluding women and pubescent girls from unrelated men, continued in various parts of the north.

Couples and individuals generally had the right to decide freely and responsibly the number, spacing, and timing of children; however, effective information and counseling on reproductive health was not widely available to women and couples. According to the 2008 NDHS, 70 percent of women knew about at least one method of family planning; however, only 15 percent used any kind of birth control, and only 10 percent of women used modern methods. Approximately 50 percent of the population was adolescents, many of whom were sexually active, but few of whom had access to contraceptives. The UN Population Fund reported the maternal mortality rate at 840 deaths for every 100,000 live births in 2008, a high rate partially due to births to adolescents and women at high risk of complications from pregnancy. About 53,000 women and 250,000 newborns die annually from complications of childbirth. About 39 percent of live births were assisted by a trained health professional. Women married young and averaged a fertility rate of 5.7 children; 36 percent of mothers did not receive any prenatal care, and only 38 percent of new mothers received postnatal examinations within two days of delivery. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Women also experienced considerable economic discrimination. There are no laws barring women from particular fields of employment, but women often experienced discrimination under traditional and religious practices. The country's NGO coalition expressed concern over continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and salary equality. According to credible reports, many businesses operated with a "get pregnant, get fired" policy. Women remained underrepresented in the formal sector but played active and vital roles in the country's informal economy. The number of women employed in the business sector increased every year, but women did not receive equal pay for equal work. According to the UNDP's 2007-08 Human Development Report, women earned only 40 percent of what men earned and often found it difficult to acquire commercial credit or obtain tax deductions or rebates as heads of households. Unmarried women, in particular, endured many forms of discrimination.

Some women made considerable progress in both the academic and business worlds, but women overall remained marginalized. No laws barred women from owning land, but some customary land tenure systems allowed only men to own land, and women could gain access to land only through marriage or family. Many customary practices also did not recognize a woman's right to inherit her husband's property, and many widows became destitute when their in-laws took virtually all the deceased husband's property.

In some parts of the country, widows experienced unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. "Confinement," which occurred predominantly in the northeast, was the most common rite of deprivation to which widows were subjected. Confined widows were under social restrictions for as long as one year and usually were expected to shave their heads and dress in black as part of a culturally mandated mourning period. In other areas a widow was considered a part of her husband's property to be "inherited" by his family.

Polygyny is legal and continued to be practiced widely among many ethnic and religious groups.

Women in the 12 northern states were affected to varying degrees by Sharia law. In Zamfara State, local governments enforced laws requiring the separation of Muslim men and women in transportation and health care. The Kano State prohibition on commercial motorcycle taxis taking women as passengers remained in place; however, it was not strictly enforced.

The testimony of women was given less weight than that of men in many criminal courts.

*Children.*—Citizenship of a child is derived from the parents. The Government does not require birth registration, and the majority of births were unregistered; however, this did not result in denial of education, health care, or other public services.

Public schools remained substandard, and limited facilities precluded access to education for many children. The law calls for the Government—when practical—to provide free, compulsory, and universal primary education to age 12. However, compulsory primary education rarely was provided, and there were numerous mandatory school fees. Most educational funding came from the federal government, with state governments required to pay a share; however, not all state governments

released their funding share. It was estimated that up to 10 million children were outside the conventional school system. As a result of the Government's failure to pay them for months at a time, primary, secondary, and university teachers were frequently on strike. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. When economic hardship restricted families' ability to send children to school, many girls were redirected into activities such as domestic work, trading, and street vending. Many families favored boys over girls in deciding which children to enroll in elementary and secondary schools. According to UNICEF, for every 10 girls in school, there were more than 22 boys. For young persons between the ages of 17 and 25 years, 25 percent had fewer than two years of education.

Child abuse was common throughout the country. The Government criticized child abuse and neglect but did not undertake significant measures to stop traditional practices harmful to children, such as sales of young girls into marriage. According to credible reports, poor families sold their daughters into marriage to supplement their incomes. Families sometimes forced young girls into marriage as early as puberty, regardless of age, to prevent "indecent" associated with premarital sex or for other cultural and religious reasons. Human rights groups reported sexual assaults and rapes of young girls, especially in the north.

On March 17, Zamfara Senator Sani Ahmed Yerima married a 14-year-old Egyptian girl at the central mosque in Abuja, in violation of the 2003 Child Rights Act adopted by the FCT. He maintained that he was not subject to civil laws, only Sharia law. The case was brought to the attorney general for possible prosecution, but no decision was made by year's end.

On August 22, Abubakar Rabo Abdulkareem, the director of Kano's State Censorship Board, allegedly engaged in sexual activity with a minor. Police encountered him with the minor in his car and chased him at high speeds until he hit a motorcyclist, who was injured. Charges had not been filed by year's end.

The 2008 NDHS reported that 30 percent of women in the country had been subjected to FGM. While practiced in all parts of the country, FGM was most prevalent in the southern region among the Yoruba and Igbo. Infibulation, the most severe form of FGM, was infrequently practiced in northern states but was common in the south. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivered her first child; however, most women were subjected to FGM before their first birthday.

The law criminalizes the removal of any part of a sexual organ from a woman or girl, except for medical reasons approved by a doctor. According to the provisions of the law, an offender is any woman who offers herself for FGM; any person who coerces, entices, or induces any woman to undergo FGM; or any person who, for other than for medical reasons, performs an operation removing part of a woman's or a girl's sexual organs. The law provides for a fine of 50,000 naira (\$330), one year's imprisonment, or both, for a first offense and doubled penalties for a second conviction.

The federal government publicly opposed FGM but took no legal action to curb the practice. Twelve states banned FGM. However, once a state legislature criminalized FGM, NGOs found that they had to convince the local government authorities that state laws were applicable in their districts. The Ministry of Health, women's groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM; however, underfunding and logistical obstacles limited their contact with health care workers.

FGM often resulted in obstetrical fistula (a tearing of the vaginal area as a result of prolonged, obstructed labor without timely medical intervention). Most fistulas resulted in the death of the baby and chronic incontinence in the woman. The social consequences of fistula included physical and emotional isolation, abandonment or divorce, ridicule and shame, infertility, lack of economic support, and the risk of violence and abuse. The absence of treatment greatly reduced prospects for work and family life, and women affected often were left to rely on charity.

There is no statutory rape law. Child prostitution is prohibited, with penalties of up to seven years' imprisonment for the adult involved. The minimum age of consensual sex is 18. The Child Rights Act, which provides penalties for pornography, was not implemented in all states.

Children accused of witchcraft were kidnapped, tortured, and killed. In September media reported that the public outcry and effort by the Government, particularly in Akwa Ibom State, had caused a drop in new cases of children abused for alleged witchcraft. According to two local NGOs, Stepping Stones Nigeria (SSN) and the CRARN, attackers drove nails into children's heads, cut off fingers, tied children to trees, and abandoned them in the jungle. Self-proclaimed "bishop" Sunday Williams publicly claimed to have killed 110 child witches and asserted that Akwa Ibom had

as many as 2.3 million witches and wizards among its population of 3.9 million. In 2008 authorities arrested Williams and charged him with torture and murder; he was arraigned in May 2009, and the case continued at year's end. The Government did not acknowledge the wider problem of accusing children of witchcraft. The state governor, reacting to international press stories of persecution of children accused of witchcraft in Akwa Ibom, issued arrest warrants for the leaders of the SSN and the CRARN for alleged misappropriation of funds and personal gain. The cases were pending at year's end with outstanding warrants for the shelter's directors.

On September 24, in Akwa Ibom State, a father was arrested after he buried his six-year-old twin sons in a shallow grave; the boys were rescued when villagers heard their cries. The father believed the boys were wizards who were responsible for the death of his wife, their mother. The police asserted that they were ready to arrest anyone who committed a crime under the guise of witchcraft, but a clan leader complained that, rather than celebrating the father who discovered witchcraft in his children, the police were called.

In July 2009 police in Eket, Awka Ibom State, raided the CRARN shelter that housed 150 abused and neglected children, some of whom had fled their homes after being accused of witchcraft. Police beat children who tried to stop the arrest of two staff members. The two were released later after the governor's office intervened; two girls, aged 11 and 12 years, were left unconscious.

The Government did not conscript nor recruit persons under the age of 18 into the military forces.

In June, President Jonathan stated that there were 17.5 million vulnerable children, including 7.3 million orphans. According to 2009 UN statistics, 1.2 million children were orphaned due to HIV/AIDS. UNICEF added that 25 percent of children in the country, including orphans, were vulnerable due to inadequate nutrition, poor access to health care, and infrequent school attendance.

On May 24, an illegal orphanage that allegedly sold babies was discovered in Delta State. The proprietor reportedly coerced pregnant, unmarried mothers to sign over their babies. The police discovered six pregnant girls, among them a 14-year-old. The case had not come to court by year's end.

Many children were homeless and lived on the streets. There were no known statistics on their numbers. Major factors causing children to turn to the streets included instability in the home, poverty, hunger, abuse and violence by parents, and displacement caused by clashes in the community.

In December, the Ministerial Committee on Madrasah Education reported 9.5 million children were "almajirai," or children whose parents sent them from their rural homes to urban areas with the expectation that they would study and live with Islamic teachers. Instead of receiving an education, however, many almajirai became child beggars who were forced to work manual jobs or beg for money that was then turned over to their teacher. The religious leaders often did not provide the almajirai with sufficient shelter or food, and many of these children were effectively homeless. In 2008 the Government distributed 90 million naira (\$600,000) to 15 states to introduce Koranic education into the mainstream educational system to rehabilitate, integrate, and educate almajirai. There were no reports that the program resulted in removing almajirai from the streets.

*International Child Parental Abductions.*—The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts during the year. An estimated 700 to 900 members of the Jewish community resided in Abuja, all foreign employees of international firms, and worshipped together in one synagogue.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution does not prohibit explicitly discrimination based on disability; however, it does prohibit discrimination based on the circumstances of one's birth. No laws prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or the provision of other state services. There were no laws requiring physical accessibility, or access to information or communications for persons with disabilities.

Mental health facilities were almost nonexistent. All disabled prisoners were kept with the general inmate population without regard to disability, and no additional services were available.

Persons with disabilities faced social stigma, exploitation, and discrimination, and they were often regarded by their families as a source of shame. Many families viewed children with disabilities who could not contribute to family income as liabilities and sometimes severely abused or neglected them. Many indigent persons with disabilities begged on the streets.

The Government ran vocational training centers in Abuja and Lagos to train indigent persons with disabilities. Individual states also provided facilities to assist blind and other persons with physical disabilities to become self-supporting. Persons with disabilities established self-help NGOs, such as the Hope for the Blind Foundation in Zaria, the Kano Polio Victims Trust Association, the Joint National Association of Persons with Disabilities, the Albino Foundation, and Comprehensive Empowerment of Nigerians with Disabilities.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse and consisted of more than 250 groups, many of which were concentrated geographically and spoke distinct primary languages. There was no majority ethnic group; however, the three major groups—Hausa, Igbo, and Yoruba—jointly constituted approximately half the population. Ethnic discrimination was widely practiced by members of all ethnic groups and was evident in private-sector hiring patterns and the effective ethnic segregation of urban neighborhoods. A long history of tension existed between some ethnic groups.

Many groups complained of insufficient representation in government.

The law prohibits ethnic discrimination by the Government, but claims of marginalization continued, particularly by members of southern groups and Igbos. Ethnic groups of the Niger Delta continued their calls for senior representation on petroleum agencies and committees and within security forces.

In September the naming of an Igbo as the commander of the army was seen by many citizens to be an effort to address long-standing discrimination against Igbos in the military, a practice that has been in place since the end of the Biafran War in 1970.

The constitution requires that the Government have a "national character," meaning that cabinet and other high-level positions are distributed to persons representing each of the 36 states, or each of the six geopolitical regions. Traditional relationships were used to pressure government officials to favor particular ethnic groups in the distribution of important positions and other patronage.

All citizens have the right to live in any part of the country, but state and local governments frequently discriminated against ethnic groups not indigenous to their areas, occasionally compelling individuals to return to a region where their ethnic group originated but to which they had no personal ties. The Government sometimes compelled nonindigenous persons to move by threats, discrimination in hiring and employment, or destruction of their homes. Those who chose to stay sometimes experienced further discrimination, including denial of scholarships and exclusion from employment in the civil service, police, and the military.

For example, in Plateau State, the Hausa and Fulani, most of whom were Muslim and considered nonindigenous, claimed to face significant discrimination from the local government in land ownership, jobs, access to education, scholarships, and government representation.

Religious differences often mirrored regional, ethnic, and occupational differences. For example, in many areas of the Middle Belt, Muslim Fulani tended to be pastoralists, while the Muslim Hausa and Christian Igbo and other ethnic groups tended to be farmers or work in urban areas. Consequently, ethnic, regional, economic, and land use competition often correlated with religious differences between the competing groups.

Incidents of extreme sectarian violence between Christians and Muslims in the Middle Belt resulted in numerous deaths and injuries, the displacement of thousands of persons, and widespread property destruction.

On January 17, violence erupted in the city of Jos in Plateau State. Accounts varied as to what sparked the violence. Continuing violence in the succeeding days killed an estimated 326 persons, primarily Muslim women and children, displaced approximately 15,000 persons, and resulted in numerous injuries and extensive property damage. Security services made some arrests, but most alleged attackers were released without charge. Few cases came to the courts, and there were no documented convictions.

On March 7, Muslim Fulani herders attacked Berom villages, leaving 700 persons dead. As in January, few arrests were made, and most of these arrestees were released. There were no documented convictions from these attacks.

Reprisals and counter attacks continued all year, with estimates of victims over 3,000 by year's end. For example, on the night of October 26, unknown assailants attacked villagers while they slept in the Bassa local government area in Plateau

State. Reports indicate that six persons, all women and children, were killed, and several persons were injured. No arrests were documented.

The Presidential Advisory Committee on Jos Crisis delivered its report in August. The report contained recommendations regarding land ownership, indigeneship, creation of new local government areas, establishing a culture of nonviolence, addressing youth unemployment, and community sensitization. No commitment was made to implement these recommendations by year's end.

In the city of Jos, multiple bombs exploded near a church and busy shopping area on December 24, killing and injuring Christians. In the weeks after these attacks, more than 200 persons, both Muslim and Christian, were killed in reprisals and counter-reprisals, according to HRW.

Ethnic groups claimed economic exploitation, environmental destruction, and government indifference to their problems in the oil-producing Niger Delta region. Incidents of ethnic conflict and confrontation with government officials and forces continued in the Niger Delta area (see section 1.g.).

Numerous ethnic clashes occurred in parts of the Niger Delta, including the states of Akwa Ibom, Bayelsa, and Cross River. On March 15, two bombs exploded at Government House in Warri during a post-amnesty dialogue. The explosion damaged buildings in the area and caused injuries to passers-by. One of the militant ethnic groups claimed responsibility.

In February 2009 six persons died as a result of ethnic fighting in Yenagoa, Bayelsa State, and in March 2009, 20 persons died in an intercommunal clash in Cross River State.

In September 2009 a communal clash in Nkerehi, in Orumba South, Anambra State, resulted in five deaths, injuries to 15 persons, and the destruction of at least seven houses; a dispute over a proposed name change for the community triggered the violence. Attacks by a vigilante group forced many Nkerehi community members to hide in a nearby church where the Government reportedly failed to provide protection or food.

Conflicts over land rights continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups living near the convergence of Nassarawa, Benue, and Taraba States.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual activity is illegal under federal law, and homosexual practices are punishable by prison sentences of up to 14 years. In the 12 northern states that have adopted Sharia law, adults convicted of engaging in homosexual activity may be subject to execution by stoning, although no such sentences have been imposed.

Because of widespread taboos against homosexual activity, very few persons openly demonstrated such conduct. There were no public gay pride marches. The NGOs Global Rights and The Independent Project provided lesbian, gay, bisexual, and transgender (LGBT) groups with legal advice and training in advocacy, media responsibility, and HIV/AIDS awareness. The Government or its agents did not impede the work of these groups during the year.

No action was taken against persons who in 2008 stoned and beat members of the House of Rainbow Metropolitan Community Church, an LGBT-friendly church in Lagos. The attacks occurred after four newspapers published photographs, names, and addresses of church members.

As of year's end the trial of 18 men, originally charged in 2008 with sodomy and subsequently charged with vagrancy, had been postponed multiple times. All defendants were able to post bail, set at 20,000 naira (\$133), and were released. No resolution of the case was announced by year's end.

*Other Societal Violence or Discrimination.*—There was widespread discrimination against persons with HIV/AIDS, which the public considered a disease resulting from immoral behavior. Persons with HIV/AIDS often lost their jobs or were denied health care services. Authorities and NGOs implemented public education campaigns to reduce the stigma and change perceptions.

In 2008 the Bauchi State Agency for the Control of HIV/AIDS, Tuberculosis, Leprosy, and Malaria announced an initiative to pair HIV-positive couples for marriage in an attempt to reduce the spread of the disease. The couples were introduced during counseling sessions and had the right to accept or reject a suggested partner. As of March 2009, 94 HIV positive couples were matched and had married. The Joint UN Program on HIV/AIDS voiced concern over the plan due to the increased risk of passing the virus on to any children born, and the possibility of leaving the children orphaned.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides all citizens with the right to form or belong to any trade union or other association for the protection of their interests; while workers exercised this right in practice, some statutory limitations on the right of association and on trade unions restricted this right. Under the Trade Unions Act, labor unions must be registered with the Government and must have a minimum of 50 members. The law’s intent was to prevent a proliferation of small unions.

Workers, except members of the armed forces and employees designated under the Trade Union Act as essential public sector workers, may join trade unions. Essential workers included government employees in the police, prison service, the immigration and customs departments, the mint, and the Central Bank.

According to 2009 figures provided by the Michael Imoudu National Institute for Labor Studies, eight million persons, or approximately 60 percent of formal sector workers, belonged to unions. Officials of the Nigeria Labor Congress reported that their 39 affiliated unions had a combined membership of between 3.5 and 3.8 million, including both private and public sectors. The officials reported that union membership had declined in recent years. Many workers in the informal sector, where most workers find employment, belonged to thrift and cooperative societies, which helped with daily savings and with loans to meet business needs.

Trade union federations, called in the Trade Unions Act “central labor organizations,” must be registered with the Government. Each federation must consist of 12 or more affiliated trade unions, and trade union membership in a federation must be exclusive. There were two central labor organizations, the Nigeria Labor Congress and the Trade Union Congress of Nigeria.

The law allows unions to conduct their activities without interference; however, the law narrowly defines what union activity is legal.

The law limits the right to strike to matters pertaining to breach of contract or wage and conditions of work. Strikes were prohibited over national economic policy. The International Labor Organization (ILO) ruled that this policy was contrary to ILO conventions. In 2009 the Government chose not to enforce this provision of the law during a four-month public university strike over the national minimum wage, public education policy, and academic autonomy.

Workers not defined as “essential” had the right to strike, although they had to provide advance notice. Workers under collective bargaining agreements cannot participate in strikes unless their unions complied with legal requirements, including provisions for mandatory mediation and referral of disputes to the Government. Workers can bring labor grievances to the judicial system for review; however, courts do not ensure due process in protecting workers’ rights. Laws prohibit workers from forcing persons to join strikes, closing airports, or obstructing public byways, with violations subject to stiff fines and possible prison sentences. There were no known arrests during the year.

No laws prohibit retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to the Industrial Arbitration Panel with the approval of the Ministry of Labor. The panel’s decisions were binding on the parties but could be appealed to the National Industrial Court. Labor representatives described the arbitration process as cumbersome, time-consuming, and ineffective in deterring retribution against strikers.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to both organize and bargain collectively with employers. Collective bargaining occurred throughout the public sector and the organized private sector but remained restricted in the private sector.

The Ministry of Labor is responsible for monitoring and addressing reported cases of antiunion discrimination. According to labor representatives, in many cases workers’ fears of negative repercussions inhibited their reporting of antiunion activities.

A local NGO reported that workers were required to sign, as a condition of employment, contracts that explicitly prohibited employees from attempting to join a union. Some employers dismissed workers involved in organizing unions. In September the management of an Abuja hotel dismissed workers involved in organization efforts. The fired workers initiated a complaint. At year’s end the Government did not taken action on the complaint. In December a bank withdrew recognition of an employees’ union.

Chinese employers reportedly failed to comply with labor laws pertaining to the protection of union organizing, especially in the construction and textile sectors.

In December, police broke up groups of unionized electrical workers protesting government efforts to privatize the Power Holding Company of Nigeria. These protests were held in Lagos, Ondo, and Delta States. According to media reports, police

arrested up to twenty members of the National Union of Electricity Workers in Ondo State.

Workers and employers in export processing zones (EPZs) were subject to provisions of labor laws and the Nigeria Export Processing Zones Act. The law allows workers in the EPZs to organize and engage in collective bargaining; however, workers are not allowed to strike for ten years. In addition, the law allows the Nigerian Export Processing Zones Authority, which the federal government created to manage the EPZ program, to handle the resolution of disputes between employers and employees. Three additional zones were planned, but no new zones were designated during the year.

*c. Prohibition of Forced or Compulsory Labor.*—Although the law prohibits forced or compulsory labor, including by children, it was widespread, particularly bonded labor and domestic servitude. The law provides for fines and imprisonment for individuals convicted of engaging in the practice, but enforcement of the law was not effective in many parts of the country. The Government did take steps to identify or eliminate forced labor, but efforts were under-resourced and complicated by jurisdictional issues between state and federal governments. Children were involved in agriculture, building stone and gravel mining, and domestic labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law, which sets a general minimum age for employment of 14 years, did not protect children from exploitation in the workplace and was not effectively enforced by the Government. Child labor was widespread, and the Ministry of Labor and the National Agency for the Prevention of Trafficking in Persons (NAPTIP) estimated that more than 15 million children were involved in child labor.

Young persons under age 15 may only be employed on a daily basis, must receive the day's wages at the end of each workday, and must be able to return each night to their parents' or guardian's residence; however, under the Labor Act these regulations do not apply to domestic service. The law also provides exceptions for light work in agriculture and horticulture if the employer is a family member. No young person under the age of 16 may work underground, in machine work, or on a public holiday. No young person may be employed in any job that is injurious to health, dangerous, or immoral.

For industrial work and work on vessels where a family member is not employed, the minimum work age is 15 years, which is consistent with the age for completing educational requirements; however, child labor remained a problem. The law states that children may not be employed in agricultural or domestic work for more than eight hours per day. Apprenticeship of youths above the age of 12 is allowed under specific conditions.

The worst forms of child labor identified in the country included commercial agriculture and hazardous farm work; street hawking; exploitative cottage industries and hazardous mechanical workshops; exploitative and hazardous domestic work; commercial fishing; exploitative and hazardous pastoral and herding activities; construction; transportation; mining and quarrying; prostitution and pornography; forced and compulsory labor and debt bondage; participation in ethnic, religious, political conflicts, and violence; and involvement in drug peddling.

Many children worked as beggars, street peddlers, bus conductors, and domestic servants in urban areas. Children also worked in the agricultural sector and in mines. Boys worked as bondage laborers on farms, in restaurants, small businesses, and granite mines, as street peddlers, and beggars. Girls were forced to work as domestic servants, street peddlers, and commercial sex workers. See further information in the Trafficking in Persons Report [www.state.gov/g/tip](http://www.state.gov/g/tip).

In addition to citizen children, there were reports of thousands of trafficked Beninese children forced to work in granite mines in Abeokuta, Ogun State. An international NGO worked with state government officials to eliminate the number of child workers under age 14, and acts as ombudsman to advocate for 14 to 16-year-old workers. In Abakaliki, Ebonyi State, children could be seen hammering down large pieces of rocks, stacking them into piles, and carrying them on their heads, but there were no official statistics on their state or country of origin.

In an effort to withdraw children from the worst forms of child labor, the Ministry of Labor has established and upgraded skills acquisition and vocational training centers in Kaduna, Ibadan, Enugu, and Lagos; four other centers were being developed. New centers in Calabar, Bauchi, and Warri were completed. Hundreds of smaller NGO-run or state-run vocational training centers also were in operation.

The Ministry of Labor dealt specifically with child labor problems and operated an inspections department to enforce legal provisions on conditions of work and protection of workers. From January to November the Ministry reported 12,040 labor inspections with 441 officers. Although the inspectorate employed nearly 400 inspec-

tors for all business sectors, there were fewer than 50 factory inspectors for the entire country. Victims or their guardians rarely made complaints due to intimidation and fear of losing their jobs. Labor inspections were mostly random but occasionally occurred when there was suspicion, rather than actual complaints of, illegal activity. The ministry conducted inspections mostly in the formal business sector, where the incidence of child labor was not reported to be a significant problem. The NAPTIP bears some responsibility for enforcing child labor laws, although it primarily rehabilitates trafficking and child labor victims.

The Government's child labor policy focused on intervention, advocacy, sensitization, legislation, withdrawal of children from potentially harmful labor situations, and rehabilitation and education of children following withdrawal. The Labor Ministry is responsible for enforcing labor laws. The ministry reported that no training programs were held in 2010 due to budget constraints.

The federal government passed the Child Rights Act in 2003, but it required state-level ratification for full implementation. A total of 24 states, plus the FCT, have passed the Act. The remaining states are in the north, where Sharia law is in effect. UNICEF continued to advocate passage and enforcement in all other states.

Private and government initiatives to eliminate child labor continued but remained mostly ineffective. The Government gradually implemented the ILO/International Program for the Elimination of Child Labor Sustainable Tree Crop Program in the cocoa and other agricultural subsectors, a component of which sensitized farmers to issues relating to hazardous child labor and child trafficking for labor exploitation. Akwa Ibom, Ondo, Cross River, and Abia states participated in the program during the year.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage is 5,500 naira (\$36). The national minimum wage did not provide a decent standard of living for a worker and family.

In August the minimum wage for federal public sector workers increased to 17,000 naira (\$115) per month. The Government, labor and private business negotiated amendments to the National Minimum Wage Act, covering private employers, state and local government workers. These amendments raise the monthly minimum wage for all but federal workers to 18,000 naira (\$120). In November labor unions led by the Nigeria Labor Congress staged a one-day "warning strike" to protest the lack of progress by the executive branch in sending the bill to the National Assembly for passage. The unions suspended the strike after the Minister of Labor made assurances that the Government would forward the draft legislation to the National Assembly. However, at year's end the National Assembly did not take action on the bill. The Labor Ministry has responsibility for monitoring compliance with the minimum wage, which it strictly enforced for companies with over 50 employees. When a company with fewer than 50 employees was found to pay less than the minimum wage, the ministry reviewed the company's records to determine whether it could pay the minimum wage and then issued a ruling.

The Labor Act mandates a 40-hour work week, two to four weeks of annual leave, and overtime and holiday pay, except for agricultural and domestic workers. The law prohibits excessive compulsory overtime for civilian government employees.

The law establishes general health and safety provisions, some of which were aimed specifically at young or female workers; however, the Ministry of Labor did not properly monitor and enforce health and safety conditions due to insufficient inspectors. The inspectorate division of the Ministry of Labor inspects factories for compliance with health and safety standards. However, this division was underfunded, lacked basic resources and training, and consequently did not sufficiently enforce safety regulations at most enterprises, particularly construction sites and other nonfactory work locations.

In 2010 the National Assembly passed an Employees Compensation Act which raised amounts paid to workers experiencing job-related injuries. The act also extended coverage to women involved in work not previously covered. The act was ready for the president's signature at year's end.

The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents; however, it was not strictly enforced. The Factories Act provides for the protection of factory employees in hazardous situations, including the right of employees to remove themselves from such situations. The law did not provide other, nonfactory workers with similar protections.

The labor laws apply to legal foreign workers, but not all companies respected these laws in practice.

## RWANDA

Rwanda, with a population of 11 million, is a constitutional republic dominated by a strong presidency. In August voters elected President Paul Kagame to a second seven-year term with 93.1 percent of the vote. International observers noted election day was peaceful with minor irregularities, but they registered concerns about the political and security environment in the run-up to the elections, including a series of grenade attacks in the capital, a lack of critical opposition voices in the preelection period, the continued inability of opposition political parties to register, and the arrests of two opposition party leaders. Two unregistered political parties were unable to field presidential candidates due to legal or administrative issues, and there were two high-profile killings—the vice president of an unregistered opposition party and an independent journalist—that have not been fully resolved. The media also faced heightened restrictions in the months preceding the election. The ruling Rwanda Patriotic Front (RPF) controlled the Government and legislature. The RPF candidate dominated the election. Security forces reported to civilian authorities.

There were reports of abuse of suspects by security forces and local defense members, and prison and detention center conditions remained generally harsh. Security forces arbitrarily arrested and detained persons. Prolonged pretrial detention was a problem. There were restraints on judicial independence and limits on freedoms of speech, press, association, and religion, particularly in the preelection period. The Government forcibly returned refugees. Official corruption and restrictions on civil society remained problems. Societal violence and discrimination against women, trafficking in persons, and discrimination against the Twa and the lesbian, gay, bisexual, and transgender (LGBT) community occurred. There were restrictions on labor rights, and child labor occurred.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There was no direct evidence that the Government or its agents committed any politically motivated killings; however, there were two high-profile killings, that of a vice president of an unregistered opposition party and an independent journalist, that have not been fully resolved. The Government generally investigated security force killings and prosecuted perpetrators.

In August authorities prosecuted and sentenced a local defense member for killing a university student in 2008 in Kigali's Nyagatare Sector. Following the death of the student and three other local defense killings in a six-month period in the same district, police disarmed all local defense members in the district.

The Government investigated and prosecuted individuals accused of threatening or harming genocide survivors and witnesses or of espousing genocide ideology, which the law defines as dehumanizing an individual or a group with the same characteristics by threatening, intimidating, defaming, inciting hatred, negating the genocide, taking revenge, altering testimony or evidence, killing, planning to kill, or attempting to kill someone. As of September a special protection bureau in the Office of the National Public Prosecution Authority (formerly the Office of the Prosecutor General) registered 236 cases of genocide ideology and violence against genocide survivors, 96 of which were filed in court or suspended (see section 1.e.).

In January 2009 the Governments of the Democratic Republic of Congo (DRC) and Rwanda accelerated efforts to achieve a rapprochement, which they had initiated in late 2008, by carrying out a joint operation called Umoja Wetu (Swahili for "Our Unity") in the eastern DRC against Hutu rebel group the Democratic Forces for the Liberation of Rwanda (FDLR). The FDLR was responsible for numerous atrocities against Congolese civilians in eastern DRC, and its leaders were implicated in the 1994 Rwandan genocide. The Umoja Wetu operation disrupted the FDLR and precipitated the return of Rwandan FDLR combatants and noncombatants. Rwandan forces also arrested General Laurent Nkunda, the leader of the Congolese rebel National Congress in Defense of the People (CNDP). In December 2009 the international nongovernmental organization (NGO) Human Rights Watch (HRW) released the report *You Will Be Punished*, which described 201 killings of civilians attributed to military forces during the Umoja Wetu operation. The report also described other widespread abuses by soldiers against civilians. According to HRW, several of the victims and witnesses it interviewed "found it difficult, if not impossible, to distinguish Rwandan army soldiers from former CNDP combatants recently integrated into the Congolese Armed Forces, who played an important role in the operation." The HRW report, citing a 2008 UN Group of Experts report, noted that

soldiers of both armies “often wore identical camouflage uniforms” and Rwandan soldiers had Rwandan flags on their uniform sleeves. In some cases, according to HRW, former CNDP combatants had the same army uniforms, although they usually removed the Rwandan flag.

According to the same HRW report, in late February 2009 soldiers gathered residents of Ndorumo, North Kivu, by calling a meeting at a local school and subsequently shot and killed approximately 90 villagers, including women and children, reportedly for collaborating with the FDLR. In a similar incident, also in February 2009, soldiers killed approximately 40 residents of Byarenga, North Kivu. There were smaller numbers of civilians killed in other incidents during January and February 2009.

The Government denied the Rwandan Defense Forces (RDF) had participated in any killing of civilians. Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute soldiers allegedly involved in such incidents by year’s end.

On June 19, in Johannesburg, an unknown assailant shot and seriously wounded former army chief of staff Lieutenant General Faustin Kayumba Nyamwasa, who had fled to South Africa in February and become an outspoken critic of President Kagame. According to the Commonwealth Observer Group’s report of the August Rwandan presidential elections, the South African Foreign Ministry stated that foreign “security operatives” were involved and arrested several suspects. The Government repeatedly denied any involvement and said publicly it does not condone violence.

At least one mob attack occurred during the year. In February five men attacked the chairperson of the unregistered FDU-Inkingi political party, Victoire Ingabire, and her assistant outside a local government office in Kigali as they went to pick up forms to register their party. Police subsequently arrested the men responsible for the attack.

In September 2009 residents of Kayonza District killed a suspected thief. The suspects fled and authorities suspended the case.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, but instances of abuse of detainees and prisoners by police or prison guards sometimes occurred. Authorities dismissed or disciplined some police officers for use of excessive force and other abuses during the year and transferred criminal cases for prosecution.

A local NGO that assists torture and abuse victims only operated part of the year due to resource constraints, and referred clients to other human rights organizations.

On June 24, authorities arrested several members of the PS-Imberakuri political party and the unregistered FDU-Inkingi political party on charges of holding illegal demonstrations. Authorities also charged the founder of PS-Imberakuri, Bernard Ntaganda, with threatening national security, genocide ideology, divisionism, and creating a criminal organization. On June 25, authorities released some detainees, but six PS-Imberakuri and three FDU-Inkingi members remained in detention. On June 27, authorities arrested another PS-Imberakuri member. Some detainees claimed authorities physically abused them while in police custody; Ntaganda claimed authorities denied him access to a lawyer. On July 6, the detainees appeared in court, and between July 9 and 13, authorities released all detainees, except Ntaganda, on bail. In October Ntaganda went on a hunger strike to protest his treatment in prison, and on October 14, prison authorities transferred Ntaganda to a hospital in Kigali. At year’s end, Ntaganda remained in prison awaiting trial.

There were reports authorities detained and arrested members of the Jehovah’s Witnesses who refused to participate in nighttime security patrols (see section 2.c.).

HRW stated it received reports of civilians who alleged that security personnel arrested them arbitrarily during the Umoja Wetu operation in the DRC, and that some of the security personnel then changed into Rwandan army uniforms before taking the civilians across the border to Rwanda and beating, detaining, and questioning them over alleged ties to the FDLR. All reported being returned to the DRC after being held for periods up to 17 days. None reported having been charged with any offense. There was no other independent confirmation of these reports.

Neither Congolese nor Rwandan authorities had taken any steps to investigate or prosecute soldiers allegedly involved in such incidents by year’s end.

Isolated reports of abuse by local defense members continued.

There were reports that unknown assailants on occasion harassed and threatened journalists and other citizens (see section 2.a.).

*Prison and Detention Center Conditions.*—Conditions in prisons and detention centers were generally harsh, but there were some improvements in treatment of the general prison population. According to the National Prisons Service, it had fully implemented a 2006 presidential order governing the construction and organization of prisons, which stipulates that each prison must have dormitories, toilets, sports facilities, a health center, a guest hall, a kitchen, water, and electricity. Prisoners and detainees had weekly access to visitors and were permitted religious observance. Prison staff held regular meetings with prisoners and detainees to listen to inmates' complaints and take action to resolve them when possible. The majority of the prison population is comprised of individuals convicted of genocide-related offenses since the traditional court system, or *gacaca*, hearings began nationwide in 2006. There were unconfirmed reports that police sometimes beat newly arrested suspects to obtain confessions. Kigali's Gikondo transit center, where authorities held street children, vagrants, suspected prostitutes, and street sellers, continued to operate, despite a senate committee's 2008 call for its closure due to substandard conditions (see section 1.d.).

In 2008 the Government stopped allowing food contributions from family members of prisoners and instituted a prepaid canteen system families and detainees could access. During the year the International Committee of the Red Cross (ICRC) completed a nutritional survey of prisoners and found that prisoners received an adequate amount of food, but some prisoners suffered from a micronutrient deficiency. Pregnant and breastfeeding prisoners, and female prisoners with small children, continued to receive food supplements from family members and prison authorities. The Government allowed families to provide food to prisoners in smaller jails or detainees in police stations awaiting hearings or transfers. Prisoners outside of Kigali maintained gardens, which supplemented prison diets. The Government established nursery schools for children under three years' old living with their mothers in five prisons; each nursery school also has a cow to provide fresh milk to the children. Some prisoners transferred from police jails to national prisons had not been fed for several days.

There were no reports of prison riots during the year. In August 2009 prisoners in the Kimironko and Cyangugu prisons rioted over lack of food and visitation rights, resulting in several injuries.

The ICRC provided additional expertise and medical, logistical, and material support to improve conditions for inmates, including hygiene supplies, education programs for minors, health monitoring, and construction programs to improve prison infrastructure. The ICRC also had access to all police stations to monitor treatment of detainees and conditions. In addition the ICRC in partnership with the Rwanda National Police (RNP) identified 17 police stations for structural repairs.

All 14 prisons provided treatment for tuberculosis (TB), and eight provided full TB diagnostic and treatment services. Eleven prisons provided HIV voluntary counseling and testing services, while 12 provided antiretroviral treatment for HIV-infected prisoners. According to the Ministry of Internal Security, in 2009 the Government provided voluntary HIV counseling and testing to approximately 33 percent of prisoners and antiretroviral treatment to an estimated 1,500 prisoners.

In previous years prisoner deaths resulted from anemia, HIV/AIDS, respiratory disease, malaria, and other diseases, although the rates of such deaths were similar to those found in the general population. The National Prisons Service reported there was one prisoner death during the year, a decrease that was partly a result of a Global Fund program that facilitated the placement of medical personnel in all 14 prisons, implemented treatment for diseases including HIV/AIDS, and improved hygiene and sanitary conditions.

In September 2009 in Nyagatare Prison, two prisoners died and 11 were hospitalized due to a botulism outbreak; 67 of the 188 inmates in the prison contracted the disease.

As of year's end, the prison population was approximately 62,000 in a system designed for 43,400. The population consisted of approximately 57,800 men, 3,860 women, and 430 minors. Additionally, as of August there were 314 children living with their parents in prison.

National prison policy prohibits the hiring of prisoners to perform work at private residences and businesses. However, community service, a national program, was often part of a prison sentence for those who confessed to genocide-related crimes, and prisoners may work (uncompensated) on community projects such as building roads and bridges. Prisoners charged with criminal offenses unrelated to the genocide were not eligible to volunteer for work details. Prisoners often volunteered for such details, which provided time away from overcrowded prisons and, in some cases, afforded extra privileges.

Unlike the previous year, there were no reports of abuse of minors. During the year the Government converted a prison in Nyagatare, in the East, into a rehabilitation detention center for minors between the ages of 14 to 16 years and transferred all sentenced minors from other prisons to the center.

Authorities generally separated pretrial detainees from convicted prisoners; however, there were numerous exceptions as a result of the large number of genocide detainees awaiting trial. Authorities separated prisoners convicted of serious crimes and sentenced for many years from those convicted of lesser crimes and pretrial detainees.

The remaining high-profile political prisoner, former transport minister Ntakirutinka, remained in a special section of Kigali's "1930" prison.

The ICRC reported unimpeded access on an unannounced basis to all prisons during the year; the Government reported no local human rights NGOs had applied for permits to visit prisons. The Government also permitted independent monitoring of prison conditions by diplomats. In order for journalists to receive access to prisons, they must first apply to the Media High Council. The ICRC continued its visits to police stations and military facilities.

The law established an ombudsman, who has the power to carry out investigations of actions by government institutions, public establishments, or private institutions in which the population finds injustice. The ombudsman must also receive and examine complaints from individuals and independent associations relating to acts of civil servants, state organs, and private institutions and find solutions to legitimate complaints.

In 2009 the Government completed construction of a new block of prison cells in the South in compliance with international standards for incarceration of prisoners convicted by international criminal tribunals. In November 2009 the Special Court for Sierra Leone (SCSL) transferred eight prisoners to Rwanda to serve their sentences. The SCSL agreed with the International Criminal Tribunal for Rwanda (ICTR) on the quality of the detention center, which the UN deemed met international standards.

During the year the Government reported it had enrolled all prisoners in the national health insurance plan, which prisoners could use when referred to district hospitals.

There was no presidential order governing police detention centers and conditions varied.

*d. Arbitrary Arrest or Detention.*—The constitution and law provide legal safeguards against arbitrary arrest and detention; however, security forces arrested and detained persons arbitrarily and without due process.

*Role of the Police and Security Apparatus.*—The RDF under the Ministry of Defense maintains external security. The RNP, headed by a commissioner general and two deputy commissioners, is under the Ministry of Internal Security and is responsible for internal security. Five assistant commissioners oversee the various units, such as training, intelligence, criminal investigations, protection, and the provincial areas. The police lacked sufficient basic resources such as handcuffs, radios, and patrol cars.

During the year 315 officers received training in community relations, which included proper use of force and human rights; female officers participated in several RNP-sponsored workshops on professionalism and service provision.

Members of local communities chose community volunteers to serve in the local defense, a statutorily established law enforcement organization of approximately 20,000 members under the Ministry of Local Government that assisted police. The RNP exercised tactical control of local defense, while local officials had responsibility for operational oversight. Local defense members performed basic security guard duties throughout the country, including maintaining a presence at gacaca proceedings. Local defense members were ordinarily unpaid and received less training than RNP officers. They did not have powers of arrest, but in practice they made arrests on orders from local administrative officers and on their own. Among its various duties, the local defense chased illegal street vendors, petty criminals, and prostitutes away from public areas. There were reports that the local defense acted with impunity when dealing with street vendors, street children, vagrants, and undocumented residents. During the year the Government publicly warned the local defense against involvement in criminal activity and prosecuted local defense members who committed crimes; however, some human rights groups accused the Government of not taking sufficiently strong action against some local defense members and considered the organization abusive.

*Arrest Procedures and Treatment While in Detention.*—The law requires that authorities investigate and obtain a warrant before arresting a suspect. Police may de-

tain persons for up to 72 hours without a warrant, and prosecutors must bring formal charges within seven days of arrest. Authorities sometimes disregarded these provisions during the year. At times police used nonjudicial punishment when minor criminals confessed and the victims agreed to the police officer's recommended penalty, such as a week of detention or restitution. The law permits investigative detention if authorities believe public safety is threatened or the accused might flee. There is bail for minor crimes (those with a maximum sentence of five years); authorities may otherwise release a suspect pending trial if they are satisfied there is no risk that the person may flee or become a threat to public safety and order. Authorities generally allowed family members prompt access to detained relatives. By law detainees are allowed access to lawyers, although they are not allowed formal representation in the gacaca process. In practice, however, the scarcity of lawyers (there were 684 attorneys in the country of which 469 were trainees, mostly located in Kigali) limited access to legal representation. The Government did not provide indigent persons with free access to lawyers, but a Legal Aid Forum composed of 36 organizations, including domestic and international NGOs, the Rwandan Bar Association, and university law faculties, provided legal aid services to indigent and vulnerable groups. Such resources were insufficient to provide lawyers for every indigent person. The Bar Association provided 259 lawyers to clients during the year. Lawyers Without Borders also provided limited access to defense counsel and provided 165 lawyers for 670 clients during the year. The law requires the Government to provide minors with legal representation, which judicial observers cited as a factor in juvenile trial delays.

Police arbitrarily arrested opposition members, journalists, and members of Jehovah's Witnesses during the year (see sections 2.a., 2.c., and 3).

In January 2009 government authorities arrested Laurent Nkunda, leader of a Congolese armed entity, while he was in the country. According to a 2008 report by the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo, Rwandan authorities had supplied military equipment to and were complicit in recruiting soldiers for the armed entity led by Nkunda. At year's end, Nkunda remained under house arrest. On several occasions, police and the local defense detained street children, vendors, beggars, and undocumented persons in Kigali and larger towns and charged them with illegal street vending or "vagrancy." Authorities released adults who could produce identification and transported street children to their home districts, to shelters, or for processing into vocational and educational programs.

Early in the year, the Government opened a rehabilitation center on Iwawa Island in Lake Kivu to provide vocational and technical training to approximately 1,500 men between the ages of 18 to 35, some of whom were homeless or petty criminals.

The Government continued to operate a rehabilitation center, which offers psychosocial counseling, education, and reintegration services, to more than 200 street boys.

Despite a 2008 senate committee report that called for the closure of Kigali's Gikondo transit center for violations of detainee rights and lack of social services, the facility continued to operate as a temporary detention facility for street children, vagrants, and street vendors. Government officials asserted they held persons for no more than one to three weeks; however, detainees sometimes waited several months before release. Authorities commonly denied access to the relatives of detainees.

There were serious problems of lengthy pretrial detention, including the detention of persons whose unresolved cases dated from 1994, a consequence of the large number of persons suspected of committing genocide who continued to be held in prisons and detention centers. The law permits the continued detention of genocide suspects long enough to allow them to face trial either in an ordinary court or in the gacaca system. Authorities permitted the majority of convicted prisoners (those who had confessed their genocide crimes) to return to their families, with actual prison time to be served after the suspended and community service portions of their sentences expired.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the judiciary operated in most cases without government interference; however, there were constraints on judicial independence. Government officials sometimes attempted to influence individual cases, primarily gacaca cases. There were no reports that members of the executive branch communicated with judges to discuss ongoing cases privately or to express executive preferences.

In its July 2008 report *Law and Reality: Progress in Judicial Reform in Rwanda*, HRW cited continuing lack of judicial independence and concerns about basic trial rights, including the presumption of innocence, the right to present defense witnesses, the right to equal access to justice, and the right to protection from double jeopardy.

In May 2009 the Swedish Supreme Court decided to extradite a genocide suspect to Rwanda; however, the European Court of Human Rights suspended the transfer to review the case. In 2008 the three panels of the International Criminal Tribunal for Rwanda (ICTR) considering case transfers to Rwanda found adequate judicial independence in the country. The panels nevertheless denied case transfer, citing fair trial concerns, including inadequate witness protection and improper sentencing guidelines.

In 2008 the Military Court in Kigali acquitted two senior RPF officers of the 1994 killings of 15 civilians, including high officials of the Catholic Church; the case had been referred by the prosecutor for the ICTR. Two junior RPF officers who pled guilty to the crimes were given reduced sentences of eight years' imprisonment on the ground the crimes were not premeditated. The prosecutor appealed the decision to a higher court, which confirmed the lower court ruling.

As of October, there were 19,394 criminal and 19,282 civil cases pending in the regular courts; approximately 46,000 such cases were pending at the end of 2009.

*Trial Procedures.*—In the ordinary court system, the law provides for public trials, although courts closed proceedings in cases involving minors to protect witnesses or at the request of defendants. The law provides for a presumption of innocence, but government officials did not always adhere to this in practice. Juries are not used. Defendants have the right to be present, question witnesses against them, and to present witnesses and evidence on their own behalf. Defendants have the right to consult with an attorney, although few defendants could afford counsel. The law provides for the right to appeal, and this provision was generally respected. Lawyers Without Borders and the Bar Association continued to provide legal assistance to some indigent defendants but lacked the resources to provide defense counsel to all in need. The law does not provide for an attorney at state expense for indigent defendants. Defendants and their attorneys have access to government-held evidence relevant to their cases. The Government continued to swear in new court officers and assign them to courts across the country, but the number of prosecutors, judges, or courtrooms to hold trials within a reasonable period of time was inadequate.

The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both. Military courts provided defendants with the same rights as civilian courts, including an attorney at public expense, the right of appeal, and access to government-held evidence relevant to their cases. The law stipulates military courts should try civilian accomplices of soldiers accused of crimes. During the year through October, military courts had tried 62 civilians as co-perpetrators or accomplices of military personnel during the year.

Gacaca courts served as the Government's primary judicial process for adjudicating hundreds of thousands of genocide cases. Gacaca defendants are presumed innocent until proven guilty, and gacaca courts normally decide a case on the same day a trial begins. There is no bail in the gacaca system. Defendants are informed of the charges against them during the trial, not before it. Defendants in gacaca courts can present witnesses and evidence on their own behalf, although witnesses were sometimes reluctant to testify for fear of reprisals, mainly in the form of accusations of complicity in the alleged crimes at issue. According to a Penal Reform International (PRI) report released during the year, which provided a compilation of their findings on gacaca courts from 2001 through September 2009, some defense witnesses were also reluctant to testify for fear of being accused of "genocide ideology." Defendants can appeal gacaca proceedings at sector-level courts. Lawyers are not permitted to participate officially in gacaca courts, but they can testify as private citizens.

Genocide law is designed to encourage confessions in exchange for reduced sentences for individuals accused of genocide-related crimes other than Category I crimes (the most severe crimes, including rape, murder, genocide instigation, or playing a leadership role in the planning or commission of genocide). The majority of individuals charged with genocide-related crimes are classified as Category II (those who committed criminal actions such as murder or injured someone with the intent to murder) or Category III (those whose crimes involved property); these cases were either tried in gacaca courts (Category II cases) or settled through gacaca mediation (Category III cases). In 2007 the Government passed legislation to lessen overall sentences and increase the suspended sentence and community service portions of those sentences. The 2007 sentencing guidelines, created to alleviate prison overcrowding, allow all persons convicted by gacaca courts to serve their community service and suspended portions of their sentences first, resulting in the release of thousands of prisoners, some of whom had been held since 1994. Category II prisoners who confess can return home and serve their jail sentences later, usually no more than one-sixth of a 15- or 20-year sentence; suspects who do not confess and are convicted may face decades in jail.

In 2008 the law was further amended to move approximately 6,900 Category I cases—most involving rape—from ordinary courts to the gacaca system. The law also provides for the transfer of approximately 1,200 genocide Category I cases, already begun in the ordinary courts, to the gacaca courts. The law provides for the commutation of custodial sentences and replaces remaining prison terms with community service once the original community service portion of a sentence is completed.

By year's end, gacaca officials reported having concluded more than 1.2 million cases. As of December, all gacaca cases were complete; however, the National Service of Gacaca Courts continued to process requests for review of judgments.

During the year there were no reports of lawyers fleeing the country as a result of threats or harassment by unknown persons following their defense of persons accused of genocide or related crimes.

Some gacaca judges denied defendants the right to present witnesses and ordered the imprisonment of those who questioned the impartiality of gacaca judges. Poorly qualified judges and ill-defined guidelines on evidence and hearsay were problems. During the year there were reports that local gacaca officials and citizens abused the process to pursue personal matters and settle grudges unrelated to the genocide, including making false accusations to acquire land.

According to the PRI report released this year, local authorities "at times" were reported to have unduly influenced gacaca judges during the course of hearings.

Because the Government has not authorized gacaca courts to consider human rights abuses allegedly committed by the RPF during the 1994 genocide, some human rights groups criticized the gacaca courts for representing a form of incomplete or one-sided justice, and for being biased against those who acted on behalf of the former government. The Government claimed that it had prosecuted 46 soldiers, that civil and military authorities addressed RPF abuses, and that one could not equate such abuses with the genocide. A human rights organization claimed that 36 soldiers had faced trial for crimes committed against civilians during the genocide and attributed the low number to government reluctance to try RPF soldiers for such crimes. No charges were brought against RPF soldiers during the year.

Most gacaca hearings took place without incident, but violence and threats of violence—usually perpetrated by persons accused of crimes related to genocide—against genocide witnesses were sometimes problems. Some citizens were too frightened to testify in gacaca courts. Unlike in the previous year, the National Public Prosecution Authority and the survivors' organization Ibuka both reported no genocide survivors or witnesses were killed during the year. Ordinary courts also handled the cases of persons accused of participating in the injuring or threatening of witnesses, survivors, and judges.

During the year police investigated at least six cases of violence against genocide survivors and witnesses. The Government asserted the genocide ideology law was necessary to prevent a reinitiation of violence, but NGO and human rights organizations criticized the law as overly broad and recommended its repeal. Unlike in the previous year, there were no reports organized groups targeted and killed genocide witnesses. However, the Government continued to conduct criminal investigations of individuals, which resulted in some prosecutions.

The Government held local communities responsible for protecting witnesses and relied on the local defense, local leaders, police, and community members to protect witnesses. A task force continued efforts to monitor those genocide survivors deemed most at risk and genocide suspects considered most likely to commit violent attacks; however, according to Ibuka, threats and violence against survivors decreased significantly due to increased sensitization. During the year the task force conducted joint patrols in rural areas by survivors and security personnel; used preventive detention of genocide suspects to prevent attacks deemed imminent by security officials; utilized hotlines; and expedited gacaca hearings for those cases deemed most likely to involve the risk of violence against survivors and witnesses.

Ibuka continued to call for increased cooperation among gacaca courts, police, ordinary courts, and mediators, and for the creation of a survivors' compensation fund; however, unlike in previous years, it did not criticize the Government for failing to prevent survivor killings.

Some analysts and human rights observers voiced concern that witnesses might have given false testimony in a sizable number of gacaca cases, despite penalties for such conduct. Observers also expressed concern some suspects confessed to avoid lengthy prison terms. Unlike in previous years, there were no reports that some persons had been tried in both ordinary and gacaca courts for the same crimes.

Although the vast majority of persons facing gacaca charges remained in the country, in September 2009 a group of more than 300 genocide suspects fled to Bu-

rundi, claiming persecution in Rwanda. Government officials claimed that most persons fled due to pending gacaca cases, not persecution. An estimated 115 individuals were able to claim asylum in October 2009; authorities deported others who came forward later with asylum claims. Burundi's minister for the interior told human rights groups that in November 2009 authorities deported these latter asylum seekers because they had filed their claims too late.

The ICTR, based in Tanzania, continued to prosecute genocide suspects during the year (see section 5).

*Political Prisoners and Detainees.*—There were reports that local officials briefly detained some individuals who disagreed publicly with government decisions or policies.

Former transport minister Charles Ntakirutinka was sentenced to 10 years' imprisonment in 2004 in a trial that did not meet international standards; he was charged with incitement of civil disobedience, formation of a criminal association, and embezzlement of public funds. Ntakirutinka and former president Bizimungu, who was released in 2007, had sought to establish the Party for Democratic Renewal. The Government permitted the ICRC access to Ntakirutinka.

*Civil Judicial Procedures and Remedies.*—The judiciary was generally independent and impartial in civil matters. There are mechanisms for citizens to file lawsuits in civil matters, including violations of their constitutional rights. The Office of the Ombudsman processes claims of judicial wrongdoing on an administrative basis. There continued to be problems enforcing domestic court orders.

Rwanda is subject to the African Court on Human and Peoples' Rights and the East African Court of Justice and has two judges on the courts. As of October, there had been no decisions taken in favor of or against Rwanda.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice; however, there were some reports that the Government monitored homes and telephone calls.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press "in conditions prescribed by the law"; however, the Government at times restricted these rights. The Government continued to intimidate and arrest independent journalists who expressed views that were deemed critical of the Government on sensitive topics or who were believed to have violated law or journalistic standards. The Government also suspended two private media outlets for six months. Numerous journalists practiced self-censorship.

The law prohibits the propagation of discrimination or sectarianism based on "ethnic, regional, racial, religious, language, or other divisive characteristics." Public incitement to what is commonly termed divisionism is punishable by up to five years in prison, heavy fines, or both.

Individuals could criticize the Government publicly or privately on most topics; however, the laws prohibiting divisionism, genocide ideology, and genocide denial continued to discourage citizens from expressing viewpoints that might be construed as promoting societal divisions. Other statutes forbid "contempt for the Head of State of Rwanda." During the year the expression of such viewpoints sometimes resulted in arrest, harassment, or intimidation.

In September Amnesty International (AI) published the report *Safer to Stay Silent: The Chilling Effect of Rwanda's Laws on "Genocide Ideology" and "Sectarianism,"* which claimed these laws are broad and ill-defined and have created a vague legal framework that is misused to criminalize criticism of the Government and legitimate dissent. The report claimed these laws deter persons from exercising their right to freedom of expression and that some persons refrained from expressing opinions that may be legal.

On July 13, authorities arrested Umurabyo journalist Saidati Mukakibibi for defamation, inciting public disorder, and divisionism for likening President Paul Kagame to Adolf Hitler. On July 8, authorities arrested Umurabyo editor Agnes Uwimana for incitement to civil disobedience, contempt of the head of state, spreading rumors to cause public disorder, and denying the genocide. At year's end both remained in detention awaiting trial.

Authorities arrested an American lawyer on May 28 on charges of genocide denial, genocide ideology, and threatening national security. On June 17, Rwandan authorities released him on medical bail; however, they said they would continue the investigation.

On April 21, authorities arrested Victoire Ingabire, the chairperson of the unregistered FDU-Inkingi political party, on charges of providing material support to the

FDLR and promoting genocide ideology. On April 22, authorities released her on bail, but confined her to Kigali.

On October 14, police arrested Ingabire again on separate charges, after a former high-level FDLR commander, Major Vital Uwumuremyi, implicated her in a plot to establish an armed group called the Coalition of Defense Forces (CDF) as the military wing of the FDU-Inkingi. Authorities arrested Uwumuremyi, who had demobilized last year and was living in Rwanda, after he attempted to cross into the DRC under an assumed name.

According to local reports, prosecutors were charging Ingabire in connection with her alleged support for the CDF and the FDLR. FDU-Inkingi press releases claimed Ingabire was being treated inhumanely; government officials denied these claims. At her pretrial October 23, the judge sentenced her to 30 days preventive detention while the investigation continued. On November 25, the court approved an additional 30 days of detention. On December 13, Ingabire appealed the decision and lost. At year's end, Ingabire remained in prison awaiting trial.

In August 2009 the Government passed the Law on Media. Provisions in the law grant the Media High Council the power to suspend newspapers, increase the amount of capital required to open new media outlets, impose criminal penalties on journalists who incite discrimination or show contempt for the president, and require journalists to reveal their sources when authorities deem it necessary to carry out criminal investigations or proceedings. The law also requires journalists to have either an associate's degree in journalism or communication, a certificate obtained from an institute of journalism and communication, or a university degree in another field with training in journalism. Journalists without one of these qualifications must obtain them within five years to continue in their positions.

There were both private and government-owned newspapers, published in English, French, and Kinyarwanda. There were 31 newspapers, journals, and other publications registered with the Government, although fewer than 10 published regularly. Sporadically published independent newspapers maintained positions contrary to and critical of the Government during part of the year.

The Government did not expel members of the press from the country; however, on April 14, the Media High Council suspended private newspapers Umuseso and Umuvugizi for six months for inciting public disorder. Umuvugizi editor John Bosco Gasasira fled the country for Uganda in April, and Umuseso editor Charles Kabonero fled in May; both claimed threats to their personal security. Umuvugizi continued to publish online, but the Web site was not accessible in Rwanda; the Government denied blocking the site. At year's end, the Media High Council had lifted the suspension, but neither paper had reregistered, a requirement to publish.

In August 2009 the Government charged Umuvugizi editor and journalist Jean Bosco Gasasira, one of three journalists expelled from a government event in 2008, with slander, abuse, defamation, and invasion of privacy after he published two articles that accused a government official of having an extramarital affair. The judge found Gasasira guilty of defamation and invasion of privacy and fined him; Gasasira appealed the decision in December 2009. On September 25, the Kigali High Court cleared Gasasira of all charges.

In 2008 government officials expelled three local journalists—Charles Kabonero of Umuseso, Jean Bosco Gasasira of Umuvuzigi, and Jean Gaubert Burasa of Rushyasha—from a government event celebrating World Press Freedom Day. It subsequently excluded Bonaventure Bizumuremyi of Umuco and Kabonero's replacement from covering government events. At year's end, Bizumuremyi, Gasasira, and Kabonero remained outside the country. The Government later began allowing Rushyasha's reporters to cover government events.

The appeal of the one-year suspended sentence of local journalists Charles Kabonero and Didas Gasana of Umuseso, who were convicted in 2008 of libel for critical articles written about a prominent businessman, remained pending at year's end.

Civil society representatives continued to criticize the semiautonomous Media High Council for inhibiting rather than promoting press freedom.

Unlike in previous years, government officials did not pressure government institutions and local businesses to withhold advertising from newspapers critical of the Government.

The law authorizes private radio and television broadcasting, subject to the approval of the Government, although some media practitioners complained that the licensing fees were prohibitively high. The Government authorizes the licensing of private television stations; however, it owned and operated the country's only television station.

Radio stations broadcast criticism of government policies during the year, including through the use of popular citizen call-in shows.

In some cases, unidentified individuals harassed and threatened journalists. Some journalists reported receiving text messages and phone calls from unidentified persons harassing them because of critical stories they had written or calling them enemies of the country. Additionally some journalists reported that unidentified vehicles followed them.

On June 24, an unknown assailant shot and killed Umuvugizi journalist Jean-Leonard Rugambage outside his home in Kigali. Umuvugizi editor Gasasira claimed the murder was related to an article published online that morning alleging the Government was involved in the assassination attempt on former army chief of staff Lieutenant General Faustin Kayumba Nyamwasa; however, on June 27, police arrested two suspects, one of whom confessed to the murder of Rugambage as a genocide-related revenge killing. In October authorities sentenced both suspects to life in prison. Both appealed the sentence, and at year's end, one remained in prison and the second remained free while the investigation continued. Human rights groups have called for an independent autopsy and an independent commission of enquiry into the killing.

*Internet Freedom.*—There were no government restrictions on access to the Internet. There were reports that the Government monitored e-mail, but no reports related to Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes were common and used regularly in the largest towns; the Internet was generally unavailable in rural areas, where the majority of the population lives. According to International Telecommunication Union statistics for 2008, approximately 3 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom or cultural events; however, in September 2009 police arrested university lecturer Dieudonne Nyamulinda on charges of insulting the president and denying the genocide. Authorities sentenced him to five years in prison. Nyamulinda appealed the sentence and at a later trial received a sentence of two years in prison. There were no confirmed reports that authorities suspended secondary or university students for divisionism or engaging in genocide ideology.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice; however, there were some exceptions. Authorities legally may require advance notice for outdoor rallies, demonstrations, and meetings.

Authorities prevented political party organizers from meeting.

In 2009 authorities cancelled three assemblies of the Democratic Green Party of Rwanda (or Green Party): two for alleged procedural errors and one because of a disruption by an attendee. The Green Party also found it difficult to secure a notary for its assemblies, and it was still awaiting authorization from police to hold another assembly at year's end.

The Government continued to limit the types of locations where religious groups could assemble, at times citing municipal zoning regulations as the reason.

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government limited this right in practice. Private organizations were required to register, and the Government generally granted licenses without undue delay; however, there were some exceptions. The Government impeded the formation of new political parties and restricted political party activities (see section 3).

The Government generally imposed difficult and burdensome NGO registration and renewal requirements, as well as time-consuming requirements to submit annual financial and activity reports.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

According to the UNHCR, during the year the country accepted 9,886 citizens returning from other countries; most were settled in their districts of origin. According

to Rwanda Demobilization and Reintegration Commission statistics, approximately 3,000 civilian noncombatants, who had been living in FDLR-controlled areas of the DRC, returned in 2009 and during the year. The Government worked with the UNHCR and other aid organizations to assist the resettled returnees.

The Government continued to accept former combatants who returned to the country from the DRC as part of the ongoing rapprochement between the two countries. A total of 9,196 former combatants from armed groups in the DRC, including 771 former child soldiers, had been demobilized and peacefully resettled in the country since the beginning of the disarmament, demobilization, and reintegration program in 2001. During the year the Government demobilized 610 adult former combatants from armed groups and rehabilitated 47 children, reuniting 29 with their families. It also demobilized 2,000 RDF soldiers during the year. With international support, the Government's Demobilization and Reintegration Commission, the lead agency for the reintegration of returned former combatants, placed such persons in a three-month reeducation program at a demobilization and reintegration center in Northern Province. There also was a center solely for former child combatants in Eastern Province. After the three-month reeducation period, each adult former combatant received approximately 60,000 Rwandan francs (\$108) and permission to return home; several months later, each received an additional 120,000 Rwandan francs (\$216). Returnees accused of committing genocide and who were at least 14 years old at the time of the genocide faced gacaca trials.

*Internally Displaced Persons (IDPs).*—The Government demolished homes and businesses in Kigali as part of the city's master plan, and some residents claimed they received insufficient compensation for their property.

*Protection of Refugees.*—The Government has established a system for providing protection to refugees. The constitution recognizes the right to asylum "under conditions determined by law," and there was a law in place to recognize refugees.

The UNHCR, with government support, continued to assist refugees and asylum seekers. At year's end, it had provided temporary protection to 55,688 refugees, 99 percent of whom were refugees from the DRC. Other refugees were from Angola, Burundi, Chad, Eritrea, Ethiopia, Somalia, Sudan, and Uganda.

In June the Government began issuing identity cards to refugees. In a joint effort by the UNHCR, the Immigration Department, and the Ministry of Disaster Management and Refugee Affairs, 10,840 refugees had received identity cards by year's end, and the process was ongoing. In June UNHCR hosted a two-day training program for 110 Rwandan members of parliament on human rights, UNHCR's international protection mandate, and regional, national, and legal instruments.

In July the Government of Uganda deported approximately 1,300 Rwandans who had fled to Uganda in March and April, but were denied refugee status by Uganda. The Government received these returning individuals in Byumba Transit Center, which according to the UNHCR lacked water and adequate space. The Government did not allow the UNHCR access to the individuals. Reports received later from the UNHCR and the Government indicated individuals received a one-month supply of food and nonfood items the day after their arrival. Authorities later transported some returnees to their districts of origin.

There were no reports representatives of a DRC-based armed group recruited children and adults from Rwandan refugee camps to be combatants or laborers. The Government noted it was difficult to control camps that had no fences and populations that regularly crossed borders. Refugees had access to primary schools and health care, but few were able to find jobs, although there were no laws denying them employment.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide the right of citizens to change their government peacefully; however, the ruling Rwanda Patriotic Front (RPF) controlled the Government and legislature, and its candidate for president during the year dominated the election.

*Elections and Political Participation.*—Presidential elections in August were peaceful and orderly, with a heavy turnout; however, observers noted irregularities in the electoral process. The election was dominated by the ruling party, with the RPF candidate, Paul Kagame, receiving approximately 93.1 percent of the vote; the Social Democratic Party candidate 5.2 percent; the Liberal Party candidate 1.4 percent; and the Party for Peace and Concord candidate 0.4 percent.

The Report of the Commonwealth Observer Group noted voter turnout was large, voters conducted themselves in an orderly manner, and polling stations and staff were well-prepared. The report listed some irregularities in specific locations. For

example, there were confirmed reports that Rwandan National Electoral Commission (NEC) officials called voters to polling stations as early as 2:00 a.m. although polls officially opened at 6:00 a.m.; ballot box seals did not appear to be numbered or otherwise uniquely identifiable; there were instances of ballot boxes not having been verified as empty prior to the commencement of voting; and a lack of familiarity by many voters as to proper voting procedures. Regarding the ballot counting and tabulation process, the report noted polling officials generally followed procedures, but “there were more inconsistencies at this stage and also a looser application of procedures.” For example, in some cases, polling officials did not formally announce the start of the count, did not always properly account for and secure unused ballot papers, and did not always post results at the polling station.

Few observers were able to monitor the district consolidation process and many reported discrepancies between vote tallies at the polling stations and the final tally at the district level. For example, most observers reported the RPF candidate winning 97 to 100 percent of votes cast at the polling stations, while the final national tally recorded him winning 93.08 percent. In their report, the Rwandan Civil Society Election Observation Mission noted that “the practice with regard to the process of transmission and consolidation of results from polling centres to the district level in some districts still needs some improvement.” Some observers noted the process for collecting and delivering ballots and results to the district was lengthy and unclear, reflecting the country’s infrastructure and resource challenges. Also, NEC officials did not always give observers clear information regarding the district consolidation process, resulting in a lack of transparency. Some observers noted the use of a thumb print on the ballot could lead to a perception a ballot could be traced to an individual.

According to a preliminary report from the Media High Council, media coverage and professionalism generally improved since the 2008 chamber of deputies elections. The report noted media generally gave all parties equal access and balanced coverage; however, problems included lopsided coverage by public media organs, inaccurate estimations of campaign rally turnouts, and private media’s reliance on second-hand information during the first half of the campaign period. According to a study by the National University of Rwanda School of Journalism and Communication and the Deutsche Welle Akademie, media coverage during the elections was generally professional and provided education to citizens on the laws and the electoral process. However, the report noted the public media organs they monitored did not give equal space or airtime to all the candidates and parties. Additionally media organs underrepresented some parties and sometimes reported inaccurately. Finally the report found many media organs did not abide by government regulations to avoid political propaganda, refrain from wearing political party colors, and provide balanced reporting, thereby undermining opposition parties and candidates.

The constitution provides for a multiparty system but offers few rights for parties and their candidates. Parties were not able to operate freely, and parties and candidates faced legal sanctions if found guilty of engaging in divisive acts, destabilizing national unity, threatening territorial integrity, or undermining national security. The Government’s enforcement of laws against genocide ideology or divisionism discouraged debate or criticism of the Government and resulted in brief detentions and the holding of one political prisoner, former minister Ntakirutinka.

All political organizations were constitutionally required to join the Forum for Political Organizations, which continued to promote consensus at the expense of political competition, according to observers. Independent political parties must demonstrate membership in every district, reserve at least 30 percent of a party’s leadership positions for women, and provide a written party statute signed by a notary to register.

The Government impeded the registration of the Green Party. In September 2009 the Green Party had to cancel a planned assembly because a public notary was not available. In October 2009 after an unidentified man disrupted a Green Party assembly, police canceled the meeting, citing security concerns. In November the Green Party applied for but was unable to obtain police clearance to hold another assembly. By year’s end, the Green Party had not succeeded in registering as a political party.

Police arbitrarily arrested opposition members. For example, in September 2009 local authorities arrested a PS-Imberakuri member for campaigning at school and breach of public order after he reportedly spoke to students about his party. Police released him without charge after three days; however, district authorities in Ruhango subsequently dismissed him from his teaching position.

On July 14, the body of unregistered Green Party vice president Andre Kagwa Rwisereka was found in the South. Police initially suspected robbery, but later they indicated the murder may have been over a financial dispute. Some human rights

organizations claimed the murder could have been politically motivated and called for an independent autopsy by foreign experts. Police arrested a suspect on July 16 and released him on July 21. The investigation was ongoing at year's end.

During the year authorities prevented political party organizers from meeting (see section 2.b.).

In accordance with the constitution, which states a majority party in the chamber of deputies may not fill more than 50 percent of all cabinet positions, independents and members of other political parties held key positions in government including that of the prime minister.

The constitution requires at least 30 percent of seats in parliament be reserved for women. At year's end, there were nine women in the 26-seat senate and 43 women in the 80-seat chamber of deputies. There were eight women in ministerial positions, representing 31 percent of cabinet positions.

There was one member of the Twa ethnic group in the senate but none in the chamber of deputies.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government implemented these laws with increasing effectiveness; however, corruption remained a problem.

For example, in December 2009 the court sentenced Vincent Gatwabuyeye, former permanent secretary in the Ministry of Infrastructure, to three years in prison for embezzlement of state funds. Authorities fined him 500,000 Rwandan francs (approximately \$1,000) and released him from prison in July. In November 2009 the court sentenced Theoneste Mutsindashyaka, former state minister for primary and secondary education, to one year in prison for violating tendering procedures for construction of Eastern Province headquarters. On July 16, authorities acquitted him on all charges, released him from prison, and fined him 500,000 Rwandan francs (\$1,000). In August 2009 the court charged former parliamentarian Bikoro Munyanganizi with corruption and sentenced him to two years in prison. Munyanganizi appealed, and in December the court acquitted him on the corruption charges but sentenced him to one year in prison for tax evasion.

During the year there were some reports of police arbitrarily arresting and beating individuals, engaging in corrupt activities, and demonstrating a lack of discipline.

The National Public Prosecution Authority (formerly the Prosecutor General's Office), under the Ministry of Justice, is responsible for prosecuting police abuse cases. The RNP Office of Inspectorate Service, which reports directly to the RNP commissioner general, handled approximately 413 cases of police misconduct during the year. During the year the RNP fired 104 police officers for corruption, abuse of power, or misconduct; 309 police officers received administrative punishment for indiscipline. Acts that rose to the level of criminal offenses were referred to the National Public Prosecution Authority, and several prosecutions were underway at year's end. The RNP advertised a toll-free number through the local radio and press and provided complaint and compliment boxes in many communities to encourage citizens to report problems regarding police and local defense members.

The Office of the Auditor General worked to prevent corruption, including through investigations of improper tendering practices at government ministries. The Office of the Ombudsman had an active good governance program and several anticorruption units that worked at the local level. During the year the office pursued many corruption cases, the majority of which involved misuse of public funds. During the year the police and National Public Prosecution Authority used the auditor general's annual report to pursue investigations into the conduct of government businesses.

The law provides for annual reporting of assets by public officials, but not public disclosure of those assets; most officials complied.

In January 2009 the Government announced the formation of an anticorruption council, composed of the ombudsman's office, the National Public Prosecution Authority, the national police commissioner, and several ministries. In 2009 the council established a hotline for reporting cases of corruption, made corruption cases a priority in the judicial system, and shared information during quarterly meetings. Between June and December, the anticorruption council received 184 cases of alleged corruption; authorities prosecuted 14 of the cases and delivered administrative penalties in some of the other cases.

The law does not provide for access to government information, and it remained difficult for citizens and foreigners, including journalists, to obtain access to government information. However, the annual budget was available publicly, both in electronic form and in hard copy.

The November 2010 report of the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) reported, prior to the DRC's suspension of all mining activities in three Congolese provinces, that export houses (or "comptoirs") "have in the main begun trading legally, apparently at the instigation and with the financing of Rwanda-based Minerals Supply Africa (MSA), which is one of the main buyers of minerals from the eastern area of the Democratic Republic of the Congo." In its 2009 report, the UNGOE reported that MSA had purchased minerals from a DRC-based supplier, Hill Side, which according to the UNGOE is engaged in sales to MSA of tens of thousands of kilograms of cassiterite that were exported from the DRC but not declared to DRC authorities. According to information presented by the UNGOE, Hill Side's cassiterite supply chains originated from conflict-affected areas of eastern DRC's North Kivu Province.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of international NGOs and several independent domestic human rights groups operated in the country, investigating and publishing their findings on human rights cases. Some domestic NGOs noted relations with the Government were generally positive; however, others indicated the Government was intolerant of criticism and suspicious of local and international human rights observers, often rejecting their criticism as biased and uninformed. During the year some NGOs expressed fear of the Government and self-censored their activities and comments.

Domestic NGOs the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) and the League for Human Rights in the Great Lakes Region (LDGL) focused on human rights abuses. Other local NGOs dealt with at least some human rights issues and conducted activities such as lobbying the legislature to provide more protection for vulnerable groups, observing elections, raising awareness of human rights among youth, and providing explanations of legislation, legal advice, and advocacy. In 2009 LIPRODHOR employed its 180 members (down from 400 in 2008) and 106 district volunteers to conduct field investigations of alleged abuses. Both LIPRODHOR and the LDGL published their findings and discussed them with government officials—including on sensitive cases—and raised concerns about false accusations in *gacaca* trials. Few domestic NGOs produced publications regularly on general human rights issues.

The law on nonprofit associations permits government authorities to review budgets and the hiring of personnel. NGOs often found the registration process difficult. To obtain a provisional six-month approval, domestic NGOs must present their objectives, plan of action, and financial information to local authorities of every district in which the organizations intend to work. After obtaining provisional agreement, domestic NGOs must apply for registration (legal recognition) each year with the Ministry of Justice. If a local NGO is initially denied registration, the NGO sometimes must correct and resubmit its registration documents. The Government also requires domestic NGOs to submit financial and activity reports each year. NGOs complained these requirements and near-compulsory participation in the Joint Action Forum strained their limited resources. While there was no legal requirement to contribute financially to the forum, some organizations felt pressured to do so.

The Government also requires international organizations to register each year and obtain yearly provisional authorization from the local governments of every district in which the organizations work, followed by final authorization from the concerned ministry. This requirement made registration difficult for some organizations. The Government also requires international organizations to submit yearly reports to the relevant local governments and national level ministries. The paperwork involved was burdensome.

The Government required civil society groups to submit quarterly financial statements and lists of staff and assets in each of the districts where projects were implemented.

A progovernment NGO platform group, the Civil Society Platform, continued to manage and direct some NGOs through the use of umbrella groups, which theoretically aggregated NGOs working in particular thematic sectors; however, many observers believed the Government controlled some of these umbrella groups.

There were reports that authorities pressured some individuals affiliated with NGOs to provide information on their activities.

Government officials sometimes criticized domestic NGOs that sought assistance from international NGOs and the diplomatic corps in resolving disputes with the Government.

The Government submitted a report to the UN Office of the High Commissioner for Human Rights for the country's first Universal Periodic Review, which described its efforts to improve the human rights situation in the country. Additionally 35

local civil society organizations submitted an alternative report; however, some leaders of the participating organizations denounced the report after it was submitted, saying it did not reflect their views.

The Government generally cooperated with international NGOs; however, it frequently criticized HRW, and sometimes Amnesty International, as being inaccurate and biased. The Government reportedly conducted surveillance on some international NGOs.

The Government did not deny visas to NGO personnel; however, on March 3, officials confiscated, and on March 10 cancelled, the work permit of HRW's sole international researcher in country on charges of forgery. The researcher reapplied, and on April 23, officials denied her application. She left the country the next day.

The National Human Rights Commission (NHRC) enjoyed the Government's cooperation but did not have adequate resources to investigate all reported violations and remained biased in favor of the Government, according to some observers.

The Office of the Ombudsman operated with government cooperation and took action on cases of corruption and other abuses, including of human rights (see sections 1.e. and 3).

The ICTR in Tanzania continued to prosecute genocide suspects during the year. Since 1994 the ICTR completed 52 cases, with 36 convictions, eight convictions pending appeal, and eight acquittals. At year's end, there were 21 individuals on trial, two persons awaiting trial, and 10 fugitives. Despite continued government efforts to prepare its facilities and legal system to meet international standards, the ICTR has rejected five applications to transfer genocide suspects to Rwanda for trial. In November the prosecutor filed three new requests; eight other cases remained under appeal at year's end.

The ICTR had tried no RPF members by year's end. The Government continued to claim that calls by human rights groups or opposition figures for investigations of alleged RPF war crimes constituted attempts to equate the genocide with abuses committed by RPF soldiers who stopped the genocide.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that all citizens are equal before the law, without discrimination on the basis of ethnic origin, tribe, clan, color, sex, region, social origin, religion or faith opinion, economic status, culture, language, social status, or physical or mental disability. The Government generally enforced these provisions; however, problems remained.

*Women.*—The law criminalizes rape and spousal rape, and the Government handled rape cases as a priority within its courts and tribunals. Penalties for rape ranged from 10 years' to life imprisonment; penalties for spousal rape ranged from six months' to two years' imprisonment. During the year courts tried 239 cases—159 new rape cases were filed in court, and 1,463 cases were pending at year's end, compared with 2,020 pending cases at the end of 2009. In recent years, those convicted of rape generally received prison sentences of between one year and life. Rape and other crimes of sexual violence committed during the genocide are classified as Category I genocide crimes.

Domestic violence against women, including wife beating, was common. Figures from the National Institute of Statistics indicated 31 percent of women over the age of 15 were victims of domestic violence, and 10.2 percent of women experienced domestic violence during pregnancy. A law on the prevention and punishment of gender-based violence came into effect in April 2009 and provides for imprisonment of six months to two years for threatening, harassing, or beating one's spouse. However, cases normally were handled within the context of the extended family. Between January and June, police investigated 1,572 cases of gender-based violence; however, this figure is thought to underestimate the problem's extent. Police headquarters in Kigali had a hotline for domestic violence, an examination room, and trained counselors who provide access to a police hospital for more intensive interventions. In 2008 the RDF cooperated with local authorities in Northern Province to increase reporting of and support efforts against gender-based violence in 41 specific locations. Each of the 62 police stations nationwide had its own gender desk, trained officer, and public outreach program. The national gender desk in Kigali also monitored nationwide investigations and prosecutions into gender-based violence. In July 2009 the Government—in partnership with the RNP, UN Children's Fund, UN Development Fund for Women, and UN Population Fund—opened the Isange Center, which provided medical, psychological, and police assistance to victims of domestic violence.

The law prohibits sexual harassment by employers and provides for penalties of two to five years' imprisonment and fines from 100,000 to 200,000 Rwandan francs

(\$180 to \$360). Sexual harassment was common. The effectiveness of government enforcement efforts was unknown.

The Government respected the basic right of couples and individuals to decide freely and responsibly the number, timing, and spacing of their children and to have the information and means to do so free from discrimination, coercion, and violence. The Government made available reproductive health services and contraceptives for all citizens, regardless of age, sex, and ethnicity. More than 90 percent of the population had some form of health insurance, with free coverage provided to the poorest of the population. However, some persons remained uninsured because they did not qualify for free insurance, did not purchase insurance, or could not afford the fees. Additionally the resources generated by the insurance schemes were not sufficient to cover more expensive medical care, which resulted in significant out-of-pocket costs.

There was a small copayment for obstetric services; this fee was waived for women who completed the recommended four antenatal care visits. Women and men received equal access to diagnostic services and treatment for sexually transmitted infections including HIV/AIDS. According to the Population Reference Bureau, the Government provided 73 percent of available contraceptives. According to a 2005 Demographic and Health Survey, the unmet need for family planning was 38 percent, a statistic that reflected rural access issues, lack of accurate information, and religious reasons. According to the UN Population Fund, use of modern contraceptives increased from 10 percent in 2005 to 17 percent in 2008, and skilled attendance at birth rose from 39 to 52 percent in the same period. According to the UN, the estimated maternal mortality ratio in 2008 was 540 maternal deaths per 100,000 live births.

Women have the same legal status and are entitled to the same rights as men. The law allows women to inherit property from their fathers and husbands, and couples may make their own legal property arrangements; however, women had serious difficulties pursuing property claims. Since the 1994 genocide, which left numerous women as heads of households, women assumed a larger role in the formal sector, and many operated their own businesses. According to the UNDP, nearly one-third of households in the country are female-headed, and nearly two-thirds of these households lie below the poverty line, compared to 54 percent of male-headed households. Despite the election in 2008 of a chamber of deputies with a female majority, women continued to have limited opportunities for education, employment, and promotion. Women performed most of the subsistence farming in the country. According to the International Finance Corporation, women headed 42 percent of enterprises and made up 58 percent of enterprises in the informal sector, which accounts for 30 percent of the country's GDP. For the majority of women, particularly those at the lower end of the economic spectrum, the key assets of most households are usually owned by men, making formal bank credit inaccessible to many women, rendering it difficult to start or expand a business. According to a 2005 Demographic and Health survey, more than 85 percent of working women are engaged in agriculture, but 72 percent of these women are self-employed and 64 percent receive no payment for their work. The Government-funded Women's Council served as a forum for women's issues and consulted with the Government on land, inheritance, and child protection laws. The Ministry of Gender and Family Promotion in the Office of the Prime Minister headed government programs to address women's issues and coordinated programs with other ministries, police, and NGOs. The Government provided scholarships for girls in primary and secondary school and loans to rural women. A number of women's groups actively promoted women's concerns, particularly those of widows, orphaned girls, and households headed by children. In January 2009 the Government opened the Rwanda Gender Observatory, a gender-focused institution that tracks the mainstreaming of gender equality and women's empowerment throughout all sectors of society and collects gender-disaggregated data to inform policy processes.

*Children.*—Citizenship is derived from one's parents. Children born to two Rwandan parents automatically receive citizenship; children with one Rwandan parent must apply for citizenship before turning 18 years old. Children born in the country to unknown or stateless parents automatically receive citizenship. Births are registered at the sector level upon presentation of a medical birth certificate. There were no reports of unregistered births leading to denial of public services.

Primary education is compulsory. Parents of students are not required to pay tuition fees through nine years of basic education; however, most parents were required to pay unofficial fees to support basic school operations.

Statistics on child abuse were unavailable; however, such abuse was common.

There were no statistics available on child marriage; however, it occurred in rural areas.

Due to the genocide and deaths from HIV/AIDS, there were many households headed by children, some of whom resorted to prostitution to survive. The law provides that any sexual relations between an adult and a child under 18 years old is considered rape and is punishable by 20 years to life in prison. Between January and July 2009, prosecutors filed 2,045 cases in regular courts of rape of minors; judges acquitted 632 of those accused and sentenced 110 to life in prison.

During the year the Government conducted a high-profile public campaign to discourage intergenerational sex and sexual procurement.

The law prohibits child pornography with penalties of between five and 10 years in prison and a fine of 200,000 to 500,000 Rwandan francs (\$360 to \$900).

The Government continued to support the Muhazi rehabilitation center for children in Eastern Province, which provided care and social reintegration preparation during the year for approximately 47 children who had previously served as soldiers in the DRC. As of December, 29 of the former child soldiers were reunited with their families. In June UNICEF, with the support of the Government, began a year-long project at the center to provide literacy and numeric education, psychosocial support, recreational and cultural activities, an improved medical unit, and increased nutrition through gardens and fish farming.

There were numerous street children throughout the country. Authorities gathered street children and placed them in foster homes or government-run facilities, including Gikondo transit center, where street children, vagrants, and street sellers were held in substandard conditions (see section 1.d.). The Government also supported 30 child-care institutions across the country that provided shelter, basic needs, and rehabilitation for 1,988 street children. The Government worked with international organizations and NGOs to provide vocational training and psychosocial support to street children, reintegrate them into their communities, and educate parents on how to prevent their children from becoming street children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congresreport/congresreport—4308.html>.

*Anti-Semitism.*—There was a very small Jewish community, consisting entirely of foreigners, and there were no reports of anti-Semitic acts, societal discrimination, or abuse.

In 2009 the Government endorsed the opening of Agahozo Shalom Youth Village, a residential community for orphaned teenagers sponsored by an American Jewish organization, which teaches tolerance and acceptance of all persons.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law specifically prohibits discrimination against persons with disabilities in regard to employment, education, and access to social services, and the Government generally enforced these provisions. The constitution prohibits discrimination on the basis of physical or mental disability. The law also mandates access to public facilities, accommodations for taking national exams, provision of medical care by the Government, and monitoring of implementation by the NHRC; the Government generally implemented these provisions. The National Federation for People with Disabilities (FENAPH) appointed one member of the chamber of deputies. The legislature passed an amendment to the constitution on June 17 to establish a national council for persons with disabilities to assist in coordination of government efforts to provide for the rights of persons with disabilities.

Some persons view disability as a curse or punishment, which can result in social exclusion and sometimes abandonment or hiding of children from the community. FENAPH has held several conferences to sensitize teachers and communities to these abuses.

There is one government psychiatric referral hospital in Kigali; all other mental health facilities are nongovernmental. In general facilities are under-equipped and understaffed. Individuals can be committed to mental health facilities involuntarily with no hearing.

There have been no claims of employment discrimination against persons with disabilities.

The National University of Rwanda and the Kigali Institute of Education admit students with visual disabilities.

*National/Racial/Ethnic Minorities.*—Long-standing tensions in the country culminated in the 1994 state-orchestrated genocide, in which Rwandans killed between 750,000 and one million of their fellow citizens, including approximately three-quarters of the Tutsi population. Following the killing of the president in 1994, an extremist interim government directed the Hutu-dominated national army, militia

groups, and ordinary citizens to kill resident Tutsis and moderate Hutus. The genocide ended later the same year when the predominantly Tutsi RPF, operating out of Uganda and northern Rwanda, defeated the national army and Hutu militias, and established an RPF-led government of national unity that included members of eight political parties. President Kagame was elected in the 2003 elections.

Since 1994 the Government has called for national reconciliation and abolished policies of the former government that created and deepened ethnic cleavages. The Government removed all references to ethnicity in written and nonwritten official discourse and eliminated ethnic quotas for education, training, and government employment. The constitution provides for the eradication of ethnic, regional, and other divisions in society and the promotion of national unity. In practice, some Rwandans know the regional or ethnic origin of their fellow Rwandans. Some individuals continued to accuse the Government of favoring Tutsis—particularly English-speaking Tutsis—in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters.

Some French-speaking citizens charged the 2008 government decree to replace French with English in 2010 as the language of instruction from elementary school grade three onwards favored English-speakers.

*Indigenous People.*—Beginning in the 1920s, colonial authorities formally assigned “racial” categories to all citizens and required them to carry identity cards indicating their designated ethnicity—Hutu, Tutsi, or Twa. Government authorities continued this practice until after the 1994 genocide. The postgenocide government banned identity card references to ethnicity and prohibited social or political organizations based on ethnic affiliation as divisionist or contributing to genocide ideology. As a result, the Twa, purported descendants of Pygmy tribes of the mountainous forest areas bordering the DRC and numbering approximately 34,000, lost their official designation as an ethnic group. The Government no longer recognizes groups advocating specifically for Twa needs, and some believed these government policies denied them their rights as an indigenous ethnic group. The Government recognized the Community of Rwandan Potters, an organization that focused primarily on Twa community needs, as an advocate for the most marginalized, rather than organizations that support an indigenous ethnic group. Most Twa continued to live on the margins of society with very limited access to health care or education. The Twa generally continued to be treated as second-class citizens.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Some members of the LGBT community reported societal discrimination and abuse during the year. According to a 2008-09 study in Kigali, gays claimed to have been verbally and physically abused in workplaces, bars, prisons, and elsewhere.

*Other Societal Violence or Discrimination.*—Discrimination against persons living with HIV/AIDS occurred, although such incidents remained rare. The Government actively supported public education campaigns on the issue, including the establishment of HIV/AIDS awareness clubs in secondary schools and making public pronouncements against stigmatization of those with the disease.

According to RDF policy and in keeping with UN guidelines, members of the military with HIV/AIDS are not permitted to participate in peacekeeping missions abroad but remain in the military.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides all salaried workers, except for civil servants, the right to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. The law allows unions to conduct their activities without interference; however, while the Government respected this right in practice, some private sector employers did not and often harassed union members. Employers often prevented organized workers from meeting by prohibiting meetings during work hours. Approximately 30 percent of the total workforce, including agricultural workers, belonged to unions.

All unions must register with the Ministry of Labor for official recognition; the application process was cumbersome.

The law provides some workers the right to strike, but authorities severely restricted this right. Civil servants were not allowed to strike. Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union. A union’s executive committee must approve any strike, and the union must first try to resolve its differences with management following a process prescribed by the Ministry of Labor. During the year workers at a tobacco company formed a union and held a strike to protest working conditions.

According to a union cooperative, some of the workers responsible for forming the union were fired; a trial for some members is set for June 2011.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, but the Government severely limited this right. The labor law allows for unions to negotiate with employers for an industry-level minimum wage, but no unions have done so.

The Government was heavily involved in the collective bargaining process since most union members worked in the public sector. No labor unions had an established collective bargaining agreement with the Government.

The law prohibits antiunion discrimination, but there were no functioning labor courts to resolve complaints involving discrimination against unions. According to the Central Union of Rwandan Workers, employers in small companies frequently intimidated unionists through the use of transfers, demotions, and dismissals, although less often than in the previous year. The law requires employers to reinstate workers fired for union activity; however, the Government seldom enforced this law.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and the Government generally enforced this right; however, prison authorities assigned prisoners to work details that generally involved uncompensated public maintenance duties. Gacaca courts sentenced convicts to perform community service, and those suspected of committing genocide, who confessed, received sentences involving community service. Some prisoners volunteered for community service because it allowed them time away from overcrowded prisons and sometimes extra privileges. Authorities have sentenced 62,028 persons to community service. At year's end, 20,875 persons were serving their sentences in one of the 51 community service camps, 24,543 had completed their community service, and 14,071 were waiting to begin community service.

There were no reports that children in refugee camps were recruited to be used as combatants in eastern DRC or forced laborers.

Forced child labor and trafficking of children for sexual exploitation occurred.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits forced or compulsory labor by children; however, the Government did not effectively enforce it. According to a survey completed by the International Labor Organization and UNICEF in partnership with the Government, approximately 325,000 children (11 percent of children between the ages of five and 17) engaged in child labor.

During the year the Government increased efforts to stop child prostitution through a high-profile public campaign to discourage intergenerational sex and sexual procurement.

Except for subsistence agricultural workers, who accounted for more than 85 percent of the workforce, the law prohibits children younger than 16 years old from working without their parents' or guardians' permission. The law prohibits children younger than 18 years old from participating in night work (between 7 p.m. and 5 a.m.) or any work deemed hazardous or difficult by the minister of labor. Children also must have a rest period of at least 12 hours between work periods. The minimum age for full-time employment is 18 years old (16 years old for apprenticeships), provided that the child has completed primary school.

The Government identified five forms of child labor as the "worst forms of labor," including domestic work outside the family sphere; agricultural activities on tea, rice, and sugar cane plantations; work in brickyards and sand extraction quarries; crushing stones; and prostitution. During the year child labor persisted in the agricultural sector, among household domestics, in small companies, and in the brick-making industry. Children received low wages, and abuse was common. In addition child prostitution and trafficking of children were problems.

A National Advisory Committee on Child Labor composed of various government ministries, the NHRC, RNP, trade unions, and NGOs met regularly to provide guidance and technical assistance to the Government on child labor issues and to develop a national child labor policy. The Government supported 30 labor inspectors, one in each district; however, the Government was unable to provide them with adequate resources effectively to identify and prevent the use of child labor. Some districts established bylaws to prevent child labor, and child labor reduction benchmarks were integrated into district performance contracts.

The Government worked with NGOs to raise awareness of the problem, identify children involved in child labor, and send them to school or vocational training. Between 2004 and 2008, in collaboration with numerous NGOs, the Government res-

cued 4,251 children from exploitative labor, prevented 3,121 at-risk children from entering exploitative labor, and assisted many of them to attend formal or vocational education. The Government fined those who illegally employed children or sent their children to work instead of to school. During the year teachers and local authorities received training on the rights of children. The Ministerial Order this year on the worst forms of child labor prohibits children from working at industrial institutions and in domestic service, mining and quarrying, construction, brick-making, or applying fertilizers and pesticides. In November the Ministry of Public Service and Labor released a brochure on strategies to eliminate child labor in the country.

Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*e. Acceptable Conditions of Work.*—There was no single minimum wage, but minimum wages in the formal economy did not provide a decent standard of living for a worker and his family. For example, the minimum wage in the tea industry ranged from 500 to 1,000 Rwandan francs per day (approximately \$0.85 to \$1.70), while in the construction industry it ranged from 1,500 to 5,000 Rwandan francs a day (\$2.50 to \$8.50), depending on skill level. Minimum wages, however, provided a higher standard of living than that of the 85 percent of the population relying only on subsistence farming. The Ministry of Public Service, Skills Development, and Labor set minimum wages in the small formal sector. The Government, the main employer, effectively set most other wage rates as well. In practice some workers accepted less than the minimum wage. Families regularly supplemented their incomes by working in small businesses or subsistence agriculture.

In May the Government passed a law that increases legal working hours from 40 to 45 hours per week and reduces maternity leave from 12 weeks with full salary to six weeks with full salary, with an optional additional six weeks at 20 percent of salary. The law provides employers with the right to determine daily rest periods; in practice most employees received a one-hour lunch break. The law does not provide for premium pay for overtime, but there are prohibitions on excessive compulsory overtime. The law regulates hours of work and occupational health and safety standards in the formal wage sector, but inspectors from the Ministry of Public Service did not enforce these standards effectively. Workers did not have the right to remove themselves from dangerous work situations without jeopardizing their jobs; however, the Government established a list of dangerous professions subject to heightened safety scrutiny. The same standards applied to migrant and foreign workers.

---

## SAO TOME AND PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty constitutional democracy with a population of approximately 200,000. The head of state is President Fradique Bandeira Melo De Menezes, who was reelected in 2006. The head of government is Prime Minister Patrice Emery Trovoada, whose party won the most seats in legislative elections held August 1. International observers deemed both the 2006 presidential and August 1 legislative elections free and fair. Security forces reported to civilian authorities.

Human rights abuses included difficult prison conditions; prolonged pretrial detention; official impunity; official corruption; violence and discrimination against women; child labor; and harsh forced labor conditions.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions were difficult, but not life threatening. Medical care was poor, and food was often inadequate. Extreme high temperature often occurred and ventilation was often insufficient.

Pretrial prisoners were held with convicted prisoners, and juveniles were held with adults. There is one prison and no jails or detention centers. Police stations have a small room or space to incarcerate an offender for brief periods.

There were a total of 218 prison inmates and 87 pretrial detainees. The number of inmates included 8 women and 25 juveniles. There were no reports of prison deaths.

Prisoners and detainees had reasonable access to visitors on a weekly basis and were permitted religious observances. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Legal representatives are available to address prisoner grievances.

The Government investigated and monitored prison and detention center conditions through the Ministry of Justice.

The Government permits human rights monitors to visit the prison; however, there were no such visits during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—In August, with the formation of the 14th constitutional government in the country's history, the national police and immigration service again were put under the control of the Ministry of Defense and Public Security. The Ministry of Defense and Public Security continues to supervise and control the military. Despite increased personnel and trainings offered throughout the year, the police remained ineffective and were widely viewed as corrupt. Impunity was a problem, and efforts to reform the Criminal Investigation Police, a separate agency under the Ministry of Justice, were unsuccessful, primarily due to inadequate resources.

*Arrest Procedures and Treatment While in Detention.*—The law requires arrest warrants issued by an authorized official to apprehend suspects, unless the suspect is caught during the commission of a crime. The law requires a determination within 48 hours of the legality of a detention, and authorities generally respected this right. Detainees are informed promptly of charges against them and are allowed prompt access to family members. Detainees are allowed prompt access to a lawyer and, if indigent, to one provided by the state. There was a functioning bail system.

However, severe budgetary constraints continued to result in lengthy pretrial detention and greatly hindered investigations in criminal cases. Inadequate facilities and a shortage of trained judges and lawyers were additional factors leading to lengthy pretrial detention.

According to the director of the Sao Tome prison, 30 percent of the country's prisoners were awaiting trial during the year, and approximately 24 pretrial detainees had been held for more than a year. The majority of prisoners were young adults 18 to 30 years old.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, at times the judicial system was subject to political influence or manipulation. Judicial salaries remained low, and judges reportedly accepted bribes.

*Trial Procedures.*—The constitution provides for the right to a fair public trial by a judge (juries are not used), the right of appeal, the right to legal representation, and, if a person is indigent, the right to an attorney provided by the state. Defendants are presumed innocent, have the right to confront their accusers, confront witnesses, access government evidence, and present evidence and witnesses on their own behalf.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The same courts consider both criminal and civil cases, but different procedures are used in civil cases. Plaintiffs may bring lawsuits seeking damages for, or cessation of, a human rights violation; there are also administrative and judicial remedies for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights; however, journalists practiced self-censorship. The law grants all opposition parties

access to the state-run media, including a minimum of three minutes per month on television.

Individuals could privately or publicly criticize the Government, including specific officials, without fear of reprisal. There were no reports of the Government impeding criticism. Two government-run and seven independent newspapers and newsletters were published sporadically, usually on a monthly or biweekly basis; resource constraints determined publishing frequency. The independent media were active and expressed a wide variety of views without restriction. International media operated freely. The Government operated television and radio stations. Several foreign broadcasters also were rebroadcasted locally.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. International Telecommunication Union Statistics for 2009 indicate that 16.4 percent of inhabitants used the Internet. Severe lack of infrastructure, including inadequate electricity and communications networks, limited public access to the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of peaceful assembly and association, and the Government generally respected these rights.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights. The law does not prohibit forced exile; however, there were no reports that the Government used it practice.

*Protection of Refugees.*—The law does not specifically provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The Government has not established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. During the year there were no known requests for refugee or asylum status.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic and generally free and fair elections based on universal suffrage.

*Elections and Political Participation.*—The August legislative elections gave a plurality of seats in the National Assembly to the Independent Democratic Action (ADI) party. The ADI subsequently formed a government headed by Prime Minister Patrice Trovoada, who took office on August 14. International observers deemed the election generally free and fair.

Local and regional elections were held on July 25. The ADI won control of two of six districts in these elections; the principal opposition party, the Movement for the Liberation of Sao Tome and Principe, won four districts, and a new party, Union for Change and Progress of Principe, won the presidency of the regional government in Principe.

Political parties operated without restriction or government interference.

Women held positions throughout the Government, including 11 seats in the 55-seat National Assembly, one of 13 cabinet positions, one seat on the three-member Supreme Court, and two of the 12 judgeships in the circuit courts.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The police remained ineffective and were widely viewed as corrupt.

The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a serious problem. Public officials were not subject to financial disclosure laws.

There are no laws that provide for public access to government information; however, there were no reports that the Government restricted access to information by citizens or noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

In the past a small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Because of the general respect for human rights, such groups generally remained inactive. Government officials generally were cooperative and responsive to their views.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for the equality of all citizens regardless of gender, race, social origin or status, political views, creed, philosophical convictions, disability, or language; nevertheless, women faced discrimination.

*Women.*—Rape, including spousal rape, is illegal and punishable by two to 12 years' imprisonment. Rape occurred occasionally, with prosecution most likely in cases where there was evidence of violent assault as well as rape or if the victim was a minor. However, no statistics on prosecutions were available. Government family planning clinics and nongovernmental organizations (NGOs) sought to combat rape by raising awareness of the problem.

Widespread reports of domestic violence, including rape, against women continued. Although women have the right to legal recourse, including against spouses, many were reluctant to bring legal action because of the cost and a general lack of faith in the legal system to effectively address their concerns. Women were often ignorant of their rights under the law. Tradition inhibited women from taking domestic disputes outside the family. The law specifically addresses domestic violence cases. If the victim misses fewer than 10 days of work, the penalty for assault is six months in prison. If the victim misses 10 to 20 workdays, the penalty is one year, and so forth. The law was strictly enforced, but there was no data on the number of prosecutions or convictions for domestic violence.

The Office of Women's Affairs and the UN Children's Fund maintained a counseling center with a hotline. While the hotline did not receive many calls due to unreliable telephone service, the counseling center received numerous walk-ins.

The law does not prohibit sexual harassment, and it was a problem. No data was available on its extent.

The Government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives, but they were not widely used. Due to a lack of funds, NGOs and the Ministry of Health had insufficient supplies of contraceptives, leading to a decrease in availability and use. The Government provided free childbirth services, but the lack of sufficient doctors obliged many women, especially in rural areas, to rely on nurses or midwives during childbirth, unless the mother or child suffered more serious health complications. Pre- and post-natal care outside of the family is rare. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but women were more likely than men to seek treatment and refer their partners.

The constitution stipulates that women and men have equal political, economic, and social rights. Women did not experience economic discrimination. While many women have access to opportunities in education, business, and government, women in general continued to encounter significant societal discrimination. Traditional beliefs left women with most child-rearing responsibilities and with less access to education or entry into professions. A high teenage pregnancy rate further reduced economic opportunities for women. The Gender Equality Institute within the Office of Women's Affairs held numerous seminars and workshops to raise awareness of discrimination against women.

*Children.*—Citizenship is acquired either through parents or by being born within the country. Either parent, if a citizen, can confer citizenship to a child born outside the country. The law requires all children born in the country to be registered in the hospital where they are born. If not born in a hospital, the child must be registered at the nearest precinct. Failure to register a birth can lead to a fine.

By law education is universal, compulsory through sixth grade, and tuition-free to the age of 15 or sixth grade. In practice many rural students stopped attending school after the fourth grade. A number of government and donor-funded programs operated to improve conditions for children, notably an ongoing malaria control

project and a program for acquisition of school and medical equipment. Mistreatment of children was not widespread; however, there were few protections for orphans and abandoned children.

There were reports of children engaged in prostitution. There is no statutory rape law or specific legislation to prohibit child pornography. However, the Government uses other laws such as kidnapping or unlawful forced labor, as well as its existing rape-related laws, to address instances of sexual exploitation of children.

The Ministry of Labor and Solidarity operated a social services program that collected street children in three centers where they attended classes and received training. Conditions at the centers were good; however, because of overcrowding, some children were returned to their families to sleep at night, and a few of these children ran away.

*Anti-Semitism.*—There was no known Jewish community and no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law does not prohibit discrimination against persons with physical or mental disabilities; however, there were no reports of discrimination against such persons. The law does not mandate access to buildings, transportation, or services for persons with disabilities. Local NGOs that criticized the Government in the past for not implementing accessibility programs for such persons were not active during the year.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There is no law criminalizing sexual orientation; however, there was societal discrimination based on sexual orientation.

*Other Societal Violence and Discrimination.*—Persons with HIV/AIDS were often rejected by their communities and shunned by their families. However, there were no reports that workers were discriminated against due to their HIV/AIDS status. As in the previous year, there were a number of government-sponsored workshops and awareness campaigns to reduce such discrimination. The Government also provided free AIDS testing and distributed antiretroviral drugs to all recognized patients.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law allow workers to form and join unions of their choice without previous authorization or excessive requirements, and workers generally exercised this right in practice. There were no reliable statistics regarding the disposition of the country's workforce.

Only two unions existed in the very small formal wage sector: the General Union of Workers and the National Organization of Workers of Sao Tome and Principe. Both represented government workers, who constituted the majority of formal sector wage earners, and members of farmers' cooperatives. The law does not prohibit antiunion discrimination.

The constitution provides for the freedom to strike, including by government employees and other essential workers; however, the laws do not prohibit retaliation against strikers. No strikes occurred during the year. The provisions regulating strikes require that a majority is needed to call a strike, and replacement workers can be hired without consultation with the trade unions to perform essential services in the event the enterprise is threatened by a strike. The law also requires compulsory arbitration for services, including postal, banking, and loan services.

*b. The Right to Organize and Bargain Collectively.*—The constitution and law state that workers may organize and bargain collectively; however, workers' collective bargaining rights remain relatively weak due to the Government's role as the principal employer in the formal wage sector and key interlocutor for organized labor on all matters, including wages.

There were no laws prohibiting antiunion discrimination; however, there were no reports such discrimination occurred.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. There is no evidence or statistics of such forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the formal sector workplace, but they are utilized only rarely and on a case-by-case basis.

Employers in the formal wage sector generally respected the legally mandated minimum employment age of 18. The law prohibits minors from working more than

seven hours a day and 35 hours a week. Children worked in subsistence agriculture on farms, informal commerce, and domestic work. Children in low income families were sometimes sent to work on local farms and boarded away from home. No cases of child labor abuses were prosecuted, although the law states that employers of underage workers can be fined. The Ministry of Health and Social Affairs is responsible for enforcing child labor laws.

Unlike the previous year, there were no government initiatives taken to prevent child labor; however, a media campaign against it continued. The Ministry of Education mandated compulsory school attendance from the fourth to the sixth grade, and the Government granted some assistance to several low-income families to keep their children in school. The Ministry of Labor utilized teams of labor inspectors to increase inspections at work sites.

*e. Acceptable Conditions of Work.*—There is no national minimum wage. The legal minimum wage for civil servants of 750,000 dobras (\$42) per month was not sufficient to provide a decent standard of living for a worker and family. Working two or more jobs was common. The labor law specifies occupations in which civil servants may work if they pursue a second job. Civil servants in “strategic sectors,” such as the court system, the ministries of finance, customs, and education, the Criminal Investigation Police, and the military, earned up to 400 percent more than other public sector employees.

Working conditions on many of the cocoa farms—the largest informal wage sector—were unregulated and extremely harsh. The average salary for agricultural workers did not provide a decent standard of living for a worker and family, and the purchasing power of their pay was further eroded by inflation.

The legal workweek is 40 hours, with 48 consecutive hours mandated for rest. However, shopkeepers could work 48 hours a week with eight hours of overtime or in shifts. The law provides for compensation for overtime work.

The law prescribes basic occupational health and safety standards; however, due to resource constraints, the Ministry of Justice and the Ministry of Health and Social Affairs, which covers labor issues, did not monitor labor conditions sufficiently, and enforcement of these standards seldom occurred. Employees have the right to leave unsafe working conditions, but none sought to do so, and enforcement of the right was very limited.

---

## SENEGAL

Senegal, with an estimated population of 12.8 million, is a moderately decentralized republic dominated by a strong executive branch. In 2007 Abdoulaye Wade was reelected president in an election generally viewed as free and fair despite sporadic incidents of violence and intimidation. In 2007 the ruling Senegalese Democratic Party (PDS) won the majority of seats in National Assembly elections that were boycotted by the leading opposition parties. During the March 2009 local elections (municipal, regional, and rural communities), a multiparty opposition coalition scored significant victories, especially in the country’s major cities. International observers characterized the March 2009 elections as generally free and transparent. Security forces reported to civilian authorities.

Major human rights problems included the following: inhuman and degrading treatment of detainees and prisoners, including reports of physical abuse and torture; overcrowded prisons; questionable investigative detention and long pretrial detention; lack of an independent judiciary; limits on freedoms of speech, press, and assembly; corruption and impunity; rape, domestic violence, sexual harassment of and discrimination against women; female genital mutilation (FGM); child abuse; child marriage; infanticide; trafficking in persons; and child labor.

Rebels associated with the Movement of Democratic Forces of the Casamance (MFDC) killed civilians and military personnel, committed robberies, fought with the army, and harassed local populations while fighting each other.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings. However, there was one report of an arbitrary killing by a security force member.

On July 5, a park ranger stationed at the marine protected area of Madeleine Island, off the coast of Dakar, shot and killed fisherman Moustapha Sarr, who had allegedly violated regulations prohibiting fishing in the marine reserve. The park

ranger, Yaya Sonko, who shot Sarr three times, was arrested and put in pretrial detention by a judge on August 17. The case was pending at year's end.

The case against gendarme Gora Diop, who shot and killed Sangone Mbaye in August 2009, remained pending at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The Government did not take any action to resolve older cases of disappearances (dating from 2002 and earlier), particularly in the Casamance, that were linked to government security forces.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were occasional reports that government officials employed them.

Human rights groups noted examples of physical abuse committed by security forces, including cruel and degrading treatment in prisons and detention facilities. In particular they criticized strip-search and other interrogation methods. Police reportedly forced detainees to sleep on bare floors, directed bright lights at their pupils, beat them with batons, and kept them in cells with minimal access to air. During the year authorities took no action against police involved in these abuses.

Human rights organizations highlighted the lack of supervision and impunity with which security forces treated persons in police custody. While abuses occurred, the Government claimed that these practices were not widespread and that it usually launched formal investigations into cases of abuse. However, the investigations were often lengthy and rarely resulted in charges or indictments of suspects.

In a report issued in September, Amnesty International (AI) cited several cases from 2009 and earlier of deaths that allegedly involved torture while detainees were in police custody. AI noted that no arrest or prosecution was made against members of security forces as the Government refused to authorize such prosecution. In its response, the Government acknowledged the existence of torture but noted that such cases were isolated and not systematic and claimed that AI's report was exaggerated. Other diplomatic and nongovernmental representatives echoed this assessment, noting that while abuses did occur, they were not systematic in scope.

On July 14, police in Yeumbeul, a suburb of Dakar, arrested Abdoulaye Wade Yinghou during a demonstration protesting electricity outages. Yinghou was not a demonstrator but had gone to purchase poultry feed for his employer. He was chased by the police, arrested, and taken to the local police station, where he managed to use his cell phone to alert his employer. The police first denied having arrested him but, on July 15, told his employer that Yinghou died of a seizure while in custody. A postmortem indicated that Yinghou suffered a broken cervical vertebrae, wounds from sharp instruments, and lung injuries; his death resulted from heart failure. By year's end, no investigation had been conducted or any arrest made. The African Assembly for Human Rights (RADDHO) denounced Yinghou's death and echoed AI's report of at least 10 deaths of detainees in police custody as a result of torture in the last decade. RADDHO and AI noted that total impunity for security forces continued to be the rule.

There were no further developments in the May 2009 death of Julilson Niniken Vaz who died while in custody of gendarmes in Mbour, allegedly from torture.

At year's end there was no new information on the November 2009 death of Abou Dia, who died in police custody in the city of Matam. While police claimed that Dia hanged himself, the Government admitted during the year that an autopsy revealed that he died of strangulation; the Government claimed that an investigation was ongoing.

There were no further developments in the alleged cases of torture by security forces reported by human rights organizations following a 2008 riot in the city of Kedougou. The court had dismissed allegations of torture made by attorneys.

There were several cases of mob violence. Due to a weak judiciary and widespread perception of impunity in the justice system, civilians often administered punishment by beating presumed thieves before transferring them to security forces. For example, on July 21, Prospere Bassene was hit three times with a machete, tied up, and beaten to death by local persons in the neighborhood of Goumel in Ziguinchor. Bassene had robbed a local shop that night, and his gang had reportedly committed several robberies and sexual abuses. As of year's end, no one had been charged.

*Prison and Detention Center Conditions.*—Prison and detention center conditions were poor, in part because no new prisons have been built since the colonial era. The nongovernmental organization (NGO) National Organization for Human Rights (ONDH) identified overcrowding and lack of adequate sanitation as major problems. There were 37 prisons with a designed maximum capacity of 3,000 prisoners. However, officials noted in December 2009 that there were 7,550 prisoners. Of this population, 1,600 were non-Senegalese. A UN study group on pretrial detention visited

the country in September 2009 and found that Dakar's main prison facility, known as "Rebeuss," housed 1,592 inmates while its designed capacity was 800. The group criticized the long pretrial detention, prolonged police custody beyond the legal time limit, and detainees' lack of access to attorneys for 48 hours after arrest.

According to ONDH, approximately 2,660 persons were held in prison facilities in pretrial detention in 2009. There were an estimated 200 children being held with their mothers in prison.

Men and women were held in separate facilities. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or to request investigation of credible allegations of inhumane conditions. Prisoners were generally allowed reasonable access to visitors and were permitted religious observance.

Unlike the previous year, there were no reports of any deaths due to mistreatment or poor conditions in prisons.

Local NGOs reported in 2009 that the rape of female prisoners was a serious issue not addressed by government authorities. Unlike the previous year, however, NGOs made no new reports of rape cases of female prisoners.

In April 2009, A. Kebe, a prisoner serving a two-year sentence at the prison of Diourbel, reportedly became pregnant while in custody; however, after delivering her newborn in prison, she strangled the child. The prosecutor opened an inquiry, but there were no further developments by year's end.

Local NGOs reported that prisoner separation regulations were not always enforced. Pretrial detainees were occasionally held with convicted prisoners, and juveniles were occasionally held with adults.

Prisons lacked doctors and medicine. There was one mattress for every five detainees. Prisons experienced drainage problems, stifling heat, and were infested with insects; food was of low quality. Prisons were usually tied into the local water supply, and prisoners had access to potable water.

During the year the Government permitted prison visits by local human rights groups. The ONDH visited prisons in Dakar, Sebikotane, Koutal, and Louga. Members of the National Assembly and the Senegalese League of Human Rights also conducted prison visits.

The ONDH noted that overcrowding and long pretrial detentions were serious problems. In Louga, one prisoner had spent six years in pretrial detention and did not have any idea when and where his prosecution would be taking place. Prisoners at the Camp Penal in Dakar complained about brutality by prison guards. One of them showed his back, which was scarred by marks of burning and beating.

In September Abdoulaye Babou, chair of the Law Committee of the National Assembly, and 10 other members of parliament visited the prisons of Louga and Fatick. They made statements regretting cases of long pretrial detention and stated that some members of the group who are attorneys would represent detainees involved in the longest delayed cases. They also noted the poor conditions of the prison in Fatick, with bad hygiene, crumbling buildings, and overcrowding. They called on the Government to increase prison budgets. Currently prisons are allocated 500 CFA (\$1.01) per prisoner per day; 450 CFA (91 cents) for daily meals and 50 CFA (10 cents) for hygiene.

The parliamentary group also called on the Government to build a new prison in Louga to replace the old warehouse used as a prison, which they termed inappropriate and overcrowded. Each of the rooms in the Louga prison held 20 to 30 prisoners. The Louga prison had 222 citizen prisoners, including 194 men, 11 women, 12 minors, and five foreigners. The prison was officially restricted from receiving persons sentenced to more than one year or hard labor, but this rule was not respected.

Members of the International Committee of the Red Cross (ICRC) also visited prisons in Dakar and Casamance where 15 MFDC members were held on various criminal charges.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention. In contrast with previous years, the Government generally observed these prohibitions, although NGOs reported that police often forcibly dispersed unauthorized marches, arbitrarily arrested individuals, and released them several hours later.

*Role of the Police and Security Apparatus.*—Police and gendarmes are responsible for maintaining law and order. The army shares that responsibility in exceptional cases, such as during a state of emergency. The police force includes 10 departments, which constitute the Directorate General of National Safety. In each of the country's 14 regions, there is at least one police station and at least one mobile safe-

ty brigade. Dakar has 16 police stations. The police force effectively maintained law and order.

The gendarmerie is under the aegis of the Ministry of Defense and primarily employed in rural areas where there is no police presence.

Impunity and corruption were pervasive problems. An amnesty law covers police and other security personnel involved in “political crimes” committed between 1983 and 2004, except those who committed assassinations in “cold blood.”

The Criminal Investigation Department (DIC) is in charge of investigating police abuses. For example, in 2009 the DIC investigated the case of journalists Boubacar Kambel Dieng and Karamoko Thioune, who were beaten in 2008 by police special forces (BIP) unit personnel following a soccer match in Dakar. On March 23, the media reported that the Ministry of Interior finally authorized the judge to prosecute the three suspected BIP officers. On November 26, the court found one of the three officers, El Hadji Lamdou Dione, guilty and issued a suspended sentence of one month in prison. He was also ordered to pay 750,000 CFA (\$1,516) in damages to Dieng.

*Arrest Procedures and Treatment While in Detention.*—Although the law specifies that warrants issued by judges are required for arrests, in practice police often lacked warrants when detaining individuals. The law grants police broad powers to detain prisoners for long periods before filing formal charges. The DIC may hold persons up to 24 hours before releasing them. Many detainees were not promptly informed of the charges against them. Police officers, including DIC officials, may double the detention period from 24 to 48 hours without charges, but they must obtain authorization from the prosecutor. Investigators can request that a prosecutor double this period to 96 hours. For cases involving claimed threats to state security, the detention period can be further doubled. Thus, someone accused of plotting to overthrow the Government or undermining national defense can be held up to 192 hours.

The detention period does not formally begin until authorities officially declare that an individual is being detained, a practice human rights groups criticized for resulting in unjustly long detention periods. Bail is rarely available. In the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical exam and possibly access to family; however, family access was not generally allowed. The accused has the right to an attorney, and attorneys should be provided at public expense to all criminal defendants who cannot afford one, after the initial period of detention. A number of NGOs also provided legal assistance or counseling to those charged with crimes.

The Government used security forces, especially the DIC, to harass journalists and arrest political opponents and civil society leaders (see section 2.a.).

Judicial backlogs and absenteeism of judges contributed to long pretrial detention. The law states that an accused person may not be held in pretrial detention for more than six months for minor crimes; however, persons were routinely held in custody until a court demanded their release. Despite the six-month limit on detention for most crimes, the average time between charging and trial was two years. In many cases, persons are freed without charges being filed. In such circumstances, the state paid no compensation. In 2009 a UN study group on pretrial detention criticized the country for its use of long pretrial detention.

In cases involving murder, threats to state security, and embezzlement of public funds, there are no limits on the length of pretrial detention. Judges are allowed the time necessary to investigate these more serious cases but with the prosecutor’s consent may order release pending trial. If a prosecutor opposes release, the order is frozen until an appeals court decides whether to grant release. By law the prosecutor has total discretion to deny provisional release pending trial for cases involving threats to state security, murder, and embezzlement of public funds. However, since judges lacked sufficient time to review all cases, orders to extend detention were often signed without consideration of the facts to avoid releasing potentially guilty detainees.

*e. Denial of Fair Public Trial.*—Although the constitution and law provide for an independent judiciary, the judiciary was subject to corruption and government influence.

Magistrates continued publicly to criticize their working conditions, including overwhelming case loads, lack of adequate space and office equipment, and inadequate transportation. Magistrates also openly questioned the Government’s commitment to judicial independence.

Besides the formal civil court system, some citizens relied on traditional leaders to settle family and community disputes.

The Regional Court of Dakar includes a military tribunal, which has jurisdiction over crimes that are military in nature. The tribunal is composed of a civilian judge, a civilian prosecutor, and two military assistants to advise the judge, one of whom must be of equal rank to the defendant. The tribunal may try civilians only if they were involved with military personnel who violated military law. The military tribunal provides the same rights as a civilian criminal court.

*Trial Procedures.*—Defendants are presumed innocent. All defendants have the right to a public trial, to be present in court, to confront witnesses, to present evidence and witnesses, and to have an attorney, at public expense if needed, in felony cases.

Evidentiary hearings may be closed to the public and the press. Although the defendant and counsel may introduce evidence before the investigating judge who decides to refer a case for trial, they do not always have access to all evidence against a defendant presented prior to trial. Access to evidence may be limited by police or prosecutors. A panel of judges presides over ordinary courts in civil and criminal cases since a law passed in July eliminated trials by jury. The right of appeal exists in all courts, except for the High Court of Justice. These rights extend to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Citizens may seek cessation of and reparation for human rights violations in regular administrative or judicial courts. Administrative remedies also can be sought by filing a complaint with the High Commission for Peace and Human Rights in the Office of the President. However, corruption and lack of independence hampered judicial and administrative handling of these cases. At times prosecutors refused to prosecute security officials, and violators often went unpunished. In addition there were problems in enforcing court orders, since the Government can ignore court orders without legal consequences.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice; however, human rights organizations stated that illegal telephone monitoring by security services was common practice.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—The level of violence increased during the year in the Casamance region. There were several instances of combat between MFDC and army soldiers, as well as between MFDC factions. The army conducted several sweeps near the regional capital Ziguinchor and in the area of Oulampane in northern Casamance. At least 13 soldiers died in suspected MFDC attacks between February and December. The number of casualties on the MFDC side was unknown.

Despite continued armed conflict, there were fewer civilian victims of violence in the Casamance during the year. No civilian land mine-related deaths were noted during the year, indicating that awareness campaigns about land mines have been effective. Handicap International continued working under the supervision and coordination of the National Mine Action Center, a government organization.

One civilian was killed by alleged members of MFDC. On January 10, Ibrahima Correa was shot and killed by alleged MFDC members in the village of Bindaba. Correa was reportedly going to his rice field when gunmen opened fire. As of year's end, no arrest had been made.

The land mine office in Casamance reported two land mine accidents during the year in which two soldiers were injured.

In June there were reports that soldiers beat civilians in the town of Oulampane to force them to provide information about movements of MFDC rebels operating in the area. As of year's end, no action had been taken against the soldiers.

MFDC rebels committed several highway robberies in the Casamance but, unlike the previous year, no civilian was killed in MFDC robberies.

On May 7, alleged members of the MFDC shot and killed an unarmed soldier in plain clothes near Emaye, in the rural community of Santhiaba Manjack. No arrest had been made by year's end.

On July 18, near Kaguitte in southern Casamance, alleged MFDC members committed highway robberies. While being pursued by soldiers in the area, they shot and killed one soldier. No arrest had been made by year's end.

On October 31, on National Road 4 between the villages of Badioure and Diaran near Bignona, a group of approximately 40 suspected MFDC members fired on an army truck. Three soldiers were killed and two injured. The soldiers were being deployed to provide security on the road, where several car robberies had taken place. No arrests had been made by year's end.

On December 26, suspected MFDC rebels attacked a military convoy in the Bignona area, injuring two soldiers who later died from their injuries. The following

day suspected MFDC rebels ambushed another military patrol in Bignona, killing six soldiers.

On January 18, between Etafoune and Kaguitte, heavily armed gunmen (suspected MFDC members) stopped and robbed operators or passengers of a vehicle, three motorcycles, one bicycle, and passers-by, stealing several cell phones and an unspecified sum of money. As of year's end, no one had been charged for the crimes.

On March 1, between the villages of Mmpalago and Silinkine in northern Casamance, armed men (suspected MFDC members) stopped several cars, took all valuables from the passengers and later fled with one of the vehicles, which belonged to the president of the Region of Ziguinchor. As of year's end, the vehicle had not been recovered or anyone charged with the crime.

On September 3, several vehicles were stopped by alleged members of MFDC between Sare Tening and Sinthian Tening. Passengers were robbed of their cell phones and money. No arrests had been made by year's end.

There were no further developments in the following 2009 cases: the June 7 killing of three persons in an MFDC car hijacking near the village of Kawane in northern Casamance; the June 9 killing of Youssouf Sambou ("Rambo"), a former warlord in the MFDC; and the October 2 MFDC killing of six soldiers trying to free their vehicle from mud in the Sedhiou area.

Of as many as possibly 40,000 persons internally displaced due to the Casamance conflict, the ICRC estimated that 10,000 internally displaced persons (IDPs) continued to live in Ziguinchor, including 370 persons from the nearby village of Baraf, which experienced heavy fighting between the army and MFDC in September 2009 (see section 2.d.).

*Section 2. Respect for Civil Liberties, Including:*

*Freedom of Speech and Press*—The constitution and law provide for freedom of speech and of the press; however, the Government limited these rights in practice, and security forces and politicians intimidated or harassed journalists during the year. Journalists also practiced self-censorship.

Individuals could generally criticize the Government publicly or privately without reprisals.

There were a large number of independent and three government-affiliated newspapers. Due to high illiteracy rates, radio was the most important medium of mass information and source of news.

There were approximately 80 community, public, and private commercial radio stations. Although an administrative law is in place to regulate radio frequency assignments, community radio operators claimed there was a lack of transparency in the allocation of frequencies. Radio stations were occasionally controlled by a single religious, political, or ethnic group.

Although the Government continued to maintain a firm grip on locally televised information and opinion through Radio Television Senegal (RTS), four privately owned television channels broadcast during the year. By law the Government must hold a majority interest in RTS, and the president directly or indirectly controlled selection of all members of the 12-person RTS executive staff. Several human rights and journalist groups criticized the ability of some religious leaders to broadcast on government-controlled television and radio without charge, while other groups were obliged to pay.

Government failure to enforce regulations on establishing media outlets and government-provided media assistance resulted in an increase of unprofessional and politicized media. Journalists and human rights groups maintained that some media outlets, such as the daily newspapers Express News and Le Messenger, and radio stations Ocean FM, Anur, and Radio Municipale de Dakar, were created solely to refute antigovernment criticism.

Journalists continued to criticize government efforts to control media content by selectively granting or withholding state subsidies, which were routinely given to both government-affiliated and private independent media. The Government frequently used subsidies, and in a few cases threats and intimidation, to pressure the media not to publicize certain issues.

The international media were active and expressed a wide variety of views without restriction.

The Government continued to perceive some media organizations as a threat, and during the year journalists were detained for several hours by the DIC. The police often pressured journalists who reported government scandals, waste, or fraud to reveal their sources. The law allows police to arrest and imprison journalists for libel.

On August 26, a Dakar court declared Abdourakhmane Diallo, director of Express News, guilty of defaming Pape Samba Mboup, chief of staff to the president. An unsigned article published in Diallo's newspaper had called Mboup an alcoholic and

political mercenary. Some observers speculated that the article resulted from a political rivalry between Mboup and another government minister. The court sentenced Diallo to six months' imprisonment and fined his publication 20 million CFA (\$40,444). Diallo, who was tried in absentia, had not been detained by year's end.

On September 14, Abdou Latif Coulibaly, an investigative journalist and director of publication for weekly magazine *La Gazette*, was tried for libel in a Dakar court for defaming Thierno Ousmane Sy, a special adviser on telecommunications licensing to the president. Coulibaly's magazine quoted Sy in an article alleging that Sudanese telecom company Sudatel paid \$40 million to bribe Senegalese and foreign lobbyists in 2007 to obtain a cell phone license. Sy was not prosecuted for any of the alleged bribes, as the Government required that the journalist first identify his sources and information, which Coulibaly did not do. On November 16, Abdou Latif Coulibaly and two of the journalists who worked with him on *La Gazette*, were fined 20 million CFA (\$40,444) and given one-month suspended jail sentences.

The September 2009 libel case against journalists Abdou Dia and Pape Samba Sene was dropped because the governor decided not to seek reparation. The judge, in consultation with the prosecutor, decided therefore to close the case.

There were no further developments in the September 2009 vandalism of the premises of the independent television station *Wal Fadjri*.

*Internet Freedom.*—There were no government restrictions on access to the Internet, or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There are three principle Internet service providers in the country. The number of Internet service subscriptions is growing by approximately 28 percent annually, having reached 59,745 accounts by December 2009. According to the country's Agency for the Regulation of Telecommunications and Mail, this figure represented a market penetration rate of 0.49 percent. Cyber cafes were numerous in Dakar and often found in provincial centers. According to the International Telecommunication Union's statistics for 2008, approximately 8 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Although the constitution and law provide for freedom of assembly, the Government interfered with this right in practice. During the year the Government repeatedly denied public permits for civil society and political opposition demonstrations. Opposition groups complained of undue delays when waiting for a government response to authorization requests.

On April 3, the prefect of Dakar banned a demonstration by opposition parties protesting the erection of the costly Monument of the African Renaissance. Faced with increasing pressure from opposition parties, the Government authorized the demonstration at the last moment but limited the organizers to an itinerary different than they sought.

On May 22, gendarmes dispersed demonstrators protesting the erection of buildings near a lake in the Hann neighborhood of Dakar. Demonstrators found refuge in a mosque. Local authorities had not authorized the demonstration.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and stateless persons.

Some public employees, including teachers, are required by law to obtain government approval before departing the country; however, this law was not generally enforced.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—During the 28-year-old Casamance conflict, tens of thousands of persons left villages in the region due to fighting, forced re-

moval, and land mines. Many persons reportedly became newly displaced during the year. The Government estimated that approximately 10,000 IDPs are in the Casamance, although this number tended to fluctuate with the progress of the conflict. Some international humanitarian assistance agencies estimated the IDP number to be as high as 40,000. Some IDPs who attempted to return to their villages in rural communities south of Ziguinchor met with hostility from MFDC combatants, who survived on the same natural resources as returning IDPs.

The Government supplied food to and enrolled children of IDPs in local schools in Ziguinchor. During the year the ICRC and the Government provided support to IDPs from the village of Baraf who fled to the regional capital, Ziguinchor, after being threatened by MFDC rebels.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. Since the president must approve each case, delays of one to two years in granting refugee status remained a problem. In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government generally granted refugee status or asylum and provided refugees with food and nonfood assistance.

The Government violated the rights of some asylum seekers by not offering them due process or security, since appeals filed by denied asylum seekers were examined by the same committee that examined their original case, and a denied asylum seeker can be arrested for staying illegally in the country. Those arrested sometimes remained in "administrative detention" for up to three months before being deported. According to the UNHCR, at the end of 2009, there were 2,796 asylum seekers in the country.

Since 1989 the country has offered temporary protection to Mauritanian refugees, who generally lived in dispersed locations in the river valley along the Mauritanian border and enjoyed free movement within the country. However, most refugees could not obtain refugee documents from authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts. Following discussion with UNHCR, the Government agreed to issue identification cards, but the process had not started by year's end. In 2008 UNHCR began a repatriation program of Afro-Mauritanians to Mauritania. According to UNHCR, an estimated 34,000 Afro-Mauritanians were registered for voluntary repatriation and, by December 2009 approximately 19,000 had been repatriated. Repatriations were temporarily stopped in January due to the internal sociopolitical situation in Mauritania but resumed on October 19. Approximately 1,400 refugees were repatriated between October 19 and the end of December.

During the year 67 Liberians, 57 Ivoirians, one Ghanaian, one Togolese, and 449 nationals from other countries registered with UNHCR. Some 15,000 Senegalese from the Casamance have sought refuge in Gambia (7,000) and Guinea Bissau (8,000) over the years. The Government continued to permit generally unsupervised and largely informal repatriation of Casamance refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic, free, and fair elections based on universal suffrage as demonstrated in the 2007 presidential and legislative elections. Military and paramilitary forces were allowed to vote for the first time in 2009.

*Elections and Political Participation.*—In 2007 President Wade was reelected to a second term with approximately 55 percent of the vote. International observers declared the voting to be generally free and fair; however, there was pre-election violence and irregularities, especially in the issuance of voter cards, and many opposition parties did not accept the election results. The parties petitioned the Constitutional Council to void the election; however, the council rejected their petition.

In the 2007 legislative election, President Wade's PDS coalition won 131 of 150 National Assembly seats. International observers declared the elections to be generally free and fair. Because opposition parties, organized under the umbrella coalition "Front Siggil Senegal," boycotted the elections, the turnout of 34.7 percent was historically low. In the 2007 indirect elections for the Senate, local officials and members of parliament chose PDS candidates for 34 of the 35 contested seats. The remaining 65 Senate seats were filled by the president. The main opposition parties boycotted the Senate elections, since the president appoints the majority of Senate seats.

The 150 registered political parties operated without restriction or outside interference.

At year's end, there were 37 women in the 150-seat National Assembly and 12 women in the 42-member cabinet. Only 13 percent of locally elected leaders were women. The 100-member Senate included 40 women.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and there were officials who engaged in corrupt practices with impunity. Public officials were subject to financial disclosure laws only in cases of investigations. The president is the only official required by law to disclose assets at the beginning of his or her term.

The World Bank's 2009 Worldwide Governance Indicators reflected that corruption was a serious problem, and there was widespread public perception of government corruption. Officials granting themselves, members of the National Assembly, and civil servants salary increases, vehicles, and land over the previous few years exacerbated the perception.

Impunity and corruption among police were pervasive problems. According to human rights groups, attorneys, and victims, security forces regularly extorted money from detainees in exchange for release and from prostitutes to overlook non-compliance with prostitution regulations.

The National Commission to Fight Nontransparency, Corruption, and Government Fraud had no authority to investigate or to prosecute. It remained inefficient in fighting corruption and prosecuted no government officials for the crime. Despite recurrent allegations of corruption in the media, the commission and the judiciary undertook no investigations.

On March 10, Daniel G. Seck, director of the National Agency for Telecommunications and Postal Services, was arrested for mismanagement of public funds after having made payments to himself and senior members of the Agency's Council, which the Government considered illegal. On March 16, he was freed on bail but the case remained pending at year's end. Several civil society leaders accused the Government of using Seck as a scapegoat and denounced the prosecution as selective, since colleagues of Seck who also received payments were not charged.

During the year the Government began active implementation of a more transparent bidding process through the Agency for the Regulation of Public Tendering (ARMP). The ARMP now monitors not only government agencies' compliance with bidding laws and procedures, but also conducts technical audits that examine the costs and quality of the work and services provided through public tendering. For example, the ARMP audited the bidding practices of several government entities and ruled in favor of several private companies that had filed grievances after submitting losing bids. In September the ARMP suspended a telecommunications contract, but the president subsequently issued a decree that appeared to exempt purchases by the presidency and some ministries.

The constitution and law provide citizens the right to access government information freely; however, the Government rarely provided access in practice.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their findings. However, some human rights organizations alleged that their telephones were regularly tapped during the year.

Local independent NGOs included Tostan, the Committee to Combat Violence against Women and Children (CLVF), ONDH, RADDHO, Terre des Hommes International Federation, and Plan International Senegal.

The Government's National Committee on Human Rights (NCHR) includes government representatives, civil society groups, and independent human rights organizations. The NCHR has authority to investigate abuses; however, it lacked credibility since it was poorly funded, did not meet regularly, did not conduct investigations, and last released its annual report in 2001.

According to the NCHR, the Government met regularly with civil society and human rights NGOs to discuss topics including discrimination (racial, gender, and religious), migration, and domestic violence. The Government was somewhat responsive to NGO inquiries and held meetings with them to discuss human rights issues such as torture, domestic violence, and the case against former Chadian dictator Hissene Habre.

In 2008 the National Assembly and the Senate jointly amended the constitution to allow retroactive prosecution of genocide and crimes against humanity. These legal provisions lifted the last obstacles to the prosecution of Hissene Habre, who has lived in exile in the country for 20 years, on charges of torture and crimes against humanity. However, the Government continued to argue that Habre's prosecution could not take place without international donor funding. Donors worked with the Government to formulate a feasible budget and, on November 24, pledged approximately \$11,350,000 to finance the trial. The African Union (AU) agreed to provide one million dollars to begin the trial.

On June 24, the Court of Justice of the Economic Community of West African States (ECOWAS) examined charges brought by Habre's lawyers against Senegal. The lawyers argued that Senegal made its criminal laws retroactive for the sole purpose of prosecuting Habre and thus had violated his rights. The AU and the EU urged that the trial should proceed despite the ECOWAS' hearings.

Death threats against leaders of opposition political parties, unions, journalists, NGOs, and senior officials were common and generally were believed to originate in circles close to the ruling party.

Although the Government did not prevent visits by international organizations, no such visits were reported during the year.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that men and women are equal under the law and prohibits all forms of discrimination. However, gender discrimination was widespread in practice, and antidiscrimination laws, in particular laws against violence against women and children, often were not enforced.

On May 14, the National Assembly passed a law on parity that provides women equal access to all elected assemblies and management boards of totally or partially owned government companies.

*Women.*—Rape was a widespread problem. Spousal rape remained difficult to quantify since it was a taboo subject and seldom reported. The law prohibits rape, but not spousal rape; however, the Government rarely enforced the law. Penalties against rape range from five to 10 years' imprisonment. A women's rights NGO criticized the lack of rape shield laws; the law now allows the common practice of using a woman's sexual history to defend men accused of rape. Prosecutions for rape remained minimal since judges seldom had sufficient evidence that rape occurred, especially when rape happened within a family. It was common to settle rape cases out of court to avoid the publicity and costs associated with prosecution. The Ministry of Justice estimated in 2009 that 47 percent of accused rapists go unpunished and are released without going to trial. According to a journalists' NGO, there were 400 documented cases of rape and sexual abuse in 2009. However, almost 60 percent of persons committing incest and rape were never brought to justice because of familial ties to the survivor.

One successful prosecution involved 67-year-old Mody Cissoko, who raped his 13-year-old step-granddaughter on August 16 in the village of Keur Massar, a suburb of Dakar. He was arrested and, on October 14, was sentenced to 10 years in prison and fined one million CFA (\$2,022).

On August 26, journalist Pape Amadou Gaye, editor in chief of *Courrier du Jour*, was sentenced to two years' imprisonment and a fine of two million CFA (\$4,044) for raping his female employee. The rape took place at the newspaper's headquarters in 2006.

There were no further developments in the following 2009 rape cases: the March rape of a hotel employee, allegedly by her French manager; and the October rape of a 70-year-old woman by a serial rapist.

Domestic violence, including spousal abuse, was a widespread problem. The Ministry of Justice is responsible for combating domestic violence. In September the Government created a Ministry of Human Rights, a junior ministry within the Ministry of Justice, tasked with preventing and monitoring all forms of human rights violations, including trafficking and violence against women and children. The ministry offered advice to victims on litigation, assisted with out-of-court settlements, conducted awareness campaigns, and offered an alternative means to file grievances for victims choosing not to pursue a court case. Several women's groups and the NGO CLVF reported a rise in violence against women during the year. The CLVF reported that domestic violence cases accounted for 65 percent of all reported cases of violence against women in 2009.

Violence against women is against the law, but the law was not enforced. The law criminalizes assaults and provides for a punishment of one to five years in prison and a fine. If the victim is a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence

of 10 to 20 years; if an act of domestic violence causes death, the law prescribes life imprisonment. The CLVF criticized the failure of some judges to apply the law, citing cases where judges claimed lack of adequate evidence as a reason to issue lenient sentences. CLVF also noted that the Government authorized civil society organizations to represent victims of trafficking in civil cases but continued to deny them the right to do so in rape cases. The media reported several cases of incest. Domestic violence against women is punishable by one to 10 years in prison and fines ranging from 30,000 CFA (\$60) to 500,000 CFA (\$1,011), depending on the degree of maltreatment. When violence leads to death, the perpetrators are imprisoned for life with forced labor. Police usually did not intervene in domestic disputes, and most victims were reluctant to go outside the family for redress. There were no statistics available on the number of abusers prosecuted under the law. Close, older family members often committed rape and pedophilia within the household, making it difficult for victims to file lawsuits.

Organizations combating violence criticized the Government's failure to permit associations to bring suit on behalf of victims. The Ministry of Women, Family, Social Development, and Women's Entrepreneurship was responsible for ensuring the rights of women.

According to the media, the Government-run Ginddi Center has since March 2009 provided shelter to 109 women and girls who were victims of rape or early marriage (including a case of incest and a case of an 11-year-old girl who was raped and became pregnant). In 2009, 10 women in the Louga area died from domestic violence according to the CLVF local branch in Louga.

There were instances of sex tourism. For example, there were reports of European tourists in the Saly district of Mbour who sought these services.

The law mandates prison terms of five months to three years and fines of 50,000 to 500,000 CFA (\$101 to \$1,011) for sexual harassment; however, the practice was common. The Government did not effectively enforce the law, and women's rights groups claimed victims of sexual harassment found it difficult, if not impossible, to present sufficient proof to secure prosecutions.

The law provides for the right of all individuals to be informed about and to choose methods for spacing births. It also provides for the right to medical services for all women during pregnancy and to a safe delivery. The law considers the right to reproductive health to be a "fundamental and universal right guaranteed to all individuals without discrimination." The law further provides that "all couples and individuals have the right to freely decide to have children, to determine the number of children they wish, and the spacing of these children."

In practice poor medical facilities constrained these rights, particularly in rural areas and in some urban areas where lack of funds led to closing maternity wards and operating rooms. According to the Population Reference Bureau, approximately 51 percent of births were attended by skilled personnel. According to the UN Population Fund (UNFPA), the maternal mortality ratio (the ratio of the number of maternal deaths per 100,000 live births) was 410 in 2008. Social and cultural pressures to have large families reportedly led some husbands to ask health workers to terminate the use of contraceptives by their spouses. This reportedly led women to be discreet in the use of contraception. UNFPA estimated that 12 percent of all girls and women between the ages of 15 and 45 used some form of contraception. Men and women were diagnosed and treated equally for sexually transmitted diseases, including HIV. Women did not have difficulty being diagnosed for HIV or receiving antiretroviral treatment where available.

Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman's choice. The law prohibits marriage for girls younger than 16, although this law was not enforced in some communities where marriages were arranged. Under certain conditions, a judge may grant a special dispensation for marriage to a person below the age of consent. Women typically married young, usually by the age of 16 in rural areas.

Women faced pervasive discrimination, especially in rural areas where traditional customs, including polygyny and discriminatory rules of inheritance, were strongest. The law requires a woman's approval of a polygynous union, but once in such a union, a woman neither needed to be notified nor to give prior consent if the man took another wife. Approximately 50 percent of marriages were polygynous. Although protected under the law, marriage rights were not enforced due to sociocultural pressures and judicial reluctance to enforce the law.

The family code's definition of paternal rights remained an obstacle to equality between men and women, as men are considered the head of household and women cannot take legal responsibility for their children. Women can become the legal head of household only when the father formally renounces his authority before the administration. This makes it particularly difficult for the 20 percent of families that

women supported and led. However, it was possible for women to take charge of their children and husband, if he was medically unable to do so. Problems in traditional practices also made it difficult for women to purchase property in rural areas.

Men and women have equal rights to apply for a job. Women represented 52 percent of the population, but they performed 90 percent of domestic work and 85 percent of agricultural work.

*Children.*—Citizenship is acquired by birth or naturalization; only the father can transmit nationality. Children are not registered at birth unless a parent requests it be done, but failure to do so does not result in the denial of public service. In many rural areas, parents seldom registered births. The process of registering births only required a local judge to make a ruling based on oral testimonies.

According to the National Agency for Statistics, as of July, approximately 20 percent of children were not registered at birth in the Dakar region, and the figures were even higher in rural areas. For example, in the regions of Diourbel and Tambacounda, 67 percent of children were not registered.

The law provides for tuition-free education through the compulsory ages of six to 16; however, many children did not attend school due to lack of resources or available facilities. Students must pay for their own books, uniforms, and other school supplies. The historical gap in enrollment levels between boys and girls has been closed, and during the year there were more girls than boys enrolled in elementary education.

Girls encountered greater difficulties in continuing in school, however. When families could not afford for all their children to attend school, parents tended to remove daughters rather than sons from school. As in neighboring countries, sexual harassment by school staff and early pregnancy were also likely causes of the departure of girls from school. In 2008 only 25 percent of women and girls over 15 years of age were literate, compared with 42 percent of boys and men. During the year, 44.1 percent of boys were enrolled in secondary education compared with 38.5 percent of girls.

Child abuse was common. Poorly dressed, barefoot young boys, known as talibes, begged on street corners for food or money for themselves and their Qur'anic teachers, known as marabouts. Many of these children were exploited by their teachers and exposed to dangers. Physical abuse of talibes was widely reported. A 2008 joint study by the UN Children's Fund (UNICEF), the International Labor Organization (ILO), the World Bank, and a newly created NGO, the Partnership for the Withdrawal and Reinsertion of Street Children, identified an estimated 7,800 child beggars in the Dakar area. A report issued by Human Rights Watch in April estimated there were 50,000 child beggars in the country. Most were approximately 10 years old, although some as young as two years old were reported. In general they were undernourished and prone to sickness. Since they begged full time, they devoted almost no time to Qur'anic studies. They were forced to give the proceeds of their begging to their teachers. Each child was expected to collect an average of 400 CFA (\$0.80) per day.

During the year the Government began to enforce laws banning begging, and several Qur'anic school teachers were prosecuted for abuse and exploiting children for begging. For example, on June 29, Qur'anic school teacher Souleymane Ndiaye was sentenced to one year's imprisonment for mistreating two of his young students. He had severely beaten them, causing wounds on their backs, because the children had failed to meet his daily begging income quota.

On September 8, seven Qur'anic teachers were sentenced to six months' imprisonment with a suspended sentence and five years probation, and each one was fined 100,000 CFA (\$202). On September 13, two additional marabouts were sentenced to one month of imprisonment and five years probation.

The law punishes sexual abusers of children with five to 10 years' imprisonment. If the offender is a family member, however, the punishment is 10 years' imprisonment. Any offense against the decency of a child is punishable by imprisonment for two to five years and in certain aggravated cases up to 10 years. Procuring a minor for prostitution is punishable by imprisonment for two to five years and a fine of 300,000 to four million CFA (\$606 to \$8,088). If the crime involves a victim younger than 13, the maximum penalty is applied. However, the law was not effectively enforced in general.

Rape of children was a problem. The director charged with protection of children's rights reported an estimated 400 cases of rape during 2006-07; however, this figure greatly underestimated the reality. No recent data was available.

During the year the Regional Child Protection Service of Sedhiou reported that 144 students became pregnant in the last two years, allegedly after having sex with their teachers. While details on individual cases were unavailable, the unequal power relationship between teachers and student suggests that most cases involved

at least some element of coercion or even force. Local academic authorities estimated that teachers were responsible for 40 per cent of students' pregnancies in the area.

On June 15, Imam Serigne Seck Ndiaye from Medina in Rufisque was accused of pedophilia and sodomy of S. Dia, a 15-year-old boy. The imam was arrested but, on August 6, charges were dropped by a judge for lack of sufficient evidence, despite media and investigative reports to the contrary.

On September 8, Mamadou Danfakha was arrested for rape, pedophilia, and sodomy of several children between five and 11 in the area of Guediawaye. Danfakha confessed that he did not know the exact number of his victims but was able to identify five of them. However, only two families agreed to press charges while the others refrained for fear of humiliation. In October Danfakha was sentenced to 10 years in prison for the rapes of an eight-year-old boy and a 10-year-old boy.

On September 27, a nine-year-old Qur'anic school student was raped by a man who escaped without being identified. Four other cases of rapes of Qur'anic students were reported in the same area during the year. No arrests had been made for any of these rapes by year's end.

In February Ibrahim Ly was sentenced to seven years in prison for the April 2009 rape of his 14-year-old niece, which resulted in her pregnancy.

Due to social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished. A women's rights NGO stated that, of all cases of violence committed against girls, paternal incest was increasing the fastest.

Female genital mutilation (FGM) was practiced widely throughout the country, but Tostan and UNICEF stated efforts to curtail the practice continued to have a significant effect. Some girls were as young as one year old when FGM was performed on them. Almost all women in the country's northern Fouta region were FGM victims, as were 60 to 70 percent of women in the South and Southeast. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by the Toucouleur, Mandinka, Soninke, Peul, and Bambara ethnicities, particularly in rural and some urban areas. The most recent figures from UNICEF estimated that from 1997 to 2007, approximately 28 percent of women between the ages of 15 and 49 had been subjected to FGM, and 20 percent of these women were estimated to have at least one daughter who had been subjected to FGM.

FGM is a criminal offense under the law, carrying a prison sentence of six months to five years for those directly practicing it or ordering it to be carried out on a third person. However, many persons still practiced FGM openly and with impunity. The Government prosecuted those caught engaging in the practice and sought to end FGM by collaborating with Tostan and other groups to educate persons about its inherent dangers.

Tostan reported that 4,183 out of an estimated 5,000 communities had formally abandoned the practice by year's end. According to Tostan, the movement to abandon FGM accelerated, with 70 percent of previously FGM-practicing communities in the country ending the harmful practice. The Government adopted the Tostan model and approach to eradicating FGM. Tostan was working with 522 villages and aimed to end FGM completely by 2015.

Officials from the Ministry of Women, Family, Social Development, and Women's Entrepreneurship and women's rights groups stated that child marriage was a significant problem in parts of the country, particularly in rural areas, although child marriage is against the law. Girls, sometimes as young as nine, were married to older men due to religious, economic, and cultural reasons.

Women's rights groups highlighted infanticide, usually due to poverty or embarrassment, as a continuing problem. Domestic workers or women from villages working in cities who became pregnant sometimes killed their babies since they could not care for them. Others, who were married to men working outside the country, killed their infants out of shame. In some cases, the families of the women shamed them into killing their own babies. Methods ranged from burying them alive, putting them in septic tanks, or simply abandoning them along the road. When the identity of the mother was discovered, the police arrested and prosecuted her.

Many children displaced by the Casamance conflict often lived with extended family members, neighbors, in children's homes, or on the streets. The Government lacked adequate resources to support these children effectively. According to NGOs in Casamance, displaced children suffered from the psychological effects of conflict, malnutrition, and poor health.

While prostitution is legal, procuring a minor for prostitution is punishable by imprisonment for two to five years and a fine of 300,000 to four million CFA (\$606 to \$8,088).

Pornography is prohibited and pornography involving children under the age of 16 is considered pedophilia. Sentences for pedophilia range from five to 10 years'

imprisonment. The maximum penalty is applied if the perpetrator is a parent or has authority over the minor.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://www.travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were approximately 50 resident Jews in the country; there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services, and the Government somewhat effectively enforced it. The law also mandates accessibility for persons with disabilities; however, there was a lack of infrastructure to assist them. The Ministry of National Solidarity is responsible for protecting the rights of persons with disabilities.

The law reserves 15 percent of new civil service positions for persons with disabilities. However, according to the Senegalese National Association of People with Physical Disabilities, as of year's end, the Government had not issued an executive decree required to make the law operational. The Government operated schools for children with disabilities, provided grants for persons with disabilities to receive vocational training, and managed regional centers for persons with disabilities to receive training and funding for establishing businesses.

Several government programs that appeared to be earmarked for persons with disabilities offered services to other vulnerable populations, reducing resources for persons with disabilities. Due to a lack of special education training for teachers and facilities accessible to children with disabilities, only 40 percent of such children were enrolled in primary school.

On May 26, the National Assembly passed a law to protect the rights of persons with disabilities. The law offers more possibilities for persons with disabilities to seek legal redress in case of discrimination. It also grants rights in education, health, access to public buildings, and employment. The Government has submitted three decrees relating to the establishment of commissions on special education, equal opportunity, and financial support; these are necessary for the provisions of the law to take effect. A fourth decree concerning the establishment of a high commissioner for the rights of persons with disabilities was pending at year's end.

*National/Racial/Ethnic Minorities.*—While the country's many ethnic groups have coexisted relatively peacefully, interethnic tensions between the Wolof and southern ethnic groups played a significant role in the long-running Casamance rebellion that was characterized by grievous human rights abuses.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual activity, which is indirectly referred to in the law as "unnatural sexual intercourse," is a criminal offense. In the recent past, gays, lesbians, bisexual, and transgender (LGBT) persons have often faced criminal prosecution and widespread discrimination, social intolerance, and acts of violence.

Unlike the previous year, the media did not report acts of hatred or violence against LGBT persons. On November 30, Human Rights Watch released a report entitled *Fear of Life: Violence against Gay Men and Men Perceived as Gay in Senegal*. The report discussed cases of violence against gay men and the legal and cultural milieu that fosters such violence. While the cases cited in the report were from 2009 and earlier, NGO observers speculated that the drop in cases during the year was due to several factors. First, past violence against gays and lesbians may have caused many gay men in the country to go underground. Second, increased international attention may have caused the Government to curtail prosecutions and other official discrimination. Finally, successful legal challenges to the law used to prosecute homosexuality may have helped curtail its use by prosecutors.

*Other Societal Violence or Discrimination.*—As a result of both government and NGO HIV/AIDS awareness campaigns, persons with HIV or AIDS were increasingly accepted in society.

On February 16, the National Assembly passed a law to protect persons with HIV/AIDS against all forms of discrimination. The law also allows medical doctors to inform spouses of persons with HIV/AIDS of their partners' status if the latter fail to do so after a reasonable time.

While there was no reported discrimination against persons with albinism, many suffered and died due to lack of skin care medication. The Senegalese National Albino Association provides a forum for persons with albinism to discuss their difficul-

ties. It also provides job training and therapeutic activities, but lacked the funding to be successful.

*Section 7. Worker Rights*

*a. The Right of Association.*—By law all workers, except security forces, including police and gendarmes, customs officers, and judges, are free to form and join unions, and workers exercised this right in practice. However, the labor code requires the Ministry of Interior to give prior authorization before a trade union can exist legally. The Government can also dissolve and disband trade unions by administrative order, but did not do so during the year. The labor code does not apply to the agricultural or informal sectors, and thus excludes the majority of the workforce. According to the International Monetary Fund, the overall labor force participation rate was estimated at 43 percent in 2009. The formal sector employed 214,700 in 2006, approximately 6 percent of the total number of jobs, versus 3,422,700 persons in the informal sector. Approximately 4 percent of the workforce was employed in the private industrial sector, of which 40 to 50 percent belonged to unions. Within the employed workforce in Dakar, 7 percent worked in the public sector, 10 percent worked in the formal private sector, and 83 percent worked in the private informal sector.

Antiunion sentiment within the Government is strong. Trade unionists were reportedly frequently subjected to harassment. In addition the ILO has raised questions regarding the country's full adherence to worker rights, particularly, the rights of association.

The law provides for the right to strike; however, certain regulations restricted this right in practice. The constitution seriously undermines the right to strike by stipulating that a strike must not infringe on the freedom to work or jeopardize an enterprise. The law states that workplaces may not be occupied during a strike. Unions representing members of the civil service must notify the Government of their intent to strike at least one month in advance; private sector unions must notify the Government three days in advance. This right is further restricted by the authorities' power to requisition workers to replace those on strike. Transportation, health, labor inspectors, bakers, telecommunication workers, and waste collection workers staged several strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—In theory the law allows unions to conduct their activities without interference; however, in practice the Government did not effectively protect this right. The law also provides for the right to collective bargaining, although collective bargaining agreements only applied to an estimated 44 percent of union workers.

Antiunion discrimination is prohibited by law, and there were no confirmed reports of antiunion discrimination activities during the year.

There are no special laws or exemptions from regular labor laws in the country's single export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, such practices occurred (see section 7.d.). Also see the Department of State's annual Trafficking in Persons Report at <https://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law bans the exploitation of child labor. Regulations on child labor set the minimum working age, working hours, and working conditions and prohibited children from performing particularly dangerous jobs. However, child labor was a problem, including in the gold mining sector, and most instances occurred in the informal economy where labor regulations were not enforced. Economic pressures and inadequate educational opportunities often pushed rural families to emphasize labor over education for their children.

The minimum age for employment is 15; however, children under the age of 15 continued to work in sectors such as agriculture, mining, and fishing, particularly in rural areas where there was no enforcement of child labor laws. There were also reports of children working on family farms or herding cattle. Children also worked as domestics, in tailoring shops, as garage mechanics, in metal and wood working shops, and in other areas of the informal economy, such as fruit and vegetable stands. Labor laws prohibiting child labor were largely unenforced due to lack of resources and of political will. For example, the Ministry of Labor sends investigators to investigate formal work places. However, they are not trained to deal with child labor problems, and much of the child labor abuses take place in the informal economy, where there are no inspections. While there is a Child Labor Division in the Ministry of Labor, the office only has two employees and few resources. In addition, in August the Ministry of Justice announced the formation of an office to com-

bat the mistreatment of women and children. The office is to function as a coordinator of efforts among the various governmental agencies, to combat, among other things, forced child labor. The office is also charged with producing an annual report on child labor issues. However, the office received no funding for 2011.

In August 2008 (the most recent year for which such data was available), a national child labor survey published by the National Agency of Demography and Statistics measured the economic activities of children during the prior 12 months. According to the survey, 1,378,724 of the country's 3,759,074 children between the ages of five and 17 worked. Child labor was especially common in the regions of Tambacounda, Louga, and Fatick. Child labor was prevalent in many informal and family-based sectors such as agriculture (that is, millet, corn, and peanuts), fishing, artisanal gold mining, garages, dumpsites, slaughter houses, production of salt, and metal and woodworking shops. Child labor was not common or reported to be a problem within large scale companies.

Many religious instructors in Qur'anic schools brought young boys from rural villages to urban areas and held them under conditions of servitude, forcing them to beg on a daily basis in unsanitary and dangerous conditions or to work in the agriculture sector under the threat of physical punishment. Talibe occasionally work in small-scale agriculture and are used to harvest cashews, mangoes, and oranges. In the Casamance region, talibe working in the fields are exposed to landmines left from the war.

One of the worst cases of child labor was in the mining and rock quarry sector. Child gold washers, mostly between the ages of 10 and 14, worked approximately eight hours a day without training or protective equipment. Children worked long hours in rock quarries, crushing rock, and carrying heavy loads without protection. Both types of work resulted in serious accidents and long-term illness. The NGO La Lumiere reported an increase in children working in gold mines in the Kedougou area during the year due to an increase in the price of gold.

According to a 2007 government survey, 90 percent of children in Kaolack, Fatick, and Ziguinchor carry out tasks detrimental to their health and education. The study also found that 75 percent of girls were responsible for domestic chores, leading many to leave school.

Inspectors from the Ministry of Labor are charged with investigating and initiating lawsuits in child labor cases. Investigators from the Ministry of Labor can visit any institution during work hours to verify and investigate compliance with labor laws and can act on tips from trade unions or ordinary citizens. In practice inspectors did not initiate visits to investigate child labor violations because they lack adequate funding and training expertise to handle child labor cases. There was no specific system in place to report child labor violations largely due to inadequate funding of the Child Labor Office and the Ministry of Labor. Instead the ministry relies on unions to report violators. In the small formal wage sector, which includes state-owned corporations, large private enterprises, and cooperatives, child labor is not commonly a problem. There were no statistics available on the number of child labor violations for the reporting year.

The Government has raised awareness of the dangers of child labor and exploitive begging through seminars with local officials, NGOs, and civil society. The Government also participated in an ILO project to combat child labor. The Government was implementing the Child Labor Plan, which focuses on better management of child labor issues.

To reduce the incidence of exploitive begging, the Ministry of Women, Family, Social Development, and Women's Entrepreneurship implemented a program to help support 48 Qur'anic schools whose teachers do not force their students to engage in begging. The Ministry of Education provided funds to schools operated by religious institutions that meet national education standards. During the year 40 new elementary schools were opened throughout the country; 10 middle schools were also established. These schools were bilingual, teaching in French and Arabic. This program has removed thousands of children from street begging and exploitation. The Ministry of Education also worked on a secular curriculum for use in Qur'anic schools.

Also see the Department of State's annual Trafficking in Persons Report at <https://www.state.gov/g/tip>.

*e. Acceptable Conditions of Work.*—The national minimum wage was 209 CFA (\$0.42) per hour, which did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage. Labor unions also acted as watchdogs and contributed to effective implementation of the minimum wage in the formal sector. The minimum wage was not respected in the informal sector, especially for domestic workers. The minimum wage provisions apply to foreign and migrant workers as well.

Within the formal sector, the law mandates for most occupations a standard workweek of 40 to 48 hours with at least one 24-hour rest period, one month per year of annual leave, enrollment in government social security and retirement plans, safety standards, and other measures; however, enforcement was irregular. The law does not cover the informal sector. Premium pay for overtime was required in the formal sector.

While legal regulations on workplace safety exist, they often were not enforced. There is no explicit legal protection for workers who file complaints about unsafe working conditions. Workers, including foreign or migrant workers, had the nominal right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, it was seldom exercised due to high unemployment and a slow legal system. The Ministry of Labor, through the Labor Inspection Office, enforced labor standards. However, labor inspectors had very poor working conditions and lacked transportation to conduct their mission effectively.

## SEYCHELLES

Seychelles is a multiparty republic of approximately 87,000 citizens. In 2006 voters elected President James Michel, who assumed power in 2004 when former president France Albert Rene resigned. International observers deemed the process credible, although there were complaints of unfair campaign practices. The president and the People's Party, formerly the Seychelles People's Progressive Front (SPPF), dominated the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. Security forces reported to civilian authorities.

The following human rights problems were reported: poor prison conditions; prolonged pretrial detention; an inefficient and politically influenced court system; restrictions on speech and press; official corruption; violence against women and children; violations of and restrictions on labor rights; and discrimination against foreign workers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

Two police officers were suspended from duty and charged with manslaughter in the July 2009 case of a man found dead in a cell while in police custody. The case remained before the Supreme Court pending judgment.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and unlike in the previous year, there were no reports of inhumane treatment of detainees by police and prison officers.

*Prison and Detention Center Conditions.*—Montagne Posee Prison, the country's only prison, did not meet international standards, and conditions were poor, although improvements were made during the year. Most prisoners still relied on their relatives for the provision of food, drinks, toiletries, and medication, according to a July 22 report in the newspaper *Le Nouveau Seychelles Weekly*. Sanitation and hygiene were poor. On February 17, the Seychelles Nation newspaper reported that prisoners submitted a petition to prison authorities asking for a more balanced diet, visits from relatives, daily exercise in the open air, proper hygiene and sanitation, and the right to take goods from family members at the court. By year's end prisoners were allowed daily exercise and access to visitors, and a full-time doctor and nurse were on staff to provide medical treatment and oversee dietary needs.

Approximately 95 percent of prisoners were Catholic, and prison authorities allowed religious observance. Prison authorities also provided Muslim Somali pirates being held in Montagne Posee Prison access to imams and permitted daily prayers and religious celebrations, such as Ramadan. Prison authorities allowed prisoners and detainees to submit complaints to relevant authorities and request investigation of credible allegations of inhumane conditions. The Government investigated complaints on a case-by-case basis and monitored prison conditions regularly.

Unlike in the previous year, there were no reports that dogs brought in by private security guards to assist prison guards bit prisoners. An investigation by the National Human Rights Commission (NHRC) found that in March 2009 several pris-

oners were bitten, some of whom were hospitalized, by dogs not appropriately muzzled or controlled by private security guards hired to support prison guards.

As of November 17, there were 404 male prisoners, including 294 convicted prisoners and 110 remand prisoners; 28 female prisoners were held in a separate women's wing. Unlike in the previous year, juveniles were not held with adult prisoners.

The Government generally permitted independent monitoring of prison conditions by local and international human rights groups. During the year the International Committee of the Red Cross (ICRC) did not make any requests for prison visits.

An ombudsman may make recommendations to the National Assembly and the president to improve conditions on behalf of prisoners and detainees; however, the ombudsman had no power to enforce such recommendations. The ombudsman generally makes an annual public report of the year's cases and actions, but the report for 2010 had not been published by year's end.

During the year prison authorities implemented the following 2009 recommendations made by the NHRC: termination of private guard services in the prison; removal of dog handlers within the prison; separation of remand and convicted inmates; construction of a recreational area for inmates; and improvement of sanitation conditions. In partnership with the UN Office of Drugs and Crime (UNODC), the Government also provided training for prison guards in tradecraft, leadership, fire safety, and emergency response.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The president has complete control over the security apparatus, which includes the National Guard, the Seychelles People's Defense Forces (SPDF), the Presidential Protection Unit, the Coast Guard, and the police. The police commissioner, who reports directly to the minister for Home Affairs, Environment and Transport, commands the unarmed police and the armed paramilitary Police Mobile Unit, which together have primary responsibility for internal security. When necessary, the SPDF assisted police on matters of internal security.

Corruption remained a problem. Although observance of human rights was included as a core precept in officer training, such training was limited.

*Arrest Procedures and Treatment While in Detention.*—Although the law requires warrants, police made some arrests and detentions without one. The constitution and law also provide for detention without charge for up to seven days if authorized by court order. Persons arrested must be brought before a magistrate within 24 hours, with allowances for boat travel from distant islands; however, police did not always respect this requirement. The law provides that detainees be promptly notified of charges against them and allowed prompt access to family members; however, there were cases in which these rights were not respected. Detainees have the right to legal counsel, and free counsel was usually provided to indigent persons. Courts provided bail for most offenses.

The constitution provides that remand prisoners be released after six months of detention if their case has not been heard within that period; however, prolonged pretrial detention was a problem. Prisoners often waited more than three years for trial or sentencing due to the inefficiency of the judicial system. Approximately 27 percent of the prison population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to executive influence. Both civil and criminal court cases generally lasted years. There were no reports of judicial corruption, although there was a widespread public perception that some judges were corrupt.

One Supreme Court judge, one appeals court judge, and two magistrate court judges were citizens by birth. There were allegations that many of the justices were appointed because of their affiliation with the People's Party. All other justices were either naturalized citizens or citizens of other Commonwealth countries. There were reports that the executive branch interfered in the recruitment of foreign justices, who sometimes were hesitant to rule against the executive branch for fear of losing their jobs.

An 18-member part-time family tribunal heard and decided all matters relating to the care, custody, access to, and maintenance of children, except paternity cases, which remained under the courts. Most members of the tribunal were not legally trained and were affiliated with the People's Party.

*Trial Procedures.*—Defendants have the right to a fair public trial, are considered innocent until proven guilty, and have the right to be present at their trial and to appeal. Cases involving murder or treason used juries. The constitution makes provision for defendants to present evidence and witnesses and to cross-examine wit-

nesses in court. Defendants have the right to access government-held evidence; however, in practice such requests were often delayed. The law provides for defendants to consult with an attorney in a timely manner. The law extends the above rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent and impartial judiciary in civil matters; however, case backlogs impeded judicial efficiency. UNODC funding was used to provide judges with best practices training for case-flow management to decrease the backlog. The NHRC recommended cases for prosecution as well as out-of-court settlements.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. However, there remained widespread suspicion of government monitoring of private communication without legal process.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government did not respect these rights in practice. Journalists practiced self-censorship.

Individuals who criticized the Government publicly or privately sometimes suffered reprisals.

The Government ran a daily newspaper and the national television and radio station. There was one privately owned daily newspaper and three political party weeklies.

The Government owned the only television station and all radio stations. The law allows for independent radio and television, but the licensing fee of 800,000 rupees (\$64,000) per year discouraged the opening of any independent broadcasters. Political parties and religious groups were prohibited from obtaining radio licenses. The law allows the minister of information technology to prohibit the broadcast of any material believed to be objectionable or against the national interest. The law also requires telecommunications companies to submit subscriber information to the Government. The law was not invoked during the year.

The law provides restrictions “for protecting the reputation, rights, and freedoms of private lives of persons” and “in the interest of defense, public safety, public order, public morality, or public health.” As a result, civil lawsuits could be filed to penalize journalists for alleged libel.

For example, on July 23, a cabinet minister filed a libel suit against Regar newspaper for publishing allegations in June regarding a conflict of interest in a land sale. On July 24, police searched the house of Regar’s publishing director. A trial was pending at year’s end.

*Internet Freedom.*—Opposition activists claimed that the Government blocked access to their party Web sites. There also were reports that the Government monitored e-mail and Internet chat rooms. According to International Telecommunication Union statistics for 2009, approximately 40 percent of the country’s inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—Opposition activists claimed that the Government limited academic freedom by reportedly preventing academic professionals from reaching senior positions in academia unless they demonstrated at least nominal loyalty to the People’s Party. The Government controlled faculty appointments to the Polytechnic and the University of Seychelles.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly and association, and unlike in the previous year, there were no reports that the Government infringed on that right during the year.

*Freedom of Association.*—The constitution and law provide for freedom of association; however, civil servants allegedly refrained from participating in opposition party activities for fear of political reprisal. Unlike in previous years, there were no complaints that government officials intimidated or dismissed civil servants who participated in opposition party activities.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The law allows the Government to deny

passports to any citizen if the minister of defense finds that such denial is “in the national interest”; however, this law was not invoked during the year.

The law prohibits the forced exile of citizens, and the Government did not use forced exile in practice.

*Protection of Refugees.*—The country’s laws provide for the granting of asylum or refugee status; however, the Government has not established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—International observers found credible the 2007 National Assembly elections, which retained the balance of power between the ruling People’s Party (formerly the SPPF) and the opposition Seychelles National Party (SNP). Minor complaints of electoral irregularities were filed with the electoral commissioner.

In 2006 approximately 88 percent of eligible voters elected incumbent SPPF presidential candidate James Michel with 54 percent of the vote. International observers characterized the electoral process as credible and well organized; however, opposition members filed complaints with the electoral commissioner’s office regarding unfair campaign and electoral practices.

There were reports that opposition parties could not operate without restrictions or outside interference; however, unlike in the previous year, there were no reports that police denied opposition parties permission to hold public meetings.

The People’s Party, which assumed power in a 1977 coup, continued to use its political resources and those of the Government to develop and maintain a nationwide organization that extended to the village level.

There were reports that People’s Party membership conferred business and political advantage. For example, some members of opposition parties claimed that they lost their government jobs because of their political affiliation and were at a disadvantage when applying for government licenses and loans.

There were 10 women in the 34-seat National Assembly, seven elected by direct election and three by proportional representation. There were two women in the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank’s 2009 Worldwide Governance Indicators reflected that corruption was a problem.

Police corruption remained a problem; however, the Enquiry Board, a police complaint office, was rarely used. In practice private attorneys filed complaints or published them in opposition-party newspapers *Regar* and *Le Nouveau Seychelles Weekly*.

Public officials were subject to financial disclosure laws upon taking office; however, there were no reports that such disclosures occurred in practice.

The ombudsman has legal authority to investigate and report on allegations of official fraud and corruption. Unlike in the previous year, no information was available on the number or type of investigations conducted during the year.

There are laws allowing public access to government information; however, the Government did not enforce them, and citizens generally had no access to such information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A small number of international human rights nongovernmental organizations (NGOs) and one domestic human rights group, the Center for Rights and Development (CEFRAD), generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to the views of international NGOs; however, cooperation with CEFRAD, which was perceived as aligned with the opposition, was limited. For example, the Government refused to permit CEFRAD and other local groups to observe the 2006 presidential election or the 2007 legislative elections.

The Government-run National Humanitarian Affairs Committee (NHAC) had members from civil society as well as government. The ICRC acted as a technical adviser to the NHAC. The NHRC, which was established in March 2009, investigated allegations of human rights abuse, including those committed by members of law enforcement agencies. The commission operated without government or party interference, had adequate resources, and was considered effective.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law affirm the right to be free from all types of discrimination but do not prohibit discrimination based on specific factors. In practice there was no overt discrimination in housing, employment, education, or other social services based on race, gender, ethnicity, nationality, or disability.

*Women.*—Rape, spousal rape, and domestic abuse are criminal offenses punishable by a maximum of 20 years' imprisonment. Rape was a problem. The police registered 25 rape cases for the year; however, many rape cases went unreported for fear of reprisal or social stigma. Two rape cases were prosecuted during the year, and one case remained under investigation. The Social Affairs Division of the Ministry of Health and Social Development and the local NGO Women in Action and Solidarity Organization (WASO) provided counseling to eight rape victims during the year.

Domestic violence against women was a problem. Police rarely intervened in a domestic dispute unless it involved a weapon or major assault. Authorities often dismissed the few cases that reached a prosecutor, and the court generally ordered light sentences for perpetrators. The Family Tribunal issued 466 protection orders related to domestic violence during the year.

In 2008 the Ministry of Health and Social Development launched the 2008-12 National Strategy Plan on Domestic Violence. From November 24 to December 10, the Ministry for Social Development and Culture organized 16 days of activism against gender violence and launched the local UNiTE campaign against domestic violence. GEM Plus, a local NGO that promotes awareness of domestic violence, organized three regional workshops and was invited to participate in various media programs for the empowerment of women.

The law prohibits sexual harassment; however, enforcement was rare. The penal code provides no penalty for sexual harassment, although the court can order a person accused of such conduct to "keep a bond of peace," which allows the court to assess a fine if the harasser fails to cease the harassment.

The Government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health and Social Development. There were no restrictions on the right to access contraceptives, but few couples reportedly used these measures. The Government provided free childbirth services; however, women traditionally preferred using nurses or midwives during childbirth as well as for prenatal and postnatal care, unless the mother or child suffered serious health complications. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. There were no legal, social, cultural, or other barriers that limited access to these services.

Women enjoyed the same rights as men, and the society was largely matriarchal. Unwed mothers were the societal norm, and the law requires fathers to support their children. There was no officially sanctioned discrimination in employment, and women were well represented in business. There was no economic discrimination against women in employment, access to credit, equal pay for equal work, or owning or managing a business. Inheritance laws do not discriminate against women.

*Children.*—Citizenship is derived by birth in the country or from parents, and births were generally registered immediately. Failure to do so, however, did not result in the denial of public service.

The law prohibits physical abuse of children; however, child abuse was a problem. Sexual abuse of children, usually perpetrated by stepfathers and older brothers, also occurred. According to WASO, most cases of rape of girls under the age of 15 went unreported for fear of reprisal or cultural stigma. Authorities prosecuted very few child-abuse cases in court due to lack of efficient working relations between government agencies and departments. The strongest public advocate for young victims was a semiautonomous agency, the National Council for Children.

The age of consent for marriage is 15 years. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child.

In April 2009 the Seychelles Nation reported that the local NGO Young Soldiers for Christ had observed an increase in prostitution and suggested that some youth may have resorted to prostitution as a result of an economic downturn.

Seychelles is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community numbered fewer than 10 persons, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The constitution and law provide for the right of persons with disabilities to special protection, including reasonable provisions for improving the quality of life; however, there are no laws providing for access to public buildings, transportation, or state services, and the Government did not provide such access for persons with disabilities. There was no discrimination reported against persons with disabilities in housing, employment, education, or in the provision of other state services. The National Council for Disabled, a government agency under the Ministry of Social Development and Culture, developed work placement programs for persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law does not specifically prohibit discrimination based on sexual orientation, and there were no reports that such discrimination occurred.

*Other Societal Violence or Discrimination.*—There were no reports of violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and firefighting personnel may not unionize. The law is silent regarding the rights of foreign or migrant workers to join a union. Unions organized between 15 and 20 percent of the workforce.

The SNP-associated Seychelles National Trade Union (SNTU) ceased operations in 2007; the SNTU claimed that employers did not reinstate workers fired for union activity. The Seychelles Federation of Workers' Unions, which was associated with the People's Party, was active. The Seychelles National Union was formed in 2009 as a result of a resolution adopted by the SNP Annual Convention held in 2009; however, SNP leaders claimed the union was not affiliated with SNP activities.

Strikes are illegal unless arbitration procedures are first exhausted. There were no reports that unions tried to strike during the year.

*b. The Right to Organize and Bargain Collectively.*—The law allows for unions to organize and conduct their activities without interference. The law provides workers with the right to engage in collective bargaining, but this seldom occurred. There were no reports that this was due to government interference. The Government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed more than 50 percent of the labor force, the Government set mandatory wage rates for employees. Private-sector employers generally set wages through individual agreements with employees, while the Government set wage rates in the few larger businesses.

The law authorizes the Ministry of Employment and Human Resource Development to establish and enforce employment terms, conditions, and benefits, and in practice workers frequently obtained recourse against their employers through the ministry.

Unions engaged in collective bargaining in the private sector; however, observers noted that private-sector employers were reluctant to do so.

The law prohibits antiunion discrimination; however, there were unofficial reports that such discrimination occurred.

There was one export processing zone, the Seychelles International Trade Zone (SITZ), which had more than 57,000 registered international companies and 312 trusts in operation. Only the Seychelles Trade Zone Act applied in the SITZ, and the Government did not require SITZ businesses to adhere to labor, property, tax, business, or immigration laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law states that the minimum age for employment is 15, “subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education.” In practice the Government followed these requirements. It is otherwise a criminal offense punishable by a fine of 6,000 rupees (\$480) to employ a child under the age of 15. The Ministry of Employment and Human Resource Development enforced child labor laws. The ministry handled such complaints within its general budget and staffing and did not report any case requiring investigation. No children were found working in the fishing, tourism, agricultural, boat-building, or processing industries. The Ministry of Education carried out regular checks to ensure that children were actually attending school.

*e. Acceptable Conditions of Work.*—There is no official private sector minimum wage. The Government encouraged but did not require the private sector to grant the minimum public-sector wage. Since 2006 the minimum public sector wage has remained at 2,325 rupees (\$186) per month. Even with free public services, primarily health care and education, a single salary at the low end of the pay scale did not provide a decent standard of living for a worker and family. Private employers generally paid higher wages than the Government to attract qualified workers.

The legal maximum workweek varied from 45 to 55 hours, depending on the economic sector; however, some employees worked up to 60 hours per week. Government employees worked fewer hours. Regulations entitled each full-time worker to a 30-minute break per day and a minimum of 21 days of paid annual leave. The Government permitted workers to work overtime up to 60 additional hours per month. The Government generally enforced these regulations. The law requires premium pay for overtime work.

Foreign workers—mainly employed in the construction and commercial fishing sectors—did not enjoy the same legal protections as citizens. Companies sometimes paid foreign workers lower wages, forced them to work longer hours, and provided them with inadequate housing, resulting in insalubrious conditions.

The Ministry of Health and Social Development has formal responsibility for drafting the Government’s comprehensive occupational health and safety regulations, and the ministry supported these standards, although, due to limited resources, safety and health inspectors rarely visited job sites. Occupational injuries were most common in the construction, marine, and port industries. The law allows workers to remove themselves from dangerous or unhealthy work situations, report the employer to the Health and Safety Commission, and seek compensation without jeopardizing their employment.

---

## SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected president, a unicameral legislature, and a population of approximately 5.7 million. In peaceful multiparty presidential and parliamentary elections held in 2007, the opposition All People’s Congress (APC) won a majority in parliament, and citizens elected party leader Ernest Bai Koroma president. Domestic and international observers characterized the elections as credible and free but noted irregularities that did not affect the outcome.

In 2002 the devastating 11-year civil conflict officially ended, and the Government, backed by a United Nations peacekeeping force (UNAMSIL), asserted control over the country. In 2004 UNAMSIL handed responsibility for security countrywide to the Republic of Sierra Leone Armed Forces (RSLAF) and Sierra Leone Police (SLP). In 2005 UNAMSIL withdrew all remaining peacekeepers and transferred nonpeacekeeping responsibilities to a follow-on peacebuilding UN mission (UNIOSIL). In 2008 UNIOSIL’s mandate ended, and the UN Integrated Peacebuilding Office in Sierra Leone (UNIPSIL) was established to support government institutions and monitor and protect human rights and the rule of law. Security forces reported to civilian authorities.

Major human rights problems included security force abuse and use of excessive force with detainees, including juveniles; harsh conditions in prisons and jails; official impunity; arbitrary arrest and detention; prolonged detention, excessive bail, and insufficient legal representation; interference with freedom of speech and press; forcible dispersion of demonstrators; widespread official corruption; societal discrimination and violence against women, discrimination based on sexual orientation; female genital mutilation (FGM); child abuse; trafficking in persons, including children; and forced and child labor.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that security and police forces used excessive force. The law allows up to 36 lashes as punishment. Although nongovernmental organization (NGO) sources state that sensitization on human rights has led to a reduction in such incidents, prison guards reportedly beat prisoners with impunity.

No action was taken against the prison warden who severely beat an inmate in 2008.

Compared to the previous year, fewer men and women were initiated forcibly into tribal secret societies, a process that for women usually involved female genital mutilation (FGM). Although data was hard to come by due to the secretive nature of these societies, government sources extrapolated the decrease in male initiations from observations that fewer young men were returning to their home villages, where initiation ceremonies are held, from their jobs in the country's main cities and towns. Decreases in female initiations were extrapolated from UN and NGO data on the decreasing prevalence of FGM, which is an integral part of female initiation ceremonies.

Vigilante violence was common in urban areas, particularly for suspected thieves and unsettled debts.

By year's end no one had been charged for the 2008 killing of a thief in eastern Freetown.

There were continued reports that Guinean troops along Sierra Leone's eastern border with Guinea harassed local residents.

*Prison and Detention Center Conditions.*—Prison and detention center conditions were harsh and sometimes life-threatening. Overcrowding was a major problem. The Bureau of Prisons stated that as of the end of October there were 2,237 prisoners in the country, including 79 women. The Pademba Road Prison, which was designed to house 324 prisoners, held 1,263 as of October, according to the local NGO Prison Watch. In some cases, cells measuring six feet by nine feet housed nine prisoners. According to Prison Watch's 2010 assessment of prisons, beatings, solitary confinement, reduction in or total denial of food rations, and forcing prisoners to sleep on a wet floor were routine disciplinary measures. In addition, many prisoners reported being beaten by gangs of other prisoners at the incitement or explicit direction of prison officials as a means of inflicting punishment while shielding prison officials from culpability.

Human rights observers reported that detention conditions remained below minimum international standards because of overcrowding, lack of access to food, unhygienic conditions, and insufficient medical attention. One NGO noted an improvement in nutritional standards, but prisoners continued to receive inadequate portions of food. The Bureau of Prisons received only 2,500 leones (\$0.63) per prisoner per day for food rations; increased food prices and pilfering by prison officials throughout the year posed a significant challenge. Prison cells often lacked proper lighting, bedding, ventilation and air-conditioning, and protection from mosquitoes. At all prisons, wells were the only sources of water. In some prisons, the wells dried up during the dry season and inmates were required to purchase water themselves.

Conditions in holding cells in police stations were poor, especially in small stations outside Freetown. Cells were dark with little ventilation. However, overcrowding in some police cells somewhat improved due to deployment of additional magistrate judges to the districts to process cases.

Few prisoners had access to adequate medical facilities, and clinics lacked supplies and medical personnel to provide basic services. Authorities allowed only emergency patients to visit the clinic outside of the assigned schedule. Women were treated as outpatients or referred to the local hospitals for special care. However, doctors and nurses in these hospitals often refused to treat prisoners or provided inferior care because of the social stigma associated with assisting criminals and the Bureau of Prison's inability to pay medical bills.

Prison Watch reported that there was a shortage of prison staff and that officers were not paid regularly. Consequently, guards provided only minimal security, and abuse of prisoners and prison breaks occurred. Prison Watch received reports that prison guards sold prisoner food rations to supplement their meager salaries.

As of the end of October, Prison Watch reported only one prisoner death, which occurred allegedly as a result of a respiratory tract infection.

Men and women were held in separate cells. In many of the prisons, men and women were held in the same block and shared facilities. Several prisons held infants, most of whom were born in prison and initially detained there with their mothers. Once weaned, these children were released to family members or placed in foster care by the Ministry of Social Welfare, Gender, and Children's Affairs.

While the women's section of the prison on Pademba Road was significantly less crowded with better facilities than the male section, officials detained together persons being tried for petty and serious offenses; the section had limited access to water for bathing, and no exercise area.

Although authorities made an effort to avoid detaining juveniles with adults, minors regularly were imprisoned with adult offenders. At the same time, when questioned by NGO Prison Watch about detaining juveniles, officers alleged that in some cases, police officers inflated the ages of juveniles to escape blame for detaining them. In the three juvenile facilities, detainees did not have adequate access to food and education, and sometimes were unable to attend court hearings due to lack of transportation. However, during the year vocational training and one year of formal education were offered to juvenile prisoners under a grant from the Justice Sector Development Program (JSDP), a government program funded by the United Kingdom's (UK's) Department for International Development. The juvenile facilities were deteriorating and in need of better management by the Ministry of Social Welfare, Gender, and Children's Affairs, which was responsible for all services but security. Violence among juvenile detainees was a problem, and small riots occurred in some facilities, such as one in a school in Kissy in early October. Juveniles housed with adults and then moved to age-appropriate facilities were often instigators of violence, JSDP noted.

In most cases pretrial detainees were held with convicted prisoners in prisons. According to Prison Watch, only 584 of the 1,263 prisoners in Pademba Road Prison had been convicted.

The Government permitted family visits to prisoners and detainees regularly during the year.

International monitors, including UNIPSIL, had unrestricted access to the prisons, detention centers, and police holding cells. Additionally, some NGOs such as Prison Watch, JSDP, and the Lawyers' Center for Legal Assistance (LAWCLA) monitored the prisons.

There were some improvements in prison conditions noted during the year. Overcrowding and the need to keep men and women in the same block were somewhat alleviated by the completion of a women's prison in Kenema. The Pademba Road prison, as well as prisons in Moyamba, Port Loko, and Magburaka, began offering literacy and vocational skills training during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily.

*Role of the Police and Security Apparatus.*—The SLP has primary responsibility for maintaining internal order but was poorly equipped and lacked investigative, forensic, and riot control capabilities. The military is responsible for external security; however, the "Military Assistance to the Civil Power" program provided additional assistance to police in extraordinary circumstances, such as following a police shooting of three civilians near Lungi Airport in September 2009.

There were fewer cases of police brutality reported during the year, but police corruption was a serious problem, in part exacerbated by low salaries. Some police and guards reportedly stole from detainees. There were continued reports that police officers required bribes at checkpoints, falsely charged motorists with violations, and impounded vehicles to extort money. Police also accepted bribes from criminal suspects in exchange for dropping charges or for having their rivals arrested and charged with crimes.

Police frequently were not present or chose not to intervene when crowds beat alleged thieves. In numerous instances, police, in exchange for kickbacks, refused to make arrests when warranted, or they arrested persons without charge for civil causes such as alleged breach of contract or failure to satisfy a debt.

According to the JSDP, impunity was less of a problem than in the past. The Police Complaints, Discipline, and Internal Investigations Department (CDIID) heard more complaints against police officers during the year than in the previous year, largely due to greater public awareness of and trust in the organization. There was also a Police Council, which included the vice president, minister of internal affairs, inspector general, and others who accepted written complaints against senior police

officers. The CDIID facilitated all hearings and trials related to complaints against junior police officers. An appeals process was available and used often. After the CDIID issued disciplinary measures against an SLP officer, the officer was also subject to the civilian court if criminal action was involved. An infrequently published SLP newsletter listed disciplinary actions against officers.

During the year the CDIID received 1,623 complaints countrywide, resulting in 689 officers being dismissed, demoted, suspended, or officially warned. Of the remainder, 408 cases were dismissed for lack of evidence or validity, 282 were resolved through dispute resolution, and 244 remained at various stages of investigation or review. The most common complaints lodged against police were corruption, unfair treatment, lack of professionalism, and assault. Cases requiring dismissal of an officer most commonly involved criminal cases, such as officers fraudulently posing as landowners or businessmen to extort money.

Police continued to receive professional, leadership, and human rights training, and new recruits received a six-month introductory course before deployment. The SLP retained a full-time UN technical advisor and a number of UN Civilian Police advisors. As a result of training programs during the year and the introduction of community policing conducted by the Department for International Development, the Commonwealth, and the JSDP, the professional conduct of the police force improved. However, its efficacy continued to be hampered by limited financial resources.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants for searches and arrests; in many cases, however, arrest without warrant was common. According to UNIOSIL's 2007 assessment of prison conditions, adjournment dates on some warrants were altered and not endorsed by the magistrate, while other warrants were signed, but not by the presiding magistrate. Prison Watch and LAWCLA reported that most arrests were made without warrants and that the SLP rarely followed proper arrest procedures. Only high-profile cases that were scrutinized publicly were known to have been properly handled.

Once arrested, a detainee must be told the reason for arrest within 24 hours and be charged in court within 72 hours, or in the case of serious crimes, within 10 days. According to several NGOs, remanded prisoners routinely were brought to court on a weekly basis to be remanded again in order to bypass the legal restrictions.

Detainees have the right of access to family and the right to consult with an attorney in a timely manner. However, due to a lack of financial resources, only an estimated 5 to 10 percent of inmates had access to legal representation, which was often delayed. Lawyers generally were allowed unrestricted access to detainees. Although the law provides for attorneys at public expense if defendants cannot afford their own, the Government has instituted legal aid in Freetown only, and has been able to serve only a few clients due to problems with establishing eligibility for legal aid. Fewer than 10 state counsels served the entire country, and they were often overburdened and poorly paid and thus available only for more serious criminal cases. Many indigent detainees did not receive legal advice prior to trial. Only defendants in the military justice system had automatic access to attorneys, whose fees were paid by the Ministry of Defense. For civilians, three attorneys provided legal aid outside of Freetown. Authorities permitted regular family visits, although the frequency and duration of the visits varied from prison to prison. According to NGO reports, family members often paid bribes to be permitted to visit.

There were provisions for bail, and there was a functioning bail system; however, authorities applied the bail regime inconsistently and sometimes demanded excessive bail.

Lengthy pretrial detention was a problem. Prison Watch reported that as of the end of October nine persons were awaiting indictment since 2006, six since 2005, and one since 2004. As a result of case backlogs, pretrial and remand detainees spent an average of three to five years in pretrial detention before courts examined their cases or filed formal charges. Approximately 60 percent of detainees in prison were in pretrial detention. Inmates at the prison in Bo who engaged in a small-scale riot to protest against their lengthy pretrial detentions in November 2009 were, according to Prison Watch, brought to Freetown and beaten. They were sent back to Bo in the early part of the year; since then, some have been released. According to the NGO Open Society Initiative for West Africa, remand prisoners frequently changed their pleas from "not guilty" to "guilty" to be removed from the remand section to the less substandard areas of a prison.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision; however, the judiciary at times was subject to government influence and corruption.

In addition to the formal civil court system, local chieftaincy courts administer customary law with lay judges; appeals from these lower courts are heard by the superior courts.

The rotation system between wards in specific districts continued to improve magistrate presence. However, with inexperienced new magistrates, high court fees, and fewer than 15 lawyers practicing outside of Freetown, access to justice remained limited for most citizens.

The RSLAF has its own military justice system, although soldiers can be tried in civilian courts depending on the type of crime committed. The decision of which system to use was sometimes made on an ad hoc basis and was prone to pressure from RSLAF leadership. If a case remains in military channels, military police conduct an investigation and forward their findings to the Ministry of Defense Law Office. The Law Office then decides whether to handle the offense through a "summary dealing" process or a court martial.

"Summary dealing" cases are limited to low-level military offenses, such as misappropriation of military property, unlawful possession of a firearm, and being absent without leave. The commanding officer determines the punishment, the most severe of which is a 28-day custodial sentence. The court martial hears all civilian and serious military offenses committed by military personnel, as well as cases involving senior officers. The case is tried before a judge and board; the latter determines guilt or innocence, and the former the sentencing recommendation. The court martial hears an average of four cases per year.

The military justice system has an appeals process. For summary dealing, the defendant can appeal for the redress of complaint, which goes to the next senior ranking officer, while appeals in a court martial are heard by the civilian Supreme Court.

Traditional justice systems supplemented the central government judiciary, especially in rural areas. Paramount chiefs maintained their own police and courts to enforce uncodified local laws, which acted in parallel with the Government's own civil police and court system. Chieftaincy police and courts exercised authority to arrest, try, and incarcerate individuals, and sometimes abused that power. However, traditional justice systems somewhat improved in rural areas during the year due to governmental and NGO training of traditional elders and provision of additional paralegals.

Trials were generally fair; however, there was credible evidence that corruption influenced many cases. Paramount chiefs acting as judges were notorious for accepting bribes and favoring wealthier defendants, although they showed a greater willingness to discuss issues and refer cases to magistrates than in previous years (see section 4).

*Trial Procedures.*—The law provides for a fair trial; however, in practice, the lack of judicial officers and facilities often produced long delays. Some cases were reported to be adjourned 40 to 60 times. Trials are public, and the accused have a limited right to a trial by jury in the magistrate courts. Juries were drawn from a list maintained by the master and registrar of active and retired civil servants and youth groups; however, the attorney general frequently exercised his power to determine that cases be heard by a judge alone. Defendants generally enjoyed a presumption of innocence. While defendants have the right to be present and to consult with an attorney in a timely manner, access to counsel often was delayed. The law provides for attorneys at public expense if defendants could not afford their own; however, state-appointed attorneys often were overburdened and poorly paid, and indigent detainees usually did not receive legal advice prior to trial. Defendants can confront or question witnesses against them, present witnesses and evidence on their own behalf, and access government-held evidence relevant to their cases. Police officers, many of whom had little or no formal legal training, prosecuted a majority of cases on the magistrate level. Although the law provides defendants with the right to appeal, delays in the appeals process were excessive, sometimes lasting more than two years.

Human rights NGOs noted wide disparities in sentencing patterns from district to district. There were numerous cases in which sentences imposed were disproportional to the offenses. Many prisoners were serving excessively long sentences for noncapital offenses, such as sacrilege (50 years), larceny (25 years), and larceny and burglary (45 years). Many attributed the inconsistent sentencing to the defendant's ability to pay a fine or bribe.

Traditional justice systems continued to supplement extensively the central government judiciary, especially in rural areas, in cases involving family law, inheritance, and land tenure. However, the customary law guiding these courts is not codified, and decisions in similar cases were inconsistent. Paramount chiefs sometimes referred cases to the police in order to give arrests for civil complaints the appear-

ance of legitimacy. Local chieftains at times exceeded their mandates and administered harsh punishments.

A number of civil laws and customary laws discriminate against women, and many traditional courts continued to ignore the rights of women regarding family law and inheritance. Juveniles are afforded few rights in the traditional justice system.

The trial of former Liberian president Charles Taylor for crimes against humanity, war crimes, and other serious violations of international law committed during the civil war continued throughout the year before the Special Court for Sierra Leone (SCSL) in The Hague.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Both the central government judiciary and customary law courts handled civil complaints; however, corruption influenced some cases and judgments, and awards were inconsistent. Administrative and judicial remedies were available for alleged wrongs, but enforcement was difficult. Victims of human rights abuses have access to the regular courts to seek redress for human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government at times restricted these rights in practice. Journalists generally practiced self-censorship.

The Government rarely attempted to impede criticism, although government officials occasionally interfered with journalists' work.

During the year there were several complaints that government officials sought to manipulate the Sierra Leone Broadcasting Corporation (SLBC), which was created in June as an independent, nonpartisan television and radio outlet. In August a prominent newspaper publisher spoke critically of the Government on a popular live daily SLBC radio program. A government representative unsuccessfully attempted to interrupt the broadcast to present a rebuttal. The program was neither re-aired the following day, as is standard, nor were requests for taped copies of the interview honored, leading to criticisms that the SLBC and the Government were jointly attempting to muzzle the journalist.

On December 13, four journalists from four independent newspapers were arrested by the Sierra Leone Police on the order of the minister of lands. The minister accused the journalists of "possessing classified documents" when they questioned him about a restricted-access audit report compiled by the Investment Climate Facility (a pan-African organization based in Tanzania) alleging fraud and embezzlement within the ministry. The four men were released later that evening. One of them was accused of stealing documents from the ministry and charged with larceny, but all charges were subsequently dropped.

On December 16, the minister of agriculture, forestry, and food security asked the Sierra Leone Police to arrest two employees of the radio station KISS 104 in Bo for interrupting a live interview with the minister to air a block of prerecorded programming sponsored by the cell phone company Africell. The minister claimed that he had paid for the broadcast time for his interview and that KISS 104 had committed a "breach of contract." The employees were arrested but released the following morning, and no charges were filed.

The Human Rights Commission-Sierra Leone (HRC-SL) and the Sierra Leone Association of Journalists (SLAJ) condemned both December actions. The minister of information and communications pledged to investigate the incidents and to "take necessary actions, [as] the Government will not condone impeding freedom of expression and sour the relationship between the Government and the media in Sierra Leone."

Fifty-eight newspapers were registered with the Independent Media Commission (IMC), as well as 72 radio stations and 10 television stations covering a wide spectrum of interests and editorial opinion. Not all media outlets were in operation during the year, however. During the year the IMC registered nine new newspapers and two new radio stations, and rejected seven newspaper registration applications because the applicants did not provide any justifications of "professional and public interest." Most of the IMC-registered newspapers were independent, although several were associated with political parties. While sometimes subject to official pressure and restrictions, newspapers openly and routinely criticized the Government

and its officials as well as the opposition parties. However, reporting was often politicized and inaccurate, in large part because of poor journalistic skills, insufficient resources, and the lack of professional ethics. In October the Guild of Newspaper Editors Sierra Leone was launched to address these problems, as well as unprofessional behavior and widespread corruption among its members.

As part of efforts to curb undue interference by local authorities, the IMC reconstituted the management boards of community radio stations to include chiefs and representatives from the major political parties. It also funded training programs for members of the management boards.

International media could operate freely but were required to register with the Ministry of Information and Communications and the IMC to obtain a license. During the year there were no cases of local or international media being denied registration.

The law criminalizes both defamatory and seditious libel; however, the law rarely was applied. Punishment for first-time offenders can be up to three years' imprisonment, and subsequent seditious libel convictions are punishable by prison terms of up to seven years. However, society paid little attention to older convictions under the law. In December, President Koroma nominated and parliament unanimously confirmed a new minister of youth and sport, despite his 2002 conviction under the libel law while editor-in-chief of the independent newspaper *Fo Di People*. Despite lobbying for decriminalization of libel by the IMC and the SLAJ, by year's end the Government had not amended Part 5 of the 1965 Public Order Act, which criminalizes libel.

The IMC regulated independent media organizations and generally demonstrated independence from government influence. In August it convened a meeting with editors of two local newspapers to chastise them for publishing articles that allegedly violated Section 25 of the IMC Code of Practice by potentially inflaming tribal/ethnic tensions. The IMC warned them not to publish any such material in the future, or risk having their newspapers suspended.

Due to the low level of literacy and the relatively high cost of newspapers and televisions, radio remained the most important medium for public dissemination of information. During the year more than 80 government and private radio and television stations provided domestic news and political commentary. The APC and the Sierra Leone People's Party (SLPP) radio stations that were shut down in the wake of the March 2009 riots remained closed.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. International Telecommunication Union statistics for 2009 stated that 0.26 percent of the country's inhabitants accessed the Internet. There were six Internet Service Providers. In Freetown there were many Internet cafes but few in rural areas due to infrastructure constraints.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice. There were no reports that the Government monitored or prevented opposition meetings.

Both the APC and the SLPP continued to implement the provisions of the Joint Communique signed after the March 2009 riots between supporters of the two parties. Most significantly, the SLPP rededicated its headquarters building, which was damaged during the riot. A commission of inquiry on the riots did not recommend prosecutions or disciplinary actions against police or others.

On other occasions police forcibly dispersed demonstrators. Police occasionally were unable to control violence, and demonstrators at times attacked police stations. For example, motorbike taxi service operators ("okadas") clashed with police officers in various parts of the country during the year. In September "bike riders" in Kailahun District burned down two traffic posts while protesting what they perceived as a unilateral decision by police to restrict their business hours. In Freetown on several occasions "bike riders" engaged in impromptu demonstrations against police officers who were, in the protesters' eyes, arbitrarily enforcing motorcycle registration and safety laws through fines and confiscations. Although the protests were violent, there were no reports of deaths or injuries.

After a CDIID investigation, in the early part of the year the SLP compensated families of three persons who were killed in September 2009 when a crowd attacked a small police station in Lungi because of anger over the station's ineffectiveness in handling a crime spree.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at <http://www.state.gov/g/drl/rls/irf/>.

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice; however, there were reports that police officers who operated security roadblocks outside of the capital often extorted money from motorists.

The border shared with Liberia was officially open, and authorities generally allowed refugees, returnees, and other persons to move regularly between the two countries; however, police, customs, and army personnel demanded bribes at border crossing points.

The law does not provide for forced exile, and the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The law provides for refugee status as defined by international convention to be granted to eligible asylum seekers. The UN High Commission for Refugees (UNHCR) worked with government authorities to develop standard operating procedures for refugee status determination.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

According to the UNHCR, the Government did not provide temporary protection to certain individuals who may not qualify as refugees under the 1951 convention and the 1967 protocol.

The Government offered to assist Liberian refugees requesting repatriation. However, only 34 refugees were repatriated during the year. A "profiling survey" completed by the UNHCR in June showed that only 1 percent of the approximately 8,900 Liberian refugees in Sierra Leone wished to be repatriated, while 75 percent were undecided and 24 percent opted for local integration. UNHCR acknowledged the Government's efforts, through the National Commission for Social Action (NaCSA), to integrate refugees who are unwilling or unable to return to Liberia in accordance with the Refugees Protection Act of 2007.

There were no reports of discrimination against refugees with regards to employment, access to social services, or to police and courts.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, and generally free and fair elections based on universal suffrage.

*Elections and Political Participation.*—In peaceful presidential and parliamentary elections held in August 2007, the opposition APC won a majority in parliament, with party leader Ernest Bai Koroma elected president. However, there were multiple reports of harassment and intimidation of members of opposition parties. There were also reports of voter coercion by party bosses and traditional leaders. Domestic and international observers characterized the parliamentary elections as generally free and fair. However, the Commissioner of the National Election Commission (NEC), who was appointed by the SLPP (the party in power at the time of the elections), invalidated the results from 477 polling stations during the second round of balloting in the presidential election on suspicion that ballot boxes were stuffed. The SLPP, which lost the presidency, did not contest the results but initiated a court case against the Commissioner for her actions. As of the end of the year, the case had not been resolved.

On December 11, a by-election for Chairman of the Kono District Council was held, the first election of the 2010-2015 election cycle that will include the 2012 presidential election. In November supporters of the ruling APC attacked and damaged the district offices of the opposition SLPP and disrupted an SLPP rally in Kono. The Government belatedly denounced the attacks and harassment but took steps to ensure that the by-election was held peacefully and fairly. In addition to increasing the number of police in the district from 120 to 400, the Government also brought together leaders of the various political parties, the heads of the quasi-gov-

ernmental NEC, the Political Parties Registration Commission (PPRC), and the Sierra Leone Police under the auspices of the UNIPSIL to sign a document outlining ground rules for all participants and their supporters in the election. There were no reports of violence or irregularities at any of the polling stations on election day. The Government welcomed observers from foreign missions and NGOs such as National Elections Watch. The APC candidate won the election, and the results were certified with no objections from the other parties.

The PPRC, which governed the behavior of political parties, does not have the authority to sanction any political party for inappropriate behavior. It received two inter- and intra-party complaints during the year and acted as a mediator to address the problems. The PPRC can use only moral persuasion to convince persons and parties to act according to agreed-upon guidelines, such as the parties' constitutions.

A parallel unit of local government is the paramount chief, who is elected for a life term. Candidates for the position are limited to members of local ruling houses. Only tribal authorities (those who collected local taxes from at least 20 taxpayers) were allowed to vote for paramount chief, and in the north only men could be designated as tribal authorities. Although paramount chiefs' authority exists independently of the central government and local councils, they frequently displayed party affiliations, were influenced by the party in power, and allegedly influenced the votes of their constituents. In turn, political parties were known to interfere with elections of paramount chiefs during the year. The election of paramount chiefs at times exacerbated ethnic tensions.

Women have the right to vote, but husbands or other patriarchal figures are known to influence their decisions. Of the 124 parliamentarians, 16 were women. Women held one of the 20 cabinet positions. There were four female judges out of seven judges on the High Court, and the chief justice was a woman. Three out of six judges on the Court of Appeal were women.

All citizens have the right to vote; however, citizenship at birth is granted only to persons of "Negro-African descent," thus disenfranchising the significant number of Lebanese persons who were born and continued to reside in the country. Persons of Lebanese descent may apply to be naturalized, and once naturalized are eligible to vote in all national and local elections. However, the Government has not approved new naturalizations since 2002.

Ethnic affiliations traditionally have been a strong influence in political party membership for the country's two dominant ethnic groups, the Mende and Temne, each of which accounted for approximately 30 percent of the population. The Mende traditionally supported the SLPP and the Temne the APC. Other than ethnic Limbas, the third-most populous ethnic group who traditionally have supported the APC, the country's other ethnic groups had no strong political party affiliations. During the year opposition parties accused President Koroma of filling key government positions only with persons from the north. Although the president did not respond directly and specifically to these concerns, his early December cabinet shake-up increased the number of ministers and from the Eastern and Southern provinces to 30 percent, up from the previous 20 percent. Ministers from the north now occupy 62 percent of the cabinet offices and 8 percent are held by ministers from the western peninsula. Meanwhile, in the run up to the 2012 presidential election, the SLPP began positioning itself as a party that truly represented all of the country's ethnic, religious, and regional groupings. In early August the PPRC, in response to two newspaper editorials that were perceived to be fanning the flames of tribal enmity, issued warnings to the two major political parties, the APC and the SLPP, not to appeal to ethnicity.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government made some attempts to implement the law. Despite several well publicized cases of corruption in the executive, legislative, and judicial branches, officials sometimes engaged in corrupt practices with impunity. Police and prison staff regularly extorted or solicited bribes from detainees and prisoners. Low salaries and a lack of accountability exacerbated official corruption. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

The head of the Anticorruption Commission (ACC), Abdul Tejan-Cole, resigned in July. He was replaced by Joseph Fitzgerald Kamara, the former deputy prosecutor in the Special Court of Sierra Leone. The ACC made some progress in curbing corruption during the year and improving transparency by enforcing the new tougher penalties and implementing broader prosecutorial powers in anticorruption laws.

During the year the Government implemented its five-year national action plan to combat corruption, and ministries began including anticorruption activities into

their strategic plans. The ACC conducted sensitization campaigns with the public and government ministries, and enforced whistleblower protection measures.

Corrupt procurement practices were a problem, and several ministries were under investigation during the year.

For example, in March the former director of procurement for the Ministry of Defense, Joe Michael Sewoh, and Major Idriss Sonkoi Kamara of the RSLAF were convicted on abuse-of-office charges for seeking to influence bidding on Ministry of Defense supply orders. Each was sentenced to three years' imprisonment and a fine of 90 million leones (\$23,000).

In April former minister of fisheries and marine resources Haja Afsatu Kabba was indicted on seven counts of misappropriation of public funds and abuse of office. In October she was found guilty on five counts and ordered to pay 450 million leones (\$112,500) in restitution and fines in order to avoid a three-year prison sentence.

As of year's end the trial of former minister of health and sanitation Sheiku Tejan Koroma on charges of abuse of public office, abuse of public position, and failure to comply with government procurement laws and policies continued.

On October 26, the ACC indicted former commissioner general of the National Revenue Authority Alieu Sesay, his wife, and four private contractors on 57 counts of violation of the 2008 Anti-Corruption Act, abuse of office, and influence-peddling. He and his wife were arrested on October 27 and posted bail; the case continued at year's end.

During the year, the ACC recovered approximately 1.3 billion leones (\$325,000) from public officers and private business officials in fines, restitutions, and settlements in corruption-related cases. Although the ACC does not proactively offer to settle cases out of court, suspects may request a settlement, and many cases were resolved in this way. Several defendants also chose to pay fines rather than face custodial sentences. The ACC initiated 171 investigations during the year. Since 2008 the ACC has the authority to prosecute cases directly without first having to refer them to the Ministry of Justice and in practice prosecuted cases itself. Four prosecutions by the ACC were either concluded or still in progress by the end of the year.

As of the end of September, all government ministers and members of parliament had complied with a 2008 law requiring public officers, their spouses, and children to declare their assets and liabilities.

There is no provision in the law for public access to government information; however, the Government at times provided such access to citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The independent National Forum for Human Rights (NFHR) served as an umbrella organization for human rights NGOs in the country. There were 41 human rights NGOs registered with the NFHR, and all were reportedly active. Most domestic human rights NGOs focused on human rights education. A few NGOs, including the Campaign for Good Governance, LAWCLA, Tinap for Justice, and Access to Justice, monitored and reported on human rights abuses.

A variety of domestic and international human rights groups (including Amnesty International, Freedom House, and Human Rights Watch) generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The HRC-SL generally operated without government interference; however, government agencies were slow to support the commission. The organization was also hampered by lack of funds. In July the commission initiated the drafting of the country's national action plan for human rights in preparation for its Universal Periodic Review at the UN Human Rights Council scheduled for 2011. In March, HRC-SL published its annual report on the state of human rights in Sierra Leone in 2009, which it presented to the president and the Speaker of Parliament. Both the president and the parliament accepted and praised the report without reservations. In addition the commission initiated a working group with the UN Office of the High Commissioner for Human Rights and the international community to coordinate human rights activities in the country. HRC-SL continued its efforts at enforcement of the Child Rights Bill, and three gender bills. There was increased use of its system for reporting human rights violations.

The Parliamentary Human Rights Committee operated without government or party interference. It focused on keeping human rights issues on the parliamentary agenda, paving the way for the passage of amended laws and ratification of international conventions, and doing public outreach.

The trial before the SCSL in The Hague of former Liberian president Charles Taylor for crimes against humanity and war crimes in the country continued at year's end.

Revolutionary United Front leaders Issa Sesay, Morris Kallon, and Augustine Gbao, whom the SCSL found guilty in 2009 of war crimes, crimes against humanity, and other serious violations of international humanitarian law, were incarcerated in Rwanda.

Truth and Reconciliation Commission (TRC) recommendations continued to be implemented, providing a forum for publicly airing the grievances of victims and the confessions of perpetrators during the civil war. The Government took steps to implement a reparations program for the victims of the conflict as recommended by the TRC. Efforts were underway to establish a trust fund for war victims. However, many NGOs continued to be disappointed by the slow or delayed implementation of some of the TRC recommendations, such as the trust fund and separating the positions of attorney general and minister of justice, which requires a constitutional amendment.

The UN and numerous domestic and international NGOs continued to educate and sensitize the population about the TRC and the SCSL, and the Government generally supported these efforts.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Citizenship is generally limited to persons of "Negro-African descent," but the law otherwise prohibits discrimination based on race, tribe, sex, place of origin, political opinions, color, or creed. However, the Government did not effectively enforce these provisions, and a number of legal acts and customary laws contravene these constitutional provisions.

*Women.*—The law prohibits rape, which is punishable by up to 14 years' imprisonment; however, rape was common and viewed more as a societal norm than a criminal problem. The law does not specifically prohibit spousal rape. Cases of rape were underreported and indictments were rare, especially in rural areas. A reluctance to pursue justice for women, combined with women's lack of income and economic independence, helped perpetuate violence and impunity against women. However, since the establishment of the Family Support Units (FSUs) and the passage of the Gender Acts in 2007, reports of rapes, especially involving child victims, steadily increased. Rapes of children as young as a few months old were documented. Rape victims, especially when pregnancy occurred, were encouraged to marry their attackers, although some NGOs reported that this practice appeared to be waning.

From January to August, the FSU recorded 723 cases of sexual assault. In these cases, 345 perpetrators were charged, while 291 were still under investigation. The remaining 87 cases were either withdrawn or dismissed as lacking merit. The International Rescue Committee (IRC) reported that at least 25 cases resulted in convictions, with perpetrators receiving sentences of between 18 months and seven years. Rape cases frequently were settled out of court or did not make it to trial because of inefficiencies and corruption in the judicial system. Most legal advisors assigned to prosecute rape cases had only three weeks' training and could not compete against well trained defense lawyers. Most perpetrators were known to their victims and included teachers, family friends, relatives, traditional leaders, and neighbors. The JSDP noted an increase in adolescent boys as perpetrators.

Medical and psychological services for rape victims were limited. Rape victims were required to obtain a medical report for the filing of charges, examinations, reports, and court appearances. Most government doctors charged 10,000 to 70,000 leones (\$2.50 to \$17.80), fees which were prohibitively expensive for most victims. The IRC ran Rainbo Centers in Freetown, Kenema, and Koidu to perform medical examinations, provide counseling for victims of sexual assault, and offer legal assistance for victims who wanted to prosecute their cases. However, these Rainbo Centers were the only such centers in the country, and many victims had no access to medical attention or services.

Domestic violence is an offense under the 2007 Domestic Violence Act, punishable by a fine of up to 5 million leones (approximately \$1,250) and up to two years in prison. However, violent acts against women, especially wife-beating and rape, were common and often surrounded by a culture of silence. The police were unlikely to intervene in domestic disputes except in cases involving serious injury or death. The SLP used mediation as its primary tool for handling domestic violence. Between January and August, the FSUs noted that 1,477 women reported domestic violence.

Of these cases 298 perpetrators were charged, and 663 were under investigation at year's end. The FSU does not maintain statistics on conviction rates, but NGO reports indicate few perpetrators were convicted due to poorly trained prosecutors and out-of-court settlements. In addition NGOs observed in many cases that women withdrew rape or nonrape violence complaints due to social stigma, fear of retaliation, or acceptance of payment in lieu of pressing charges to alleviate their extreme poverty. The lack of convictions resulted in a high degree of impunity for rape and nonrape violence. Awareness of the law has resulted in an increase in reported cases in urban areas; however, most human rights organizations noted that domestic violence continued to be most prevalent and largely underreported in the northern provinces.

According to the United Nations Children's Fund (UNICEF), the majority of women felt that wife-beating was justified for actions such as going out without telling a husband, neglecting the children, refusing sex, or burning food. Women suspected of marital infidelity often were subjected to physical abuse. Because husbands could claim monetary indemnities from their wives' partners, beatings often continued until the women named several men, even if there were no such relationships. There were also reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

FGM in the country is performed predominantly by women's secret societies. The UN and NGOs reported a decline in the practice, likely due to increased awareness and intervention; although many in secret societies, particularly "sowies," the women who perform genital cutting, continued to advocate for the practice. During the year the UN reported that 35-40 percent of women and girls in Sierra Leone had been subjected to FGM.

For more details on FGM, see Section 6, "Children."

No NGO or government agency identified sex tourism as a problem during the year. The country's tourist industry overall is still in a nascent stage. Inappropriate sexual conduct by temporary visitors, such as tourists or businessmen, appears to be opportunistic, and not the purpose of their visits to the country.

Sexual harassment in the workplace is not specifically prohibited by law, and it was widespread.

Women and men generally were free to decide responsibly the timing, number, and spacing of their children: 70 percent of women and couples who practiced family planning made independent decisions, while 30 percent reported that other influences and pressures, such as family and religion, were determinant factors in family-planning decisions. The Ministry of Health and Sanitation reported that between January and June there were 118,922 clients for family planning services, and long-term and permanent treatments, such as intrauterine devices (IUDs) and tubal ligation, increased in popularity. Statistics showed, however, that the contraception prevalence rate ranged from 8 to 20 percent, and of the women using family planning methods, 51 percent did not discuss it with their partners.

The Ministry of Health and Sanitation and NGOs made efforts to meet the demand for oral contraceptives. However, outreach teams rarely served rural women and families. Many parents refused contraceptives for their sexually active teenage children because of a misunderstanding that contraceptives would prevent pregnancy later in life.

Approximately 44 percent of women gave birth in hospitals between January and June, while a further 51.5 percent gave birth at "peripheral health units," grassroots health posts located primarily in rural areas. Health professionals delivered 66 percent of births. However, few hospitals offered full obstetric and postpartum services. Most women did not have access to transportation to make regular doctor's visits or lived in locations where few services were offered. Women also rarely had equal access to family finances, and male partners did not always see pre- and post-natal care as a priority.

During the year one in 32 women died in childbirth. In April the Government launched an initiative to provide free health care for pregnant women, lactating mothers, and children under the age of five, which according to a midyear survey, was credited with increasing the number of live births and reducing the incidences of death in childbirth. Under the aegis of the Office of the First Lady, the Government also launched the Women's Initiative for Safer Health, which works at the community level in other areas of women's health, such as repairing obstetric fistula, sanitation, prevention of infectious diseases, and extending micro-credit to budding female entrepreneurs.

Women were diagnosed more frequently than men with sexually transmitted infections and HIV/AIDS because they were tested as part of their obstetric care. Men were more likely to wait for testing until they exhibited physical symptoms. There was an active government campaign to test more women during the prenatal period.

The 2009 Registration of Customary Marriage and Divorce Act empowers either spouse to acquire property and guarantees that gifts, payments, or dowries upon marriage are nonrefundable, allowing women in unhappy marriages to divorce without being forced to return dowries.

The 2007 Devolution of Estates Act provides for intestate succession including the transmission of property to the deceased's spouse and/or children as well as to single persons who cohabited with the deceased for 10 or more years. One noticeable problem with the law was its definition of "property" as mutually owned land; since land outside of Freetown is generally communal or family property, it was difficult to prove that a couple owned the land together and that the wife thus had a right to it.

Early in the year, the Ministry of Social Welfare, Gender, and Children's Affairs began implementation of the Sierra Leone National Gender Strategic Plan, a four-year (2010 to 2013) strategic framework drafted in conjunction with the UN Population Fund (UNFPA) and the UN Development Fund for Women (UNIFEM). The ministry indicated its intention to work with local and international NGOs and other government ministries to implement the two acts mentioned above, as well as the 2007 Domestic Violence Act, collectively known colloquially as "the gender acts." By year's end, several "sensitization programs" had been conducted around the country, particularly in the areas of fighting sexual and gender-based violence and teaching rural women about their rights under the Devolution of Estates Act.

Women faced widespread legal and societal discrimination, particularly in matters of marriage, divorce, property, and inheritance, which are guided by customary law in all areas except the capital. Formal laws apply in customary as well as formal courts, but customary judges had limited or no legal training and often were unaware of or could choose to ignore formal laws. Chiefs sometimes colluded with men to evict women and children forcibly from their homes or to subject them to arbitrary detention. In some cases chiefs imposed arbitrary and exorbitant fines, imprisoned women unlawfully in their homes or "chiefdom jails," and expelled them from the community. The women's rights and status under customary law varied significantly depending upon the ethnic group to which they belonged, but such rights and status were routinely inferior to that of men. Under customary law women's status in society is equal to that of a minor. A woman is frequently perceived to be the property of her husband, to be inherited on his death with his other property. In rural areas polygyny was widespread; UNICEF estimated in 2007 that 43 percent of women were involved in polygynous unions. All women in the Western (Freetown) Area, which is governed by general law, had a statutory right to own property in their own names. However, women in the provinces, which are governed by customary laws that vary from chiefdom to chiefdom, did not.

In the Temne ethnic group women could not become paramount chiefs, subordinate chiefs, or chiefdom authorities; however, in the Mende ethnic group, there were several female leaders. Every local council had at least one female representative. In March the High Court overturned a ban on women's becoming a paramount chief in the Kissy Teng chiefdom in Kailahun District.

Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas women performed much of the subsistence farming and had little opportunity for formal education. According to a 2008 government survey, 66 percent of women had never been to school, compared to 50 percent of men. Women also experienced discrimination in access to employment, and it was common for a woman to be dismissed if she became pregnant during her first year on the job. Further discrimination occurred in access to credit, equal pay for similar work, and the ownership and management of a business.

The Ministry of Social Welfare, Gender, and Children's Affairs has a mandate to protect the rights of women; however most international and domestic NGOs complained that the ministry lacked the resources, infrastructure, and support of other ministries to handle effectively its assigned projects. The ministry routinely relied on the assistance of international organizations and NGOs to help combat women's rights violations.

Women were active in civic and philanthropic organizations. Domestic NGOs such as 50/50, the Forum for African Women Educationalists, and the Women's Forum raised awareness of gender inequality and other women's issues, and they encouraged women to enter politics as candidates for mayoral positions and local councils.

*Children.*—Citizenship derived by birth is restricted to children of parents of "Negro-African descent." Children not meeting the criteria must be registered in their parents' countries of origin.

The Office of the Chief Registrar in the Birth and Deaths Department, which falls under the purview of the Ministry of Health and Sanitation, reported that during the year 104,996 live births were registered. This represents a 3.3-percent increase

over 2009. A total of 1,834 stillbirths (an increase of 15 percent over 2009) were registered. Birth registration was not universal due to inadequate staffing and resources. The Chief Registrar also noted that a lack of registration materials (e.g., paper forms) also hindered new registrations. However, lack of registration did not affect access to public services, nor did it result in statelessness.

Primary school education is tuition-free countrywide. However, many parents were unable to put their children through primary school because they could not afford school uniforms, books, and fees charged by school authorities. The average educational level for girls was markedly below that of boys, and only 25 percent of women were literate. At the secondary level, pregnancy forced many girls out of school. The law allows girls to return to school after giving birth, but many communities did not respect that right.

Sexual violence against children was a growing problem; however, the Government took few steps to address the issue. The FSUs are trained in dealing with sexual violence against children, and cases of child sexual abuse generally were taken more seriously than adult rape cases. However, in many cases of sexual assault against children, parents accepted payment instead of taking the perpetrator to court due to difficulties dealing with the justice system, fear of public shame, and economic hardship. Although the FSUs were seen to be improving their ability to prevent and respond to cases, the conviction numbers remained very low. From January to August, the FSU reported 66 cases of child abuse. Perpetrators in 11 cases were charged, and 29 cases are still under investigation, while the remaining cases were withdrawn or resolved through informal negotiation.

The 2007 Child Rights Act does not explicitly address FGM. However, the Ministry of Social Welfare, Gender, and Children's Affairs interprets de facto FGM within the section of the law that prohibits subjecting anyone under the age of 18 to harmful treatment, including any cultural practice that dehumanizes or is injurious to the physical and mental welfare of the child. The Ministry continued to implement the Child Rights Act and the International Convention on the Rights of the Child, to which the country is a signatory, but there were no prosecutions for FGM during the year. Although police occasionally detained practitioners on accusations of forced mutilation or manslaughter, human rights workers reported that police remained hesitant to interfere in cultural practices. The UN agencies (including UNFPA, UNIFEM, UNICEF, and World Health Organization) continued to work with local NGOs such as the Amazonian Initiative Movement and the Advocacy Movement Network to tackle FGM. The UN and the Ministry of Health and Sanitation also conducted research on the link between FGM and obstetric fistula in order to present a medical argument against the practice.

At the community level the UN and local NGOs worked with traditional leaders and local chiefs on a range of interventions, including sensitization meetings and efforts to persuade local chiefs to impose by-laws outlawing FGM for children. During the year traditional leaders in the southern district of Pujehun signed a memorandum of understanding with "sowies" (FGM practitioners) to increase the minimum age of initiations the "sowies" performed to 18 years. The UN also held workshops for local social workers and traditional leaders on prevention measures, as well as health care and psychosocial support for victims.

NGOs reported a decline in the practice of FGM, likely due to increased awareness and interventions. FGM was practiced on girls as young as two years old, and many NGOs reported cases in which toddlers underwent FGM because their very young age made it cheaper for parents.

Although the law prohibits marriage of girls under the age of 18, including forced marriage, forced child marriage continued to be a problem. UNICEF estimated in 2008 that 56 percent of women had been married before age 18.

Child rights laws also provide for the creation of family courts and child committees at the local government level, but NGOs reported that significant work remained to be done to establish such entities nationwide. There are 70 child welfare committees across the country, but they were not fully functioning. As of August the FSU reported 66 cases of child cruelty, of which nine had been charged in court. There were no convictions.

Child prostitution continued to be a growing problem. A UNICEF analysis of Freetown and Bo indicated that over half of the street children survived through prostitution. NGOs stated that there appears to be little political will to address the problem effectively. Statutory rape and child pornography are not addressed specifically in the law, but according to the Ministry of Social Welfare, Gender, and Children's Issues, these crimes would be covered under the Child Rights Act of 2007, which prohibits "cruel, inhuman, and degrading treatment" of any child, defined as persons under the age of 18.

Besides prostitution, many children were forced to engage in petty trading and other economic activities to survive and were vulnerable to trafficking and other exploitive practices.

According to a UNICEF report in 2009, there were 54 residential homes for approximately 1,800 orphans. The quality of care at the facilities varied, but most of those that failed to meet minimum standards were shut down. Each facility provided at least one meal a day, some health care, and some type of education. The regulatory framework for licensing new orphanages had not been approved by the Law Office at year's end.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—No data exists on the size of the country's Jewish population, and no synagogues or other Jewish religious organizations were registered with the Inter-Religious Council (IRC). No acts of anti-Semitism were reported during the year.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>

*Persons With Disabilities.*—The law does not prohibit discrimination against persons with physical and mental disabilities, and offers no specific protections for such persons. The law does not mandate accessibility of buildings or assistance to disabled persons. There was no government policy or program to assist persons with disabilities; public facility access and discrimination against persons with disabilities were not considered public policy priorities.

Although there was no formal discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, an April survey by a UK-based NGO found in practice persons with disabilities had less access to such services. In addition given the high rate of general unemployment, work opportunities for persons with disabilities were few, and begging by persons with disabilities was commonplace. Children with disabilities were also less likely to attend school than other children due to the lack of an official inclusive education policy.

There is considerable stigma associated with and discrimination against persons with mental health issues. The Sierra Leone Psychiatric Hospital in Kissy, the country's only in-patient psychiatric institution, had beds for 400 patients but housed only 100 patients due to staff and resource constraints, as the hospital was poorly funded by the Government and received only small donations from private charities. Patients were generally released to their families or communities as soon as possible, and received follow-up counseling on a regular basis. The hospital estimated that 550,000 citizens needed some form of psychiatric care due to post-traumatic stress disorder arising from the 1991-2002 civil war, depression due to socio-economic problems, and drug abuse. Men and women were housed in separate wards, and there was no mingling between the sexes. The hospital lacked adequate beds and mattresses which are easily destroyed by the patients and could not provide sufficient food to sustain them. Patient restraints were primitive due to lack of resources. The hospital did not have running water and only sporadic electricity due to lack of funds to buy fuel for the facility's generator. Basic medications were available, although the hospital suffered from a lack of a variety of drugs targeted at specific problems.

The Ministry of Health and Sanitation is responsible for providing free primary health care services to persons with polio and diabetic retinopathy as well as those who are blind or deaf. However, these services were not provided consistently, and organizations reported that many persons with disabilities had limited access to medical and rehabilitative care. The National Committee for Social Action provided some support through limited programs to vulnerable communities. The Ministry of Social Welfare, Gender, and Children's Affairs has a mandate to provide policy oversight for issues affecting persons with disabilities but had limited capacity to do so.

Some of the many individuals maimed in the civil war, including those who had their limbs amputated, received special assistance from local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help victims acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to former combatants, who received aid through the demobilization process. In response to TRC's recommendations, the Government accepted in principle the need

to develop an aid program for war wounded, amputees, and victims of sexual violence; however, assistance to these groups remained limited and mostly funded by outside entities.

*National/Racial/Ethnic Minorities.*—The ethnically diverse population consisted of about 18 ethnic groups of African origin, many of whom spoke distinct languages and were concentrated outside urban areas. In addition there were significant Lebanese and Indian minorities, and small groups of European and Pakistani origin. Little ethnic segregation was apparent in urban areas, where interethnic marriage was common. The two largest ethnic groups were the Temne in the North and the Mende in the South. These groups each constituted an estimated 30 percent of the population; however, the Krio, who make up 7 percent of the population, have historically dominated the civil service and judiciary. Strong ethnic loyalties, bias, and stereotypes existed among all ethnic groups. The Temne and Mende have vied historically for political power, and the violence during the 11-year civil war had some ethnic undertones. Ethnic loyalty remained an important factor in the Government, the armed forces, and business. Complaints of ethnic discrimination in government appointments, contract assignment, and military promotions were common under the former SLPP and current APC governments.

Residents of non-African descent faced some institutionalized discrimination, particularly in the areas of citizenship and nationality. The 1973 Citizenship Act, as amended in 2006, restricts citizenship by birth only to persons of “Negro-African descent,” effectively denying citizenship to many locally born residents, most notably the six to seven thousand-strong Lebanese community. Non-“Negro-African” persons may apply for naturalization, but all applications must be approved personally by the president. In practice, however, no president has signed any naturalization certificates since the end of the civil war in 2002. (Lebanese law makes provisions for citizenship by blood, conferring citizenship on any person born in Sierra Leone to citizens of Lebanon upon application to the Lebanese embassy in Freetown. Thus, Lebanese born in Sierra Leone are not stateless.)

A small percentage of the Lebanese population was naturalized during a previous period of government leniency, and they enjoy the full rights of citizenship, such as suffrage, access to health care and education, and the right to purchase freehold land. However, naturalized citizens of non-“Negro-African” descent cannot transmit citizenship to their children born in the country; these children must apply for naturalization if they want to become citizens. While not entitled to the rights of citizens, non-naturalized persons born in the country are, however, entitled to a Sierra Leonean passport, and many Lebanese Sierra Leoneans travel on one with no problems.

In August a businessman of Lebanese descent who was born and raised in the country charged the Government with racism and threatened to go on a hunger strike until he was naturalized. In response the Government agreed to study amendments to the 1991 constitution regarding citizenship rights, and the president expressed a general willingness to approve naturalization applications, but at the end of the year the Government had taken no actions. The Lebanese community reported no cases of overt discrimination based on race or nationality, although community leaders stressed that even though many Lebanese families have resided in the country since the 1880s, they still feel alienated from the indigenous population.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The constitution does not offer protection from discrimination based on sexual orientation. A law from 1861 still in force prohibits male homosexual acts; however, there is no legal prohibition against female-to-female sex. The 1861 law carries a penalty of life imprisonment for indecent assault upon a man or 10 years for such an attempted assault. However, the law was not enforced in practice due to the secrecy surrounding homosexual conduct and the tendency for communities to discriminate against individuals rather than to enforce legal codes.

There were a few organizations working to support gay, bisexual, lesbian, and transgender persons. Because such individuals were not culturally accepted, particularly among men, the groups had to remain underground and hidden for fear of discrimination or violence against their members. Gay pride parades and other public displays of solidarity could not safely take place. There were unofficial reports of beatings by police and others, particularly targeting men dressed as women, but formal complaints were not filed due to fear of reprisal. Lesbian girls and women were also victims of “planned rapes” that were initiated by family members in an effort to change their sexual orientation.

Social discrimination based on sexual orientation occurs in nearly every facet of life for known gays and lesbians, and many choose to have heterosexual relationships and family units to shield them. In the areas of employment and education,

sexual orientation is the basis for abusive treatment, which has led individuals to leave their jobs or courses of study. It is difficult for gays and lesbians to receive the health services they need, due to fear that their confidentiality rights would be ignored if they were honest about their ailments; many choose not to be tested or treated for sexually transmitted infections. Secure housing is also a problem for gays, lesbians, bisexuals, and transgender persons. Gay children frequently are shunned by their families, leading some to turn to prostitution to survive. Adults can lose their leases if their sexual orientation becomes public.

*Other Societal Violence or Discrimination.*—The law prohibits discrimination based on actual, perceived, or suspected HIV status; however, persons with HIV/AIDS were stigmatized in society. There was no official discrimination against HIV/AIDS positive persons, but NGOs reported children were denied access to education because of their HIV status. HIV/AIDS-positive adults lacked employment and promotion opportunities. There were also reports that men often divorced their HIV/AIDS-positive wives, leaving them without financial support.

Reports of violence against HIV/AIDS-positive persons were uncommon; families were instead more likely to abandon them. NGOs noted that, due to discrimination and stigmatization, those living with HIV/AIDS sometimes chose suicide rather than facing their communities.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, in both the public and private sectors to join unions of their choice without prior authorization or excessive requirements; however, it prohibits civil service employees, police, and members of the armed services from joining unions. The law allows unions to conduct their activities without interference, and the Government generally protected this right; however, in some private industries employers were known to intimidate workers to prevent them from joining a union. By year's end the Government had not granted a bargaining certificate to the Civil Servants' Union, whose application had been on file since 1986. According to the Ministry of Labor, approximately 35 to 40 percent of workers in the formal economy were unionized, including mainly agricultural workers, mineworkers, and health workers. Unions have the right to strike, although the Government could require 21 days' notice, and workers exercised this right in practice. The law does not prohibit retaliation against strikers, even when the strike is lawful. In March doctors and nurses staged a 10-day strike, and as a result, President Koroma agreed to significant salary increases.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and the Government generally protected this right in practice. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. Collective bargaining was widespread in the formal sector, and most enterprises were covered by collective bargaining agreements on wages and working conditions. No reliable data was available on the percentage of workers covered by collective agreements. There was at least one case where an employer did not respect the terms of a collective bargaining agreement. In October electrical workers staged a protest at the National Power Authority for the authority's failure to implement an agreed-upon wage increase.

The law neither prohibits antiunion discrimination against union members nor employer interference in the establishment of unions. In March, King's Production Industry of Freetown, a soft-drinks manufacturer, laid off 29 workers. All of the laid-off workers were members of the Hotel, Food, Drinks, Entertainment, and Tobacco Union, which had begun to organize the plant in late 2009.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, the Government did not effectively enforce the law, and the practice of forced labor occurred, particularly in diamond mining. Under the law, individual chiefs may impose forced labor as punishment and have done so in the past; however, there were no reported occurrences during the year. Chiefs also may require villagers to contribute to the improvement of common areas, a practice that occurred in rural areas. There is no penalty for noncompliance.

Also see the Department of State's annual Trafficking in Persons Report at <https://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor is widespread. Almost half of children aged 14-15 years were engaged in some form of child labor. The rate varied from 27 percent in urban areas to 57 percent in rural areas. The law limits child labor, allowing light work at age 13, full-time work at

age 15, and hazardous work at age 18. The law states that children under 13 should not be employed in any capacity; however, enforcement was not effective.

Provided they have finished schooling, children aged 15 may be apprenticed and employed full-time in nonhazardous work. The law also proscribes work by any child under 18 between 8 p.m. and 6 a.m. The law sets health and safety standards and requires school attendance through the age of 15, but the Government did not enforce this. Many of the laws were not enforced because of lack of knowledge, societal perception of children's roles, and poverty.

In many cases children worked alongside parents or relatives and abandoned educational or vocational training. There were no reports that authorities conducted any child-labor inspections during the year.

In rural areas children worked seasonally on family subsistence farms. Children also routinely assisted in family businesses and worked as petty vendors. Adults engaged street children to sell, steal, and beg. Because the adult unemployment rate remained high, few children were involved in the industrial sector or elsewhere in the formal economy.

There were reports that foreign employers hired local children to work as domestic laborers outside the country at extremely low wages and in poor conditions. The Ministry of Social Welfare, Gender, and Children's Affairs was responsible for reviewing the issuance of passports to minors but did not do so effectively, and the prevalence of document fraud made effective government oversight difficult.

There were reports that children whose parents sent them to friends or relatives in urban areas for education were forced to work on the street. There also were reports that adults asked orphanages for children to be used as household help.

Many girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means of support.

In remote villages children were forced to carry heavy loads as porters, resulting in stunted growth and development. Children were also engaged in sand mining, fishing, hawking, diamond mining, granite quarrying, and prostitution. While the law prohibits forced and bonded labor by children, the Government did not effectively enforce the law, and child labor remained a problem. Forced and child labor occurred in diamond mining.

The Ministry of Labor was responsible for enforcing child labor laws. The Ministry of Mineral Resources enforced regulatory prohibitions against the worst forms of child labor. The ministry also was charged with protecting children working in the diamond mining areas; however, enforcement was not effective.

The Freetown City Council contributed nonfinancial support to programs that provided free schooling and services to at-risk youth.

Also see the Department of State's annual *Trafficking in Persons Report* at <http://www.state.gov/g/tip>.

*e. Acceptable Conditions of Work.*—The national minimum wage, covering all occupations including in the informal sector, was set at 25,000 leones (\$6.35) per month, which did not provide a decent standard of living for a worker and family. The Ministry of Labor is responsible for enforcing the minimum wage, but it lacked the resources to do so effectively, and compliance was difficult to monitor in the informal sector. Most workers supported an extended family. It was common to pool incomes and to supplement wages with subsistence farming and child labor.

Although not stipulated by law, the standard workweek was 40 hours (60 hours for security personnel). Employers negotiated work hours with employees at the time of hiring, and overtime was to be paid if an employee's work hours exceeded the standard workweek. There was no prohibition on excessive compulsory overtime.

The Ministry of Health and Sanitation was responsible for setting and enforcing health and safety standards. Although the Government set these standards, it did not provide the funding to enforce them properly. Trade unions provided the only protection for workers who filed complaints about working conditions. Initially a union could make a formal complaint about a hazardous working condition. If this complaint was rejected, the union could issue a 21-day strike notice. However, no such actions were reported during the year. Workers who removed themselves from dangerous work situations without making a formal complaint risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

## SOMALIA

Somalia<sup>1</sup> has an estimated population of seven million. The territory, which was recognized as the Somali state from 1960 to 1991, fragmented into regions led in whole or in part by three distinct entities: the Transitional Federal Government (TFG) in Mogadishu, the self-declared Republic of Somaliland in the northwest, and the semiautonomous region of Puntland in the northeast. The TFG was formed in late 2004, with a five-year transitional mandate to establish permanent, representative governmental institutions and organize national elections. In January 2009 an expanded Transitional Federal Parliament (TFP), established under the internationally backed Djibouti Peace Process (DPP), extended the TFG's mandate until August 2011 and elected Sheikh Sharif Sheikh Ahmed as TFG president. The DPP stalled in 2009 as the Government came under pressure from armed extremist groups and the TFG's top leadership engaged in political infighting.

On June 26, the Somaliland administration conducted its second direct presidential election in five years. On July 2, the Somaliland independent national elections commission declared Ahmed Mohamed Mohamud "Silanyo" as the winner in a presidential election that domestic and international observers declared as free and fair.

Islamist extremists increased attacks on Puntland regional officials. During the year 50 senior government officials and security officers were killed in roadside bombs and gun violence, mostly in Puntland's Bari Region. In Somaliland's disputed Sool and Sanaag regions, disaffected sub-clans waged sporadic violence against government officials.

Security forces reported to civilian authorities in the Puntland and Somaliland administrations. Even though TFG security forces reported to civilian authorities, there were instances in which elements of the security forces acted independently of civilian control.

There were reports of several isolated incidents where rogue TFG troops and allied militia opened fire on public transport vehicles, extorted money at checkpoints, and looted private businesses. In most of these cases, other TFG security forces intervened. Puntland security forces indiscriminately repatriated internally displaced southern Somalis, resulting in family separations and the loss of property and business. The administration alleged that the southerners were responsible for insecurity in Puntland. Fighting by TFG troops, allied militias, and African Union Mission in Somalia (AMISOM) forces against antigovernment forces, terrorist groups, and extremist elements affected thousands of civilians in Mogadishu. Intermittent resource-related sub-clan disputes escalated into minor armed conflicts. Targeted assassinations continued. Terrorist group al-Shabaab claimed responsibility for suicide and roadside bombings against TFG troops, government officials, and AMISOM peacekeepers. There were four suicide bombings that targeted TFG officials and offices and AMISOM installations. Security forces in Puntland and Somaliland reported to government authorities, such as the Ministry of Defense. While TFG forces reported to government authorities, TFG-allied militia/paramilitary forces reported to clan or factional militia commanders and were outside the control of official authorities. There were instances when TFG security forces acted independently of civilian control. During the year TFG forces, with AMISOM support, increased the amount of TFG-controlled territory in Mogadishu to as much as 60 percent of the city.

Despite security and capacity problems, the TFG continued to focus on human rights. It designated a human rights official in the Ministry of Justice and a Focal Point for Human Rights and Child Protection in the Office of the Prime Minister and participated in international efforts to encourage better human rights practices. The human rights situation in al-Shabaab and allied extremist-controlled areas deteriorated further during the year. Absence of effective governance institutions and rule of law, the widespread availability of small arms and other light weapons, and al-Shabaab's increased enforcement of extremist societal norms contributed to a worsening human rights situation, particularly in Central and South Somalia.

Human rights abuses included arbitrary killings, kidnappings, torture, rape, amputations, and beatings; official impunity; harsh and life-threatening prison conditions; and arbitrary arrest, deportation, and detention. In part due to the absence of functioning institutions, perpetrators of human rights abuses, mostly in al-Shabaab controlled areas of Central and South Somalia, were rarely punished. De-

---

<sup>1</sup>The United States does not have diplomatic representation in Somalia, and U.S. government personnel were not permitted to travel regularly into any of the territory of the former state of Somalia during the year. This report draws in large part on non-U.S. government sources.

nial of a fair trial and limited privacy rights were problems, and there were restrictions on freedoms of speech, press, assembly, association, religion, and movement. Discrimination and violence against women, including rape and female genital mutilation; child abuse; recruitment of child soldiers; trafficking in persons; abuse of and discrimination against clan and religious minorities; restrictions on workers' rights; forced labor; and child labor were also problems.

Members of extremist antigovernment groups, and the al-Shabaab terrorist organization, some of whose members were affiliated with al-Qaida, committed an increasing number of egregious human rights violations, including killings of TFG officials and civilians; kidnappings and disappearances; attacks on journalists, aid workers, civil society leaders, and human rights activists; restrictions on freedom of movement; and displacement of civilians. In an August 10 media release, the UN Independent Expert (UNIE) on the Situation of Human Rights in Somalia listed as human rights abuses: "summary executions, including beheadings of innocent people, amputations, flogging, whipping, forcible marriage of young girls to militiamen, use of civilians as human shields, imposition of the strictest dress code on women and prohibition of the use of public mass media, and the bans imposed on listening to music and public gathering, all with lack of due process."

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The TFG or its agents did not commit any politically motivated killings. However, there were several reports that the TFG or its agents committed arbitrary or unlawful killings. Security forces reportedly killed several drivers of public transport vehicles and passengers at Mogadishu checkpoints. There were no reports that Somaliland and Puntland administrations or their agents committed arbitrary or unlawful killings.

Fighting between TFG forces and allied militias against extremist antigovernment groups resulted in at least 2,000 civilian deaths in Mogadishu. Al-Shabaab and other extremist groups committed political killings and assassinations in Puntland and the South and Central Regions of Somalia (see section 1.g.).

Politically motivated killings by extremist antigovernment elements and terrorist organizations resulted in the deaths of approximately 10 senior TFG officials, including members of parliament and security officials (see section 1.g.).

Prominent peace activists, community leaders, clan elders, and their family members became targets and were killed or injured for their roles in attempted peace building. There were no reports of government involvement in these killings, but the Government neither identified nor was capable of punishing the perpetrators. Reports indicated that al-Shabaab and its affiliated militias were behind many of these killings. On June 27, unknown gunmen killed a father and his son in Elasha Biyaha locality near Mogadishu. The victims reportedly worked with a local telecommunications company. On June 29, unknown assailants shot and killed Abdi Mohamed Kahiye, a well-known businessman in the Bakara market. Kahiye reportedly was targeted for his critical views of al-Shabaab and insurgent group Hisbul Islam who control the market. On August 15, unidentified armed men killed Mohamed Tahsil Warsame, chairman of the Council of Somali Peace Seekers, in Elasha Biyaha. On several occasions, al-Shabaab leaders issued death threats against anyone working for or suspected of having links to the TFG.

There were no reports that the Government summarily executed persons during the year and no reports that excessive force by the TFG resulted in the death of demonstrators.

Unlike in 2009, there were no reports of excessive force by Somaliland government forces resulting in the deaths of demonstrators.

There were no reports of government forces deliberately killing street children; however, children were caught in crossfire during fighting between forces.

Throughout the year militants periodically fired mortars at Villa Somalia, the presidential palace in Mogadishu. On July 1, an improvised explosive device detonated inside a meeting hall in the presidency a few hours before a planned ceremony for Somalia's 50th Independence Day anniversary. On August 30, al-Shabaab mortars hit the presidential palace compound, killing four AMISOM peacekeepers. Several other mortar attacks on the president's residence landed in surrounding neighborhoods, causing civilian deaths, injuries, destruction of property, and displacement. In August and September, an al-Shabaab offensive in Mogadishu resulted in high civilian casualties and new displacements. The UN High Commissioner for Refugees (UNHCR) estimated 230 civilians were killed, 400 injured, and 23,000 displaced from their homes during the first two weeks of fighting. In April 2009 a mortar attack on the parliament building in Mogadishu killed a police officer

and three children and wounded several other persons. In May 2009 mortar attacks on the police academy killed and wounded civilians in the vicinity. In September 2009 groups associated with al-Shabaab launched mortar attacks on a disabled veterans' home, killing an estimated 11 and wounding 20; al-Shabaab claimed responsibility.

Fighting among armed moderate and extremist religious factions as well as between extremists themselves caused hundreds of civilian casualties and displacements. On April 27, for example, clashes between the TFG-allied Ahlu Sunna Wal Jama'a (ASWJ), a historically nonpolitical moderate Islamic organization, and al-Shabaab in Mogadishu killed an estimated 15 civilians and injured 50 others. Most of the civilian casualties were caused by mortar exchanges between the two groups. On June 2, several persons were killed in clashes between ASWJ and al-Shabaab in Marergur, Galgaduud Region.

Senior members of the TFG were killed. For example, on May 9, unknown gunman shot and killed Ali Yare, deputy police chief of Darkenley police station in Mogadishu. On July 9, Salad Hared Farah, spokesman for TFG militia in parts of Hiraan Region, was killed in Beledweyne; al-Shabaab in Beledweyne claimed responsibility.

On August 24, two al-Shabaab gunmen disguised in TFG military uniforms killed 31, including four members of parliament (MPs), at the Hotel Muna in Mogadishu's Hamarweyne District. On September 9, AMISOM peacekeepers disrupted an al-Shabaab attack on a meeting of TFG and international officials at Mogadishu airport. Three peacekeepers and several civilians were killed in the gunfire and suicide explosions.

During the year several Puntland officials were also killed. For example, on January 5, unknown gunmen shot and killed Abdullahi Ali Osman, a Puntland MP, as he left a mosque in Bossaso. Police arrested two suspects. On July 10, a roadside bomb killed four Bossaso port security police and wounded eight.

Islamic extremists imposed strict social edicts resulting in the deaths of several persons.

During the year unknown assailants killed two journalist and media owners (see section 2.a.).

Attacks on humanitarian workers, nongovernmental organization (NGO) employees, and foreign peacekeepers resulted in deaths during the year (see section 5).

Hundreds of civilians were killed in inter- or intra-clan militia clashes throughout the country. The killings resulted from clan militias fighting for political power and control of territory and resources; revenge attacks; banditry and other criminal activity; private disputes over property and marriage; and vendettas after incidents such as rape, family disagreements, killings, and abductions. Authorities investigated very few of these cases, and there were few reports that any of the cases resulted in formal action by the local justice system.

Despite local efforts to mitigate interclan conflicts, Galkayo and surrounding nomadic villages experienced the most severe and frequent armed clashes in the country. An estimated 100 civilians were killed and hundreds others displaced from their homesteads in water and land resource-related reprisal attacks during the year. Intermittent intraclan armed clashes over resource sharing were also reported in other parts of the Mudug Region, as well as in remote villages between Burao and Buuhoodle towns, in Bari Region, and in parts of Bay, Lower and Middle Shabelle, Hiraan, and Galgaduud regions, resulting in several civilian deaths.

No action was taken against security force or militia members who committed killings in 2009 or 2008, and there was little progress in the investigations of killings reported in previous years. On January 17, a Bossaso court found Abdinassir Ahmed Ali guilty of the November 2009 killing of Judge Mohamed Abdi Warabe and sentenced him to death by firing squad. Two accomplices were sentenced to jail terms of three and 10 years. On August 12, residents of Jurile village, 70 miles south of Bossaso, awarded compensation to the victim of an unjustified 1996 vigilante killing.

Land mines throughout the country caused numerous civilian deaths (see section 1.g.).

*b. Disappearance.*—During the year there were no reports of politically motivated disappearances, although these types of disappearances could have easily been concealed due to overall insecurity in the country. Abduction as a tactic in clan disputes, however, was reported but less frequently than in previous years. The Somali NGO Safety Preparedness and Support Program reported a decreased incidence of kidnapping, in part because of fewer international staff in the country.

Clan militia groups and criminal gangs made ransom demands on abductees or demanded property or hostage exchanges as preconditions to the release of abductees. Unlike the previous years where the majority of reported kidnappings

were in the southern regions of Somalia, especially in areas surrounding Mogadishu, most kidnappings were reported in the Sool and Sanaag and Mudug regions. Two NGO workers were kidnapped during the year (see section 5).

There was a general decline in the number of maritime piracy attacks and the kidnapping of ship crew in the first quarter of the year in the Gulf of Aden as a result of international antipiracy efforts and cooperation of the shipping industry. However, the number of successful piracy attacks increased in the second half of the year and continued to complicate humanitarian efforts to provide essential commodities to thousands of people in need (see section 1.g.). Sources from international NGOs suggested that pirates were holding approximately 20 vessels and 630 persons at year's end.

Government officials did not undertake investigations into or actions against kidnapers. According to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), 10 aid workers, the majority kidnapped in previous years, still remained in captivity at year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transitional Federal Charter (TFC) prohibits torture. The Puntland Charter, also referred to as the Puntland interim constitution, prohibits torture “unless sentenced by Islamic Sharia courts in accordance with Islamic law.” There were no reports of the use of torture by TFG, Puntland, or Somaliland administrations during the year. Various clan militias, al-Shabaab, and Hisbul Islam continued to torture their rivals and civilians.

Unlike in previous years, there were no reports of police raping women; however, there continued to be reports of irregular/clan militias using rape to punish and intimidate rivals. Rape was commonly perpetrated in interclan conflicts.

There were no reports of TFG, Puntland, or Somaliland authorities taking action against persons or groups responsible for torturing, beating, raping, or otherwise abusing persons.

During the year TFG officials were victims of assassination attempts. On May 27, the TFG's humanitarian affairs minister Mohamamud Abdi Ibrahim survived a roadside explosion. The minister's car was in a convoy transporting two other ministers at the time of the explosion. Three of the minister's security team and a child and an adult near the site of the explosion were injured.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and life threatening in all regions. Overcrowding, poor sanitary conditions, lack of access to health care, and inadequate food and water persisted in prisons throughout the country. Tuberculosis, HIV/AIDS, and pneumonia were widespread. Abuse by guards was common. Detainees' families and clans generally were expected to pay the costs of detention. In many areas prisoners depended on food received from family members or from relief agencies.

As a result of the worsening security situation and infiltration of violent extremists in TFG-controlled parts of Mogadishu, TFG police arrested suspects in security operations. However, there were fewer prisoners and detainees held in TFG prisons than in previous years. TFG prison officials reported that there were an estimated 400 prisoners held at Mogadishu central prison. As part of their efforts to strengthen the rule of law and improve security in Somalia, in mid-September official foreign donors sponsored training for the TFG Police Advisory Committee (PAC) held in South Africa. PAC is a civilian oversight authority established to ensure prisoners and detainees are treated in accordance with international human rights standards.

There have been no reports of TFG-allied militias operating detention centers since the end of Abdullahi Yusuf's regime in 2008. Antigovernment extremist elements and clan leaders, however, reportedly continued to operate detention centers in which conditions were harsh and guards frequently abused detainees. Al-Shabaab and affiliated extremist armed groups operated dilapidated detention centers in areas under their control in the south and central regions. Although there were no official numbers, informal/unpublished sources estimated that thousands were incarcerated throughout extremist-controlled areas in inhumane conditions for relatively minor offenses such as smoking, listening to music, watching or playing soccer, and not wearing the hijab. There were no reports by human rights organizations and civil society leaders in Mogadishu of the existence of makeshift detention centers in Mogadishu where prisoners were held during and after episodes of heavy fighting.

In prisons and detention centers, juveniles frequently were held with adults. The incarceration of juveniles at the request of families who wanted their children disciplined continued to be a major problem. Female prisoners were separated from males. Particularly in the south central region, pretrial detainees were often not separated from convicted prisoners.

The Puntland and Somaliland administrations permitted prison visits by independent monitors. A September 2009 report by the UNIE described conditions at Puntland's Garowe central prison as "terribly bad" due to lack of capacity. The updated March 23 UNIE report referred to "terrible detention conditions of the central prison in Garowe, in particular keeping prisoners in shackles."

Somaliland authorities and the UN Development Program (UNDP) set up an independent prisoner monitoring committee. The UNDP also trained the prison custodial corps on human rights. There were no visits by the International Committee of the Red Cross to prisons in the country during the year; however, a prisons conditions management committee organized by UNDP and composed of medical doctors, government officials, and civil society representatives continued to visit prisons in Somaliland. During the year UNDP managed a program to improve Somaliland prisons by building new facilities and assisting in training wardens and judicial officials.

*d. Arbitrary Arrest or Detention.*—In the absence of enforced constitutional or other legal protections, the TFG, its allied militias, and various clan militias across the country continued to engage in arbitrary arrest and detention without due process. Although precise figures were unobtainable, local human rights organizations and international organizations reported that, although there were fewer arrests than the previous years, the TFG continued to arrest and detain persons, most of whom were quickly released. There were no allegations that these detainees were subjected to beatings, mistreatment, or torture.

In the wake of increased extremist-instigated insecurity in Bossaso, Puntland, security forces reportedly arbitrarily arrested people, especially immediately after security incidents. The victims of arbitrary arrests in Puntland were mostly journalists and Somalis from the South. While arbitrary arrest or detention was a common phenomenon in the previous Somaliland government, there was none reported during the year.

Al-Shabaab and Hisbul Islam militias across the south central region arbitrarily arrested persons and detained them without charge.

*Role of the Police and Security Apparatus.*—The police were generally ineffective, underpaid, and corrupt. With the possible exception of a few UN-trained police known as the Somali Police Unit, members of the TFG titular police forces in Mogadishu often directly participated in politically based conflict and owed their positions largely to clan and familial links rather than to government authorities. There were no allegations of TFG security officials engaging in extrajudicial killings; however, as in previous years, there were some media reports of TFG troops engaging in indiscriminate firing on civilians, arbitrary arrest and detention, extortion, looting, and harassment.

In all three regions, abuse by police and militia members were rarely investigated, and a culture of impunity remained a problem. Police generally failed to prevent or respond to societal violence.

*Arrest and Detention.*—Judicial systems were not well established, were not based upon codified law, did not function, or simply did not exist in most areas of the country. The country's previously codified law requires warrants based on sufficient evidence issued by authorized officials for the apprehension of suspects; prompt notification of charges and judicial determinations; prompt access to lawyers and family members; and other legal protections for the detained; however, adherence to these procedural safeguards was rare. There was no functioning bail system or the equivalent.

Arbitrary arrest was a problem countrywide.

Authorities in Puntland arbitrarily arrested journalists (see section 2.a.). Al-Shabaab and associated militia routinely arrested and threatened journalists as well.

There were no reports of TFG forces arresting journalists, NGO workers, or UN employees (see section 4). Similarly, there were no reports of TFG-allied militia arresting persons at random and demanding "bail" from their family members as a condition for their release. However, media reports indicate that TFG security forces and corrupt judicial officers, politicians, and clan elders used their influence and monetary inducements to set detainees free from allegations of petty and extreme crimes.

Unlike in previous years, there were no reports of politically motivated arrests in Somaliland. Authorities in Somaliland, Puntland, and the TFG arrested or detained numerous persons accused of terrorism and of supporting al-Shabaab.

Extremist elements also arrested and detained persons in their areas of control. For example, on January 25, Hisbul Islam militia arrested three traditional elders for allegedly holding unauthorized meetings with residents of Hakow village in the

Lower Shabelle Region. The elders were moved to and detained at Toratorow town before their release on January 27 after the intercession of other elders. On April 17, armed al-Shabaab militia in Baidoa arrested Alin Hilowle, program officer of the Isha Human Rights Organization, and detained him at an undisclosed location. It was later confirmed that Hilowle was transferred to Mogadishu where he was reportedly tortured into confessing that he had been compiling and relaying information regarding al-Shabaab human rights abuses in Bay and Bakol regions. There were unconfirmed media reports that Hilowle escaped from al-Shabaab custody in early October after they allowed him to attend the burial of one of his sons in Baioda under tight security. Hilowle's whereabouts remained unknown.

On August 11, Hisbul Islam militia arrested Haji Jaylani Moalim, a renowned herbalist, and three of his children at their home and detained them without charge. The family was released after one week in custody.

*e. Denial of Fair Public Trial.*—The TFC provides for an independent judiciary, but there was no functioning judicial system for the TFG to administer.

The TFC provides for a high commission of justice, a Supreme Court, a court of appeal, and courts of first instance; however, in practice no such courts exist. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most areas relied on some combination of elements from traditional and customary law, Sharia, and the penal code of the pre-1991 Said Barre government. In May 2009 President Sheikh Sharif ratified a parliamentary bill establishing Sharia nationwide; however, at year's end there were no official institutions charged with the administration of Sharia. In August 2009 President Sharif established a military court for members of the TFG armed forces, but this court did not operate in practice. In areas that al-Shabaab controlled, Sharia was enforced; however, there were no trained Sharia judges to preside over cases. Al-Shabaab's interpretation of Sharia law resulted in uneven and at times draconian sentencing. For example, on July 26, al-Shabaab militia publicly flogged a young man and woman in Mogadishu's Livestock Market in the Huriwaa district for allegedly having sexual intercourse outside of wedlock. An al-Shabaab "judge" announced that the young woman confessed to the relationship, and she was consequently whipped 100 lashes. The young man denied the charges and was subsequently whipped 30 lashes.

The Somaliland constitution provides for an independent judiciary; however, the judiciary was not independent in practice. The Somaliland constitution is based on democratic principles, but the region continued to use laws that predate the constitution, some of which contradict democratic principles. Functional courts exist, although there was a serious lack of trained judges and a shortage of legal documentation to build judicial precedence. Untrained police and other unqualified persons reportedly served as judges. International NGOs reported that local officials often interfered in legal matters and that the Public Order Law in Somaliland was often used to detain and incarcerate persons without trial.

The Puntland interim constitution provides for an independent judiciary; however, the judiciary was not independent in practice. The charter also provides for a Supreme Court, courts of appeal, and courts of first instance. Despite having some functionality, these courts lacked the capacity to provide equal protection under the law.

Traditional clan elders mediated and resolved intra- and inter-clan conflicts throughout the country. During the year traditional elders in Somaliland intervened in political disputes between the Government and opposition political parties. Clans and sub-clans frequently used traditional justice, which was swift. Traditional judgments sometimes held entire opposing clans or sub-clans responsible for alleged violations by individuals.

*Trial Procedures.*—Without a functioning judicial system, there were no standard trial procedures in the southern and central regions. The TFC provides for the right of every person to legal proceedings in a competent court. The TFC states every person enjoys the presumption of innocence, the right to be present and consult with an attorney at any time, and adequate time and facilities to prepare a defense. It also provides a guarantee of free legal services for individuals who cannot afford them. While not explicitly mentioned in the TFC, there was a presumption of the right to a public trial and jury, rights pertaining to witnesses and evidence, and the right of appeal. Most of these rights were not respected in practice and did not exist in those areas that applied traditional and customary practices or Sharia.

With the support of UNDP programs addressing judicial reform, Somaliland registered some improvement, except in cases of a political nature. Defendants generally enjoyed a presumption of innocence, the right to a public trial, and the right to be present and consult with an attorney in all stages of criminal proceedings. De-

defendants can question witnesses and present witnesses and evidence on their behalf and have the right of appeal. Somaliland provides free legal representation for defendants who face serious criminal charges and are unable to hire the services of a private attorney. Authorities in this region did not recognize the TFC and continued to apply the Somaliland constitution and pre-1991 laws. However, a worrying trend of regional and district security committees circumventing due process by ordering arrests and issuing sentences continued. Reportedly, hundreds of persons were serving varying prison terms imposed by security committees.

In Puntland, clan elders resolved the majority of cases using traditional methods known as *Xeer*; those with no clan representation in Puntland, however, were subject to the administration's more formalized judicial system. In this system, as outlined in Puntland's interim constitution, defendants enjoy a presumption of innocence, the right to a public trial, and the right to be present and consult with an attorney at all stages of criminal proceedings. Defendants can question witnesses and present witnesses and evidence on their behalf and have the right of appeal. There were numerous alleged instances of political and executive interference in the determination of high-profile political or security cases, especially concerning journalists. As in the other regions, the constitution stipulates that free legal representation be provided for defendants who cannot afford an attorney; in practice, these and other rights were not respected.

*Political Prisoners and Detainees.*—There were no official reports of political prisoners or detainees, although some arrests and detentions, especially in Somaliland, appeared to be politically motivated. In September 2009 there were reports that Somaliland authorities arrested and detained more than 100 persons, including several opposition leaders, after four persons were killed during demonstrations in Hargeisa. In August an estimated 270 prisoners, including those arrested in September 2009, were released from Somaliland prisons through a presidential amnesty.

Somaliland's Parliamentary Committee on Justice and Constitution reported in March that half of the 765 prisoners and remandees held in the Mandheera Prison were detained on the orders of regional or district security committees. There was no information available for instances of political prisoners in either Puntland or TFG controlled areas.

*Civil Judicial Procedures and Remedies.*—The inability of the judiciary to handle civil cases involving such matters as defaulted loans or other contract disputes encouraged clans to take matters into their own hands and led to increased inter-clan conflict. There were no lawsuits seeking damages for, or cessation of human rights violations due to the inadequate, nonexistent, and/or routinely corrupt court system. With the breakdown of the rule of law and the lack of a coherent legal system or effective government, individuals were not afforded adequate protection or recourse.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The TFG provides for the sanctity of private property and privacy. Unlike previous years, there was a reduction in reports of both TFG and extremist militia involved in looting, land seizure, and forced entry into homes in Mogadishu and elsewhere with impunity. The Puntland interim constitution and the Somaliland constitution recognize the right to private property. There were no reports of authorities in those regions infringing on these rights.

On July 7, TFG-allied militia looted and forcefully extorted money from small-scale traders in Mogadishu's Wadjir District. The TFG did not take action against the perpetrators. Although there were fewer reported cases of TFG militia and allied forces extorting money from taxi, bus, and truck drivers, the practice continued during the year, at times resulting in civilian deaths. For example, on April 16, a TFG militia member at the Mogadishu-Afgooye Road checkpoint killed a passenger and wounded a driver following a disagreement.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Killings.*—Fighting during the year between TFG and allied forces against al-Shabaab and Hisbul Islam resulted in the deaths of more than 2,000 civilians throughout Somalia. In Mogadishu, al-Shabaab conducted almost daily attacks and offensives against the TFG and AMISOM; there were numerous media reports of civilian deaths from TFG and AMISOM forces responding to these attacks. According to the Mogadishu-based Elman Human Rights Organization, violence in Mogadishu killed an estimated 918 civilians. According to Lifeline, a Mogadishu-based local human rights organization that provides free ambulances to Mogadishu residents, 5,814 civilian injuries were reported during the year. On January 14, al-Shabaab launched an attack on the presidential palace, killing 21 civilians and injuring 30. On January 31, a barrage of TFG/AMISOM mortar attacks against militant positions in Yaqshiid and Huriwaa districts of Mogadishu killed 14 and injured 50 civilians. On June 3,

clashes between al-Shabaab and the TFG in Mogadishu killed 20 and injured an estimated 80 civilians. Conflicts in various parts of the country displaced thousands of people throughout the year.

All parties to the conflict reportedly employed indiscriminate lethal tactics; generally, no action was taken against those responsible for the violence. Antigovernment and extremist groups, particularly al-Shabaab, were responsible for launching mortar attacks from hidden sites within civilian populated areas and using civilians as human shields. For example, on November 17, artillery gunfire between AMISOM and extremist groups killed at least 21 civilians in Mogadishu. In addition, extremist groups conducted suicide bombings; used land mines and remote-controlled roadside bombs; and conducted targeted killings of journalists, aid workers, and civil society leaders. TFG and AMISOM forces responded to these attacks, which sometimes resulted in shelling of civilian-populated areas. International human rights observers accused all parties to the conflict of indiscriminate attacks, deployment of forces in densely populated areas, and a failure to take steps to minimize civilian harm.

Since the collapse of the Government in 1991, tens of thousands of persons, mostly noncombatants, have died in interclan and intraclan fighting and factional armed conflict. For example, on April 25, al-Shabaab launched mortar attacks on TFG troop's positions, and TFG counterattacks killed 16 and injured more than 30 civilians.

Al-Shabaab and other extremist groups summarily executed an unknown number of persons whom they accused of spying for the "enemy"—the TFG and AMISOM—and other specious charges in Somalia's South and Central regions. On May 26, for example, an al-Shabaab firing squad executed Mohamed Gaboobe, whom al-Shabaab had accused of murder. On July 1, al-Shabaab militia executed 20-year-old Mohamed Guleid Hosh, who was accused of insulting the Prophet Muhammad. In January 2009 al-Shabaab publicly executed by firing squad Abdirahaman Haji Mohamed "Waldire" after an al-Shabaab court convicted him of espionage and apostasy; Ahmed was a prominent Juba Region politician and militia leader. On September 28, al-Shabaab publicly executed two young men in Mogadishu after an al-Shabaab court convicted them of espionage. On July 9, al-Shabaab publicly executed 38-year-old former TFG military trainer Ibrahim Abdikadir Hasan by firing squad in Baidoa. Hassan was arrested in March on charges of being a spy for Ethiopia. Similarly, extremist armed groups in the Juba, Bay, and Bakol regions arrested and beheaded several persons they accused of spying. For example, on November 10, al-Shabaab militia beheaded four people in Waradhumale in Galgaduud Region for their association with ASWJ, a group they perceived as having strong ties with the TFG. In addition, on October 27, al-Shabaab executed two teenage girls, Ayan Mohamed Jama, 18, and Huriyo Ibrahim, 15, in the al-Shabaab-controlled town of Belet Weyne after an al-Shabaab "judge" sentenced the girls to death for spying. They were executed while blindfolded and handcuffed after a hearing in which no evidence was presented nor was legal representation allowed.

In July 2009 al-Shabaab from Bay and Bakol regions beheaded an elderly disabled man after removing his eyes. In a move to frighten and intimidate the citizenry, al-Shabaab reportedly fitted the man's spectacles on his dismembered head and publicly displayed it. On July 26, Hisbul Islam militia in Afgoe, Lower Shabelle, executed a man accused of defiling a 12-year-old girl. The man was buried waist-deep and pelted with stones until he died. As was common in public executions, the militia rounded up members of the community to compel them to witness the execution.

Roadside bombings, suicide attacks, and armed raids targeting TFG officials and sympathizers as well as civil society groups continued throughout the year. Antigovernment extremist groups were responsible for numerous killings of government officials and police. Politically motivated killings by al-Shabaab and its affiliates resulted in the deaths of several TFG officials and members of the Banadir regional administration, including district commissioners and their deputies and security and court officials.

Al-Shabaab claimed responsibility for several attacks against the TFG and its supporters during the year. For example, on May 24, al-Shabaab claimed responsibility for a landmine explosion at a TFG checkpoint in Mogadishu's Buula Hubeey neighborhood that killed three TFG soldiers and injured four. The explosion also injured two children. On June 9, an explosion of a remote-controlled device killed nine TFG police on foot patrol near the police academy, in Mogadishu's Hamar Jajab District. Seven civilians were also killed in the attack. On August 17, a remote-controlled roadside explosion targeting Guriel District Commissioner Osman Isse Nur "Tar-dhuleed" injured two of his children who were riding in the car with him. ASWJ militia arrested 10 suspects in the attack.

The TFG's Waberi police station commander was killed during August 23 to 25 clashes between the TFG and al-Shabaab. On August 24, an al-Shabaab armed raid and subsequent suicide attack on a Mogadishu hotel killed 31 persons, including four MPs. On September 20, AMISOM peacekeepers killed a lone gunman reportedly on a suicide mission as he tried to gain access to the presidential palace. The gunman belonged to extremist group Hisbul Islam and reportedly intended to kill his uncle, the interior minister. Unlike in 2009, there were no reports of al-Shabaab taking TFG forces hostage or summarily executing any security officers.

There were no reported cases of TFG security forces killing civilians whom they suspected of planning attacks or giving information to antigovernment forces, as was common in previous years; however, civilians were killed or injured during clashes between members of the TFG's security forces and affiliated militia in parts of Mogadishu. For example, on February 10, armed clashes between TFG police and military killed four and wounded several others in Hamar Jajab District. On April 28, crossfire among TFG militia in Wadajir District reportedly killed three and wounded another seven. Similar clashes in Madena District the following day killed two persons and wounded five. On June 28, fighting between TFG-allied militia along Mogadishu's Afgooye-Mogadishu road killed two persons. Clashes erupted when the militia disagreed over extortion fees collected from vehicles at a check point. Such intra-TFG militia clashes reportedly occurred when other security forces intervened to stop looting and extortion, when militia disagreed on the sharing of the loot, or over unpaid allowances.

Unlike in previous years, security forces did not kill persons waiting for food aid. No action was taken against security officials responsible for civilian deaths during the year.

During the year TFG forces and AMISOM peacekeepers disrupted several al-Shabaab attempts to topple the TFG from power. For example, on April 27, AMISOM peacekeepers destroyed an explosives-laden truck as it approached an AMISOM base in Mogadishu. All three suicide bombers in the truck were killed, and two peacekeepers were injured. On September 9, al-Shabaab claimed responsibility for twin suicide truck bomb explosions near the Mogadishu international airport. AMISOM reportedly shot five bomb-strapped al-Shabaab militia as they tried to sneak into the airport during the resulting mayhem. Four civilians and three peacekeepers were killed in the attack.

In 2009 al-Shabaab killed nearly 120 persons and injured approximately 200, mostly civilians, in eight suicide attacks against TFG and AMISOM targets. Of these, the December 2009 suicide bombing at the Benadir University graduation was the deadliest; the attack killed 22 civilians, including three TFG ministers, and injured as many as 50 other civilians.

Few cases of land mines and unexploded ordinance (UXO) were reported during the year compared with 2009. However, antipersonnel and antitank land mines, most of them remotely controlled, were frequently deployed by antigovernment groups against TFG forces, its allied militias, and civilians. For example, on September 1, a landmine explosion along Mogadishu's industrial road killed an estimated nine and injured 25, all of them passengers on three public transport vehicles.

On January 7, a remotely detonated landmine blew up a car in a convoy of vehicles transporting General Mohamed Gele Kahiye, TFG military chief, killing two of his security guards and injuring six soldiers. On July 26, extremist groups targeted TFG Mogadishu administrators with two bombs, causing several civilian casualties. Two TFG soldiers were killed and four wounded in a roadside explosion which went off in the Alqalow neighborhood in Wadajir District. A similar attack on TFG troops on patrol killed three and injured two.

On August 4, a bomb killed eight women and injured many others working in an employment program to clean up areas of Mogadishu. This was the second time female volunteers were targeted in Mogadishu.

Armed extremists' destruction of Sufi shrines degenerated into attacks on places of worship. In purported intra-extremist violence on May 1, twin explosions inside a packed mosque in Mogadishu's Bakara market killed 45 worshippers and injured an estimated 100, including top leaders of al-Shabaab and its allied militia. Another mosque attack on May 2 killed two and injured 13 after prayers in the al-Shabaab-controlled port town of Kismayo.

Attacks on and harassment of humanitarian, religious, and NGO workers resulted in numerous deaths during the year.

Unlike previous years when UXO killed several children, there were no reported incidents of children killed or injured in UXO-related accidents. However, violence in Mogadishu affected many children. According to UNOCHA, the World Health Or-

ganization estimated 262 children were among the 1,025 patients treated in the two main hospitals in Mogadishu.

Land mines killed or injured police officers and local administrators. For example, on May 12, former Mogadishu governor Mohamed Omar Habeeb “Mohamed Dheere” escaped a roadside explosion. The explosion killed one and injured three of his guards. On May 24, a remote-controlled roadside bomb intended for Middle Shabelle Governor Mohamud Ali “Jowhar” injured one of his assistants. On May 27, a roadside explosion targeting a government minister’s convoy in the KM4 area of Mogadishu killed one civilian and wounded two children.

On November 3, a landmine explosion killed several nomadic people and injured others in Ilguule, Guriel District, after it blew up a vehicle they were travelling in. On December 5, three people were injured in a landmine explosion that destroyed a vehicle in Goldogob, Mudug Region.

*Physical Abuse, Punishment, and Torture.*—On April 26, in Mogadishu’s Deyniile District, al-Shabaab chopped off the right hand of an alleged thief and executed an accused murderer. An al-Shabaab “Sharia” judge claimed Shiine Abukar Hersi, whose right hand was amputated, was charged with stealing used bedding. An al-Shabaab firing squad executed Mohamed Ahmed Qasim, whom the al-Shabaab judge accused of murder. On July 16, al-Shabaab militia amputated the right hands of two young men in Balad. The al-Shabaab court convicted the two, Murshid Ahmed Adan and Hassan Omar Mohamed, of robbery. The al-Shabaab judge claimed Aden and Mohamed confessed to stealing 45 million Somali shillings (\$1,400) and two million Somali shillings (\$60) respectively. As in previous years, al-Shabaab carried out these amputations and other violent physical punishment in front of community members whom they forced to attend. Al-Shabaab carried out numerous other crude punishments on specious grounds in areas under their control in South and Central Somalia.

Al-Shabaab used torture on TFG members and individuals suspected to be sympathetic to the Government.

Unlike previous years, there were no reports of extremist groups using crude weapons to cause physical and psychological harm. In 2009 al-Shabaab militia reportedly molded plastic into sharp tools that they used as torture instruments.

On August 16, a passerby rescued an unconscious man who was dumped in Dayniile. The man indicated that al-Shabaab militia members had abducted him and two others from their workplace in the Bakara market and cut out their tongues; the two other men had already bled to death. Al-Shabaab targeted them on suspicion that they were spies. On April 24, five headless bodies were found in Mogadishu; residents identified the victims as construction workers who participated in the renovation of Somalia’s former parliament building. Observers believed that al-Shabaab targeted these men for “aiding the enemy.”

*Child Soldiers.*—The recruitment and use of children in militias and other fighting forces was a longstanding practice in the country and continued during the year. Without established birth registration systems, it was often difficult to determine the exact age of persons, including recruits to armed groups. The July 2009 report of the UN Security Council Working Group on Children and Armed Conflict cited the TFG, Ahlu Sunna wal Jama’a, al-Shabaab, Hisbul Islam, clans, and the Puntland regional administration as continuously recruiting children into their militias. In May the UN Children’s Fund (UNICEF) and the Office of the Special Representative of the Secretary General (SRSG) for Children and Armed Conflict reported an increase in the recruitment of children, some as young as nine, in armed conflict in Somalia. In response, TFG Prime Minister Mohamed Abdullahi Mohamed committed his government to eradicating the practice in a meeting with this SRSG and agreed to designate a focal point to work with the UN to pave the way towards the signing of an action plan and an official agreement to secure and verify the release of child soldiers.

The TFG did not conscript or condone the recruitment of child soldiers for use by its National Security Force or allied fighting units. However, there were reports that a small number of under-age persons remained associated with TFG forces, and the TFG pledged to address this issue comprehensively. Children were most heavily recruited and forcibly conscripted by clan militias and antigovernment groups.

Al-Shabaab conscripted children into armed conflict and military operations in addition to using them to plant roadside bombs and other explosive devices. According to the UN, al-Shabaab recruited children as young as eight from schools and madrassas and trained them to plant bombs and carry out assassinations for financial reward. In May 2009 TFG police arrested 11 minors who had been kidnapped in Lower Shabelle Region and forced into al-Shabaab militias. All of the children were subsequently released to their parents or guardians. In Kismayo, Baidoa, and

Merka, al-Shabaab forced boys 15 and older to fight as “mujahedeen” or face execution. In 2009 al-Shabaab killed an estimated 16 teenagers after they refused to become al-Shabaab fighters.

Because of the risk in intervening directly with militia groups, UNICEF protection partners engaged in low-profile condemnation of child recruitment while undertaking public education and youth empowerment initiatives. UNICEF also assisted the TFG in preparing an action plan that would include measures to screen its troops, as well as establish mechanisms to prevent further child recruitment.

The Somaliland constitution contains no minimum age for recruitment into the armed forces, but there were no reports of minors in its forces.

*Other Conflict-Related Abuses.*—Deteriorating security conditions complicated the work of local and international organizations, especially in the South. During the year attacks on NGOs, seizure of NGO premises, and looting hindered humanitarian aid delivery. As a result of killings, extortion, threats, and harassment, some organizations evacuated their staff or halted food distribution and other aid-related activities. In addition, al-Shabaab banned an unprecedented number of international NGOs from areas under its control, and several other international NGOs were forced to scale down their humanitarian operations after refusing to agree to al-Shabaab extortion demands.

During the year piracy off the coast continued; the International Maritime Bureau identified the country’s territorial waters as the most dangerous in the world. Pirates increased hijackings and unsuccessful attacks on vessels off the Somali coast, despite increased international attention. Fewer incidents occurred in the Gulf of Aden because of increased patrols, but there were more attacks further offshore. Most of the ships continued to be brought into the waters off the coast of Puntland and held near the coastal towns of Eyl, Hobyo, and Haradere. Fueled by lucrative ransoms, these towns developed a burgeoning industry to support the pirates and their hostages. Following ransom payments, which in some cases reached several millions of dollars, the hijacked vessels and hostages were often released. In each instance, crews were held hostage until a ransom was paid.

Puntland security forces made little progress against pirates operating along the coast, but there were some signs of progress over the year. During raids on pirates’ hideouts, Puntland security arrested several suspected pirates, and some were sentenced to long jail terms in subsequent trials. Clan elders and religious groups continued sensitization efforts begun in 2009 in Puntland’s coastal towns to demobilize pirates and discourage youth from joining them. In part due to their efforts, several former pirates renounced piracy. On June 16, the Puntland administration, with the support of an NGO, enrolled several reformed pirates in a vocational training center in Garowe to acquire technical skills.

On May 18, Puntland police arrested 10 pirates, including pirate cartel leader Abshir Abdullahi Boyah, and seized ransom money and a vehicle in Garowe. On June 3, Puntland police rescued a ship and 24 crew members from pirates who had hijacked it the day before. Police arrested 10 suspected pirates in the rescue operation, which left two police officers injured. Puntland contracted a private security firm to assist in its counterpiracy efforts. The firm, billed as a “Public Private Partnership” by the Puntland administration, is reportedly providing training to hundreds of antipiracy militia.

On October 11, armed pirates ambushed the Puntland minister of ports’ convoy in the Jariban, Mudug Region, where the minister was visiting coastal communities to advocate against piracy. The pirates reportedly took the minister hostage after brief armed clashes with the minister’s security. The pirates set him free several days later following the intervention of clan elders who negotiated for his release.

Twenty-two vessels and an estimated 600 crew members remained in the custody of Somali pirates.

While the TFG did not hamper humanitarian aid delivery, it was unable to prevent attacks on UN and NGO personnel and assets. The deteriorating security situation and continued targeting of national and international relief organizations presented significant challenges to humanitarian operations, particularly in the South and parts of Central Regions. The Inter-Agency Standing Committee on Somalia report released in October notes that “between October 2008 and September 2010, eighteen humanitarian organizations have stopped activities due to their direct expulsion by armed groups or as a consequence of interference in their programs. This interference ranges from ‘taxation’ and extortion to the seizure of compounds, supplies, and assets.” Although humanitarian access constrictions experienced in 2009 continued, there was a significant reduction in the number of violent incidents involving humanitarian workers and assets. UNOCHA reported 34 security incidents were directed at humanitarian workers or assets between January and August, compared with 68 during the same period in the previous year. This decrease could be

attributed to the more limited presence of international staff, loss of compounds, and strict changes in and adherence to security protocols.

According to the UN secretary general's September 9 report on Somalia, "[insecurity] hampered United Nations operations in Somalia, limiting freedom of movement for United Nations staff and contractors." According to the report, al-Shabaab seized the compound of the UN World Food Program (WFP) and the houses of six national staff in Wajid and attempted to loot non-food items from the WFP compound in Buaale.

In its August humanitarian overview report, UNOCHA reported that Puntland had experienced some access problems, especially in July and August, as a result of internal conflicts and looting of relief food supplies and assets. Access was generally good in Somaliland. There was a reduction in attacks on humanitarian personnel but a marked increase in al-Shabaab raids on UN and international NGO compounds, offices, and warehouses, in which they looted humanitarian supplies, food, equipment, and other assets.

Two aid workers were killed during the year, down from 10 the previous year. At year's end, 10 humanitarian workers who were previously abducted still remained unaccounted for. Relief agencies continued to operate with significantly reduced or no international staff. Aid agencies increasingly relied on local Somali staff, who were also under threat, and partnerships with local implementing organizations to deliver relief assistance to vulnerable beneficiaries.

On April 27, unidentified gunmen killed Mohamed Mayow Mohamed, an employee of a local NGO that supplies water to camps for internally displaced persons (IDPs) around Mogadishu. On June 18, unknown armed persons kidnapped Said Moalin Bashir, a Mine-Action employee. On August 30, a Mogadishu nurse reportedly was abducted as she left work. The kidnappers set the nurse free on September 3, reportedly without receiving any ransom payment.

Al-Shabaab banned approximately 10 international NGOs from working in areas under its control. Several other NGOs suspended their operations, being unable to meet extortion demands. On January 22, al-Shabaab militia raided World Health Organization and Save the Children premises in Beledweyne and looted computers and other equipment after briefly holding local staff hostage. On April 8, al-Shabaab stormed and took over the WFP compound in Wajid, Bakol Region. Al-Shabaab also took control of Wajid's airstrip, which was the largest humanitarian hub in south and central Somalia.

On August 31, al-Shabaab attacked and occupied international NGO Adventist Relief and Development Association's offices in Beledweyne and Bulaburde towns, Hiran Region. Evacuating the offices the same day, al-Shabaab took with them equipment such as computers and furniture. The organization had been implementing education and livelihood projects, and 180,000 beneficiaries were affected by its closure.

There were no developments in kidnapping cases from 2008 and 2009. The estimated 10 aid workers kidnapped in 2008 and 2009 remained in captivity at year's end.

In 2008 simultaneous explosions in Hargeisa targeting the UNDP, the Somaliland Elections Commission, and the Ethiopian embassy, as well as Puntland administration offices in Bossasso, killed 20 persons and injured 37. On May 28, a Hargeisa regional court arraigned 11 suspects in the attack. In July the court acquitted nine of the suspects for lack of evidence and sentenced two others to a jail term of 18 months each for obstruction of justice. The court also delivered in absentia death sentences to five suspects who were on the run. On September 16, Somaliland security arrested Osman Yusuf Odawa, one of the suspected masterminds who had already been sentenced to death by hanging; he remained in custody awaiting the implementation of this sentence.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The TFC and the Somaliland constitution provide for freedom of speech and of the press. The Puntland interim constitution provides for press freedom "as long as journalists respect the law"; however, this right was not respected in practice. Instances of violence, including murder, harassment, arrest, and detention of journalists in all regions of Somalia continued. Journalists engaged in rigorous self-censorship to avoid reprisals.

The print media throughout Somalia consisted largely of short, photocopied dailies published in the larger cities and often affiliated with one or another of the factions. Several of these dailies were nominally independent and published criticism of political leaders and other prominent persons.

In Somaliland there were seven independent daily newspapers. There was also one government daily and two English-language weekly newspapers. There were

three independent television stations and one government-owned station. Although the Somaliland constitution permits independent media, the Somaliland government consistently prohibited the establishment of independent FM stations. The only FM station in Somaliland was government owned.

Most citizens obtained news from foreign radio broadcasts, primarily the BBC's Somali Service and the Voice of America's Somali Service, which transmitted Somali-language programs daily. There were reportedly eight FM radio stations and one short-wave station operating in Mogadishu. A radio station funded by local businessmen operated in the south, as did several other small FM stations in various towns in the central and southern areas of the country. There were at least six independent radio stations in Puntland. Conditions in the country precluded a full accounting of all media; there were numerous small, relatively unknown local FM radio stations throughout the country. On March 28, in Kismayo, al-Shabaab opened an FM radio station.

Unlike in the previous years, journalists did not receive direct threats from the TFG. However, al-Shabaab and other extremists continued to harass journalists, and the overall climate for freedom of speech and press deteriorated. Journalists reported that al-Shabaab threatened to kill them if they did not report on antigovernment attacks conducted by al-Shabaab. Reporters also remained under threat if they published criticism of the Government. The Kismayo al-Shabaab administration continued to enforce rules for journalists, including a requirement to refrain from reporting news that undermined Islamic law.

Journalists and media organizations in Puntland and Southern Somalia reported harassment, including killings, kidnappings, detention without charge, and assaults on persons and property. As in previous years, experienced field reporters and senior editors fled the country due to direct threats from antigovernment groups.

During the year two journalists were killed in targeted or collateral incidents, down from nine in 2009. On May 4, al-Shabaab claimed responsibility for the murder of Sheikh Nur Mohamed Abkey, a journalist with the Somali government's Somalia National News Agency. On August 24, journalist Garkhat Awale was killed while working on the Hurma Radio transmitter in Mogadishu. It is unclear whether he was targeted or hit by a stray bullet.

There were no arrests in connection with any killings or attempted killings of journalists during the year.

Unlike previous years, there were no reports that the TFG or Somaliland ordered the arrest of journalists.

During the year there continued to be incidents of banning journalists and arresting them in the Puntland Region. For example, on August 10, Puntland authorities banned Nuh Musse Birjeeb, a contractor for Voice of America, from reporting; Birjeeb had conducted an interview with an Islamic insurgent leader. Days later, the Puntland information minister lifted the ban. On August 13, Abdifatah Jama Mire, director of radio station Horseed Media, was arrested for broadcasting an interview with an armed Muslim extremist leader active in Puntland. Seventeen hours later, Mire was sentenced to six years in prison for his actions. At year's end his case was being appealed. On August 15, the Puntland information minister banned media from reporting on violent extremist leaders active in Puntland.

Several broadcasting stations were closed or expropriated by extremist administrations during the year. For example, on March 24, al-Shabaab took over radio stations in Kismayo and Baidoa. On August 23, al-Shabaab militia expropriated privately owned Radio Holy Qur'an and continued to use the station's radio frequency for its propaganda. The original owners relocated to TFG-controlled areas of Mogadishu and started broadcasting in an attempt to reclaim the station's brand. In September al-Shabaab closed and looted Hornafrik. In April 2009 al-Shabaab closed Radio Mandeeq after it broadcast news about a clan dispute. Also in April 2009, the al-Shabaab administration in Baidoa closed Radio Jubba and detained three journalists who were freed the following day after an agreement that the station would no longer broadcast music. In September 2009, al-Shabaab ordered the closure of Radio Warsan, a local FM station in Baidoa, and detained the radio's director, Hilal Sheikh Shuayb. He was reportedly arrested for failure to obey al-Shabaab's order for radio stations to stop broadcasting advertisements with music and to broadcast the call for prayer. He was released after two days in detention.

Journalists reported continued pressure from al-Shabaab and opposition elements to provide favorable reporting for each side, with threats of reprisal if reporting was perceived to be critical of them. On March 18, al-Shabaab warned the director of Shabelle Radio not to air information about the TFG. The same month al-Shabaab arrested two other journalists in Gedo Region for reporting unfavorably about the group. The journalists, who worked for Somali Broadcasting Corporation and Somaliweyn Radio, were held for three days, during which time they were beaten

and drenched with mud, according to their statements to the media. On April 13, al-Shabaab banned all Somali radio stations from playing music. Many complied under the implied threat of violence.

Unlike in previous years, there were no reports that the TFG pressured journalists to produce positive reporting.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, extremists in Mogadishu reportedly closely monitored Internet use and were believed to be the authors of anonymous e-mail threats to local journalists. Media outlets continued to create Web sites associated with their broadcast operations, resulting in a proliferation of news-oriented Somali language Web sites. According to International Telecommunication Union statistics for 2008, approximately 1 percent of the country's inhabitants used the Internet; however, independent researchers noted this figure may be higher because Internet users frequently accessed the technology in cyber cafes and other public centers and Somalia's Internet country domain was not in use at the time; the domain was still not in use at year's end.

*Academic Freedom and Cultural Events.*—There were several functioning universities—three each in Mogadishu, Somaliland, and Puntland. Dozens of others existed only in name. Authorities imposed restrictions on academic freedom, and academics practiced self-censorship. In Puntland, a government permit was required to conduct academic research.

During the year there were fewer direct attacks on schoolchildren, teachers, and schools across the country. Most attacks involved indirect or stray fire on children and schools due to fighting or mortar shelling in Mogadishu. In one case, university students reportedly were among nine killed when a roadside bomb, probably intended for AMISOM troops, hit a minibus on August 31. Unlike in previous years, TFG forces were not responsible for any of these attacks. Al-Shabaab, other antigovernment groups, and ordinary criminals were responsible for targeted attacks.

There were no developments in the 2008 incident in which TFG security forces stormed the Somali Youth League Primary and Secondary school and the Imam Shafi'i Primary School in Mogadishu.

Al-Shabaab and armed militia associated with the former Union of Islamic Courts attacked schools and killed teachers and other education workers. For example, in February 2009, unknown armed militia forcefully entered Yusuf Kownayn School in Mogadishu's Wadajir District. The militia reportedly robbed, beat up, and harassed teachers and students.

There were no official restrictions on attending cultural events, playing music, or going to the cinema outside of al-Shabaab controlled areas. However, the security situation effectively restricted access to and organization of cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The TFC, Somaliland, and Puntland constitutions provide for freedom of assembly; however, the lack of security effectively limited this right in many areas. Unlike in previous years, there were no reports of security forces in Somaliland, Puntland, and TFG controlled areas employing excessive force to disperse demonstrators. However, freedom of assembly and/or association was extremely curtailed. Al-Shabaab did not allow gatherings of any kind without prior consent from its militia.

Somaliland security agents often prevented opposition parties from organizing public gatherings and demonstrations until after the Somaliland Electoral Commission officially opened campaigns for presidential elections in May.

There were no updates on the 2008 and September 12 killings of demonstrators in Somaliland and Mogadishu, respectively, and neither the TFG nor the Somaliland administration took action to punish the police perpetrators.

*Freedom of Association.*—The TFC provides for freedom of association, and unlike in previous years, there were no reports that the TFG restricted freedom of association.

The Puntland interim constitution provides for freedom of association; however, the Puntland administration continued to ban all political parties.

The Somaliland Constitution provides for freedom of association, and this right was generally respected in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The TFC, the Puntland interim constitution, and the Somaliland constitution provide for freedom of movement; however, this right continued to be

restricted in some parts of the country. There was a general reduction of checkpoints prevalent in South and Central regions in Somalia since 2009, and Puntland security forces dismantled ad hoc checkpoints run by armed clan militias. However, ad hoc checkpoints operated by armed militias, clan factions, TFG-allied groups, and al-Shabaab and its affiliates inhibited passage and exposed travelers to looting, extortion, and harassment, particularly civilians fleeing conflict. Few citizens possessed or had the means to obtain documents needed for international travel.

The law does not prohibit forced exile. Somaliland laws prohibit Somalilanders from participating in TFG politics. Over the year, Somaliland authorities banished several prominent TFG politicians who were serving or had served in TFG as MPs or ministers from Somaliland. On December 13, Somaliland's president, through a presidential decree, pardoned Mohamed Abdullahi Jama "Sifir," a prominent TFG politician who once served as an MP, deputy prime minister, and minister in the TFG, following Sifir's application expressing his recognition of Somaliland's separate status from that of Somalia.

During the year there were no organized repatriations to any region except the aforementioned estimated 1,000 persons that Puntland expatriated to South Galkayo.

*Internally Displaced Persons.*—UN agencies estimated that since January 2007 more than 1.2 million persons had fled their homes in Mogadishu and its surroundings as a result of targeted attacks by al-Shabaab and continued conflicts between TFG forces and antigovernment groups. The Somalia office of the UNHCR, based in Kenya, estimated that there were 1.46 million IDPs in the country as a result of internal conflict, flooding, droughts, and other causes going back to the early 1990s but with much higher numbers in recent years.

Many of the newly displaced lived without basic services, primarily settling on the Afgooye corridor between Mogadishu and Baidoa. Militia groups aligned with both sides of the conflict restricted IDP access during food distributions. The deterioration in security severely restricted the movement of aid workers and the distribution of urgently needed assistance to IDPs. Increased targeting of aid workers, "taxes" and extortion demands on humanitarian aid, and al-Shabaab's expulsion of WFP in January made it more difficult to deliver basic services.

Authorities in Puntland forcefully repatriated Somalis from South and Central regions allegedly for being behind a spate of insecurity in Puntland cities. Puntland's political leadership has over the years consistently claimed persons from South and Central Somalia were responsible for increased insecurity in the region; IDPs in general were regarded with suspicion as al-Shabaab supporters or criminals by locals. At year's end news reports highlighted the ongoing issue of sexual and gender-based violence against IDP women living in Somalia, primarily around Galkayo. The UNHCR acknowledged that perpetrators were primarily young men from the local area who take advantage of weakened clan protection among IDPs to act with impunity. Lack of a proper judicial system and weak police intervention prevented survivors from bringing prosecutions against perpetrators.

Authorities in Puntland forcefully repatriated Somalis from South and Central regions allegedly for being behind a spate of insecurity in Puntland cities. Puntland's political leadership has over the years consistently claimed persons from South and Central Somalia were responsible for increased insecurity in the region.

*Protection of Refugees.*—The TFC states that political asylum may be granted to persons who flee their or another country because of political, religious, and cultural persecution. However, there was no official system for providing such protection. The authorities provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened, and in practice the authorities granted refugee status or asylum.

The UNHCR reported that at year's end there were 1,800 refugees residing in Somalia and 24,415 asylum seekers in Somaliland and Puntland, a slight increase over 2009. Refugees and asylum seekers were mainly from the Oromiya and Ogadeni regions of Ethiopia. With the absence of a formal national asylum framework, refugees in Somaliland and Puntland face arbitrary detention and discrimination and have limited access to justice and protection through local systems.

Human rights organizations estimated there were as many as 1.46 million Somalis displaced due to conflict, food shortages, and inflation. According to a November UN Somalia humanitarian overview report, "The number of people in need of humanitarian assistance reduced by 25 percent to two million people, in part due to the good harvest." However, insecurity in the south and central regions limited the access of UN and international aid workers. UN agencies reported that 10 humanitarian workers were killed during the year. Somaliland authorities cooperated with

the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

The UNHCR estimated that during the year more than 40,000 citizens attempted more than 900 illegal boat crossings from Somaliland, Puntland, and neighboring Djibouti to Yemen, resulting in at least 273 confirmed deaths. By the end of November, there were 44,216 recorded new arrivals in Yemen, a 12.4 percent reduction in the number of new arrivals during the same period in 2009. The decline was due, in part, to the measures taken by the Puntland authorities to discourage human smuggling from Bossaso to Yemen. The UNHCR estimated that 165,201 Somali refugees were in Yemen at the end of 2010.

In 2007 the Kenyan government closed its border to all traffic to and from Somalia, although it later allowed humanitarian relief supplies to enter Somalia across its shared border on a case-by-case basis. Despite the border closure, 58,561 asylum seekers were at the already-overcrowded Dadaab refugee camp in Kenya. During the year Kenya announced that it would set up a screening center at the Liboi border to ensure only genuine refugees were allowed into the camps. In the same period, an estimated 23,356 asylum seekers entered Ethiopia, bringing the number of Somali refugees there to more than 77,000. By the end of the year, the Bolkamayo camp in southeastern Ethiopia had already reached its capacity of 20,000 refugees. The UNHCR estimated at year's end that it was providing humanitarian assistance and protection to more than 623,408 Somalis in Kenya, Yemen, Ethiopia, Djibouti, Tanzania, Eritrea, and Uganda.

During the year there continued to be reports that Somali women, girls, and in isolated cases, men were raped in refugee camps in Kenya.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The TFG failed to make progress on prescribed tasks necessary for transition to a popularly elected federal government. In January 2009 the Djibouti Process expanded parliament and extended the TFG mandate until August 2011 to provide more time to prepare the country for national elections. However, like the administrations that preceded it, the TFG administration was wholly unsuccessful in delivering on its core transitional tasks.

Unlike in previous years when clan leaders operated as de facto rulers in most regions under the nominal control of the TFG, much of the country remained under the rule of armed militias during year, many associated with the al-Shabaab terrorist group. Although al-Shabaab often collaborated with clan leaders in the areas it controlled, many clan leaders continued to face opposition from intraclan groups and political factions.

The Somaliland constitution provides citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage. Although the constitution of semi-autonomous Puntland provides citizens the right to change their government peacefully, only members of parliament selected by traditional clan elders exercised this right, supposedly acting on the behalf of the people.

*Elections and Political Participation.*—The Transitional Federal Charter is the legal framework for the transitional federal institutions of parliament and government; the mandate for the TFIs expires in August 2011.

In February 2009 President Sharif appointed Omar Abdirashid Ali Sharmarke as the TFG prime minister; Sharmarke was forced to resign in September 2010. On October 14, president Sharif appointed Mohamed Abdullahi Mohamed "Farmajo" as prime minister. A rift between the president and the speaker of parliament divided parliament into two opposing camps and delayed Farmajo's confirmation until October 31. On November 12, Farmajo named an 18-member cabinet almost exclusively drawn from the Somali diaspora. The prime minister named nine state ministers and 18 deputy ministers.

Somaliland has a constitution and bicameral parliament with proportional clan representation and an elected president and vice president. Somaliland authorities have established functioning administrative institutions in nearly all of the territory they claim, which is the same as the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with the former Italian colony of Somalia. In a 2001 referendum, 97 percent of voters supported Somaliland independence.

Due in part to concerted international pressure to hold elections, the ruling UDUB party of Somaliland President Dahir Riyale Kahin abandoned repeated efforts to postpone elections. Elections were held on June 26. Independent international and domestic observers described the elections as generally free and fair. There were reports of government restrictions on opposition parties' access to state-

owned media, and claims of government use of state resources in elections campaigns. At least two incidents of violence against election officials carried out by separatist clan militia were reported in parts of the disputed Sool and Sanaag regions.

In 1998 Puntland declared itself a semiautonomous regional government during a consultative conference of delegates from six regions that included traditional community elders, the leadership of political organizations, members of local legislative assemblies, regional administrators, and civil society representatives. Puntland has a single-chamber quasi-legislative branch called the Council of Elders, which has played a largely consultative role. Political parties were banned. However, provisions of the Puntland constitution that parliament endorsed in June 2009, which called for the establishment of multiparty democracy in two years, were not enacted. The new constitution limits the number of political parties to three. In January 2009 the council elected Abdirahman Mohamed Mohamud "Faroole" as Puntland's president. The former president, General Mohamud Muse Hersi "Adde Muse," who was one of several candidates, conceded defeat and peacefully handed over power to the new president. Parliamentary representatives were seated by their respective clan elders in the six administrative regions, and the same 66 representatives announced in December 2008 by Puntland's election and ratification commission remained in office.

Somaliland and Puntland continued to contest parts of the Sool and Sanaag Regions, as well as the Buhodle District of Togdheer Region during the year. Both governments maintained elements of their administrations in the Sanaag and Sool Regions, and both governments exerted influence in various communities. During the year there were no renewed hostilities in Las Anod, Sool Region, between Puntland and Somaliland forces. The new Somaliland administration under President Mohamed Mohamud "Silanyo" called for cooperation between Somaliland and Puntland. Claiming a common threat from armed extremist militias, the two administrations separately announced readiness to cooperate on the security front.

However, a new separatist clan militia named Sool, Sanaag, and Cayn (SSC) emerged. The militia sought to establish an SSC region autonomous from both the Somaliland and Puntland administrations within its area. The militia clashed with Somaliland forces on several occasions during the year. In an effort to find a peaceful solution to the political and security situation of the region, President Silanyo formed a ministerial commission to produce recommendations on the way forward.

There were 37 women in the expanded 550-seat TFP; there were only seven women selected as MPs out of the additional 275 MPs that were appointed when the ARS entered the TFG. The number fell short of the TFC requirement that at least 12 percent of parliamentary seats be reserved for women.

Despite low female representation in the Somaliland administration, President Silanyo appointed three women to his new 26-member cabinet. There were only two women in the 82-member lower house of parliament, but for the first time a woman sat in the Somaliland lower house after taking over the position left vacant by her deceased husband.

In Puntland there have never been any women on the Council of Elders. In December 2008, two women were selected as representatives to the 66-member parliament, reduced from five in the previous parliament. Only three women were appointed to Puntland's 40-member cabinet and only one as a full minister.

There were 60 members of Somali minority ethnic groups in the TFP and four in the TFG cabinet. There were no members of minority groups in the Somaliland or Puntland cabinets.

#### *Section 4. Official Corruption and Government Transparency*

The law does not provide criminal penalties for official corruption, and officials engaged in corrupt practices with impunity. Corruption marked almost every transaction in the country, and there was no regulatory or penal framework in place to combat it. This was true even in the provision of humanitarian assistance. A number of TFG ministers were named in a March 2010 UN monitoring report as engaging in visa-related scams. In response the TFG pledged to investigate.

Government officials in all three regions were not subject to financial disclosure laws.

There were no laws providing for public access to government information.

After the appointment of Prime Minister Farmajo in October and the formation of his new cabinet, TFG anticorruption measures and messages increased. Anticorruption measures figured prominently in a TFG draft "Road Map" that began to circulate in December; these included the establishment of a national anticorruption commission and official recognition that corruption hinders the overall functions of the Government and security sector. Also in December, the TFG released a comprehensive budget, the first in 20 years, which the finance and treasury

minister stated would “go a long way in fighting corruption.” The TFG streamlined efficient revenue collection at the Mogadishu port, the main source of income for the TFG, which led to a boost in customs-related revenue.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated in some areas of the country, investigating and publishing their findings on human rights cases; however, security considerations constrained their ability to operate freely. In contrast with previous years, government officials were responsive to their views, although the TFG had limited capacity to implement human rights programs. There was also an increase in al-Shabaab’s targeting of civil society groups, peace activists, media, and human rights and humanitarian organizations. The Mogadishu-based Dr. Ismael Jumale Human Rights Center (DIJHRC), Elman Peace and Human Rights Center (EPHRC), Peace and Human Rights Network, Isha Baidoa Human Rights Organization in the Bay and Bakol regions, KISIMA in Kismayo, Coalition of Grassroots Women’s Organization (COGWO), and other local human rights groups were active during the year, although less than previously because of the increased targeting by al-Shabaab. The DIJHRC, EPHRC, and COGWO continued to investigate and document human rights violations, study the causes of the continuing conflict in the Mogadishu area, and conduct human rights monitoring. The Mogadishu-based National Union of Somali Journalists (NUSOJ) continued to advocate for media freedom throughout the country. The Mogadishu-based Center for Research and Dialogue, Puntland Development and Research Centre, and several women’s NGOs and civil society organizations also played a role in promoting intraclan dialogue in Puntland and parts of the south central region.

During the year attacks and incidents of harassment of humanitarian, religious, civil society, and NGO workers resulted in numerous deaths. Unlike in previous years, TFG officials did not accuse NGOs and civil society organizations of siding with opposition groups and exaggerating human rights abuses committed by TFG forces, nor did the TFG intimidate and arrest NGO workers. However, on numerous occasions, al-Shabaab extorted money from local and international NGOs, threatening serious consequences for noncompliance. Al-Shabaab militia expelled international NGOs, and raided and looted humanitarian supplies and equipment from NGO compounds in regions under its control.

International and local NGOs generally worked without major restrictions in Puntland and Somaliland. The TFG did not interfere with NGO operations.

There were numerous occurrences of looting, hijacking, and attacks on convoys of WFP and other humanitarian relief shipments during the year.

There were no developments in cases of attacks on aid workers, human rights observers, and international NGOs reported in previous years.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The TFC prohibits discrimination on the basis of gender or national origin; however, societal discrimination based on clan and ethnic origin, violence against women, and widespread abuse of children continued to be serious problems. The Somaliland constitution and the Puntland interim constitution prohibit discrimination on the basis of gender or national origin, but these rights were not respected in practice as there was lack of effective government enforcement of these laws.

*Women.*—Laws prohibiting rape exist in Puntland, Somaliland, and TFG-controlled areas; however, they were not enforced. There were no laws against spousal rape. While there were prosecutions of rape cases in Puntland and Somaliland, there were no reports of the TFG prosecuting rape cases during the year. The UNHCR and UNICEF documented patterns of rape perpetrated with impunity, particularly of women displaced from their homes due to civil conflict or who were members of minority clans. Police and militia members engaged in rape, and rape was commonly used in interclan conflicts. Traditional approaches to dealing with rape tended to ignore the victim’s situation and instead communalized the resolution or compensation for rape through a negotiation between members of the perpetrator’s and the victim’s clans. Victims suffered from subsequent discrimination based on attributions of “impurity.” Women and girls in IDP camps were especially vulnerable to sexual violence, contributing to the spread of HIV/AIDS. In 2008 the UNIE reported that in Mogadishu and Kismayo, IDP women and girls, particularly those belonging to minority groups, were increasingly the targets of sexual violence by youth gangs. In Somaliland gang rape continued to be a problem in urban areas, primarily perpetrated by youth gangs, members of police forces, and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, ref-

ugee returnees, and displaced rural populations living in urban areas. Many cases were not reported.

In his September 16 report on the situation of human rights in Somalia, the UN independent expert recounted widespread sexual and gender-based violence in all regions of Somalia. Domestic violence against women remained a serious problem. There were no laws specifically addressing domestic violence; however, both Sharia and customary law address the resolution of family disputes. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. Women suffered disproportionately in the country's civil war and interclan fighting.

In the country's overwhelmingly patriarchal culture, women did not have the same rights as men and were systematically subordinated. Polygamy was permitted. Under laws promulgated by the former government, girls and women could inherit property, but only half the amount to which their minor and adult brothers were entitled. Similarly, according to Sharia and the local tradition of blood compensation, anyone found guilty of the death of a woman must pay half the amount that would be payable to the aggrieved family if the victim were male.

Women do not have the right to decide freely the number, spacing, and timing of their children and often faced discrimination, coercion, and violence when they attempted to exercise these rights. In part because of cultural sensitivities, there was limited information about and access to contraception. With inadequate health care, women rarely had skilled attendance during childbirth or essential obstetric and postpartum care. In Somaliland and Puntland, international programs ensured that women were equally diagnosed and treated for sexually transmitted infections, including HIV. There were limited programs in the southern and central regions, largely because of al-Shabaab's access restrictions on humanitarian agencies.

Many Somali women have assumed a greater burden by becoming the sole bread winners for their families. Women form a negligible part of those employed in both the formal public and private sectors because of disparities in education. Women continue to experience economic discrimination in areas under al-Shabaab control because of al-Shabaab's extremist position, which regards women's participation in economic activities as anti-Islamic. Despite difficult economic conditions generally prevalent in Somalia, women were not discriminated against in terms of owning or managing businesses. There are no visible government efforts in any region of Somalia to combat economic discrimination.

Women's groups in Mogadishu, Hargeisa, Bossaso, and other major towns in South Central Somalia, Somaliland, and Puntland actively promoted equal rights for women and advocated the inclusion of women in responsible government positions, and observers reported some improvement in the profile and political participation of women in the country.

*Children.*—In the absence of functioning central authority, births were not registered in Puntland or southern and central Somalia. The failure to register births was not a key factor in the denial of public services. Birth registration was taken seriously in Somaliland for hospital and home births; however, limited government capacity, combined with the nomadic lifestyle of many persons, caused numerous births to go unregistered. In Puntland citizenship is derived from one's parents and not by birth within the region's territory. By extension, any child born in Puntland to a father from non-Puntland sub-clans is not entitled to Puntland citizenship.

Primary education was not compulsory, free, or universal in all regions of Somalia. Since the collapse of the state in 1991, education services have been partially revived in various forms, including a traditional system of Qur'anic schools; public primary and secondary school systems financed by communities, foreign donors, and the administrations in Somaliland and Puntland; Islamic charity-run schools; and a number of privately run primary and secondary schools, universities, and vocational training institutes. In al-Shabaab-controlled areas, "jihad" was added to the curriculum of elementary schools. There was a continued influx of foreign teachers to teach in private Qur'anic schools and madrassas. These schools were inexpensive and provided basic education; however, there were reports that they required the veiling of small girls and other conservative Islamic practices not traditionally found in the local culture. Child abuse and rape were serious problems, although no statistics on their prevalence were available. UNICEF reported that throughout Somalia, "Rape and other grave sexual violence against children continued to be a major protection concern." There were no known efforts by regional governments to combat this practice. Children remained among the chief victims of continuing societal violence. UNICEF and other international NGO child-protection monitors verified that hundreds of children were killed or injured during the year as a direct result of conflict.

The practice of female genital mutilation (FGM) was widespread throughout the country. As many as 98 percent of women and girls had undergone FGM; the major-

ity were subjected to infibulation, the most severe form of FGM. In Somaliland and Puntland, FGM is illegal, but the law was not enforced. UN agencies and NGOs tried to educate the population about the dangers of FGM, but there were no reliable statistics to measure the success of their programs.

Child marriage was prevalent throughout Somalia. In rural areas parents often married off their daughters as young as age 12.

Militia members raped children during the conflict and departure of civilians from Mogadishu.

Child prostitution was practiced, and like all other forms of prostitution, was legally prohibited in all areas. In al-Shabaab areas, the penalty was flogging or even death by stoning. There is no formal statutory rape law or minimum age for consensual sex. Child pornography is not expressly prohibited.

Children occasionally were enlisted in the TFG security forces, and TFG-allied militias such as ASWJ (see section 1.g.). Antigovernment and extremist groups routinely recruited and used child soldiers (see section 1.g.).

The practice of "asi walid," a custom whereby parents placed their children in prison for disciplinary purposes and without any legal procedure, continued. Many of these juveniles were incarcerated with adults.

UNICEF and the UNDP started a project to provide abandoned children and child prisoners with legal and other protection assistance. The juvenile justice program also educated justices and lawyers about human rights problems for children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There is no known Jewish community in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The TFC, Somaliland constitution, and Puntland interim constitution all prohibit discrimination on the basis of intellectual or physical disabilities. None of the three administrations restrict the right of people with disabilities to vote or participate in civic affairs.

The TFC reads that the state is responsible for the welfare of persons with disabilities, along with orphans, widows, heroes who contributed to and fought in defense of the country, and the elderly.

The Somaliland constitution notes that the state is responsible for the health, care, development, and education of mothers, children, the disabled, persons who have no one to care for them, and mentally handicapped persons.

The Puntland interim constitution safeguards and advocates for the rights of orphans, disabled persons, and whoever needs the protection of the law. There are no laws in any of the three areas to ensure building access.

In the absence of functioning governing institutions, the needs of most persons with disabilities were not addressed. Several local NGOs in Somaliland provided services for persons with disabilities. Associations of persons with disabilities reported numerous cases of discrimination.

There was widespread abuse of persons with mental illness. Without a public health infrastructure, there were no specialized institutions to provide care or education for the mentally ill. It was common for such persons to be chained to a tree or restrained within their homes.

*National/Racial/Ethnic Minorities.*—More than 85 percent of the population shared a common ethnic heritage, religion, and nomad-influenced culture. UNIE estimated that minority groups constitute approximately 22 percent of the population. In most areas, members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, Faqayaqub, and Somaliland's Gabooye. Inter-marriage between minority groups and mainstream clans was restricted by custom. Minority groups had no armed militias and continued to be disproportionately subject to killings, torture, rape, kidnapping for ransom, and looting of land and property with impunity by faction militias and majority clan members. Many minority communities continued to live in deep poverty and suffer from numerous forms of discrimination and exclusion.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sexual orientation was considered a taboo topic, and there was no public discussion of this issue in any region of the country. There were no reports of societal violence or discrimination based on sexual orientation.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS continued to face discrimination and abuse in their local communities and by employers in all parts of the country. UNICEF reported that persons with HIV/AIDS were subjected to physical abuse, rejected by their families, and subjected to workplace discrimination and dismissal. Children with HIV-positive parent(s) also suffered discrimination, which hindered prevention efforts and access to services.

*Section 7. Worker Rights*

*a. The Right of Association.*—The 1960 constitution allows workers to form and join unions, and the TFG respected this right; however, due to the civil war and clan fighting, the only partially functioning labor union in the country was the journalist association NUSOJ. Other unions existed in name but engaged in no activities during the year. The Puntland interim constitution and the Somaliland constitution also protect workers' freedom of association; however, labor laws were not enforced in the country, resulting in an absence of effective protection for workers' rights.

The Somaliland Trade Union Organization (SOLTUO), formed in 2004, claimed to have 26,000 members representing 21 individual unions. SOLTUO claimed to be democratic and independent, but it undertook no activities during the year.

The TFC allows unions to conduct their activities without interference and grants workers the right to strike. In practice there were no reports of workers attempting to strike.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by laws in Somalia, Somaliland, and Puntland, but they were generally not enforced.

Wages and working conditions in the traditional culture were established largely on the basis of ad hoc arrangements based on supply, demand, and the influence of the worker's clan.

The TFC allows unions to conduct their activities without interference and grants workers the right to strike. There were no reports of antiunion discrimination.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The pre-1991 penal code and the TFC prohibit forced or compulsory labor, including by children. Children and individuals from minority clans were reportedly used in the khat trade as porters, as well in farming and animal herding.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The pre-1991 labor code and the TFC prohibit child labor; however, child labor was widespread.

Recruitment and use of child soldiers was a problem (see section 1.g.). Young persons commonly were employed in herding, agriculture, and household labor from an early age. Children broke rocks into gravel and worked as vendors of cigarettes and khat on the streets. UNICEF estimated that from 1999 to 2005, 36 percent of children between the ages of five and 14 were in the workforce—31 percent of males and 41 percent of females. The actual percentage of working children was believed to be higher. The lack of educational opportunities and severely depressed economic conditions contributed to the prevalence of child labor.

In Somalia the ministries of Labor and Social Affairs and Gender and Family Affairs were responsible for enforcing child labor laws. In Somaliland it was the Ministry of Family and Social Development, and in Puntland it was the Ministry of Labor, Youth, and Sports. In practice none of these ministries enforced these laws.

*e. Acceptable Conditions of Work.*—Although the TFC and the Somaliland constitution both include provisions for acceptable working conditions, there was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year. There was no national minimum wage. There was no information on the existence or status of foreign of migrant workers in the country. With an estimated 43 percent of the population earning less than 30,000 Somali shillings (less than \$1) per day, there was no mechanism to attain a decent standard of living for workers and their families. During the year high inflation, continued insecurity, and other factors significantly decreased the standard of living in all areas of the country. By year's end, 3.5 million Somalis required emergency humanitarian assistance.

## SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the president and the parliament. A progressive constitution, written after the end of apartheid and enshrining human rights, is the source of authority for the political system. The country has a population of approximately 50 million. In April 2009 the country held a largely free and fair national election in which the ruling African National Congress (ANC) won 65.9 percent of the vote and 264 of 400 seats in the National Assembly, which then elected ANC President Jacob Zuma as the country's president. Security forces reported to civilian authorities.

Principal human rights problems included police use of lethal and excessive force, including torture, against suspects and detainees, which resulted in deaths and injuries; vigilante and mob violence; prison overcrowding and abuse of prisoners, including beatings and rape by prison guards; arbitrary arrest; lengthy delays in trials and prolonged pretrial detention; forcible dispersal of demonstrations; pervasive violence against women and children; societal discrimination against women, persons with disabilities, and the lesbian, gay, bisexual, and transgender (LGBT) community; trafficking in persons; violence resulting from racial and ethnic tensions and conflicts with foreigners; and child labor, including forced child labor and child prostitution.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports of politically motivated killings by the Government or its agents; however, police use of lethal and excessive force, including torture, against suspects and detainees resulted in numerous deaths and injuries. Investigations into some of the killings committed during the year were ongoing, and some perpetrators had been punished by year's end.

The country had a high crime rate, and criminals were often better armed than police. In October 2009 Fikile Mbalula, the deputy police minister, called for the use of firepower against armed criminals, which the media and civil society groups criticized as a police "shoot to kill" policy; President Zuma denied the charge and attributed the use of excessive force to a lack of training and resources.

On September 1, the trial of Inkatha Freedom Party (IFP) member Siphamandla Mhlongo, who was being detained for the January 2009 killing of ANC stalwart Inkosi Mbongeleni Zondi, was remanded to the Scottsburg High Court, where a hearing was scheduled for February 2011. IFP member Makhosabo Mkhize, who was killed in July 2009 by unknown perpetrators, also had been charged in connection with Zondi's killing.

According to the Governmental Independent Complaints Directorate (ICD), there were 294 deaths in police custody and 566 deaths as a result of other police action during the year ending March 31, a 6 percent decrease from the previous year. Of the 860 deaths, 479 resulted from being shot, 122 from assault, 112 due to suicide, 93 from natural causes while in custody, 27 as a result of injuries from being struck by a police vehicle, 15 as the result of an auto collision, seven as the result of torture, three from suffocation, and two from poisoning.

On April 8, at a tavern in the Free State, Police Constable Elliot Khaka shot and killed Sombane Lungile after Lungile allegedly attempted to steal a car belonging to another constable who was with Khaka. On November 15, the Free State High Court convicted Khaka of murder and sentenced him to 12 years' imprisonment.

On July 12, in Pretoria, police officers shot and killed unarmed sound engineer Nkosinathi Ntuli after he allegedly drove headlong into oncoming traffic, narrowly avoiding crashing into several police officers and other motorists. Ntuli allegedly drove away from where he had been stopped and dared police to shoot him, after which police fired six shots at his vehicle. Captain Rosina Mabena, Sergeant Lillian Tlhapi, Sergeant Jaco Ngobeni, and Warrant Officer Enoch Makgamatha were accused of murder and attempted murder and denied bail. After a successful appeal to the North Gauteng High Court in November, and after agreeing to relinquish their passports, the four were each granted bail of 3,000 rand (\$420). Their case was postponed to January 2011.

On November 25, Riaan Velloen was arrested for driving while intoxicated and taken to the Florida police station in Johannesburg. He was found dead in his cell the following morning. Friends and family accused the police of beating him to death; an ICD investigation was ongoing at year's end.

On November 29, Donnelle Jackson was arrested for armed robbery in Sofiatown, Johannesburg. Police claimed that Jackson hung himself in his cell with a blanket within three hours of his detention. The ICD investigated the incident and recommended that action be taken against the police officers involved; no further information was available at year's end.

Information surfaced during the year that in February 2009 members of the National Intervention Unit, an elite police unit responsible for high-profile cases, shot and killed Bongani Mkhize, chairperson of the Maphumulo Taxi Association, allegedly after Mkhize opened fire on them. His death, which appeared to be linked to investigations into the killing of Police Commissioner Zethembe Chonco, occurred despite a ruling three months earlier by the Durban High Court restraining police from targeting him. Mkhize was reportedly among a list of suspects in the killing, all of whom had been shot and killed by October 2009, several after being arrested and interrogated by police, according to the Amnesty International Report released in May. Mkhize's family employed a private investigator to investigate his death, but had not filed charges against the police by year's end. Mkhize's killing was investigated by the ICD, which found no evidence of police wrongdoing.

Amnesty International also reported in May that in October 2009 police shot an unidentified man suspected of vehicle theft. Witnesses heard gunshots and saw the man's body hanging on a security fence near an apartment building. Police reportedly attempted to mislead independent investigators and also told the media that the man had electrocuted himself on the fence. Medical evidence subsequently revealed that the man had died from a high velocity gunshot injury to his spine.

The two off-duty police officers who in November 2009 shot and killed a street vendor while intoxicated were charged with murder and released on bail; their court case was ongoing at year's end.

The trial of police officer Shadrack Malaka, who was charged with killing a three-year-old child in November 2009, was postponed to April 2011; Malaka was released on bail of 1,000 rand (\$140).

The 14 police officers from the Bellville South Directorate of the Directorate of Priority Crime Investigation (DPCI), who allegedly beat and whipped to death Sidwell Mkwambi in February 2009, were neither suspended nor arrested during the year. The ICD stated an investigation produced enough evidence to establish a murder case against the 14 officers from the specialized unit; however, the director of public prosecutions (DPP) had taken no action on the ICD's recommendation by year's end.

Incidents of vigilante violence and mob killings continued, particularly in Gauteng, Eastern Cape, and KwaZulu-Natal provinces in the rural areas and townships. Unlike in previous years, police efforts to control vigilante violence did not result in deaths.

On August 4, a mob in Lenasia South set on fire a small truck with three alleged thieves trapped inside the cab; the three were suspected of stealing electricity cables in an informal settlement. Police launched an investigation, but no arrests had been made by year's end.

The trial of ANC municipal councilor Vusi Khoza, Sean Thabo Jacobs, Patricia Ballantyne, and Mzokuthoba Mngonyama for their roles in a mob attack that resulted in the January 2009 deaths of a Zimbabwean citizen and a Tanzanian citizen was ongoing at year's end. Khoza was charged with public violence and conspiracy to commit assault; the other three were charged with murder.

Xenophobic attacks on foreign African migrants remained a problem; however, attacks did not occur on the scale of previous years (see section 6).

Killings and other violent crimes against white farmers and, on occasion, their families, continued in rural areas (see section 6).

There were reports that persons accused of witchcraft were attacked, driven from their villages, and in some cases murdered, particularly in Limpopo, Mpumalanga, KwaZulu-Natal, and Eastern Cape provinces, where suspected witchcraft sometimes resulted in assault, forced exile, and killings, particularly of elderly women. Traditional leaders generally cooperated with government educational programs and reported threats against persons suspected of witchcraft.

On February 1, residents attacked and killed Mbongeni Zungu for suspected witchcraft; the mob also burned his shack in Umlazi E section, KwaZulu-Natal Province. Police charged 11 suspects with murder, attempted murder, malicious damage to property, and arson; all were subsequently released on bail, and there were no further developments by year's end.

At year's end the 2008 trial continued of two brothers in Eastern Cape Province who admitted to killing their younger brother for suspected witchcraft.

Ritual killings (muthi killings), especially of children, to obtain body parts believed by some to enhance traditional medicine practices, remained a problem; specific muthi killing statistics were unavailable.

On January 8, the mutilated body of 10-year-old Masego Kgomo was found in a clump of bushes near her home in Shoshanguve. Five male suspects were arrested and charged with murder and abduction; a sangoma (an African practitioner of magic, medicine, and witchcraft) also was arrested, but then released for lack of evidence. There were no further developments by year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police officers reportedly tortured, beat, raped, and otherwise abused suspects. According to the May Amnesty International report, corroborated cases of torture included the use of electric shock and suffocation. Police also assaulted detainees with batons, fists, and booted feet. Police torture and physical abuse allegedly occurred during interrogation, arrest, detention, and house searches, and sometimes resulted in death (see section 1.a.).

During the year the ICD reported 920 reports of assault with the intent to cause grievous bodily harm, seven of which it acknowledged involved torture. The report noted the investigation of three cases of torture from previous years, but did not indicate the results. Suspects in several cases were interrogated and assaulted while held without any record of their arrest. Officers convicted of this charge were given sentences ranging from verbal and written warnings to fines and dismissal from service. The report did not stipulate how many officers were convicted.

The ICD also reported 24 complaints of rape committed by police.

In May Zipho Richard Ndlovu claimed he was detained by two police officers at his workplace and taken to a police station, where he was tortured for allegedly participating in a robbery. Ndlovu claimed the two officers trussed him with a plank under his knees, put a black bag over his head, and attached electrodes to his ear lobes. Ndlovu sued the police for torture, and his case was pending at year's end.

During the year the ICD investigation into the alleged September 2009 kidnapping and torture of David Ndzumeka by DPCI officers in Cape Town determined there was sufficient evidence to establish a case against the officers. However, the DPP had not made a decision on the ICD's recommendation by year's end. Ndzumeka alleged that the officers placed a plastic bag over his head and repeatedly suffocated him until he was unconscious. Ndzumeka case was one of 29 completed investigations involving DPCI officers in Cape Town awaiting a decision by the DPP.

There were no developments in the following 2008 cases: the alleged torture in October of two brothers suspected of theft by 10 police officers from the Vosloorus Tracing Unit, the alleged beating and torture in November of a 17-year-old by six police officers from the Diepkloof Police Station, and the November death of Tefo Kgama after police allegedly beat him at the same station.

Incidents of police harassment of foreigners continued, particularly during coordinated police raids in areas where foreign nationals resided. In an August report to the Portfolio Committee on Police, the Consortium for Refugees and Migrants in South Africa asserted that police confiscated the legal documentation of foreign nationals, threatened them with arrest on spurious charges, and forced them to pay bribes to be released. Some state hospitals reportedly refused emergency treatment on a routine basis to indigent foreigners, despite regulations requiring that hospitals provide such treatment.

*Prison and Detention Center Conditions.*—The majority of the 249 operational prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The Judicial Inspectorate of Correctional Services (JICS) received 2,189 complaints of assaults against prisoners by correctional officers for the reporting period from April 2009 through March 2010. There were several reports of physical and sexual abuse by both prison officials and prisoners. Some detainees awaiting trial reportedly contracted HIV/AIDS through rape. According to the JICS report, there were 1,047 prison deaths during the reporting period. Of these, 992 were from natural causes, including HIV/AIDS; the remaining deaths were the result of suicides, assaults, or accidents.

According to the JICS report released during the year, there were 163,312 prisoners in facilities designed to hold 118,159. In a report to Parliament on October 27, Inspecting Judge Deon van Zyl reported that 19 prisons were critically overcrowded, some by as much as 247 percent, such as King William's Town Prison, while others held less than their capacity, such as Barkley West, which held 22 percent of capacity. Unlike in previous years, no statistics were provided on the number

of female and juvenile inmates. Due to severe overcrowding, many prisoners had less than 13 square feet in which to eat, sleep, and spend 23 hours a day. The nominal allotment of floor space per prisoner was approximately 36 square feet for communal space and 60 square feet for single cells, although this standard was seldom met.

The 2009-10 Department of Correctional Services (DCS) annual report indicated 22.8 percent of sentenced prisoners who were tested between the ages of 15 and 49 were HIV-positive. There were 21 centers dispensing antiretroviral (ARV) therapy during the year. Prisons without such centers were supposed to utilize outside clinics for ARV therapy; however, this seldom occurred. There were no HIV screening programs on intake or discharge of prisoners and no HIV prevention programs in prison, such as condom distribution.

All detainees in police cells were provided with felt mattresses and grey blankets, and most cells had toilets and basins, but there were seldom chairs, and cells often had inadequate light and ventilation.

In its September report *Monitoring Immigration Detention in South Africa*, the local nongovernmental organization (NGO) Lawyers for Human Rights (LHR) indicated that the main abuses perpetrated in the Lindela Repatriation Centre, the country's largest detention facility for undocumented immigrants, included physical and verbal abuse, corruption and bribery, insufficient food, lack of reading and writing materials, lack of access to recreational facilities or telephones, lack of access to and quality of medical care, indefinite detention without judicial review, detention of asylum seekers, and lack of procedural safeguards such as legal guidelines governing long-term detention.

Juvenile detainees were held in separate detention facilities; however, children up to three years old were sometimes held with their mothers. As of March 31, there were 129 infants and young children in detention with their mothers. During the year the DCS launched the Imbeleko program to provide a home-like environment for children below the age of two and to place children above that age in outside correctional facilities with sustainable family structures. Pretrial detainees generally were held with convicted prisoners.

Prisoners and detainees had reasonable access to visitors and were permitted religious observances. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

The DCS did not have an ombudsman to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond maximum sentences for charged offenses.

The JICS, an independent office under the Inspecting Judge, appoints an Independent Visitor for each correctional center to monitor prison conditions. In 2009 the Independent Visitors collectively recorded 8,346 visits to the 239 prisons, during which time they conducted private consultations with 78,883 inmates. Visits were recorded in official registers kept at all correctional centers and were verified on a monthly basis. Independent Visitors submitted monthly reports to the Inspecting Judge, listing the number and duration of visits, the number of inmates interviewed, and the number and nature of inmate complaints received.

The Government permitted some independent monitoring of prison conditions, including visits by human rights organizations to some facilities. Human rights organizations were allowed to visit prisoners if they had a registered attorney acting as legal representative for the prisoner; organizations could also request permission to visit prisons to conduct specific research. The Government permitted ICRC visits, but none were conducted during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, security forces arbitrarily arrested Zimbabwean migrants and trafficking victims during the year.

*Role of the Police and Security Apparatus.*—The South African Police Service (SAPS), under the Department of Police, has primary responsibility for internal security. The South African National Defense Force (SANDF), under the Department of Defense, is responsible for external security but also has domestic security responsibilities such as patrolling the borders. The DPCI, also known as “the Hawks,” coordinates efforts against organized crime and official corruption. Despite continued efforts to professionalize, SAPS remained understaffed, ill equipped, and poorly

trained. Law enforcement activities remained focused on wealthy residential and business areas.

During the year the ICD received 6,377 complaints against the police, including allegations of killings, assaults, and other misconduct, compared to 6,119 complaints in the previous year, according to the ICD 2009-10 report. Of the 6,377 complaints, Minister of Police Nathi Mthethwa noted 48 convictions of police officers for criminal conduct, including 25 convictions for deaths in police custody or as a result of police action, and 23 convictions for other criminal offenses. Additionally, the ICD made 526 recommendations to the DPP in criminal matters and 1,666 recommendations to SAPS management with regard to various misconduct offenses, such as abuse of a state vehicle, leaking information, or dereliction of duty.

SAPS provided annual training in corruption prevention, human rights, and ethics; it also provided officers with access to social workers, psychologists, and chaplains.

*Arrest Procedures and Treatment While in Detention.*—The law requires arrest warrants to be based on sufficient evidence and issued by a magistrate or judge and provides that all detainees be informed promptly of the reasons for their detention, of their right to remain silent, and the consequences of waiving that right. Detainees must be charged within 48 hours of arrest; held in conditions respecting human dignity; allowed to consult with legal counsel of their choice at every stage of their detention or provided state funded legal counsel when “substantial injustice would otherwise result;” and permitted to communicate with relatives, medical practitioners, and religious counselors. The Government often did not respect these rights. Detainees must be released (with or without bail) unless the interests of justice require otherwise; however, bail for pretrial detainees often exceeded what suspects could pay.

Unlike in the previous year, no statistics were kept on the number of detainees who were held because they could not post bail; 8,500 prisoners in 2009, including some school children, remained in detention because they were unable to post bail. During the year the Department of Correctional Services signed a bail protocol with the ministers of police and of justice and constitutional development to allow inmates who committed petty crimes and could not afford bail to be diverted through alternative programs.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences, allows pretrial detention of children, and prohibits bail in certain cases.

There were cases of arbitrary arrest during the year.

LHR reported that security forces continued to arbitrarily arrest Zimbabwean migrants, even those with documentation. LHR and other NGOs also reported that victims of human trafficking were arbitrarily arrested if not in possession of appropriate documents detailing their immigration status.

In September 2009 40 local tavern owners in Durban ransacked and demolished the offices of Abahlali base Mjondolo (AbM), an organization that advocates for the rights of those who live in informal settlements; the AbM had been fighting the KwaZulu-Natal provincial government’s attempts at forcibly removing inhabitants and demolishing the Kennedy Road informal settlement. Over two days the mob, allegedly ANC cronies, also demolished the homes of several AbM members, reportedly in the presence of local police; two persons were killed. Police subsequently arrested 13 AbM members, 12 of whom were charged with a range of crimes, including property destruction, public violence, and murder; one of the 13 was released without charge. Seven of the 12 were released on bail and awaiting trial, while the other five remained in pretrial detention. None of the 40 tavern owners who demolished the AbM offices and homes was arrested. Critics charged that the Government arrested the AbM members to prevent them from returning to the Kennedy Road settlement. During the year the trial of the “Kennedy 12” was repeatedly postponed due to difficulties in getting witnesses to court.

Lengthy pretrial detention was a problem, and pretrial detainees constituted 30 percent of the total prison population. According to the JICS annual report, detainees waited an average of three months, but some as long as two years, before a trial. The report found that 49,030 prisoners were awaiting trial as of March 31.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. However, the judiciary was understaffed and underfunded, and there were reports that legal documents used in trials were lost. According to the presidentially mandated criminal justice system working group, made up of ministers and deputy ministers, more than a million of the two million criminal cases reported annually

were never resolved. According to the group, a number of problems contributed to the country's low 10.3 percent conviction rate in criminal cases, including inadequate collection of evidence at crime scenes, insufficient investigation of crimes, long trials, and ineffective court processes. During the year the Government operated 58 justice centers that provided legal assistance to the poor to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious delays continued to be a problem.

*Trial Procedures.*—Criminal defendants enjoy a legal presumption of innocence. The bill of rights provides for due process, including the right to a fair public trial within a reasonable time after being charged, and the right to appeal to a higher court. Judges and magistrates hear criminal cases and determine guilt or innocence. In lieu of juries, the law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in adjudicating bail applications and sentences. Detainees and defendants have the right to legal counsel provided and funded by the state when “substantial injustice would otherwise result”; however, this right was restricted due to a general lack of information regarding rights to legal representation and the Government's inability to pay for such services. Defendants have the right to be present in court and can question witnesses in court and present their own witnesses and evidence. Defendants have access to government evidence before going to court. There is no automatic right to appeal, but courts may give defendants permission to do so. For certain cases, such as when the accused is younger than 16 years of age, permission is not required. Additionally, the law provides for an automatic review of all prison sentences longer than three months.

*Political Prisoners and Detainees.*—The IFP maintained that 384 of its members had been imprisoned since 1994 for political reasons, although international human rights organizations did not list such persons as political prisoners or detainees. In January 2008 the IFP petitioned both the president and the justice minister for their release. In February 2008 the IFP took the matter to the High Court, where the judge ordered the justice minister to consider all 384 applications for presidential pardons within three months. In April 2008 the IFP sent a letter to Amnesty International complaining that both former president Mbeki and the justice minister had ignored the matter. On September 2009 the Constitutional Court ruled that because the petition included the justice minister, the IFP had pursued the incorrect party for legal relief and that the president, not the justice minister, should be held fully accountable for the delay. The same day, the IFP instructed its lawyers to start legal action against President Zuma for the delay in processing the applications. On February 4, President Zuma announced he had considered and rejected 230 of the IFP applications for pardon; he also announced that decisions on the remaining 154 applications would be announced once the Constitutional Court rendered a judgment on another matter pertaining to the president's power to grant pardons.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There also was access to the courts to bring lawsuits seeking damages for, or cessation of, a human rights violation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions. However, there were allegations of police abuse during sweeps and home searches and criticisms of police and judicial procedures, including complaints that warrants were issued despite inadequate evidence.

The law authorizes state monitoring of telecommunications systems, including cellular telephones, the Internet, and e-mail, for criminal investigations. However, opposition parties and many civil society groups opposed such laws. In July 2009 the Regulation of Interception of Communications and Provision of Communication-Related Information Act came into effect, requiring all mobile operators, service providers, and cell-phone vendors to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. All cell phone subscribers were required to show proof of identity and proof of residence to be registered.

The Promotion of Access to Information Act allows any person to access information from the Government or any other individual for the exercise or protection of any right. Authorities can also use the act to obtain personal information in connection with criminal investigations. Opposition parties and human rights NGOs objected to its broadly defined provision that enabled the Government to access an individual's personal information.

Farm owners continued to evict workers legally and illegally. An extensive national eviction survey by the NGO Nkuzi Development Association, which provided

legal assistance to farm workers, indicated farm workers generally were unaware of their right to legal counsel during eviction proceedings. In Limpopo, where evictions took place, Nkuzi had only two attorneys and at times lacked funds for litigation.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights. However, several laws remained in effect that posed a potential threat to media independence, and some journalists expressed concern over government involvement in the media sector.

Individuals, organizations, journalists, and sectors of civil society were generally able to criticize the Government openly without fear of reprisal, although many journalists expressed concern in reports, columns, editorials, and public fora that the Government heavily influenced and increased its efforts during the year to control the media. The practice of appointing journalists to key positions as a reward for their political allegiance remained a problem with the South African Broadcasting Corporation (SABC), a government-funded television and radio network.

According to the South African Advertising Research Foundation, print media reached 52 percent of the population. Despite the number and diversity of publications, the concentration of media ownership in the hands of a few large media groups drew criticism from the Government and some political parties, who complained that print media did not always adequately cover their points of view.

The independent media were active and expressed a wide variety of views without restriction.

The majority of citizens received news through radio broadcasts from the SABC and community radio stations. The SABC was the largest and most influential source of news for the majority of the population. It broadcast television and radio programs in the country's 11 official languages, with its signal received by an estimated 92 percent of citizens.

Low-power, nonprofit community radio stations continued to play an important role in informing the mostly rural public, although they often had difficulty producing adequate content and maintaining quality staff. Government broadcast regulators regularly issued new community radio licenses and withdrew others for non-compliance with the terms of issuance.

Government and political officials often criticized the media for lack of professionalism and reacted sharply to media criticism, often accusing black journalists of disloyalty and white journalists of racism. Some journalists believed that the Government's sensitivity to criticism resulted in media self-censorship.

In 2009 the Government enacted several laws that restricted press freedom, although none were enforced during the year. The 2009 Films and Publications Act requires that publications not regulated by the press ombudsman, including online material, be submitted to the Film and Publications Board for classification prior to publication if the publication contains references to "degrading sexual content, incitement to cause harm, promotion of propaganda for war, incitement of violence, or the advocating of hatred based on any identifiable group characteristic." Media watchdog organizations, as well as individual media commentators, criticized the law as a possible vehicle for restriction of press freedom.

The February 2009 amendment to the Broadcasting Act allows the president to dismiss members of the SABC Board, a move that was widely criticized by opposition parties and the press as undue government interference. Several laws remained in effect that permitted the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, the law authorizes state monitoring of telecommunications systems, including the Internet and e-mail, for criminal investigation. In July 2009 the Regulation of Interception of Communications and Provision of Communication-Related Information Act came into effect, requiring all service providers to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. Despite the law, there were no reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 8.8 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

The Film and Publications Board reviews written and graphic materials published in, or imported into, the country. The board has the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material. Journalists, media houses, and industry associations continued to criticize efforts to extend the board's authority to newspapers and broadcast media.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, police forcibly dispersed several demonstrations during the year, which resulted in injuries.

Several protests over poor delivery of basic services took place across the country, including illegal, violent demonstrations in Gauteng, North West, Western Cape, Mpumalanga, and KwaZulu-Natal provinces. Police used batons and rubber bullets to control the demonstrations and quell the violence; several injuries were reported.

For example, on February 23, residents of Orange Farm protested lack of local service delivery by looting shops, burning tires, and pelting police with rocks. Police fired rubber bullets and tear gas to disperse the demonstrators; 30 persons were arrested and subsequently released. There was no information about persons injured.

On September 21, residents of Hangberg township in Hout Bay protested the decision by the City of Cape Town to dismantle homes illegally built on a firebreak, and some residents threw stones at police. Police fired rubber bullets to quell the protest, resulting in serious injuries to several residents and at least one journalist.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right.

*c. Freedom of Religion.*—For a description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/rls/irf/rpt](http://www.state.gov/g/drl/rls/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government partially cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not prohibit forced exile; however, the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum and refugee status, and the Government has established a system for providing protection to refugees. In practice the Government generally provided protection against the expulsion or return of those recognized as refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group or political opinion.

Although the law provides for access to basic services, education for refugee children, and access to police and courts, NGOs such as Human Rights Watch found that asylum seekers, migrants, and refugees faced discrimination at health-care facilities and by law enforcement representatives.

The Government's policy prohibited encampment of foreign asylum seekers and refugees in favor of free movement and integration of documented migrants into local communities, with guarantees for the right to work and access to social services. While this generally offered greater liberty to foreigners, many NGOs criticized government protection of foreigners as inadequate.

Refugee advocacy organizations charged that police and immigration officials abused refugees and asylum seekers and forcefully repatriated some asylum seekers, particularly Zimbabweans, although there were no such reports during the year. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities sought bribes from those seeking permits to remain in the country. The Department of Home Affairs (DHA) adopted anticorruption programs and punished officials or contracted security officers found to be accepting bribes.

In May 2009, following international and domestic criticism, the Government suspended deportations of Zimbabweans; NGOs estimated there were between one and three million undocumented Zimbabweans in the country. The Government also introduced a 90-day visa-free entry for Zimbabwean nationals and an associated right to work, and proposed a system of longer-term permits, known as special dispensation permits, for Zimbabweans already in the country under the Immigration Act. The permit system was never fully implemented; however, on September 20, the Government began a three-month documentation and amnesty drive. Zimbabweans already in the country on or before March 31, 2009 were offered the chance to turn in any fraudulent South African identity documents without penalty and then apply for the appropriate study, work, or business permits. Requirements to obtain the

permits were simplified, and the Government worked closely with Zimbabwean authorities to try to ensure that all potential applicants would be able to obtain a valid passport. Those who did not take advantage of the documentation drive faced deportation. Asylum-seekers with pending claims had the option of withdrawing their application and reapplying under the new initiative or continuing with their original claim. As of December 31, 275,762 applications had been received, of which 42,779 applications had been finalized and approved, with 10,166 awaiting review; 222,817 applications were awaiting adjudication. Amnesty was granted to 6,243 Zimbabwean nationals, and a total of 49,255 Zimbabwean nationals had surrendered their asylum status to obtain valid work and business permits.

Societal attacks on refugees occurred during the year.

There were no developments in the June 2009 stabbing death of Angolan refugee Sebastian Santana, who resisted an attempted robbery near the Nyanga Refugee Reception Center. A police investigation was ongoing.

The Government also offered temporary protection to some individuals who may not have qualified as refugees under the 1951 Convention relating to the Status of Refugees or the 1967 Protocol.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In April 2009 the country held a largely free and fair national election in which the ruling ANC won 65.9 percent of the vote and 264 of 400 seats in the National Assembly, the dominant lower chamber of parliament. Parliament then elected ANC President Jacob Zuma as the country's next president. The leading opposition party, the Democratic Alliance (DA), won 67 seats, the Congress of the People (COPE) won 30 seats, and the IFP won 18 seats. The remaining 39 seats in parliament were allocated to 10 other political parties based on election results. In the upper house of parliament, the National Council of Provinces (NCOP), the ANC held 35 seats, the DA 10, and COPE seven. The remaining two seats were allocated to the IFP and the Independent Democrats. The NCOP is primarily a reviewing chamber that has the power to send legislation back to the National Assembly for retooling and can vote on legislation affecting the rights of the nine provinces.

Electoral violence occurred. In KwaZulu-Natal Province, for example, there were 162 violent incidents in the six weeks prior to the elections, including 25 cases of intimidation, four killings, four attempted killings, one case of arson, and one case of intimidation with a firearm. Other reported cases of election-related violence included 62 in the Northern Cape and 30 in Limpopo.

There also were reports of electoral irregularities, including attempted vote rigging.

In KwaZulu-Natal Province, for example, Ulundi election official Sindisiwe Mncube was arrested after being caught with illegally marked ballot papers favoring the IFP. In June 2009 Mncube was found guilty on five charges of forgery and violations of the electoral code and sentenced to five years in prison.

Women held 14 of 34 ministerial positions, including the ministerial portfolios of foreign affairs and defense, and 11 of 28 deputy ministerial positions. There were 172 women in the 400-seat National Assembly and 19 women among the 54 permanent members of the NCOP. Women occupied two of four parliamentary presiding officer positions, including the deputy speaker of the National Assembly and deputy chair of the NCOP.

There were an estimated 119 members of minorities (nonblack citizens) in the National Assembly. There were 18 minority members among the 54 permanent members of the NCOP. The cabinet included 19 members of minority groups.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government continued efforts to curb corruption; however, the World Bank's worldwide indicators reflected that corruption remained a problem.

On August 3, former police chief and president of the International Criminal Police Organization (Interpol) Jackie Selebi was sentenced to 15 years in jail for corruption and defeating the ends of justice; Selebi, who received bribes of 1.2 million rand (\$168,000) from drug dealer Glenn Agliotti, also showed Agliotti secret police reports. On September 6, Selebi was released on bail. On September 9, the National Prosecuting Authority (NPA) confirmed that prosecutor Gerrie Nel and chief investigator Andrew Leask were being investigated for irregularities.

On August 12, President Zuma announced the start of an investigation by the Special Investigating Unit (SIU) of five ministries, two provincial departments, and the South African Social Security Agency. The investigation was ongoing at year's end.

On August 18, the minister of Human Settlements Tokyo Sexwale announced that his department had recovered 44 million rand (\$6,160,000) and arrested 1,910 government officials who were illegally benefitting from housing subsidies.

In November President Zuma signed a proclamation authorizing an SIU investigation into alleged financial irregularities in all 24 municipalities in North West Province; the investigation was ongoing at year's end.

Corruption remained a problem within prisons, although most correctional officials were either suspended or fired following an investigation. According to the JICS report released during the year, there were 691 complaints of corruption during the annual reporting period. The SIU identified irregularities in 23 contracts and recommended that 433 officials be penalized. It also charged 26 doctors and 10 officials with criminal offenses; an additional 433 officials were disciplined. There were no further developments in the 2008 investigation of malfeasance in prison tendering contracts.

At least 10 agencies, including the SIU, the Public Service Commission, the Office of the Public Prosecutor, and the Office of the Auditor General, were involved in anticorruption activities.

The SIU investigated corruption in government departments and identified civil servants alleged to have improperly received state housing subsidies. The Government took administrative action to recover these subsidies. In November 2009 the Government announced that a special SIU team dedicated to investigating housing fraud would investigate 800 officials at the national and provincial level and 123 in local government for corruption.

The Office of the Public Protector investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. The office handled an increasing number of complaints but was hampered by severe resource constraints.

Public officials were subject to financial disclosure laws, and most officials complied with the law, although not always in a timely manner.

The law provides for access to government information; however, the Government did not always comply with the law. If a government department refuses to provide information, the requester can launch an internal appeal. If this also fails, the requester may appeal a decision to the High Court, a lengthy and expensive process. The Open Democracy Advice Center continued to report that many requests for information went unanswered or were answered outside the period provided for in the legislation.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The South African Human Right Commission (SAHRC), which was created by the Government but operates independently, is responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the authority to conduct investigations, issue subpoenas, and hear testimony under oath. SAHRC enjoyed support from the Government without interference, and the Government reacted positively towards SAHRC reports. During the year the SAHRC issued reports on xenophobia, economic and social rights, and indigenous people's rights.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. UN Development Program chief Helen Clark visited the country in May to highlight progress towards the Millennium Development Goals, and a UN working group on the use of mercenaries visited in November.

There were no parliamentary committees that dealt exclusively with human rights; however, certain parliamentary committees looked into human rights issues for their constituencies.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual

orientation, or marital status. However, entrenched attitudes and practices often resulted in the denial of these rights in practice.

*Women.*—Rape, including spousal rape, is illegal but remained a serious and pervasive problem. Minimum sentencing for rape convictions is 10 years in prison for the first offense, 15 years for the second, and 20 for the third. Under certain circumstances—such as multiple rapes, gang rapes, or the rape of a minor or a person with disabilities—conviction results in a minimum sentence of life imprisonment (25 years), unless substantial and compelling circumstances exist to justify a lesser sentence. Perpetrators with previous rape convictions and perpetrators aware of being HIV-positive at the time of the rape also face a minimum sentence of life imprisonment, unless substantial and compelling circumstances exist to justify a lesser sentence. According to the 2009-10 SAPS annual report, there were 55,097 cases of rape and indecent assault during the year; many of the victims were elderly women. According to a 2008 study by SAPS and the Centre for the Study of Violence and Reconciliation, only 4.1 percent of reported rape cases resulted in conviction. In most cases attackers were friends or family members of the victim, which contributed to a reluctance to press charges. A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. A 2005 study by the Medical Research Council estimated that only one in nine rape victims reported the crime to SAPS. A June 2009 report released by the Medical Research Council found that more than 25 percent of men interviewed in KwaZulu-Natal and Eastern Cape provinces admitted to committing at least one rape, and more than half of those persons admitted to raping more than one person.

Allegations of rape, sexual assault, and sexual harassment of black and foreign female farm workers by farm owners, managers, and other farm workers were common.

In 2007 parliament passed amendments to the law that broadened the physical definitions of rape and indecent assault, included males as victims, and restricted admission of victims' sexual histories as evidence in court to improve the Government's capacity to punish perpetrators and protect victims. Victims' rights groups, however, criticized the law's conditional provision of post-exposure prophylaxis only to victims who filed charges with SAPS or reported the alleged offenses to designated health establishments.

The Government operated 42 sexual-offenses courts throughout the country that included designated facilities such as waiting rooms, court preparation rooms, and closed caption television rooms for victims. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups criticized judges for using criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences. Critics also charged that support for dedicated sexual-offenses courts had eroded, and that some of the previously dedicated courts were hearing other types of cases. As a result, sexual offense cases took longer to resolve, and conviction rates—which were previously the highest in the country—had decreased. The NPA's Sexual Offenses and Community Affairs Unit (SOCA) unit reported a 66.7 percent conviction rate during the year, which was a decrease from previous years, but still higher than the rates reported for other regional courts where convictions in sexual offenses cases averaged less than 54 percent.

During the year SOCA opened seven and operated 18 Thuthuzela Care Centers (TCC) that specialized in rape care management and streamlined a network of existing investigative, prosecutorial, medical, and psychological services in the hospitals where they were located.

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The law facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and to arrest abusers without a warrant. Violating a protection order is punishable by a prison sentence of up to five years, or 20 years if additional criminal charges are brought. Penalties for domestic violence include fines and sentences of between two and five years' imprisonment.

According to NGOs, about one in four women were in an abusive relationship, but few reported it. A June 2009 report released by the Medical Research Council found that more than two-fifths of men interviewed in KwaZulu-Natal and Eastern Cape provinces had been physically violent toward an intimate partner. TCC counselors also alleged that doctors, police officers, and judges often treated abused women poorly.

The Government financed 39 shelters for abused women, but more were needed, particularly in rural areas. The Government continued to conduct domestic violence awareness campaigns. In honor of Women's Month, the Government hosted numer-

ous events focused on empowering women in business, government, health, sports, and the arts.

Although the law prohibits sexual harassment, it remained a widespread problem. The Government left enforcement primarily to employers, with criminal prosecution a rare secondary step at the initiative of the complainant. The Department of Labor (DOL) issued guidelines to employers on how to handle workplace complaints, which allowed for remuneration of the victim's lost compensation plus interest, additional damages, legal fees, and dismissal of the perpetrator in some circumstances. Tougher punishments could be generated for assault, which carries a range of penalties depending on the severity of the act, but only if the complainants press charges.

Couples and individuals have the right, and were able in practice, to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Contraception was widely available, and women could access it for free at government clinics. According to a 2008 Department of Health (DOH) report, 94 percent of women had access to prenatal care while 84 percent had access to a skilled attendant at birth, except in the poorest communities where the rate was 68 percent. According to the UN Development Program, the maternal mortality ratio was 625 per 100,000 live births. To improve postnatal care, the DOH 2009-10 Annual Report indicated that 164 of the 549 identified maternity facilities implemented the Basic Antenatal Care program. During the year 30 percent of women were examined within three postpartum days. Women were equally diagnosed and treated for sexually transmitted infections, as well as HIV.

Discrimination against women remained a serious problem despite their equal rights under the law governing inheritance, divorce, and child custody. Women experienced economic discrimination in areas such as wages, extension of credit, and ownership of land. For example, township housing transfer schemes favored existing titleholders, who tended to be men.

Many rural areas were administered through traditional patrilineal authorities, such as a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies.

Women, particularly black women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and microenterprises, which did not provide job security or benefits. The Department of Trade and Industry (DTI) provided incentive grants to promote the development of small- and medium-size businesses and microenterprises for women, young persons, and persons with disabilities. DTI also established the Isivande Women's Fund to improve women's access to formal finance in the absence of personal savings and gender-biased institutions.

According to the annual census conducted by the Businesswomen's Association, the number of women in top leadership positions remained constant. Women held only 19.3 percent of executive-level and 16.6 percent of director-level positions. The Employment Equity Commission released statistics showing that 63 percent of top managers in private companies were white men, while black women comprised only 3 percent and colored and Indian women made up only 1 percent.

Female farm workers often experienced discrimination, and their access to housing often was dependent on their relationship to male farm workers. Female farm workers on maternity leave who could not obtain timely compensation via the Unemployment Insurance Fund often had no choice but to return to work shortly after giving birth, according to NGOs working with farm workers in Limpopo Province.

A number of governmental bodies, particularly the Gender Commission and the Ministry for Women, Children and Persons with Disabilities, and numerous NGOs monitored and promoted women's rights.

*Children.*—The law provides for citizenship by birth, descent, and naturalization. However, registration of births was inconsistent, especially in remote rural areas or among parents who were foreign nationals and themselves unregistered. This resulted in lack of access for children to public services such as education, health care, and financial grants.

The law mandates compulsory education from ages seven to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. The law provides for access to education for disadvantaged children (who traditionally are black children) through a uniform system for the organization, governance, and funding of schools. However, public education was fee based and the Government did not fully subsidize education. Even when children qualified for fee exemptions, parents who were poor had difficulty paying for uniforms, books, and supplies. Some children who were enrolled did not attend school.

According to the 2008 Education Statistics Report by the Department of Education, 92 percent of grade 1 to 12, school age children were enrolled in school.

Those not enrolled tended to be children with special needs. Most children attended school until the age of 16, when eligibility for the Child Support Grant ends. There were an equal number of boys and girls in grades 1 to 12, with boys slightly outnumbering girls in primary school (grades 1-7), but 5 percent more girls than boys were in secondary school (grades 8-12).

There continued to be reports of rape, sexual abuse, sexual harassment, and assaults at school of girls by teachers, students, and other persons in the school community. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. Student-on-student violence, including racially motivated violence, continued to be a major concern of educational authorities and parents. Teacher organizations, parents, and police worked together in the "Safe Schools Program" to address these problems. Many schools implemented "Adopt-a-Cop" programs, inviting SAPS officers into their schools for training and security.

HIV/AIDS remained one of the leading causes of death among women and children, accounting for 43.7 percent of maternal deaths and 35 percent of deaths of children under age five. During the year the Government revised its eligibility criteria to extend antiretroviral (ARV) treatment to women, infants, and persons also infected with TB who were not previously covered. Based on the new guidelines, eligible individuals received ARV treatment at all government clinics and hospitals. HIV-positive women who had not been eligible for ARVs under the previous guidelines received Prevention of Mother to Child Transmission regimens at 14 weeks of pregnancy and, among other things, an annual pap smear. HIV/AIDS activists, physicians, and opposition parties who had criticized the previous administration's denial of the causes and existence of HIV/AIDS, lauded President Zuma's commitment to lead the fight against the pandemic. To reduce maternal and infant mortality rates and HIV transmission from mother to newborn to a stated goal of less than 5 percent by 2011, the Government worked with experts and the World Health Organization to revise the 2008 Prevention of Mother to Child Transmission guidelines to provide enhanced regimens of ARV therapy to pregnant women, as well as post-natal prophylaxis and early treatment for at-risk or HIV-infected infants.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crime continued to impede the delivery of needed services to young victims. According to the 2009-10 SAPS report, 27,417 children were victims of sexual offenses between April 2009 and March 2010. Of that total, 965 were killed, and 12,062 were assaulted with intention to do grievous bodily harm. Observers believed that these figures represented a small percentage of the actual incidence of child rape since most cases involving family members were not reported. According to the NGO Childline, 25 percent of girls and 20 percent of boys were at risk of being raped before age 16. According to a June 2009 report released by Solidarity, the country's largest independent trade union, 45 percent of all rapes were perpetrated against children, and more than 88 percent of child rapes were never reported to the police.

The law states that no child under the age of 12 can consent to any sexual activity and sets 16 as the lowest age for consensual sex with another minor. Statutory rape is defined as sexual intercourse between anyone under 18 and an adult more than two years older. The statutory sentence for rape of a child is life in prison; however, the law grants judicial discretion to issue more lenient sentences. The country had a low conviction rate for rape and child abuse.

The traditional practice of "ukuthwala," the forced marriage of girls as young as 12 to adult men, continued in remote villages in the Western Cape, Eastern Cape and KwaZulu-Natal provinces. In May 2009 the Government and traditional leaders launched a "Together We Are the Solution" campaign aimed at eliminating the practice with girls younger than 18.

Penalties for the sexual exploitation of a child include fines and imprisonment of up to 20 years. Some NGOs claimed the country was a destination for child sex tourism, although the Government denied the charge. The law prohibits child pornography and provides for penalties including fines and imprisonment of up to 10 years. The Film and Publication Board ran a Web site and a toll-free hotline during the year to enable the public to report incidences of child pornography.

The high incidence of HIV/AIDS resulted in an increase in the number of child-headed households. These children sometimes turned to prostitution to support themselves and their siblings. Other children were trafficked and forced into pros-

titution. NGOs provided shelter and medical and legal assistance for children in prostitution and a hotline for victims of child abuse.

AIDS activists alleged that children in prostitution were often highly sought after because of the widely held belief that sex with a virgin provided a cure for HIV/AIDS. SAPS officials, however, stated that under questioning perpetrators usually admitted they knew this claim was false.

Despite outreach programs to discourage the practice, ritual circumcision of males, including children, usually by medically unqualified practitioners, was still a prevalent initiation tradition in several provinces, particularly in Eastern Cape Province. The practice sometimes resulted in death. Circumcision was considered a precondition for adult status, which permits marriage, inheritance, and other societal privileges. The House of Traditional Leaders attempted to address unsafe initiation practices and designed strategies to prevent deaths and the spread of diseases, such as HIV/AIDS. However, discussing the practice was taboo in many communities, where it was considered a matter for chiefs to decide. Some traditional leaders spoke out against government interference in initiation and circumcision practices, while others declared moratoriums on circumcisions in parts of Eastern Cape Province in response to the rising number of deaths resulting from the practice.

The Department of Health in Eastern Cape Province provided surgeons, health officials, and vehicles during the June initiation season to monitor initiation practices. The Government also began a countrywide voluntary male medical circumcision campaign, offering free circumcision by qualified medical personnel as an alternative to circumcision by unqualified practitioners. Nevertheless, 41 circumcision-related deaths, 100 hospitalizations, and several penis amputations at the hands of unmonitored practitioners were reported in Eastern Cape Province during the June initiation period, according to press reports. In December, the first month of the summer initiation period, 21 boys died from the procedure in Eastern Cape Province. From 2001 through 2007, Eastern Cape Province recorded nearly 2,600 hospital admissions, 156 genital mutilations or amputations, and 232 deaths due to dehydration and infection from unsafe and unsterile procedures. On June 5, Mtshiyelwa Mtshayina Ndoda, a 55-year-old unregistered traditional surgeon who had been arrested several times for operating an illegal initiation school, was again arrested for the offence. Neither this case, nor a pending case of operating an illegal initiation school, had been concluded by year's end.

The country is a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community was estimated at 75,000 to 80,000. During the year Jewish graves in Bloemfontein were defaced with anti-Semitic graffiti, and there were reports of verbal abuse, hate mail, and distribution of anti-Semitic literature in the country.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination on the basis of physical, sensory, intellectual, and mental disability; however, government and private-sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations were rarely enforced, and public awareness of them remained minimal.

There were more than 100,000 students with disabilities in mainstream schools, and the Department of Basic Education allocated part of its budget for assistive devices, material resources, and assistive technology. To date, eight schools had been fully converted to full-service, inclusive schools, with 20 more identified for future conversion.

The law provides persons with disabilities protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information. Enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. Persons with disabilities constituted 7.9 percent of the general population, but only an estimated 0.9 percent of the public service workforce and 1 percent of the private-sector workforce. The Ministry for Women, Children and Persons with Disabilities launched a Web site linking persons with disabilities with civil service positions, but the Government did not meet its target of 2 percent of government positions occupied by persons with disabilities.

The law does not allow persons with mental disabilities to vote.

The Ministry for Women, Children, and Persons with Disabilities is charged with protecting the rights of persons with disabilities, enhancing their development opportunities, and monitoring government departments to ensure that disability issues are addressed in policies, hiring practices, building plans, and other matters. NGOs also advocated for the rights of persons with specific disabilities such as blindness.

*National/Racial/Ethnic Minorities.*—Random xenophobic attacks on foreign African migrants and ethnic minorities occurred and sometimes resulted in death, injury, and displacement. Such attacks were generally perpetrated by citizens who blamed immigrants for job and housing losses and increasing levels of crime. The Government sometimes responded quickly and decisively to xenophobic incidents, sending police and soldiers into affected communities to quell violence and restore order. However, civil society organizations criticized the Government for failing to address the root causes of the violence, for not facilitating opportunities for conflict resolution in affected communities, and for failing to deter such attacks by vigorous investigation and prosecution of participants.

On July 11, citizens attacked foreign-owned spaza shops (small retail enterprises) and looted homes in Mbekweni, Paarl East, Wellington, and Nyanga in Western Cape Province. Approximately 70 foreign nationals sought refuge at the Mbekweni police station in Paarl; 22 at the Wellington police station; and about 100 foreign nationals at a campsite outside Wellington. In response, the Government deployed police and SANDF troops to townships in Western Cape Province with instructions to take harsh action to stamp out xenophobic threats. Police Minister Nathia Mthethwa and Defense Minister Lindiwe Sisulu, who flew to the province to survey the situation, determined that the attacks had been orchestrated by criminals using xenophobia to destabilize communities. All those who had fled their homes had returned to their communities or moved elsewhere by year's end. Police arrested seven men in the Nyanga area and charged them with public violence; there were no further developments.

On July 19, a robbery in the township of Kya Sands sparked a confrontation between locals and foreign nationals. Attackers, some armed with axes and pangas (large, heavy knives), kicked down doors demanding money and identity documents. Spaza shops owned by foreign nationals were looted. Sixteen people, including South Africans, were injured. The Government, insisting that the attacks were not related to xenophobia, sent in a heavy police and military presence. Ten suspects were arrested; the investigation was ongoing at year's end.

There were no further developments in the following 2009 xenophobic attacks: the May burning by a mob in Darling of a shop belonging to Somali citizens Omar Josef and Hazim Amad, both of whom were killed in the fire; the December attack by residents of the Westernburg Township outside Polokwane of Zimbabwean nationals, which resulted in serious injuries and the displacement of more than 200 persons; and the December stoning by hundreds of Franschoek residents of Somali-owned businesses.

In November 2009 a mob chased approximately 3,000 Zimbabwean migrants out of the town of De Doorns by attacking and destroying the migrants' shacks; the attacks were reportedly sparked by competition for seasonal farming jobs, with residents accusing the Zimbabweans of agreeing to work longer hours for less pay. Police fired rubber bullets to disperse the mob and arrested 24 persons for public violence. The minister of home affairs subsequently sent a delegation to the town to assist those migrants who had lost their identification documents during the attack. The migrants set up an informal IDP camp on a local rugby field, although most subsequently left. In December 2009 the Witwatersrand University's Forced Migration Studies Project (FMSP) released a study that indicated that dissatisfied local labor brokers had pressured local leaders and residents to chase the Zimbabweans away because they were angered by income losses blamed on Zimbabwean labor brokers. On May 17, the municipality served notice on 369 IDPs who still remained in the informal camp, giving them until September 6 to relocate. The municipality promised to pay each person 1,200 rand (\$168) and provide transport, but subsequently claimed it did not have sufficient funds, resulting in the IDPs' refusal to move until the agreement was honored. During the year the IDPs reported being intimidated and pressured by the municipality. Meetings between the community, local NGOs, and the municipality continued at year's end with little sign of progress.

In September 2009 the Equality Court in Cape Town postponed until later that month a xenophobia compensation claim by 11 foreign-national shopkeepers from Zwelethamba township in Worcester. The plaintiffs were seeking financial compensation and an apology from the police for allegedly failing to protect them during the 2008 attacks. There was no further information about the case at year's end.

In February the SAHRC released its report on the 2008 xenophobic attacks against foreign African migrants and ethnic minorities, which resulted in 62 deaths in Western Cape, Gauteng, and KwaZulu-Natal provinces; injuries to 670 persons; and the displacement of 80,000 migrants, most of whom had reintegrated into their communities by the end of 2009. The report made more than 100 recommendations, including the development of an early warning system, better protection of foreign nationals, and the successful prosecution of perpetrators. Field studies by the Institute for Security Studies and FMSP implicated local ward politicians in orchestrating attacks to gain political influence with residents, although no related arrests were made. According to the Department of Justice and Constitutional Development, more than 1,000 suspects were identified, resulting in the referral of 597 cases to court, of which 109 were charged; the conviction rate was 16 percent. NGOs claimed that none of the arrests or prosecutions was for murder, but the FMSP reported that one suspect was convicted of murder and sentenced to 15 years in prison.

The continued killings of mostly white farm owners by black assailants created concern among white farmers that they were being targeted for racial and political reasons, although studies showed perpetrators were generally common criminals motivated by financial gain. There also were reports that white employers abused and killed black farm laborers and complaints that white employers received preferential treatment from the authorities. The Freedom Front Plus, an Afrikaner minority political party, accused Minister of Police Nathi Mthethwa of shying away from farm murders by refusing to record them as a separate statistic in the SAPS Annual Report. The provincial government of KwaZulu-Natal established forums to increase contact between farmers and the police and to devise strategies to stop farm attacks as part of the national government's "Building a United Front Against Crime" campaign.

On April 3, Eugene Terre'Blanche, leader of the extremist white right-wing Afrikaner resistance movement, was bludgeoned to death at his farm near Ventersdorp, Limpopo Province. Two of Terre'Blanche's farm workers, a man and a 15-year-old boy, later contacted police and claimed to have committed the crime. On April 6, the two were charged with murder and remained in prison awaiting trial, which had been postponed to May 2011.

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, legally defined as "Blacks" (including "Africans," "Colored," and "Asians" and collectively constituting more than 90 percent of the country's population) are represented adequately at all levels of the workforce. Notwithstanding the country's antidiscrimination legislation, however, the DOL's 2009 Employment Equity Analysis reported that Blacks remained underrepresented, particularly at the professional and managerial levels. According to the report, Blacks held only 17.9 percent of top management positions, 20 percent of senior management positions and approximately 32.8 percent of all professional positions. Black women remained by far the most disadvantaged group in number and quality of management or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

*Indigenous People.*—The NGO Working Group of Indigenous Minorities in Southern Africa estimated that there were approximately 6,000 indigenous San in the country, some of whom worked as farmers or as farm laborers. By law the San have the same political and economic rights as other citizens; however, the Government did not always effectively protect those rights or deliver basic services to the San communities. Their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The post-apartheid constitution outlaws discrimination based on sexual orientation, and in 2006 the country legalized same-sex marriage. There were no reports of official mistreatment or discrimination. However, in its annual Social Attitudes Survey released in 2008, the Human Sciences Research Council found widespread public intolerance of homosexual activity, with 80 percent of respondents believing sex between two persons of the same gender to be "wrong" and "un-African."

Rights groups reported that the LGBT community was subject to societal abuses including hate crimes, gender violence targeting lesbians, and killings. The Triangle Project, the country's largest lesbian and gay rights organization, reported it received each week in Cape Town 10 new cases of lesbian women being targeted for "corrective" rape, in which men raped lesbians to punish them for being lesbian and to change their sexual orientation.

The trial of seven men accused of the 2006 murder of Zoliswa Nkonyana, a lesbian, in Cape Town, was postponed several times during the year. On September 15, the trial was again postponed because one of the defense attorneys had not arrived in court. While the court was waiting, four of the accused escaped their holding cell at the court, but were rearrested four days later. A police sergeant at the jail was also arrested for allegedly helping the men escape. In December the trial was postponed to March 2011.

*Other Societal Discrimination.*—With availability of life-saving ARV treatments, civil society activities, such as the Treatment Action Campaign, and government campaigns to reduce discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS declined, according to anecdotal reports.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows all workers with the exception of members of the National Intelligence Agency and the Secret Service to form and join unions of their choice without previous authorization or excessive requirements, and these laws were applied. The two unions in the military were governed by provisions in the National Defense Bill that state that unions cannot affiliate with any existing union federation and do not have the right to strike. A labor court and labor appeals court enforced the right of association. Trade union membership is estimated at three million persons and is largely divided between three major union federations: the Congress of South African Trade Unions (COSATU), the Federation of Unions of South Africa; and the National Coalition of Trade Unions.

Labor laws extend to farm workers. President Zuma reported at the July 30 National Farm Workers Summit that there were 7.5 million persons who were farm dwellers and farm workers. Zuma reported that they were protected under the South African Constitution and all labor laws but that exploitation of farm workers continued. The Government and unions enlisted the cooperation of AgriSA, the national farmers' organization, to continue to improve the farm environment. COSATU and leading agricultural NGOs complained that labor conditions on farms remained harsh, including underpayment of wages and poor living conditions. The union estimated that 10 percent of the agricultural labor force was unionized and that unionization of farm workers remained difficult.

The law provides for the right to strike, and workers exercised this right frequently; however, workers considered to be providing essential services were prohibited from striking. Nevertheless, strikes throughout the year involved essential service staff. Disputes between workers in essential services and their employers that were not resolved through collective bargaining, independent mediation, or conciliation were referred to arbitration or the labor courts.

Strikes were frequently chaotic and marked by destruction of municipal property, alleged acts of worker sabotage, and violence perpetrated against non-striking workers. Police occasionally used force to disperse demonstrators blocking main roads and blocking entrances to hospitals and schools. During the Public Sector Strike on August 19, police used rubber bullets, water cannons, and tear gas to disperse a strike by public servants who were blocking entrances to hospitals and barricading main roads to bring traffic to a standstill.

Strikes were routine. Approximately 1.2 million public servants, including most public school teachers and nurses at public healthcare facilities, were on strike between August 18 and September 6. The strike crippled services at public hospitals and schools. Workers frequently blocked access to those facilities, and the SANDF was called to both restore order and assist with medical care. President Zuma criticized civil servants for deaths due to limited hospital services.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference. The Government protected these rights, and workers exercised them. Collective bargaining is protected by law. The law prohibits employers from discriminating against employees or applicants due to past, present, or potential union membership or participation in lawful union activities. There were no lawsuits filed for antiunion discrimination.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, primarily in domestic labor.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Child labor is prohibited by law. However, reports of child labor were received in informal and agricultural sectors, particularly in the former homeland areas. The law prohibits em-

ployment of a child less than 15 years of age. Children over 15 but under 18 are also prohibited from work that places at risk the child's wellbeing, education, physical or mental health, or spiritual, moral, or social development. The Government generally enforced child labor laws in the formal sectors of the economy. Underage children were allowed to work in the performing arts if their employer received DOL permission and agreed to follow specific guidelines.

The HIV/AIDS epidemic contributed to the number of households headed by children who supported themselves and often younger siblings. However, in its 2007-08 Child Gauge Report, the Children's Institute at the University of Cape Town stated that there was little evidence of recent rapid growth in the orphan population due to HIV/AIDS. The South African Institute of Race Relations, a research and policy organization, reported that child-headed households accounted for 0.5 percent of all households, or approximately 148,000 households in 2007. The Children's Institute noted that levels had remained relatively stable since the 2002 General Household Survey.

Child labor was extremely limited in the formal economy, which is monitored by strong and well organized unions, and sources could not provide information about specific cases of child labor exploitation. Despite a lack of statistical information, child labor was reported to exist in the informal and extralegal market, particularly in the agricultural sector as well as in domestic work. NGOs alleged that many children in rural areas carried water for their families for excessive hours under physically demanding conditions. Some children were exploited by adults and forced to sell drugs and commit robberies, including armed robbery.

The DOL attempted to employ an estimated 1,000 labor inspectors to investigate reports of violations of child labor and trafficking and to submit any evidence to the SAPS. However, due to a shortage of skilled labor in the country, the DOL reported it was not always able to meet the goal and exact figures were unavailable. Other reports indicated that the actual number of inspectors was closer to 650. Violation of laws regulating child employment is punishable by a maximum prison sentence of three years or a fine of 15,000 rand (\$2,100). In some cases DOL inspectors opted to resolve child labor cases by counseling of employers, parents, and children, or by enlisting the services of professionals in the welfare and education departments. There were reports that inspectors had difficulty gaining access to farms where child labor was reported.

The Government's Child Labor Program of Action integrated the priorities of government ministries to combat child labor with a variety of government financial support mechanisms. The Children's Amendment Act No. 41 of 2007, signed into law by President Mbeki in 2008, was officially implemented on April 1. This Act strengthens the Children's Act No. 38 of 2005, which set national regulations outlining the care and protection of children, the responsibilities of parents, and the prosecution procedures in the case of violations. The original act also reduced the majority age from 21 years to 18 years. The 2007 Amendment Act expands the scope of the Children's Act by delegating responsibility over which both the national and provincial governments share functions and duties. However, the largest factor in reducing child labor remained the Government's 250 rand (\$35) per month Child Support Grant to primary care givers of children under the age of 16. The age was scheduled to be increased to 17 in January 2011 and 18 in January 2012.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—There was no legally mandated national minimum wage, although the law gives the DOL authority to set wages by sector. Minimum wages were established for multiple economic areas including the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately 6.31 rand (\$.88) per hour. The minimum hourly wages for domestic workers employed more than 27 hours per week ranged from 4.85 rand (\$.67) to 7.06 rand (\$.98). Depending on the province, compliance with the minimum wage rate generally ranged from 65 to 90 percent, according to 2007 DOL figures. According to COSATU, sector minimum wages did not provide a decent standard of living for a worker and family.

Annual negotiations between employers and employee associations or unions set wage rates on an industry or plant basis for unionized workers in the formal economy. Wage negotiations for civil servants resulted in numerous strikes during the year. Most unions demanded double-digit wage increases; economists lamented these were not tied to productivity or inflation. President Zuma, speaking at the National Farm Workers Summit, stated that "the evictions, human rights abuses, and super exploitation of farm workers and farm dwellers remain a blight on the conscience of our society and a serious obstacle to the creation of a vibrant rural econ-

omy. The establishment of the Department of Rural Development and Land Reform indicates our seriousness in ensuring an intense focus on rural development.”

The law establishes a 45-hour workweek, standardizes time-and-a-half pay for overtime, and authorizes four months of maternity leave for women. No employer may require or permit an employee to work overtime except by agreement, and overtime may not be more than 10 hours a week. The law stipulates rest periods of 12 consecutive hours daily and 36 hours weekly, which must include Sunday. The law allows for adjustments to rest periods by mutual agreement. These standards were effectively enforced in the formal sector, as labor unions and labor courts focused on compliance. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave. Farmers and other employers could apply for variations from the law by showing good cause.

The law protects both foreigners and immigrant workers. In 2008 the Commission for Conciliation, Mediation, and Arbitration (CCMA) ruled in favor of a foreign employee whose employment contract had been terminated by Discovery Health Limited when the employee’s temporary work permit expired. The CCMA’s ruling established that foreign workers are included and protected by the Labor Reform Act.

The Government set occupational health and safety standards through the Department of Minerals and Energy for the mining industry and through the DOL for all other industries. Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. The law prohibits discrimination against an employee who asserts a right granted by the law, and requires mine owners to file annual reports providing statistics on health and safety incidents for each mine. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the law and monitoring compliance with its provisions.

In 2008 parliament passed amendments to the Mine Health and Safety Act, making employers subject to heavy fines or imprisonment for the serious injury, illness, or death of employees due to unsafe mine conditions. The amendments provide for mine inspectors to enter any mine at any time to interview employees and audit records.

Outside the mining industry, there were no laws or regulations that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

While labor conditions improved on large commercial farms, they remained harsh, especially for small holdings’ workers, most of whom were black. Many owners of small farms did not measure working hours accurately. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. At the July 30 National Farm Workers Summit, President Zuma mentioned that farm workers still lack proper housing and access to basic services and amenities. He said workers struggle to gain access to education and healthcare and generally do not feel safe. Zuma said that workers in the sector “do not feel they are an integral part of the South African society.”

---

## SUDAN

Sudan, a republic with an estimated population of 40 million, is governed according to a power-sharing arrangement established by the 2005 Comprehensive Peace Agreement (CPA), which ended the 22-year civil war between the North and South and established an interim Government of National Unity (GNU). The GNU is composed of the National Congress Party (NCP), dominated by Islamists from the North and ruled by authoritarian President Omar Hassan al-Bashir and his inner circle, and the Sudan People’s Liberation Movement (SPLM), led predominantly by Christians and practitioners of traditional indigenous religions from the South. From April 11 to 15, the country held its first nationwide, multiparty elections in 24 years. The elections, which several Northern opposition parties boycotted, did not meet international standards. Observers reported problems including the restriction of civil liberties; inadequate logistical preparations; intimidation and threats of violence, particularly in the South; that ongoing conflict in Darfur did not permit an environment conducive to elections; and that the tabulation process was not transparent and did not follow procedural safeguards, raising “questions about the accu-

racy of the election results.” President Bashir was reelected, and his political party won 323 out of 450 seats in the National Assembly. The SPLM is the ruling party of the semiautonomous Government of Southern Sudan (GOSS), which ratified a separate constitution in 2005. A referendum to determine whether the South would become an independent entity was scheduled for January 2011. A CPA-mandated simultaneous referendum on the status of the Abyei area was indefinitely postponed. The country experienced several violent conflicts during the year, including continued conflict in Darfur and in the South. In the North and South, there were instances in which elements of the security forces acted independently of civilian control, especially in the Darfur region.

The following human rights abuses occurred: abridgement of citizens’ right to change their government; extrajudicial and other unlawful killings by government forces and other government-aligned groups throughout the country; torture, beatings, rape, and other cruel, inhumane treatment or punishment by security forces; harsh prison conditions; arbitrary arrest and detention, incommunicado detention of suspected government opponents, and prolonged pretrial detention; executive interference with the judiciary and denial of due process; obstruction of the delivery of humanitarian assistance and the expulsion of individuals working for humanitarian nongovernmental organizations (NGOs); restrictions on privacy; restrictions on freedom of speech; restrictions on the press, including direct censorship; restrictions on freedoms of assembly, association, religion, and movement; harassment of internally displaced persons; harassment and closure of human rights organizations; violence and discrimination against women, including female genital mutilation; child abuse, including sexual violence and recruitment of child soldiers; prevention of international human rights observers from traveling to and within the country; trafficking in persons; discrimination and violence against ethnic minorities; denial of workers’ rights; and forced and child labor.

Conflict and human rights abuses in Darfur continued. An estimated 1.9 million civilians have been internally displaced, and approximately 270,000 refugees have fled to neighboring Chad since the conflict in Darfur began in 2003. According to UN estimates, 268,000 persons were displaced between January and November in Darfur. The UN estimated in 2006 that 200,000 persons had died as a result of the conflict and that by 2008 an additional 100,000 may have died. Civilians in Darfur continued to suffer from the consequences of genocide.

The Government continued to bomb and burn civilian areas. Government forces and government-aligned militia continued to kill civilians, rape women and girls, and use child soldiers. Darfur rebel factions, bandits, and unidentified assailants also killed and abducted civilians, humanitarian workers, and personnel of the UN-African Union (AU) Hybrid Mission in Darfur (UNAMID); beat and raped civilians; and used child soldiers. Interethnic violence was a severe problem and resulted in civilian deaths and displacement.

In Southern Sudan (the South) interethnic fighting and Lord’s Resistance Army (LRA) attacks continued to kill and displace civilians. According to UN estimates, violence in the South resulted in an estimated 986 deaths and the displacement of 223,708 persons during the year. Attacks by local militias occurred after the April elections. Registration for the 2011 Southern Sudan self-determination referendum occurred from November 15 through December 8 in all 25 states. Lack of progress on preparations for a separate referendum on whether the border region of Abyei should be part of the North or the South led to sporadic violence and rising tensions in the area.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were numerous reports that the Government and its agents committed arbitrary and unlawful killings.

Government forces, government-aligned militias, rebels, and interethnic fighting killed civilians in connection with the conflict in Darfur (see section 1.g.).

Violence involving the Sudan People’s Liberation Army (SPLA), militias, interethnic fighting, and the LRA killed civilians in the South (see section 1.g.).

On January 14, authorities executed six men convicted of killing police officers during violence in the Soba Aradi area of Khartoum in 2005. The men reportedly stated they had not had sufficient access to counsel and that their confessions were obtained through the use of torture.

On February 14, the National Intelligence and Security Services (NISS) arrested University of Khartoum student Mohamed Moussa Abdallah Bahr el Din. He was found dead the next day, with his body showing signs of torture.

Security forces killed demonstrators. On May 2, police opened fire on persons protesting against a North Darfur-area Ponzi scam, killing 17 and injuring 200 others. The protesters had assembled to submit a letter of protest to the governor of North Darfur.

On May 26, at Dalanj University, police fired at student demonstrators; three students were killed and others injured during the altercation that reportedly occurred during a sit-in at the National Students' Support Fund. It was unclear why police fired on the demonstrators. Conflicting witness accounts included a report that NCP-affiliated students at the scene beat the protesters with lengths of rebar, in addition to the actions from the police.

On December 1, at Zalingei University in West Darfur, security forces fired upon student demonstrators, killing two and injuring others. The demonstrators were protesting during a Doha forum civil society consultation and reportedly threw rocks at a departing convoy. Minister of Justice Mohamed Bushara Dosa reportedly ordered an investigation into the killings.

There were no reported developments regarding civilians killed by fighting between the Government and rebels during the 2008 Justice and Equality Movement (JEM) attack on Omdurman or on persons killed by the NISS in Khartoum and Omdurman following the attack.

SPLA soldiers committed extrajudicial killings.

There were no known developments concerning the May 2009 killing of five civilians and injuring of three others in Pibor by SPLA soldiers.

There were no reported developments in the 2008 case of civilians killed and displaced in connection with an SPLA disarmament operation in Iloli and Loguruny villages in Eastern Equatoria. According to the UN, the SPLA stated that members of its Brigade Nine were arrested in connection with the case; no additional information was available.

During the year land mines in the South killed 13 civilians and injured another 25. The Government continued to cooperate with the UN Mine Action Group to remove land mines in the South.

On June 10, the four individuals convicted and sentenced to death in 2009 for the 2008 killings of diplomat John Granville and driver Abdelrahman Abbas Rahama escaped from Kober Prison. Authorities caught one of the killers, Muhanned Abuzaid Mohamed Salih, within a week, but the other three remained at large.

*b. Disappearance.*—The Government was responsible for politically and ethnically motivated disappearances.

There were no further developments in the cases of up to 2,500 Darfuris detained by the NISS following the 2008 JEM attack. Most had been released by the end of 2008. According to information in a July Amnesty International report, there may be approximately 200 persons whose whereabouts remained unknown.

There were developments in the case of Abdelillahi Widaa, cofounder of the NGO Darfur Forum for Reconciliation and Peaceful Coexistence, who turned himself in to the NISS for questioning in 2008 and was then detained and tortured at an undisclosed location. Widaa fled the country after authorities released him in late 2009.

An estimated 15,000 Dinka women and children were abducted from villages in Southern Sudan, mainly from 1983 to 1999; thousands of these persons remained unaccounted for. The Government's Committee to Eradicate the Abduction of Women and Children did not receive government funding and did not return any previously abducted persons.

Gunmen in Darfur abducted humanitarian workers and UNAMID personnel; this included criminal kidnapping for ransom (see section 1.g).

Intertribal abductions of women and children in the South continued. For example, the Murle tribe regularly abducted children during raids.

The LRA abducted persons, including children, in Southern Sudan (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Interim National Constitution prohibits such practices; however, government security forces continued to torture, beat, and harass suspected political opponents and others. In Darfur and other areas of conflict, government forces, rebel groups, and tribal factions committed torture and abuse (see section 1.g.). SPLA forces sometimes abused persons in the South.

In accordance with Sharia (Islamic law), the Criminal Act provides for physical punishments, including flogging, amputation, stoning, and crucifixion—the public display of a body after execution. In practice such physical punishment other than flogging was not frequently used. Under the Interim National Constitution, the Government exempts the 10 southern states from Sharia, although it was applied there

on an ad hoc basis, and traditional customary law was frequently applied against convicted defendants. Northern courts routinely imposed flogging, especially for production of alcohol.

Government security forces beat and tortured persons in detention, including members of the political opposition, civil society activists, and journalists. These persons were often subsequently released without charge.

For example, on October 9, in Khartoum, NISS officials arrested Simon Noye Agot and 11 others at an event organized by the Student Campaign to Support South Sudan Separation. Security forces tortured Agot. He was beaten and threatened with being arrested again, and his genitals were squeezed with metal objects. Authorities released him the following day but took his shoes, cell phone, and money. A court sentenced Agot to 15 days' imprisonment for disturbance of public peace.

On several occasions during the year, authorities arrested, held incommunicado, and beat members of the activist group Girifna. Authorities forced some of those arrested to sign confessions. In all cases authorities charged the individuals but then released them within days of their arrests without taking them to trial. Those arrested reported that security forces attempted to compel them to act as NISS informers from within Girifna as a condition for their release.

For example, on March 15, authorities reportedly detained and tortured Girifna member Abdallah Mahdi Badawi. An individual claiming to be a new Girifna member had arranged to meet with him; however, he was instead taken to an office where 13 men interrogated and abused him.

On July 5, in Khartoum, police reportedly arrested Girifna members Hassan Ishag, Azzi Eldine al-Anssari, and Hassan Mohamed while they were distributing the group's magazine. They were released the following day after being taken to national security offices, where they were questioned, reportedly tortured, and asked to become informants.

Under public order laws, indecent dress is punishable by a maximum of 40 lashes, a fine, or both. Authorities in the North applied this law more frequently against women than men. It was applied against both Muslims and non-Muslims.

On December 14, security forces arrested more than 44 persons, most of whom were women, demonstrating in reaction to a video that showed two police officers lashing a woman. Authorities later released the demonstrators on bail but charged them with public nuisance and disturbing the peace.

Police and NISS officers forcibly dispersed protesters, which resulted in serious deaths and injuries (see sections 1.a. and 2.b.).

Security forces in the North raped women, including in connection with the conflict in Darfur.

Security forces in the South abused civilians, including political party members.

On April 14, in Yambio in Central Equatoria State, during the elections, an SPLA soldier and an intelligence officer reportedly beat two persons affiliated with an independent candidate.

There were cases in which Southern Sudan Police Services (SPSS) officers and SPLA officers reportedly raped women, including with impunity. For example, there were allegations of rape and forced prostitution of female cadets, beatings, and sale of food that should have gone to cadets at the John Garang Unified Police Academy at Rajaf.

*Prison and Detention Center Conditions.*—Prison conditions throughout the country remained harsh and overcrowded. Health care was often below standard; prisoners sometimes relied on family or friends for food. Officials continued to arbitrarily deny visits to prisoners.

The Government routinely mistreated persons in custody. Security forces held detainees incommunicado; beat them; deprived them of food, water, and toilets; and forced them to sleep on cold floors. Prisoners died from lack of health care and poor prison conditions. For example, in Darfur, prison overcrowding contributed to the spread of meningitis and the deaths of at least three prisoners during the year. A South Darfur prison with a capacity of 250 persons held 750 individuals as of September 7.

Men and women were not held together in the North. In Khartoum, juveniles did not occupy adult prisons or jails but sometimes were held with adults elsewhere in the North. Political prisoners were held in special sections of prisons. The main prison in Khartoum, Kober Prison, contained separate sections for political prisoners, those convicted of financial crimes, and an unknown number of JEM detainees.

Prisoners were allowed to take part in religious observance, including attending church, as well as Muslim prayers in the North. Authorities permitted prisoners, but not detainees, to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions in prisons and docu-

mented the results of such investigations. However, these rights were not always granted to pretrial detainees, political prisoners, and those in the custody of police or security forces.

The Government allowed some restricted visits to prisons by human rights observers in the North, although unfettered access continued to be denied. The International Committee of the Red Cross (ICRC) had limited access to government prisons during the year; however, released prisoners reported that officials hid high-profile detainees during visits. The Ministry of Justice occasionally granted UN Mission in Sudan (UNMIS) and UNAMID access to visit government prisons during the year.

In Darfur, prison officials participated in UN-sponsored capacity-building trainings.

Prisons in the South were overcrowded. The UN independent expert on the situation of human rights in the Sudan noted that the Juba prison held 957 persons, although it was built to hold 500. Prisons in Southern Sudan typically provided inmates with two meals a day. According to law, in times of "food shortage" prisons are only required to provide one meal a day. The Prisons Directorate of Southern Sudan (SSPD) provided separate quarters for male and female prisoners and usually held juveniles in separate cells. In many prison facilities, including Bor, Rumbek, and Wau, there was a clear separation of adult and juvenile prisoners. In other prisons, such as Juba where a partition wall had collapsed, there was no meaningful separation of adult and juvenile prisoners because of poor infrastructure. There was a special prison section to hold children separately from adults.

Pretrial detainees were generally, but not always, held in jails separate from convicted prisoners in the South. Detention centers in the South were under the control of local tribal or state authorities and were uniformly substandard. Some were holes dug in the ground around a tree, with detainees shackled to the tree. Sanitary and medical facilities were uniformly inadequate.

The SSPD permitted monitoring of prison conditions by the ICRC and other observers.

The Minni Minawi faction of the Sudan Liberation Army (SLA/MM) continued to operate detention centers in North Darfur, including in Dar al Salaam, Zam Zam, Um Baru, and Shangil Tobaya. UNAMID reported that detainees were held in poor detention conditions. The SLA and other rebel groups allowed the ICRC access to some detainees. UNAMID visited the SLA/MM detention center in Zam Zam for internally displaced persons (IDPs) camp during the year. On August 2 and August 17, respectively, UNAMID was denied access to the SLA detention centers in Zam Zam and Um Baru. According to the Human Rights and Advocacy Network for Democracy (HAND), the SLA/MM summarily executed six civilian prisoners in Dar el Salam, Tabit, and Um Gunga.

*d. Arbitrary Arrest or Detention.*—The Interim National Constitution prohibits arbitrary arrest and detention without charge; however, the Government continued to arbitrarily arrest and detain persons, often under the National Security Act. Throughout the country, arbitrary arrests and detention were common. While not legally invested with arrest powers, the SPLA arrested and detained persons.

*Role of the Police and Security Apparatus.*—Several government entities have responsibility for internal security, including the police, the NISS, the Ministry of Interior, and the Ministry of Defense; all had active security forces. The NISS maintains security officers in major towns and cities throughout the North, including Darfur, and has a presence in the South. The NISS also controlled the Central Reserve Police (CRP). The Ministry of Defense's Border Intelligence Force (border guards), a loosely organized force composed largely of former janjaweed fighters, also operated in Darfur.

Security force impunity was a serious problem. The 2010 National Security Act provides NISS officials with impunity for acts involving their official duties. Abuses by security forces were not generally investigated. Security force corruption was a problem, and security force members sometimes supplemented their incomes by extorting bribes.

The SPSS has responsibility for law enforcement in the South under the interim Southern Sudan constitution. The SPSS lacked resources and capacity. Police reports were often incomplete; files, if used, were frequently misplaced; and suspects were frequently detained based on accusations rather than official investigations. Many SPSS members are illiterate and lack formal education. Police corruption, impunity, and lack of effectiveness were problems. There were reports of retaliation against persons who complained about police abuses.

The SPLA does not have law enforcement authority under the Interim Southern Sudan Constitution, except when requested by civil authorities; however, the SPLA

detained persons, including in SPLA-run detention facilities, most notably in Lakes State. The SPLA conduct of internal security and civilian disarmament caused tensions with communities which claimed that the SPLA was not politically neutral and not well disciplined.

The UNMIS police component trained SSPS personnel on a wide range of security-related subjects during the year, but limited GOSS resources hampered the effectiveness of the training programs.

*Arrest Procedures and Treatment While in Detention.*—Warrants are not required for an arrest in the North. The criminal code permits authorities to detain individuals for three days without charge, which can be extended for 30 days by order of the director of security and another 15 days with the approval of the prosecuting attorney. Individuals accused of violating national security were frequently detained indefinitely without charge, although the National Security Act specifies that such individuals may be detained without charge for three months, which the director of security may extend for another three months. The law provides for the individual to be informed of the charges at the time of arrest and for judicial determination without undue delay, but these provisions were rarely followed.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment, and there was a functioning bail system in the North.

Although the law provides for access to a lawyer, government security forces often held persons incommunicado for long periods in unknown locations without access to lawyers or family members.

Authorities in the North arbitrarily arrested and detained individuals. The NISS conducted numerous arbitrary arrests. Authorities often detained persons for a few days before releasing them without charge, but many persons were held for much longer. In Darfur, UNAMID documented more than 140 cases during the year in which the NISS, military intelligence, Sudanese Armed Forces (SAF), or SLA/MM arbitrarily arrested and detained persons.

On March 4, in Khartoum, security forces broke up a peaceful election event held by Girifna, charging members Taj Alsir Jafar Taj Alsir, Abdallah Mahadi Badawi, and Hisham Mohamed Alhaj Omer with creating a public nuisance.

On September 21, in El Fashir, the NISS reportedly arrested Awatif Ishag Ahmed, an activist and editor of Alrahil magazine. She was detained for several hours and questioned regarding the International Criminal Court (ICC).

There were reports that some businessmen were held in detention without due process for failure to repay large loans from Sudanese financial institutions. Two financial prisoners died in January while serving long detentions for failing to pay debts.

Several Darfuri university students who were arrested in April 2009 remained detained without charge or legal representation at Kober Prison. The students were members of the United People's Front party. According to representatives from HAND, one of the students may have been released for health reasons.

Security forces in the North continued to target Southern women in IDP camps because they produced and sold traditional home-brewed alcohol beverages; some of these women were arrested and imprisoned for up to six months under Sharia law. During the year there were documented cases of female Southerners in the North, including in IDP camps, whom security forces arrested, flogged, or imprisoned for alcohol possession. Lawyers who worked with IDPs indicated that there were fewer instances of this than in previous years.

The police arrested unmarried pregnant women who claimed to have been raped. Unless a rape victim could provide proof of the crime, she could be charged with the capital offense of adultery (see section 6).

Lengthy pretrial detention was common. Trial delays were caused by large numbers of detainees and judicial inefficiency, such as the failure of judges to appear for court.

The Government routinely imposed house arrest without due process.

In the South, under the GOSS 2008 criminal procedures code, warrants should be issued by a duly authorized official; however, arbitrary arrests occurred. Persons arrested must be brought before a public prosecution attorney, magistrate, or court within 24 hours. Police may detain individuals for 24 hours without charge in the South; this may be extended up to one week with authorization from the public prosecution attorney and by up to two weeks with authorization from a magistrate. Detainees in the South were generally informed of charges against them. There is a functioning bail system in Southern Sudan. Those arrested have the right to access to an attorney and contact with their family. Persons in the South were occasionally not informed regarding their right to access to a lawyer and were not provided prompt access to lawyers. There was an insufficient number of lawyers to pro-

vide adequate defense counsel. In Southern Sudan trial delays also resulted in unreasonably lengthy pretrial detentions.

On February 18, at the Juba airport, security forces arrested SPLM-Democratic Change (SPLM-DC) members Denis Aywork Yor, Priyiwok Akol, Ajawin, and Amjad Angelo Marino. They were detained, questioned about their political activity, and released from custody the following day.

On February 28, security officials reportedly arrested SPLM-DC members who were transporting campaign materials from Khartoum to Northern Bahr al-Ghazal and detained them in a military detention center in Aweil.

*e. Denial of Fair Public Trial.*—Although the Interim National Constitution and the law provide for an independent judiciary, the judiciary was largely subservient to the president or the security forces, particularly in cases of alleged crimes against the state. On occasion courts displayed a degree of independence; however, political interference with the courts was commonplace, and some high-ranking members of the judiciary also held positions in the Ministry of Interior or other ministries in the executive branch.

Special courts existed in Darfur under the state of emergency to try crimes against the state; there were three such courts, one in each Darfur state capital.

The judiciary was inefficient and subject to corruption. On June 3, a group of lawyers complained to the chief of the judiciary in Khartoum that judges in el-Geneina, West Darfur, were continually absent from work, resulting in a backlog of court cases. A number of replacement judges were eventually sent from Khartoum.

Courts in the South were generally very rudimentary, understaffed (with judges handling many of the court's administrative tasks), and suffering from undertrained personnel. The courts are formally independent, but in practice they are dependent upon the GOSS for funding and at times subject to pressure from the SPLA on sensitive matters. Because the courts are chronically underfunded, there was ample room for corruption in the court system, and there were numerous reports of bribery involving judges and other court officials. Traditional courts have been formalized and integrated into the judicial system. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an ineffective police force.

*Trial Procedures.*—The Interim National Constitution and law provide for fair and prompt trials as well as a presumption of innocence; however, this often was not respected. Trials are open to the public at the discretion of the judge. In cases of national security and offenses against the state, trials were usually closed. Juries are not used. The accused normally has the right to an attorney, and the courts are required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment. Defendants and their attorneys generally have the right to present evidence and witnesses, be present in court, confront accusers, and have access to government-held evidence relevant to their cases. However, there were reports that defendants frequently did not receive legal counsel and that counsel in some cases could only advise the defendant and not address the court. There were reports that the Government sometimes did not allow defense witnesses to testify. Defendants have a right to appeal, except in military trials, where there is no appeal.

Persons in Darfur did not generally have access to legal counsel. The independent expert on human rights in the Sudan noted that, during his February visit, he found 13 of the 54 persons on death row at a North Darfur prison did not have legal counsel during their trial.

In January antiterrorism courts tried and convicted two additional persons in connection with the 2008 JEM attack on Omdurman, bringing the total number of death sentences in the trials to 106. In trials involving these cases, authorities did not permit defendants access to lawyers before trial, held them incommunicado for up to four months, and reportedly tortured defendants. On February 24, following the signing of the framework agreement with the JEM, the Government released 50 of the prisoners sentenced to death in these trials. Reportedly, some persons acquitted by these trials were not released, and authorities rearrested other persons who had been released.

In January 2009 Mohamed Alsary Ibrahim, a former police force member, whom authorities convicted of planning to provide information to the ICC, was sentenced to 17 years' imprisonment. UNMIS had expressed concern that he was not provided full access to counsel, that his counsel did not have access to evidence against him, and that his confession was allegedly coerced.

Lawyers wishing to practice were required to maintain membership in the Government-controlled Sudanese Bar Association. The Government continued to arrest

and harass members of the legal profession whom it considered to be political opponents.

Military trials, which sometimes were secret and brief, did not provide procedural safeguards. For example, the defendant's attorney could advise the defendant but could not address the court.

The Special Courts Act created special three-person security courts to deal with violations of constitutional decrees, emergency regulations, and some sections of the penal code, as well as drug and currency offenses. Special courts, composed primarily of civilian judges, handled most security-related cases. Defendants in these courts had limited opportunities to meet with counsel and were not always allowed to present witnesses during trial.

Under the interim national constitution, Sharia is applied in the North but not in the South.

In domestic cases pertaining to Coptic Christians, courts often allowed a Coptic priest to make the final ruling, a practice most commonly employed for divorces and other family suits involving Copts.

In some instances tribal courts that were not considered part of the official legal system decided cases. Such courts did not provide the same protections as regular courts.

In the South, under the interim Southern Sudan constitution, defendants enjoy a presumption of innocence; public trials; the right to be present in a criminal trial without undue delay, with the law regulating trial in absentia; and legal aid if they are unable to defend themselves in serious offense.

Observers continued to report concerns that persons sentenced to death in the South often did not receive fair trials due to lack of capacity of the legal system and a lack of adequate legal representation.

Some judges in the South reportedly continued to follow Sharia legal procedures.

In parts of the South and the Nuba Mountains, where civil authorities and institutions did not operate, there were no effective judicial procedures beyond customary courts. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially of offenses against civil order.

The GOSS recognized traditional courts or courts of elders, which applied customary law to most cases in remote and rural areas of the South, including domestic matters and criminal cases. Persons tried in traditional courts do not enjoy the same legal protections as those in the formal system. For example, they did not have access to counsel or the right of appeal, and women were discriminated against.

*Political Prisoners and Detainees.*—The Government held an undetermined number of political prisoners and detainees. Security forces detained without charge, tortured, and held incommunicado political opponents. Detentions of such persons often were prolonged.

The Government continued to target members and leadership of the Popular Congress Party (PCP) and other opposition parties for arrest.

On May 16, the NISS arrested opposition leader Hassan al-Turabi, founder of the PCP. He was held in isolation without charge for 45 days. That same day authorities arrested journalists with the PCP-affiliated newspaper Rai al-Shaab (see section 2.a.).

On May 20, Farouq Abu Eissa, an opposition alliance leader, was arrested and briefly detained.

The Government detained persons who participated in political protests.

The Government did not permit international humanitarian organizations to have access to political detainees.

*Civil Judicial Procedures and Remedies.*—There was access to a court for lawsuits seeking damages for human rights violations; however, the judiciary was not independent. There were problems enforcing domestic court orders.

The South's legal system also provides for an independent and impartial judiciary in civil matters. The courts provide access for those seeking to bring lawsuits to address human rights violations and damages. There is also a developed system of traditional courts down to the local level through the South, and these courts are often presided over by village chiefs and elders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The interim national constitution and law prohibit such actions, but the Government routinely violated these rights in practice.

Security forces frequently conducted searches without warrants and targeted persons suspected of political crimes.

Police often entered IDP areas without a warrant in search of illegal alcohol brewing and seized property unrelated to brewing. Police also extorted money from illegal alcohol brewers by threatening them with prison.

The Government monitored private communication and movement of individuals without legal process. A wide network of government informants conducted surveillance in schools, universities, markets, workplaces, and neighborhoods.

Under Sharia, a Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim unless he converts to Islam; this prohibition was not observed or enforced universally in the South or among the Nubans. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

The interim constitution of Southern Sudan prohibits interference with private life, family, home, or correspondence, except in accordance with the law. The GOSS generally did not interfere with privacy, home, or correspondence in the South; however, there were reports that rural detention centers held family members of accused persons who had fled before they could be arrested in the South.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.—Darfur.*—In Darfur fighting involving government, government-aligned militias, rebel groups, and ethnic groups continued to kill, injure, and displace civilians. Violence in Darfur killed 2,321 persons during the year, an increase compared with the 875 persons killed the previous year. Approximately 45 percent of the violence-related deaths during the year were caused by armed conflict, 38 percent by tribal clashes, and 17 percent due to crime or accidents. Fighting between government forces and rebel groups particularly impacted the areas of Jebel Marra and Jebel Moon, beginning early in the year, and near Khor Abeche beginning in mid-December. Intercommunal violence increased during the year. Tensions in IDP camps also resulted in deaths. Rape as well as recruitment of child soldiers continued to occur.

While estimates varied, approximately 1.9 million persons have been internally displaced in Darfur, and approximately 270,000 refugees have fled to neighboring Chad since the conflict in Darfur began in 2003. According to UN estimates, 268,000 persons were displaced between January and November in Darfur. IDPs in Darfur continued to face significant humanitarian needs and experience abuse (see section 2.d. for more-detailed coverage of IDPs).

Government forces provided support, weapons, and ammunition to government-aligned militias, and the Government seldom took action against soldiers or militia members who attacked civilians.

Fighting, insecurity, bureaucratic obstacles, and government and rebel restrictions reduced the ability of peacekeepers and humanitarians to access impacted areas. Armed persons attacked, killed, injured, and kidnapped peacekeepers and humanitarians. Humanitarian organizations were often not able to access and deliver humanitarian assistance in conflict areas, particularly in Jebel Marra and Jebel Moon. The Government's expulsion of 13 international humanitarian NGOs and three local NGOs in 2009 continued to degrade the delivery of humanitarian services. The lack of access as well as fear of government retribution resulted in reduced reporting on human rights and humanitarian information during the year.

Developments regarding ICC cases pertaining to President Bashir, Ahmad Muhammad Haroun, and Ali Muhammad Abd al-Rahman included the following:

On July 12, pretrial chamber I issued a second warrant of arrest against President Bashir for three counts of genocide. This warrant was in addition to the March 2009 ICC arrest warrant issued for Bashir for five counts of crimes against humanity and two counts of war crimes. Both arrest warrants remained outstanding at year's end. Ahmad Muhammad Haroun, for whom the ICC issued a warrant of arrest in 2007 when he was then state minister for humanitarian affairs, remained the appointed governor of South Kordofan. Ali Muhammad Abd al-Rahman, also known as "Ali Kushayb," a janjaweed militia commander, for whom the ICC issued a warrant of arrest in 2007, remained at large. In his semi-annual report in December, the prosecutor reported to the UN Security Council that crimes continue in Darfur, and that the Government of Sudan remained uncooperative with UN Security Council Resolution 1593 and with execution of the arrest warrants against Haroun and Kushayb.

Developments with respect to the ICC prosecutor's 2008 request for an arrest warrant for three rebel commanders, Bahr Idress Abu Garda, Abdallah Banda Abakaer Nourain, and Saleh Jerbo Jamus, for war crimes pertaining to the 2007 attack on African Union (AU) peacekeepers at Haskanita included the following:

On June 17, Abdallah Banda Abakaer Nourain and Saleh Jerbo Jamus voluntarily appeared before the ICC pretrial chamber I in response to summonses to appear. In November they waived their rights to be present at the confirmation of charges hearing, which took place on December 8. The pretrial chamber I's decision is due in 2011. On February 8, ICC pretrial chamber I declined to confirm the war

crimes charges against Abu Garda, finding that the prosecution's allegations that Abu Garda participated in the alleged common plan to attack Haskanita were not supported by sufficient evidence. There were no developments regarding the recommendations of the AU High-Level Panel on Darfur's 2009 report, including its recommendation to create a hybrid court of Sudanese and international judges to prosecute the most serious crimes committed in Darfur and a truth and reconciliation commission. Discussions with the Government on implementing the panel's suggestions remained stalled due to the Government's objections to perceived interference in the country's sovereignty.

*Killings.*—Government forces and government-aligned militias engaged in the killing of civilians, including continued aerial bombardment of civilian areas. The aerial bombardment of villages was often followed by ground attacks. Attacks resulted in civilian displacement (also see section 2.d.).

Violence in Jebel Marra—a mountainous area that reaches into each of the Darfur states—killed and displaced numerous civilians, particularly between January and March. In east Jebel Marra, government forces and Arab militias launched offensives against Sudan Liberation Army/Abdul Wahid (SLA/AW) factions based in the mountains. In western Jebel Marra, fighting occurred between SLA/AW factions.

Fighting between the SAF and SLA/AW in eastern Jebel Marra particularly impacted Leiba, Kidingeer, Gugoli, Feina, and Deribat villages in South Darfur and Fanga Suk and Gosdor villages in North Darfur. Fighting, including aerial bombardment, continued during the year. In September-October, the SAF recaptured the villages of Suni and Jawa in an aerial and ground offensive that caused deaths and large-scale civilian displacement. Humanitarian organizations lacked access to Jebel Marra, with the Government permitting only brief day-trips to certain areas, making it difficult to gather precise information on the fighting's impact on civilians. UNAMID documented cases of gender-based violence in connection with the fighting in Jebel Marra. According to UNAMID, police arrested perpetrators in two of the cases.

Among numerous other reports of aerial bombardment:

On February 17 and 19, respectively, the Government reportedly attacked Feina and bombed and attacked the town of Deribat. New IDPs reported that on February 24, east of Golo in Jebel Marra, aerial bombardment and ground attacks occurred on their village. On September 1, the SAF carried out ground attacks in Katur village, close to Deribat, South Darfur. In the days leading up to the attacks, the SAF reportedly carried out aerial bombardment campaigns. In West Darfur's Jebel Moon area, government forces carried out aerial bombardment and ground attacks against the JEM. Fighting occurred between January and March and then resumed in May. The JEM withdrew from Jebel Moon by May 13; they were pursued by the SAF, and clashes continued. The violence displaced civilians. The Government and rebels denied UNAMID access to Jebel Moon. The UN Children's Fund (UNICEF) received information that the SAF and other unidentified men committed gender-based violence during the fighting.

On April 29, in Girgigirgi Village near Jebel Moon, government aerial bombardment reportedly killed nine civilians.

In December in South Darfur, fighting between government and SLA/MM forces displaced almost 20,000 persons from Khor Abeche and Shaeria. Negeha and Jaghara villages, which were near Khor Abeche, were burned. Humanitarians lacked access to Khor Abeche. In North Darfur, fighting between government and rebel groups in Dar al-Salaam and Shangil Tobaya displaced 25,000 persons between December 19 and December 31. There were reports of civilian deaths, looting, and destruction of civilian property during the fighting in both North and South Darfur.

Fighting that resulted in killing civilians, also occurred in other areas of Darfur.

For example, on January 16, near Katum, North Darfur, fighting between the SAF and SLA/AW reportedly killed 15 civilians and injured 20.

Chadian rebels also reportedly committed abuses near the area of Al Saiyah in North Darfur, including looting of villages and rape. On January 10, two civilians were reportedly killed when the local population clashed with Chadian rebels who had looted in Um Kary Village.

Tensions in IDP camps regarding disputes over political representation in the Doha peace processes resulted in deaths and additional displacements during the year.

In late July violence erupted in Kalma IDP camp between IDPs who supported and those who opposed peace talks in Doha. At least 35 persons died, and approximately 30,000 IDPs fled the camp. The Government sought six individuals for alleged responsibility for the violence. They remained under UNAMID protection at year's end. After UNAMID began round-the-clock police patrols in the camp, secu-

urity improved; however, sporadic gunfire erupted occasionally at night, and houses were set on fire.

In August similar politically motivated violence in Hamidiya and Hassahissa IDP camps in West Darfur between pro- and anti-Doha factions resulted in the shooting death of a student.

On September 3-4, violence again erupted in Hamidiya IDP Camp between pro- and anti-Doha factions, leading to the deaths of seven IDPs in the camp and injuries to approximately 30. At least three of those killed were SLA/AW supporters. Prior to this, on July 27, SLA/AW supporters killed three pro-Doha supporters in the camp.

Inter- and intratribal conflict increased during the year. It was fueled by increased competition for resources due to desertification and population growth, the weakening of traditional mediation mechanisms, and the proliferation of arms. Between March and May, intertribal violence killed more than 500 persons. Ethnic conflict caused 38 percent of violence-related deaths in Darfur.

In March in the area between Zalingei in West Darfur and Kass in South Darfur, fighting erupted between the Misseriya and the Nawaiba-Rizeigat tribes. During the year the violence killed hundreds and caused displacements. The tribes were fighting over land along the two states' border. The fighting limited UNAMID's ability to access some areas around Kass.

On April 20, in Al Ban Jadid, South Darfur, clashes between the Rizeigat and al-Saada tribes killed more than 50 persons.

On September 2, armed men who eyewitnesses identified as Arab tribesmen attacked Tabarat Village in North Darfur, killing at least 37, injuring at least 35, and reportedly displacing 3,000. Presidential Advisor Ghazi Sallahudin commenced an official investigation, appointed a special prosecutor for Darfur to focus on issues of justice and impunity, and promised compensation to victims.

*Physical Abuse, Punishment, and Torture.*—All parties to the conflict perpetrated acts of torture and abuse. The Government abused persons detained after armed conflict as well as IDPs suspected of having links to rebel groups. There were continued reports that government security forces, Arab militia, and other armed persons raped women and children.

Sexual and gender-based violence continued during the year throughout Darfur. IDPs reported that perpetrators of such violence were often government forces, members of Arab militia, or unidentified men. Assaultants assaulted, raped, threatened, shot, beat, and robbed women.

The Government's expulsion of 13 international NGOs and closure of three national NGOs in 2009 ended most gender-based violence programs, as well as reduced reporting on gender-based violence.

There were multiple cases reported of IDPs being harassed, arrested, and tortured by the NISS (also see section 2.d., IDPs). When political tension escalated into violence in Hamidiya and Hassahissa camps, the NISS arrested and detained IDPs who were suspected of being affiliated with SLA/AW or suspected of providing information to sources in the international community. Other reports circulated of SLA/AW supporters who went missing.

Authorities often obstructed access to justice for rape victims.

UNAMID documented cases of abuse, arbitrary arrest, and torture by security forces in Darfur, including the CRP.

*Child Soldiers.*—Recruitment of child soldiers remained a serious problem in Darfur. The Armed Forces Act prohibits the recruitment of children and provides criminal penalties for perpetrators.

A UN report covering 2009 found that more than 14 Sudanese and foreign armed forces and groups in Darfur recruited and used children. The majority of such cases occurred in West Darfur. These groups included the SAF, police including the CRP and Border Intelligence Force, government-aligned militias, Chadian rebels, JEM, JEM (Peace Wing), Movement of Popular Force for Rights and Democracy, SLA/AW, SLA/Abu Gasim/Mother Wing, SLA/Free Will, SLA/MM, SLA/Peace Wing, and SLA/Unity. Darfur rebel groups also recruited child soldiers in the Sudanese refugee camps in Chad in 2009.

Although UNICEF signed an action plan in 2007 with SLA/MM that committed the rebel group to identifying locations of child soldiers, SLA/MM continued to use child soldiers.

On July 21, JEM signed an action plan with UNICEF to end the use of child soldiers. From February through April, 574 children were released by JEM-Peace Wing, SLA-Peace Wing, and the Movement for Popular Forces for Rights and Democracy.

There were no new developments in the 2008 case of children detained in connection with the JEM attack on Omdurman. As of December 2009, 119 children received pardons and were released, but some children were sentenced to death and remained detained at year's end.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Other Conflict-Related Abuses.*—All parties to the conflict obstructed the work of humanitarian organizations and UNAMID, caused the displacement of civilians, and abused IDPs.

Restrictions, violence, and insecurity reduced the ability of humanitarian organizations to provide needed services. For example, UNAMID reported that the World Food Program was not able to provide food to more than 250,000 intended beneficiaries in Darfur.

On February 18, the NISS arrested a UNAMID national staff member, confiscated his laptop and cell phone, and subjected him to several hours of questioning.

Following the July violence in Kalma Camp, authorities blocked humanitarian assistance to Kalma Camp and Bileil Camp from late July until mid-August. As of September 6, NGOs resumed health, nutrition, water, sanitation, and hygiene activities. However, most basic services were provided at reduced levels. IDPs and others stated that the Government's blockage of humanitarian assistance was intended to force IDPs to relocate, and the Government discussed plans to relocate Kalma Camp during the year.

The 2009 expulsions of 13 international NGOs reduced the access of persons to humanitarian services. While some programs were able to continue by utilizing local staff and government assistance, the expulsions dramatically decreased non-emergency humanitarian services. UN organizations and remaining organizations attempted to cover lost humanitarian capacity.

Following the expulsions armed SAF and NISS officers arrived at the offices of several NGOs and confiscated office equipment and personal possessions of NGO staff. NGOs reported that not all seized assets had been returned.

In July the Government expelled two International Organization for Migration staff members from the country.

On August 17, the NISS arrested a UNAMID national staff member for allegedly making comments related to national security. UNAMID personnel were denied access to the detainee.

Despite the 2007 Joint Communique between the Government and the UN, government forces frequently harassed NGOs that received international assistance, restricted or denied humanitarian assessments, did not approve technical agreements, changed procedures, copied NGO files, confiscated NGO property, questioned humanitarian workers at length, monitored humanitarians' personal correspondence, delayed the issuance of visas and travel permits, restricted travel, and publicly accused humanitarian workers of being "spies," "Western agents," and "workers for Israel."

Policy discrepancies between Darfur state-level and Khartoum-based officials in the Government's Humanitarian Aid Commission (HAC) adversely affected humanitarian operations.

The HAC continued to request that NGOs refrain from interviewing or selecting staff unless they used a five-person government selection panel and had HAC officials present, significantly delaying the hiring of new staff in Darfur. The HAC also continued to impose additional requirements on humanitarian organizations during the year on an ad hoc basis, often at the state level.

Rebel forces and bandits obstructed humanitarian assistance, regularly attacked the compounds of humanitarian organizations, and seized humanitarian aid, assets, and vehicles. Kidnappings increased during the year. Attacks against humanitarian convoys continued during the year. Instability forced many international aid organizations to reduce their operations in Darfur.

On January 16, in Ain Sairo Village, North Darfur, unidentified persons abducted two national staff of Welthungerhilfe, releasing them on January 18.

On May 18, near Nyala, South Darfur, unidentified persons kidnapped a Samaritan's Purse foreign aid worker, as well as two national Samaritan's Purse staff members. The kidnappers released the two national staff members on May 25 and the foreign staff member on August 30.

On June 22, in Nyala, South Darfur, unidentified persons kidnapped two German humanitarians who worked for Technisches Hilfswerk. They were released on July 27.

On March 18, abductors released ICRC staff member Gauthier Lefevre, who was abducted in October 2009 near Al Geneina, West Darfur. Four days prior, on March

14, two other NGO workers, Olivier Denis and Olivier Frappe, were released; they had been abducted in the Central African Republic in 2009.

Unidentified assailants also attacked, killed, and abducted UN personnel:

On May 7, near Katila Village in South Darfur, armed persons attacked a UNAMID convoy, killing two and seriously injuring three. On June 21, near Nertiti in Jebel Marra, West Darfur, unidentified attackers killed three UNAMID peacekeepers and injured one. On December 15, a court acquitted three persons who had been accused of being involved in the attack. On November 5, in Nyala, South Darfur, three Latvian World Food Program (WFP) pilots were kidnapped, resulting in a negative impact on WFP programs in the area. The Government restricted UNAMID's movement, including its access to conflict areas and IDP camps; the measures included restricting UNAMID helicopter and rotary-wing aircraft flights. JEM, SLA factions, and Chadian rebels also restricted UNAMID access. Government forces and rebels at times threatened to use force against and fired shots toward, UNAMID forces. The Government was uncooperative with the UN Panel of Experts.

On January 9, in Nama Village in Jebel Marra, SLA/AW members surrounded a UNAMID patrol, fired shots in the air, confiscated their equipment, and warned them not to return to the area.

On January 17, JEM stopped a UN patrol east of Kulbus, West Darfur, and prevented the patrol from proceeding.

There were numerous reports of abuses committed by security forces, rebels, and militias against IDPs. Insecurity was a problem both inside and outside of IDP camps (see section 2.d., IDPs).

In the cases of IDP leaders arrested and detained without access to counsel following the 2009 killing of IDP camp leader Omer Adam Ishaq and his wife, 14 of the 18 persons detained were released, while four remained in jail at year's end.

#### SOUTHERN SUDAN

Interethnic fighting, postelection militia attacks on the SPLA, cattle rustling, and LRA attacks resulted in deaths and displacement in the South during the year. As of November incidents of reported violence included 122 intertribal conflicts, 23 intratribal conflicts, 22 LRA attacks, 21 SPLA and civilian clashes, and two security force clashes. LRA attacks, intertribal conflict, and other forms of insecurity killed at least 986 persons and displaced approximately 223,708 during the year.

The CPA calls for two referenda to be held simultaneously in January 2011: a referendum for southerners to vote either for unity with the country or secession and a referendum to determine whether Abyei will remain in the North or join the South. Preparations for the referendum on the status of the South occurred during the year, although at a slow pace. The parties did not make progress on key decisions necessary to proceed with the referendum on Abyei, including the composition of the Abyei Area Referendum Commission and voter eligibility. The North stated that the Misseriya, who migrate through Abyei from the North, should be eligible to participate, while the South did not favor their inclusion.

The security situation along the border remained tense. The UN noted the presence of 600 SPLA troops in Abyei in November and stated that this was a violation of the CPA. A few days later the SPLA began withdrawing these troops. On November 12, 24, and 25, the SAF bombed locations along the Northern Bahr El Ghazal border with Southern Darfur, while reportedly targeting JEM forces. On December 6, 8, and 9, the SAF bombed within Western Bahr El Ghazal; there were no casualties, and the bombings did not target the SPLA.

According to the UN, approximately two million IDPs and 350,000 refugees had returned to the South since 2005. These persons had been displaced as a result of conflict, famine, and fighting during the North-South conflict. In late October the GOSS began an accelerated return program. Returns significantly increased toward the end of the year, with an estimated 143,000 persons returning between October and December.

*Killings and Abductions.*—Fighting between security forces and civilians, including clashes with Misseriya, resulted in deaths and displacement.

On February 4, in Abiemnom County in Unity State, a clash between SPLA and Misseriya killed eight persons. On February 22, fighting between Ngok Dinka and the SPLA killed 17 civilians and seven SPLA members in Cueibet County, northwest of Rumbek.

Clashes between Palal locality community members and the SPLA on February 28 and March 2 killed 15 civilians and injured four, displaced 8,000 persons, and damaged or destroyed 1,440 houses and four schools. SPLA civilian disarmament activities resulted in deaths and displacement. For example, in July SPLA civilian dis-

armament activities in Fashoda County resulted in four deaths and the detention of 11. The disarmament followed a reported attack on SPLA forces that killed 11 soldiers.

Postelection violence related to militia attacks on the SPLA killed persons.

Unsuccessful independent Jonglei gubernatorial candidate General George Athor Deng started a violent campaign after the April elections. On April 30, Athor's forces attacked an SPLA military barracks in Doleib Hills, Upper Nile State. A number of clashes occurred following the attack. According to the UN, the violence caused "a significant deterioration of the security and human rights situations in the area, including killings, arbitrary arrests and detentions, rape, looting, and destruction of property, as well as restrictions on critical UN staff movement." On August 8, the SPLA seized a private charter helicopter, claiming that the Government was using it to transport supplies to Athor. According to the UN, the case was referred to the Ceasefire Political Commission.

On July 25, near Pibor, militia of the unsuccessful independent candidate for the Jonglei assembly, David Yau-Yau, attacked an SPLA unit, killing two persons and injuring nine. In the period following that attack, Yau-Yau's forces also attacked additional targets, both civilian and military.

On August 8, in Unity State, armed persons under the command of Colonel Gatluak Gai, attacked a convoy and killed 17 SPLA members and six civilians.

The LRA attacked, killed, abducted, and displaced civilians in the South, particularly in Western Equatoria. Although there were fewer reports of LRA-related violence than in the previous year, the LRA killed an estimated 16 or more persons, abducted 50, and displaced more than 42,000 persons during the year. LRA forces often attacked near food distribution locations.

On May 16, 29 armed persons suspected to be members of LRA attacked Nabaaria village in Tambura (about 100 miles northwest of Yambio). The attackers ransacked the village, looted a large quantity of medicine from a medical clinic, and abducted six villagers. On May 17, suspected LRA members attacked Mabilia Village in Tambura (approximately 100 miles northwest of Yambio), killing three government employees; 10 days later, the LRA attacked the same area again, killing one person and abducting three others. On July 29, suspected LRA members ambushed two UN-contracted vehicles near Yambio in Western Equatoria State, killing two persons and injuring four others. On September 4, six LRA members attacked a village near Yambio, killing six civilians and abducting a boy and a girl. The girl escaped soon after her abduction. Intertribal and intercommunal clashes, particularly in Jonglei, Upper Nile, Lakes, and Warrab States, continued during the year and resulted in deaths and the abduction of children. An SPLA-implemented disarmament campaign and foreign-funded conflict mitigation programs helped to reduce cattle rustling and child abduction in Jonglei State, although conflict persisted. Intratribal fighting was also a problem.

On February 27 and 28, fighting erupted between Dinka Atout and Dinka Ciic clans in Yirol (about 59 miles southeast of Rumbek), reportedly killing 30. An August 4, conflict involving cattle raiding among communities in the counties of Yirol East and Yirol West in Lakes State killed 30. On September 20, in Jonglei State, Lou Nuer surrounded Duk Padiet Village and killed at least 70 Dinkas. Security force personnel were also killed during the attack.

*Child Soldiers.*—UN personnel believed that SPLA did not actively recruit child soldiers. According to the SPLA Child Protection Unit (which was inaugurated in August), UNICEF, and other international NGOs, as of October approximately 800 children continued to work for the SPLA in some type of menial and administrative capacities. UNICEF indicated that demobilization was occurring rapidly in the last months of the year.

The LRA, which used child soldiers, abducted children from Southern Sudan for this purpose.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Other Conflict-Related Abuses.*—During the year the UN noted 125 instances of interference with humanitarian work in the South, including interference by GOSS security forces.

The SAF, the SPLA, and Misseriya groups continued to restrict UNMIS's movements during the year. UNMIS reported that during the period between January and May 27, the SPLA and SSPS on 36 occasions and the SAF on five occasions restricted UNMIS movement. These delays constrained UNMIS's ability to monitor the ceasefire agreement and access civilian protection and humanitarian needs.

For example, the UN reported that the SAF continued to block UNMIS access to Higlig and Karasana in Southern Kordofan State.

The SPLA detained UNMIS helicopters. On July 22, near Kodok, SPLA members detained a UNMIS patrol at gunpoint and assaulted the UNMIS helicopter crew sent to remove them from the area, and on August 4, at Tonji, the SPLA detained a UNMIS helicopter on an airstrip for six hours.

The UN also reported that between August 11 and July 22, the SPLA prevented UNMIS access to the Kodok area in Upper Nile State.

Intertribal conflict, insecurity, and LRA attacks limited the ability of humanitarian organizations to provide assistance to vulnerable populations.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The interim national constitution provides for freedom of thought, expression, and of the press “as regulated by law”; however, the Government severely restricted these rights in practice. The Government, including through the NISS, continued to censor print and broadcast media, arrest and torture journalists, and harass vocal critics of the Government. Direct nightly pre-publication censorship of newspapers occurred from May to August. The Government controlled the media through the National Press Council, which administered mandatory professional exams for journalists and editors. Journalists also practiced self-censorship.

The interim constitution of Southern Sudan provides for freedom of expression “without prejudice to order, safety, or public morals as determined by law” and states that all levels of government shall guarantee freedom of the press “as shall be regulated by law in a democratic society”; however, there were instances in which security forces in the South restricted media freedom during the year.

Individuals who criticized the Government publicly or privately were subject to reprisal, including arrest. The Government attempted to impede such criticism and monitored political meetings.

Journalists were subjected to arrest, harassment, intimidation, and violence due to their reporting.

From May to year’s end, 13 cases were filed against the pro-SPLM publication *Ajrass al-Hurriya* on various charges, ranging from violations against the sovereignty of the state to defamation and erroneous reporting. Seven of the 13 cases were filed against newspaper columnist Faiz al-Silaik—four by the NISS, one by SAF (for reporting on a military execution in Darfur), one by the Council of Ministers, and one by the police. Public order police filed three other cases against the newspaper for coverage of the videotaped flogging of a woman that appeared on YouTube in December and for its coverage of the Lubna Hussein “trouser case.” The remaining three cases were settled out of court. Al-Silaik was scheduled to appear in court on February 27, 2011.

On May 16, the same day that authorities arrested PCP leader Hassan al-Turabi, they also arrested four employees of the PCP-affiliated newspaper *Rai al-Shaab*—deputy editor in chief Abuzar Al Amin, editor Ashraf Abdelaziz, administrator Nagi Dahab, and news desk head Al Tahir Abu Jawhara. The NISS also closed the newspaper’s office. On May 27, authorities also arrested *Rai al-Shaab* editor Ramadan Mahjoub. Authorities tortured Abuzar Al Amin and reportedly tortured Al Tahir Abu Jawrah and Ashraf Abd-al-Aziz as well. On June 2, Nagi Dahab was released. The remaining *Rai al-Shaab* journalists were tried on charges related to crimes against the state. The court reportedly issued a decree barring newspapers from reporting on the trial and did not allow testimony from defense witnesses. On July 14, the court sentenced Abuzar Al Amin to five years’ imprisonment, Ashraf Abdelaziz and Al Tahir Abu Jawhara to two years’ imprisonment, and acquitted Ramadan Mahjoub. In July a final order was issued for the office to be closed and its assets confiscated.

Between October 30 and November 1, security forces arrested several Darfuri activists and an individual who worked for Radio Dabanga (see section 5).

In early November NISS officers arrested Jaafar al-Sabki, a Darfur reporter for the independent daily *al-Sahafa* on allegations that he passed reports on Darfur to an unnamed organization. At year’s end al-Sabki remained detained at Kober Prison in Khartoum.

The NISS required journalists to provide the Government with personal information, such as details on their tribe, political affiliation, and family.

The Government directly controlled some print media outlets and exerted a great degree of control over the limited number of independent newspapers, including through direct censorship.

From May to August, NISS prepublication censorship, which had occurred from March 2008 to September 2009, resumed. NISS personnel went to newspaper offices to directly remove articles, went to printing houses to stop publication, and called journalists to tell them which topics were not allowed to be covered. In response to

the restrictions, the newspaper al-Maydan did not publish during most of this time. Authorities censored several other newspapers, rendering normal printing operations impossible. Other government restrictions, including official calls to editors and writers warning of off-limit topics and prohibitions on placing ads in newspapers the Government did not favor, continued after August.

During the year authorities warned newspapers not to report on certain topics, including the ICC, Darfur, the June doctors' strike, the May arrest of PCP leader Hassan al-Turabi (see section 1.e., Political Prisoners and Detainees) and journalists from Rai al-Shaab, the prevention of journalists from traveling to a conference on the ICC in May, and the June escape of persons convicted of killing Granville and Abdelrahman Abbas Rahama.

The Government closed al-Intibaha, an extreme right-wing newspaper, from July to October.

Official censorship prevented the publication of the newspapers al-Maydan and Ajas al-Hurriya multiple times during the year.

Authorities similarly harassed English-language newspapers whose primary readership was Southerners.

The Government restricted international media in the North. While some foreign journalists were denied visas, others had regular access to opposition politicians, rebels, and civil society advocates.

The Government directly controlled radio and television and required that both reflect government policies. Some foreign shortwave radio broadcasts were available. A private FM radio station continued to operate, and the Government restricted UN radio to operating only in the states of the South. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored foreign news and other programs.

On August 8, the Government prohibited BBC broadcasts in the North for alleged misuse of the diplomatic pouch on the part of the British embassy. Authorities also stated that BBC was broadcasting in Juba without proper government authorization.

#### SOUTHERN SUDAN

Freedom of speech was largely protected in the South, and the GOSS did not attempt to impede criticism or regularly monitor political meetings. The SPLA and certain of its commanders occasionally threatened and detained several journalists in the South for broadcasting unfavorable reports of the SPLA and at times the GOSS.

The independent media were active and expressed a wide variety of views without restriction.

On occasions journalists in Southern Sudan were briefly detained and intimidated for writing or broadcasting unfavorable reports about the SPLA and the GOSS. These actions were usually resolved quickly after high-level intervention by the GOSS political leadership.

In January security forces reportedly arrested, beat, and detained Juba Post journalist Cyrocco Mayom.

In late February SPLA members reportedly detained and beat Lonya Banak, a radio station manager for Internews, following a radio debate during which a caller was critical of GOSS service delivery. He was reportedly taken to Leer Prison and detained for five days, during which time he was beaten.

After covering the violent dispersal by SPLA of a political rally that left three civilians dead, a radio journalist was arrested on April 23 in Unity State, held for 13 days, and then dismissed from the State-owned radio station.

In June the GOSS, citing national security, threatened to shut down Radio Miraya for broadcasting an interview with General Athor, who had started a violent campaign against the GOSS after the April elections.

*Internet Freedom.*—The Government monitored Internet communications, and the NISS read e-mail messages between private citizens. Some Web sites deemed offensive to public morality were blocked by the National Telecommunications Corporation, as were most proxy servers. While there generally were no restrictions on access to news and information Web sites, authorities regularly blocked access to youtube.com. During the elections the Government blocked access to the Sudan Vote Monitor Web site.

In the South there were no restrictions on access to the Internet or reports that the GOSS monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including e-mail.

According to International Telecommunication Union statistics for 2008, approximately 10 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. In public universities the Government appointed the vice chancellors, who were responsible for administering the institutions. The Government also determined the curriculum. Some universities required students to participate regularly in progovernment rallies and other activities. Some professors exercised self-censorship. The Government regularly arrested student activists.

On July 29, at a cultural event in Bahri area of Khartoum, public order police arbitrarily arrested all foreigners and women in trousers and beat many of those in attendance, including minors. The case against the event organizer was dismissed in trial, and the police lieutenant who led the raid was dismissed from his job for abuse.

On September 23, tourist police forced the cancellation of a dance presentation of the French Cultural Center. Authorities claimed that the organizers, who had a permit for the exhibition issued through the public order police, lacked a second necessary permit from the Ministry of Tourism.

There were no restrictions on academic freedom or cultural events in Southern Sudan.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Although the interim national constitution and law provide for freedom of assembly, the Government severely restricted this right in practice. The Government formally banned all rallies and public demonstrations in the country, although this was not always enforced. In February the National Elections Commission issued a circular requiring a 72-hour prior notice period for political rallies, which it reduced to 36 hours in March.

Islamic orders associated with opposition political parties, particularly the Anwar (Umma Party) and Khatmiya (Democratic Unionist Party), continued to be denied permission to hold large public gatherings, but they held regular opposition rallies on private property. Government security agents occasionally attended opposition political meetings, disrupted opposition rallies, and summoned participants to security headquarters for questioning after political meetings.

Police use of excessive force to disperse demonstrators resulted in deaths and injuries.

On January 20, during a peaceful political rally in support of Hamid Mohamed Ali, an independent opposition gubernatorial candidate in Red Sea State, authorities arrested 38 persons, seven of whom were hospitalized.

On May 30, in the Omdeda locality of Omdurman, police used tear gas to disperse a protest consisting of approximately 100 women and children who were demonstrating against the lack of water in their municipality. The demonstration closed street traffic for several hours and caused a heavy traffic jam before police intervened.

On October 9, during a UN Security Council visit to the country, police arrested at least 75 Southern Sudanese General Student Union members. The students had embedded themselves into a prounity public rally organized by the NCP, during which they changed into red shirts with proseparatist slogans. Police beat some of the rally participants and also beat one of the arrested students while he was jailed; that student was released on October 11.

Authorities generally took no action against security forces that used excessive force.

The interim constitution of Southern Sudan provides for freedom of peaceful assembly, and the GOSS generally respected this protection.

*Freedom of Association.*—The interim national constitution and law provide for freedom of association, but the Government severely restricted this right in practice. Seventy-two political parties officially contested in the April elections. The law effectively prohibits political parties linked to armed opposition to the Government. The SLM/MM was not permitted to register as a political party. The Government continued to harass some opposition leaders who spoke with foreign organizations or embassies.

The interim constitution of Southern Sudan provides for freedom of association, and the GOSS generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The interim national constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation, but the Government restricted these rights in practice.

The interim Southern Sudan constitution provides for freedom of movement within the country, foreign travel, and repatriation, and the Government generally re-

spected these rights in practice. The interim Southern Sudan constitution does not provide for emigration.

The Government impeded the work of the Office of the UN High Commissioner for Refugees (UNHCR) and delayed full approval of UNHCR activities, particularly in North and South Darfur. While in some cases it cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees and asylum seekers, the Government restricted and harassed such organizations. The UNHCR confirmed that the Government continued to disregard international agreements and targeted refugees and asylum seekers for abuse. The Government's encampment policy requires asylum seekers and refugees to stay in 12 designated camps. The Government permitted refugees from Eritrea and Ethiopia to remain in the country.

In Darfur the Government and rebels restricted the movement of the UN, humanitarian organizations, and citizens (see section 1.g.). Rebels also restricted freedom of movement.

In the South the GOSS cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs and returning refugees.

While movement was generally unhindered for citizens outside conflict areas, foreigners needed government permission for domestic travel outside of Khartoum, which was often difficult to obtain and was sometimes refused. Foreigners must register with the police on entering the country, obtain permission to move more than 15.5 miles outside of Khartoum and from one city to another, and reregister at each new location within three days of arrival. The GOSS did not restrict the movement of foreigners in the South and did not require foreigners to register upon entry.

The Government delayed issuing humanitarian and diplomatic visas and travel permits for Darfur and the Three Areas to foreign NGO staff.

The Government required citizens to obtain an exit visa to depart the country. While the issuance of exit visas was usually pro forma and not used to restrict citizens' travel, the Government denied some humanitarian workers exit visas.

The Government restricted persons from traveling outside of the country to attend conferences.

In late May officials confiscated the passports of human rights activists Salih Mahmud Osman, Mariam al-Mahdi, and Albukhari Abdalla Aljaali, who were scheduled to travel to Kampala, Uganda, to attend a forum on the ICC. The passports were held for the duration of the conference.

On June 15, officials prevented Albaquir al-Afif Mukhtar, director of the Alkhatim Adlan Center for Enlightenment and Human Development (KACE) from traveling to a conference in Spain.

The law prohibits forced exile, and the Government did not use it. Opposition leaders and NGO activists remained in self-imposed exile throughout northern Africa and Europe during the year, and additional activists fled the country during the year.

*Internally Displaced Persons (IDPs).*—Large-scale displacement continued to be a severe problem in the country. There were an estimated 1.9 million IDPs in Darfur, 1.5 million displaced Southerners in the North, and 68,000 IDPs in the east. In the Three Areas, there were approximately 80,000 IDPs.

#### NORTHERN SUDAN

While in previous years the UN estimated that there were approximately 2.7 million IDPs in Darfur, more recent International Organization for Migration data indicated the number of IDPs in Darfur to be 1.9 million. As of November, the UN reported, the conflict in Darfur had caused approximately 268,000 new displacements during the year, an increase from the estimated 175,000 persons displaced in 2009. Government offensives and rebel fighting in Jebel Marra and Jebel Moon displaced civilians. In December fighting between government and rebel forces in South Darfur and in Dar al-Salaam and Shangil Tobaya displaced tens of thousands. Intercommunal violence significantly increased and correspondingly displaced civilians. This violence was fueled by increased competition for resources due to desertification and population growth, the weakening of traditional mediation mechanisms, the proliferation of arms, and long-standing ethnic rivalries. In addition violence in Kalma IDP Camp between pro- and anti-Doha elements in July caused approximately 30,000 IDPs to flee the camp.

IDPs in Darfur faced significant humanitarian needs. The Government's expulsion of 13 international humanitarian NGOs and closure of three local NGOs in 2009 continued to negatively impact the delivery of humanitarian services.

Government restrictions, harassment, and the threat of expulsion resulted in the continued closure of most gender-based violence programming. While gender-based violence programming was mainstreamed into other humanitarian efforts, reporting

and reach were severely curtailed. As of August, 96 percent of IDP households lived below the poverty line, compared with 86 percent of non-IDP households; 44 percent of IDP households had incomes at least 50 percent below the poverty line.

There were numerous reports of abuses committed by security forces, rebels, and militias against IDPs, including rapes and beatings. Government attempts to resettle IDPs were generally unsuccessful, except in the case of former Kalma residents returning to West Darfur in December.

IDPs largely boycotted registration for the April nationwide, multiparty elections, and thus few participated in the vote, which raised concerns regarding their lack of representation in government.

Outside of IDP camps, insecurity restricted IDP freedom of movement; women and girls who left the town and camps risked sexual violence. Darfur IDPs did not return in any significant numbers to their place of origin, although small-scale spontaneous returns to certain villages occurred.

Insecurity within IDP camps was also a problem. Tensions regarding political representation in the Doha peace processes resulted in deaths and additional displacements during the year. This was exacerbated by the proliferation of arms in camps. The Government provided little assistance or protection to IDPs in Darfur. Most IDP camps had no functioning police force. International observers noted that criminal gangs aligned with rebel groups operated openly in several IDP camps and operated back and forth across the border with Chad.

In late July violence erupted in Kalma IDP camp between IDPs who supported peace talks in Doha and IDPs who condemned the talks (see section 1.g., Darfur). The violence killed at least 35 persons. Approximately 30,000 IDPs fled the camp. Five IDP leaders and one woman sought protection from UNAMID, fearing possible government or opposing groups' action against them. Five of the individuals were sought by the Government, who stated they were responsible for the violence. Authorities blocked humanitarian assistance to Kalma Camp and to Bileil Camp until mid-August. On September 6, NGOs resumed health, nutrition, water, sanitation, and hygiene activities, but for the most part at reduced levels. IDPs and others stated that the Government's blockage of humanitarian assistance was part of a process to force IDPs to relocate, and during the year the Government discussed plans to relocate Kalma Camp. According to the UN, more than 1,500 persons from Kalma Camp voluntarily returned to areas of displacement in West Darfur in early December as part of a government-led return program.

Similar politically-motivated violence erupted in Hamidiya and Hassahissa IDP camps in West Darfur in August. There were multiple cases reported of IDPs being harassed, arrested, and tortured by the NISS. The Government harassed IDPs in Darfur who spoke with foreign observers.

When political tension escalated into violence in the Hamidiya and Hassahissa camps, the NISS arrested and detained IDPs who were suspected of being affiliated with SLA/AW or suspected of providing information to sources in the international community.

Following a UN Security Council visit to Darfur, security officials arrested and harassed IDPs. On October 8, the NISS sought to arrest 16 persons in Abu Shouk and Al Salaam camps; the persons went into hiding. On October 10, authorities arrested Mohamed Abdallah Mohamed al-Haj of Abu Shouk and Abdalla Ishag Abdul Raziq of Abu Shouk Camp. On October 17, authorities arrested approximately 24 more persons, including some IDPs who had been arrested and released previously.

Fourteen of the 18 IDP leaders arrested and detained without access to counsel following the 2009 killing of IDP camp leader Omer Adam Ishaq and his wife were released, while four remained in jail at year's end.

According to the UN, approximately 1.5 million IDPs lived in Khartoum State, many of them in shanty towns rather than in the four formal camps. Many Southern IDPs in the North have lived there for decades, formed families, and found mainly informal employment in the North. As of year's end, the parties had not reached an agreement regarding the status of Southerners in the North in the post-CPA period. At times during the year, government officials made statements regarding the expulsion of Southerners, and at other times government officials made statements supporting the protection of IDPs. Displaced Southerners in and around Khartoum were subject to arrest, flogging, fines, warrantless searches, and/or imprisonment in relation to Sharia-based prohibitions against alcohol. The Government restricts access to formal IDP camps around Khartoum.

There were no developments regarding the thousands of persons displaced by the Merowe dam in previous years.

In the East, the Government continued to restrict humanitarian access. These restrictions significantly limited the ability of humanitarian organizations to provide

services to vulnerable groups such as IDPs and refugees. Approximately 50 percent of IDPs and refugees in camps received food rations.

#### SOUTHERN SUDAN

According to the UN, approximately two million IDPs and 350,000 refugees have returned to the South since 2005.

In August the autonomous government of Southern Sudan announced an initiative to promote the return of Southerners living in the North. Spontaneous and organized returns significantly increased towards the end of the year, with an estimated 140,000 persons returning between October and December. Many returned to areas located near the North-South border, particularly to Unity State and Northern Bahr el Ghazal States. Insufficient preparations for the return of IDPs to the South was a problem. IDPs who returned to the South faced problems including delayed allocation of land, insecurity, lack of basic services, lack of livelihood opportunities, and problems obtaining onward transportation from towns to counties of origin. There were reports that Misseriya temporarily stopped some busses on their way South. In late November nearly 7,800 returning IDPs were reportedly stuck in Bentiu after rains made roads impassable; they took temporary shelter in school buildings. There were also reports of persons who wished to return to the South being stranded in Khartoum.

Interethnic fighting, postelection violence, LRA attacks, and conflict between the SPLA and civilians resulted in the widespread displacement of persons during the year. During the year violence displaced 223,708 persons in the South, with the largest numbers of displacements occurring in Western Equatoria, Jonglei, Lakes, and Warrab states. The GOSS had only a very limited capacity to provide services to IDPs. Most IDPs in the South integrated into communities and did not live in a camp environment.

There were no reported developments in the January 2009 forcible eviction of persons from residential areas and markets, which were subsequently demolished; the evictions displaced more than 30,000 persons, including IDPs.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, but the Government has not established a system for providing protection to refugees.

In practice the Government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government granted asylum to a large number of asylum seekers, but there was no standard determination procedure or documentation. Officially, the Government should grant prima facie refugee status to asylum seekers. However, during the year it required Eritreans to register as asylum-seekers rather than automatically granting the appropriate refugee status, a policy contrary to national law governing refugee status. Most Eritreans who entered the country appeared to be familiar with the new steps required to register with the Government as an asylum seeker. Government officials were reportedly unresponsive to applications for refugee status.

Refugees were vulnerable to arbitrary arrests, harassment, and beatings because applicants did not receive identification cards while awaiting government determination of refugee status. Refugees could not become resident aliens or citizens, regardless of their length of stay. Refugees were not entitled to work permits.

According to Save the Children, government-supervised primary education, while not free, was available to IDP children in Khartoum and in refugee camps outside of Khartoum at a nominal cost of 10 Sudanese pounds (approximately \$3) per month.

The Government provided temporary protection to individuals who might not qualify as refugees under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. The country's laws provide for the granting of asylum or refugee status, but the Government has not established a system for providing protection to refugees.

#### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The CPA, interim national constitution, and the interim constitution of Southern Sudan provide citizens the right to change their government peacefully. CPA provisions relating to this right include those providing for simultaneous referenda on the status of the South and of Abyei, national elections, a census, and popular consultations in Blue Nile and Southern Kordofan.

The CPA calls for a referendum in January 2011 for Southerners to vote either for unity with the country or secession and for a concurrent referendum for those of Abyei to determine whether Abyei will remain in the North or join the South. During the year the parties made significant progress in preparing for the referendum on the status of Southern Sudan. Voter registration for the referendum on the status of Southern Sudan occurred in December. However, preparations for the Abyei referendum stalled due to disagreement over voter eligibility.

National and state level executive and legislative elections, originally scheduled for July 2009 per the CPA, occurred in April but did not meet international standards (see Elections and Political Participation below).

The CPA established a three-member presidency consisting of a president, first vice president, and vice president. It specified that prior to elections, the then incumbent president (Omar Hassan al-Bashir) was to serve as president and the then SPLM chairman (Salva Kiir) was to serve as first vice president. Ali Osman Taha (NCP) was appointed as vice president.

The 2006 Darfur Peace Agreement created a fourth ranking member in the presidency, a senior assistant to the president, Minni Minawi, leader of the Darfur rebel group SLA/MM. President Bashir did not reappoint Minawi to the position of senior assistant following the elections. The Darfur Peace Agreement-mandated Transitional Darfur Regional Authority, charged with implementing the agreement and promoting coordination and cooperation among the three Darfur states, was established in 2007. Minawi served as head of the transitional authority until December 8, when President Bashir issued a decree declaring the wali of West Darfur as its head.

The CPA also provided a formula for allocating seats in the bicameral legislature (composed of the 450-member National Assembly and 52-member Council of States) and cabinet prior to the elections. The formula reserved 52 percent of the positions for the NCP, 28 percent for the SPLM, 14 percent for northern opposition parties, including those from Darfur, and 6 percent for southern opposition parties.

The CPA also provided for a popular consultation process to obtain the views of persons in Blue Nile and Southern Kordofan on the CPA, so that their respective legislatures could negotiate any shortcomings in the constitutional, political, or administrative arrangements of the CPA with the Government. The CPA stated that reports of parliamentary committees to assess and evaluate CPA implementation were to be provided to their respective state legislatures by January 2009; however, this deadline was not met. In September the Blue Nile State Assembly appointed its popular consultation commission, although it lacked funding. Progress on the popular consultations in Southern Kordofan was delayed to an even greater extent due to a dispute over the 2008 population census. Between June 15 and June 29, the census was reconducted in Southern Kordofan State. The parties agreed to postpone state level elections in Southern Kordofan, which were rescheduled for May 2011.

*Elections and Political Participation.*—Voter registration for the Southern Sudan Self-Determination Referendum on the status of Southern Sudan occurred from November 15 to December 8. Observers reported that the process was generally fair, despite some logistical, procedural, and security problems. For example, inconsistencies in the application of identification, eligibility, and appeals regulations occurred. Approximately 3.9 million persons registered to vote throughout Sudan and in eight other countries with large Southern Sudanese populations. The number of registrants in the North and in other countries was significantly lower than early estimates suggested. Turnout for registration in the North was low due to distance to the registration centers, insufficient awareness raising, and ambiguity about the future of Southerners in the North.

Preparations for the Abyei referendum remained stalled. The North and the South did not reach agreement on voter eligibility criteria for the CPA-mandated referendum on whether Abyei remains part of Northern Sudan or joins the South. The North stated that the Misseriya, who migrate through Abyei from the North, should be eligible to participate, while the South rejected their inclusion.

The country's first multiparty national and state-level executive and legislative elections in more than 20 years occurred on April 11-15. The elections, which several Northern opposition parties boycotted, did not meet international standards. The SPLM candidate for president of Sudan, Yasir Arman, withdrew from the race just ahead of the polling. Basic freedoms were circumscribed throughout the process. Despite significant technical and commodities assistance from the international community, logistical preparations were inadequate. Intimidation and threats of violence occurred, particularly in the South. The conflict in Darfur did not permit a conducive electoral environment. The counting and tabulation process was disorganized, not transparent, and did not follow procedural safeguards put in place by the

National Elections Commission. According to the Carter Center, problems with counting and tabulation process raised “questions about the accuracy of the election results.”

President Omar Hassan al-Bashir (NCP) was reelected, as was first vice president and GOSS president Salva Kiir Mayardit (SPLM). Ali Osman Taha was reappointed to his position of second vice president.

In the National Assembly, the NCP won 323 seats, the SPLM won 99 seats, other parties and independents won 24 seats, and four constituencies were vacant. NCP gubernatorial candidates won all elected governor posts in the North (this did not include Southern Kordofan) with the exception of Blue Nile State, where the SPLM incumbent won.

As of year’s end, there had been no action taken on the February 21 agreement between the parties that 40 seats would be allocated for the South, four for Southern Kordofan, and two for Abyei.

SPLM candidates won all but one of the southern governorships, with an independent candidate winning in Western Equatoria State. The SPLM won 159 of 170 seats in the Southern Sudan Legislative Assembly, with the SPLM-DC winning three, the NCP one, and independents seven.

Elections were postponed in a number of national and state constituencies for reasons such as inaccurate ballots and candidate deaths. In at least 30 constituencies the elections were held in June.

Key Sudanese groups observing the elections included TAMAM, KACE, the Sudanese Group for Democratic Elections, the Sudan Domestic Election Monitoring and Observation Program, and the Sudanese Network for Democratic Elections (SUNDE). International monitoring missions included the Carter Center, the Intergovernmental Authority on Development, and the European Union Election Observation Mission.

Observers noted numerous problems with the preelection environment. The legislative framework did not protect basic freedoms such as assembly, speech, and press. GOS and GOSS security forces restricted the actions of opposition parties, including through the arrest of opposition members and supporters. There was insufficient voter information, and logistical preparations for the vote were not adequate.

During voting, observers found incorrect or incomplete voter registries and noted that this resulted in disenfranchisement. The locations of polling centers were not sufficiently clear. Many centers did not open on time and received polling material late. Mistakes on ballots were also a problem. Observers noted problems with safeguards at polling centers, such as not following procedures pertaining to indelible ink, voter identification, and ballot box seals. Observers also reported intimidation and harassment, particularly in the South; they noted specifically SPLA intimidation of voters and presence at some polling stations. SUNDE reported that 21 of its observers were detained, including in Central Equatoria, Unity, and Western Equatoria. It also reported that one of its observers was kidnapped and beaten in Western Bahr el Ghazal. A video posted to the Internet shortly after the elections showed what appeared to be a uniformed elections official in the North stuffing a sealed ballot container with paper. In Darfur participation of IDPs in the election was low.

Problems with the counting occurred, and the tabulation process was seriously flawed. During the counting process officials did not follow administrative procedures or properly reconcile ballots counted with the ballots received. Logistical problems delayed the transport of materials such as ballot boxes and results forms. Officials did not follow the electronic tabulation system process as designed, which resulted in an inability to verify the accuracy of results. Observers had difficulty accessing tabulation centers and were denied access to some centers. Observers noted “parallel tabulation operations” in Khartoum and South Darfur. In these cases observers were able to access official centers, but there were also other places where access was limited while tabulation was underway. Incidents of security-force intimidation and interference and other serious irregularities occurred during counting and tabulation in the South.

Postelection violence in the South resulted in deaths (see section 1.g., South Sudan).

The NCP dominated the Government in the North, and NCP members of the Ja’alin tribe held the highest offices in government. Authorities impeded and monitored political party meetings and activities, restricted political party demonstrations and used excessive force to break them up, and arrested opposition party members.

For example, on January 19, in Red Sea State, police using excessive force broke up a peaceful demonstration in support of independent gubernatorial candidate Hamad Mohammad Ali, injuring participants. Security forces stated that the dem-

onstrators did not have a permit and arrested 27 persons. According to the candidate, his supporters were denied a permit, while those of the incumbent governor were allowed to hold a rally.

In the South the SPLM dominated the GOSS, and authorities there obstructed the activities of the SPLM-DC.

Women have the right to vote. As required by the 2008 National Elections Law, 25 percent of the seats in the national, Southern Sudan, and state assemblies were filled from state-level women's lists. Women won 114 of the 450 seats in the National Assembly. Women held five of 46 seats in the Council of States. One woman served as a federal minister, and five women served as state ministers. Voters elected 53 women to the Southern Sudan Legislative Assembly, more than required by law. The number of female ministers in the 32-member GOSS cabinet increased from three to six following postelection appointments.

#### *Section 4. Official Corruption and Government Transparency*

The law does not specifically address official corruption. However, officials are subject to the Financial Service Audit law that calls for a special anticorruption attorney to investigate and try corruption cases. Additionally, criminal law provides punishments for embezzlement that can include execution for public service workers. All bankers are considered public service workers. Officials frequently engaged in corrupt practices.

There were no laws providing for public access to government information, and the Government did not provide such access.

In Southern Sudan, the law provides for criminal penalties for official corruption; however, GOSS officials often engaged in corrupt practices with impunity. Corruption was a problem in all branches of the GOSS.

GOSS president Salva Kiir publicly condemned corruption in government, and in December 2009 the GOSS formed an anticorruption commission. The commission identified some cases of corruption, although information on follow-up on these cases was not available.

The interim constitution of Southern Sudan provides citizens with the right to access government information, except in cases where such access endangers public security or violates the right to privacy of other persons. GOSS officials of the director general rank and higher are required to submit financial declaration forms, although there is no penalty for failure to comply. The GOSS granted access to government information for citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government was uncooperative with and unresponsive to domestic human rights groups. Both domestic and international human rights organizations were restricted and harassed.

The Government harassed, arrested, beat, and prosecuted human rights activists for their activities.

On February 22, the NISS reportedly closed the office of the Strategic Initiative for Women in the Horn of Africa in Nyala following a training session it held in conjunction with KACE.

Between October 30 and November 1, security forces arrested several Darfuri activists, including HAND members and an individual who worked for Radio Dabanga. Persons arrested during this period reportedly included Abdelrahman Mohammed Al Gasim, Dirar Adam Dirar, Abdelrahman Adam Abdelrahman, Manal Mohammed Adam, Aziza Ali Idriss, Aisha Sardo Sherif, Abu Gasim Al Din, and Zakaria Yacoub. They were held incommunicado without access to counsel and their families for some time.

On December 22, a court sentenced Mudawi Ibrahim Adam, former director of the Sudan Social Development Organization (SUDO), to one year in prison and a fine of 3,000 Sudanese pounds (\$1,186) for embezzlement. He was previously acquitted of these charges in March 2009, a finding which the Humanitarian Affairs Commission appealed, but for which it reportedly did not provide any new evidence. At year's end, Mudawi remained incarcerated.

In the case of the 2009 closure of SUDO, on April 22, SUDO won a court case to allow it to reopen, but HAC won on appeal and SUDO remained closed at year's end. The Khartoum Center for Human Rights and Environmental Development and the Amal Center for Treatment and Rehabilitation, also closed in 2009, remained shut.

Abdel Majeed Saleh Abakr Haroun, a Darfuri human rights activist and leading member of the Darfur Democratic Forum, who was arrested by the NISS in August

2009, remained in NISS custody without charge until mid-January, when he was released. He subsequently left the country.

The Government restricted, harassed, and arrested NGO-affiliated international human rights and humanitarian workers, including in Darfur (see section 1.g.).

The Government refused and delayed the issuance of visas to international NGO members and restricted their access to parts of the country.

NGOs must register with the HAC, the Government's entity for regulating humanitarian efforts. The HAC obstructed the work of NGOs, including in Darfur and the Three Areas (see section 1.g.). During the year the HAC often changed its rules and regulations without prior notification.

The Government continued to use bureaucratic impediments to restrict the actions of humanitarian organizations, contrary to provisions in the 2007 Joint Communique between the Government and the UN. This included delaying the issuance of visas and travel permits to humanitarian workers.

The Government's Advisory Council for Human Rights did not respond to requests by international organizations for investigations into human rights violations, and it did not provide lists of detained individuals to the international community.

The National Commission for Human Rights Act, purportedly created by law in April 2009, had not been set up by year's end.

The Government did not cooperate with the ICC (see section 1.g.).

In the South, a variety of domestic and international human rights-related NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The South Sudan Council for Human Rights operated somewhat independently. Its members were appointed by the president of the GOSS. The council cooperated with international human rights advocates and submitted regular reports and recommendations to the GOSS.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The interim national constitution prohibits discrimination based on race and gender, but the Government did not effectively enforce these provisions. The law does not address discrimination based on disability, language, or social status.

The interim constitution of Southern Sudan prohibits discrimination on race, gender, language, and social status. It does not address discrimination based on disability.

*Women.*—The punishment for rape under the law varies from 100 lashes to 10 years' imprisonment to death; however, the Government did not effectively enforce these provisions. Spousal rape is not addressed in the law. In most rape cases convictions were not publicized; however, observers believed that sentences often were less than the legal maximum. There was no information available on the total number of persons who were prosecuted, convicted, or punished for rape.

In the South, the law provides for up to 14 years' imprisonment for rape and the possibility of a fine, although this provision does not apply to "sexual intercourse by a married couple."

Rape of women and girls throughout the country, including in Darfur, continued to be a serious problem (see section 1.g.). Authorities often obstructed access to justice for rape victims.

Many victims in the North did not report their cases either to family or authorities for fear they would be punished or arrested for "illegal pregnancy" or for adultery (see section 1.d.).

The law does not specifically prohibit domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women who filed claims were subjected to accusations of lying or spreading false information, harassment, or detention, which made many women reluctant to file formal complaints, although such abuse constituted grounds for divorce. The police normally did not intervene in domestic disputes. Statistics on the number of abusers prosecuted, convicted, or punished were not available.

In the North, no law specifically prohibits sexual harassment, although the law prohibits gross indecency, which is defined as any act contrary to another person's modesty. The penalty for gross indecency is imprisonment of up to one year and 40 lashes. Harassment reportedly occurred, although reliable statistics were not available. There were frequent reports of sexual harassment by police in Darfur and elsewhere.

In the South sexual harassment is punishable by up to three years' imprisonment and a fine. Observers noted that sexual harassment was a serious problem in the South, including in GOSS ministries in Juba. There were also allegations that senior male commanders and trainers at the John Garang Unified Police Academy in

Rajaf harassed, raped, and forced female police trainees to have sex with them in exchange for money.

Couples were able to decide freely on reproductive issues, but societal and religious norms pressured married females to have several children. Contraception, skilled medical attendance during childbirth, and obstetric and postpartum care were not widely accessible. The UN Population Fund estimated the maternal mortality ratio at 750 deaths per 100,000 live births. Women had equal access to diagnosis and treatment for sexually transmitted diseases, including HIV.

The law discriminated against women in the North, including many traditional legal practices and certain provisions of Sharia as interpreted and applied by the Government. In accordance with Islamic law, a Muslim widow inherits one-eighth of her husband's estate; of the remaining seven-eighths, two-thirds goes to the sons and one-third to the daughters. Depending on the wording of the marriage contract, it was often much easier for men than for women to initiate legal divorce proceedings. In certain northern probate trials, under the Sharia system, the testimony of women was not considered equivalent to that of men; the testimony of two women was considered equivalent to that of one man. In other civil trials, the testimony of a woman is considered equivalent to that of a man.

A Muslim woman cannot legally marry a non-Muslim unless he converts to Islam. This prohibition usually was neither observed nor enforced in areas of the South or among Nubans (most of whom were Muslim).

There were occasional reports that security officials acting without official authorization required a male signature on an exit visa.

To obtain an exit visa, children must receive the permission of both mother and father. In the father's absence, a paternal uncle can sign in his place. Women can apply for exit visas for their children, provided that both parents have signed the application.

Various governmental bodies have decreed that women must dress modestly according to Islamic or cultural standards, including wearing a head covering in the North. There were instances in the North in which police arrested women for their dress and authorities subjected them to flogging. However, women in the North often appeared in public wearing trousers or with their heads uncovered. In Khartoum persons known as religious police, who were not government officials, occasionally demanded that women pay on-the-spot fines for violating Islamic standards.

In the South in December, local press reported that newly trained police in Juba were harassing women for wearing jeans and short skirts. The GOSS and the Southern Sudan Human Rights Commission intervened, and the harassment stopped. Women in the South were routinely held for lengthy pretrial detention on allegations of adultery.

In the North, the Ministry of Social Welfare, Women, and Child Affairs was responsible for matters pertaining to women. In the South, the Ministry of Gender, Child, and Social Welfare had similar responsibilities.

Women experienced economic discrimination in access to employment, credit, pay for substantially similar work, and owning or managing businesses. Women were accepted in professional roles; more than half the professors at Khartoum University were women.

In the South, women served in professional roles, including in government, both in the executive branch and in the Southern Sudan Legislative Assembly. There were several female government ministers.

*Children.*—The interim national constitution states that persons born to a Sudanese mother or father have the right to citizenship.

The Government did not register all births immediately.

The law provides for free basic education up to grade eight; however, students often had to pay school, uniform, and exam fees. In Darfur few children outside of cities had access to primary education. Lack of schools was a serious problem in the South. Girls in the South did not have equal access to education.

Child abuse and abduction were widespread. Criminal kidnapping of children for ransom was reported on several occasions during the year.

Female genital mutilation (FGM) remained widespread, particularly in the North, but estimates on its prevalence varied widely. A 2006 Sudan Household Health Survey, the most recent available, reported FGM incidence at 69 percent. In the North, Ministry of Health bylaws prohibit the practice of FGM by physicians and medical practitioners; however, midwives continued to conduct FGM. In the South, performing or causing FGM to be performed is punishable by up to 10 years' imprisonment, a fine, or both. While a growing number of urban, educated families no longer practiced FGM, there were reports that the prevalence of FGM in Darfur had increased as persons moved to cities. FGM was also increasing in IDP camps in Darfur. The Government actively campaigned against it in partnership with

UNICEF, civil society groups, and the High Council for Children's Welfare. Several NGOs also worked to eradicate FGM.

The law establishes the legal age of marriage as 10 for girls and 15 or puberty for boys. There were no reliable statistics on the extent of child marriage, but it remained a problem.

Child prostitution and trafficking of children also remained problems, particularly in the South. Penalties for offenses related to the child prostitution and trafficking varied and could include imprisonment and/or fines.

In the North, there is no minimum age for consensual sex or a statutory rape law. In the South, persons must be 18 years of age to consent to sexual intercourse, although rape does not apply to intercourse between married persons. Penalties for rape in the South are up to 14 years' imprisonment and may also include a fine. Pornography, including child pornography, is illegal in the North and the South.

Children were used as soldiers in armed groups (see section 1.g.).

Internally displaced children often lacked access to government services such as education.

The Government operated reformatory camps for vagrant children. Police typically sent homeless children who had committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were very basic, and living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Qur'an, and there was pressure on non-Muslims to convert to Islam. War Child and other international and domestic humanitarian NGOs were permitted to monitor the camps and sometimes assisted the Government with certain aspects of camp operations.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community remained small, and there were no reports of anti-Semitic violence during the year; however, government officials made anti-Semitic comments, and government-controlled newspapers featured anti-Semitic caricatures.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—While the law does not specifically prohibit discrimination against persons with disabilities, it stipulates that "the state shall guarantee to persons with special needs the enjoyment of all the rights and freedoms set out in the constitution, access to suitable education, employment, and full participation in society." The Government has not enacted laws or implemented effective programs to ensure access to buildings for persons with disabilities. Credible sources noted that prisoners with mental disabilities were chained 24 hours a day, and mentally disabled prisoners were not exempted from trial. In the South there were no mental health hospitals or institutions, and persons with mental illnesses were held in prisons.

*National/Racial/Ethnic Minorities.*—The population is a multiethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims traditionally dominated the Government. Interethnic fighting in Darfur was between Muslims who considered themselves either Arab or non-Arab and also between different Arab tribes (see section 1.g.). Interethnic fighting in the South was a serious problem (see section 1.g.).

The Muslim majority and the Government continued to discriminate against ethnic minorities in almost every aspect of society in the North. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas. There also were reports of discrimination against Arabs and Muslims by individuals in the Christian-dominated South.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits sodomy, which is punishable by death. There were no reports of antisodomy laws being applied. There were no known lesbian, gay, bisexual, or transgender organizations.

Official and societal discrimination against homosexual persons occurred.

On August 4, authorities publicly flogged 19 men who were arrested on July 29 at a party in Omdurman for breaking moral codes by wearing women's clothes and makeup, reportedly during a wedding between two men. The men had no lawyers, and the trial judge stated that police who raided the party found the men dancing "in a womanly fashion." Some legal-aid lawyers said that they were scared to defend the group. On August 2, residents of the Muhandaseen neighborhood in Omdurman held an antihomosexual demonstration.

On June 25, authorities raided a mixed-gender fashion show and arrested a number of male models. Officially the arrests were based on a public order law preventing amplified noise after 11 p.m., although it was widely assumed that the show was targeted because of the perceived sexual orientation of its male participants.

In the South, GOSS president Salva Kiir remarked on an internationally broadcast radio interview that homosexuality would not be accepted in the South.

Societal discrimination against homosexual persons was widespread both in the North and the South. In the North, vigilantes targeted suspected homosexual persons for violent abuse, and there were public demonstrations against homosexuality. Key members of parliament proposed legislation that would allow "severe punishment" for homosexuality.

*Other Societal Abuses and Discrimination.*—There was occasional discrimination against persons with HIV/AIDS. In July a private primary school in Omdurman reportedly expelled a student with HIV.

*Incitement to Acts of Discrimination.*—The Government and government-supported militias reportedly promoted hatred and discrimination, using standard propaganda techniques to incite tribal violence.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Although the law provides for the right of association for economic and trade union purposes, the Government denied this right in practice. The Trade Union Act established a trade union monopoly under the Government. Only the Government-controlled Sudan Workers Trade Union Federation, which consists of 25 state unions and 22 industry unions, can function legally; all other unions were banned.

Strikes were considered illegal unless the Government granted approval, which has never occurred. In most cases employees who tried to strike were subject to employment termination; however, workers went on strike during the year and were not terminated.

In June security forces arrested and beat doctors in relation to a strike. On June 1, they arrested, reportedly beat, and then released doctors al-Hadi Bakhit and Walla Aldin. Al-Hadi Bakhit was rearrested soon after. That same day, security forces also arrested Ahmed Al-Abwabi. On June 2, police beat protesters outside of Khartoum University, injuring 12. Police also prevented doctors from attending meetings of the strike committee. On June 2-8, authorities detained doctors Ashraf Hammad, Mahmoud Khairallah, Abdelaziz Ali Jamee, and Ahmed Abdallah Khalafallah. On June 24, doctors resumed work, and authorities released the six detained doctors without charge.

In March Red Sea State wali (governor) Mohammed Tahir Ella ordered the arrest of 250 striking dockworkers in Port Sudan. The strike was related to a dispute with the Government of Red Sea State over the use of union funds.

In the South in late May, during the GOSS presidential and Southern Sudan Legislative Assembly inauguration, NISS personnel arrested nine Southern Sudan Radio and Television staff and detained them for 16 days. Workers had been on strike in response to a payment issue and refused to surrender Southern Sudan Television (SSTV) camera equipment in their possession, without which SSTV reportedly would not have been able to broadcast the inauguration.

*b. The Right to Organize and Bargain Collectively.*—The law denies trade unions autonomy to exercise the right to organize or to bargain collectively. The law defines the objectives, terms of office, scope of activities, and organizational structures and alliances for labor unions. The Government's auditor general supervised union funds because they were considered public money.

There were credible reports that the Government routinely intervened to manipulate professional, trade union, and student union elections.

Specialized labor courts adjudicated standard labor disputes, but the Ministry of Labor has the authority to refer a dispute to compulsory arbitration.

The law does not prohibit antiunion discrimination by employers.

There is one export processing zone, in Port Sudan, and it is exempt from regular labor laws.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, such practices continued.

Abduction, forced labor, and sexual slavery of women and children continued.

Although the Government continued to deny that slavery and forced labor existed in the country, the Government's Committee to Eradicate the Abduction of Women and Children acknowledged that abductions had occurred in the 1980s and 1990s and that not all abductees had since been freed.

The forcible recruitment of persons into armed groups continued (see section 1.g.).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although mandated by the interim national constitution to protect children from exploitation, the Government did not effectively do so, and child labor was a serious problem. The legal minimum age for workers was 18 years, but the law was not enforced in practice. Child labor in the agricultural sector was common. Children were engaged in shining shoes, washing cars, street vending, begging, herding animals, construction, and other menial labor.

The use of child soldiers, child trafficking, and child prostitution were problems. The Ministry of Social Welfare, Women, and Child Affairs had responsibility for enforcing child labor laws; however, enforcement was ineffective.

In the South, child labor laws were rarely enforced.

*e. Acceptable Conditions of Work.*—The minimum wage was between 190 and 250 Sudanese pounds (approximately \$80 to \$100) per month, which did not provide a worker and family a decent standard of living. The Ministry of Labor, which maintained field offices in most major cities, is responsible for enforcing the minimum wage, which employers generally respected. In the South, civil service workers, including teachers, often worked for long periods without being paid.

The law, which was generally respected, limits the workweek to 40 hours (five eight-hour days), with days of rest on Friday and Saturday. Overtime should not exceed 12 hours per week or four hours per day. There was no prohibition on excessive compulsory overtime.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The right of workers to remove themselves from dangerous work situations without loss of employment is not recognized.

In the South, the Ministry of Labor and Public Services is responsible for monitoring health and safety standards for workers; however, it did not do so effectively.

## SWAZILAND

Swaziland is an absolute monarchy, and King Mswati III has ultimate authority over the cabinet, legislature, and judiciary. According to the 2007 census, the population was 1.02 million. There is a prime minister and a partially elected parliament, but political power remained largely with the king and his traditional advisors, the most influential of whom remained the queen mother. International observers concluded that parliamentary elections held in 2008 did not meet international standards. The 2008 Suppression of Terrorism Act, used to silence dissent and ban certain political organizations, remained in effect. Security forces reported to civilian authorities.

Human rights problems included inability of citizens to change their government; extrajudicial killings by security forces; mob killings; police use of torture, beatings, and excessive force on detainees; police impunity; arbitrary arrests and lengthy pre-trial detention; arbitrary interference with privacy and home; restrictions on freedoms of speech and press and harassment of journalists; restrictions on freedoms of assembly, association, and movement; prohibitions on political activity and harassment of political activists; discrimination and violence against women; child abuse; trafficking in persons; societal discrimination against members of the lesbian, gay, bisexual, and transgender (LGBT) community; discrimination against mixed-race and white citizens; harassment of labor leaders; restrictions on worker rights; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports that the Government or its agents committed arbitrary or unlawful killings.

There was an ongoing inquest into the death of Sipho Jele, who died on May 4 while in custody at the Sidwashini correctional prison three days after police arrested him for wearing a T-shirt from the banned political group People's United Democratic Movement.

On January 5, police shot and killed three suspected robbers at the Sidvokodvo Valley Farm as they allegedly fled from police; the robbers were reportedly armed with a machete, hammer, and crow bar.

On March 10, members of the Royal Swaziland Police shot and killed an armed South African citizen suspected of robbing a shop in Mlumati; he reportedly was fleeing from the scene.

On April 15, in Manzini, police officers shot and killed suspected thief Siphon Kunene as he reportedly ran from them.

No action was taken in any of the 2009 or 2008 killings by security forces. Authorities claimed to have investigated these cases, but officers were either cleared of wrongdoing or results were not reported. No known action was taken against perpetrators.

During the year there were reports of killings by community police, who are volunteers with arrest authority under the supervision of a chief.

For example, in March community policeman Mandla Mdluli reportedly killed Bhutana Simelane, who was apprehended for suspected robbery. Mdluli was arrested on March 22 for Simelane's death.

On April 4, residents and community police of New Village beat to death Siphophelo Dlamini, who was suspected of being a neighborhood criminal.

On July 10, in Mlawula rangers shot and killed Lucky Matsenjwa, who was suspected of poaching. Matsenjwa reportedly was unarmed.

Vigilante violence resulted in deaths.

For example, on June 22, a violent mob lured a man in Nhlanguano from his house and beat and burned him to death; the man was accused of cattle smuggling.

No action was taken, nor was any expected, against community police or civilians who participated in 2009 and 2008 killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, the provision prohibiting law enforcement officials from engaging in torture is located in the "policy" section of the constitution and is not enforceable in any court or tribunal. The law does not specifically prohibit such practices. Security officials who engage in such practices may be punished, but no punishments were reported during the year. Many cases of torture were investigated, but findings were not made public. Security officers reportedly used torture during interrogation, assaulted citizens, and used excessive force in carrying out their duties. Reported practices included beatings and temporary suffocation using a rubber tube tied around the face, nose, and mouth, or plastic bags around the head.

For example, on February 9, police beat a woman who was eight months pregnant after she attempted to defend another vendor at the Mbabane bus rank.

On February 14, a suspected gun smuggler claimed police tied him to a tree, suffocated him with a tube, and shot him twice in the back.

On April 13, in Malkerns, police intervened at Valley Primary School after 10 emalangeni (approximately \$1.35) was reported stolen. Hoping that the culprit would confess, police required 49 elementary students to do up to 200 squats each.

On June 2, police forcibly apprehended Patricia Dlodlu at her workplace, claiming that she had stolen a cell phone; at the police station, Dlodlu was stripped naked and locked in a room. Police later released Dlodlu and did not bring charges.

On June 13, in Matsapha, three soldiers severely beat Amado Dos Santos after he reportedly attempted to stop them from assaulting a woman; he sustained multiple injuries to the head and received 19 stitches.

Police forcibly dispersed demonstrators, resulting in injuries (see section 2.b.).

No actions were taken, nor were any expected, against security force members responsible for 2009 or 2008 abuse cases.

There were credible reports of use of excessive force by community police during the year.

On January 10, community police forced a man to eat raw goat meat as punishment for allegedly killing a neighbor's goat.

On January 16, community police kidnapped and beat a man for allegedly stealing his employer's laptop computer; the community police were arrested following the incident.

For example, on February 16, Sanele Shongwe was accused of damaging the windows of a neighbor's house and was beaten by community police until he lost consciousness.

On March 6, community police in a semirural area punished two girls for disrespecting one of their mothers, making the girls hold beer bottles full of water for hours.

Mob violence continued, and persons accused of rape were often severely beaten by community members.

For example, on January 20, in Mathendele an armed mob estimated to number 70 persons attacked a woman after she had allegedly issued death threats to a 15-year-old boy.

On March 19, in Magele, a man was hospitalized after a mob attacked him because his dogs allegedly bit a child and a neighbor's goat.

On May 30, a man who was suspected of robbing three Msunduza residents was paraded naked through the town, tied to a pole, and severely beaten; he was later hospitalized for his injuries.

No action was taken, nor was any expected, against the perpetrators of 2009 and 2008 mob violence.

*Prison and Detention Center Conditions.*—Prisons and detention centers remained overcrowded, and conditions generally were poor. Prison guards abused prisoners with impunity. The Swaziland Coalition of Concerned Civic Organizations (SCCCO) reported that physical punishment of prisoners and detainees was an accepted part of the culture and not viewed as a human rights problem.

At Mawelawela, the only female detention facility, detainees were not held separately from convicts. Several children lived with their mothers in the facility. Female juveniles were also held in the women's correctional facility, although they slept in different quarters. During a bail application, a High Court judge expressed concern that at the Peak Piggs Correctional Services minors awaiting trial were sharing the same cells with adults.

The Government did not permit independent monitoring of prison conditions by local human rights groups or the media. The 2009 Correctional Services annual report indicated that during the 2008-2009 fiscal year, there was a daily average of 2,700 inmates in 12 prison centers, including 550 women and 50 juveniles. In prisons women are held separately from men, and juveniles from adults; however, there were reports that women and men were detained together in jails after arrests, due to space constraints. Juveniles attend Correctional Services Schools. A total of 1,173 inmates were referred to government hospitals due to illness, and 14 inmates died while in detention due to illness.

Overcrowding in prison cells was a problem, exposing inmates and officers to diseases and life-threatening infections such as tuberculosis, HIV/AIDS, and hepatitis. There were allegations that sexual activity, including rape, takes place in prisons, and reports that detainees suffered from a shortage of food. The type of clothing prisoners wore was not well suited for winter, and there was not enough bedding, forcing detainees to sleep on floors. Prison structures were old, dilapidated, and in need of major rehabilitation and refurbishment.

On May 4, political prisoner Sipho Jele died in police custody (see section 1.a.).

Prisoners and detainees had reasonable access to visitors. Although prisoners were allowed to present their grievances or complaints, the grievances were censored and sometimes did not reach appropriate authorities. Christian inmates were permitted religious observance. Chaplains and independent pastors from various denominations were allowed to minister, but other religious groups, although not explicitly prohibited, experienced challenges in accessing inmates. Authorities investigated allegations of inhuman conditions and documented results of such investigations, but the reports were never made public. The Government, through the minister of justice and constitutional affairs and a parliamentary portfolio committee, visited prison and detention centers during the year. Convicts had free movement in terms of performing outdoor chores and the opportunity to play different sports, but detainees were confined to the prison centers.

There were no public reports by independent monitoring groups during the year. The International Committee of the Red Cross requested to visit and monitor prisons and jails, but did not receive permission. International officials and nongovernmental organizations (NGOs) working on programs to fight HIV were permitted frequent entry to prisons and detention centers.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, police arbitrarily arrested and detained numerous persons.

For example, on February 10, a protest planned by University of Swaziland students was disrupted by police when they detained five leaders of the Swaziland National Union of Students (SNUS). After several hours, police released students in a remote area. Sicelo Vilane, a journalism student at Oxford College, was arrested for taking pictures of police detaining the SNUS leaders. After police discovered a membership card for the Swaziland Youth Congress (SWAYOCO), a banned political entity, Vilane was charged with terrorism. The charges were later dropped.

On April 12, police detained Motern Koefen, a consultant from Denmark working with the Foundation for Socioeconomic Justice, as he was on his way to a meeting with the Swaziland Chapter of the Global Democracy Campaign. Police subsequently released Koefen, who was not charged.

On May 1, police detained and arrested a number of political activists for participating in a May Day celebration, claiming they were not allowed to participate in the event hosted by the Swaziland Federation of Trade Unions (SFTU) and the Swaziland National Association of Teachers because they were not workers.

*Role of the Police and Security Apparatus.*—The king is the commander in chief, holds the position of minister of defense, and is the commander of the police and the correctional services. He presides over a civilian principal secretary of defense and a commanding general. Approximately 40 percent of the Government's workforce is allocated to security.

The Royal Swaziland Police Service (RSPS), under the authority of the prime minister, is responsible for maintaining internal security. The Umbutfo Swaziland Defense Force (USDF), which reports to the defense minister, is responsible for external security but also has domestic security responsibilities, including protecting members of the royal family. The principal secretary of defense and the army commander are responsible for day-to-day USDF operations. The RSPS and the USDF were generally professional, despite inadequate resources and bureaucratic inefficiency; however, members of both forces were susceptible to political pressure and corruption. The Government generally failed to prosecute or otherwise discipline security officers accused of abuses. No independent body had the authority to investigate police abuses. An internal RSPS complaints and discipline unit investigated reports of police abuse but did not release results of its findings to the public. Some officers attended training programs that included a human rights component outside the country. Traditional chiefs supervise volunteer rural "community police," who have the authority to arrest suspects and bring them before an inner council within the chieftdom for trial for minor offenses. For serious offenses, community police are required to apprehend suspects and transfer them to the RSPS for further investigation; however, this did not always occur and, in cases when it did, it often happened after suspects were subjected to severe beatings.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants for arrests, except when police observe a crime being committed, believe that a person is about to commit a crime, or conclude that evidence will be lost if arrest is delayed. Detainees may consult with a lawyer of their choice, but the Government pays for defense counsel only in cases in which the potential penalty is death or life imprisonment. Detainees must be charged with the violation of a statute within a reasonable time, usually within 48 hours of arrest or, in remote areas, as soon as the judicial officer appears; however, arresting authorities did not always charge detainees within that period. In general detainees were promptly informed of the charges against them; their families had access to them and were allowed to consult with lawyers of their choice. There is a functioning bail system, and suspects can request bail at their first appearance in court, except in the most serious cases such as murder and rape.

Police arbitrarily detained opposition members and demonstrators.

Lengthy pretrial detention was common. In 2007 the International Center for Prison Studies found that 31 percent of the prison population consisted of pretrial detainees. Judicial inefficiency and staff shortages contributed to the problem, as did the police practice of prolonging detention to collect evidence and prevent detainees from influencing witnesses. In some cases, persons were exonerated after years of repeated remands requested by police.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the king, on recommendation of the Judicial Services Commission, appoints the judiciary, limiting judicial independence. Judicial powers are based on two systems: Roman-Dutch law and a system of traditional courts that follows traditional law and custom. Neither the Supreme Court nor the High Court, which interprets the constitution, has jurisdiction in matters concerning the office of the king or queen mother, the regency, chieftaincies, the Swazi National Council, or the traditional regiments system. All of these institutions are governed by traditional law and custom (see section 2.a.).

Most citizens who encountered the legal system did so through the 13 traditional courts. Each has a president appointed by the king. Authorities may bring citizens to these courts for minor offenses and violations of traditional law and custom.

The Director of Public Prosecutions has the legal authority to determine which court should hear a case, and public prosecutors have delegated responsibility; however, police usually made the determination. Persons convicted in the traditional courts may appeal to the High Court. Prolonged delays during trials in the magistrate courts and High Court were common.

Military courts are not allowed to try civilians and do not provide the same rights as civil criminal courts. For example, military courts may use confessions obtained under duress as evidence and may convict defendants on the basis of hearsay.

*Trial Procedures.*—The constitution provides for the right to a fair public trial, except when exclusion of the public is necessary in the “interests of defense, public safety, public order, justice, public morality, the welfare of persons under the age of 18 years, or the protection of the private lives of the persons concerned in the proceedings.” The judiciary generally enforced this right in practice. Defendants enjoy a presumption of innocence, but juries are not used. Court-appointed counsel is provided at government expense in capital cases or if the crime is punishable by life imprisonment. Otherwise, defendants in superior and magistrate courts may hire counsel at their own expense. Defendants can question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to relevant government-held evidence, generally obtained during pretrial consultations with the Public Prosecutor’s Office. Defendants and prosecutors have the right of appeal up to the Supreme Court.

The traditional courts serve the chiefs, who are appointed by the king, and have limited civil and criminal jurisdiction. They are authorized to impose fines of up to 100 emalangi (\$13.50) and prison sentences of up to 12 months. Traditional courts are empowered to administer customary law only “insofar as it is not repugnant to natural justice or morality” or inconsistent with the provisions of any civil law in force; however, some traditional laws and practices violate civil laws and international treaties signed by the country, particularly those involving women’s and children’s rights. Defendants in traditional courts are not permitted formal legal counsel but may speak on their own behalf, call witnesses, and be assisted by informal advisors. Sentences are subject to review by traditional authorities and can be appealed to the High Court.

*Political Prisoners and Detainees.*—On May 4, political prisoner Siphon Jele died while in police custody (see section 1.a.).

In September 2009 the High Court dismissed for insufficient evidence the terrorism and sedition case against political prisoner Mario Masuku, leader of the People’s United Democratic Movement of Swaziland (PUDEMO). Masuku, who had declined bail to pressure the Government to bring his case to trial, had been detained since 2008 on terrorism and sedition charges. In 2009 the Government denied Amnesty International, the Council of Swaziland Churches, the Swaziland Federation of Trade Unions, and a group of Danish students access to Masuku. The Government allowed Masuku’s family and attorneys to visit; however, Mandla Mkwanazi, one of Masuku’s legal advisors, claimed he was forced to consult with his client over a fence and in a general visitation room without attorney-client privacy.

*Civil Judicial Procedures and Remedies.*—The judiciary, which has limited independence, tries civil as well as criminal cases, including suits for damages against government agents. Administrative remedies are available under civil service rules and regulations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions except “in the interest of defense, public safety, public order, public morality, public health, town and country planning, use of mineral resources, and development of land in the public benefit;” however, the Government did not always respect these prohibitions and broadly construed exceptions to the law. The law requires police to obtain a warrant from a magistrate before searching homes or other premises; however, police officers with the rank of subinspector or higher have the authority to conduct a search without a warrant if they believe that delay might cause evidence to be lost.

During the year the army conducted random checks for illegal immigrants, weapons, stolen vehicles, and evidence of other criminal activities through roadblocks and searches in homes. Police also entered homes and businesses without judicial authorization.

Police conducted physical surveillance of members of labor unions, political groups, religious groups, and others. For example, on September 7, police entered the offices of the Foundation for Socioeconomic Justice and reportedly insulted and intimidated the staff, including Danish nationals who were visiting the foundation, and transported them to the police station. The Swazi nationals were kept in the van for the entire day, and the visiting nationals were escorted to the airport since they were leaving the country that day.

In 2008 the Government issued an official declaration designating PUDEMO, the Swaziland Solidarity Network (SSN), SWAYOCO, and the Swaziland People’s Liberation Army (UMBANE) as “specified entities” under the 2008 Suppression of Terrorism Act. Persons who abetted, aided, sympathized with, sheltered, or provided

logistical support to these organizations were subject to arrest and prison terms of 25 years to life.

On April 7, Royal Swaziland Police who claimed to be searching for stolen cattle and groceries raided the homestead of a traditional healer in Nhlanguano without the permission of the chief.

On June 4, police entered the home of Bheki Mbilini Dlamini, the regional chairperson of the Swaziland Nurses Association, and confiscated medicine, documents, and handcuffs; at the time of the raid, the police did not provide a search warrant.

On June 23, police raided the home of Barnes Dlamini, SFTU president. The search warrant in police possession specified the removal of any bomb-making materials, but during the raid, the police confiscated political literature.

During the week of June 19, police raided the homesteads of six PUDEMO members and two SWAYOCO members. The searches were allegedly conducted due to suspicion of the members' involvement in a series of bombings that had taken place in several homes and buildings around the country. Police confiscated a variety of PUDEMO documents including placards and a copy of the group's constitution.

The Times of Swaziland Sunday newspaper reported on June 27 that Norman Xaba, a member of PUDEMO, allegedly received a threat from police stating he would die within 20 days for his affiliation with that organization.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but the king may waive these rights at his discretion, and the Government restricted these rights during the year. Although no law bans criticism of the monarchy, the prime minister and other officials warned journalists that publishing such criticism could be construed as an act of sedition or treason, and media organizations were threatened with closure for criticizing the monarchy. The law empowers the Government to ban publications if they are deemed “prejudicial or potentially prejudicial to the interests of defense, public safety, public order, public morality, or public health.” Most journalists practiced self-censorship.

The king may suspend the constitutional right to free expression at his discretion, and the Government severely restricted freedom of expression, especially regarding political issues or the royal family. For example, Justice Minister Ndumiso resigned in August amidst allegations of a romantic relationship between the minister and King Mswati III's 12th wife, Queen Nothando Dube. Despite intense local and regional interest, no Swazi media outlet reported on why the minister resigned. Individuals and their family members who criticized the monarchy risked exclusion from the traditional regiments' (chiefdom-based groupings of Swazi males dedicated to serving the king) patronage system that distributed scholarships, land, and other benefits. Traditional chiefs were obliged to punish offenders when matters were brought to their attention. During the year the prime minister warned journalists against making statements that could be interpreted as seditious.

Daily newspapers criticized government corruption and inefficiency, but generally avoided criticizing the royal family.

In December 2009 the attorney general told newspaper editors that promoting or giving support to terrorists remained a serious crime. In 2008 the attorney general warned that journalists who criticized the Government could be viewed as supporting terrorists and arrested under the Suppression of Terrorism Act (see section 2.b.).

Journalists continued to be threatened, harassed, and assaulted during the year.

For example, on February 12, during the official opening of parliament, photographers from the Times of Swaziland were harassed for taking pictures of the traditional marula brew that was kept in some offices in parliament. One of the journalists, Walter Dlamini, was detained by police and forced to delete the photographs before being able to attend the rest of the celebration.

On March 22, Swazi Observer newspaper editor Sifiso Dhlamini resigned after a Mbabane City Council board member advised him not to publish an article about former Mbabane City Council CEO Gideon Mhlongo; he later withdrew his resignation.

On September 6, a Times of Swaziland journalist was harassed and detained by police while covering a meeting organized by the Swaziland Democracy Campaign. Police confiscated his camera and briefly kept it at the Manzini police station.

On September 8, a female journalist from the Swazi Observer was harassed by paramilitary police for recording a riot scene during a workers' protest march.

During the year the Swaziland Broadcasting Information Services banned trade unions from airing announcements at radio stations unless they had permission from the police.

Defamation laws were used to restrict the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet cafes existed in cities, but most citizens lived in rural areas. An estimated 4.2 percent of inhabitants used the Internet, according to International Telecommunication Union statistics for 2008.

*Academic Freedom and Cultural Events.*—Restrictions on political gatherings and the practice of self-censorship affected academic freedom by limiting academic meetings, writings, and discussion on political topics. There were no government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government severely restricted this right during the year. The law requires police consent to hold political meetings, marches, or demonstrations in a public place. Authorities continued to withhold permission for meetings sponsored by groups such as the Congress of South African Trade Unions on grounds that they were not in the national interest or would “compromise peace, security, and stability of the country.”

For example, on January 28, police fired teargas canisters to disperse a group of students from the University of Swaziland who were marching to deliver a petition to the Ministry of Labor and Social Security regarding allowances. Four students were injured during the incident.

On February 20, police stopped the Vulamehlo Youth Brigade, a youth-led organization, from meeting at the Lutheran Development Services building, claiming the organization was illegal.

On March 20, police broke up a peaceful rally organized by the banned political entity SWAYOCO.

On April 10, police stopped approximately 50 persons from traveling to the kaShoba constituency to discuss the problem of violence by game park rangers against alleged poachers.

On April 16, police denied entrance to a meeting organized by the Swaziland Democracy Campaign for PUDEMO President Mario Masuku.

No action was taken against police who used excessive force on demonstrators or against security force members who forcibly dispersed demonstrations in 2009.

*Freedom of Association.*—The constitution provides for freedom of association, but the Government severely restricted this right during the year. The constitution does not address the formation or role of political parties, and a 2006 High Court appeal to the 1973 ban on political parties had not been heard by year’s end. However, in a 2008 affidavit, the former prime minister reiterated that political parties were banned, and in 2008 Prime Minister Dlamini issued an official declaration designating PUDEMO, SWAYOCO, the SSN, and UMBANE as “specified entities” under the Suppression of Terrorism Act. The act, which was first used following the 2008 detonation of a bomb near one of King Mswati’s palaces, provides that persons or groups found associating with any of the four illegal groups can be sentenced to prison terms of 25 years to life. According to the attorney general, persons or groups that abet, aid, sympathize with, shelter, or provide logistical support to these organizations invite the “wrath of the law.”

The Government harassed and detained opposition members and conducted surveillance on members of labor unions, political groups, and groups considered potentially political (see sections 1.f. and 3).

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State’s 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. It also states that provisions of law and custom, which impose restrictions on the freedom of any person to reside in the country, shall not contravene the freedom granted by the constitution.

By traditional law and custom, chiefs have power to decide who lives in the chiefdom, and evictions due to internal conflicts, alleged criminal activity, or opposition to the chief occurred.

Nonethnic Swazis sometimes experienced lengthy processing delays when seeking passports and citizenship documents, in part due to the country’s history when mixed race and white persons were not considered legitimate citizens.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—Laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and minimal assistance to refugees and asylum seekers.

The Government accepted refugees for permanent resettlement, allowed them to compete for jobs, and granted them work permits and temporary residence permits without discrimination. The Government also provided refugees with free transportation twice a week to buy food in local markets and to earn a living. Refugees who lived in the country more than five years qualified for citizenship; however, most refugees waited longer to apply, sometimes more than 10 years, due to lack of information regarding their immigration status.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens could not change their government peacefully, and political parties remained banned. In August King Mswati III publicly reiterated his stance that the issue of political parties was previously discussed and concluded at the cattle byre, a setting like a traditional parliament or discussion forum where national issues are deliberated, and that the matter was closed. The king retains ultimate executive and legislative authority; parliament has limited authority. Legislation passed by parliament requires the king's consent to become law. Under the constitution, the king selects the prime minister, the cabinet, two thirds of the senate, 10 of 65 members of the house, many senior civil servants, the chief justice and other justices of the superior courts, members of commissions established by the constitution, and the heads of government offices. On the advice of the prime minister, the king appoints the cabinet from among members of parliament. The constitution states that the king is required to consult with others (usually a traditional council) before exercising a major decision; however, he is not required to accept their advice.

Following the 2008 detonation of a bomb near the king's residence, Prime Minister Dlamini issued a declaration designating PUDEMO, SWAYOCO, the SSN, and UMBANE as "specified entities" under the Suppression of Terrorism Act (see section 2.b.). Persons found associating with any of the organizations faced prison terms of 25 years to life.

*Elections and Political Participation.*—In September 2008 parliamentary elections were held, the first since the constitution went into effect in 2006; the king appointed a government in October 2008. International observers concluded that the elections did not meet international standards. Banned political parties were not allowed to register or sponsor candidates of their choice. Ballots were cast in secrecy but could be traced by registration number to voters; some ballot boxes were not properly protected. Accusations of bribery were reported. There were widespread reports that citizens were advised if they did not register to vote, they would no longer receive government services.

In 2009 the High Court ruled that the SCCCO did not have legal standing to sue the Electoral and Boundaries Commission (EBC), which draws district boundaries, commissions civic education and voter registration programs, and publishes post-election reports. In 2008 the SCCCO sued the EBC on the grounds that its five members—all of whom were chosen by the king—did not meet the constitutional requirements for independence, diversity, and relevant qualifications.

When the constitution took effect, the 1973 decree that banned political parties lapsed; the constitution provides for freedom of association but does not address how political parties can operate, including how they can contest elections. In 2006 the minister of justice and constitutional affairs stated that political organizations could hold meetings at "tinkhundla" (local government) centers if they obtained permission from the regional administrator and allowed a police officer to attend the meeting. However, political and civic organizations reported problems with traditional authorities when they requested permission to meet.

The constitution also states that candidates for public office must compete on their individual merit, thereby blocking competition based on political party affiliation.

The Government harassed and arrested opposition members and raided the offices of opposition groups.

In the early hours of June 17, police, armed with a warrant, searched the home of civil rights activist Musa Hlophe, coordinator of the SCCCO, in search of bombs.

On September 6, police dispersed a meeting of political and labor activists organized by the Swaziland Democracy Campaign, and Swazi unions and opposition

leaders reported that police searched their offices and harassed members who participated in the demonstration.

In August Sibusiso Mhlanga, a member of the banned political party PUDEMO's youth wing, SWAYOCO, was arrested, interrogated, and his house searched after he was apprehended making copies of an article from a South African newspaper detailing the arrest and resignation of a former justice minister. He was later charged with violating copyright law. His case was pending at year's end.

On May 1, Jan Sithole, former SFTU secretary general, and Musa Hlophe were detained for approximately 30 minutes at the South African control office at the OR Tambo Airport because South African authorities claimed the Swazi government had issued a security alert on the passports.

Participation in the traditional sphere of governance and politics is predominantly done through chiefdoms. Chiefs are custodians of traditional law and custom, report directly to the king, and are responsible for the day-to-day running of their chiefdoms and maintaining law and order. Local custom mandates that chieftaincy is hereditary. However, the constitution, while recognizing that chieftaincy is "usually hereditary and is regulated by Swazi law and custom," also states that the king "can appoint any person to be chief over any area." As a result, many chieftaincies were nonhereditary appointments, which provoked land disputes, especially at the time of burials.

The constitution provides that 55 of the 65 seats in the House of Assembly be popularly contested and that the king appoint the remaining 10 members. Five of the 10 must be women, and the other five must represent "interests, including marginalized groups not already adequately represented in the house." In 2008 the king appointed two women to the House of Assembly, instead of the required five, a constitutional violation that was not rectified during the year. The constitution also provides for an additional woman from each of the four regions if women do not constitute a third of the total members, nominated by the elected house members from each region, but the house had not nominated these members by year's end. In December 2009 EBC Chairman Chief Gija Dlamini stated there was no space in parliament to seat female regional members and the constitutional requirement could not be fulfilled until parliament was physically expanded.

The king appoints 20 members of the 30-seat Senate, and the House of Assembly elects the other 10. The constitution provides that at least eight of the king's nominees and five of the House of Assembly's nominees to the Senate be women. While house members elected the required five female members, the king appointed only seven female senators. The king had not rectified this constitutional violation by year's end. Women held 20 percent, rather than the mandatory 30 percent, of parliamentary seats. The king appointed five women as cabinet ministers out of 20 ministerial positions.

Widows in mourning (for periods that can vary from one to three years) were prevented from appearing in certain public places or in close proximity to the king. As a result, widows were effectively excluded from voting or running for office during those periods.

There were almost no ethnic minorities in the Government. The constitution provides that other appointees should represent "interests, including marginalized groups not already adequately represented in the House." However, most officials were from the royal Dlamini family or connected with royalty.

#### *Section 4. Official Corruption and Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread public perception of corruption in the executive and legislative branches of government and a general consensus that the Government was doing little to combat it. The Coordinating Assembly for Nongovernmental Organizations estimated that 45 million emalangeni (six million dollars) in potential government revenue is lost each month due to corruption. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a serious problem.

Both RSPF and USDF personnel were susceptible to political pressure and corruption. The Anticorruption Commission (ACC), funded by the Ministry of Justice, has the power to investigate cases, gather evidence, and arrest individuals for failure to respond to ACC requests. During the year it recorded 148 complaints of corruption. Eighty-nine cases were authorized for investigation, and 27 were referred to other law enforcement agencies; five cases are currently in court and four are with the Director of Public Prosecutions awaiting commencement of prosecution; however, no ACC case had resulted in conviction by year's end. ACC commissioner H.M. Mtegha, a retired judge from Malawi, attributed the commission's ineffectiveness to

lack of resources and training, inadequate staff, a shortage of judges, and the general backlog of cases in the court system.

Principals and teachers routinely demanded bribes to admit students.

Credible reports continued that business contracts, government appointments, military recruitment, and school admissions were awarded on the basis of the owners' relationship with government officials. Authorities rarely took action when incidents of nepotism were reported.

For example, on May 25, the general manager and the senior mechanical engineer of the Central Transport Administration, Polycarp Dlamini and Mpumelelo Mamba, were arrested along with Sandile Dlamini, the manager of Protronics Networking Corporation, and Industrial Court judge Sifiso Nsibande, on charges of money laundering since 2005. The four men were released on a 50,000 emalangenzi (\$6,760) bail, and the cases had not progressed in the courts by year's end.

On June 2, police arrested Qhawe Mamba, the owner of television station Channel Swazi, for his alleged involvement in a pyramid scheme in 2008. His case was still pending in court at year's end.

The constitution prohibits government officials from assuming positions in which their personal interest is likely to conflict with their official duties. These officials are required to declare their assets and liabilities to the Integrity Commission within six months of its establishment. In December 2009 the prime minister and members of his cabinet declared their assets to the commission, and other high-ranking officials declared their assets by March 11. The commission has not made these reports public, and it is unclear whether it is required to do so.

There is no law permitting public access to government documents, and public documents were difficult to access.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, government officials were rarely responsive to their views. Among active groups were the Swaziland Action Group Against Abuse, Lawyers for Human Rights of Swaziland, Women and Law in Southern Africa, the Council of Swaziland Churches, and the Roman Catholic Church. Human rights groups spoke out on a number of occasions, criticizing the lack of accountability and transparency in the Government.

The constitution provides for the independence of human rights NGOs; however, this provision falls within the "policy" section, which cannot be enforced in any court or tribunal.

In June 2009 police arrested on sedition charges Thulani Maseko, the coordinator for the local NGO Human Rights Swaziland and one of the lawyers for political prisoner Mario Masuku. During 2009 May 1 celebrations, Maseko reportedly expressed support for the two "freedom fighters" who died in 2008 when a bomb in their car prematurely detonated under the Lozitha Bridge near the royal palace. Authorities later released Maseko on bail, and his case remained pending at year's end.

In September 2009 the Government established the Commission on Human Rights and Public Administration; the commission is precluded from investigating any matter "relating to the exercise of any royal prerogative by the Crown."

The Government generally cooperated with international organizations and permitted visits by UN representatives. In February Michel Sidibe, Executive Director of UNAIDS, visited the country.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, sex, disability, age, ethnicity, religion, political opinion, or social status; however, the Government did not consistently enforce the law.

*Women.*—The law criminalizes rape, including spousal rape; however, rape was common, and the Government did not always enforce the law effectively. According to the 2009 RSPS Annual Report, 624 rape cases were reported in 2009. Many men regarded rape as a minor offense, despite it being against the law. A sense of shame and helplessness often inhibited women from reporting such crimes, particularly when incest was involved. The maximum sentence for aggravated rape is 15 years; however, the acquittal rate for rape was high, and sentences were generally lenient.

Domestic violence against women, particularly wife beating, was common and sometimes resulted in death. Domestic violence is illegal; however, police efforts to combat the crime were inadequate. According to a survey conducted in 2008 by the Government's Central Statistics Office, 60 percent of men believed it was acceptable to beat their wives, and 18 percent of females between 13 and 44 years old had con-

templated suicide, primarily as a result of domestic violence. The special police units established in 2008 for domestic violence, child abuse, and sexual abuse reported an increase in cases received during the year, compared with cases reported to the police previously.

Women have the right to charge their husbands with assault under both the Roman-Dutch and traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Penalties for men found guilty of assault not involving rape against a woman depended on the court's discretion. Rural women often had no relief if family intervention did not succeed, because traditional courts were unsympathetic to "unruly" or "disobedient" women and were less likely than modern courts to convict men of spousal abuse. The Roman-Dutch legal system often gave light sentences in cases of abuse against women. The NGO Swaziland Action Group Against Abuse has hotlines and shelters to assist victims of abuse.

Legal provisions against sexual harassment were vague, and government enforcement was ineffective; no cases have been brought to court. There were frequent reports of sexual harassment, most often of female students by teachers. Numerous teachers and some principals were fired during the year for inappropriate sexual conduct with students, who were threatened with poor grades if they did not provide sexual favors to teachers. There were 161 such teacher-pupil cases investigated during the year; 10 involved principals of schools.

The Government upheld the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was wide access to contraception, including at public restrooms, clinics, and workplaces throughout the country. Women were equally diagnosed and treated for sexually transmitted infections, including HIV. Skilled attendance during childbirth, including essential obstetric and postpartum care, was limited in rural areas. The 2009 UNFPA State of the World Population Report indicated that the country's maternal mortality ratio is 390 per 100,000 live births; the proportion of maternal deaths due to HIV is 75 percent.

Women occupy a subordinate role in society. The dualistic nature of the legal system complicates the issue of women's rights. Since unwritten law and custom govern traditional marriage and matters of inheritance and family law, women's rights often are unclear and change according to where and by whom they were interpreted. Couples often marry in both civil and traditional ceremonies, creating problems in determining which set of rules apply to the marriage and to subsequent questions of child custody, property, and inheritance in the event of divorce or death.

The constitution provides that women can open bank accounts, obtain passports, and take jobs without the permission of a male relative; however, these constitutional rights often conflict with customary law, which classifies women as minors. Women routinely executed contracts and entered into a variety of transactions in their own names; however, banks still refused personal loans to women without a male guarantor. The constitution provides for equal access to land; however, customary law forbids women from registering property in their own names. The law requires equal pay for equal work; however, the average wage rates for men by skill category usually exceeded those of women. Several existing acts reportedly require amendments to bring them into line with the constitution, including the Marriage Act, the Administration of Estates Act, and the Deeds Registry Act.

On February 23, the Swazi High Court overturned section 16(3) of the Deeds Registry Act, which prohibited women from registering property in their own names. On May 28, the Supreme Court upheld the High Court's ruling that the law was unconstitutional and stated that parliament needed to enact appropriate legislation within 12 months. Pending such legislation, the Supreme Court ruled that women should continue to register property jointly with their husbands.

In traditional marriages, a man may take more than one wife. A man who marries a woman under civil law may not legally have more than one wife, although in practice this restriction was sometimes ignored. Traditional marriages consider children to belong to the father and his family if the couple divorces. Children born out of wedlock are viewed as belonging to the mother, unless the father claims the children. Inheritances are passed to and through male children only. Traditional authorities still exercise the right to fine women for wearing pants.

The constitution states that "a woman shall not be compelled to undergo or uphold any custom to which she is in conscience opposed;" however, adherents of traditional family practices may treat a woman as an outcast if she refuses to undergo the mourning rite, and a widow who does not participate may lose her home and inheritance. When the husband dies, his widow must remain in strict mourning for

one month, during which time she cannot leave the house, and the husband's family can move into the homestead and take control of its operations. In some cases, the mourning period can last for years. During the year the media reported that widows and children heading households sometimes became homeless as a result of the custom and were forced to seek public assistance, a development exacerbated by the country's high rate of HIV/AIDS. The 2006-07 Demographic and Health Survey found that 6 percent of girls and women between 15 and 49 years of age were widows, half of whom had been dispossessed of property.

During the 2008 national elections in Nhlanguano, election officials refused to allow widows in mourning to register to vote.

*Children.*—Under the constitution, children derive citizenship from the father, unless the birth occurred outside marriage and the father does not claim the child, in which case the baby acquires the mother's citizenship. A foreign woman who marries a citizen can become a citizen by lodging a declaration with the proper authorities. If a Swazi woman marries a foreign man, however, even if he has become a naturalized citizen, their children are assumed to carry the father's birth citizenship. Birth registration is not automatic, and lack of birth registration can result in denial of public services.

Government efforts to protect children's rights and welfare were inadequate, due in part to the growing number of orphans and vulnerable children (OVC), which made up an estimated 10 percent of the population.

Despite a constitutional mandate that children be provided free primary education by 2009, the Government had not completely complied. The Government claimed it could not afford to enact free primary education immediately; however, after a 2009 lawsuit brought by the Ex-Miners' Association to obtain free primary education on behalf of the country's children, the Government began to implement the mandate gradually. During the year the Government provided tuition, fees, and books for first and second grade students. The Deputy Prime Minister's Office received an annual budget allocation to pay school fees for OVCs in primary and secondary school; however, some schools continued to complain of delayed payment and expelled OVCs for nonpayment of fees. Individual schools sometimes needed to raise supplemental money for building maintenance, including of teachers' housing. Rural families favored boys over girls if they could not send all their children to school. Principals and teachers routinely demanded bribes to admit students.

Child abuse, including rape of children and incest, was a serious problem, but the crime was rarely reported, the Government seldom punished perpetrators of abuse, and penalties seldom matched the crime. Many children became HIV positive as a result of rape. A study released by the UN Children's Fund in 2008 that focused on girls between the ages of 13 and 24 found that one out of three girls and young women in the country suffered some form of sexual abuse as a child, and that one in four experienced physical violence; approximately three in 10 had survived emotional abuse. Most sexual assaults of girls occurred at home, and fewer than half of sexual assaults were reported. Children with disabilities, children out of school, and orphans were at particular risk. Punishment for child abuse was minimal, and even perpetrators of abuse that resulted in death were generally fined no more than 200 emalangi (\$27).

Corporal punishment by teachers and principals is legal and routinely practiced. School regulations state a teacher can administer a maximum of four strokes with a stick on the buttocks to a student younger than 16 years old, and six strokes to students older than 16 years old; however, teachers often exceeded these limits with impunity.

On February 18, a teacher whipped a primary school student for talking in class. Police did not arrest the teacher.

On April 6, in Ezulwini, a high school teacher whipped five pupils on their buttocks and hands for failing a Siswati test. The number of lashes was determined by how poorly they did on the exam; one of the students received 39 lashes.

On April 17, police arrested the teacher who beat a girl for not spreading her legs fully during physical education exercises last year. The teacher was arrested and granted bail, but the Teaching Service Commission subsequently suspended him from teaching.

In March 2009 the Swazi Observer reported that a nine-year-old pupil of Kuhlankeni Primary School died as a result of a severe beating administered by a teacher. A commission of inquiry was established to investigate the case; however, no action had been taken against the teacher by year's end.

The legal age of marriage is 18 years old for both men and women. However, with parental consent and approval from the minister of justice, girls can marry at the age of 16. The Government recognizes two types of marriage: civil marriage and marriage under traditional law and custom. Traditional marriages can be with girls

as young as 14 years old. Critics of the royal family said the king's many wives and young fiancées, some of whom were 16 years old, set a poor example in a country with an HIV/AIDS prevalence of 26 percent among persons between 15 and 49 years of age.

In 2009 there were reports of forced marriages involving underage girls. For example, on January 2, a 16-year-old pupil from Ekuvinjelweni was taken to a homestead, where she was married by force under traditional rites.

Minors were reportedly victims of prostitution and trafficking. Children are victims of commercial sexual exploitation at truck stops, bars, and brothels.

There were reports that girls, particularly OVCs, worked as prostitutes. There is no law that specifically prohibits child prostitution. Penalties for child pornography are six months' imprisonment and a fine of 100 emalangeni (\$13.50). The law sets the age of sexual consent at 16 years old and prohibits the sexual exploitation of children less than 16 years of age, which is considered statutory rape. The penalty for statutory rape is six years' imprisonment and a fine of 1,000 emalangeni (\$135).

During the year the number of street children in Mbabane and Manzini continued to grow. A large and increasing number of HIV/AIDS orphans were cared for by relatives or neighbors, or they struggled to survive in child-headed households. Some lost their property to adult relatives. Various governmental, international, and religious organizations, and NGOs provided some assistance to HIV/AIDS orphans.

With more than 10 percent of households headed by children, UNICEF supported school feeding programs, operated a number of neighborhood care points, and provided nutritional support to children weakened by AIDS.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/country/country--3781.html>.

*Anti-Semitism.*—The Jewish community constituted less than 1 percent of the population, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution provides protection for persons with disabilities, but does not differentiate between physical and mental disabilities and requires parliament to enact relevant implementing legislation. The deputy prime minister is responsible for upholding the law. However, parliament had not passed laws to prohibit discrimination against persons with disabilities in employment or to provide access to health care or other state services by year's end. Persons with disabilities have complained of government neglect. There are no laws that mandate accessibility for persons with disabilities to buildings, transportation, or government services, although government buildings under construction included some improvements for those with disabilities, including access ramps. Public transport was not user friendly to disabled persons, and the Government does not provide any means of alternative accessible transport.

The Deputy Prime Minister's Office and its Social Welfare section are responsible for protecting the rights of persons with disabilities.

In 2008 a visually impaired man was appointed as a senator, marking the first time a person with disabilities served in parliament. In August the Government purchased computer equipment, which included a text scanner, Braille printer, control panel unit tower, keyboard, and speakers to assist the senator to perform his parliamentary duties.

There is one school for the deaf and one special education alternative school for children with physical or mental disabilities. Only 25 percent of adults with disabilities were employed, mostly in the private sector, according to a 2006 study conducted by the Ministry of Health and Social Welfare. In 2006 the minister for enterprise and employment found that of 10,600 visually impaired persons in the country, only three were employed. Despite the former minister's 2006 pledge to introduce a bill compelling employers to create specific jobs for the visually impaired, no bill had been introduced by year's end. The hospital for persons with mental disabilities, located in Manzini, was overcrowded and understaffed.

*National/Racial/Ethnic Minorities.*—The constitution forbids discrimination on the grounds of race, color, ethnic origin, tribe, or birth; however, governmental and societal discrimination was practiced against non-ethnic Swazis, generally white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population was non-ethnic Swazi. Non-ethnic Swazis experienced difficulty in obtaining official documents, including passports, and suffered from other forms of governmental and societal discrimination, such as needing spe-

cial permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Societal discrimination against the LGBT community was prevalent, and LGBT persons generally concealed their sexual preferences. Colonial-era legislation against sodomy remains on the books; however, it has not been used to arrest homosexual persons. Gays and lesbians who were open about their sexual orientation and relationships faced censure and exclusion from the chieftdom-based patronage system, which could result in eviction from one's home. Chiefs, pastors, and members of government criticized homosexual conduct as neither Swazi nor Christian. Some gay and lesbian Swazis told the UNAIDS executive director they were often turned away at HIV testing clinics because of their sexual orientation. Societal discrimination exists against gays and lesbians; however, there were no reported legal cases during the year. It is difficult to know the extent of employment discrimination based on sexual orientation because victims are not likely to come forward, and most gays and lesbians are not open about their sexual orientation.

*Other Societal Violence or Discrimination.*—There was social stigma associated with being HIV positive, which discouraged persons from being tested. Nevertheless, there were often long lines of persons, especially of young persons, waiting to be tested during prevention campaigns. The armed forces encouraged testing and did not discriminate against those testing positive.

Examples of discrimination during the year included the case of a cook at Lavumisa Primary School who, on January 26, was fired after superiors found she was HIV-positive.

On February 11, an eight-year-old girl was dismissed from class by her teacher, who alleged she was HIV-positive.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provide that workers have the right to form and join associations of their choice, including trade unions, without previous authorization or excessive requirements, and workers exercised this right in practice with some exceptions. Employees in essential services, which included police and security forces, correctional services, firefighting, health, and many civil service positions, may not form unions. Unions must represent at least 50 percent of employees in a work place to be automatically recognized; otherwise, recognition is left to the discretion of employers. Approximately 80 percent of the formal private sector was unionized. The law allows unions to conduct their activities without government interference.

The law permits strikes; however, logistical requirements to register a legal strike makes striking difficult in practice. Employees who are not engaged in essential services are allowed to participate in peaceful protest action to promote their socio-economic interests.

The procedure for announcing a protest action requires advance notice of at least 14 days. The law details the steps to be followed when disputes arise and provides penalties for employers who conduct unauthorized lockouts. When disputes arose with civil servant unions, the Government often intervened to reduce the chances of a protest action, which may not be called legally until all avenues of negotiation have been exhausted and a secret ballot of union members has been conducted. Police restricted protest actions and searched union headquarters and personal residences of union members for banned materials.

On September 6, police dispersed a meeting of political and labor activists, detaining and later releasing members of civil society, banned political groups, labor unions from Swaziland and South Africa, and a local journalist. Among those held by police were Secretary General of the Swaziland Federation of Labor, Vincent Ncongwane; Swaziland Youth Congress President, Wandile Dludlu; Deputy President of UDEMO, Sikhumbuzo Phakathi; General Secretary of the Swaziland National Association of Nurses, Sibusiso Lushaba; head of the SCCCO, Musa Hlophe; and Open Society Initiative for Southern Africa Country Manager Muzi Masuku. Police detained five South African trade unionists, including Congress of South African Trade Unions (COSATU) Deputy International Relations Secretary Zanele Mathebula, and its Head of Campaigns, George Mahlangu, and expelled them across the South African border.

*b. The Right to Organize and Bargain Collectively.*—The constitution and law provide for the right to organize and bargain collectively, and the Government generally respected this right in practice. However, employer interference with representatives of workers' councils trying to negotiate rules and conditions of work

contributed to the failure of some trade unions to negotiate or promote collective bargaining agreements.

The law prohibits antiunion discrimination; however, such discrimination continued to occur. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders made credible charges that private sector management in various industries dismissed workers for union activity, but no cases were pursued through the courts. Other concerns identified by unions were undefined hours of work and pay days; assaults on workers by supervisors; surveillance by hired security officers of trade union activity, both at the workplace and outside; and the use of workers' councils stacked with employer-picked representatives to prevent genuine worker representation. Allegations of antiunion discrimination were most common in the mostly foreign-owned garment sector.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor; however, there were reports that such practices occurred. The Swaziland Federation of Trade Unions characterized the 1998 Administrative Order as a form of forced labor, noting that it reinforced the tradition of residents performing uncompensated tasks for chiefs, who could penalize those who did not participate. Victims of forced labor included women and children forced into domestic servitude, agricultural labor, and market vending. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The constitution and the Employment Act prohibit child labor; however, such laws were not always enforced, especially outside the formal work sector, and child labor was a problem. The law prohibits hiring a child younger than 15 years old in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children worked under supervision. However, children joined the workforce early to survive or support their families. The law limits the number of night hours children may work on school days to six and the overall hours per week to 33.

Employment of children in the formal sector was not common, but children were found doing unpaid labor and often exposed to harsh conditions of work. In rural areas, children below the minimum age frequently worked in the agricultural sector, particularly in the eastern cotton-growing region, and as domestic laborers and herder boys. Children reportedly worked in towns as traders, hawkers, porters, car wash attendants, and bus attendants.

In agriculture children pick cotton, harvest sugarcane, and herd livestock. This work may involve activities that put at risk their health and safety, such as using dangerous machinery and tools, carrying heavy loads, applying harmful pesticides, and working alone in remote areas.

Child domestic service is also believed to be prevalent. Such work can involve long hours of work and may expose children to physical and sexual exploitation by their employer.

Children also work as porters, bus attendants, taxi conductors, and street vendors. Children working on the streets risk a variety of dangers, such as severe weather and automobile accidents; they also may be vulnerable to exploitation by criminals. Other children are reported to work 14-hour days in textile factories.

Children's exploitation in illicit activities is a problem. Children serve alcohol in liquor outlets and grow, manufacture, and sell drugs. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The Ministry of Labor and Social Security was responsible for enforcement, but no officials were specifically designated to deal with child labor, and the ministry's effectiveness was limited. The Ministry of Enterprise and Employment, the Department of Social Welfare under the Deputy Prime Minister's Office, and the police services are the federal agencies designated to enforce child labor laws. The Government supports programs to promote access to schooling. Free primary schooling is offered in grades one and two. Through the Office of the Deputy Prime Minister, the Government pays school fees for orphans and vulnerable children to provide additional social support and keep these children from engaging in child labor.

*e. Acceptable Conditions of Work.*—The Ministry of Labor and Social Security sets wage scales for each industry. There was a legally mandated sliding scale of minimum wages depending on the type of work performed. The minimum monthly wage for a domestic worker was approximately 300 emalangeni (\$40), for an unskilled worker 420 emalangeni (\$57), and for a skilled worker 600 emalangeni (\$81). In July the Government agreed to a 4.5 percent civil service pay increase across the board, which was backdated to April. These minimum wages did not provide a de-

cent standard of living for a worker and family. Migrant workers were not covered under minimum wage laws. Wage arrears, particularly in the garment industry, were a problem. The minimum wage laws did not apply to the informal sector, where most workers were employed.

There was a standard 48-hour workweek for most workers and a 72-hour workweek for security guards; however, public transport workers complained that they were required to work 12 hours a day or more without any overtime compensation. It was not clear whether there were specific exceptions for female workers. Although policies exist regarding maternity leave, women often believe they are compelled to keep working from economic need, which sometimes resulted in giving birth in unsafe environments, for example, on the way to work. The law permits all workers at least one day of rest per week and provides for premium pay for overtime. Most workers received a minimum of 12 days of annual leave. Workers receive 14 days of sick leave with full pay and 14 days with half pay after three months of continuous service; these provisions apply only once per calendar year. No sick leave is granted if an injury results from an employee's own negligence or misconduct. These standards do not apply to foreign and migrant workers. The labor commissioner conducted inspections in the formal sector, and the ministry filed suits for labor violations against three companies by year's end.

The constitution calls on parliament to enact new laws to protect a worker's right to satisfactory, safe, and healthy employment conditions; however, parliament had not enacted any such laws by year's end. The law provides for some protection of workers' health and safety. The Government set safety standards for industrial operations and encouraged private companies to develop accident prevention programs; however, the Labor Commissioner's Office conducted few safety inspections because of staffing shortages and an alleged desire not to "scare off foreign investors." Workers have no legal right to remove themselves from dangerous workplaces without jeopardizing their continued employment, and collective bargaining agreements do not address the matter.

There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal, and these provisions frequently were invoked during the year.

---

## TANZANIA

The United Republic of Tanzania, with a population of 41 million, is a multiparty republic consisting of the mainland and the semiautonomous Zanzibar archipelago, whose main islands are Unguja and Pemba. The union is headed by a president who is also the head of government; its unicameral legislative body is the National Assembly (parliament). Zanzibar, although part of the union government, has its own president, court system, and legislature, and exercises considerable autonomy. Tanzania held its fourth multiparty general elections on October 31, in which voters on both Tanzania mainland and Zanzibar elected a union president and their respective representatives in the union legislature. President Kikwete, the incumbent Chama cha Mapinduzi (CCM) candidate, was reelected union president with 61.7 percent of the vote. The national elections were generally peaceful, but there were several protests in urban areas associated with the slow pace of reporting election results.

In Zanzibar the October elections proceeded peacefully after a power-sharing agreement was reached between the ruling CCM party and the opposition Civic United Front (CUF). In a July 31 referendum, Zanzibaris voted to amend the constitution to allow for a unity government. In October the Zanzibar electorate elected Ali Mohamed Shein, the immediate past union vice president, as president of Zanzibar with 50.1 percent of the vote and also elected members of its House of Representatives.

Union security forces reported to civilian authorities, but there were instances in which elements of the security forces acted independently of civilian control. In Zanzibar, however, authorities maintain "special units" that operated independently from union security forces and have been used for political coercion. Command and control of these units are opaque but influenced by the ruling party in Zanzibar. Since the October 31 elections that produced a government of national unity, the Government of Zanzibar was reviewing the role of these "special units."

Principal human rights problems in both Tanzania and Zanzibar included the following: use of excessive force by military personnel, police, and prison guards, as well as societal violence, which resulted in deaths and injuries; abuses by Sungusungu traditional citizens' anticrime units; harsh and life-threatening prison conditions; lengthy pretrial detention; judicial corruption and inefficiency, particu-

larly in the lower courts; restrictions on freedoms of press and assembly; restrictions on the movement of refugees; official corruption and impunity; societal violence against women and persons with albinism; child abuse, including female genital mutilation (FGM); and discrimination based on sexual orientation. Trafficking in persons and child labor remained problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Neither the Government nor its agents committed any politically motivated killings; however, on occasion security forces killed civilians during the year.

In late January regional police arrested several policemen and civilians for taking part in an armed robbery on Izinga Island in Ukerewe District, Mwanza Region, which resulted in 14 deaths and serious injuries to 17 others. No further information was available at year's end.

On January 27, two Tanzania People's Defense Forces (TPDF) soldiers, Corporal Ally Ngumbe and Sergeant Roda Robert, were arraigned in a Dar es Salaam court for killing Swetu Fundikira after an argument involving a defective vehicle. No further information was available at year's end.

In March Musa Juma died in police custody. Relatives of the deceased said the body had bullet-like wounds on the lower legs and lacerations on the genitals and back. The special zone commander said the police would conduct an investigation. No further information was available at year's end.

In April the Legal and Human Rights Center (LHRC) reported that Arusha police questioned three police officers and employees of the Tanzania National Parks Authority for killing Ndekirwa Palangyo and injuring two others, whom they suspected of poaching in the Mkwasenga village of King'ori, Arusha Region. No further information was available at year's end.

In June the Shinyanga regional police detained Corporal Gidman Kanyinuzi of the Negezi police post in Kishapu District for killing a man he mistook for an armed robber. No further information was available at year's end.

In August the Tanga resident magistrate charged two TPDF soldiers, Sergeant Masanja Matala and Corporal Yahya Omari, with the assault and murder of Hilal Ali and Mzong Abdallah, who were suspected of fishing illegally with dynamite. An investigation continued at year's end.

There were no further developments in the 2009 death of Rashidi Tuga, allegedly tortured and killed by the police.

Despite efforts by the Government and nongovernmental organizations (NGOs) to reduce mob violence through educational outreach and community policing, a number of deaths resulted from mobs stoning, beating, hacking with machetes, and burning suspected criminals.

On July 15, according to Lindi Regional Police Commander Sifuel Shirima, residents of Ntene, Lindi Region, killed Siajabu Pius Bernard for stealing maize from a neighbor. No further information was available at year's end.

On August 24, a mob killed Kastoli Mkamula, a youth, because they suspected he broke into a house at Lipangalala village in Morogoro Region. No further information was available at year's end.

There were no further developments in the following 2009 mob killings: the January death of Musa Juma in Arusha Region, and the April beating death of Robhi Getaraswa in Tarime.

Alleged witches were killed by persons claiming to be victims of witchcraft, relatives of victims, or mobs. Prosecutions were often impeded by the reluctance of witnesses to testify.

Alipipi Makatole, a local government councilor in Buriaga ward, Tukuyu District, estimated that between January and April, unidentified persons killed six children due to a belief that raping and killing children under age five would bring wealth to the perpetrators. Local authorities and religious leaders held a meeting with residents to condemn the killings and educate the public about witchcraft.

On April 18, residents of Mafulala village, Rukwa Region, burned and killed Maria Jorah Salamba for allegedly using witchcraft to kill several children in the village.

There were no further developments in the following 2009 killings of persons allegedly using witchcraft: the March killings of a 70-year-old man and the beating of nine others in Sumbawanga District and the killing of 60 elderly individuals in Mwanza for suspected witchcraft.

Violence continued against persons with albinism in the belief that their body parts could create power and wealth. Frequently the victims were children, whose

bodies were found with limbs severed (see section 6, Children). During the year this practice spread from the Lake Zone, where the attacks were concentrated, to other regions, although police efforts resulted in fewer such attacks than in previous years. Two children with albinism were killed and four injured during the year. There have been approximately 57 killings of persons with albinism since 2007.

By year's end the courts had sentenced a total of 10 persons to death for the killings of persons with albinism.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices. Soldiers, police officers, and prison guards abused, threatened, and otherwise mistreated civilians, suspected criminals, and prisoners on several occasions during the year. The abuse most commonly involved beatings.

Local government officials and courts occasionally used caning as a punishment for both juvenile and adult offenders. Caning was also used in schools to punish students.

On March 30, the Kisutu Magistrate's Court in Dar es Salaam sentenced Justin Kasusura to 30 years in prison and 12 strokes of the cane for armed robbery and theft.

On April 10, two men attacked Said Abdallah and severed his left arm in Merela village, Morogoro Region. Police arrested four persons in connection with the incident and placed them in remand prison. At year's end a police investigation continued.

On July 9, a magistrate at the Ilala District Court sentenced a 17-year-old boy to six strokes of the cane for sodomizing a 15-year-old boy.

On August 18, a magistrate in Mwanza sentenced a Kenyan man, Nathan Mutei, to 17 years in prison for trafficking Robinson Mkwama, a Kenyan man with albinism, into Tanzania with the intention of selling him.

In February 2009 a district commissioner in Bukoba ordered police to cane 19 school teachers for tardiness and the poor performance of the students on the national exams. Seven female and 12 male teachers were caned in front of a group of students. On February 14, President Kikwete dismissed the district commissioner. The teachers filed a civil suit against the district commissioner for 300 million Tanzanian shillings (TZS) (\$203,000). The case continued at year's end.

During the year mobs turned on police, whom they accused of failing to administer justice effectively. The LHRC reported that between January 2009 and June 2010, angry mobs attacked eight police stations. Police began an awareness campaign during the year to inform citizens about the legal rights of suspects.

On January 8, approximately 500 residents of Ilangasika village, Geita Region, burned the village office as well as the homes of the village chairman and his deputy, who prevented a mob from hanging a suspected thief. Antiriot police intervened and prevented the mob from destroying additional property. No further information was available at year's end.

On May 31, approximately 300 villagers invaded the Hedaru Police Station in Same District, Kilimanjaro Region, to punish eight persons suspected of kidnapping a child for ritual sacrifice. The villagers set the police post on fire and destroyed files, equipment, and three vehicles parked nearby. Police protected the suspects from the mob. The suspects were released when the child was found. However, five persons were arrested for setting the police station on fire. The case was pending at year's end.

During the year police and the TPDF took unspecified disciplinary action against the soldiers involved in the May 2009 assault of a traffic officer at a crossroad in Dar es Salaam.

Police arrested 10 TPDF soldiers and three civilians in connection with the September 2009 assault on patrons at a bar in Lindi Region who refused to change the radio station.

During the year Feminist Activist Coalition (FEMACT), an umbrella organization of NGOs working on women's issues, concluded that local security forces had conducted "ruthless eviction operations" in forcibly evicting farmers and burning their homes and crops in August 2009, in the Loliondo Game Controlled Area. The Commission on Human Rights and Good Governance (CHRAGG) found that eviction was conducted using reasonable force. The Office of the Prime Minister and parliament conducted investigations into this incident, but their findings were not released to the public during the year (see section 6 Indigenous People).

For police in basic training, classes on respecting human rights and antitrafficking activities continued during the year as part of the inspector general's

commitment to professionalize the police force and reduce corruption. Soldiers in the TPDF were also given training on human rights.

*Prison and Detention Center Conditions.*—Despite improvements, prison conditions remained harsh and life threatening. Inadequate food, overcrowding, poor sanitation, and inadequate medical care were pervasive. In contrast to the previous year, there were no reports of torture by prison guards during the year.

During July-September visits by CHRAGG to 67 prisons, inmates indicated that the quality of food, size of cells, availability and quality of inmate uniforms, and distribution of mosquito nets had improved since 2009. Murder suspects spent less time in remand due to the expansion in the judiciary. Despite these improvements, sanitation and overcrowding were problems that encouraged the spread of disease. Prison staff complained of water shortages and a lack of electricity as well as inadequate medical supplies. Limited transportation also affected the ability of prison staff to take prisoners to health clinics and hospitals. Foreign prisoners complained it was difficult for embassy officials to visit them and that they waited long periods before being transferred to their home countries.

Inmates in Ruvuma Region went without food at least three times a week. In its semiannual report, the LHRC alleged that the prison department spent approximately TZS 650 (\$ 0.44) a day for food for individual inmates instead of the mandated TZS 2,420 (\$1.64).

In May the Tanganyika Law Society (TLS) published the findings of an inspection of 24 prisons it conducted in 2009. The report alleged prisoners were subject to abuse and torture while in detention and detailed overcrowding in prisons in Dar es Salaam, Tabora, Arusha, Mara, Mwanza and Tanga Regions. In the Segerea Prison in Dar es Salaam, there were 170 inmates in cells designed for 50, and at the Ilagala Prison in Kigoma, inmates had to walk more than four miles to fetch water when the prison transportation system broke down. The report described the prison system's failure to provide basic sanitary items or adequate food to the prisoners. The Ministry of Home Affairs denied the allegations of torture and abuse but said it had taken note of the other issues identified in the report and would try to address them.

According to the LHRC, there was one reported death in prisons due to HIV/AIDS during the year.

In 2009 the LHRC visited 24 prisons on the mainland and reported that overcrowding remained a serious problem. At one facility LHRC representatives reported that 150 inmates were living in a cell designed for 30. The Tanzanian Red Cross (TRC), which visited prisons in 2009, stated that some prisoners had to sleep on the floor.

According to the TLS, some inmates were forced to worship in denominations chosen for them by prison wardens. Seventh Day Adventists complained they had to work on Saturday. Generally, however, prisoners and detainees had reasonable access to visitors and were allowed to worship freely.

In 2009 one NGO reported that water was often scarce in the prisons, leading to poor hygiene. Combined with overcrowding, these conditions contributed to the spread of disease. The most common diseases were malaria, tuberculosis, HIV/AIDS, and other diseases related to poor sanitation. In one women's prison, the LHRC reported there were no mosquito nets or screens to prevent malaria. Prison dispensaries offered only limited treatment, and friends and family members of prisoners generally had to provide medications or the funds to purchase them.

The union Ministry of Home Affairs Public Complaints Department and a Prison Services Public Relations Unit responded to public complaints and inquiries sent to them directly or through the media about the prison conditions.

On the mainland prisoners were permitted to submit complaints to judicial authorities as well, but it was alleged that the letters were censored. Prisoners were also able to submit complaints to CHRAGG during its prison visits.

On the mainland the law allows judges and magistrates to grant parole or impose alternative sentences such as community service as a means of reducing overcrowding; however, these options were rarely used. Only 3,057 prisoners on the mainland had been granted parole since the parole law was enacted in 1999. According to the LHRC, the law authorizes early release for good behavior but has burdensome evidentiary requirements.

During the year the prisons held approximately 38,477 prisoners, of whom 18,948 were convicted (49 percent) and the others were pretrial detainees (51 percent). An estimated 1,275 convicted prisoners and pretrial detainees were women. While a precise figure was not available for juveniles in detention on the mainland, officials estimated the juvenile population was similar to that of female prisoners, a small fraction of the total prison population. There were an estimated 700 juveniles in remand homes.

According to CHRAGG, pretrial detainees were held between three and four years. Pretrial detainees were not always separated from prisoners on the mainland. However, this separation occurred with greater regularity in mainland prisons during the year.

In 2009 on both Zanzibar and the mainland, it was reported that prison officers sexually abused individuals in detention. There were reports that in Segerea Prison male staff members made sexual advances to female inmates. According to the TLS, some inmates complained of being sexually harassed by fellow inmates.

In Zanzibar, the Zanzibar minister of state for regional administration and special units, Suleiman Othman Nyanga, told members of the House of Representatives on June 16 that the Government would investigate allegations that prison officers were sexually abusing inmates.

In Zanzibar juveniles were held with adults and remand prisoners were held with convicted prisoners. There were 17 juveniles in jail in Zanzibar.

On the mainland authorities often moved prisoners to different prisons without notifying their families.

Representatives from the International Committee of the Red Cross (ICRC) and CHRAGG visited prisons during the year. The Office of the UN High Commissioner for Refugees (UNHCR) visited prisons holding refugees to determine their immigration status and provide help to those wrongly arrested and sentenced for illegal immigration.

Despite improvement in the length of pretrial detention, it remained a problem, often because the lack of an efficient case management system led to lost files and case delays. Efforts to ensure that detainees did not serve longer than the maximum sentence for the charged offense were often hampered in rural areas because officials lacked transport to take detainees on their court date.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Under the union Ministry of Home Affairs, the mainland police force has the primary responsibility for maintaining law and order. The field force unit, a special division in the national police force, has responsibility for controlling unlawful demonstrations and riots. Mainland Sungusungu citizens' patrols, which are traditional neighborhood and village anticrime groups, also worked with local government leaders to support the police force in refugee camps and other areas. The police force remained underfunded and largely inefficient. Police use of excessive force, police corruption, and impunity were problems. There continued to be newspaper articles, civil complaints, and reports of police corruption from the Prevention and Control of Corruption Bureau (PCCB) and Ministry of Home Affairs.

The Ministry of Defense is responsible for external security on the mainland and Zanzibar and has some limited domestic security responsibilities.

In March CHRAGG released the results of a survey conducted in 2009 in seven mainland Districts in Mwanza, Mbeya, and Dar es Salaam to determine the extent of brutality committed by law enforcement officers. According to the report, 97 percent of the 1,045 respondents indicated that law enforcers committed acts of brutality, including killing and beating. Respondents identified police as the worst offenders, followed by paramilitary groups and Sungusungu.

Mainland police sometimes acted as prosecutors in lower courts, which allowed police to manipulate evidence in criminal cases (see section 1.e.).

There were continuing efforts to improve the performance of police. During the year police continued to hold educational seminars for officers to combat corruption and took disciplinary action against police officers implicated in wrongdoing. More than 350 mainland police officers were dismissed for unethical behavior and an additional five were demoted.

The mainland community policing initiative launched in 2009 to mediate local disputes and reduce police corruption continued during the year. The community police received standardized training, and police conducted awareness campaigns for citizens on how to assist community policing units.

In July police officers met with NGO representatives and political and religious leaders on the mainland to ask for their help in educating citizens about the role of police and citizen responsibilities. During the year police also aired a television program called "Our Peace" on the rights and obligations of the public in promoting a stable society.

During the year the mainland police continued to hold training seminars on human rights, antitrafficking in persons, expediting investigations, finalizing criminal cases, and treatment of opposition political party members. Police sometimes collaborated with international experts for training.

The Government arrested and detained journalists, and in one incident, arrested NGO activists during the year (see sections 2.a. and 5).

The law grants legal status to the mainland Sungusungu village anticrime groups. Local governments appointed its members from communities with citizen participation. They have the authority to arrest suspects and carry wooden clubs but no firearms. Family units of a neighborhood in which Sungusungu operated either contributed money for patrols or provided a volunteer to participate in patrols. In refugee camps, Sungusungu groups composed of refugees acted as security forces supplementing contingents of police.

During the year there were reports of Sungusungu units using excessive force, particularly in the Mwanza, Shinyanga, Tabora, and Mara Regions. For example, on April 26, the Tanzania Teachers' Union in Shinyanga Region announced it was suing the Government over an incident in which a Sungusungu unit caned four teachers in public for being late to a parent-teacher meeting. The teachers dropped their suit after being compensated TZS 100,000 (\$68) and relocated to other districts.

In advance of the October 31 union and Zanzibar presidential and legislative elections, the ICRC and TRC trained police officials on six regions of the mainland, Pemba, and Zanzibar on their role in controlling election related violence, the work of the TRC, and human rights. Additionally, the Zanzibar Legal Services Center held human rights training for Zanzibar's "special units" and provided them with a manual on international standards of conduct.

In March CHRAGG published a survey in which members of the public accused Sungusungu units of taking bribes, fabricating cases against citizens, beating, and in certain instances killing suspects.

In 2009 five cases against Sungusungu units were investigated, of which four were brought to court. Three cases continued at year's end, while the court ordered the Sungusungu involved in the fourth case to pay a fine of TZS 30,000 (\$20) to the victim.

On Zanzibar, the Zanzibar Director of Public Prosecution (DPP) replaced police prosecutors with civilian prosecutors in all but four districts of the isles. This initiative, together with efforts to increase the use of mediation and ensure thorough investigations before suspects entered remand, decreased the overall case backlog significantly and eliminated it in some courts.

In February the Zanzibar House of Representatives passed the DPP Office Act, which establishes a code of conduct, significantly improving accountability and transparency.

In Zanzibar, "special units" are deployed at the district level for activities that would fall under police jurisdiction on the mainland. Recruitment, training, and command and control of the "special units" are opaque and influenced by the ruling party in Zanzibar. There are five different "special units" which reported to the Zanzibar minister of regional administration before the formation of the Government of national unity. These units, including the fire brigade and prison guards, were often activated during political activities, such as voter registration or voting itself. Following the October 31 elections that produced a government of national unity, the Government of Zanzibar began a review of the role of Zanzibar's "special units" that continued at year's end.

During voter registration from June 2009 to May, there were several instances in which Zanzibari "special units" were involved in disturbances. In August 2009 the Zanzibar government militia reportedly fired bullets into the air to disperse crowds of CUF supporters gathered at registration facilities on Pemba to protest the registration process. According to CUF, amidst escalating violence throughout the month of August, soldiers arrested and beat several party supporters. There were no further incidents during the year.

*Arrest Procedures and Treatment While in Detention.*—On the mainland the law requires that persons be apprehended openly with warrants based on sufficient evidence, and authorities generally complied with the law. The law also requires that a person arrested for a crime, other than a national security detainee, be charged before a magistrate within 24 hours of arrest; however, at times the police failed to comply with this requirement. The law gives accused persons the right to contact a lawyer or talk with family members, but at times they were denied this right. Prompt access to counsel was often limited by the lack of lawyers in rural areas, lack of communication systems and infrastructure, and illiteracy and poverty of the accused. Authorities promptly informed detainees of the charges against them. The Government provided legal representation for some indigent defendants and for all suspects charged with murder or treason. The law does not allow bail for cases involving murder, treason, drugs, armed robberies, or violent offenders posing a public safety risk. When bail is granted in some cases, strict conditions on freedom of

movement and association are imposed. In the primary and district courts, bribes sometimes determined whether or not bail was granted.

By law the president may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. The Government must release such detainees within 15 days or inform them of the reason for their continued detention; it also allows a detainee to challenge the grounds for detention at 90-day intervals. The mainland government has additional broad detention powers under the law, which permits regional and district commissioners to arrest and detain for 48 hours anyone who may “disturb public tranquility.” This act was not invoked during the year.

CHRAGG estimated that more than 51 percent of the prison population consisted of pretrial detainees. Detainees charged with criminal matters generally waited three years for trial due to the time required to complete police investigations, a lack of judges to hear cases, and an inadequate judicial budget.

Prisoners continued to protest the length of time it took to hear their cases. For example, on January 26, pretrial detainees from a prison in Meatu District, Shinyanga Region, went on a hunger strike to protest a lengthy stay in prison without trial. Some of these detainees had been in remand prison for seven years and others had been detained without bail.

On August 23, three suspects accused of armed robbery and murder stripped naked in a court in Mvomero District, Morogoro Region, to protest the delay in their court case. They had been in pretrial detention since 2007.

On April 26, President Kikwete ordered the release of 3,101 prisoners to ease overcrowding. This group included ill or elderly inmates who had served more than one-fourth of their sentence, pregnant women, or those with infants.

On December 9, President Kikwete pardoned more than 3,563 prisoners on the occasion of Tanzania’s Independence Day.

On January 12, President Karume pardoned 39 prisoners in Zanzibar on Revolutionary Day.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary remained underfunded, corrupt (see section 4), inefficient, especially in the lower courts, and subject to executive influence. Court clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. According to news reports, magistrates of lower courts occasionally accepted bribes to determine guilt or innocence, pass sentences, or decide appeals of cases coming from the primary courts to district courts.

In December 2009 the Tanzania Women Judges Association (TAWJA) together with the International Association of Women Judges, a nonprofit organization focused on improving access to justice and advancing human rights, held a conference in Dar es Salaam to discuss ethics among judges, the police, and prosecutors. A TAWJA official stated that some judges and many court officials continued to violate work ethics and that corruption remained a problem.

In Zanzibar there were four high court judges. During the year the Zanzibar government eased the backlog of cases by appointing high court judges to hear cases in the labor court. In 2009 the Zanzibar government hired three new magistrates for the land tribunal. Previously the land tribunal only had one magistrate.

*Trial Procedures.*—With some exceptions, criminal trials were open to the public and the press. Courts that hold secret proceedings—such as in drug trafficking cases and sexual offenses involving juveniles—generally were required to provide reasons for closing the proceedings. In cases involving terrorism, the law provides that everyone except the interested parties may be excluded and that witnesses may be heard under special arrangements for their protection. The law prohibits lawyers from appearing or defending clients in primary-level courts, whose presiding officers are magistrates without degrees.

Juries are not used. The law provides for the presumption of innocence. Defendants or their lawyers have access to evidence held by the Government, the right to question witnesses, and the right to present evidence on the defendant’s behalf. All defendants charged with civil or criminal matters, except parties appearing before kadhi courts (which apply Muslim law on civil matters involving the family, including registration of marriages, adjudication over inheritance, divorce, child custody cases, etc.) on Zanzibar and cases examining the constitutionality of Zanzibar laws, could appeal decisions to the respective mainland and Zanzibar high courts, respectively. Defendants in Zanzibar can appeal decisions to the union Court of Appeal. On the mainland the law provides a right to free counsel for defendants accused of murder and treason, as well as for indigent defendants in other serious cases. There are no public defenders in Zanzibar. Most indigent defendants charged with lesser

crimes did not have legal counsel. On both Zanzibar and the mainland, most defendants could not afford legal representation.

On the mainland and in Zanzibar, in some cases police acted as prosecutors in lower courts, but this practice was being phased out. The mainland Ministry of Justice began hiring and training state prosecutors to handle the entire mainland caseload. Judicial experts had criticized the practice of police acting as prosecutors because it allowed police to manipulate evidence in criminal cases. The mainland government was able to phase out police prosecutors in the regions of Tabora, Mwanza, Moshi, and Shinyanga. However, financial constraints and staffing issues slowed the process. In Zanzibar, police prosecutors have been phased out in all but four districts. The Government took steps to speed up the judicial process by opening offices of the DPP in the regions of Lindi and Mara. In 2009 the mainland DPP's office reviewed cases to identify those that could be dismissed due to weak evidence or resolved through plea bargains. Further, it developed a general instruction manual for prosecutors and collaborated with police on a similar resource for investigators to assist them in processing cases.

There were approximately 1,300 registered lawyers in the country, 80 percent of whom practiced in Dar es Salaam, Arusha, and Mwanza. According to the Zanzibar Legal Services Center, there were only 43 registered lawyers residing and working in Zanzibar, primarily concentrated in and around the city center, and only one resident lawyer on Pemba. Most defendants in urban areas who could not afford to hire a legal representative or lawyer represented themselves in court, but women and the economically needy were provided with free legal assistance by the Government and some NGOs, such as the Tanzania Women Lawyers Association and the National Organization for Legal Assistance.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Civil proceedings are administered in the high court or at the magistrate or district level. Persons may bring lawsuits seeking damages or the cessation of human rights violations; however, civil judicial procedures often were slow, inefficient, and corrupt.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law generally prohibits such actions without a search warrant; however, the Government did not consistently respect these prohibitions. While only courts can issue search warrants, the law also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence, or if circumstances are serious and urgent.

CHRAGG received between 100 and 200 complaints regarding civil liberties and between five and 20 human rights complaints each month. As of June 30, CHRAGG received 772 complaints of which 706 were related to good governance and 66 to human rights.

The law relating to terrorism permits high-ranking police officers to conduct searches without a warrant in certain urgent cases; there were no reports that this provision of the act has ever been invoked.

It was widely believed that security forces monitored telephones and correspondence of some citizens and foreign residents. The actual nature and extent of this practice were not known.

The LHRC reported several continuing disputes between residents and the Government concerning land seizures. The 2001 case of 135 villagers who claimed they had been illegally evicted from their land by government officials in the Nyamuma villages of Serengeti District in Mara Region continued. In 2009 the LHRC filed an application with the High Court seeking a court order to compel the Government to compensate or resettle the villagers. During the year the Court of Appeal ordered the High Court to enforce the judgment but at year's end no date had been set by the court for the enforcement order.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech but does not explicitly provide for freedom of the press.

The law provides for arrest, prosecution, and punishment for the use of "seditious," abusive, or derogatory language to describe the country's leadership publicly. The law allows police to raid and seize materials from newspaper offices without a warrant if there is cause and allows the minister of information to close media outlets for reasons of undefined "public interest" or "the interest of peace and good order." However, the independent media on the mainland were active and generally expressed a wide variety of views.

Individuals could criticize the Government both publicly and privately without reprisal, although some Tanzanians expressed concern about doing so in public.

On the mainland there were an estimated 15 daily newspapers. Of these, two were owned by the Government, a third, Uhuru, by the ruling CCM party, and a fourth by the chairman of the opposition party, Chadema. The remaining newspapers were independent although some were owned by close associates of ruling party members. Registering newspapers remained difficult and was at the discretion of the registrar of newspapers at the Ministry of Information on both the mainland and Zanzibar.

Authorities arbitrarily arrested journalists during the year.

In February the Arusha regional police questioned journalists Mussa Juma, Eliya Mbonea, and Amiri Ibrahimu for six hours and detained them for three days allegedly because of their efforts to report on a land dispute in the villages of Basutu and Mulbadaw. Mussa Juma said the police confiscated their equipment after releasing them from custody.

On May 11, the LHRC reported that police in Ngara District, Kagera Region, arrested journalist Cosmas Makongo for reporting on a meeting between district officials and villagers on illegal immigration. Makongo and other journalists claimed district officials tried to bribe them to prevent them from filing their stories. When the journalists refused the bribes, local authorities harassed them.

Journalists were threatened and assaulted during the year.

On February 4, an unidentified person threatened to beat journalist Heri Shaaban from the Business Times for trying to take a picture of a TPDF soldier who was being charged with assault with a deadly weapon at the Ilala District Court in Dar es Salaam.

On September 3, an official with the Ministry of Information reported that a mob beat a Tanzania Broadcasting Commission (TBC1) journalist after TBC1 stopped broadcasting a speech by a Chadema candidate.

On September 24 and again on October 11, the Ministry of Information warned the editor of the Mwananchi newspaper of possible legal action if the paper continued to publish articles critical of the Government. However, no action was taken against the newspaper and it continued to publish articles critical of the Government.

The chairman of the Tanzania Editor's Forum, Absalom Kibanda, said that during the year reporters were harassed on three occasions, including the October 26 beating by ruling party supporters of Fred Katulanda, a reporter with the Mwananchi newspapers in Geita Region.

The December 2009 case in which five assailants attacked a journalist from Mwananchi Communications in his home in Mwanza was pending at year's end. The suspects had demanded the journalist surrender documents he had received in connection with an investigation into funds allegedly stolen from a government bank account.

During the year the Government banned one newspaper and deregistered another. On January 8, Minister for Information, Culture, and Sports George Mkuchika banned the Kulikoni newspaper for 90 days for violating the National Security Act by publishing a story on army recruits who were cheating on exams. He also deregistered the Leo Tena, a tabloid magazine, for publishing pornographic pictures.

On September 2, police in the Kahama District of the Shinyanga Region impounded copies of a book entitled Education Corruptors, in which the author accused prominent government ministers of lying about their educational background. No one was arrested in connection with the incident.

The mainland government allowed political opponents unrestricted access to the media; however, the opposition did not receive equal coverage.

On September 19, the Tanzania Editor's Forum published an article condemning the harassment of journalists covering election campaigns by political party members, warning such parties that newspapers would not report their campaigns if the practice continued.

Authorities impeded journalists from working during the year.

In April authorities in Ngorongoro District of the Arusha Region tried to stop four journalists—Mwanaidi Mkwizu, Abu Mkongo, Mashaka Mgeta and Juma Musa—from reporting the story of a group of women protesting their 2009 eviction from a game reserve in Loliondo. The four reporters were reprimanded by the district commissioner for not obtaining permission to interview the women. Although permission was granted later, the women would not provide the reporters with any information because they had been warned not to talk to them.

On August 25, CCM officials allegedly chased a Mwananchi reporter away from the State Lodge in Mwanza Region when he tried to join the president's entourage

for a campaign rally in the districts. Ray Naluyaga, bureau chief for the Mwananchi and Citizen newspapers, said his reporters had been prevented from covering the presidential rallies in the Kagera and Mwanza Regions after the Mwananchi ran a story alleging that the president was struggling to heal divisions within the ruling party.

On August 28, at the start of Chadema's national election campaign, a senior party member publicly accused the president and senior government officials of involvement in an ongoing grand corruption case. The Government-owned TBC1 cut off live transmission of the program. Some persons at the rally assaulted the TBC1 reporter covering the event. On August 31, Chief Justice Augustino Ramadhani warned opposition parties not to use political platforms to discuss pending cases and told reporters that the judiciary would not hesitate to take action against candidates who continued to do so.

During the year Mwana Halisi newspaper sued the Government over provisions in the Newspaper Act that give the president and minister of information powers to prohibit the publication of material that jeopardizes national security. Mwana Halisi claimed this provision limits freedom of speech. The case remained pending at year's end. Mwana Halisi was suspended for 90 days in 2008 for reporting that a group within the CCM was planning to stop the president from competing in the 2010 elections.

Many radio stations and all but one television station were privately owned. There were government restrictions on broadcasting in tribal languages. The Government operated newspaper, radio, and television outlets, as did private corporations.

In Zanzibar, the only daily newspaper was owned by the Zanzibari government. However, there were four periodic newspapers of which three were privately owned. In July the Al-Risaalah, a weekly religious newspaper, was reestablished.

Although the Government refused to register the Nipe Habari newspaper in 2009, it was registered and allowed to operate on the mainland during the year.

National newspapers were sold in Zanzibar without restriction. The Zanzibar government controlled all content of radio and television broadcasts, whether privately or publicly owned. Even for mainland broadcast state television, there was a delay in the feed, allowing Zanzibari censors to intervene. However, the radio stations operated relatively independently, often reading the content of national dailies, including articles critical of the Zanzibar government.

Although the media were primarily government-controlled in Zanzibar, the political opposition has enjoyed increased access since the reconciliation process between the two political parties began in November 2009. However, observers noted that in spite of improved coverage of opposition rallies, the CCM continued to get more coverage.

During the run up to the July 31 referendum in Zanzibar, there was unprecedented media coverage of the issue of a unity government, with open dialogue about its implications.

A permit was required for reporting on police or prison activities, and journalists needed special permission to attend meetings in the Zanzibar House of Representatives. Anyone publishing information accusing a Zanzibar member of parliament of involvement in illegal activities was liable to a fine of not less than TZS 250,000 (\$170), three years' imprisonment, or both. Nothing in the law specifies whether this penalty stands if the allegations were proven to be true. The law also empowers the Government to fine and suspend newspapers without warning.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, the Government monitored Web sites that criticized the Government. Police also monitored the Internet to prevent trafficking in persons and other illegal activities. In 2009 the Government shut down one blog for posting a doctored photo of the president. In general individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union statistics for 2008, approximately 1 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government did not always respect this right in practice. The Government requires organizers of rallies to obtain police permission. Police may deny permission on public safety or security grounds or if the permit seeker belongs to an unregistered organization or political party.

In February Chadema candidates complained that the police in the Rorya District of Mara Region would not allow them to hold rallies despite their requests for a permit. Chadema officials were told that local authorities feared they would raise the issue of clan fighting in their speeches.

In March the police in the Kibaha urban constituency of Dar es Salaam Region refused to give Chadema candidates a permit to hold a rally. No explanation was given for the decision. After the October 31 presidential and parliamentary elections, Chadema faced similar difficulties in obtaining permits for planned rallies.

In April the Arusha police dispersed hundreds of women from Loliondo who intended to return their CCM membership cards in protest of the July 2009 eviction and burning of their homesteads. District authorities also arrested NGO representatives for allegedly inciting the women to protest (see sections 1.c. and 5).

In late December, citing security concerns, police denied CUF permission to hold a demonstration and rally in Dar es Salaam. On December 28, CUF went ahead with its demonstration. Police dispersed the crowd of CUF supporters as they began their march and arrested several demonstrators. The cases remained pending at year's end.

In April authorities dismissed all charges against the seven opposition party CUF members who were arrested in September 2009 on charges of unlawful assembly.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights. The Government generally cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees and asylum seekers.

Police at checkpoints sometimes solicited bribes.

The law does not permit the forced exile of citizens, and the Government did not use forced exile in practice.

*Protection of Refugees.*—The country's laws provide for asylum or refugee status, and the Government has established a system for providing protection to refugees. The Government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, in early November 2009, regional authorities in Kigoma Region forcibly returned 72 asylum seekers from the Democratic Republic of Congo (DRC) without allowing UNHCR to conduct an independent status determination. The Ministry of Home Affairs stated it regretted the incident and would not allow it to recur.

In 2008 the minister of home affairs announced that approximately 200,000 refugees who had arrived from Burundi in 1972 would be offered the choice of citizenship or assisted voluntary repatriation. In close consultation with UNHCR, the Government continued the process of identifying those qualified for citizenship and local integration, and more than 162,000 refugees had been granted citizenship by year's end.

Despite improving conditions, the remaining 1993 Burundi refugees did not choose to return home during the year. UNHCR assisted with the repatriation of fewer than 1,000 of the 1993 Burundi refugees during the year. The tripartite commission composed of UNHCR and the Governments of Tanzania and Burundi continued to encourage repatriation by offering repatriation incentives and eliminating nonessential services.

Due to deteriorating conditions in the DRC, UNHCR did not assist with the repatriation of Congolese refugees during the year.

By year's end there were only two UNHCR-supported camps in the country, one for Congolese and one for 1993 Burundis. It remained illegal for refugees to live outside their camps or settlements or to travel outside the camps farther than two and one-half miles without permits. An exit permit could be obtained from the regional authorities for an absence from the camps of less than 11 days. Permits for longer absences could be obtained from the Ministry of Home Affairs; however, there were several reports that refugees had difficulty obtaining permission to leave the camps. Refugees apprehended outside the camps without permits often were sentenced to community service rather than imprisonment and deportation, as was the case previously. The Ministry of Home Affairs acknowledged that some judges in the past

had misinterpreted the regulation and sentenced refugees to three years in jail instead of imposing a six-month sentence or fine as prescribed by the law.

Local government authorities policed the camps with support from refugee volunteers. Robbery, assault, and rape were the most common crimes. UNHCR reported that there were an estimated 597 incidents of gender-based violence, including 84 rapes in the camps during the year.

UNHCR worked with local authorities as well as individuals working in the camps to strengthen coordination and their ability to address issues of sexual violence and violence against minorities. During the year the Government investigated, prosecuted, and punished perpetrators of abuses in the refugee camps; most cases of refugees involved in crime and abuse outside the camps were handled by local authorities. Residents of refugee camps suffered delays and limited access to courts, common problems faced by citizens as well. There were reports that some refugees engaged in intimidation and vigilante justice within camps.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in elections on the mainland and in Zanzibar.

*Elections and Political Participation.*—Separate elections are held for the union and for Zanzibar, ordinarily on the same day, in which citizens of the two parts of the union elect local officials, members of the national parliament, and a union (national) president. In addition Zanzibaris separately elect a president of Zanzibar and members of the Zanzibar House of Representatives. District and regional leaders in Zanzibar and on the mainland are appointed by their respective presidents.

During the year the National Electoral Commissioner created seven new constituencies, bringing the total to 246 constituent seats.

Tanzania held its fourth multiparty general elections on October 31 in which voters elected new presidents (both union and Zanzibari) and legislative representatives. President Kikwete, the incumbent ruling party candidate, was reelected with 61.7 percent of the vote, a smaller margin than the 80 percent he received in 2005. The union and Zanzibar elections were judged to be largely free and fair. However, the CCM benefited from vastly superior financial and institutional resources.

The national elections were generally peaceful, but there were several protests associated with the slow pace of reporting election results, primarily in Arusha, Moshi, Mwanza, Kigoma, and Dar es Salaam. The opposition party, Chadema, registered concern about the accuracy of the count and made allegations of interference with the tabulation process, but failed to present proof of significant malfeasance. Despite attending the opening session of parliament, Chadema parliamentarians walked out before President Kikwete's inaugural address and stated they would not recognize his presidency. However, the party subsequently accepted Kikwete as the "lawful" president but continued to call the election results "illegitimate."

In Zanzibar, where past elections were marked by violence and widespread irregularities, the October elections proceeded peacefully after the ruling CCM party and the opposition CUF reached a power-sharing agreement. In a July 31 referendum, Zanzibaris voted to amend the constitution to allow for a CCM and CUF unity government. Ali Mohamed Shein, the immediate past union vice president, was elected president of Zanzibar with 50.1 percent of the vote. Shein selected CUF's Seif Sharif Hamad as first vice president and Seif Ali, former union deputy foreign minister, as second vice president.

The passage of the July 31 referendum set the stage for peaceful general elections on October 31 in Zanzibar. The power-sharing agreement eliminated the winner-take-all system, giving the losing side one of two vice-president slots and ministerial positions in proportion to the seats it holds in the House of Representatives.

The Zanzibar government registered eligible voters from late June 2009 through May. Although in August 2009 the Zanzibar government militia reportedly arrested and beat several CUF supporters and dispersed crowds around registration centers, the registration process proceeded peacefully in 2010.

On the mainland government harassment of opposition political parties diminished after the 2005 elections. However, as parties prepared for the October elections, opposition parties alleged that the ruling party tried to hamper their campaign initiatives. Chadema charged that the Government interfered with its campaign when TBC1, a government-owned media outlet, disconnected the live coverage of its campaign launch on August 28. Opposition parliamentary candidates alleged they were required to stop their campaigns before six p.m. daily for security reasons, but officials allowed CCM campaigns to continue until eight p.m.

In 2009 there were three union parliamentary by-elections and one for the Zanzibar House of Representatives. Unidentified individuals reportedly attacked opposition party members in the mainland constituencies of Busanda and Biharamulo during the campaigns preceding the by-elections. The ruling CCM party made similar complaints regarding attacks by opposition supporters. In addition, opposition parties complained of voting irregularities in Biharamulo but did not file a legal challenge.

In April all charges were dismissed due to insufficient evidence against the seven CUF officials who were arrested in September 2009 after a rally and charged with unlawful assembly (see section 2.b.).

Individuals and parties could freely declare their candidacy and stand for election. The law requires that persons running for office must represent a registered political party. Following a two-decade effort to challenge this provision, on June 17, the Court of Appeal ruled that only parliament had the authority to amend the constitution to allow independent candidates to run for office.

In 2009 opposition party members in Zanzibar, particularly on Pemba, claimed that the Government, the largest employer, discriminated against them in hiring. During the year, however, it was reported that discriminatory practices had gradually decreased.

Political parties are required by law to support the union between Tanganyika and Zanzibar; parties based on ethnic, regional, or religious affiliation are prohibited. Unregistered parties and independent candidates are prohibited from participating in elections. In general political parties could operate without restriction or outside interference, although there were occasional restrictions on the parties' right to call for a demonstration.

The registrar of political parties has sole authority to approve registration of any political party and is responsible for enforcing regulations on registered parties. Parties granted provisional registration may hold public meetings and recruit members. To secure full registration and be eligible to field candidates for election, parties must submit lists of at least 200 members in 10 of the country's 26 regions, including two of the five regions of Zanzibar, within six months.

During the year three new political parties were granted temporary status. However, the registrar of political parties deregistered one of them, Chama cha Jamii (CCJ), for failing to meet the requirements for full registration.

In August opposition parties on the mainland complained the Government did not give them enough time to return their registration forms for parliamentary and local government councilor elections. In response the registrar of political parties extended the submission deadline by 10 days.

The election law provides for parliamentarians completing a term to receive 40 million TZS (\$27,000) as a "gratuity," which incumbents can use in reelection campaigns. Several NGOs and opposition parties criticized this provision for disadvantaging opposition party candidates in mounting an effective challenge.

On February 11, parliament enacted the Election Expenses Act to regulate funding, curb illegal practices, and promote accountability among candidates during the nomination campaign and election cycle.

On July 26, the National Electoral Commission distributed to political parties an Electoral Code of Conduct that was drafted in consultation with and signed by the political parties. Failure to sign the code precludes a party from fielding candidates. The code bars public servants from interfering with election procedures and political parties and their followers from engaging in violent behavior, carrying weapons, and using foul language. Candidates are permitted only to criticize opponents on policy issues. Candidates violating any section of the code are liable to fines of TZS 50,000 (\$34), TZS 100,000 (\$68) and TZS 200,000 (\$136) for civic, parliamentary, and presidential aspirants, respectively. Zanzibar CCM and CUF also signed a code of conduct, as did the media operating in the isles.

The unicameral union parliament has up to 357 members, including the attorney general, the speaker, five members elected from and by the Zanzibar House of Representatives, 102 special women's seats apportioned among the political parties based on their election results, 239 constituent seats (including 50 from Zanzibar), and up to 10 members nominated by the president.

Political parties appoint women to serve in seats set aside for them according to the percentage of votes their parties win. After the October elections, there were 102 special seats for women, and at year's end there were 119 women in the 357-seat parliament. After taking office, President Kikwete appointed eight women ministers (compared with four in the former administration) and three women deputy ministers. There were two members of parliament of Asian origin in parliament. There were no ministers of Asian origin.

In the October 31 elections, the CCM retained its absolute majority in parliament, with nearly 80 percent of the seats. With a total of 47 seats, 24 elected and 23 “special seats” for women, Chadema displaced CUF as the official opposition and selected its chairman, Freeman Mbowe, as opposition leader. The new parliament selected Anne Makinda as the country’s first female speaker of parliament.

Twenty five of the 62 high court judges and five of the 16 Court of Appeal judges were women.

The Zanzibar House of Representatives has 50 elected seats, 20 women’s special seats, and eight appointed at-large seats. Two of the eight appointed seats were held by women. There are two women ministers and four deputy ministers. There were three persons with disabilities in the Zanzibar House of Representatives.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and some officials engaged in corrupt practices with impunity. The World Bank’s Governance Indicators in 2008 reflected that corruption was a serious problem.

On February 11, the parliament passed the Election Expenses Bill, which came into force on March 17. The new law, which is designed to curb the misuse of campaign funds during elections, contains a list of prohibited activities that may disqualify a candidate from participating in an election. For example, candidates are prohibited from bribing individuals with money, employment, or other valuables to induce them to vote or refrain from voting in a particular manner. During the year the Tanzanian Prevention and Combating of Corruption Bureau (PCCB) opened investigations into and began court proceedings against a number of ruling party candidates suspected of bribing voters. There were 10 cases pending in court at year’s end.

The Government continued to use specialized agencies to fight corruption, but their effectiveness was limited. A three-person unit within the President’s Office, headed by a minister of state for good governance, was charged with coordinating anticorruption efforts and collecting information from all the ministries for publication in quarterly reports. During the year the unit drafted the National Anti-Corruption Strategy and Action Plan.

There was little accountability in most government entities; senior government officials estimated that 20 percent of the Government’s budget in each fiscal year was lost to corruption, including theft and fraud, fake purchasing transactions, and “ghost workers.” During the year Director General of the National Identification Authority Dickson Mwaimu told parliamentarians that the Government was losing billions of shillings annually through fraudulent salary payments. According to Mwaimu, the Government lost TZS 26.6 billion (\$18 million) in salaries to ghost workers in seven institutions in the past three years.

On April 19, the Controller and Auditor General’s office released a report stating that, despite general improvement in the management of government funds, there were still major weaknesses in internal controls and noncompliance with laws and regulations, particularly in the area of public procurement.

The PCCB is responsible for investigating suspected corruption cases and prosecuting offenders in coordination with the DPP and educating the public about corruption. The PCCB has 24 regional offices and an office in every District on the mainland. In the first six months of the year, the PCCB received 2,896 allegations of corruption, investigated 413 cases, brought 104 new cases to court, and prosecuted 506 cases in which there were 21 convictions. There were 30 ongoing grand corruption cases at year’s end. According to the PCCB, most corruption investigations concerned government involvement in mining, land matters, energy, and investments. NGOs also reported that allegations of corruption involved the Tanzania Revenue Authority, local government officials, the police, licensing authorities, hospital workers, and the media.

The PCCB’s mandate does not extend to Zanzibar, and a special unit of the police force in Zanzibar is responsible for corruption cases. However, according to police, there were no investigations as no complaints were received during the year. The Zanzibar Legal Services Center indicated that it received complaints during the year about corruption associated with land disputes involving government officials.

Judicial and police corruption were problems.

During the year the court rejected the appeal of Jamila Nzota, a magistrate in the Temeke District Court, who was convicted of soliciting a bribe in May 2009.

On July 30, in Dar es Salaam, the PCCB interrogated three high-profile government officials after receiving complaints that they were involved in acts of corruption. The Government officials included Member of Parliament for Kinondoni Idd Azzan, Minister for Natural Resources and Tourism Shamsa Mwangunga, and Tan-

zania Communication Regulatory Authority Consumer Consultative Council chairperson Hawa Ng'umbi. Investigations continued at year's end.

On August 11, the PCCB charged Joseph James Mungai, a member of parliament and former cabinet minister, with corruption. Mungai was alleged to have given gifts valued between TZS 2,000 (\$1.35) to TZS 20,000 (\$14) to 15 CCM officials. The case was pending at year's end.

Although a number of high-profile corruption cases were ongoing and one was concluded, the Government continued to be criticized for slow progress on these grand corruption cases.

On May 24, Amatus Liyumba, the former Central Bank director of personnel and administration, was sentenced to two years in prison for abuse of office in connection with the construction of the Bank of Tanzania (BOT) building. Liyumba appealed the decision. The court dismissed his appeal and ordered him to serve his sentence.

In May the resident magistrate of Ilala District Court acquitted BOT Legal Secretary Bosco Ndimbo Kimela after the DPP dropped charges against him. In September 2009 Kinemela, along with three BOT employees, was charged with embezzling TZS 104 billion (\$70 million) by manipulating contract prices and printing requests for currency procurement. The remaining three defendants continued to face charges, and the cases were pending at year's end.

On September 13, the Kisutu Resident Magistrate Court adjourned a corruption case facing Costa Rick Mahalu, former ambassador to Italy, and Counsellor Grace Martin. The two were charged with causing the Government a loss of two million euros (\$2.68 million) during the purchase of an embassy building in Italy. The case was pending at year's end.

The case against more than 20 individuals accused in 2008 of obtaining funds fraudulently from the BOT's external payment account continued at year's end.

In July the 2008 cases against two former ministers of finance and the former permanent secretary in the Ministry of Finance came before the court and continued at year's end.

Government ministers and members of parliament, as well as other public servants, are required to disclose their assets after being sworn into office, at the end of each year, and upon leaving office; however, there was no enforcement mechanism or means to determine the accuracy of these disclosures. At year's end only 33 percent of politicians, 57 percent of public servants, and 27 percent of local leaders (councilors) required to make disclosures had met the deadline.

There is no law providing for public access to government information, and such access remained limited. Government officials routinely refused to make information available. Civil service regulations effectively allow only a handful of high-level government representatives to communicate information to the media.

In September the Policy Forum, a local NGO, introduced a simplified version of the Government budget to increase accessibility as well as knowledge of government spending among citizens.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. On the mainland more than 5,000 NGOs were registered and entered into the database maintained by a government-appointed NGO coordination unit within the vice president's office. The registration process was slow, taking two to five years. International NGOs may operate both on the mainland and Zanzibar. However, NGOs in Zanzibar must apply through the local government for approval, and all religious NGOs must seek approval from the Office of the Mufti, the Muslim religious authority.

Unlike in the previous year, there were no reports that the Government of Zanzibar fined, suspended, and removed NGOs that criticized it.

CHRAGG, which was financed by the Government, operated without government interference on the mainland and in Zanzibar. Due to budgetary constraints, CHRAGG conducted less outreach than in previous years and consequently received fewer complaints. As of June 30, CHRAGG had received 772 complaints, of which 706 involved issues of good governance and 66 involved human rights abuses. In Zanzibar it received 384 complaints, of which 197 were processed to completion between January and June.

On April 12, a representative from Oxfam and two colleagues from the Ngorongoro NGO Network were arrested and detained by authorities in Loliondo who alleged they were responsible for assisting women from 12 villages in Loliondo,

Ngorongoro District, to demonstrate against their 2009 eviction from the Loliondo Game Controlled Area (see section 6).

The union parliamentary committee for constitutional, legal, and public administration is responsible for reporting and making recommendations regarding human rights. Although the majority of committee members were from the ruling CCM party, the committee acted independently of government and political party influence, and most observers viewed it as an unbiased institution. The committee worked closely and cooperated well with CHRAGG.

The Government continued to host the International Criminal Tribunal for Rwanda (ICTR) in Arusha and was supportive of, and cooperated with, the international court. By year's end there were 21 detainees on trial, two awaiting trial, and nine cases pending appeal. Jean Bosco Uwinkindi, one of 11 remaining fugitives, was arrested in Kampala, Uganda, and transferred to the ICTR during the year. He is one of the two detainees awaiting trial. During the year the ICRC visited prisoners at the ICTR in Arusha.

In September and October 2009, respectively, Gregoire Ndahimana and Idelphonse Nizeyimana were transferred to the ICTR. Ndahimana's trial began in September 2010 and continued at year's end. Nizeyimana was awaiting trial at year's end. The trial of Augustin Ndirabatware, former minister of planning, which began in September 2009, continued at year's end.

On December 22, the UN Security Council adopted Resolution 1966, authorizing the creation of a "residual mechanism" for the ICTR to be located in Arusha. This mechanism will continue the activities of the court on a reduced scale following the closure of the tribunal in June 2012.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, social status, or religion. Discrimination based on gender, age, or disability was not explicitly prohibited by law but was discouraged publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS and disabilities persisted, and ethnic tensions continued in some parts of the country.

*Women.*—The law provides for life imprisonment for persons convicted of rape, including spousal rape, but rape continued to be a serious problem. In June the senior assistant commissioner of police said that gender-based violence had increased and that 123 rape cases were reported to police in Dar es Salaam between March and June. Countrywide, there were an estimated 3,200 reported rape cases between January and June, with 1,549 under investigation. Of those cases sent to court, 65 resulted in acquittals and 161 in convictions.

Police maintained 78 gender and children desks to support victims and address relevant crimes.

During the year in Zanzibar 870 rape cases were treated at the Mnazi Mmoja hospital. Mnazi Mmoja in coordination with Save the Children United Kingdom's Zanzibar Office, the Zanzibar Female Lawyer's Association, police officials, prosecutors, and the Department of Social Welfare established a one stop center at the hospital where rape victims can receive treatment and counseling as well as report these crimes in a safe environment.

During the year the Zanzibar Female Lawyer's Association received 108 complaints related to gender-based violence.

Domestic violence against women remained widespread, and police were often reluctant to pursue such cases. The law prohibits assault but does not specifically prohibit spousal battery or protect women from gender-based violence. There is no unified legal code protecting women. Disparate provisions of various statutes offer ineffective safeguards against gender-based violence. Cultural, family, and social pressures often prevented women from reporting abuses, and authorities rarely took action against persons who abused women.

A survey released in 2008 by the Tanzania Media Women's Association indicated that efforts to fight violence against women in Zanzibar were undermined by insensitivity to gender-based violence by the police, the judicial system, and hospital workers. According to the survey, communities considered violence against women a private matter and discouraged victims from taking legal action. The handling of such cases by police and hospitals discouraged victims from seeking legal remedies. Respondents stated that some police officers made humiliating comments to women who reported cases of rape and sometimes asked for a bribe for their cases to be processed.

In March the NGO Anti-Female Genital Mutilation Network (AFNET) conducted a study in 22 villages in the six wards of Rorya District to gauge the prevalence

of gender-based violence; 93 percent of respondents characterized gender-based violence as a problem.

The courts recognized domestic violence as grounds for divorce. However, women often tolerated prolonged domestic abuse before seeking a divorce. Women in urban areas who sought advice from legal aid clinics most commonly cited domestic abuse as the reason for seeking a divorce.

In July the Association of Journalists against AIDS in Tanzania and the Lindi Women Paralegal Aid Centre conducted a spot survey on gender-based violence, HIV/AIDS, stigma, and discrimination. The survey cited cultural and family pressures as reasons for failure to report incidents of gender-based violence. According to Faustin Hokororo, the Lindi regional crime officer, light punishments meted out by the courts coupled with lack of cooperation from the community when called upon to testify in court also hindered efforts to combat the problem.

During the year NGOs conducted a television campaign to encourage women to speak out about gender-based violence. The NGO Tanzania Gender Networking Program conducted weekly gender-development seminars during the year. Government officials also used public fora to emphasize the importance of educating girls.

The Government generally recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. There were no restrictions on the right to access contraceptives; however, only an estimated 20 percent of women used modern contraception, in part due to cultural factors, lack of transportation to health clinics, and shortages of contraceptives. The Government provided free prenatal, childbirth, and postpartum services but lacked sufficient qualified health care professionals as well as medical supplies. An estimated 60 percent of approved positions within the Ministry of Health and Social Welfare remained unfilled, which impeded the work of small, rural clinics. Pregnant women giving birth at government health-care facilities throughout the country often had to purchase their own medical supplies. Few women took advantage of postpartum care. According to the UN Population Fund, the maternal mortality ratio was 790 per 100,000 live births, and an estimated 43 percent of births were attended by skilled personnel in 2008. UN sources estimated that a woman's lifetime risk of maternal death was one in 23. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law prohibits sexual harassment of women in the workplace, but no statistics existed on the extent of its occurrence or on effectiveness of enforcement. Women in the private sector sometimes faced discrimination from employers who believed that household obligations were a professional liability. There were reports that women were asked for sexual favors in return for promotions.

Inheritance and marriage laws do not provide for equality for women, and women's rights often were not respected. The mainland Ministry of Community Development, Women, and Children and the mainland Ministry of Justice and Constitutional Affairs, as well as their counterpart ministries on Zanzibar, are responsible for protecting the legal rights of women. Discrimination against women was most acute in rural areas. Rural women had little opportunity to attend school or obtain wage employment.

The law gives individuals the right to use, transfer, and occupy land without distinction of gender, and recognizes women's occupancy rights (all land in Tanzania belongs to the Government), but implementation was difficult because most women were unaware of the law. Historically, rural women have not acted as primary land occupants or managed businesses because of cultural constraints and lack of education. Civil society activists reported widespread discrimination against women in property matters related to inheritance and divorce. This was particularly the case in Zanzibar, but also in some parts of the mainland, where activists maintained that judges relied on customary and Islamic law in discriminatory fashion. Women were particularly vulnerable if they initiated the separation from their partners or if their partners died.

In Zanzibar women between the ages of 18 and 21 who became pregnant out of wedlock could be sentenced to perform community service set by the Zanzibar director of public prosecution. The provision was not applied during the year.

*Children.*—Citizenship is derived by birth within the country's territory, or if abroad, from one's parents. Only 17 percent of children had birth certificates, according to the Registration Insolvency and Trusteeship Agency. Registration of births within three months is free; however, parents who register their babies after three months must pay a fee. To encourage registration, children enrolling in pre-school must present a registration certificate. However, this stipulation was not strictly enforced, and public services were not withheld if a child was not registered.

Primary education was compulsory, free, and universal on both the mainland and Zanzibar through the age of 15; however, parents were required to pay fees for en-

rollment beginning in form one, the equivalent of the first year of high school. As a result, many children did not attend secondary school. Parents were required to pay for books, uniforms, and school lunches. There were inadequate numbers of teachers, books, and other educational materials to meet the demand, which affected the quality and availability of education.

Girls represented roughly half of all those enrolled in primary school but were absent more often due to household duties.

The law allows head teachers to cane students, and corporal punishment in schools remained a problem, although less so than in previous years.

There continued to be reports of teachers raping students during the year. For example, on April 28, Omary Muhogo, a Mafuru primary school teacher, was arrested and questioned for allegedly raping and sexually abusing 13 school children. An investigation continued at year's end.

On June 2, two men appeared before the Ilala Magistrate's Court for the rape of two young boys. The accused denied the charges but were remanded for failure to meet bail conditions. They remained in prison at year's end.

The law prohibits female genital mutilation (FGM); however, it continued to be practiced by some tribes and families. Statutory penalties for performing FGM on girls under 18 ranged from five to 15 years' imprisonment, a fine of TZS 300,000 (\$203), or both; however, prosecutions were rare, and none were conducted during the year. Many police officers and communities were not aware of the law; victims were often reluctant to testify; and some witnesses feared reprisals from FGM supporters. Some villagers reportedly bribed local leaders not to enforce the law in order to carry out FGM on their daughters.

In March AFNET conducted a study on 22 villages in Rorya District in Mara Region on the prevalence of FGM in the region. Girls between the ages of 12 and 18 were the primary targets of FGM and were promised gifts and money from parents and relatives for undergoing the procedure. Some girls believed they would not be married without undergoing FGM.

In 2005 the Ministry of Health estimated that 5 to 15 percent of women and girls underwent FGM; their average age was less than 10 years old and reportedly included some newborns. FGM was practiced by approximately 20 of the country's 130 tribes and was most prevalent in the mainland regions of Arusha, Singida, Kilimanjaro, Morogoro, and Dar es Salaam.

In 2009 a local government officer in Singida stated that 254 out of 1,046 women who delivered in health clinics in Manyoni District, Singida Region, were circumcised. In 2009 AFNET reported that 47 out of 59 infants and girls up to age five who attended a village clinic in Singida Region had undergone FGM. Clitoridectomy, a less severe form of FGM, was employed most frequently; however, infibulation, the most severe form, was also practiced, mainly in the northern highlands and the central zone.

The Government continued to implement the 2001-15 National Plan of Action for the Prevention and Eradication of Violence Against Women and Children, which enlisted the support of practitioners and community leaders in eradicating FGM. AFNET worked with education officers in the Serengeti to increase awareness about the negative effects of FGM. The NGO worked specifically with a group of students between the ages of 10 and 13 to help them gain the confidence to refuse the practice.

In the Mara Region, where FGM is prevalent, it was reported in November that 5,000 girls were at risk of FGM. The Tarime-based Termination of Female Genital Mutilation Society, in conjunction with the Children's Dignity Fund, launched an educational campaign to educate girls on the health risks associated with FGM.

The law provides that girls as young as 15 can marry with the consent of parents or guardians, although no consent is required for orphaned girls without guardians. The courts also have discretion to allow the marriages of 14-year-old girls in the case of pregnancy. Additionally, the law allows Muslim and Hindu girls to marry as young as 12 so long as the marriage is not consummated until the girl reaches the age of 15. To circumvent these laws, offenders bribed police or paid a bride price to the family of the girl to avoid prosecution.

On Zanzibar, there are multiple laws that define the age of a child, including the Penal Code, which defines a child as an individual under the age of 18 who is not married or hasn't given birth, and the Young Offenders Decree, which defines a child as being under 14 years. Under Islamic law, however, the age at which a child reaches puberty determines whether she or he is still a child.

The law provides that sexual intercourse with a child under 18 years is rape, regardless of consent; however, the law was not enforced.

The law criminalizes child pornography and child prostitution; however, sexual exploitation and trafficking in persons, including children, were problems. Persons

found guilty of such offenses were subject to a fine ranging from one million TZS (\$678) to TZS 500 million (\$339,000) and/or a prison term of one to 20 years.

Children with albinism were killed for their body parts. For example:

On February 8, a man armed with a machete attempted to chop off the legs of 12-month-old Fatma Mohammed in Ruvu village; five persons were arrested and subsequently released on bail. The case remained pending at year's end.

On April 18, in Kitahama village, Kigoma Region, unidentified persons abducted and killed four-year-old Naimana Daudi; the girl's left leg and left arm had been severed. The police arrested a teacher, who remained in prison awaiting trial at year's end.

On April 26, in Luhaga village, Shinyanga Region, attackers severed the arm of 13-year-old Kabula Nkalango; no arrests had been made by year's end.

In October a 10-year-old boy with albinism was killed by attackers who were trying to sever one of his lower limbs. At year's end no one had been charged for the killing.

In July the Tabora Court of Appeal upheld an earlier judgment which sentenced three men to death for the killing of 13-year-old Matatizo Dunia.

Infanticide continued to be a problem, especially among poor rural mothers who believed themselves unable to afford to raise a child.

According to the National HIV/AIDS and Malaria Indicator Survey of 2007-08, approximately 11 percent of children on the mainland under the age of 18 were orphans (defined as having one or two deceased parents) and 9 percent were considered to be vulnerable to exploitation; in Zanzibar the figures were 7 and 4 percent, respectively. Most orphans were absorbed into other families, but those who were not taken in by extended family members received additional support and counseling from the Government and several state- and privately sponsored NGOs.

There were significant numbers of street children in Dar es Salaam, Mwanza, and Arusha. Street children had limited access to health and education services because they lacked a fixed address or money to purchase medicines, school uniforms, and books. They were also vulnerable to sexual abuse.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://www.travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>

*Anti-Semitism.*—The Jewish population was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in person, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with disabilities. During the year the Government passed the Persons with Disability Act, although implementing regulations had not been promulgated by year's end. Approximately 10 percent of the total population consisted of persons with some disability, and persons with physical disabilities were effectively restricted in employment, education, access to health care, and other state services by physical barriers and inadequate financial resources. Although the Government mandates access to public buildings, transportation, and government services for persons with disabilities, few buildings were accessible. New public buildings were being built in compliance with the law, but funds to retrofit existing structures were unavailable.

There were five members of the mainland parliament with disabilities, including one elected member of parliament from Lindi who has albinism.

The Ministries of Education, Justice, and Labor are responsible for enforcing the protection of rights of persons with disabilities for education, legal claims, and labor rights, respectively. The Department of Social Welfare has responsibility for coordinating matters related to persons with disabilities.

In 2009 the Government started an education initiative to integrate students with disabilities into mainstream schools; however, the program lacked adequate funding. For example, braille paper and tape recorders were generally not available for blind students.

*Indigenous People.*—On April 12, local authorities dispersed women from 12 villages in Loliondo, Ngorongoro District, who had gathered to demonstrate against their July 2009 evictions from the Loliondo Game Controlled Area (LGCA) and the burning of their homesteads, as well as against suspected government plans to redraw village boundaries that would exclude them from key Maasai pastures. Authorities also arrested and detained NGO activists who police alleged were responsible for inciting the protest.

During the year FEMACT concluded that local security forces had conducted “ruthless eviction operations” in forcibly evicting farmers and burning their homes and crops in August 2009 in the LGCA, where foreign corporations own the rights to hunt. In August 2009 international NGOs reported that local field force units forcibly evicted Maasai pastoralists from their homes in the LGCA. In 1992 the Government gave a foreign corporation the rights to hunt in the LGCA during certain periods of the year. The pastoralists typically moved from the LGCA during hunting season, but when they did not do so in 2007, the field force units allegedly forcibly removed the Maasai and burned their homes and crops. Pastoralists who refused to move were arrested. The Government claimed that those evicted were Kenyans and criticized NGOs for exaggerating the situation. In mid-September 2009 CHRAGG sent a team to investigate the alleged human rights abuses. In its report, released in May, it found that no gross human rights violations were committed by field force units in Loliondo and that the eviction was conducted using reasonable force. However, CHRAGG suggested that the disputed area be surveyed and properly demarcated to avoid such disputes in the future.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexuality is illegal on the mainland and in Zanzibar. On the mainland the offense is punishable by up to five years in prison. The law in Zanzibar establishes a penalty of up to 25 years’ imprisonment for men who engage in homosexual relationships and seven years for women in lesbian relationships. Since the burden of proof in such cases is significant, the law is rarely applied, and there were no reports that anyone was punished under the law during the year. In the past individuals suspected of being gay or lesbian were instead charged with loitering or prostitution. Gays, lesbians, bisexual, and transgendered (LGBT) persons faced societal discrimination, which restricted their access to healthcare, housing, and employment.

During the year a coalition of NGOs worked together to advocate for the rights of LGBT persons, including the repeal of the penal code provision criminalizing homosexuality. However, societal discrimination forced organizations advocating for these rights to operate discreetly, often impeding the efficacy of their outreach and advocacy.

*Other Societal Violence or Discrimination.*—The HIV/AIDS Act of 2008 prohibits discrimination against any person “known or perceived” to be HIV positive and establishes medical standards for confidentiality to protect persons living with HIV/AIDS. The Act also criminalizes the deliberate transmission of HIV. As of October draft regulations had been submitted to the attorney general for review and recommendations.

According to a founding member of the Parliamentarians’ AIDS Coalition, parliamentarians and other persons in general were more open to discussing HIV/AIDS than in the past. During the year the coalition funded awareness raising campaigns in 10 constituencies focusing on the prevention of mother-to-child transmission, feeding and nutrition, orphans and vulnerable children, and other HIV/AIDS related issues.

According to the 2007/08 HIV/AIDS and Malaria Indicator Survey, there was little change in attitudes towards persons living with HIV/AIDS since the previous survey in 2003/04. There were continuing reports that discrimination in housing, healthcare, and education continued to occur against the estimated 1.3 million persons in the country living with HIV/AIDS.

The Government, working with NGOs, continued to sensitize the public about HIV/AIDS-related discrimination and to create safeguards for HIV/AIDS patients’ human rights. A network of lawyers, policymakers, and doctors continued lobbying efforts and other activities to deal with legal, ethical, and human rights problems associated with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The union and Zanzibar governments have separate labor laws. Workers on the mainland had the right to form and join independent trade unions. Trade unions must consist of more than 20 employees and were required to register with the Government. A trade union or employers’ association must register within six months of its establishment; failure to register is a criminal offense. The registrar in the Ministry of Labor, Employment, and Youth Development exerted significant power over trade unions, including the right to deregister unions if overlap existed within an enterprise. Unions had to submit financial records and a membership list to the registrar annually. The registrar could suspend a trade union if it determined that the union violated the law or endangered

public security. Association with an international trade union required government approval.

Approximately 33 percent of the formal sector work force (550,000 workers) belonged to the Trade Union Congress of Tanzania (TUCTA), the sole labor federation. In the agricultural sector, the country's largest employment sector, an estimated 5 to 8 percent of the work force was unionized. Strikes were very infrequent on both the mainland and Zanzibar.

Mainland workers have the legal right to strike, and employers have the right to a lockout after complying with certain legal requirements and procedures. These rights are qualified according to the law. For example, all parties to a dispute may be bound by an agreement to arbitrate, and neither party may then engage in a strike or a lockout until that process has been completed.

In April TUCTA announced it would hold a nationwide strike starting on May 5, if the Government failed to increase salaries to TZS 315,000 (\$214), reduce income taxes, and address pension disparities. Although TUCTA and the Government entered into negotiations through the Commission for Mediation and Arbitration, TUCTA continued to threaten to strike. On May 3, President Kikwete publicly criticized union officials and warned workers not to take part in the strike. TUCTA called off the strike the day before it was scheduled to start. On May 8, TUCTA and the Government agreed to continue their negotiations. In mid-June the Government reached an agreement with TUCTA to increase minimum wages and exempted low wage government workers from income tax.

In 2008 the Government was granted a court injunction to stop hundreds of thousands of teachers from striking over unpaid salaries and allowances. A judge ordered the teachers and the Government into arbitration before allowing the teachers to go on strike. In September 2009 the Government stated it was verifying and auditing teacher claims for salaries and allowances but planned to make payment in October. The audit was completed in late October 2009 and teachers began receiving their payments. Although there continued to be some complaints about back wages, they were not on a similar scale or which involved the court.

A lawful strike or lockout is protected and does not constitute a breach of contract, nor can it be considered a criminal offense. An employer may not terminate the employment of an employee for participating in a lawful strike or terminate an employee who accedes to the demands of an employer during a lockout.

The law restricts the right to strike when to do so would endanger the life and health of the population. Workers in certain sectors (water and sanitation, electricity, health services and associated laboratory services, firefighting, air traffic control, civil aviation telecommunications, and any transport services required for the provisions of these services) are restricted from striking. Workers in other sectors may also be subject to this limitation.

The labor law in Zanzibar applies to both public- and to private-sector workers. Government workers do have the right to strike as long as they follow procedures outlined in the Employment Act of 2005. They are not allowed to join mainland-based labor unions. The Zanzibar labor law requires a union with 50 or more members to be registered and sets literacy standards for trade-union officers. There were 14 trade unions on Zanzibar, and an estimated 40 percent of the Zanzibar workforce is unionized. In collaboration with the International Labor Organization (ILO), the Government worked to draft regulations under the Employment Act of 2005 to facilitate a smooth implementation of the act. However, the regulations were not approved by the Labor Advisory Board and were being redrafted at year's end.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining in the private sector, and workers and employers practiced it freely during the year. In the public sector, the Government set wages administratively, including for employees of state-owned organizations.

On the mainland disputes were regulated and resolved by mediation through the Commission for Mediation and Arbitration. If the mediator failed to resolve a dispute within 30 days of referral, or any longer period agreed upon in writing by both parties, either party to the dispute may give notice of its intention to commence a strike or lockout. If the mediation fails to resolve the complaint, the Commission for Mediation and Arbitration may appoint an arbitrator to decide the dispute, or it may be referred to the labor court.

In practice many private-sector employers adopted antiunion policies or tactics. On the mainland the law prohibits discriminatory activities by an employer against union members; however, in August 2009 an ILO consultant told the Daily News that trade union rights were affected by antiunion discrimination and limitations on the right to strike. In some instances employers did not allow unions to recruit at their work sites and threatened employees interested in joining a union with ter-

mination. These cases were reportedly resolved informally. The law required employers found guilty of antiunion activities to reinstate workers.

On the mainland there were five industrial zones operating as export processing zones (EPZs). There were also 35 developer licensees and 34 operator licensees functioning as single factory zones. In Zanzibar there were three free economic zones, which were treated as EPZs. There were no special laws or exemptions from regular labor laws in EPZs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices, especially involving children, occurred. In some instances, girls from rural areas were forced to do domestic work, while boys were sent to work on farms, in mines, and in the informal business sector. In 2009 the International Office of Migration reported that men from Malawi were forced to work in the fishing industry.

The law allows prisoners to work without pay on construction and agriculture projects within prisons both to develop the skills of the prisoners and reduce the costs of operating the prisons. Prisoners were also used as labor on projects outside of the prison, such as road repair and government construction projects.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the exploitation of children in the workplace. Under the law the minimum age for contractual employment is 14. Children over 14 (but under 18) could be employed only to do light work unlikely to harm their health and development or attendance at school. Children under the age of 18 may not crew on a ship or be employed in a mine, factory, or any other worksite where working conditions could be hazardous.

The law establishes criminal penalties for employers of child labor as well as forced labor; violators could be fined an amount not exceeding TZS 4.68 million (\$3,172), imprisonment for one year, or both. Although the Ministry of Labor, Employment, and Youth Development reportedly conducted inspections and issued warnings to violators of child labor statutes, there were no reported child labor cases brought to court during the year. Likewise, Zanzibar's Ministry of Labor, Youth Development, Women, and Children did not take legal action related to child labor.

A shortage of inspectors on the mainland and in Zanzibar resulted in limited enforcement of child labor provisions, and child labor continued to be a problem. According to the Integrated Labor Force Survey of 2006, approximately 19 percent of children ages five to 17 years were engaged in child labor on the mainland. In Zanzibar an estimated 8 percent of children ages five to 17 were engaged in child labor.

Child labor was widespread in Tanzania and Zanzibar. Children work as domestic help, street vendors and shop keepers, as well as in small-scale agriculture (e.g., coffee, sisal, tea, and tobacco), family-based businesses, fishing, and artisanal mining. In Zanzibar, children work primarily in transportation, fishing, clove picking, domestic labor, small businesses, and gravel making.

During the year the Government worked closely with stakeholders to reduce child labor especially at the district, ward, and village level. Government leaders were committed to ending child labor in their localities and worked in collaboration with international NGOs to withdraw children from child labor during the year.

During the year the Zanzibar Ministry of Employment, Youth, Women, and Children withdrew 600 children from child labor in the fishing, seaweed farming, and quarrying industries on the islands. In May the ministry conducted a seminar for its steering committee on child labor to develop an action plan to address child labor and educate participants about the dangers of child labor.

On the mainland the Ministry of Labor, Employment, and Youth Development was responsible for enforcement of labor laws, together with the Commission for Mediation and Arbitration and the labor court.

Several government ministries, including the Ministry of Labor, Employment, and Youth Development, had special child labor focal persons.

In 2009 the Government instituted a number of policies aimed at decreasing child labor. These included the establishment of the Child Labor Monitoring System to coordinate all national efforts related to child labor as well as the creation of District child labor subcommittees. While the Ministry of Labor continued its monitoring efforts during the year, it reported that its implementing partners failed to provide it with data concerning their efforts to withdraw or prevent children from engaging in child labor. The ministry conducted a limited number of monitoring visits to regions where child labor is prevalent. Child labor issues were integrated into

the Complementary Basic Education curriculum and the teacher-training college curriculum.

Other measures to ameliorate the problem included ensuring that children of school age attended school, imposing penalties on parents who did not enroll their children in school, and sensitizing employers in the formal sector against employing children below the age of 18.

In 2009 the Government revised the Child Development Policy to include prohibitions against the worst forms of child labor. During the year it continued to conduct outreach to educate citizens about the policy, particularly through its promotion of the children's agenda.

The national intersectoral committee on child labor within the Office of the Prime Minister, which includes representatives from several ministries and the NGO community, has not met since September 2009. According to an ILO official, the Government expressed its commitment to fight child labor and strengthen local structures for its elimination.

The Government collaborated with NGOs by providing technical expertise in agriculture and qualified trainers, as well as the necessary allowances and in some cases a budget to support child labor related activities. For example, the Igunga District Council set aside seven million TZS (\$4,745) for child labor related activities in 2009.

*e. Acceptable Conditions of Work.*—The mainland government raised the minimum wage in both the public and private sectors in July and exempted low wage government workers from income tax. The new minimum wage standards were divided into eight employment sectors, the lowest minimum wage was TZS 70,000 (\$47) per month for workers in the agricultural sector and the highest was TZS 350,000 (\$237) per month for workers in the mineral and aviation sectors. These monthly wages were above the poverty line of TZS 13,998 (\$10) per month per person established by the 2006/07 Household Budget Survey. The labor laws cover all workers, including foreign and migrant workers.

The Government of Zanzibar increased the minimum wage rate from TZS 80,000 (\$54) to TZS 100,000 (\$68) per month during the year.

In 2009 there were reports that some employers offered only short-term contracts of three to six months to avoid the salary and benefit requirements. In 2009 trade unions expressed their discontent over pay raises given by the Government to certain high-level government officials, including judges, ministers, and their deputies, as well as regional and district commissioners.

There was no standard legal workweek for private-sector workers, but most private employers retained a six-day, 44- to 48-hour workweek. A five-day, 40-hour workweek was in effect for government workers. Under most circumstances, it was illegal to employ women to work between 10:00 p.m. and 6:00 a.m.; however, employers frequently ignored this restriction. The ILO reported in 2009 that some workers were forced to work overtime under the threat of being fired.

Several laws regulate safety in the workplace. The Ministry of Labor, Employment, and Youth Development managed an inspection system; however, its effectiveness was limited due to lack of resources and the small number of labor officers available to conduct the inspections. Labor standards were not enforced in the informal sector, where most of the workforce was employed.

Workers could sue an employer if their working conditions did not comply with the Ministry of Labor, Employment, and Youth Development's health and environmental standards. Disputes were generally resolved through the Commission for Mediation and Arbitration. There were no exceptions for foreign or migrant workers.

---

## TOGO

Togo, with a population of 6.6 million, is a republic governed by President Faure Gnassingbe, who was reelected on March 4 in a process characterized by international observers as generally free and fair. The election presented a stark contrast to the 2005 presidential election, which was accompanied by systematic fraud, voter intimidation, and widespread violence. Following the announcement of the official election results, limited incidents of violence between security forces and opposition protesters occurred. The military strongly backed the ruling Rally of the Togolese People (RPT), which dominated politics and maintained firm control over all levels of the highly centralized government. Security forces reported to civilian authorities.

Human rights problems in the country included: security force use of excessive force, including torture, which resulted in deaths and injuries; official impunity; harsh and life-threatening prison conditions; arbitrary arrests and detention;

lengthy pretrial detention; executive influence over the judiciary; infringement of citizens' privacy rights; restrictions on freedoms of press, assembly, and movement; official corruption; discrimination and violence against women; child abuse, including female genital mutilation (FGM), and sexual exploitation of children; regional and ethnic discrimination; trafficking in persons, especially women and children; societal discrimination against persons with disabilities; official and societal discrimination against homosexual persons; societal discrimination against persons with HIV; and forced labor, including by children.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were several reports that the Government or its agents committed arbitrary or unlawful killings during the year. Security forces killed striking demonstrators during the year (see section 2.b.).

On May 28, Amnesty International (AI) reported that several persons died in detention in 2009 “probably as a result of torture or other ill-treatment.”

According to a June 24 report by Freedom House, three bodyguards of Kpatcha Gnassingbe, the president's half brother, were killed during the army's April 2009 raid on the home of Gnassingbe, who was suspected of coup plotting.

In May 2009 the Government established a Truth, Justice, and Reconciliation Commission in response to public and international pressure to account for the complaints lodged by victims of political violence between 1958 and 2005. The commission, which has no power to prosecute or grant amnesty, held public hearings and began taking individual statements during the summer.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however in January 2009 a UN special rapporteur found evidence that police and gendarmes abused detainees during interrogation, guards beat prisoners, and young persons and children were at risk of corporal punishment while in detention. The Government did not prosecute officials for such abuses, and impunity remained a problem.

Information surfaced during the year that detainees died from torture in March 2009 (see section 1.a.).

Unlike in previous years, there were no reports of attacks on or intimidation of human rights workers.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh with serious overcrowding, poor sanitation, and unhealthy food. At year's end the expanded Central Prison of Lome, which was built for 666 prisoners, held 1,925 prisoners. In April 2009 the media reported that prisoners were dying of hunger and received typically one meal a day worth 150 CFA francs (\$0.31). During the year the warden of the central prison confirmed that adult prisoners received one meal a day, and juveniles were provided three. Medical facilities were inadequate, and disease and drug abuse were widespread. Sick prisoners reportedly had to pay 1,500 CFA francs (\$3.12) to guards before being allowed to visit the infirmary. There were reports that prison officials sometimes withheld medical treatment from prisoners. Lawyers and journalists reported that prison guards charged prisoners a small fee to shower, use the toilet, or have a place to sleep. Local press reported that prison guards sexually harassed female prisoners.

While there were no official statistics on the number of prison deaths, the warden of the central prison confirmed 22 prisoner deaths during the year from various causes, including asthma, hypertension, and tuberculosis.

As of October 11, there were 4,116 prisoners in the country's 12 prisons and jails. There were 28 juveniles held in the Brigade for Minors during the summer, 10 of whom were released at the start of the school year. Infants of female prisoners and detainees were placed in the care of private nurseries, which received government support. Pretrial detainees were not held separately from convicted prisoners.

Prisoners and detainees were granted reasonable access to visitors and were permitted religious observance.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. However, authorities rarely investigated such complaints and did not publicly document such investigations. The Government monitored and investigated prison and detention center conditions only rarely, and official impunity was a problem.

Ombudsmen did not serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration, the status and circumstances of juvenile

confinement, improving pretrial detention, or recordkeeping procedures. However, the Ministry of Justice continued to work on ameliorating these problems through its multi-year reform program financed by the European Union.

Local NGOs accredited by the Ministry of Justice could visit the prisons anytime, although the accreditation process could take up to a year. International NGOs must negotiate an agreement with the Government to gain similar access to prisons. During the year the International Committee of the Red Cross (ICRC) and other international human rights organizations were allowed prison access. Only internationally recognized groups such as the Office of the UN High Commissioner for Refugees (UNHCR) and the ICRC were granted access to National Intelligence Agency (NIA) detention facilities.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not always respect these prohibitions.

*Role of the Police and Security Apparatus.*—The security forces consist of the army, navy, air force, national security service (including the national police and investigation bureau), and the gendarmerie. The NIA is responsible for domestic and foreign intelligence and security, including criminal investigations. The police are under the direction of the Ministry of Security and Civil Protection, which reports to the prime minister. The Ministry of Defense, which reports directly to the president, oversees the military and the gendarmerie. Police and gendarmes are responsible for law enforcement and maintenance of order. The army is in charge of external security. Approximately 80 percent of the army's officers and soldiers were from the Kabye ethnic group, which constituted 23 percent of the population and to which the current and previous presidents belonged.

Police generally were ineffective and corrupt, and impunity was a problem. Police often failed to respond to societal violence. The Government generally did not investigate or punish effectively those who committed abuses, including unlawful killings and disappearances. No progress was made in examining complaints from more than 100 victims of human rights abuses committed during the 2005 presidential election (see section 1.a.). In 2007 the victims were asked to pay 25,000 CFA francs (\$52) to the court to move their cases forward. Some were unable to pay and withdrew their complaints. Others paid the requested fee but still saw no progress on their cases during the year.

*Arrest Procedures and Treatment While in Detention.*—The law authorizes judges, senior police officials, prefects, and mayors to issue arrest warrants; however, persons were detained arbitrarily and secretly. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees often were held without bail for lengthy periods with or without the approval of a judge. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention, but authorities often delayed, and sometimes denied, access.

Security forces arbitrarily arrested opposition members during the year (see sections 1.e. and 3).

During the year the Government arrested and detained political prisoners, all of whom were released by year's end (see section 1.e.).

The 33 persons arrested in April 2009 for suspected coup plotting, including Kpatcha Gnassingbe, one of the president's half brothers and a national assembly member, remained in detention (see section 1.e.).

The law prohibits arrest for civil debt; however, according to the Togolese League of Human Rights, an unknown number of persons were arrested for outstanding debts and detained in gendarmeries and police stations for more than 48 hours.

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. Almost 80 percent of inmates were pretrial detainees. The Togolese League of Human Rights reported that a man suspected of stealing a chicken remained in pretrial detention for a year.

*e. Denial of Fair Public Trial.*—Although the constitution provides for an independent judiciary, the executive branch continued to exert control over the judiciary, and corruption was a problem. Lawyers often bribed judges to influence the outcome of cases. The court system remained overburdened and understaffed.

There were three associations of magistrates in the country: the Union of Magistrates of Togo (SMT), the National Association of Magistrates (ANM), and the Professional Association of Magistrates of Togo (APMT). A majority of the APMT mem-

bers were supporters of the ruling RPT and reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the ANM or SMT often were assigned to second-tier positions.

A military tribunal exists for crimes committed by security forces; its proceedings were closed. The military court cannot try civilians and does not accord military defendants the same rights as civilians.

*Trial Procedures.*—The judicial system employs both traditional law and the Napoleonic Code in trying criminal and civil cases. Defendants do not enjoy a presumption of innocence. Trials were open to the public, juries were used, and judicial procedures generally were respected. Defendants have the right to be present at their trials and have the right to counsel and to appeal. All defendants have the right to an attorney, and the bar association provides attorneys for the indigent. Defendants may confront witnesses and present witnesses and evidence on their own behalf. The preceding rights were respected in practice. Defendants have the right to access government-held evidence relevant to their cases, but in practice that right was not respected.

The law extends these rights to all citizens, but not to persons convicted in the military court. Women who were uneducated or came from rural areas tended not to be aware of or feared claiming their rights.

In rural areas the village chief or a council of elders is authorized to try minor criminal and civil cases. Those who reject the traditional authority may take their cases to the regular court system, which is the starting point for cases in urban areas.

*Political Prisoners and Detainees.*—The Government arrested and held 16 political detainees in connection with the March 4 presidential election; however, the Government denied it held political detainees or prisoners. On March 3, five were arrested in Akoumape; on March 6, four were arrested in Lome; on May 9, six were arrested in Bassar, the home town of opposition candidate Kofi Yamgnane; and on August 11, another person was arrested for refusing to obey police directives not to attend an unauthorized opposition vigil. The 16 were charged with inciting violence. As of September, according to AI and the League of Togolese Human Rights, all 16 had been released. Some were held for weeks and others for six months, but none had been mistreated, according to AI. The Government permitted access to such persons on a regular basis by international humanitarian organizations.

The 33 persons arrested in April 2009 for suspected coup plotting, including presidential half brother Kpatcha Gnassingbe, remained in detention. Most of the detainees were held by the NIA and charged with offences against the security of the state, conspiracy, rebellion, and “voluntary violence”; those charged with inciting violence were held at Kara civil prison in the north. According to AI, some of the detainees were initially held incommunicado, and several had been denied family visits. Lawyers were sometimes denied access to their clients. The ICRC and other human rights organizations were initially denied access to the detainees, but subsequently granted access. On September 30, another suspect was arrested in Abidjan in connection with the alleged plot and extradited to Togo.

The six opposition members arrested after the 2005 election were released from Kara civil prison during the year. During their incarceration the Government permitted regular access to them by international humanitarian organizations and the League of Togolese Human Rights.

*Civil Judicial Procedures and Remedies.*—Both the constitution and the law provide for civil and administrative remedies for wrongdoing, but the judiciary did not respect such provisions, and most citizens were unaware of them.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. In criminal cases a judge or senior police official may authorize searches of private residences; in political and national security cases, security forces need no prior authorization.

Citizens believed that the Government monitored telephones and correspondence, although such surveillance was not confirmed.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government continued to restrict these rights. Numerous journalists were fined or sued, usually for defamation, and President Faure personally initiated several lawsuits, which he subsequently dropped. Impunity for past crimes against journalists encouraged self-censorship.

Although the Government did not officially censor individual expression, persons were reluctant to criticize the Government publicly or privately due to past violent reprisals by government agents and the possibility of civil liability.

The High Authority of Audiovisuals and Communications (HAAC) was established to provide for freedom of the press, ensure ethical standards, and allocate frequencies to private television and radio stations. Although nominally independent, in practice the HAAC operated as the Government's censorship arm.

For example, following the disruption of the April 2009 alleged coup plot led by Kpatacha Gnassingbe (see section 1.a.), the HAAC issued an order banning all radio and television programs in which the public was allowed to express its opinion; the ban was lifted a few days later.

In October the Government passed a law that provides the HAAC with the power to impose severe penalties, including suspending publications for up to six months, withdrawing press cards, and seizing equipment from journalists responsible for "serious errors."

There was a lively independent press, most of which was heavily politicized, with some highly critical of the Government. More than 25 privately owned newspapers were published with some regularity. The official media heavily slanted their content in favor of the Government.

On August 25, a criminal court judge banned indefinitely the distribution of *Tribune d'Afrique*, a newspaper based in Benin but with a bureau in Lome. The newspaper had published an investigative series on the alleged involvement of Mey Gnassingbe, a half brother of the president, in drug trafficking. The judge ordered the newspaper to pay 60 million CFA francs (\$125,000) to President Faure and fined the Togo-based editor and two reporters two million CFA francs (\$4,166) each. On August 25, defense lawyer Darius Atsoo filed an appeal, noting the newspaper did not have a lawyer during the trial and was not able to present a defense. Observers noted that the fines were excessive, and that if upheld on appeal, could bankrupt the newspaper.

Information surfaced during the year that in December 2009 a Lome court fined independent periodical *Golfe Info* 1.5 million CFA francs (\$3,125) and ordered it to pay 82.3 million CFA francs (\$17,450) directly to the NIA; suspend all publication for two months; and retract the offending September story and any subsequent coverage of it. The original article had claimed that a celebrity who was allegedly involved in drug trafficking had worked as a project officer for the presidential administration.

Radio remained the most important medium of mass communication, and there were approximately 100 radio stations, most of which were privately owned.

Information surfaced during the year that military personnel in July 2009 assaulted a reporter with the private FM Radio Metropolis; the reporter had failed to heed the directions of military forces deployed to a construction zone. After the beating, the journalist called a demonstration, which was forbidden by authorities and dispersed by gendarmes.

Unlike in the previous year, there were no reports the radio journalists were suspended after criticizing authorities.

The Government-owned Togo Television was the only major television station. Eight smaller television stations operated during the year.

*Internet Freedom.*—There were no known government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 5.7 percent of the country's inhabitants subscribed to an Internet service provider, and 15 percent used the Internet.

*Academic Freedom and Cultural Events.*—The Government intimidated academics by maintaining a security force presence at the University of Lome. According to students and professors, a government informant system continued to exist, and undercover gendarmes attended classes.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government generally restricted this right. The Government prevented opposition supporters from meeting and forcibly dispersed demonstrations on several occasions during the year, which resulted in deaths.

On March 24, the gendarmerie fired tear gas into a crowd of opposition supporters, who were beating an undercover gendarme discovered among them. In the ensuing panic, several persons were injured.

Following the March 24 violence, the minister of security decreed that no further demonstrations, marches, or public meetings to protest the election results would

be tolerated. The Government subsequently deployed police and gendarmes, who used tear gas to prevent demonstrations. Although the ban remained in effect, the Government allowed the opposition UFC party to conduct weekly Saturday marches and Wednesday prayer vigils until August, when the Government again enforced the ban.

On June 22, the gendarmerie used live ammunition, batons, and tear gas to disperse protests over a 20 percent increase in fuel prices, resulting in several deaths and numerous injuries.

On August 10, gendarmes used tear gas to disperse UFC supporters who gathered at a church for their annual congress. Police equipped with batons, tear gas, and live ammunition formed a line to block access to the road leading to UFC headquarters. After the UFC held its two congresses in early August, the Government denied permission for the weekly Wednesday noon prayer vigil and an August 14 march and rally at the beach.

No action was taken against security forces who in January 2009 severely beat students at the African School for Architecture and Urban Planning, who were protesting school management and poor campus security following numerous muggings of students.

*Freedom of Association.*—Under the constitution and law, citizens have the right to organize associations and political parties, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government restricted some of these rights in practice. The Government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Checkpoints with armed security personnel and arbitrary searches of vehicles and individuals were common. There were four official checkpoints in the country as well as numerous unofficial checkpoints where security forces solicited bribes and impeded movement.

The constitution prohibits forced exile, and the Government did not employ it. Several opposition and human rights workers remained in self-imposed exile, claiming they feared arrest. However, many who fled in the early 1990s returned, including the current foreign minister.

According to the UNHCR, approximately 3,000 Togolese refugees remained in Benin; the number in Ghana was unknown. They received assistance from the UNHCR, which facilitated repatriation for those wishing to return to the country and local integration for refugees who would not or could not return.

*Protection of Refugees.*—The country's laws do not provide for the granting of asylum or refugee status, but the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

In March and again in April approximately 300 Ghanaian refugees fled a violent land dispute in northeast Ghana and crossed the border into Togo, according to the UNHCR. Refugees reportedly outnumbered the host community, and many of the refugees were living in schools and other public buildings or staying in tents provided by the Government.

The Government facilitated local integration for longstanding Ghanaian refugee populations that remained in the country. Most were well integrated in host communities and required no humanitarian assistance. A voluntary repatriation program for 508 Ghanaian refugees remained unimplemented due to lack of resources.

The Government continued to provide temporary protection to approximately 521 individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees and its 1967 protocol.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in the March 4 presidential election.

*Elections and Political Participation.*—On March 4, president and ruling RPT candidate Faure Gnassingbe was reelected with 61 percent of votes cast. The Constitutional Court rejected opposition claims of fraud and vote buying, citing lack of evidence. International and national observers monitoring the election declared it generally free, fair, transparent, and peaceful. Unlike the 2005 presidential election, which resulted in approximately 400 deaths and the flight from the country of an estimated 40,000 persons, the March election occurred with minimal violence.

Political parties are required to provide 48-hour advance notification to the Government for any public activity. They are also subject to restrictions in calling for demonstrations or strikes, which may be monitored by security forces.

The Government arrested opposition members during the year and banned political demonstrations (see section 1.e.).

The UFC, the largest opposition party, split into two factions following the March election, one led by presidential runner-up Jean Pierre Fabre and the other led by UFC president Gilchrist Olympio, who agreed to join the ruling RPT. As a result of a May 26 accord between Olympio and the Government, President Faure named seven UFC ministers to his cabinet. Competing UFC party congresses on August 10 and 12 formally ratified the split by excluding rival leaders from party leadership. Noting the split, the Government banned UFC weekly marches, justifying the action on the grounds that Fabre was no longer the legal head or voice of the UFC.

The Government remained highly centralized. The national government appointed officials and controlled the budgets of government entities at all levels, including prefectures and municipalities, and influenced the selection of traditional chiefs.

There were nine female members of the national assembly and seven female ministers in the 32-member cabinet.

Members of the southern ethnic groups remained underrepresented in both the Government and military.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. According to the World Bank's Worldwide Governance Indicators for 2009, government corruption was a severe problem.

Corruption was common among prison officials, police officers, and members of the judiciary.

In July the customs office created a disciplinary committee to investigate corrupt officers; however, the committee had not started operating by year's end.

An independent court with an autonomous budget to oversee public expenditures was established in September 2009; the court began operations in July.

Officials were not subject to financial disclosure laws.

Although the press code provides for public access to government information, the Government in the past did not permit access for either citizens or noncitizens, including foreign media; however, the Government provided some information during the year, including postings on Web sites.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials sometimes cooperated, but typically were not responsive to NGO recommendations.

There were several domestic human rights groups, including the Togolese League of Human Rights, the Center for Observation and Promotion of the Rule of Law, and the Togolese Association for the Defense and Protection of Human Rights.

The Government generally cooperated with international governmental organizations and permitted visits by UN representatives or other organizations such as the ICRC (see section 1.c.).

A permanent human rights committee exists within the national assembly, but it did not play any significant role in policymaking or exercise independent judgment.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these provisions effectively.

*Women.*—The law criminalizes rape and provides for prison terms of five to 10 years for those convicted. The prison term is 20 years if the victim is a child under 14, is gang-raped, or if the rape results in pregnancy, disease, or incapacitation lasting more than six weeks. The law does not specifically outlaw spousal rape. Al-

though the Government was diligent in investigating reports of rape and prosecuting suspects, victims were reluctant to report rape due to the social stigma associated with being raped and fear of reprisal. Rape was thought to be a widespread problem throughout the country. During the year 22 persons were arrested for rape. At year's end all were in prison awaiting trial, awaiting convictions to be formalized, or serving sentences.

The law does not specifically prohibit domestic violence, and domestic violence against women continued to be a widespread problem. Police generally did not intervene in abusive situations, and women were not aware of the formal judicial mechanisms designed to protect them. Although there were no official efforts to combat domestic violence, several NGOs were active in educating women on their rights.

A 1984 presidential decree prohibits sexual harassment and specifically mentions harassment of female students; however, authorities did not enforce the decree, and sexual harassment was a problem throughout the society. While the law states that harassment is illegal and can be taken to court, no specific punishment is prescribed.

The Government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives, but only about 11 percent of inhabitants in urban areas used them. The Government did not provide free childbirth services, and the lack of sufficient doctors meant most women only used midwives for childbirth as well as for prenatal and postnatal care, unless the mother or child suffered serious health complications. Maternal mortality was 510 deaths per 100,000 live births. Only heterosexual men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but women were more likely than men to seek treatment and refer their partners.

Although the law declares women equal under the law, women continued to experience discrimination in education, pension benefits, and inheritance. This was a consequence of traditional law, which applied to the vast majority of women. A husband legally can restrict his wife's freedom to work or control her earnings. In urban areas women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. The labor code requires equal pay for equal work, regardless of gender, but this provision generally was observed only in the formal sector. There are no restrictions on women owning property. Under traditional law a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Otherwise, women can own property with no special restrictions. Polygyny was practiced. Women did not experience economic discrimination in access to employment, credit, or managing a business.

The Ministry of Social Action and National Solidarity, along with independent women's groups and concerned NGOs, campaigned to inform women of their rights. In September President Faure launched a campaign to improve women's health and reduce infant mortality; the president also pledged financial support to the effort.

*Children.*—Citizenship is derived either from birth within the country's borders or from the father's citizenship. If the father does not have a nationality or it is unknown, the mother's citizenship transfers to the child.

School attendance is compulsory for both boys and girls until the age of 15, and the Government provides tuition-free public education from nursery through primary school; however, parents were required to pay for books, supplies, uniforms, and other expenses. According to the UN Children's Fund (UNICEF), although 92 percent of boys and 85 percent of girls started primary school, only an estimated 58 percent of boys and 41 percent of girls finished. For secondary school, the net enrollment was 34 percent for boys and 12 percent for girls, but only 19 percent of boys and 9 percent of girls completed secondary school.

Child abuse was a widespread problem. Although the law explicitly prohibits sexual exploitation of children and child prostitution, the law was not effectively enforced. There was no statutory rape law. The Government continued to work with local NGOs on public awareness campaigns to prevent exploitation of children.

The law prohibits FGM, which was perpetrated on approximately 6 percent of girls, according to UNICEF. It was believed the practice had decreased significantly in urban areas since the 1998 anti-FGM law was passed. The most common form of FGM was excision, which was usually performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM. Penalties for practitioners of FGM ranged from two months to five years in prison as well as substantial fines. However, the law rarely was applied because most FGM cases occurred

in rural areas where awareness of rights was limited. Traditional customs often took precedence over the legal system among certain ethnic groups. The Government continued to sponsor educational seminars against FGM. Several NGOs, with international assistance, organized campaigns to educate women of their rights and on how to care for victims of FGM. NGOs also worked to create alternative labor opportunities for former practitioners.

According to several international organizations, child marriage, especially in the north and among Muslims, existed on a small scale. Cases were often not reported as parents freely gave their children in marriage.

A private radio station, Radio Zephir, sponsored by the international NGO Plan International and partially subsidized by the Government, broadcast a weekly program for children titled "Children Also Have Rights."

In January 2009 the Government established a toll-free line for persons to report cases of child abuse and to seek help. The line provides free information on the rights of the child and legal procedures. The Government also established school curriculum to educate children on human rights and, working with UNICEF, trained teachers on children's rights.

In 2007 the Government implemented the country's first child code, which provides for the protection of children's economic, psychological, and moral rights and includes national and international standards intended to protect children. The code prohibits child trafficking, child prostitution, child pornography, the employment of children in armed conflict and other worst forms of child labor, including the selling of children for sexual exploitation, forced labor, or servitude. Government efforts to implement the code resulted in the release in 2009 of hundreds of children from service as assistants to traditional healers. A 2009 ILO program continued to raise awareness of and rescue children from enforced labor.

Orphans and other needy children received some aid from extended families or private organizations but little from the Government. There were social programs to provide free health care for poor children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—The Jewish community was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, mental, and sensory disabilities in employment, education, access to health care, or in the provision of other state services, but the Government did not effectively enforce these provisions. There was no overt government discrimination against persons with disabilities, and such persons held government positions, but societal discrimination against persons with disabilities was a problem. The Government does not mandate accessibility to public or private facilities for persons with disabilities, although some public buildings had ramps. While the law nominally obliges the Government to aid persons with disabilities and shelter them from social injustice, the Government provided only limited assistance.

The Agency for Handicapped Persons, under the Ministry of Social Action and National Solidarity, is responsible for protecting the rights of persons with disabilities. During the year the ministry held awareness campaigns against discrimination and to promote equality. It distributed food and clothing and provided some skills training to persons with disabilities.

*National/Racial/Ethnic Minorities.*—The relative dominance in private sector commerce and professions of members of southern ethnic groups, and the relative prevalence in the public sector, particularly in the security forces, of members of the former and current presidents' Kabye and other northern groups were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases. The RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and CAR opposition parties.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law provides that a person who engages in a homosexual act may be punished by one to three years' imprisonment and fined 100,000 to 500,000 CFA francs (\$208 to \$1,041). Eight persons were arrested for "indecent assault" and were in prison awaiting trial at year's end.

There was societal discrimination based on sexual orientation.

*Other Societal Violence or Discrimination.*—A 2005 law prohibits discrimination against persons infected with HIV/AIDS, and the Government sponsored broadcasts aimed at dissuading discrimination. However, persons infected with HIV/AIDS continued to face significant societal discrimination.

*Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provide workers, except security forces (including firefighters and police), with the right to form and join unions, and they exercised this right in practice. Approximately 60 to 70 percent of formal sector workers were union members or supporters.

The constitution and law provide most workers with the right to strike, including government health workers; however, striking health care workers may be ordered back to work as necessary for the personal security and wellbeing of the population. The 2006 labor code prohibits retribution against strikers by employers. In December 2009 culinary employees at the Sarakawa Hotel went on a 48-hour strike to demand year-end bonuses. The strike ended when management agreed to their demands.

*b. The Right to Organize and Bargain Collectively.*—The constitution and the labor code nominally provide workers the right to organize and bargain collectively; however, the Government limited collective bargaining to producing a single nationwide agreement to be negotiated and endorsed by representatives of the Government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector workers. The Government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolized many sectors of the formal economy. Individual groups in the formal sector could attempt to negotiate agreements more favorable to labor through sector-specific or firm-specific collective bargaining, but this option was rarely used.

The Ministry of Labor, Employment, and Social Security failed to enforce the prohibition against antiunion discrimination.

The law provides exemptions from some provisions of the labor code, notably the regulations on hiring and firing for companies in the export processing zones (EPZs). Employees of EPZ firms did not enjoy the same protection against antiunion discrimination as did other workers. Unions generally did not have free access to EPZs or the freedom to organize workers there; however, in late 2009 the Government allowed the creation of two unions representing workers from various EPZ companies.

*c. Prohibition of Forced or Compulsory Labor.*—The labor code prohibits forced or compulsory labor, including by children; however, such practices occurred. Children sometimes were subjected to forced labor, primarily as domestic servants, porters, and roadside sellers. Children were also forced to perform agricultural work and beg. Women were trafficked for prostitution or forced labor as domestic servants.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The labor code prohibits the employment of children under the age of 15 in any enterprise, the employment of children under age 18 from working at night, and requires a daily rest period of at least 12 hours for all working children. However, the Government did not effectively enforce child labor laws, and child labor was a problem. Some children started work at age five and typically did not attend school for most of the school year.

Children worked in both rural and urban areas, particularly in family-based farming and small-scale trading, and as porters and domestic servants, considered one of the worst forms of child labor. In some cases children worked in factories. In agricultural sectors, children assisted their parents with the harvesting of cotton, cocoa, and coffee. Children were involved in the production of foodstuffs, such as beans and corn, for consumption by the family.

The most dangerous activity involving child labor was in the quarries, where children assisted their parents in crushing rock by hand and carrying buckets of gravel on their heads. Such labor was not sanctioned by the Government and occurred only in small, privately-owned quarries. Reputable local NGOs reported that while quarry work was strictly a weekend and holiday activity for most children, others dropped out of school to work full time in the quarries.

For some types of industrial and technical employment, the minimum age is 18. Inspectors from the Ministry of Labor, Employment, and Social Security enforced these age requirements, but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young chil-

dren traditionally assisted their families. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as 12,500 to 17,500 CFA francs (\$26 to \$36).

Children were trafficked into indentured and exploitative servitude, which amounted to slavery.

The Ministry of Social Action and National Solidarity was responsible for enforcing the prohibition against the worst forms of child labor. In 2007 the National Assembly adopted the child code that prohibits the employment of children in the worst forms of child labor, including trafficking, prostitution, pornography, and the use of children in armed conflict. Due to limited resources, the enforcement of child labor laws was weak. The ministry funded a center for abandoned children and worked with NGOs to combat child trafficking. The ministry frequently held workshops in collaboration with UNICEF, the ILO, NGOs, labor unions, and other partners to raise awareness of child labor in general and forced labor in particular.

For information on child trafficking, also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The Government sets minimum wages for different labor categories, ranging from unskilled through professional positions. There was no minimum wage for workers in the informal sector. In practice employers often paid less than the official minimum wage, mostly to unskilled workers. In August 2008 the Government raised the official monthly minimum wage from 10,000 to 16,000 CFA francs (\$20 to \$33) to 28,000 CFA francs (\$58). However, the new wage did not provide a decent standard of living for a worker and family. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor, Employment, and Social Security is responsible for enforcement of the minimum wage system, especially in the private sectors, but it did not enforce the law in practice.

Working hours of all employees in any enterprise, except for the agricultural sector, normally are not to exceed 40 hours per week; at least one 24-hour rest period per week is compulsory, and workers are expected to receive 30 days of paid leave each year. Working hours for employees in the agricultural sector are not to exceed 2,400 hours per year (46 hours per week). The law requires overtime compensation, and there are restrictions on excessive overtime work; however, the Ministry of Labor, Employment, and Social Security's enforcement was weak, and employers often ignored these provisions.

A technical consulting committee in the Ministry of Labor, Employment, and Social Security sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice the ministry's enforcement of the various provisions of the labor code was limited. Large enterprises are obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not. Although workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs, in practice some could not do so. Labor laws also provide protection for legal foreign workers.

---

## UGANDA

Uganda, with a population of 32 million, is a constitutional republic led by President Yoweri Museveni of the ruling National Resistance Movement (NRM) party. The 2006 presidential and parliamentary elections were marred by serious irregularities. An influx of arms continued to fuel violence in the Karamoja region, resulting in deaths and injuries. The Lord's Resistance Army (LRA), which relocated to the Democratic Republic of the Congo (DRC) in 2005, continued to hold children forcibly abducted from the country. The Governments of Uganda, Southern Sudan, and the DRC continued military actions against the LRA in the DRC, Southern Sudan, and the Central African Republic (CAR). There were instances in which elements of the security forces acted independently of civilian control.

Serious human rights problems in the country included arbitrary killings; vigilante killings; mob and ethnic violence; torture and abuse of suspects and detainees; harsh prison conditions; official impunity; arbitrary and politically motivated arrest and detention; incommunicado and lengthy pretrial detention; restrictions on the right to a fair trial and on freedoms of speech, press, assembly, and association; restrictions on opposition parties; electoral irregularities; official corruption; violence and discrimination against women and children, including female genital mutilation (FGM), sexual abuse of children, and the ritual killing of children; trafficking in per-

sons; violence and discrimination against persons with disabilities and homosexual persons; restrictions on labor rights; and forced labor, including child labor.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings; however, security forces killed demonstrators, suspects, detainees, and other citizens. Some deaths occurred as a result of torture.

Security forces killed suspects while in custody or during questioning.

For example, on March 23, police in Hoima District arrested Ibrahim Massa, officer in charge of Songa Police Post in Kyangwali subcounty, together with junior officers David Barongo and Samuel Turinawe, for beating to death suspect Gilbert Mukonyezi. Following a police investigation Massa was released, while Barongo and Turinawe were charged with manslaughter and released on bail pending hearing of their case.

On May 17, police in Kampala arrested Rapid Response Unit (RRU) police officers Disinga Abangu, David Mulwanira, and Alex Muhiirwe for killing suspect Henry Bakasamba during questioning. Bakasamba died in police custody at the Kireka Detention Center on May 14. Police reported that investigations into the case were ongoing at year's end.

On August 20, police in Gulu District arrested police officers Joe Okello, Steven Otim Mulema, and Collin Ayella for the death of Calvin Owee, who was arrested and allegedly tortured to death for stealing a motorcycle. A court charged the officers with murder and remanded them to prison pending trial.

Security forces' use of excessive force, including the use of live ammunition, to carry out law enforcement operations or disperse demonstrators resulted in deaths.

For example, on March 17, members of President Museveni's advance team fired into a crowd gathered at the Buganda Kingdom's Kasubi Tombs, after a fire destroyed the tombs on March 16. Cornelius Kayanja, Haruna Kakumba, and an unidentified person were killed, and five others injured. On December 2, a government commission began investigating the incident, but no action was taken by year's end.

On April 2, two special police constables (SPCs) in Kisoro beat to death Evaristo Mihigo for allegedly resisting arrest. On April 7, a court in Kisoro charged the officers with murder and remanded them to prison. On July 9, the court dismissed the case due to lack of evidence.

On September 12, police in Bugiri fired live bullets to disperse a crowd during the NRM party primary elections. One person was killed. There were no reports of an investigation or disciplinary action.

On September 7, police in Hoima used live ammunition to break up a strike at the British America Tobacco (BAT) Uganda. Dennis Bazara and Benard Byabasajja were killed, and several others wounded. Authorities arrested police officers Augustine Kasangaki, Luke Mbusa, and Romeo Ojara for excessive use of force. On September 15, the Hoima Police Disciplinary Court charged Kasangaki, Mbusa, and Ojara with manslaughter and remanded them to prison (see section 7 b.).

Excessive force and the indiscriminate use of live ammunition by security forces and the Uganda People's Defense Forces (UPDF) resulted in deaths during cattle recovery and disarmament operations in the Karamoja Region in the east.

For example, 13 Karamojong citizens, including six children, one woman and two elderly persons, died during a January 4-7 UPDF operation to recover rustled cattle in Kotido District. Witness statements alleged that a helicopter gunship fired indiscriminately into livestock and persons. During this operation the UPDF arrested 32 persons, some of whom were allegedly tortured or mistreated while in detention.

At least five Karamojong citizens died during a January 22 UPDF cattle recovery operation in Rengen subcounty of Kotido District. Eyewitnesses reported that individuals killed were not armed and included children. The UPDF reported that five alleged rustlers were killed and one UPDF soldier wounded in the engagement.

At least 10 persons were killed in an April 24 cattle recovery and disarmament operation in Lokitela'Angilam town in Rengen subcounty, Kotido District. According to a joint UN Office of the High Commissioner for Human Rights (OHCHR) and the Uganda Human Rights Commission (UHRC) statement, the dead included six children and two elderly men. During the operation, the UPDF allegedly fired small arms and rocket propelled grenades indiscriminately. An internal UPDF investigation of the incident reported that UPDF soldiers were responding to an attack by 30-40 armed assailants.

In August the UPDF killed 29 Jie cattle rustlers in Nadunget, Moroto District. UPDF's third division commander Brigadier Patrick Kankiriho confirmed the incident, saying the rustlers refused to surrender.

There were developments in some 2009 cases involving deaths caused by government security forces.

In January 2009 security agents in Bukedea District reportedly tortured to death David Okwi, a member of the opposition party Forum for Democratic Change (FDC). In February 2009, the FDC petitioned the Uganda Human Rights Commission (UHRC) to investigate Okwi's death. In November 2010, the UHRC concluded its investigation, and the case was pending a hearing before the UHRC tribunal at year's end.

At year's end investigations continued in the following 2009 cases: the February killing of William Byamugisha and Daniel Tumwine, the February killing of Mucunguzi Katongole, the February beating and subsequent death of prison inmate Emmanuel Tindimwebwa, the March shooting deaths of Joseph Denaya and Cosmas Data, and the August death of Ali Katende while in police custody.

The Government took no action to investigate security force handling of the September 2009 riots in Kampala that resulted in at least 40 deaths. On September 8, the High Court denied an appeal for bail by 23 individuals who were arrested during the riots and charged with the capital offence of terrorism. In January civilian Abdallah Byabasajja petitioned the High Court to compel the inspector general of police (IGP) and the Government to compensate him for the death of his wife, who was killed during the riots. The petition remained pending.

In June police in Arua District arrested Mobile Police Protection Unit officer Ben Kiwanuka Drici, Charles Obuci, Celestine Mutahingwa, and Patrick Okiror for allegedly torturing to death suspect Taban Ramadan in December 2009. An investigation into the case was pending at year's end.

Government security forces were punished for killings committed in 2008 and previous years. In January a court in Kabale District sentenced police officers Difasi Buko and Michael Karuhize to 14 years' imprisonment for the 2008 killing of Dalas Innocent Mutekanga. On July 6, a court in Kabarole District sentenced SPC Christopher Bahemuka to nine years' imprisonment for the 2007 killing of Godfrey Bitamazire. In January the UPDF's fifth division court martial sentenced to death UPDF private Africano Abono Lino for the 2006 killing of seven civilians in the Laguti Internally Displaced (IDP) camp. On April 13, a court in Kabarole District sentenced former UPDF officer Moses Musinguzi to 16 years imprisonment for the 2006 killing of Erasmus Kalyega. On September 27, the High Court in Gulu sentenced UPDF soldiers Michael Onek Oloya and Francis Oryem each to 45 years in prison for the 2003 killing of Bicentina Lakot.

Unlike in previous years, there were no reports that members of Local Defense Units (LDUs) were responsible for killings; however, there were developments in several cases from previous years. On February 5, the High Court in Lira District sentenced Peter Onini, Geoffrey Engur, Alex Okaka, Ronald Adupa, and Moses Oyuku, former members of the Amuka militia, to 25 years' imprisonment for the 2006 murder of David Odong at the Otwal Internally Displaced Persons (IDP) camp. In November police submitted the file of LDU member Moses Kabagambe to the state attorney for committal in the High Court for allegedly killing Lauren Arinaitwe in 2009 in Kabarole District.

One terrorist attack occurred during the year. On July 11, an attack by the Somali terrorist group al-Shabaab killed 76 persons in Kampala. Al-Shabaab bombs killed individuals assembled to watch the World Cup finals at an Ethiopian restaurant and a rugby club. The Government arrested several dozen individuals in connection with the bombings including, on September 15, Kenyan human rights activist al-Amin Kimathi and Kenyan attorney Mbuga Mureithi. On September 18, authorities released Mureithi without charge and deported him back to Kenya. On December 1, authorities charged 17 persons, including Kimathi, with terrorism, murder and attempted murder in relation to the bombings and released 18 others. Hearing of the cases was pending at year's end.

As in previous years, ritual killings of children and adults resulted in deaths. The 2009 Police Annual Crime Report recorded a total of 29 suspected ritual killings (see section 6).

Mob attacks against criminal suspects resulted in deaths during the year. The 2009 Police Annual Crime Report recorded a total of 332 mob action cases, many of which resulted in deaths. Witnesses rarely cooperated with police, making investigation of such incidents difficult.

For example, on February 22, a mob in Obopi village, Arua District, beat to death a suspected witch doctor who was accused of killing two persons from the same village.

In May a mob in Bugobi Trading Center in Namutamba District beat to death three suspected robbers for allegedly breaking into a shop.

The trial of 11 suspects implicated in the beating death of landlord Sam Kubo in 2009 was pending.

There were reports of increased cattle raids and societal violence in the Karamoja Region. According to the UPDF and human rights groups, cattle raids and the UPDF's forced disarmament campaign resulted in the deaths of at least 90 civilians and 32 UPDF soldiers during the year.

As in the past five years, there were no reports of LRA attacks within the country; however, the LRA killed numerous persons in the DRC, CAR, and Sudan.

*b. Disappearance.*—There were no reports of politically motivated abductions or kidnappings, but there were developments in past disappearance cases.

In February the High Court ordered the Ministry of Internal Affairs to conduct an inquiry into the disappearance and presumed death of Lutaya Saidi, a street vendor allegedly arrested by the Joint Anti-terrorism Task Force (JATT) in 2007. The Ministry of Internal Affairs failed to conduct the inquiry within the prescribed 90 days, and there were no further developments.

The whereabouts of at least six individuals identified in Human Rights Watch's April 2009 "Open Secret" report remained unknown. These individuals were allegedly arrested in 2008 and detained in the Kololo Detention Facility (see section 1.d.).

As in the past five years, there were no reports of LRA abductions in Uganda; however, the LRA abducted many persons in the DRC, CAR, and Sudan.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports that security forces tortured and beat suspects, some of whom died as a result (see section 1.a.).

The UHRC, the Foundation for Human Rights Initiative (FHRI), the African Center for Treatment and Rehabilitation of Torture Victims (ACTV), and other human rights organizations reported incidents of torture by security forces, including caning, severe beating, squeezing of private parts, stabbing, kicking, tying of limbs in contorted positions, forced marching, and rape. From January to April the ACTV registered 29 allegations of torture against the police, 19 against the UPDF, three against military police, six against the Violent Crime Crack Unit or Rapid Response Unit (RRU), 20 against unspecified security personnel, and 59 against prison officials. In September the Government approved payment of over one billion shillings (\$431,592) owed to victims of torture and other abuses; however, the Government still owed victims 1.9 billion shillings (\$820,025) at year's end.

In its 2009 annual report released in October 2010, the UHRC reported registering 785 human rights complaints against 858 individuals, including 106 UPDF members, 285 police officers, 86 other security agencies, 29 prison warders, and 343 private citizens. Of the 785 complaints, 31 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment.

There were numerous reports of torture and abuse in unregistered detention facilities operated by the JATT and the Chieftancy of Military Intelligence (CMI). Torture victims included political activists and detainees.

FHRI cited two cases of torture in its August report "Overview of the Human Rights Situation in Uganda January-July 2010." On May 6, for instance, police in Kampala arrested, detained, and allegedly tortured Segilinya (full name withheld) for two weeks at Kitebi police post. On May 21, a court in Nsanji charged Segilinya with stealing a bicycle and remanded him to Kabasanda Prison. On May 15, police in Jinja arrested Mayinja (full name withheld) on robbery charges. Mayinja claimed he was beaten during three days of RRU detention.

On April 4, UPDF soldier Lt. Justine Engwau allegedly tortured Nelson Okurut and Joseph Ikimyom after arresting them on robbery charges in Kasoka village, Bukedea District. The UPDF allegedly denied the victims access to medical care, even though they were in critical condition. UHRC concluded its investigation into this incident, and the matter was pending hearing before the UHRC tribunal at year's end.

The 2009 torture case filed by Hoima Mayor Francis Atugonza against the CMI for alleged illegal detention and torture in a CMI "safe house" was pending a Constitutional Court ruling at year's end.

Security force use of excessive force resulted in injuries during arrests and law enforcement operations.

For example, on January 20, SPC Alfred Achikane allegedly shot and injured local musician Moses Sali, his body guard Abbas Kayoyo, and Allan Masengere, Godfrey Kayiza, and David Oluka in Kampala. On February 9, a court in Kampala charged

Achikane with five counts of attempted murder. On February 23, he was released on bail, and hearing of the case was pending.

On March 22, SPC Patrick Tumusiime shot and injured civilian Abdul Nsubuga during an operation to round up criminals in a Kampala suburb. Police arrested Tumusiime and charged him with unlawful wounding. Police later released Tumusiime pending an investigation of the incident.

On March 19, police severely beat Forum for Democratic Change (FDC) and Inter-Party Cooperation (IPC) women's leader Ingrid Turinawe and assaulted other FDC members at the Kabale police station. A police investigation accused Turinawe and others of trying to forcibly enter the police station and claimed the officers' actions were justified. An independent medical report confirmed that Turinawe suffered blows to the head and body, and a lawsuit against the police filed by Turinawe was pending at year's end.

Police beat and used pepper spray or mace against 33 female IPC supporters on June 14. Four of the women were hospitalized due to blunt force injuries and ingestion of a chemical substance. On the same day, police charged two of the women, Ida Namukwaya and Eyoru Asala, with assault of police officers. Hearing of the assault case began on November 14 and was pending at year's end. On July 2, the IPC women filed a counter suit in the High Court accusing the police officers of assault. This case was pending hearing at year's end.

In July police arrested more than 60 members of the National Alliance for Free and Fair Elections (NAFFE) and the Inter Party Cooperation (IPC) for staging nationwide demonstrations against the Electoral Commission. Police in Mbale and Bushenyi districts reportedly beat protestors. Police confirmed that one officer beat protestors in Mbale and said they would investigate the officer's actions. Results of this investigation were pending at year's end.

In December Inspector General of Police General Kale Kayihura suspended the Rapid Response Unit's Commander, Nathan Byona, and senior police officers Nixon Karuhanga and Julius Kwikirizi over allegations of torture, extortion, and mismanagement. There were no reports of findings of the investigation at year's end.

There were no developments in any of the 2009 cases of security force use of excessive force during arrests, law enforcement operations, or to disperse demonstrators.

There was no update, for instance, on the March 2009 case in which UPDF Major Otim Demoi Latek allegedly tied up and seriously beat residents David Obonyo and Walter Okeny over a land dispute in Gulu.

Court proceeding into Corporal Swaleh Swaib and SPC Henry Mukasa's alleged beating of four persons in July 2009 remained ongoing. One of the four individuals died of his injuries.

The UHRC received complaints from individuals who sustained injuries during the September 2009 riots (see sections 1.a. and 1.d.). For example, a petition filed by Ssemukala Ismail alleged that security force members shot him while he was closing his shop in Nateete, disabling his left arm. Investigations into the incident were pending at year's end.

There were no developments in the 2008 shooting of Masaba Bakari in Muzulu village, Namutamba District, by SPC Eric Kiirya for defying traffic police directives to stop.

In May the Uganda Law Society sued the attorney general for the Director of Public Prosecution's (DPP) failure to prosecute Assistant Prisons Superintendent Sam Etoru and senior police officer Ivan Nkwasiwe for allegedly assaulting members of the society during the paramilitary takeover of the High Court in 2007. The Government paramilitary group known as the "Black Mambas" forcibly occupied the court to prevent FDC leader Kizza Besigye from being released on bail. A hearing of the suit was pending.

As in previous years, mobs attacked persons suspected of stealing, ritual sacrifice, witchcraft, and other crimes, resulting in deaths and injuries. Motivated in part by lack of confidence in law enforcement and the judicial system, mobs beat, lynched, burned, and otherwise brutalized their victims (see section 1.a.).

The Government continued to prosecute citizens for their alleged involvement in the 2009 September riots. The 2009 Police Annual Crime Report recorded 210 offenses against public order during the September riots. Of these, 112 cases were prosecuted, with 20 convictions and one acquittal. 91 cases remain pending.

*Prison and Detention Center Conditions.*—Prison conditions remained poor and, in some cases, life threatening. There were reports that security forces tortured inmates, particularly in military facilities and unregistered detention centers. Abusive forced labor in prisons countrywide remained a problem.

Prison conditions came closest to meeting international standards in Kampala, where medical care, running water, and sanitation were provided; however, these

prisons were among the most overcrowded. Serious problems in prisons outside Kampala included long remand periods, overcrowding, inadequate staff, and lack of food, water, medical care, and bedding.

The Uganda Prisons Service reported there were 30,312 prisoners in the prison system at the end of August, approximately three times capacity. Severe overcrowding was also a problem at juvenile detention facilities and in female wings of prisons. The Kampala Remand Home, designed for 45 children, held 110. The Naguru reception center, designed for 30 prisoners, held 150 juveniles. The Prisons Service recorded 103 prisoner deaths nationwide from torture, overcrowding, malnutrition, poor sanitation, disease, overwork, and lack of medical care.

Information was unavailable on conditions in unregistered facilities, although authorities allowed the UHRC and some international NGOs access to selected unregistered facilities.

Prison authorities reported that the three suspects who allegedly strangled to death prisoners Geoffrey Akandwanaho, Fred Mugisha, and Ephraim Nankunda in 2008 were released on court bond in March 2009, and their trial hearing was pending at year's end.

Female prisoners in central prisons were held in separate facilities; however, services and facilities for female prisoners in local prisons, including separate cells, were lacking in some areas. The Prisons Service had no budget for accommodating pregnant women or mothers with infants; the number of infants in women's prisons increased during the year. Due to lack of space in juvenile facilities, minors were held in prisons with adults. Pretrial detainees in Kampala prisons were separated from convicted prisoners, but pretrial detainees and convicted prisoners in the rest of the country were sometimes held together. Local NGOs reported that prisoners and detainees had reasonable access to visitors and were allowed to submit complaints. Prison authorities acknowledged a backlog in the investigation of complaints. Authorities allowed international NGOs, foreign diplomats, and local NGOs, principally the FHRI and the Uganda Prisoners' Aid Foundation, to conduct prison visits during the year but required advance notification.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

*Role of the Police and Security Apparatus.*—The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has primary responsibility for law enforcement. The UPDF is charged with external security but had significant responsibility for preventing violence resulting from interclan cattle raids in the Karamoja Region. The Internal Security Organization (ISO) and External Security Organization (ESO), which are security agencies and intelligence-gathering entities under the minister of security, occasionally detained civilians. The CMI is legally under UPDF authority, although it often acted as a semiautonomous unit in detaining civilians suspected of rebel and terrorist activity, as did the ISO and ESO. The Joint Anti-terrorism Taskforce (JATT), an interagency paramilitary group under the CMI, has no codified mandate but illegally detained civilians suspected of rebel and terrorist activity. The JATT is a joint command whose members are drawn from the UPDF, police, ISO, and ESO.

The UPF continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training. The UPF Human Rights Desk investigated complaints of police abuses, including mismanagement of case papers, torture and harassment, unlawful arrest and detention, abuse of office, irregular or discreditable conduct, and corrupt practices. The UPF reported receiving 1,296 allegations of human rights violations and unprofessional conduct between January and September and stated it took action in response to 330 of these cases.

The UPDF continued efforts to transfer responsibility for law enforcement in the north and in the Karamoja region to the UPF. During the year the UPF deployed an estimated 2,000 additional police officers to Karamoja.

In conjunction with the UHRC and international organizations including the ICRC and the OHCHR, the UPDF and police continued to train officers on internationally recognized human rights standards. During the year 224 police officers attended human rights and constitutional workshops. The police, UPDF, and Prisons Service also used human rights manuals in their training programs.

*Arrest Procedures and Treatment While in Detention.*—The law requires that judges or prosecutors issue search warrants before arrests are made; however, in practice, suspects often were taken into custody without warrants. The law requires suspects to be charged within 48 hours of arrest, but suspects frequently were held longer. Suspects arrested under the Antiterrorism Law must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case

is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always do so. The law provides for bail at the discretion of the judge, and bail was generally granted with stringent conditions. Detainees are required by law to have access to a lawyer; however, many went without legal representation. The Government provided attorneys for indigent defendants accused of capital offenses.

The law provides for family visitation, but incommunicado detention remained a problem. According to the African Center for Treatment and Rehabilitation of Torture Victims (ACTV), the military police held three civilians incommunicado in January. In its April 2009 report, Human Rights Watch (HRW) noted that "JATT personnel frequently blindfolded, handcuffed, and sometimes beat suspects being taken to the Kololo detention facility. Detainees had no access to lawyers or family members and only learned of their whereabouts from other detainees or by spotting Kampala landmarks visible from the Kololo facility."

Mass arrests during police sweeps for criminals remained a problem, as did arrests based on alleged sedition, treason, incitement of violence, or terrorism.

Local NGOs received complaints of illegal detention from four individuals allegedly detained by the RRU at the Kireka Detention Center following the July 11 terrorist bombings in Kampala. Three suspects were released without charge. The fourth suspect was still detained at year's end.

On March 25, police and the UPDF arrested 200 persons in Mubende, allegedly to curb insecurity stemming from increased local burglary and murder rates. Police reported that four persons were charged with murder and robbery, while the rest were released without charge.

On August 30, police in Lwengo District, in the central region, arrested more than 30 citizens allegedly hired to incite violence during NRM primary elections in Kinoni. Police released the suspects on September 1 without charge.

Persons suspected of sedition, treason, incitement of violence, or terrorism were subjected to numerous abuses, such as detention without charge, detention in unofficial locations, and mistreatment, including torture (see subsections 2.a. and 2.b.).

The Prisons Service held 16 pretrial treason suspects during the year. Fourteen of the suspects were arrested in 2009 for allegedly forming the Uganda Patriotic Front rebel group.

The UHRC received complaints during the year from persons who claimed they were arbitrarily arrested. The Government paid compensation to some victims of arbitrary arrest during the year, but compensation was often slow. There were no developments in the 2008 petition filed by former UHRC chairperson and current UN Special Rapporteur for Human Rights Defenders Margret Sekaggya to establish a national fund to pay victims. Past compensation payments were made from general government funds administered by the Ministry of Justice and Constitutional Affairs.

Human rights groups continued to express concerns about the treatment of individuals arrested by the UPDF in Karamoja in conjunction with the UPDF's response to cattle raids and the Government's disarmament campaign (see section 1.a.).

Local and international human rights groups reported the Government detained civilians in military facilities and unregistered detention facilities known as safe houses, where they often were held incommunicado.

The UHRC reported progress in inspecting military places of detention including Kigo, Makindye, and Gulu fourth division military barracks. The UHRC reported it can access these military facilities but only with advance notification. The UHRC also reported that it was able to visit the Kololo safe house and found no evidence of torture or abuse, although a formal report was not published.

There were developments in some cases that occurred in 2009. For example, the RRU's director, Commandant Emmanuel Muhairwe, and two deputies, Peter Kakonge and Emmanuel Bwembale, who were placed on leave in October 2009 following allegations that RRU members illegally detained the wife of a government employee at an unknown location for more than a week, were reinstated and transferred to a different office.

On September 21, the High Court rejected a bail application submitted by a group of 14 prisoners arrested between September 2008 and May 2009 for allegedly forming a rebel group entitled the Uganda Patriotic Front and plotting to overthrow the Government.

During the year police arbitrarily arrested over 100 opposition and civil society demonstrators demanding a new Electoral Commission, electoral reforms, and free and fair elections (see section 2.b.).

Case backlogs in the judicial system contributed to pretrial detentions of two to three years but sometimes as long as seven years. The Prisons Service reported that

more than half of its approximately 30,000 inmates were pretrial detainees. The UHRC heard several cases brought by prisoners challenging the length of their detention.

*Amnesty.*—Since 2000, the Government has offered a blanket amnesty to former LRA and Allied Democratic Forces rebel combatants to encourage defections. On June 14, parliament extended the mandate of the Uganda Amnesty Commission for two years. Over 26,000 individuals, more than half of whom are former LRA combatants, have benefited from amnesty.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice; however, the president has extensive legal powers of judicial appointment. The president appoints Supreme Court, High Court, and Court of Appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, who make recommendations on appointments to the judiciary. The judiciary ruled against the Government on several high profile cases during the year. Lower courts remained understaffed, weak, and inefficient. Judicial corruption was a problem (see section 4).

The military court system often did not assure the right to a fair trial. Although the accused has the right to legal counsel, some military defense attorneys were untrained. The law establishes a court martial appeals process; however, sentences, including the death penalty, can only be appealed to the senior UPDF leadership. Under circumstances deemed exigent, a field court martial can be convened at the scene of a crime. The law does not permit appeal of a conviction under a field court martial. The military general court martial can try civilians charged with crimes listed under the UPDF Act.

*Trial Procedures.*—An inadequate system of judicial administration and a lack of resources resulted in a serious backlog of cases and limited the right to a fair trial. All nonmilitary trials are public, but juries are not used. Defendants have the right to be present and to consult with an attorney in a timely manner, but cases may proceed without defendants in civil cases. The law requires that the Government provide an attorney for indigent defendants accused of capital offenses, but there were rarely funds to retain adequate counsel. By law defendants may confront or question witnesses against them and present witnesses and evidence on their behalf, but this right was not respected in practice. In 2008 the Constitutional Court ruled that suspected criminals have a right to obtain documentary evidence the state intends to use against them before the start of their trial. The ruling struck down the practice of “trial by ambush.” However, the ruling stated that the right of disclosure is not absolute in highly sensitive cases. There is a presumption of innocence, and defendants have the right of appeal.

Suspects complained of long remand periods. For example, in February three UPDF soldiers facing murder charges—Emmy Namanya, Moses Keriri, and Yason Babishanga—protested long detention in civilian cells without charge. The soldiers alleged they were arrested in Kampala between 2002 and 2004 but by year’s end had not been tried. The UPDF reported that the suspects were offered and applied for a plea bargain that would permit the court martial to deduct pretrial time served from their sentences; a hearing of the case was pending.

In September a total of 12 persons who were convicted of crimes as minors but not sentenced sued the attorney general and the minister of justice and constitutional affairs over their continued detention. The individuals were arrested, charged, and convicted by various courts between 1991 and 2001. After conviction their cases were referred to the justice minister for sentencing because they were minors at the time. Due to the minister’s failure to determine a sentence, the individuals were detained far beyond the maximum three years stipulated in the 1998 Children’s Act.

In September the Ministry of Justice and Constitutional Affairs reported that more than 124,000 cases were prosecuted from previous years and another 113,850 cases were registered in 2009. Of these, 100,084 cases were disposed of, while 137,689 were pending at year’s end.

*Political Prisoners and Detainees.*—There were no reports of political prisoners during the year; however, over 100 opposition politicians, supporters, or journalists critical of the Government were detained on politically motivated grounds for short periods.

On October 12, the Constitutional Court cleared FDC leader Kizza Besigye of pending treason, terrorism, murder, and illegal use of firearms charges. The court determined that illegal detention, torture, and other unconstitutional abuses by security services and the Government irrevocably undermined the presumption of innocence and right to a fair trial of Besigye and the nine coaccused.

In March lawyers representing treason convict Bright Gabula Africa requested the High Court to declare Africa eligible for amnesty. Africa's death sentence for treason was upheld by the Supreme Court in 1995. He remained imprisoned pending the outcome of his appeal to the Presidential Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body. The High Court had not responded to the request by year's end.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. In the case of a human rights violation, there is access to the UHRC, which has the powers of a court under the constitution. These powers include the authority to order the release of detainees, payment of compensation to victims, and other legal and administrative remedies, such as mediation. There were problems enforcing domestic court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions. However, police did not always obtain search warrants, as required by law, to enter private homes and offices.

The Antiterrorism Act authorizes certain law enforcement officials to intercept communications to detect and prevent terrorist activities. The Government continued to monitor telephone conversations. On August 5, President Museveni signed into law the Regulation of Interception of Communication Bill, which authorizes government security agencies to legally tap private conversations as part of wider efforts to combat terrorism-related offenses.

The Government continued to encourage university students and government officials to attend NRM political education and military science courses known as "chaka mchaka." The Government claimed the courses were not compulsory; however, human rights activists reported that civil servants and students were pressured to attend.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government at times restricted these rights. The police Media Crimes Unit and government officials closely monitored all radio, television, and print media, and the Government at times harassed and intimidated journalists, who continued to practice self-censorship.

On May 2, HRW released a report that documents violations of press freedoms by the Government and ruling National Resistance Movement party officials. The report says the Government "deploys a wide range of tactics to stifle critical reporting, from occasional physical violence to threats, harassment, bureaucratic interference, and criminal charges." The report warns that use of these tactics "threatens to fatally undermine media freedoms necessary for free and fair elections."

On August 25, the Constitutional Court upheld a petition submitted by the Independent's managing editor Andrew Mwenda in 2005 and declared the sedition law inconsistent with article 29 (1) of the constitution, which provides for freedom of speech. According to local NGOs, 15 journalists, civil society activists, and political opposition members face pending sedition charges.

Government officials detained and interrogated political leaders who made public statements critical of the Government and used libel laws and national security as grounds to restrict freedom of speech (see section 3). The President's Office reportedly monitored political talk shows, and the Government occasionally attempted to block participation of opposition members on radio talk shows.

On March 29, police in Masaka District arrested Democratic Party supporter Muhammad Kigongo on allegations he accused President Museveni of being responsible for the March 16 fire that destroyed the Buganda Kingdom's tomb site at Kasubi. A court in Masaka charged Kigongo with sedition and released him on bail on March 31. The case hearing was pending at year's end.

On April 1, police in Kasese District questioned and released on police bond FDC supporter Joram Bintamanya for alleging that President Museveni was responsible for the 2008 death of former Ministry of Defense permanent secretary Noble Mayombo. On April 22, the state prosecutor ordered the closure of the case for lack of recorded evidence.

On April 1, police in Kabarole District arrested FDC supporters Tom Mboijana and Prosper Businge for statements made on Better FM radio accusing President Museveni of being responsible for the killing of three civilians at Kasubi Tombs on March 17. Mboijana and Businge recorded statements and were released on police bond. Police investigations continued, and hearing of the case was pending at year's end.

On April 16, police in Kasese arrested Messiah FM Radio presenter Charles Tumusiime and politicians Joram Kisebo and Isaac Hakiza over statements made regarding the Kasubi Tombs fire during a radio talk show. The police held the three suspects for eight hours before releasing them without charge.

On May 8, Radio Nile FM radio panelist Titia Kamure allegedly accused President Museveni of using “guerrilla tactics” in redistricting decisions. Arua District police commander (DPC) Willis Mutabingwa said Kamure’s statements abused the president and summoned her to record a statement. Kamure disregarded the summons, and the case was pending.

On September 10, a group of motorcycle taxi drivers beat to death freelance journalist Paul Kiggundu after he was seen filming the group demolishing the house of another taxi driver in the southwestern part of the country. The drivers accused Kiggundu of working for the police. On September 21, police arrested five suspects in connection with Kiggundu’s murder and remanded them to prison. An investigation into the case continued at year’s end.

On September 13, unidentified assailants beat and killed Prime Radio news presenter Dickson Ssentongo on his way to work in Mukono District. Ssentongo was politically active and was running for a position in the Democratic Party in the upcoming February 2011 elections. There were no arrests made in connection to the murder of Ssentongo; police said an investigation in the incident continued at year’s end.

On November 5, police arrested Radio Hoima FM reporter Frederick Makuru Muhamba for allegedly inciting violence by broadcasting supposedly false information about the National Resistance Movement party’s internal primaries. On November 6, police released Muhamba on bond, and hearing of the case was pending at year’s end.

On October 5, a Kampala court dismissed the September 2009 sedition charge against former Radio One presenter Robert Kalundi Sserumaga in light of the August 25 Constitutional Court ruling on the unconstitutionality of the sedition law. The hearing of a December 2009 petition filed by Sserumaga in the High Court to challenge his dismissal and that of Radio Sapientia’s Geoffrey Ssebagala was pending at year’s end.

There were some developments in previous cases of government harassment of politicians.

On January 13, a court in Kampala postponed proceedings against Democratic Party (DP) spokesperson Betty Nambooze pending the Constitutional Court ruling on sedition. Nambooze was charged with sedition in December 2009 for making statements with the intent to generate public hatred, contempt, and dissatisfaction with President Museveni.

The hearing of the December 2009 case against Hussein Kyanjo, a parliamentarian and member of the opposition Justice Forum party, for inciting violence during a December 2009 Buganda Kingdom conference was pending, and he remained free on bail at year’s end.

Several opposition politicians were denied access to the media.

For example, on January 30, Luo FM radio in Pader District refused to host FDC President Kizza Besigye. Several other radio stations also refused to host Besigye, including Beta FM in Masindi, Radio Hoima, and Kapchorwa Trinity Radio. Several radio stations also refused to host UPC President Olara Otunnu during his January tour of the western region.

On May 26, Ibrahim Abiriga, Arua resident district commissioner (RDC) blacklisted four regular guests of a Nile FM political talk show. In a letter, Abiriga ordered Nile FM Radio’s management to stop hosting politicians Bernard Atiku (FDC), Nelson Cemari (UPC), former ambassador Harold Acemah (UPC), and Titia Kamure (UPC). RDC Abiriga claimed that some of the politician’s statements threatened security. Nile FM stopped hosting the politicians.

On October 8, the Government seized 500 copies of a new book critical of President Museveni written by FDC President Besigye’s sister. On October 11, the Government acknowledged confiscating the books for security reasons. The Government released the books on October 20.

There were many privately owned publications and broadcast stations, and the independent media were generally active and expressed a wide variety of views, although they faced obstacles. Media laws require that journalists be licensed and possess a university degree in journalism or the equivalent. The law also grants the Media Council the power to suspend newspapers. The Daily Monitor, the Independent Magazine, and the Weekly Observer continued to publish articles critical of the Government despite pending sedition cases against members of their staff. The Government owned several daily and weekly newspapers.

Government agents and political leaders affiliated with the ruling party assaulted journalists during the year.

In June 9, police officer Mohammed Mundu assaulted and destroyed the camera of Daily Monitor journalist Yusuf Muziransa for taking pictures of a vigilante group known as the Kiboko Squad beating opposition supporters in Kampala. On June 24, a court in Kampala charged Mundu with assault and malicious damage to property and remanded him to prison. On June 25, the court released Mundu on bail, and hearing of the case was pending at year's end.

On September 6, Hassan Basajjabalaba, chairman of the NRM Entrepreneur League, assaulted journalist Arthur Kintu while he took pictures at an NRM conference in Kampala. On September 9, a court in Kampala issued a criminal summons to Basajjabalaba to appear in court over charges of assault; hearing of the case was pending at year's end.

The Government also arrested and harassed journalists, some of whom were charged with criminal libel, sedition, and sectarianism.

For example, on February 3, authorities charged Daily Monitor journalists Henry Ochieng and Angelo Izama with criminal libel for a December 2009 article that compared President Museveni to Ferdinand Marcos. On May 6, the magistrate's court in Kampala adjourned the case; a hearing was pending.

On March 25, police in Kampala arrested Red Pepper journalists Ben Byarugaba, Dalton Kaweesa, and Johnson Taremwa for publishing a story titled "Buganda Katikirro, Ministers Grilled at CID Headquarters for Five Hours." On March 26, the suspects were charged with sedition and released on police bond. On April 2, Inspector General of Police General Kale Kayihura ordered the withdrawal of the charges.

On July 19, security forces in Kampala detained Kingdom FM radio journalist Rogers Matovu under unclear circumstances. On July 24, police released Matovu without charges. Matovu reportedly made critical statements about President Museveni during a conversation with unidentified persons during the African Union Summit in Kampala.

On August 2, police arrested and charged Timothy Kalyegira, an online journalist, with sedition for publishing a conspiracy theory blaming the military for the July 11 terrorist attacks in Kampala. Police released Kalyegira on bond but confiscated his laptop and passport pending further investigations.

On November 4, security personnel in civilian clothes allegedly detained Radio Simba journalist Arafat Nzito for questioning about an alleged call he received from the Middle East in December 2009 and for posting antigovernment materials on the Internet. On November 11, Nzito's lawyer filed a habeas corpus request for the Government to produce the missing journalist in court. On November 12, Nzito was released without charge (see section 1.b.).

On August 17, the Constitutional Court stayed an arrest warrant for UPC President Olara Otunnu that was issued by a district court on August 3 for his failure to respond to a police summons. Police issued the summons to question Otunnu over allegations of sedition and promoting sectarianism that arose from accusing President Museveni of intentionally prolonging the country's 24-year conflict with the LRA during an April 12 radio show.

Authorities also briefly detained a local radio journalist on July 19 for allegedly promoting sectarianism; a TV journalist on August 19 for filming immigration procedures along the country's border with the DRC; a newspaper journalist on August 22 for allegedly publishing an article critical of the Government; a radio journalist on September 6 for allegedly inciting violence; and two newspaper journalists on September 25 for possible defamation charges.

The August 2009 case against Daily Monitor photo journalist Stephen Otago, who was charged with criminal trespass for photographing former inspector general of government (IGG) Justice Faith Mwendha outside a courthouse without her permission, was pending at year's end.

Forgery charges against Daily Monitor journalists Daniel Kalinaki and Henry Ochieng for the August 2009 publication of an alleged letter from President Museveni remained pending at year's end.

There were no developments in the August 2009 sedition case against Independent Magazine's managing editor Andrew Mwenda, senior editor Charles Bichachi, and assistant news editor Joseph Were. The suspects remained free on bail at year's end.

Local government officials restricted press freedom during the year.

For example, on September 15, former IGG Justice Faith Mwendha barred journalists from covering Jinja High Court sessions. Mwendha accused journalists Frank Mugabi of the New Vision newspaper, Aldon Walukamba of Uganda Radio Network, and Catherine Asiyo of Kiira Radio of stalking her.

On September 15, police in Hoima District barred journalists from covering the hearing of three police officers charged with killing two striking workers of British American Tobacco (BAT) Uganda (see section 7. b.).

On September 17, Jinja District Council officials barred journalists from covering a meeting in which the regional public accounts committee was questioning councilors and municipality technical team on possible cases of corruption.

In August Jinja Resident District Commissioner Apollo Bwebale instructed all radio stations to stop conducting talk shows that are critical of the Government. Several warnings were allegedly sent to panelists who were regularly hosted on radio stations.

On August 16, the Nakawa Chief Magistrate Court issued an injunction against all print and broadcast media houses in the country prohibiting them from publishing information about the ongoing police investigation into the July 11 terrorist bombings. Local media houses vowed to ignore the ban, and the Magistrate's directive was not enforced.

The Government restricted the operation of private media outlets.

In contrast with 2009, no radio stations were closed or suspended during the year; however, the Government continued to restrict independent television and radio stations that hosted opposition political candidates critical of the Government. The ban on new radio stations in Kampala was enforced reportedly because of limited available frequencies; however, the ban was widely disregarded without penalty.

Two of the four Kampala radio stations that the Uganda Broadcasting Council (UBC) closed in September 2009 were allowed to reopen. The Government allowed Radio Sapientia to reopen in September 2009 with strict instructions not to broadcast political programs. The Government allowed Ssuubi FM to reopen in January. On October 23, President Museveni ordered the immediate reopening of the two frequencies of CBS radio, and CBS began operation. The High Court hearing of a December 2009 petition filed by CBS employees seeking 3 billion shillings (\$1.3 million) in compensation and general damages related to the Government's closure of CBS remained pending at year's end.

On April 26, Presidential Press Secretary Tamale Mirundi demanded apologies from a radio station for airing UPC president Olara Otunnu's accusations that President Museveni prolonged and politically profited from the LRA conflict. Mirundi warned there would be future consequences for the station if it refused to apologize. The station broadcast an apology on April 13 and 14.

The Talk Show on Radio Simba and the WBS television program Kibaazo on Friday, which the Uganda Broadcasting Council shut down in September 2009, were not reinstated during the year. Several journalists, including UBC TV Manager Mark Walungama and Charles Odongotho of Vision Voice, who were fired after the September 2009 riots were not reinstated to their jobs. Other journalists, including Manyo Matono and Andrew Ben Kiwanuka of Radio Simba and Matayo Laoyisus and Irene Kiseka of Radio Sapiente, were reinstated but instructed not to report on political issues.

There were developments in several 2008 cases of press freedom.

For example, on March 24, the High Court ordered the Government to pay 30 million shillings compensation (\$12,947) to WBS Television journalists Timothy Sibasi and Francis Tumekwatsize for their 2008 beating by SPCs under the command of Laban Muhabwe. Payment to the victims is pending.

There were no developments in the 2008 case against former Daily Monitor editors Joachim Buwembo, Bernard Tabaire, Emmanuel Gyezaho, and Robert Mukasa, who were charged with sedition in 2008 for articles alleging that former IGG Justice Faith Mwendha filed false salary claims. The suspects remained free on bail.

There were no developments in the 2008 sedition case against the Independent Magazine's managing editor Andrew Mwenda, contributing editor Charles Bichachi, and reporter John Njoroge, who published an article alleging UPDF atrocities in 2003.

*Internet Freedom.*—Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail; however, at times the Government restricted access. The 2006 ban on access to radiokatwe.com, an antigovernment gossip Web site, remained in place. Access to the Internet continued to increase during the year, although due to lack of infrastructure, only 7.8 percent of the population used the Internet at least monthly.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom; however, research clearance was required in certain academic areas, such as history and political science, and was difficult to obtain.

On December 13, Ethics and Integrity Minister Nsaba James Buturo prevented the UHRC and OHCHR from screening a documentary on Ugandan human rights

defenders. Buturo alleged that the film promoted homosexuality. In the film, one human rights defender criticized Uganda's draft "antihomosexuality bill" for violating the rights of Ugandan citizens by forcing health care workers to report individuals believed to be gay or lesbian to authorities. In a December 15 press conference, the UHRC defended the documentary and criticized Buturo for violating the UHRC's constitutional independence.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—*The law restricts freedom of assembly, and security forces used excessive force, including live ammunition, to disperse demonstrators during the year. Police permits are required for all public meetings, demonstrations, and processions. In 2008 the Constitutional Court nullified section 32(2) of the Police Act, thus eliminating the requirement to obtain the written permission of the inspector general of police before holding an assembly of 25 or more persons. However, the Ministry of Justice and Constitutional Affairs appealed the court's decision, which in effect stayed any action on the court's ruling. By year's end no decision on the appeal had been made, and police and local government authorities used the Police Act to disrupt opposition party activities (see section 3).

The use of excessive force to disperse demonstrators resulted in injuries (see sections 1.a. and 7.b.).

For example, on January 4, police deployed in the early morning hours to prevent IPC members from assembling to protest the continued closure of CBS radio and the Government's refusal to change the Electoral Commission's top management.

On March 18, police in Kabale beat IPC women leader Ingrid Turinawe and other IPC members for allegedly trying to enter a police station to visit several IPC members arrested earlier in the day for alleged unlawful assembly. Turinawe was subsequently hospitalized for several days, and an independent medical evaluation confirmed that she had received blows to the head and body. A police investigation determined that police had acted appropriately, and no charges were filed.

On April 9, police in Mbale arrested UPC supporters Abas Wetaka, Mike Kasola, Milton Wanambwa, and Andrew Kibongo for staging an illegal demonstration to protest the sale of public park land. On April 12, a court in Mbale charged the suspects with holding an unlawful assembly and released them on bail. Hearing of the case was pending.

On June 9, police in Kampala blocked three IPC-organized rallies to protest the composition of the Electoral Commission. Riot police and members of the vigilante "Kiboko Squad" beat opposition supporters while police looked on. Several supporters, including Sam Mugumya, an aide to FDC leader Kizza Besigye, were injured. Police reported that the IPC failed to notify authorities of the rallies and therefore assembled illegally.

On June 14, police in Kampala injured IPC women Ingrid Turinawe, Lilian Liz Masia, and Catherine Ddembe, as they demonstrated outside a court house following the fourth postponement of the hearing of pending illegal assembly charges. In July the injured women filed an application in the High Court seeking the dismissal of Police Deputy Director of Operations Grace Turyagumanawe and police officers Moses Kafeero, Grace Akullo, and police spokeswoman Judith Nabakooba. Hearing of the application was pending.

On July 10, police in Kampala fired shots into the air and used teargas to disperse a rally organized by DP President Norbert Mao. Police beat a civilian and later detained him at Kira Road police station. The police said the DP had not sought permission to organize the rally.

There were developments in several prior cases of freedom of assembly.

In July 2009 in Luwero District, security forces shot and injured Bugema Adventist Secondary School students Wilber Kwamboko Omara and Miriam Adyelo, who were participating in a student demonstration against poor food and corporal punishment. The same day police arrested security force members involved in the shooting, including police commander Eddie Kulany, community liaison officer Ibrahim Odroa, CID chief Sulieman Kibuye, and SPCs Robert Oguti and Alex Ojambo. An investigation continued at year's end.

On April 16, a court in Kampala acquitted 11 FDC youth supporters who faced charges of holding an illegal assembly in August 2009. The youth were arrested following a foiled protest calling for electoral reforms. Grade 1 Magistrate Francis Dawa ruled the prosecution failed to provide evidence that they were involved in unlawful assembly.

On March 2, a court in Kampala ordered the police to arrest Kampala parliamentarian Erias Lukwago for disregarding three summonses to appear in court to face charges of inciting violence during the 2009 September riots. Lukwago remained free on bail, pending hearing of the case.

In March a parliamentary investigation into police conduct confirmed claims that police assaulted MP Nabila Sempala and acted unprofessionally while arresting other MPs in 2008. The report recommended disciplinary action against Senior Superintendent of Police William Muhairwe and the Senior Officer in Charge of Ndeeba Station Noah Onyango. There were no reports that disciplinary action occurred.

On December 20, Richard Buteera, the Director of Public Prosecutions (DPP) withdrew charges of unlawful assembly against 27 individuals. The suspects, including MPs Beatrice Atim Anywar and Hussein Kyanjo and 25 others, were accused of participating in a riot against the Mabira forest giveaway in 2007.

There were no developments in the 2008 case against opposition DP members Domic Matovu Savio, Emmanuel Mugandusi, Samuel Mulindwa, Margret Wazemba, and Ben Kiwanuka, charged with rioting, assault, and firearms possession during a rally at their party headquarters. The suspects remained free on bail.

The August 2009 unlawful assembly charges against MPs Hussein Kyanjo, Erias Lukwago, and Beatrice Atim Anywar; DP youth wing vice president Fred Mukasa; Issa Ssekito, chairman of the Kampala Traders Association; and 17 others were pending.

On November 17, Ethics and Integrity Minister James Buturo informed the Aga Khan-owned Serena Lakeside Resort Hotel in Kampala that the Serena would be “an accomplice to an illegality” if it allowed a November 18-20 regional NGO conference on health, HIV/AIDS, reproductive rights, and human rights for East African sex workers to proceed. Although there was no evidence of wrongdoing or illegality, the Serena asked conference participants to leave, and the event was cancelled.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected these rights.

In April civil society organizations petitioned the Constitutional Court to challenge the 2006 NGO Registration Act, which requires most NGOs, including religious organizations, to renew their registration permits annually. The Constitutional Court failed to hear the petition due to a lack of a quorum on September 3, and the hearing remained pending. The Government established a committee to review the act in 2008, when enforcement of the law was temporarily suspended. By year’s end no action had been taken on the petition or by the committee.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination based on religious belief or practice, and prominent social leaders took positive steps to promote religious freedom.

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation; however, the Government at times limited these rights in practice.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel restrictions were imposed on opposition party members, journalists, and others with pending charges of sedition and treason.

On October 12, the Constitutional Court cleared FDC leader Kizza Besigye of pending treason, terrorism, murder, and illegal use of firearms charges. The court determined that illegal detention, torture, and other unconstitutional abuses by security services and the Government irrevocably undermined the presumption of innocence and right to a fair trial of Besigye and the nine coaccused.

Radio One presenter Robert Sserumaga’s passport was returned following the dismissal of sedition charges against him on October 5.

A married woman must obtain her husband’s written permission on her passport application if children are to be listed on her passport.

The country has no law on forced exile, and the Government did not subject anyone to forced exile during the year.

*Internally Displaced Persons (IDPs).*—According to the UNHCR, 147,401 IDPs remained in camps in northern Uganda’s Acholi Region as of August. All IDPs in the Lango and Teso regions had returned to their homes by year’s end. Conditions in IDP camps improved as a result of the lowered IDP population; however, remaining IDPs still lacked potable water, health care, schools and trained teachers, housing, and land.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. However, in at least one instance, the Government expelled refugees to a country where their lives or freedom could be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

On July 14-15, Ugandan authorities forcefully deported approximately 1,800 Rwandan asylum seekers from the Nakivale and Kyaka II settlements under a bilateral arrangement with Rwanda. At least two individuals were killed after jumping from trucks, and reports indicate that approximately 40 children were separated from their parents.

The Government provides temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol; however, no individuals received such protection during the year.

As in 2009, some Kenyan refugees complained that the Government's self-sufficiency policy, which requires refugees to become self-sufficient by providing them with land to cultivate, was ineffective because most refugees were merchants and businessmen, not farmers.

There is no path to naturalization for refugees in the country. The Government's stance on local integration is that the constitution does not allow time in country as a refugee to count toward the residency requirement for naturalization. Between January and July, the Government assisted the UNHCR in the voluntary repatriation of 2,246 refugees to Southern Sudan.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections based on universal suffrage.

*Elections and Political Participation.*—The 2006 presidential and parliamentary elections, the first multiparty general elections since President Museveni came to power in 1986, were marred by serious irregularities. Police recorded 450 cases of election-related violence during the electoral period. More than 100 election challenges were filed in the High Court and the Constitutional Court following the 2006 elections, including charges of bribery, intimidation, violence, multiple voting, and ballot stuffing. The Ugandan Supreme Court agreed that irregularities occurred but found that these irregularities did not alter the 2006 presidential outcome and upheld President Museveni's reelection by a 4-3 margin. Four by-elections were held during the year to fill the seats declared vacant by the High Court in 2007, and election monitors reported some irregularities.

The ruling NRM party operated without restriction, regularly holding rallies and conducting political activities. Approximately 38 other parties were registered and allowed to function, although members of some parties were subjected to political violence, and authorities sometimes restricted opposition parties' ability to meet or demonstrate. Political involvement was primarily concentrated within the elite. Membership in the NRM conferred greater access to government positions and resources.

In preparation for the 2011 general elections, several political parties including the ruling NRM, DP, FDC, UPC, Peoples Progressive Party, Social Democratic Party, Peoples Independent Party, Conservative Party, and the Uganda Federal Alliance conducted primary elections during the year. The elections were generally peaceful; however, the primaries of the ruling NRM party were marred by bribery, other election malpractice, and violence. Some opposition leaders were denied access to the media during the year, but the Government claimed radio stations that refused to air opposition views or candidates were privately owned stations acting on their own authority (see section 2.a.).

Police arbitrarily arrested opposition members during the year (see also section 2.c.).

For example, on January 18, police in Kampala arrested 33 female IPC members after they tried to enter the Electoral Commission (EC) headquarters to protest the appointment of EC Chairman Badru Kiggundu. Police justified the arrests on the basis that the demonstration was blocking public access to the commission premises. On January 19, a court in Kampala charged the suspects with unlawful assembly; hearing of the case was pending at year's end.

On March 18, police in Kabale arrested six opposition activists for allegedly holding an illegal meeting prior to a March 22 parliamentary by-election. From July 25-27, police arrested and later released several dozen opposition supporters throughout the country for protesting against the Electoral Commission. On August 19, po-

lice in Kampala and Mbarara arrested and later released several opposition protesters.

On October 9, police in Kampala arrested three individuals for flashing the opposition FDC party's "V" symbol during Uganda's official independence day rally. Two of these individuals were released a few hours later, and the third was released on October 11.

On November 16, police in Moyo arrested and detained three persons overnight for allegedly inciting violence at a Museveni rally by carrying posters proclaiming "No Ferry No Vote" and "No Road No Vote."

On December 16, police in Gulu arrested four individuals for allegedly inciting violence by wearing blue galoshes, which police interpreted as a symbol for an opposition FDC party self-defense militia. Police released one of these individuals without charge on December 17, and on December 22 charged the remaining three with inciting violence and accepting a bribe from a political candidate and released them on bail. Their cases were pending at year's end.

The hearing of the July 2009 case in which 19 DP members were charged with criminal trespass, illegal assembly, and interfering in police work was pending at year's end, and the suspects remained on bail.

On October 25, Buganda Road Court cleared former Buganda Kingdom deputy information minister Medard Lubega Segona of sedition charges pending since September 2009.

While the Constitutional Court found the sedition law unconstitutional on August 25 (see section 2.a.), hearings in the following cases were not held and the cases remained pending: the September 2009 case against UPC member Godwin Acai for statements he made during an August 2009 Unity FM radio talk show; the September 2009 case against Democratic Party parliamentarian Erias Lukwago; the 2007 and 2008 cases against Makindye West parliamentarian Hussein Kyanjo; and the 2008 case against Buganda Kingdom Deputy Information Minister Medard Seggona Lubega and Buganda Central Civic Education Committee chairperson Betty Nambooze.

The hearing of the August 2009 illegal assembly case against 11 members of the FDC youth wing was pending at year's end. The suspects remained free on bail.

During the year the director of public prosecutions withdrew all 2008 and 2009 charges against FDC youth leader Abedi Nasser Obole, who was first arrested in August 2008 for unlawful assembly and later charged with threatening the EC chairman and four commissioners.

There were 102 women in the 333-member parliament. Of these, 80 held seats designated for women. There were 14 female ministers in the president's 66-member cabinet. The deputy speaker and the deputy chief justice of the Supreme Court were women.

The law requires elections through electoral colleges for the seats reserved for special-interest groups in parliament: 80 seats were reserved for women; five for organized labor; five for persons with disabilities; and five for youth. However, the UPDF High Command and President Museveni selected the 10 army representatives, and the five persons with disabilities were selected by an electoral college organized by a single government-supported NGO.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government investigated offenders; however, corruption was a serious problem, and officials engaged in corrupt practices with impunity. The Government selectively enforced financial disclosure laws. Government agencies responsible for combating corruption include the IGG, the Department of Public Prosecution (DPP), the Anticorruption Division of the High Court, the parliamentary accounting committee, the police CID, the Office of the Auditor General, and the Directorate for Ethics and Integrity. Political will to combat corruption at the highest levels of government remained weak, and corruption cases remained pending for years. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

A September 2009 study conducted by the Public Procurement and Disposal of Assets Authority, which reports to the Ministry of Finance, estimated that corruption in the public procurement process resulted in an annual loss of 474 billion shillings (\$205 million).

A number of government ministries, agencies, and high-level officials were implicated in corruption. On May 11, the parliamentary public accounts committee (PAC) completed a report of expenditures made to support Uganda's hosting of the 2007 Commonwealth Heads of Government Meeting (CHOGM). The bipartisan PAC report implicated several senior government ministers for approximately \$123 million in unexplained and unauthorized CHOGM expenses. The report was not debated in

parliament or officially released to the public. During the year a mid-level engineer was prosecuted for CHOGM related corruption.

On June 21, police arrested former National Social Security Fund (NSSF) managing director David Chandi Jamwa as he was fleeing the country. Authorities charged Jamwa with abuse of office and causing a financial loss to the Government and remanded him to prison. A 2008 IGG report implicated Jamwa and his former deputy Mondo Kangoyera in mismanaging NSSF money. On September 23, the High Court's Anticorruption Division cancelled Jamwa's bail and remanded him to prison pending prosecution in the High Court. On June 29, police also arrested NSSF's Chief Accounting Officer George Kyankunda for causing a financial loss of more than 3 billion shillings (\$1.3 million).

On July 7, President Museveni suspended the release of National Agricultural Advisory Services funds for the 2010/11 financial year after complaints of mismanagement, embezzlement, and corruption in the implementation of the program. The Government had allocated 120 billion shillings (\$51.8 million) to help rural farmers. The president ordered an audit of the program, and a report of the findings was pending at year's end.

On August 29, the IGG reinstated the case against NSSF board Chairman Geoffrey Onegi Obel, who was accused of causing a financial loss to the Government of eight billion shillings (\$3.45 million) between 2004 and 2005. On September 16, the High Court honored Obel's request to refer the case to the Constitutional Court for a determination as to whether the High Court's Anticorruption Division can try crimes that occurred prior to its 2009 establishment.

Corruption in the police force was a problem. Several officers implicated in bribery and corruption were arrested and prosecuted; by year's end, 17 police officers had been charged with corruption, and none had been discharged or dismissed for accepting bribes. Investigations into several police bribery charge cases were pending at year's end.

On June 27, the Police Professional Standards Unit in Kampala arrested traffic officers Jamil Kirunda, Innocent Obaa, Alfred Otim, Patrick Dratoo, Evans Talemwa, and Patrick Ocen for extorting money from motorists. In July the police released the suspects on police bond, pending an investigation.

In August police in Kampala arrested Assistant Superintendent of Police Gregory Mugisha on fraud charges. On August 25, the High Court charged Mugisha with abuse of office and tampering with evidence during investigations. The court released Mugisha on bail, and hearing of the case was pending at year's end.

There were developments in some previous police corruption cases.

On February 5, the High Court in Kampala released police officers George Kawuka, Robinson Okid, Samuel Wamakote, Livingstone Ojuk, Serafino Ogwanga, Peter Olegi, and James Kakuru. They were charged in December 2009 with accepting bribes from detainees to release them from Kiboga District Police Station.

In May police in Gulu District suspended Robina Ocheng, officer in charge of media and political crimes, after a court found her guilty of stealing 1.7 million shillings (\$733) that her supervisors had given her for use in an undercover operation in September 2009.

In August police in Kampala arrested Criminal Investigation Department (CID) detective Hope Atuhairu for stealing 19 million shillings (\$8,200) recovered from a suspect in 2008. In mid-August a court in Kampala sentenced Atuhairu to two years in prison for theft.

Judicial corruption was a problem. Several magistrates were arrested for soliciting and receiving bribes.

On February 4, Entebbe District police arrested grade 1 magistrate Godfrey Bindeba for soliciting and receiving a bribe of one million shillings (\$431) from Felix Kintu to dismiss a forgery case. On March 9, a court granted Bindeba bail, and hearing of the case was pending at year's end.

On February 16, police in Kisoro District arrested grade 1 magistrate David Cheptuke Kaye for receiving 100,000 shillings (\$43) from suspect John Bosco Nyundo in exchange for bail. A court remanded Kaye to prison pending further hearings.

On July 21, police in Jinja District arrested grade 2 magistrate Okitwi Odutu for taking a bribe of 100,000 shillings (\$43) from Esther Nabulime to release her brother Emmanuel Sembule, who was facing robbery charges. On July 23, a court released Odutu on bail, and hearing of the case was pending at year's end.

Grade 2 magistrate Moses Ndifuna, who in November 2009 was sentenced to two years' imprisonment for soliciting and receiving 190,000 shillings (\$82), remained on bail pending the hearing of his appeal.

The anticorruption division of the High Court, which has three judges and five magistrates on staff and can only hear corruption cases referred by the IGG and DPP, convicted four individuals of corruption during the year.

On June 29, the ACD sentenced Samson Bagonza, the Government chief engineer to five years' imprisonment for abuse of office and causing a financial loss of 1.6 billion shillings (\$691,742). Bagonza had approved unauthorized highway construction works during the 2007 CHOGM preparations.

On August 13, the ACD sentenced Ministry of Health official Joseph Isanga to five years' imprisonment for misusing 22 million shillings (\$9,495) meant to purchase medical drugs. The court released Isanga on bail pending an appeal.

On September 13, the ACD sentenced Kapchorwa District Town Clerk Chemisto Alfred Mashandich and former town treasurer Martin Swami to four years' imprisonment, and town treasurer Sammy Nelson to five years' imprisonment for abuse of office and for causing a financial loss of 66 million shillings (\$28,485). The court ordered the men to refund 28.6 million shillings (\$12,343) and remanded them to prison pending an appeal.

The four individuals convicted by the ACD in 2009 for stealing money from the Global Fund to fight AIDS, tuberculosis, and malaria were free on bail pending hearing of their appeals.

On September 9, the ACC granted bail to Winnie Musoke Kabogonza, the police department's undersecretary and accounting officer, Dennis Nyagweso, Dennis Twinamasiko, Alfred Okello, Ashe Kawooya, Primo Nyokatere, and Harriet Kyomugisha, who were charged and remanded to prison in August 2009 for failing to remove duplicate names and bank accounts from the police payroll.

On May 17, the Constitutional Court rejected a 2009 petition filed by former minister of health Jim Muhwezi and deputies Mike Mukula and Alex Kamugisha, as well as former State House aide Alice Kaboyo, claiming the IGG did not have the legal mandate to investigate them over the alleged 2007 misappropriation of \$8 million in Global Alliance for Vaccines and Immunizations (GAVI) funds. In June the accused appealed the Constitutional Court's ruling to the Supreme Court, and the hearing was pending. The four have been on police bail since 2007.

There were no developments in the corruption case against solicitor general Lucien Tibaruha and acting litigation director Joseph Matsiko, who were indicted in 2007 for mismanagement resulting in financial loss to the Government. Both Tibaruha and Matsiko remained suspended from their positions.

There were no developments in the 2008 parliamentary investigation into former IGG Justice Faith Mwendha's interventions in public tendering processes and allegations that her salary was higher than allowable under government policy; the IGG had not appeared before the committee at year's end.

An estimated 17,000 public officials are subject to biannual reporting under financial disclosure laws. The IGG reported that for the 2009-10 cycle 16,909 officials reported. On May 27, the High Court rejected an IGG application seeking the dismissal of the Ministry of Health's principal accountant Nestor Gasasira and the seizure of his assets for failing to account for his wealth. The judge opined that Gasasira had not received a judicial hearing and that the Leadership Code Tribunal, not the IGG, was mandated to recommend such dismissals. The Supreme Court upheld the High Court's decision on August 24.

The law provides for public access to government information, and the Government provided such access to citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views. Active, independent domestic groups included the FHRI, Human Rights Focus, Human Rights Network, Human Rights and Peace Center of Makerere University, the International Federation of Human Rights, the Justice and Peace Commission, the Uganda Journalist Safety Committee, the Uganda Prisoner's Aid Foundation, and the Uganda Association of Women Lawyers. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

In 2008, in response to NGO criticism and after consultation with civil society, the Government established a committee to review the 2006 NGO Registration Act, which requires most NGOs, including religious organizations, to renew their registration permits annually. Enforcement of the law remained suspended during the review process, pending the NGO petition in the Constitutional Court (see section 2.b.).

The Government cooperated with international governmental organizations and permitted visits by UN representatives and organizations such as the UN Office of the High Commissioner for Human Rights and also the International Committee of the Red Cross (ICRC).

The UHRC is a permanent independent body with quasi-judicial powers, although the president appoints the UHRC's seven-member board. Under the law, the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. The UHRC continued to pursue suspected human rights abusers, including in the military and police forces, and had branches countrywide; however, its resources were inadequate to investigate all complaints received.

In its 2009 annual report, released in October 2010, the UHRC reported registering 785 human rights complaints against 858 individuals, including 106 UPDF members, 285 police officers, 86 other security agencies, 29 prison warders, and 343 private citizens. Of the 785 complaints, 31 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment. The UHRC also examined the country's draft antihomosexuality bill and determined that the proposed legislation violates the Ugandan constitution and international law. The report called on the Government to pass pending antitorture legislation; improve prison conditions, particularly for women and children; eliminate illegal detention and prolonged pretrial detention practices; use murder statutes to prosecute cases of child sacrifice; and provide security forces with increased human rights education programming.

In its April 2009 "Open Secret" report, HRW called on the Government to end all torture and mistreatment of detainees; stop arrest and interrogation by unauthorized security forces, including JATT; and release all detainees from the JATT headquarters in Kololo and close it as a place of detention. For detainees in Kololo for whom there is a legal basis for detention, HRW urged the Government to immediately transfer them to police custody, where they could be charged with a legally recognizable offense, if appropriate. HRW further urged the Government to promptly inform the relatives of each detainee of their whereabouts, condition, and the charges against them. Those charged should be tried before courts that met international fair trial standards. HRW also called on the Government to end impunity for human rights violations of the right to life and fair trial; the right to be charged before a judge within 48 hours of arrest; and freedom from torture and mistreatment, arbitrary arrest, and prolonged arbitrary detention.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the Government did not enforce the law in matters of locally or culturally prevalent discrimination against women, children, persons with disabilities, or certain ethnic groups.

*Women.*—The law criminalizes rape; however, rape remained a serious problem throughout the country, and the Government did not consistently enforce the law. Although the Government arrested, prosecuted, and convicted persons for rape during the year, the problem was underreported, and most cases were not investigated. Police lacked the criminal forensic capacity to collect evidence related to sexual assault, which hampered prosecution and conviction. There were 619 rape cases registered with the police in 2009, of which 240 went to court, resulting in only 12 convictions.

On December 31, UPDF soldiers allegedly gang-raped Teddy Nakiru while on patrol at a trading center in Moroto district. The arrest of the soldiers and suspension of three unit officers, Major James Kasule, Lt. Walter Olum, and Lt. Sanyu Kaserebe, for failing to report the crime or take action against the soldiers were imminent at year's end, and investigations into the incident were ongoing.

Domestic violence against women, including spousal abuse, remained widespread, and reports of such incidents continued to increase. The 2009 police annual crime report listed 165 reported cases of domestic violence, compared to 137 reported cases in 2008, an increase of 20 percent. These statistics greatly underestimate the extent of the problem; in November United Nations Population Fund reported that 60 percent of women aged 15 and above experienced physical violence, 15 percent of women face violence during pregnancy, and 24 percent report that their first sexual encounter was a forced one. Many law enforcement officials viewed wife-beating as a husband's prerogative, as did the majority of the population, and rarely intervened in cases of domestic violence.

On March 17, President Museveni signed into law the 2009 Domestic Violence Bill, which criminalizes domestic violence, expands protection for victims, and provides penalties for abusers ranging from fines to two years' imprisonment.

Between January and August, the Government arrested and prosecuted 15 persons for domestic violence offenses. For example, on February 2, police in Masaka arrested Francis Kasekende for killing his wife Grace Phoebe following a family argument. An investigation into the case was pending. On July 12, police in Oyam District arrested Richard Otto for killing his wife Janet Akot. On July 24, police in Kampala arrested Apollo Dalton Nyangasi for killing his wife Christine Dambio. Investigations into the cases were pending.

There were developments in domestic violence cases that occurred in previous years. For example, on February 18, a court in Mukono District committed former Mukono District police chief James Aurien to the High Court for trial for the 2008 killing of his wife Christine Opolot. The trial hearing was pending at year's end. In April the High Court in Kabarole District convicted and sentenced Reuben Asiimwe to 21 years' imprisonment for killing his wife, Peace Rodi, in 2005. On June 29, a court in Mbarara District sentenced Boniconsilla Kyaratuhe to 12 years' imprisonment for killing her husband in 2007. On September 16, the UPDF third division court martial in Moroto District sentenced Judith Koryang to death for killing her husband, UPDF Private Nelson Okello, in May 2009.

There were no developments in the April 2009 case in which Richard Tito Okello killed his wife Scovia Acayo following a family argument.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. Constitutional amendments in 2007 did not abolish the practice, despite recommendations from civil society groups. On March 27, the Constitutional Court dismissed a petition filed in 2007 by the Mifumi Project, a women's rights group that claims bride prices impede the rights of a woman and exacerbate domestic violence. The court dismissed the petition saying the group did not provide any scientific evidence to prove the connection between bride price and domestic violence. In April the Mifumi project appealed the ruling, and a Supreme Court hearing was pending.

Although sexual harassment is prohibited with penalties of up to 14 years' imprisonment, it was a widespread problem, and the Government did not enforce the law effectively. In April 2009 IGP General Kale Kayihura created a committee to investigate allegations of abuse of female police officers by senior male colleagues. Findings of the committee had not been released by year's end.

No report was issued during the year by the committee established in 2008 to investigate allegations that male lecturers in Makerere University coerced female students into sexual acts as a condition for receiving good grades.

There were no reports of findings by a team from the Ministry of Health that investigated 2007 allegations of sexual harassment filed by 30 nurses against a senior staff member in Nakaseke Hospital.

There are no laws restricting couples or individuals from deciding freely and responsibly the number, spacing, and timing of their children; however, family planning information and assistance was difficult to obtain, particularly in rural areas, where there were few health clinics. A 2006 survey found that 41 percent of married women had unmet family planning needs. There was no indication of discrimination in diagnosis or treatment of sexually transmitted infections, including HIV/AIDS. A January 2010 United Nations Development Program (UNDP) report cites maternal mortality at 505 deaths per 100,000 live births.

The law requires that women be accorded full and equal dignity of the person with men. However, discrimination against women continued to be widespread, especially in rural areas where it was part of traditional culture. Many customary laws discriminate against women in adoption, marriage, divorce, and inheritance. Under local customary law in many areas, women cannot own or inherit property or retain custody of their children. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny, where one husband has several wives, is legal under both customary and Islamic law, and, in some ethnic groups, men can "inherit" the widows of their deceased brothers. Women also experienced economic discrimination. For example, a June study conducted by local NGO Actionaid found that although women did most of the agricultural work, they owned only 7 percent of the agricultural land. Women also experienced economic discrimination in access to employment, credit, income, business ownership, and senior or managerial positions.

Eliminating gender inequality remained a high priority for the Government, which, in conjunction with NGOs and women's rights groups, sponsored workshops and training throughout the country to increase awareness of women's rights.

*Children.*—Citizenship is afforded to children born in or outside of the country if at least one parent or one grandparent held Ugandan citizenship at the time of the child's birth. Children under the age of 18 who are abandoned in the country with no known parents are considered to be Ugandan citizens, as are children under the age of 18 adopted by citizen parents.

The 2006 Uganda Demographic and Health Survey reported that only 21 percent of rural and 24 percent of urban children had their births registered; however, lack of registration generally did not result in denial of public services.

In 2008 parliament passed a law that provides for tuition-free and compulsory education for the first seven years of primary school or through high school for especially underprivileged students. Students, except for the most underprivileged, still had to pay for school supplies and some school operating costs, and many parents could not afford the school fees. Boys were more likely to finish primary school. The highest level of education achieved by most children was the fourth year of primary school.

Child abuse remained a serious problem, particularly rape and sexual abuse of girls.

According to the 2009 police annual crime report, defilement remained the most common crime committed against children, with 7,360 cases recorded in 2009. The report also registered 3,126 cases of child neglect, 754 of child desertion, 550 of indecent assault, 552 of torture, 206 of child stealing, 49 of kidnapping, 46 of infanticide, 29 of child sacrifice, and 16 of child trafficking. The Government worked with UNICEF and NGOs including Save the Children Fund and African Network for the Prevention and Protection against Child Abuse and Neglect to combat child abuse in the country.

There were isolated reports of corporal punishment in schools since the 2006 ban on the practice. For example, in March police in Buikwe District arrested Joseph Balyejjusa, a teacher of Progressive Primary School, for beating to death student Chrizeston Ssekatawa. An investigation into the incident was pending at year's end.

Sexual contact outside marriage with girls less than 18 years of age, regardless of consent or age of the perpetrator, is considered "defilement" under the law and carries a maximum sentence of death; however, such cases often were settled by a payment to the girl's parents. According to police statistics, in 2009 there were 7,360 reported defilement cases, of which 4,433 went to court, with only 467 resulting in convictions.

Perpetrators of sexual abuse often were family members, neighbors, or teachers.

In an effort to clear the backlog of cases, in 2007 the Government amended the 2006 Magistrate's Courts Bill, giving chief magistrates the authority to hear cases of rape of girls between the ages of 14 and 17; the High Court continued to try cases involving rape of girls younger than 14 years. In February 2009 the UPF announced that it would provide free rape and defilement medical examinations throughout the country to ensure that investigations were effectively carried out and perpetrators prosecuted. Since the program began in March 2009, an estimated 3,000 victims of rape and defilement have received free medical examinations at Mulago hospital in Kampala.

The Sabiny ethnic group in rural Kapchorwa District and the Pokot ethnic group along the northeastern border with Kenya practiced FGM, despite local laws that prohibit the practice. On March 17, President Museveni signed into law the 2009 Prohibition of Female Genital Mutilation Bill. The law establishes that neither culture, religion, nor the consent of the victim are allowable defenses and establishes penalties of up to life imprisonment for the practice. The Government, women's groups, and international organizations continued to combat the practice through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling. On July 29, the Constitutional Court declared the practice of FGM unconstitutional.

Despite the Government ban, thousands of girls were subjected to FGM over the year, with one newspaper article reporting that approximately 820 girls were subjected to the practice in December alone in the districts of Kapchorwa, Bukwo, Kween, and Amudat. The police arrested several individuals involved in promoting the ritual. For example, on November 31, police arrested Jennifer Katungo, Patrick Chemonges, Flora Chebet, Juliet Chesewa, and Isaac Chemonges for their involvement in FGM practice in Binyiny subcounty, Kween District. Hearing of the case was pending. In December police arrested four girls under the age of 16 and five parents for their involvement in an FGM ritual in Kween District. The girls were released after questioning, and the parents were sentenced to two months community service. In December police in Bukwo District arrested Margret Chemutai, Brunei Chematene, Boniface Kabunga, and Julius Malinga for practicing FGM. On December 8, Chemutai pled guilty and was sentenced to four months in prison for circumcising eight girls. Chematene, Kabunga, and Malinga pled not guilty and were remanded to prison pending hearing of the case.

Marriage of young girls by parental arrangement was common, particularly in rural areas, although the legal age for marriage is 18. Local NGO Concern for Children and Women Empowerment reported that acute poverty forced some parents to

give away their children, including girls as young as 14 years, for early marriage and sexual arrangements. A March 2009 UN report stated that 32 percent of marriages involved underage girls.

Reports of the ritual sacrifice of children increased during the year. For example, on June 18, police in Buikwe District arrested David Mukulu, Jennifer Night, Laubeni Mande, Yuda Nakacho, John Baptist Serwajjo, and Agnes Namanya for the ritual killing of three-year-old girl Evera Mudaali on June 6 in Nyenga subcounty. On May 18, police in Nakaseke District arrested Scovia Nalugo and Isma Kafeero for the ritual killing of a three-year-old girl in Ngoma subcounty. On July 19, police in Masaka District arrested John Lwahinda and Baker Muhwezi for the ritual killing of three-year-old Marvin Mukiibi in Kalisizo subcounty on June 30. The suspects from these cases were on remand in prison pending investigations and hearings of the cases.

There were no developments in the March 2009 case in which Issa Wayibi, Sebastian Musana, Bbumba Aramazan, and Daudi Byendala were charged with the ritual killing of a girl, or the April 2009 case in which John Okech and six family members were charged with the ritual killing of a one-year-old girl. All suspects remained in prison pending investigations and hearings of the cases.

On April 23, a court in Masaka acquitted businessman Godfrey Kato Kajubi of charges of the ritual killing of 12-year-old Joseph Kasirye; however, government prosecutors appealed the acquittal, and the case was pending at year's end.

As in the past five years, there were no reports that during the year the LRA abducted or conscripted children within the country. However, an estimated 5,000 of 40,000 children abducted by the LRA in previous years for use as laborers, soldiers, guards, and sex slaves were reportedly still missing. There continued to be numerous reports of LRA abductions of children in the DRC, CAR, and Sudan during the year.

Poverty, unstable family relationships, rape, inadequate family planning services, and other social, health, and economic factors contributed to cases of infanticide. The 2009 police crime statistics report cites 46 cases of infanticide but does not provide an analysis of the crimes.

Since January police in Kampala rounded up approximately 331 street children, the majority from the Karamoja Region, and took them to Kampirigisa rehabilitation home in Mpigi District. Street children were often the victims of poverty, famine, and instability in Karamoja Region.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory or mental disabilities in employment, education, access to health care, and the provision of other state services; however, the Government did not enforce the law effectively. Persons with disabilities also faced societal discrimination and limited job and educational opportunities. There was no statutory requirement that buildings be accessible to persons with disabilities; however, the law requires that children with disabilities be given necessary special facilities.

The UHRC continued to receive complaints of discrimination in employment and access to transport, cell phone, and other public services from persons with disabilities. Most schools in the country did not accommodate persons with disabilities.

No action was taken to assist the 40 prison inmates with impaired hearing who had been denied a trial, health services, and education because they could not communicate.

The Government supported the right of persons with disabilities to vote and participate in civic affairs. Five seats in parliament were reserved for representatives of persons with disabilities; however, a government-sponsored NGO managed election to these five seats in a process that was not transparent. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the Ministry of Gender, Labor and Social Development, but both agencies lacked sufficient funding to undertake or support any significant initiatives. In August 2009 President Museveni appointed members to the Equal Opportunities Commission, which is responsible for enforcing laws that protect persons with disabilities and ensuring that they have equal access to public office. In April the Government released 1.5 billion shillings (\$647,388) to accelerate

ongoing projects being undertaken to increase incomes and improve livelihoods of persons with disabilities in 48 districts.

*National/Racial/Ethnic Minorities.*—There were isolated reports of violence between ethnic minorities in some parts of the country. For example, in May five persons were injured and over 120 families displaced from Pera village following two days of clashes over land between the Alur and Madi ethnic groups along the Arua and Nebbi district border. Arua District police arrested and remanded seven suspects for inciting the violence, and the case continued at year's end.

The August 2009 case against suspects Dominic Ningrea, Martin Etima, D.Adrani, Alex Mawa, William Walya, Lilno, Jessica Nenia, Zaayoru Yena, John Anguzu, and Johnson Munuru, who were charged with inciting violence when ethnic Madi forcefully evicted several families of the Alur ethnic group from Kasomenga village in Rhino Camp subcounty, was pending at year's end.

In August IGP Major General Kale Kayihura ordered an investigation of reports that police were harassing ethnic Somalis resident in the country. Ethnic Somalis accused the police of extortion, harassment and intimidation following the July 11 bombings in Kampala. There were no reports of findings of the investigation at year's end.

*Indigenous People.*—The Batwa were the original inhabitants of land used by the Government in 1992 to establish Mgahinga National Park, Bwindi Impenetrable National Park, and Echuya Central Forest Reserve. Numbering approximately 6,700 persons, the displaced Batwa lived in the districts of Bundibugyo, Kisoro, Kabale, Kanungu, Masaka, and Mbarara in the southwest and had limited access to education, health care, land, and economic opportunities. They were also prevented from pursuing hunting, gathering, and other traditional ways of life and often suffered food shortages. In March the United Organization for Batwa Development petitioned parliament to recognize Batwa rights to their former ancestral land to preserve their cultural values. The Government did not effectively protect their civil and political rights.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Lesbian, gay, bisexual, and transgender (LGBT) persons faced discrimination and legal restrictions. It is illegal to engage in homosexual acts, based on a 1950 legal provision from the colonial era criminalizing “carnal acts against the order of nature” and prescribing a penalty of life imprisonment. No persons had been convicted under the law. On October 12, police in Kampala arrested one individual for alleged homosexuality, and on October 15 a court in Kampala charged the individual with homosexuality and released him on bail. Hearing of the case was pending at year's end.

In September 2009 parliamentarian David Bahati introduced a draft “antihomosexuality bill” that would impose punishments ranging from imprisonment to the death penalty on individuals twice convicted of “homosexuality” or “related offenses” to include “aiding and abetting” homosexuality, “conspiracy to engage” in homosexuality, the “promotion of homosexuality,” or “failure to disclose the offense” of homosexuality to authorities within 24 hours. This draft legislation remained in the committee stage during the year but resulted in increased harassment and intimidation of LGBT persons. Although the Government did not endorse the draft legislation, several senior members of government and President Museveni's Cabinet openly expressed homophobic sentiment despite the High Court's December 2008 ruling that constitutional rights apply to all persons, regardless of sexual orientation.

LGBT persons were subject to societal harassment, discrimination, intimidation, and threats to their wellbeing during the year. Individuals openly threatened members of the LGBT community and their constitutional rights during several public events. For example, on April 15 in Jinja, Pastor Martin Ssempe led a march against homosexuality, and during an April 17 event against homosexuality at a church in Kampala, Ssempe showed a pornographic slideshow to audience members, which included several children. During these rallies participants openly threatened LGBT individuals.

In its annual report for 2009, released in October 2010, the UHRC determined that the draft antihomosexuality bill violates the Ugandan constitution and international law.

On October 10, an obscure local tabloid published the names, photographs, and, in some cases, residential locations of several LGBT activists under the headline “Hang Them.” On November 1, the High Court issued an injunction blocking the tabloid from further publication of information pertaining to homosexuality pending resolution of a court case filed by three LGBT activists, including David Kato. The case was pending at year's end.

On December 13, Ethics and Integrity Minister Nsaba James Buturo prevented the UHRC and UN OHCHR from screening a documentary on Ugandan human rights defenders that Buturo alleged promoted homosexuality. In the film, one human rights defender criticized Uganda's draft antihomosexuality bill for violating the rights of Ugandan citizens by forcing health care workers to report alleged gay and lesbian individuals to authorities. In a December 15 press conference, the UHRC defended the documentary and criticized Buturo for violating the UHRC's constitutional independence.

The April 2009 case against activists Fred Wasukira and Brian Mpadde, accused of involvement in homosexual acts, was pending. In September, police dismissed the June 2009 case in which Charles Ayeikoh was accused of homosexual acts.

*Other Societal Violence or Discrimination.*—Discrimination against persons with HIV/AIDS was common and prevented such persons from obtaining treatment and support. International and local NGOs, in cooperation with the Government, sponsored public awareness campaigns to eliminate the stigma of HIV/AIDS. Counselors encouraged patients to be tested with their partners and family so that they all received information about living with HIV/AIDS. Persons living with HIV/AIDS formed support groups to promote awareness in their communities.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, except for “essential” government employees, including police, army, and management level officials, to form and join independent unions, but all unions must be registered either under the National Organization of Trade Unions or the Confederation of Trade Unions. The law allows unions to conduct their activities without interference. Union officials estimated that more than 1.2 million workers were potential union members but only 300,000 workers were paid-up members.

The law criminalizes any effort by an employer to obstruct the right of association; however, the Government generally did not enforce this provision. Labor activists claimed certain companies continued to bar employees from joining unions, including Dot Services and Cementers and Multiplex (both road construction companies); Mansons, a clearing, forwarding and transport company; West Nile Rural Electrification Company; BIDCO Uganda Ltd., an edible oil company; Mukwano Manufacturing Industries; Kawere Coffee Ltd; Kibimba Rice Scheme; Roko; Uganda Cement; as well as several other construction companies, supermarkets, and private universities.

The law provides for the right to strike, and workers exercised this right; however, government policy required labor and management to make “every effort to reconcile labor disputes before resorting to strike action.” The Government did not always protect the right to strike, and police arrested persons who engaged in organizing strikes during the year.

For example, on September 5, police arrested 12 sugarcane cutters of Lugazi Sugar Corporation during a strike to protest low pay and poor working conditions. On September 6, police released the workers after the intervention of the National Union of Plantation and Agricultural Workers Uganda. On September 20, Lugazi Sugar Corporation management signed an agreement to increase the workers' pay 17 percent, from 80,000 shillings (\$35) to 104,000 shillings (\$45) per month for a period of two years. The workers also staged a brief strike in May 2009 to protest low pay and poor working conditions.

Police used excessive force to stop striking workers.

For example, on September 7, police in Hoima District killed Dennis Bazara and Benard Byabasajja and injured several others during a strike at British American Tobacco (BAT) Uganda. The workers were protesting the company's delayed payment of their August salaries. Authorities arrested police officers Augustine Kasangaki, Luke Mbusa, and Romeo Ojara, who were implicated in the shooting, and an investigation was ongoing. On September 15, the Hoima Police Disciplinary Court started hearing the trial of Kasangaki, Mbusa, and Ojara and charged them with manslaughter. The suspects were remanded to prison until September 28. On September 21, police fired live bullets to disperse striking cane cutters of Kinyara Sugar Works. The workers were protesting low pay. There were no reported injuries. Following discussions with the union, management agreed to pay the cane cutters.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining; however, the Government did not protect this right in practice. Some employers ignored the legal requirement to enter into collective bargaining agreements with registered unions; only a few employers recognized the agreements. On September 8, the Uganda Flower Exporters Association comprising 20 companies

signed a collective bargaining agreement with Uganda Horticultural and Allied Workers Union. The agreement commits the companies to uphold workers' rights and enhance their salaries. No public service unions, including medical staff and teachers, were allowed to negotiate their salaries and employment terms. The Government fixed the terms and conditions for all civil service workers.

As in 2009, there were no reports of antiunion discrimination during the year. The Government denied the registration of the Central Organization of Labor Unions, a union umbrella organization that broke away from the only legally registered consortium due to leadership disputes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, particularly in prisons. While the law does not expressly prohibit prison labor, it states that such labor becomes forced if the worker is “hired out to or placed at the disposal of a private individual, company, or association.” NGOs and the UHRC reported that forced labor was a problem in local prisons nationwide. Prison officials hired out prisoners to work on private farms and construction sites where the prisoners were often overworked.

Prison officials routinely supplemented their wages with cash crops grown by prisoners on prison grounds. Male prisoners performed arduous physical labor, while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours a day. Compensation, when paid, generally was very low. In July the Government announced that it would provide funds to prison administrators to pay prisoners for work performed, but no funding was released. Some wardens reportedly used income generated from prisoner labor to pay prisoners. Prisoners do not have savings accounts, but prison accounting staff recorded wages owed in a book.

In June prison authorities began investigating allegations that police arrested over 1,300 individuals and forced them to work on large commercial farms. Reports alleged that police arrested citizens on idle and disorderly charges and sent them on remand to Butoro, Kasangati, and other prisons where they were forced into labor. A report of the investigation was pending at year's end.

Exploitive child labor predominantly occurred in transport, mining, street vending/begging, scrap collecting, stone quarrying, brick-making, road construction/repair, car washing, fishing, domestic nanny/housekeeper service, bar/club service work, border smuggling, and prostitution. In all of these areas, there were likely occurrences of forced labor.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits employers from hiring workers below the age of 18; however, statutory orders issued by the Ministry of Gender, Labor and Social Development permit the employment of children between the ages of 14 and 18, and 13-year-olds are allowed to engage in “light work” provided it does not interfere with education. Children under the age of 12 are prohibited from being employed in any business or workplace, and all children are prohibited from being employed during school hours. Nevertheless, child labor was common, especially in the informal sector.

Many children left school and engaged in agricultural or domestic work to help meet expenses or perform the work of absent or sick parents, a situation common throughout the country. The problem was particularly acute among the large orphan population. In June 2009 the Bureau of Statistics estimated that more than 1.76 million or 17 percent of children between the ages of five and 17, including 798,451 girls, were involved in child labor.

In urban areas children sold small items on the street, worked in shops, begged for money, and were involved in the commercial sex industry. Children were also employed in stone quarries, cattle herding, brick making, and commercial farming of tea, coffee, sugarcane, vanilla, tobacco, and rice. The Ministry of Gender, Labor and Social Development reported new incidents of the worst forms of child labor, including children involved in illicit activities such as cross-border smuggling. Government officials noted that child exploitation in the informal sector was of particular concern and was difficult to investigate. Children were known to be working as subsistence farmers, and domestic servants. There were also known instances of children in prostitution.

The International Labor Organization (ILO) and the Federation of Uganda Employers sponsored a 2008 survey on child labor in the fisheries and tobacco industries which found that most of the 291 children sampled worked long hours and that 71 percent were involved in hazardous work. Of the children involved with fisheries,

31 percent worked at night, and all were exposed to waterborne diseases, fatigue, a high risk of contracting HIV/AIDS, and injuries. Children on tobacco farms worked long days, dropped out of school during peak periods of tobacco production, and were exposed to dangerous chemicals, smoke, and dust.

Institutions responsible for enforcing child labor laws and policies include the National Council of Children, the police force's Child and Family Protection Unit, the Industrial Court, and the Ministry of Gender, Labor and Social Development; however, financial constraints limited efforts. The ministry continued to offer social services to children working in the worst forms of child labor and other target groups, and it conducted training for staff, local leaders, and district labor inspectors. Sixty Ministry of Gender, Labor and Social Development district labor officers were responsible for reporting on child labor issues at the local level nationwide. The Government coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the Ministry of Gender, Labor and Social Development, the Ministry of Education and Sports, the Ministry of Local Government, the Federation of Uganda Employers, the National Organization of Trade Unions (NOTU), NGOs, journalists, and academics. The steering committee last met in January. However, due to lack of funds and logistical support, district labor officials have not conducted child labor inspections since 2004.

The Government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. The Government also cooperated with the ILO, foreign governments, and NGOs on several initiatives to combat child labor, including the education and reintegration of children into their communities. Several human rights NGOs continued programs to remove children from hazardous work situations.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The minimum legal wage was set in 1984 at 6,000 shillings (\$2.59) per month, a rate that did not provide a decent standard of living for a worker and family and was not effectively enforced. The Government and the private sector negotiated a new monthly rate of 54,000 shillings (\$23.35) in 2003; however, the 2003 rate had not been implemented by year's end.

The law includes provisions for district labor inspectors to "secure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work;" however, no inspections were carried out during the year, due in part to financial constraints.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. The legal maximum workweek is 48 hours; however, exceptions can be made with agreement of the employer and employee. The law provides for an employee who works in excess of 48 hours per week to be remunerated at the minimum rate of 1.5 times the normal hourly rate for the overtime hours and two times the hourly rate on public holidays. The law also states that working hours may not exceed 10 hours per day or 56 hours per week, including overtime hours; however, an employee may work in excess of 10 hours a day if the average number of hours over a period of three weeks does not exceed 10 hours per day or 56 hours per week. Employees are granted a 30-minute break for every eight-hour work shift. For every four months of continuous employment, an employee is entitled to seven days of paid annual leave per calendar year. Many industries paid workers annual increments or bonuses as payoffs to avoid overtime.

The law establishes occupational health and safety standards, and the MGLSD's Department of Occupational Health was responsible for enforcement of occupational safety regulations. In practice inspections were very rare, primarily due to the lack of vehicles and funding for inspection trips, and standards were not effectively enforced. The law also provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment. However, there were reports that workers were dismissed for their refusal to perform dangerous work. All workers, including foreign and migrant workers, were covered under the law.

NOTU officials recorded seven deaths due to poor safety practices at several construction projects during the year.

---

## ZAMBIA

Zambia is a republic of 13.3 million citizens governed by a president and a unicameral national assembly. The ruling Movement for Multiparty Democracy (MMD) exerted considerable influence through its patronage and allotment of government resources. In a 2008 by-election, then-vice president Rupiah Banda was elected president in generally free and fair multiparty elections. Security forces reported to civilian authorities.

Human rights problems included unlawful killings; torture, beatings, and abuse of suspects and detainees by security forces; official impunity; life-threatening prison conditions; arbitrary arrests and prolonged pretrial detention; long trial delays; arbitrary interference with privacy; restrictions on freedom of speech, press, assembly, and association; government corruption; violence and discrimination against women; child abuse; trafficking in persons; discrimination based on sexual orientation and against persons with disabilities; restrictions on labor rights; forced labor; and child labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings; however, security forces committed unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights nongovernmental organization (NGO) that counseled victims' families and represented them in actions against the Government, consistently investigated and publicized such incidents; however, the Government rarely punished perpetrators. Police and government officials encouraged police officers to use their weapons when apprehending suspects, despite a government directive that restricted the use of firearms by police officers and a government pledge to retrain police on the use of force.

On September 3, three police officers in Chipata were arrested in connection with the killing of three suspects. The officers reportedly shot the suspects when they attempted to flee while leading police to a place where the suspects had hidden carcasses of cattle they had stolen.

On October 23, police reportedly killed two individuals in Mongu during a protest by the Barotse Freedom Movement (see section 6).

There were no developments, and none were expected, in the February 2009 police killing of Maybin Chongo or in the following 2008 cases: the April police beating to death of Alfred Nyanga; the May police beating to death of Robert Chimwang'a; and the September alleged killing of Gregory Kalezhi by a police patrol.

Unlike in previous years, there were no reports that mobs killed suspected criminals; nor that police were accused of abuse; nor that persons were accused of witchcraft, mental illness, or sexual impropriety.

There were no developments, and none were expected, in the February 2009 mob killing of alleged arsonist and murderer "Kalaye" and in the following 2008 cases: the February mob stoning to death of a minibus driver; the March mob stoning of two men, one of whom died; and the April killing by a mob that stoned and set ablaze a man.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, police frequently used excessive force including torture when apprehending, interrogating, and detaining criminal suspects or illegal immigrants. In 2008 the Government's Human Rights Commission (HRC) reported that torture was prevalent in police stations and noted that "police officers continue to rely on torture as an interrogation technique." The HRC urged the Government to draft and enact legislation that would criminalize torture and provide for compensation to victims; however, no legislation had been drafted by year's end. Authorities also detained, interrogated, and physically abused family members or associates of criminal suspects in attempts to identify or locate the suspects. Officers who tortured, beat, or otherwise abused suspects generally were not disciplined or arrested for such acts.

On September 7, the NGO Human Rights Watch (HRW) reported that police routinely engage in cruel, inhuman, and degrading treatment, including torture, to extract confessions. Based on interviews conducted at six prisons, the report noted, "They described what happened to them in police custody, before they were transferred to prison. Dozens of detainees said they had been beaten with metal bars, hammers, broom handles, police batons, sticks, or even electrified rods. Many said

they had been bound first and hung upside down.” On June 25, HRW wrote to Minister of Home Affairs Mkhondo Lungu and Chief Inspector of Police Simon Kabonde requesting that they investigate and halt these abuses. On September 11, Lungu publicly denied reports that police abused and tortured prison inmates. He also noted that human rights are an integral part of law enforcement training.

On November 12, residents of the Garden Compound, Lusaka, rioted and burned a police station and six vehicles following reports that police tortured a man who later died in police custody. Inspector General of Police Francis Kabonde denied the reports of torture on November 13.

On March 14, two Mazabuka police officers reportedly assaulted Christopher Perkins Liwoyo after he photographed them while acting as a freelance photographer. Liwoyo sustained minor injuries and did not press charges after being discouraged from doing so. Authorities did not take administrative action against the officers.

On September 8, a magistrate awarded Shadreck Nkhuwa and Isaac Chilombo 10 million kwacha (\$2,000) each after police detained and tortured them in Mumbwa for two days in 2004.

On September 21, Ndola police reportedly shot and wounded 24-year-old Conrad Mutale while he participated in a protest.

There were no new developments, and none were expected, in the March 2009 reported police abuse of Edward Nkonde and Ephraim Munshimfwa; the July 2009 alleged police abuse of Cornelius Mwape; and the July 2009 charge of negligence of duty against an officer who detained a pregnant woman. There were also no new developments in the 2008 alleged police abuse of Monde Naluli.

There were instances of mob violence reported during the year.

On February 4, a mob reportedly beat Chingola police officer Matandi Sitali in reaction to allegations that he had attempted to rape a woman.

On September 9, a mob in Kitwe beat a police officer who allegedly stole a mobile phone from an accident victim at an accident scene.

There were no new developments, and none were expected, in the mob beating of Konde Mamadi in August 2009.

According to human rights groups, police occasionally demanded sex from female detainees as a condition for their release. There also were reports that police officers raped women and young girls while they were in custody.

*Prison and Detention Center Conditions.*—Prison conditions were poor and life threatening. An inefficient judiciary delayed court proceedings, which contributed to the holding of large numbers of pretrial detainees in prison for extended periods and exacerbated overcrowding. The country’s prisons, which were built to hold 5,500 inmates, held nearly 15,300 prisoners and detainees. For example, Lusaka Central Prison, which was designed to accommodate 200 prisoners, held more than 1,500. By law the police can detain suspects up to 24 hours in holding cells before transferring them to a “remand prison.” “Remand prisons” were supposed to house detainees prior to conviction exclusively but, in practice, were also used to hold convicted prisoners. Prison conditions in remand prisons did not generally differ from those in other prisons.

Poor sanitation, dilapidated infrastructure, inadequate and deficient medical facilities, meager food supplies, and lack of potable water resulted in serious outbreaks of dysentery, cholera, and tuberculosis, which the overcrowding exacerbated. Prisons generally had inadequate provision for ventilation, temperature, lighting, and basic and emergency medical care.

Prisoners routinely complained that authorities denied them access to medical care as provided by law. Failure to remove or quarantine sick inmates and the lack of infirmaries at many prisons resulted in the spread of airborne illnesses such as tuberculosis, leading to the reinfection and death of prisoners. According to a report by HRW, the prison service estimated tuberculosis rates at over 5 percent, more than 10 times the rate outside of prisons. Drugs to combat tuberculosis were available, but the supply was erratic. Many prisoners were malnourished because they received only one serving of cornmeal and beans per day, called a “combined meal” because it represented breakfast, lunch, and dinner.

On April 27, HRW issued a major report detailing massive overcrowding exacerbated by large numbers of pretrial detainees held for extended periods without trial; incidences of torture, and other violence administered by prison officials and other inmates; inadequate medical services; and poor sanitation and nutrition in prisons that manifested themselves in high rates of HIV/AIDS, tuberculosis, and other diseases. The HRC estimated that the HIV/AIDS prevalence rate in prisons in 2008 was 27 percent. Antiretroviral treatment was available to some prisoners with HIV/AIDS; however, poor nutrition often rendered the treatment ineffective. Authorities denied many prisoners access to condoms.

Juveniles often were not held separately from adults. Women and men were generally held separately. Prison conditions for women were somewhat better than for men. HRW estimated that women make up 18 percent and juveniles 10 percent of all prisoners. Incarcerated women who had no alternative for child care could choose to have their infants and young children with them in prison until the children reached the age of four. However, prisons provided no food or medical services to such children, so mothers had to share their rations with children, in an environment that often exposed the children to disease without medical care. Pretrial detainees were not held separately from convicted prisoners.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The Government did not actively investigate or monitor prison and detention center conditions. Prisoners and detainees generally could not submit complaints to judicial authorities or request investigation of credible allegations of inhumane conditions. Authorities did not investigate these allegations or document the results of such investigations in a publicly accessible manner.

The Government conducted some investigations of prison and detention conditions. In January 2009 the HRC Children's Rights Committee visited three reformatory centers and documented violations of children's rights in those centers. According to the committee's report released during the year, reformatory centers recorded cases of child abuse in the form of corporal punishment.

In 2009 HRC chairperson Pixie Yangailo visited Kasama Central Police Station and described conditions at the station as "pathetic." She noted that suspects were forced to sleep on the floor without blankets.

The HRC recommended in its 2009 report that prisons be rehabilitated to meet acceptable humane and sanitary standards and that prisoners be separated by age and gender. The Government had not responded to these recommendations by year's end.

The Government permitted prison visits by both domestic and international NGOs and by resident foreign diplomats during the year. The International Committee of the Red Cross (ICRC), provincial human rights committees, and the LRF periodically inspected prisons during the year. The ICRC performed its visits in accordance with standard modalities. The country did not have ombudsmen who could serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government did not respect these prohibitions.

*Role of the Police and Security Apparatus.*—The Zambian Police Service (ZPS), divided into regular and paramilitary units under the Ministry of Home Affairs (MoHA), has primary responsibility for maintaining law and order. The Zambia Security Intelligence Service (ZSIS), under the Office of the President, is responsible for intelligence and internal security. The Central Police Command in Lusaka oversees nine provincial police divisions with jurisdiction over police stations in towns countrywide. Although the Government identified a need for 27,000 police officers and hired 1,500 new officers during the year, only 17,400 police were on duty at year's end. The HRC recommended in its 2009 report that the police increase its budget, enhance logistical support, improve working conditions for police officers, and implement human rights training as well as punitive and preventative measures to curb police misconduct. The Government had not responded to these recommendations by year's end.

The approximately 21,600-member defense forces, divided into the army, air force, and national service, have primary responsibility for defending sovereignty and territorial integrity and cooperating with the appropriate civilian authority in times of emergencies and natural disasters. The defense forces have domestic security responsibility only in cases of national emergency. By law, the vice president declares a national emergency in cases of natural disasters, and the president declares a national emergency in a state of war, insurrection, hostilities, or public emergency. Each service has a commander who reports to the minister of defense. Paramilitary units of the ZPS, customs officers, and border patrol personnel conduct patrols on lakes and rivers.

The Drug Enforcement Commission (DEC) is responsible for enforcing the laws on illegal drugs, fraud, and money laundering. The DEC employs approximately 300 agents to oversee illegal drug enforcement and interdiction.

Lack of professionalism, investigatory skills, and discipline in the security forces remained serious problems. Low salaries and substandard government housing exacerbated police corruption, as did poor working conditions.

In an effort to address these issues, the Police Public Complaints Authority (PPCA) met during the year to review complaints regarding police conduct that were not resolved through internal police channels. The PPCA reported that between January and September, it received 143 complaints of police misconduct: 31 were related to unlawful detention; 50 to unprofessional conduct; 20 to police brutality; 20 to abuse of authority; 20 to unlawful debt collection; one to interference in a marriage; and one to death in police custody. The PPCA recommended to the MoHA permanent secretary disciplinary action in the form of punishment or dismissal in 26 of the 143 cases. Of the remaining complaints, the PPCA recommended nine for other disciplinary action while it dismissed the allegations in 94 cases and continued to investigate 14 cases. Many cases of abuse went unreported due to citizen ignorance of the PPCA and fear of retribution.

Many complainants dropped their cases after involved police officers intimidated complainants or offered compensation to avoid a formal PPCA investigation, according to the PPCA.

Security forces failed to prevent societal violence during by-elections (see section 3).

*Arrest Procedures and Treatment While in Detention.*—The constitution and law provide that authorities must obtain a warrant before arresting a person for some offenses; other offenses have no such requirement. For example, police are not required to obtain a warrant when they suspect that a person has committed offenses such as treason, sedition, defamation of the president, unlawful assembly, or abuse of office. In practice police rarely obtained warrants before making arrests.

According to the law, suspects being arrested must be informed of their rights, including the immediate right to an attorney. The law provides that persons arrested must appear before a court within 24 hours of their arrest; however, detainees were frequently held for much longer periods because prosecutors routinely required that officers collect additional evidence before presenting cases to a magistrate. The law provides for prompt judicial determination of the legality of charges against a detainee; however, authorities often did not inform detainees promptly of charges against them.

There was a functioning bail system; however, prisons were overcrowded in part because indigent detainees and defendants did not have the means to post bail or were held for offenses for which bail is not granted, including treason, murder, aggravated robbery, and violations of narcotics laws. In practice police generally did not respect prisoners' right to apply for bail. The Government's legal aid office, responsible for providing representation for indigent detainees and defendants in criminal or civil cases, assisted few arrestees.

Arbitrary arrest and detention remained problems. Police arbitrarily arrested family members of criminal suspects. Criminal suspects were arrested on the basis of insubstantial evidence, uncorroborated accusations, or as a pretext for extortion. Police officials disciplined some officers found engaging in extortion of prisoners, including suspensions and written reprimands, although dismissals for extortion were rare.

Prolonged pretrial detention was a problem, and some defendants awaited trial for as long as 10 years. Approximately one-third of persons incarcerated in remand prisons and other prisons had not been convicted of a crime or received a trial date. Broad rules of procedure give wide latitude to prosecutors and defense attorneys to request delays or adjournments. According to human rights groups, prison administrators routinely altered paperwork to make it appear as though prisoners had appeared before a magistrate when they had not, often because prison authorities had no fuel to transport prisoners to courts. Judicial inefficiency, lack of resources, and lack of trained personnel also contributed to prolonged pretrial detention.

In one case uncovered during the year, a 14-year-old boy had been held in a remand prison for two years without being brought to trial.

Siavonga resident Norbert Chisanga was convicted by the Siavonga Magistrate's Court and imprisoned in 2006 for defiling three girls. However, at year's end, he still awaited final sentencing by the Lusaka High Court. Lusaka resident Over Mumba was convicted by the Lusaka Magistrate's Court and imprisoned in 2005 for heroin possession; at year's end, he still awaited final sentencing by the Lusaka High Court. Zacheous Sakala had been held in pretrial detention since 2002 without conviction. The HRC demanded in 2008 that the judiciary resolve his case.

There were no new developments, and none were expected, in the 2008 case of alleged unlawful detention of Rachel Bwalya and the case of Ernest Banda, who had been in detention since 2005.

*Amnesty.*—A total of 825 prisoners were granted amnesty during the year. On May 25, in commemoration of the Africa Freedom Day, President Banda pardoned 350 prisoners. On October 24, President Banda ordered 473 prisoners released as part of the country's independence day celebrations. On December 8, President Banda pardoned two prisoners who were jailed for three years for contempt of court.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, the Government did not consistently respect judicial independence, and the judicial system was hampered by inefficiency, corruption, and lack of resources. Government officials used their offices to circumvent standard police and judicial procedures. However, during the year the courts at times made judgments and rulings critical of the Government. In several instances, the courts awarded damages in cases of police and other security force abuse or unlawful arrest.

Accused military personnel may appear for summary trial before their commanding officers or be referred for trial in a military court by a court-martial. A court-martial sentence can be appealed to the Supreme Court. Military courts cannot try civilians and generally provided the same rights as civil criminal courts. The ZPS uses police tribunals to resolve internal police matters. Police tribunals try cases of police misconduct. However, they cannot try civilians or criminal cases involving police officers, but generally they provided the same rights as civil criminal courts.

The constitution permits judges to serve on the Supreme and High Court up to age 65. The president, in consultation with the Judicial Service Commission, may permit a judge at age 65 to continue in office. The president, in consultation with the commission, may also appoint a judge to the Supreme or High Court for a period of up to seven years.

There were no new developments, and none were expected, in the June 2009 appeal to the Supreme Court by Lusaka businessmen Faustin Kabwe and Aaron Chungu to order Supreme Court Chief Justice Ernest Sakala and Justice Peter Chitengi to vacate their offices because they had passed the constitutionally mandated retirement age of 65.

There were 165 magistrates at the end of the year. Attorneys who had a law degree held approximately 41 magistrate positions during the year; lay magistrates filled the rest. However, poor working conditions caused many magistrates to leave their jobs. The HRC recommended in its 2009 report that the Government increase the number of magistrates and magistrate courts, improve accused persons' access to bail, and reduce abuses of judicial authority. The Government had not responded to these recommendations by year's end.

*Trial Procedures.*—Defendants are considered innocent until proven guilty, and trials in the High Court as well as in magistrate and local courts are public. Juries are not used; a magistrate renders judicial decisions and determines sentences. Although trials are open to the public, the public is not permitted to comment on an ongoing case. Defendants have the right to be present and to consult with an attorney; however, many defendants lacked the resources to retain a lawyer. The law provides for free legal counsel when indigent defendants face serious charges; however, public defenders were overwhelmed with cases, and many defendants did not have legal representation. Defendants can confront or question witnesses against them and present evidence and witnesses on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right to appeal.

Although statutory (common) law extends these rights to all citizens and is generally applied equally, the 1964 Local Courts Act permits local courts to employ customary (tribal or traditional) laws that vary widely throughout the country. Statutory law takes precedence over customary law, and any citizen may bring a case to magistrate court. However, the Government encourages the use of customary law by local courts to augment the justice system and resolve disputes in rural areas. Lawyers are barred from participating in proceedings in courts that apply customary law, and there are few formal rules of procedure. Local court justices frequently do not have legal training but are expected to be versed in the traditions and customs of the ethnic group the court represents. Local courts cannot sentence convicted persons to imprisonment; they impose fines as punishment. Customary law sometimes discriminates against and denies the rights of some groups, particularly women and children.

Courts were congested, and there were significant delays in trials while the accused remained in custody. In cases in which the magistrate's court did not have jurisdiction, at least six months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate

court record for transmittal to the High Court took months or, in some cases, as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of six months.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and complainants have access to the High Court to seek damages for human rights abuses. There are administrative remedies available as well as judicial remedies for alleged wrongs. However, there were problems enforcing civil court orders due to insufficient judicial resources.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions; however, the Government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and arrested suspected criminals at their homes without an arrest warrant.

The law grants the DEC, ZSIS, and the police authority to monitor communications using wiretaps on the basis of a warrant based on probable cause. On June 9, The Post newspaper alleged that Inspector General of Police Francis Kabonde obtained some journalists' phone records from a mobile service provider without a warrant.

Authorities sometimes detained, interrogated, and physically abused family members of criminal suspects to obtain their cooperation in identifying or locating suspects.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, the Government restricted these rights in practice. The law includes provisions that may be interpreted broadly to restrict these freedoms.

The Government allowed but sometimes attempted to impede individuals' right to exercise public or private spoken criticism by using intimidation; for example, it thwarted the "Red Card" protest campaign, in which participants peacefully held up red cards to protest against various government actions, by arresting three individuals for disturbing the peace (see section 2.b.). On March 18, Ndola magistrate Kelvin Limbani sentenced Darius Mukuka to 18 months' imprisonment for defaming President Banda in a public bar. On May 25, President Banda pardoned Mukuka.

The Government allowed press criticism but sometimes attempted to impede it using intimidation. The Government-controlled Times of Zambia and Zambia Daily Mail were two of the most widely circulated newspapers. The Government exercised considerable influence over both newspapers, including reviewing articles prior to publication and censoring individuals responsible for published articles that criticized the Government. Opposition political parties and civil society groups complained that government control of the two newspapers limited their access to mass communication. Journalists in the Government-controlled media generally practiced self-censorship.

The international media generally operated freely.

The independent media were active and expressed a wide variety of views. A number of privately owned newspapers questioned government actions and policies. Although these circulated without government interference, officials used the law to suppress criticism of political or other leaders. Government officials and ruling MMD party supporters repeatedly targeted the leading independent newspaper, The Post, with criticisms, threats, and litigation for publishing information critical of the Government.

The law permits presidential investigative tribunals to call as witnesses journalists and media managers who printed allegations of parliamentary misconduct. Failure to cooperate with a tribunal can result in charges of contempt, which are punishable by up to six months in prison. The media criticized these provisions as clear infringements of freedom of the press and claimed it was a means for parliamentarians, some of whom concurrently served the president in cabinet positions, to bypass the court system.

On June 3, Magistrate David Simusamba found Fred M'membe, editor in chief of The Post, guilty of one count of contempt of court for publishing an article commenting on a case dismissed in 2009 against Chansa Kabwela, an editor with The Post. On July 7, M'membe was released on bail. His appeal remained pending at year's end.

On July 31, MMD supporters in Ndola reportedly harassed and threatened with violence The Post newspaper reporter Abigail Chabonda for alleged bias against their party.

On November 10, the Lusaka High Court ordered the arrest of *Zambian Watchdog* editor Lloyd Himaambo and former spokesperson of former president Chiluba, Emmanuel Mwamba, for contempt of court. Himaambo had published articles purportedly written by Mwamba analyzing evidence in a criminal case. Their case remained pending at year's end.

On November 11, MMD Lusaka Province Youth Chairman Chris Chalwe was sentenced to one year at hard labor for a July 2009 assault on journalists Chibaula Silwamba and Anthony Mulowa.

There were no developments, and none were expected, in the February 2009 assault on photojournalist Thomas Nsama and the May 2009 assault on journalists George Chellah and Eddie Mwanaleza.

In addition to a government-controlled radio station, there were numerous private radio stations. The Government-owned Zambia National Broadcasting Corporation (ZNBC) was the principal local-content television station. Several private television stations, including foreign-owned media, also broadcast locally. The Government detained and censured individuals responsible for programs the Government deemed offensive. Opposition political parties and civil society groups charged that government control of the ZNBC limited their access to mass communication.

On June 18, Ministry of Information and Broadcasting Public Relations Officer Betniko Kayaya threatened to revoke Radio Sky FM's license for broadcasting programs the ministry considered a threat to peace and security.

On November 20, Ministry of Information and Broadcasting Permanent Secretary Sam Phiri reportedly threatened to revoke Radio Lyambai's license for hosting a program to discuss the Barotse Agreement (see section 6).

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Although the Internet was available to and used by citizens, a lack of infrastructure limited public access. According to International Telecommunication Union statistics for 2009, approximately 6.3 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events. Although the law gives university councils at the three public universities a mandate to address faculty concerns, the minister of education may appoint council members. Some academics criticized this provision as an infringement of academic freedom.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, the Government restricted this right in practice. Although the law does not require a permit to hold a rally, it requires organizers to notify police seven days in advance. Police are empowered to decide when and where rallies are held and who may address participants. The Government on occasion used the law's broad mandate to change arbitrarily the time and date of rallies, particularly of opposition political parties and NGOs, and did so during the year, including during by-election campaigns.

Although there were no cases of police using violence to disperse protests, police reportedly condoned and committed acts of violence in the Mufumbwe by-election (see section 3).

On March 12, Kitwe police arrested and detained Catholic priest Frank Bwalya for three days for reportedly distributing red cards at a Youth Day event in Kitwe. Bwalya co-organized the "Red Card Campaign" to encourage the public to flash red cards to protest the Government. On March 13, Bwalya was charged with breaching the peace. His case remained pending at year's end.

On August 3, Ndola police arrested and detained a woman and her 13-year-old son for allegedly flashing a red card at President Banda's motorcade. Both were charged with conduct likely to cause breach of peace and released the same day after admitting guilt and paying a 50,000 kwacha (\$10) fine.

The case against Patriotic Front (PF) Members of Parliament (MP) Mumbi Phiri and Jean Kapata, who were arrested for protesting the acquittal of former president Frederick Chiluba in October 2009, remained pending. There were no developments in the 2008 police shooting of two University of Zambia students in Lusaka.

*Freedom of Association.*—The law provides for freedom of association, but the Government placed some limits on this right. All organizations must formally apply for registration to the MoHA Registrar of Societies. However, the registration process was long and permitted considerable discretion on the part of the registrar. During

the year there were no cases in which the registrar refused to register an organization.

On February 25, the Lusaka High Court upheld the 2004 decision by the Government to deregister the NGO Southern African Centre for the Constructive Resolution of Conflict (SACCORD) on grounds that it was inimical to national security. SACCORD received a temporary injunction permitting it to continue operations pending a hearing by the Supreme Court.

*c. Freedom of Religion.*—For a complete discussion of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. However, the Government intermittently limited in-country movement. Police used roadblocks to control criminal activity, enforce customs and immigration regulations, check drivers' documents, and inspect vehicles for safety compliance. Police sometimes extorted money and goods from motorists at these roadblocks.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. There were no restrictions on refugees' travel inside the country, but refugees were required to have permission from the Government to move or live outside refugee camps. Such permission was frequently granted.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government also provided temporary protection to individuals who may not qualify as refugees. There were reports during the year that the Government expelled Zimbabweans and other foreign nationals who could not provide evidence that they were refugees and were therefore considered irregular migrants.

In late 2009 reports surfaced about corruption at Maheba Refugee Settlement. During government action on February 24 to restore order at Maheba following refugee protests over the corruption allegations, security forces killed one refugee, injured several others, arrested 150, and deported 36. On April 13, the UNHCR protested the deportations, stating that the refugees were not given any notice or explanation for their expulsion. The Government subsequently acted to address corruption concerns at the settlement by investigating the allegations.

According to the UNHCR, by the end of the year, the country hosted 47,500 refugees, mainly from Angola and the Democratic Republic of Congo (DRC). The Government assisted in the repatriation of 9,200 Congolese refugees during the year. On November 10, the Government officially closed Kala and Mwange refugee camps after assisting in the voluntary repatriation of over 6,000 Congolese refugees to the DR Congo and an additional 2,000 to Maheba refugee camp. With the final push on Congolese repatriations, it was estimated that only 6,000 Congolese refugees remained in the refugee settlements at year's end. Of the refugees in the country, 38 percent have settled on their own volition outside official refugee camps and settlements.

Refugees at Kala, Mwange, and other camps were provided access to basic services, education, and police and courts. Government policy limited refugees' legal employment options to refugee camps, except where refugees obtained specific government authorization for employment outside camps.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In October 2008 then-vice president Rupiah Banda was elected president in a generally free and fair by-election conducted following the August 2008 death of then-president Levy Mwanawasa.

The law requires all elected officials except the president and vice president to vacate their offices from the time parliament is dissolved prior to running for election. The vice president is appointed and dismissed by the president. During the

year several by-elections were held after incumbent deaths or resignations. Reports of vote buying and misappropriation of government resources for unfair political advantage continued and, in some cases, were challenged in court.

In April 29 by-elections, United Party for National Development (UPND) candidate Eliot Kamondo was elected MP representing Mufumbwe and MMD candidate Watson Banda was elected MP representing Milanzi. Elections-related violence contributed to four deaths and multiple injuries in Mufumbwe. Some observers alleged that ruling party supporters in both constituencies engaged in vote buying, misused government vehicles, distributed food and clothing for partisan purposes, and promised local development projects to entice voters to vote for their candidates. Some observers noted that security forces protected ruling party supporters but did not act to curb violence and even participated in violence against opposition supporters or voters. On December 15, Lusaka High Court Judge Philip Musonda nullified the election of Kamondo in Mufumbwe, citing the levels of violence as having disenfranchised voters. Some observers asserted that the court's ruling favored the ruling party, although Musonda denied that political factors influenced his decision. Kamondo appealed the decision to the Supreme Court.

On August 5, PF candidate Susan Kawandami was elected MP representing Chifubu and Charles Milupi was re-elected to represent Luena. Milupi ran for his own seat after joining the Alliance for Democracy and Development party. Some observers alleged that MMD supporters in both constituencies engaged in vote buying and misuse of government resources for partisan purposes. On October 25, UPND candidate Cosmas Moono was elected MP representing Chilanga and MMD candidate Given Mung'omba was elected MP for Mpulungu. Observers alleged that the Chilanga election was accompanied with isolated instances of political violence while in both elections there was misuse of government resources for partisan purposes.

Political parties could operate without restriction or outside interference, and individuals could independently run for election. However, the ruling MMD exerted considerable influence over the electoral process by using government resources to conduct political campaigns.

There were 22 women in the 158-seat parliament, four in the 27-member cabinet, and four on the Supreme Court. There was one minority MP; there were no minorities serving in the cabinet or on the Supreme Court. There were no female or minority provincial ministers. Political parties did not allocate parliamentary seats to minorities or women.

On June 22, the National Constitutional Conference (NCC) concluded its work and published a revised draft of the constitution proposed by the 2005 Mung'omba Constitutional Review Commission. During a 40-day public comment period, the NCC incorporated some changes suggested by civil society organizations and the public. On August 31, the NCC submitted the final amended draft constitution to the minister of justice for submission to parliament. Some civil society groups, including large umbrella organizations representing women's and church groups, maintained their boycott of the NCC in protest of what they perceived as disproportionate government and ruling party representation.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government attempted to implement the law; however, some officials engaged in corrupt practices with impunity. Petty corruption among the police and other public authorities was particularly problematic. Police, who enjoyed a high degree of impunity, released prisoners for bribes, extorted money from victims, and required "document processing fees" or "gas money" to commence investigations.

The World Bank's latest worldwide governance indicators reflected that corruption was a serious problem.

On March 15, the Government announced its National Anti-Corruption Policy Implementation Plan. The Anti-Corruption Commission (ACC), which reports independently to the president, is responsible for combating government corruption. The Government continued its collaboration with the international community to improve its capacity to investigate and prevent corruption. Parliamentary committees sustained their scrutiny of executive branch operations and resolved some irregularities reported by the Office of the Auditor General (OAG). The ACC continued its prosecution and public educational activities. In 2009 the ACC received 2,073 reports of corruption, 658 of which were investigated. Of those, eight resulted in convictions. The ACC maintained a toll-free hotline for reports of corrupt practices.

There remained a widespread public perception that corruption was pervasive in almost all government institutions.

Controls over government funds and property were often weak, investigative units often lacked authority and personnel, and officials dealing with the public frequently

demanded illicit payments with impunity. Additionally, the Government had no clear policy for handling evidence in corruption cases, and the process to liquidate assets seized in these cases was not transparent.

Public officials were not subject to financial disclosure laws, although presidential candidates were required to disclose financial assets when filing their candidacies with the Supreme Court.

On April 13, parliament enacted the Public Interest Disclosure (Whistleblowers Protection) Act, the Forfeiture of Proceeds of Crime (Asset Forfeiture) Act, and the Plea Negotiations and Agreements (Plea Bargaining) Act. The Whistleblowers Protection Act protects those who report incidents of corruption and entitles them to anonymity, compensation, relocation, and employment reinstatement. The act does not protect those who air complaints publicly in the press. The Asset Forfeiture Act allows the Government to seize and confiscate illegally obtained property. The Plea Bargaining Act establishes a formal plea bargaining mechanism, which is designed to be employed in corruption cases.

On November 3, parliament passed the Anti-Corruption Commission Act of 2010, which removed clauses in the existing law providing for abuse of office by public officials as a ground for corruption prosecutions. These clauses had authorized prosecutors to investigate and prosecute officials if they had abused their offices to amass wealth and/or maintain a standard of living beyond their means. Some civil society and opposition figures criticized the change as weakening anticorruption efforts because it eliminated a legal statute used to convict some officials of corruption.

During the year the Government investigated and prosecuted corruption cases.

For example, on May 18, the OAG published an audit report of the Roads Development Agency (RDA) indicating that it spent 985 trillion kwacha (\$195.5 million) more on road projects than appropriated by parliament and noted several financial irregularities. On August 21, the parliamentary Public Accounts Committee found that the RDA board of directors provided insufficient oversight. Resolution of the audit findings remained pending at year's end.

On May 26, a Lusaka court convicted Chansa Kabwela, a member of parliament and former finance minister, of corruption for accepting a \$5,500 bribe (in U.S. dollars) in connection with irregular payments made to two security companies. He was sentenced to five years at hard labor. His appeal in the High Court remained pending at year's end.

On August 13, High Court Judge Evans Hamaundu dismissed a petition to register in the country a 2007 London High Court judgment of 23 million UK pounds (\$46 million) against former president Fredrick Chiluba and seven others. Hamaundu ruled that Zambian law did not allow foreign judgments to be registered directly, although some previous foreign judgments have been registered.

During the year the Government arrested seven Ministry of Health (MOH) officials in connection with the alleged embezzlement of more than 35.7 billion kwacha (\$7.14 million) at the MOH. The case remained pending at year's end.

In February 2009 a judge convicted former minister of lands Gladys Nyirongo of corrupt practices and abuse of authority and sentenced her to four years' imprisonment with hard labor. On October 8, the High Court upheld her conviction but reduced her sentence to two years' simple imprisonment. Nyirongo appealed to the Supreme Court. The case remained on appeal at year's end.

In March 2009 a judge convicted former president Chiluba's wife Regina of theft and sentenced her to three-and-a-half years' imprisonment in a case stemming from items she illegally received from her husband while he served as president. On December 7, the Lusaka High Court overturned Regina Chiluba's conviction, and the prosecution declined to appeal the case.

The law does not provide for public access to government information; however, the Government provided information to media and other interested parties, including foreign media, on an informal basis. Information related to defense and security forces was withheld from the public for reasons of national security.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Although the Government enacted a law to regulate NGOs in August 2009, it had not officially implemented the law by year's end. Many NGOs expressed concern that government officials would use the new law to punish or disband NGOs for publicly expressing critical views on human rights and governance issues. NGOs

claimed that the bill would force NGOs to focus on the Government's development priorities at the expense of their own objectives and that the Government-controlled NGO Registration Board created by the law would exert political pressure on NGOs.

The Government regulated some NGOs prior to the law's implementation. On January 14, then-minister of home affairs Lameck Mangani directed the Registrar of Societies to come up with details about the Press Association of Zambia Executive Committee to ascertain the leadership's legality. On February 12, the Government opened an investigation into allegations that the Media Institute of Southern Africa had committed financial irregularities. On March 18, Mangani announced that eight NGOs were under investigation for alleged money laundering and other illegal activities, and the Registrar of Societies was scrutinizing some NGOs' mandates. The timing of his announcement coincided with vocal opposition to government proposals for statutory media regulation by the independent media and some NGOs.

The Government generally cooperated with local human rights observers and international human rights and humanitarian NGOs. The Government cooperated with international governmental organizations and permitted visits by UN representatives, the ICRC, and other organizations.

The HRC monitored human rights conditions, interceded on behalf of persons whose rights it believed were denied by the Government, and spoke on behalf of detainees and prisoners. The HRC oversees local human rights committees in all nine provincial capitals and nominally enjoyed the Government's cooperation without substantial political interference. However, independent human rights groups noted that the HRC was understaffed, underfinanced, and relied on the police to enforce its recommendations.

The HRC noted in its 2009 report abuses by the judiciary and the police and called on the Government to implement reforms, including further criminalizing human rights violations. Citing funding insufficiency, the HRC did not issue an annual report during the year.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, ethnic group (tribe), gender, place of origin, marital status, political opinion, color, disability, language, social status, or creed. However, the Government did not effectively enforce the law, and violence and discrimination against women and children, discrimination based on sexual orientation, trafficking in persons, and discrimination against persons with disabilities remained problems.

*Women.*—The law prohibits rape, and courts have discretion to sentence convicted rapists to life imprisonment with hard labor. However, rape was widespread. The Government did not enforce the law effectively and obtained few rape convictions. In 2009 the ZPS's Victim Support Unit (VSU) recorded 244 cases of rape, 60 cases of attempted rape, and 188 cases of indecent assault; 111 defendants were convicted, 22 were acquitted, and 25 cases were withdrawn. However, these totals underestimated the problem's actual extent. The law does not specifically prohibit spousal rape, and penal code provisions that criminalize rape cannot be used to prosecute cases of spousal rape.

Domestic violence against women was a serious problem, and wife beating was widespread. There is no specific law against domestic violence, including spousal abuse, and cases of domestic violence were prosecuted under the penal code's general assault provisions. Penalties for assault range from a fine to 25 years in prison, depending on the severity of injury and whether a weapon was used during the assault. The VSU was responsible for handling cases of domestic assault, wife beating, mistreatment of widows, and property expropriation (grabbing) by the deceased husband's relatives. In practice the police were often reluctant to pursue reports of domestic violence and preferred to encourage reconciliation.

The Government and NGOs expressed continued concern about violence against women. Fear of retribution and cultural considerations deterred women from reporting domestic violence cases, and the VSU stated in a June 2009 report that this meant the full extent of sexual and gender-based violence was unclear. However, increased public awareness resulted in more reporting of such incidents to police and other authorities than in previous years. The VSU reported that victims often refused to cooperate and the unit lacked equipment to analyze forensic evidence. The Government operated gender-based violence shelters, a toll-free hotline, and eight one-stop centers to provide comprehensive assistance to victims of sexual and gender-based violence. During the year the Government provided gender-based violence training to more than 300 police officers.

Sex tourism occurred but was not prevalent. Sexual harassment was common. The law only prohibits sexual harassment of children; however, the penal code contains provisions under which sexual harassment could be prosecuted. The Government

has successfully prosecuted persons for such actions. The Government has also successfully prosecuted persons for other forms of harassment under other sections of the penal code.

Although couples and individuals enjoyed the right to decide freely and responsibly the number, spacing, and timing of their children, they often lacked access to information. Scarcity of information effectively led to discrimination against women in the exercise of reproductive rights. Many women lacked access to contraception and skilled attendance during childbirth, including essential prenatal, obstetric, and postpartum care. UNICEF estimated that from 2003-08, the maternal mortality ratio was 590 per 100,000 live births. Women generally did not experience discrimination in terms of diagnosis and treatment for sexually transmitted infections. The number of women who received HIV testing and treatment increased substantially in recent years, and many more women than men sought treatment. Barriers that limited access to these services include economic and social discrimination as well as lack of access to health facilities.

The law generally entitles women to equality with men. However, the Government did not adequately enforce the law, and women in practice experienced discrimination in employment, education, and land and property ownership. Women who were employed often suffered from discriminatory conditions of service, including pay inequity. Although the Ministry of Lands set aside special land quotas for women to redress the imbalance in property ownership, women lacked adequate access to credit to purchase land or property. In most cases, women remained dependent on their husbands or male members of their family to cosign for loans. As a result, few women owned their own homes or businesses, although some financial institutions allowed women to sign independently for loans. The Government was proactive in improving the status of women through legal protections and public awareness campaigns. The Ministry of Women, Gender, and Development (MOWGD) and the Gender in Development Division (GIDD) are the Government's primary agencies charged with promoting the status of women. The MOWGD coordinates gender policy while the GIDD plans, coordinates, and implements gender programs and policies across ministries.

Local customary law generally discriminates against women. Despite constitutional and legal protections, customary law subordinates women with respect to property ownership, inheritance, and marriage. Polygamy is legally permitted under customary law. The practice of "sexual cleansing," in which a widow is compelled to have sexual relations with her late husband's relatives as part of a cleansing ritual, continued as a practice under customary law. However, many local leaders banned the practice. The penal code prohibits "sexual cleansing" of children under the age of 16.

Customary law dictates that rights to inherit property rest with the deceased man's family. Statutory law prescribes that the man's children equally share half of an estate, the widow 20 percent, the man's parents 20 percent, and other dependents 10 percent. In a polygynous marriage, the widow's share must be divided proportionally with other women based on the length of time each has stayed in the marriage. As a result, property grabbing from widows remained widespread. The courts generally consider property grabbing a criminal offense and mandate up to three years' imprisonment in these cases. However, most property grabbing cases were decided in local courts, and the fines they imposed were low.

On December 10, UN Special Rapporteur on Violence Against Women, Rashida Manjoo, expressed concern over the country's use of customary law and stated that it contributed to discrimination against women and led to inconsistent application of justice in cases of violence against women.

*Children.*—The Ministries of Labor and Social Security (MLSS), Sport, Youth, and Child Development (MSYCD), Community Development and Social Services (MCDSS), Home Affairs (MoHA), and Education shared responsibility for promoting children's welfare. However, scarce resources and ineffective implementation of social programs continued to hinder their ability to assist children.

Citizenship is derived by birth within the country's territory or from one's parents. The Government's failure to register births did not result in the denial of public services, such as education or health care, to children. UNICEF indicated in 2009 that approximate 16 percent of urban births and 6 percent of rural births in the country were registered.

Although government policy calls for free basic education through grade seven, education was not compulsory, and many children did not attend school. Contrary to government policy, many teachers and school administrators required students to purchase uniforms or pay a fee before allowing them to attend classes, preventing some children from attending school. The numbers of girls and boys in primary

school were approximately equal; however, fewer girls attended secondary school. Sexual abuse by teachers discouraged many girls from attending classes.

Although the law prohibits sexual harassment of children, child abuse and violence against children were common problems. Defilement, which the law defines as the “unlawful carnal knowledge of a child under the age of 16,” was particularly common. The police VSU recorded 1,676 defilement cases in 2009; prosecutions resulted in 277 convictions and 63 acquittals.

Female genital mutilation (FGM) is prohibited under the country’s penal code and has rarely occurred in practice. Most cases of FGM in the country have been limited to small communities of immigrants from other parts of Africa. There were no cases of FGM reported during the year.

The 2007 Demographics and Health Survey published by the Central Statistical Office indicated that 46 percent of women between the ages of 20 and 49 were married by age 18, including 11.6 percent who were married by age 15. Child marriage was more common in rural areas than in urban centers. Although a person must be at least 16 years old to marry under the formal law, there is no minimum age under customary law. Some local leaders spoke against child marriage and took steps to discourage it; however, most condoned the practice. The Police and Magistrates’ courts intervened in cases of gross abuse.

The law criminalizes child prostitution and child pornography with penalties of up to life imprisonment for perpetrators. Child victims of prostitution are not charged unless they are also pimps over 12 years of age. However, the law was not enforced effectively, and child prostitution was common. The country has a statutory rape law that provides penalties of up to life imprisonment in rape cases. The minimum age for consensual sex is 16 years.

There are a large number of displaced and institutionalized children. According to the 2007 Zambian Demographic and Health Survey, the country has approximately 1.1 million orphaned children under the age of 17, including approximately 600,000 children orphaned as a result of HIV/AIDS. Orphaned children faced greater risks of child abuse, sexual abuse, and child labor. The survey indicated that about four in 10 children under the age of 18 were not living with both parents. About one in five children under the age of 18 were not living with either parent, and 15 percent were orphaned.

An estimated 20,000 to 30,000 children lived on the streets, often begging or prostituting themselves to survive. The joint MCDSS and ZPS Child Protection Unit (CPU) worked with the police to identify and assist street children. The MCDSS District Street Children Committee authorized the CPU to place children, including orphans and neglected children, in government- and NGO-operated shelters. The CPU reintegrated street children with their families, sent them to school, and placed others in shelters. The MCDSS also maintained a cash transfer scheme to target vulnerable families who might otherwise send minors into the streets to beg or work. The MSYCD continued its efforts to rehabilitate street children by providing education and skills training at two converted national service camps for up to 200 girls in Kitwe and for 400 boys in Chipata. After graduating from the camps, the children were placed in youth resource centers throughout the country, where they received training in carpentry, tailoring, farming, and other trades.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were approximately 80 persons in the Jewish community; there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination in general, but there is no law that specifically prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or the provision of other state services or in other areas. Although the Government did not impose restrictions on persons with physical or mental disabilities from voting or participating in civic affairs, the law prohibits those with mental disabilities from holding public office. Persons with disabilities faced significant societal discrimination in employment and education.

The MCDSS has responsibility for ensuring the welfare of persons with disabilities. Public buildings, schools, and hospitals rarely had facilities to accommodate persons with disabilities. The Government did not mandate accessibility to public buildings and services for persons with disabilities. In September 2009 The Post reported that conditions at the country’s only mental health facility, Chainama Hills

Mental Hospital, were generally good. No patterns of abuse of persons with disabilities in prisons were reported.

*National/Racial/Ethnic Minorities.*—The country's seven major ethnic groups—Bemba, Kaonde, Lozi, Lunda, Luvale, Ngoni, and Tonga—are divided into 73 ethnic subgroups. The Government protected their civil and political rights and any existing rights under the domestic law to share in revenue from the exploitation of natural resources on indigenous lands. The Government generally permitted autonomy for ethnic minorities by encouraging the practice of local customary law. Some political parties maintained political and historical connections to indigenous groups and promoted their interests.

The Government grants special recognition to the Barotse Royal Establishment (BRE) as the political authority of the Lozi ethnic group. However, the Government does not recognize the 1964 Barotseland Agreement signed by the United Kingdom, Northern Rhodesia, and the BRE immediately prior to Zambia's independence that granted the Lozi political autonomy. Some Lozi groups have demanded official recognition of Barotseland as an autonomous region. On October 9, police arrested Grace Likando, Muyangana Muyangana, and two other members of the Barotse Freedom Movement (BFM) for reportedly protesting without permission to advocate for the recognition of the agreement in the draft constitution. On October 23, police reportedly killed two individuals in Mongu during a BFM protest.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law criminalizes homosexual behavior and provides penalties of 15 years' to life imprisonment for individuals who engage in "unnatural" (homosexual) acts. A lesser charge of "gross indecency" carries penalties of up to 14 years' imprisonment. The Government enforced the law that criminalizes homosexual conduct and did not respond to societal discrimination. Societal violence against homosexual persons occurred, as did societal discrimination in employment, housing, and access to education or health care. There were active groups promoting rights of such persons, but the MoHA Registrar of Societies continued to refuse to register them. Groups held social gatherings but did not participate in open demonstrations or marches. There were also social impediments to the operation and free association of organizations for LGBT persons.

On September 20, five male students from Kabulonga Boys High School in Lusaka appeared in court on charges of gross indecent practices between persons of the same sex for allegedly having performed sexual acts on other male students. If convicted they face minimum of seven years' and maximum of 14 years' imprisonment. The case remained pending at year's end.

*Other Societal Abuses and Discrimination.*—The Government actively discouraged discrimination against persons with HIV/AIDS. However, there was strong societal and employment discrimination against such individuals. Government officials made announcements discouraging such discrimination, but they did not publicly acknowledge cases of HIV/AIDS among government officials. As a result, the Government made little headway in changing entrenched attitudes of discrimination and denial.

On May 26, the Livingstone High Court declared mandatory government testing of HIV/AIDS illegal. It awarded 10 million kwacha (\$2,000) each to Stanley Kingaibe and Charles Chookole, two former air force officers who had sued the air force for dismissing them because they were diagnosed as HIV-positive. The court awarded damages because Kingaibe and Chookole were tested without their consent. However, the court upheld their dismissals on the basis that they were not dismissed due to their HIV status.

Individuals increasingly sought free access to HIV/AIDS counseling and testing, and more than 300,000 HIV patients, including 23,000 children, were receiving antiretroviral treatment by year's end.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and belong to trade unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Police officers and military personnel were not permitted to form unions. Approximately two-thirds of the country's 300,000 formal sector employees were unionized. The law allows unions to conduct their activities without interference, and the Government generally protected this right in practice.

The Industrial and Labor Relations Act governs union activity. No organization can be registered unless it has at least 25 members, and, with some exceptions, no trade union can be registered if it claims to represent a class of employees already represented by an existing trade union. Unions may be deregistered under certain

circumstances; however, the law provides for notice, reconsideration, and right of appeal to an industrial relations court.

The law provides the right to strike, except for those engaged in a broadly defined range of essential services, but requires that all other legal recourse be exhausted first. Essential services not permitted to strike include the defense force, judiciary, police, prison and health services, and the ZSIS. The law further defines essential services as any activity relating to the generation, supply, or distribution of electricity; the supply and distribution of water, and sewage removal; fire departments; and the mining sector. Because the process of exhausting other legal alternatives to striking is lengthy, most unions chose to strike illegally. The last legal strike in the country occurred in 1993. Workers who engaged in illegal strikes could be dismissed by their employers; the Government at times intervened for political reasons when such dismissals occurred. During the year there were no such dismissals.

*b. The Right to Organize and Bargain Collectively.*—The right to collective bargaining, without government interference, is protected in law and freely practiced. The law also prohibits antiunion discrimination and employer interference in union functions, and the Government enforced this right.

There are no known special laws or exemptions from regular labor laws in the Lusaka and Chambishi Multi-Facility Economic Zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred in labor-intensive, informal-sector work such as domestic service, hospitality, agriculture, construction, and sexual exploitation. Forced labor occurred in the agriculture and mining sectors but was not common. The law authorizes the Government to call upon citizens to perform labor in specific instances, such as during national emergencies or disasters. The Government also may require citizens to perform labor associated with traditional civil or communal obligations, as when a traditional leader or other dignitary calls upon all members of a village to assist in preparing for a visit; however, there were no reports of such activities during the year.

Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits employment of children at any commercial, agricultural, or domestic worksite and the engaging of a child in the worst forms of child labor as defined in international conventions. Nevertheless, child labor was a problem in subsistence agriculture, domestic service, construction, farming, transportation, prostitution, quarrying, mining, and other informal sectors, where children under the age of 15 often were employed, and the law was not enforced. The law also prohibits slavery and the procurement or offering of a child for illicit activities.

The minimum age for employment is 15; for hazardous work, it is 18. The labor commissioner effectively enforced minimum age requirements in the industrial sector, where there was little demand for child labor; however, minimum age standards were seldom enforced in the informal sector, particularly in mining and agriculture. Zambia ratified ILO Convention 182 in 2001 but had not promulgated a list of occupations considered to be the worst forms of child labor. Among the worst forms prohibited by law are child prostitution, slavery in all its forms, forced military conscription of children, and work that is harmful to the safety, health, or morals of children and young persons.

During the year children, particularly those who had lost both parents to HIV/AIDS, were sent to rural areas to be cared for by relatives, or they lived on the streets.

The MLSS, MoHA, and MCDSS are responsible for the implementation and enforcement of child labor laws and regulations, with charges for violations that provide for penalties ranging from a fine to a maximum of 25 years' imprisonment, or both. Labor inspectors may also enter family homesteads and agricultural fields to check for child labor violations.

Because more than 85 percent of child labor occurred in the agricultural sector, most often with the consent of families, the MLSS labor inspectors focused on counseling and educating families that engaged children in child labor and did not refer any cases for prosecution during the year. Due to the scarcity of transportation, labor inspectors frequently found it difficult to conduct inspections in some rural areas. In cooperation with NGO partners, the Government continued its efforts to remove children from abusive situations. The children, mainly orphans, were placed in formal and transitional classes, while others were given vocational skills training. Local governments maintained 16 district child labor committees to perform outreach and plan activities for vulnerable and working children. The purpose of the

committees was to increase awareness of child labor laws and the harmful effects of child labor, to mobilize communities to eliminate the worst forms of child labor, and to monitor the implementation of child labor programs at the district and village levels. The Government continued to provide awareness and training activities for officials charged with enforcing child labor laws; however, the MLSS reported that resource constraints prevented it from providing all required training. The Government participated in several projects to combat child labor and had generally been supportive.

For information on child trafficking, see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*e. Acceptable Conditions of Work.*—The minimum wage in the formal sector was 268,000 kwacha (\$53.60) per month, based on the legal maximum workweek of 48 hours. Significant parts of the workforce, including foreign and migrant workers, are not covered by minimum wage provisions and other acceptable conditions of work. The minimum wage for nonunionized workers, whose wages and conditions of employment were not regulated through collective bargaining, was determined by category of employment. The minimum wage did not provide a worker and family with a decent standard of living; most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on extended family. The minimum wage act did not apply to domestic servants. The MLSS is responsible for enforcing the minimum wage, and its inspectors received and resolved complaints.

For unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice almost all unionized workers received salaries considerably higher than the non-unionized minimum wage. The standard workweek was 40 hours, and there were limits on excessive compulsory overtime, depending on the category of work. The law requires that workers earn two days of annual leave per month, and there is no limit on how much leave they can accrue. The law provides for overtime pay. Employers must pay employees who work more than 48 hours (45 hours in some categories) in one week at a rate of one and one-half times their hourly rate for their overtime hours. Workers receive double the rate of their hourly pay for work done on a Sunday or public holiday. The Government effectively enforced these standards.

The law also regulates minimum health standards in industry, and city and district councils were responsible for enforcement. The inspector of factories under the minister of labor handled factory safety; however, staffing shortages limited enforcement effectiveness. The MLSS continued to conduct labor inspections during the year and ordered businesses to close when it found significant violations of labor laws.

On June 21, 22 miners were seriously injured in an underground mine accident at the Chinese Collum Coal Mine (CCM) in Sinazongwe. On July 21, four Chinese nationals at CCM reportedly assaulted miners Killian Chilindile and Chipso Muleya for failing to reach production targets. The case remained pending at year's end. On July 28, three miners were seriously injured in an underground mine accident at CCM. Although the Government closed the mine in 2009 for previous violations, it had not resolved these incidents by year's end.

On October 15, two Chinese managers at CCM reportedly shot and wounded 13 Zambian employees in Sinazongwe as they protested over salaries and working conditions. The victims were hospitalized and later released. Officials from the Ministries of Mines and Labor and Social Security investigated the incident. CCM management agreed on November 10 to compensate the 13 Zambian workers between 20 and 45 million kwacha (\$4,000 and \$10,000 each) in exchange for not pressing the Government to prosecute. Management also increased the minimum basic monthly salary of its workers.

On November 6, police arrested a Chinese national, Bo Khan, for allegedly threatening to shoot his employees, Sankulani Phiri and Monica Sitali, after they tried to leave his residence without his permission. His case remained pending at year's end.

The law protects the right of workers to remove themselves from work situations that endangered health or safety without jeopardy to their continued employment, but workers did not exercise this right in practice. The Government acted when well-known occupational health problems existed, such as by requiring that underground mine workers receive annual medical examinations.

## ZIMBABWE

Zimbabwe, with a population of approximately 11.4 million, is constitutionally a republic, but the Government, dominated by President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) since independence, was not freely elected and was authoritarian. The last four national elections—the presidential election in 2002, parliamentary elections in 2005, harmonized presidential and parliamentary elections in March 2008, and the presidential run-off in June 2008—were not free and fair. In the March 2008 elections, two factions of the opposition Movement for Democratic Change (MDC), known as MDC-T to denote Morgan Tsvangirai's faction and MDC-M for the group led by Arthur Mutambara, gained a parliamentary majority. Mugabe was declared the winner of the June 2008 run-off election after opposing candidate Tsvangirai withdrew due to ZANU-PF-directed violence that made a free and fair election impossible. Negotiations subsequently took place, and in September 2008 the three parties signed the Global Political Agreement (GPA), a power-sharing agreement under which Mugabe would retain the presidency and Tsvangirai would become prime minister. In February 2009 Tsvangirai was sworn in as prime minister, and new cabinet ministers and deputy ministers from MDC-T, MDC-M, and ZANU-PF also were sworn in. Although the constitution allows for multiple parties, ZANU-PF, through the use of government and paramilitary forces, continued to intimidate and commit abuses against members and supporters of other political parties and obstructed their activities. In numerous instances, ZANU-PF leadership took actions and implemented policies that were contrary to the terms set out in the GPA. In February 2009 the National Security Council (NSC) was established to provide policy oversight and guidance to the security forces and direction to the Joint Operation Command (JOC—a group of senior security and civilian authorities). There were instances in which elements of the security forces acted independently of civilian control.

Security forces, police, and ZANU-PF-dominated elements of the Government continued to commit numerous, serious human rights abuses. ZANU-PF's dominant control and manipulation of the political process through trumped-up charges, arbitrary arrest, intimidation, and corruption effectively negated the right of citizens to change their government. There were no politically motivated killings by government agents during the year; however, security forces continued to torture, beat, and abuse non-ZANU-PF political activists and party members, student leaders, and civil society activists with impunity. Projections of an early election in 2011 also led to an increase in the number of cases of harassment and intimidation of civil society, humanitarian organizations, and the media toward the end of the year. Security forces continued to refuse to document cases of political violence committed by ZANU-PF loyalists against members of other political parties. Prison conditions improved but remained harsh and life threatening. Security forces, which regularly acted with impunity, arbitrarily arrested and detained political activists not associated with ZANU-PF, members of civil society, labor leaders, journalists, demonstrators, and religious leaders; lengthy pretrial detention was a problem. Executive influence and interference in the judiciary continued, and the Government infringed on citizens' privacy rights. The Government continued to use repressive laws to suppress freedom of speech, press, assembly, association, and movement. The Government restricted academic freedom. High-ranking government officials made numerous public threats of violence against demonstrators and political activists not associated with ZANU-PF. The Government continued to evict citizens and to demolish homes and informal marketplaces. Farm invasions continued, and the Government impeded nongovernmental organization (NGO) efforts to assist those displaced, as well as other vulnerable populations, albeit to a lesser degree than in 2009. Government corruption remained widespread. The following human rights violations also continued: government restrictions on domestic and international human rights NGOs; violence and discrimination against women; trafficking of women and children; discrimination against persons with disabilities, ethnic minorities, the lesbian, gay, bisexual, and transgender (LGBT) community, and persons with HIV/AIDS; harassment and interference with labor organizations critical of government policies; child labor; and forced labor, including by children.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in 2009, there were no reports that the Government or its agents committed arbitrary or unlawful killings.

There were three confirmed killings by political party supporters during the year. On April 17, ZANU-PF party activists and war veterans brutally beat Memory

Chaduka, a female informal trader, in Masvingo for failing to contribute money toward Independence Day celebrations. Those who failed to make contributions to the Masvingo Informal Traders Association for the celebration were accused of being MDC supporters. Chaduka died of an extended injury resulting from broken ribs. ZANU-PF party activists also beat 25 other informal traders.

On September 19, in Harare, ZANU-PF youths beat Chrispen Mandizvidza in the abdomen with unknown objects during a constitutional outreach meeting in Harare. Mandizvidza died on September 22 from a perforated bowel due to blunt trauma.

On November 27, Augustine Mahute, an MDC activist, died from beating by ZANU-PF youths and then by police officers while in detention at Harare's Matapi Police Station. Mahute was involved in a dispute with ZANU-PF youths in the neighborhood. The youths also prevented Mahute's family from holding a funeral service by barring access to their house. Two individuals were injured in the skirmish.

There were no developments in the torture and killing of Takunda Neshumba in March 2009 in police custody in connection with illegal diamond mining or in the beating and killing of Barnabas Makuyana in June 2009 by soldiers in Marange in connection with illegal diamond mining.

There were no developments in the case of Arnold Mosterd, who died after being beaten in July 2009 by ZANU-PF supporters in Macheke, Mashonaland East. The suspects were originally arrested, but minister of state in the President's Office Didymus Mutasa reportedly ordered their release and allegedly told villagers to "deal with" strangers who visited the area inquiring about the killing, as they would be MDC supporters.

There were no developments in the killing of MDC-T activist Godknows Dzoro Mtshakazi in August 2009 by four soldiers or the beating and killing of Moreblessing Tirivangani in September 2009 by soldiers in connection with illegal diamond mining.

In 2009 at least 19 citizens died as a result of injuries sustained from political violence that targeted members of the opposition party in 2008, in addition to the more than 270 who died in 2008. The MDC-T released a statement in early July that named approximately 11,000 perpetrators and catalogued them by province. Mashonaland East had the largest number—approximately 3,700—of perpetrators. The killings were primarily committed by members of ZANU-PF, ZANU-PF youth militia, war veterans, and, to a lesser extent, members of the military and police. At year's end, no one had been held legally accountable for the killings.

There were no reported killings in connection with the Chiadzwa diamond fields during the year; 40 persons were killed there in 2009.

In late 2008 security forces undertook a major operation to remove illegal diamond miners in the Marange/Chiadzwa area of Manicaland. Their brutal and heavy-handed approach resulted in hundreds of deaths.

Despite the more than 270 confirmed killings resulting from political violence in 2008, there were no prosecutions or convictions in any of the cases. The Zimbabwe Human Rights NGO Forum filed 655 suits in court against perpetrators for human rights violations. Of the total cases, 305 were filed against nonstate actors. By year's end, four cases were settled out of court, three cases were scheduled for trial, and 280 cases were referred to the community courts.

During his annual address on Heroes' Day on August 9, President Mugabe stated that the Government would not punish those responsible for past politically motivated violence.

*b. Disappearance.*—There were several credible reports of politically motivated abductions and attempted abductions during the year. MDC leaders reported that state security agents and ZANU-PF party supporters abducted and tortured dozens of MDC and civil society members, as well as student leaders, as part of an effort to intimidate them. The number of abductions spiked during the constitutional outreach process. In the majority of cases, victims were abducted from their homes or off the streets by groups of unidentified assailants; driven to remote locations; interrogated, assaulted, or tortured for one or two days; and abandoned. In some cases, the abducted person was located in police custody days or weeks later.

On April 1, state security agents abducted Zivanai Muzorodzi, a Zimbabwe National Students Union (ZINASU) student leader, and beat him. The abduction came after Muzorodzi led a student demonstration on March 29. Security agents in civilian clothing forced Muzorodzi from his house into a car and interrogated him as to why students were mixing student issues with national politics. Muzorodzi refused to divulge any information and, subsequently, was beaten and warned against future involvement in national politics.

On May 27, in Masvingo security agents abducted and tortured two ZINASU leaders, Alec Tabe and Godfrey Kuraune. Tabe and Kuraune were organizing a dem-

onstrator against high examination fees at Masvingo Polytechnic. They were picked up by Central Intelligence Organization (CIO) agents, who then tortured them on their chests and genitals with a pair of pliers before leaving them at a nearby police station. Tabe and Kuraune were released after paying an admission of guilt fine to the police.

On August 16, security agents abducted at gunpoint seven MDC-T supporters in Manicaland after the seven were accused of being vocal at a constitutional outreach meeting. All were found at the Chisumbanje police station on August 20. They were charged with disturbing the peace and released after paying \$10 fines each.

On December 24, three CIO agents in Chiredzi attempted to abduct Julius Mutavira and, failing to do so, assaulted him for being an MDC member. The agents arrived in an unmarked vehicle and tried to force Mutavira into the vehicle. Mutavira resisted and the agents beat him. Mutavira sustained severe injuries. He reported the incident to the Chikombedzi police station on December 28.

There were no new developments in the following 2009 cases: the February abduction and beating of a ZANU-PF party activist, the March abduction and beating of an MDC-T leader, the May abduction and burning of an MDC-T party chairperson, and the May abduction and beating of 13 MDC-T supporters.

The Government did not investigate reported abductions.

In 2008 multiple court cases were brought against 18 individuals, including 14 MDC-T members, three human rights activists, and one journalist, who were abducted and tortured by state security agents and then turned over to police. On August 30, the High Court held its first hearing on allegations of torture brought by one of the 18 individuals, Mapfumo Garutsa. The hearing was postponed, and police had not launched an investigation into the abductions by year's end.

On August 13, the Government appealed a December 2009 magistrate court decision to dismiss contempt of court charges against Alec Muchadehama, who represented seven men who were abducted and tortured by state security agents and then were accused of involvement in various 2008 police station and railroad bombings; and court clerk Constance Gambarara, who had prepared three of the defendants' orders of release on bail (see section 1.d.). In June 2009 Magistrate Chioniso Mutongi ruled that there was no reasonable suspicion that Muchadehama committed the alleged offenses. In October 2009 Mutongi suspended the trial due to the actions of an aggressive prosecutor whom he held in contempt of court. Magistrate Archie Wochiunga replaced Mutongi in November 2009 because the latter resigned due to harassment and threats. The Government appeal was pending at year's end.

There were some developments related to the case of MDC-T activists Lloyd Tarumbwa, Terry Musona, and Fanny Tembo, who were abducted and tortured by security agents in 2008. In June 2009 authorities arrested MDC-T director general Toendepi Shonhe for testifying to their abduction. During a closed-door hearing with the judge and lawyers for the three abductees and the Government's lawyer, Shonhe had signed an affidavit stating that the three had been abducted. Shonhe was charged with perjury as a result of his statement (see section 1.d.). In August 2009 the Government failed to produce credible witnesses, and Shonhe was acquitted. On January 18, Fanny Tembo and Emmanuel Chinanzvana were arrested on charges of killing a ZANU-PF councilor. They were released on the same day. The case was pending at year's end.

There were no developments in determining the whereabouts of the following MDC-T activists identified as abducted in 2008: Gwenzi Kahiya, Ephraim Mabeka, Lovemore Machokoto, Charles Muza, and Edmore Vangirayi. Graham Matehwa was found alive in February 2009 near his home in Makoni district.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment, security forces continued to engage in such practices. Security forces continued to commit political violence, including torture of citizens in custody. Army and police units organized, participated in, or provided logistical support to perpetrators of political violence and generally permitted their activities. Police also continued to refuse to record reports of politically motivated violence or destruction of property. Police used excessive force in apprehending and detaining criminal suspects due to lack of resources, lack of training, and a culture of disregard for human rights. ZANU-PF supporters continued to assault suspected and known MDC members and their families, civil society activists, and student leaders. Violent confrontations between various youth groups aligned with either ZANU-PF or the MDC continued.

Human rights groups reported that physical and psychological torture perpetrated by security agents and ZANU-PF supporters continued. Torture and other assault methods commonly reported included beating victims with sticks, clubs, whips, and

cables; suspension; burning; electric shock; and falanga (beating the soles of the feet).

During the year, one NGO reported 5,051 victims seeking treatment for injuries and trauma throughout the country. Approximately 65 percent of the victims were male, and an estimated 7 percent were victims who had experienced injuries and trauma prior to this year. An estimated 93 percent did not declare an affiliation with any particular political, religious, or civil society group. Of the victims who reported their affiliation, nearly 40 percent were affiliated with the MDC; 34 percent were civilians with no affiliation; 10 percent were public officials; and 7 percent were associated with civil society organizations.

On September 29, police in Bulawayo arrested Choga Njiva on allegations of armed robbery and the murder of a senior police officer. Njiva was denied access to lawyers for eight days on the ground of his crime being a “very serious one.” Njiva’s lawyer gained access only after obtaining an order from the High Court. During detention Njiva suffered eight lacerations on the back from being whipped. He was hospitalized with three stitches on his eye, swollen genitals, a swollen chest, and fractured ribs. Magistrate Sibongile Msipa ordered an investigation on the allegations of torture within 14 days; however, an investigation had not taken place by year’s end.

On February 2, Magistrate Gloria Takundwa ruled that the Government had failed to produce evidence linking Pascal Gwezere to the theft of military weapons and acquitted him of all charges. In October 2009 suspected security agents in Harare abducted and tortured MDC-T Transportation Manager Pascal Gwezere. He was suspended from the ground, beaten, and bitten on the face and ear to extract information about the MDC-T before the agents conducted a mock burial. Gwezere was taken to Harare Remand Prison and charged with stealing 21 weapons from a military barracks in Harare.

Police repeatedly used cruel, inhuman, or degrading treatment or punishment against those in custody.

For example, on April 15, six policemen beat 23-year-old Women of Zimbabwe Arise (WOZA) member Timothy Katyora at the Harare Central Police Station. Katyora attempted to turn himself in, along with a group of activists, in an act of solidarity with fellow WOZA members who had been arrested. Police took Katyora to a separate room and beat him over the head while they interrogated him. Katyora received medical treatment for bruising and headaches.

On September 29, police in Harare arrested Tenda Muchada, the program manager for the Combined Harare Resident Association, for allegedly driving a car involved in a robbery. Muchada was taken to the police station and beaten on his feet. Police released him on September 30 without charges.

Police also used excessive force to disperse demonstrators. For example, also on April 15, riot police, armed with tear gas and shotguns, dispersed a peaceful WOZA demonstration of approximately 500 women at the Zimbabwe Electricity Supply Authority headquarters in Harare. Police arrested 70 members, including a juvenile. Sixty-one members were released without charge on the same day. Jenni Williams, Magondonga Mahlangu, Clara Manjengwa, and Celina Makudani remained in custody at the Harare police station for five nights before they were released without charge. The Government refused to press charges against the four due to a lack of evidence. Police attempted to force the women to pay “admission of guilt” fines for their freedom. All women required medical attention for rashes, diarrhea, and flu symptoms incurred while in custody.

Citizens were harassed or assaulted for listening to music or singing songs affiliated with the MDC-T. In early May, police disrupted a musical show featuring MDC-T legislator Paul Madzore. Madzore had obtained a court order for the show after the required notification to the police was denied for alleged security reasons.

Within the security forces, intelligence officers and soldiers used torture to discipline and extract confessions from soldiers. For example, after several dozen weapons were discovered missing from the Pomona military barracks in Harare in October 2009, hundreds of soldiers were detained, questioned, and physically assaulted to extract confessions of theft of the weapons. The press reported that at least one soldier died in custody, likely as a result of injuries sustained during repeated torture. On May 20, Magistrate Munamato Mutevedzi ordered an investigation into the alleged torture after two of the soldiers, Chenjerai Gwirizha and Marksist Mwaruta, appeared in court. The case was pending at year’s end.

According to one NGO, at least 22,000 victims of the 2008 political violence had sought treatment, and approximately 10,200 of the cases received physical and psychological treatment; the others did not seek follow up treatment due to intimidation and lack of resources.

NGOs reported no cases of rape being used as a tool of political violence.

Youths and “war veterans” trained by ZANU-PF were also deployed to harass and intimidate MDC members; labor, student movement, and civic groups; journalists considered critical of the Government; and white farmers and their employees. During the four-day constitutional outreach process in Harare in September, one NGO treated 12 persons assaulted by ZANU-PF supporters. The injuries ranged from mild to serious.

In early October in Gutu, ZANU-PF youths assaulted 10 villagers as punishment for attending the funeral of an MDC official. The youths ordered the villagers to lie on their stomachs before beating them with clubs and threatening them against attending future funerals of MDC members.

On October 30, ZANU-PF supporters beat and stabbed MDC member Jonsaya Manyere after a constitutional outreach meeting in Harare where Manyere was actively contributing. Manyere suffered a head wound and was discharged from the hospital on November 8. Peter Garanewako, another MDC member, was also badly beaten by ZANU-PF sympathizers for his participation at another constitutional outreach meeting site in Harare on the same day. Neither incident was investigated by year’s end.

MDC members used violence and torture in retaliation for past ZANU-PF-led violence. For example, on April 3, Edron Mangove stabbed to death ZANU-PF supporter Nhamo Munechi. Munechi reportedly harassed and assaulted Mangove for being an MDC supporter in the 2008 presidential election run-off. Mangove fled the country after the assault, and no further information was available at year’s end.

Intraparty factionalism also resulted in violence. Between April 12 and 14, MDC-T youth backing one faction within the party besieged Harvest House, the MDC-T headquarters. The youths assaulted the party’s director general, Toendepi Shonhe, and stole his vehicle at knifepoint. When MDC-T officials requested police assistance to resolve the building seizure, police refused and claimed that the incident was infighting between party factions. The director of security for Harvest House then hired a private security firm to regain control and establish security within the building. Five youths detained several members of the security firm, locked them in a room, and beat them with tools for more than three hours. Since the police refused to pursue the case, the MDC-T investigated the incident and, on May 16, expelled the five youths, Rhino Mashaya, Shakespear Mukoyi, Stephen Jahwi, Todini Todini, and Francis Machimbizofa from the party.

No action was taken in the other 2008 or 2009 cases of abuse.

*Prison and Detention Center Conditions.*—Prison conditions improved but remained harsh and life threatening. The Government’s 46 main and 22 satellite prisons were designed for a maximum of 17,000 prisoners. There are two remand prisons and one juvenile prison in the Zimbabwe Prison Service (ZPS). The ZPS estimated that there were between 13,500 and 14,000 prisoners in the system at year’s end, a number confirmed by the International Committee of the Red Cross. This constituted a significant reduction from a 2008 NGO estimate of 35,000 and the 2008 government estimate of 22,000 to 24,000. Prison guards beat and abused prisoners. Poor sanitary conditions due to dilapidated prison infrastructure and overcrowding persisted, which aggravated health conditions and outbreaks of diarrhea, measles, tuberculosis, and HIV/AIDS-related illnesses.

Lawyers, NGOs, and church officials familiar with prison conditions reported that, although the situation had improved since 2009, shortages of food, water, electricity, clothing, and soap continued. NGOs started working with the ZPS to revitalize 23 prison farms, which totaled approximately 35,830 acres of land, to ameliorate food shortages. NGOs reported that prisoners were able to produce enough maize for consumption and that malnutrition was no longer an endemic problem at year’s end. Malnutrition was largely eliminated by therapeutic feeding and food assistance. Prisoners were fed at least once daily; however, nutritional deficiencies remained a critical problem.

NGOs reported the death rate among prisoners was lower than in 2009, although neither the ZPS nor NGOs provided information on the death rate during the year. In 2009 NGOs estimated the death rate was 40 deaths per month, a reduction from the estimated 40 to 50 deaths per week during the height of the 2008 prison crisis. Most prison deaths between 2008 and 2009 were attributed to harsh conditions, hunger, and HIV/AIDS. NGOs continued to estimate that approximately 70 percent of prisoners were HIV-positive; the ZPS did not routinely test prisoners for HIV. Due to inadequate facilities, outdated regulations, and the lack of medical personnel and medication, the majority of prisoners suffered from routine medical conditions such as hypertension, tuberculosis, diabetes, asthma, and respiratory diseases. NGOs also reported cases of pellagra, a serious illness caused by protein deficiency, which causes severe diarrhea, dermatitis, and dementia. Poor lighting and ventilation also aggravated the situation.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. All prisons engaged locally based chaplains to provide basic services. Church groups were able to conduct spiritual programs and humanitarian crusades in prisons. Visitor access was restricted primarily for maximum-security prisons. Authorities permitted prisoners to submit complaints, but investigations rarely were conducted. The ZPS conducted two assessments of prison center conditions, in January and in May, but the assessments were not released by year's end.

NGOs estimated that there were 412 women in prison, 250 of whom were convicted as of June, and 72 children under the age of three lived with their incarcerated mothers. NGOs reported that female prisoners generally fared better than males. Female prisoners were held in separate wings of prisons and were guarded by female officials. Women generally received more food from their families than male prisoners. However, children living with their incarcerated mothers were required to share their mothers' food allocation. Prison officials also appeared to have prioritized food distribution to women. NGOs were unaware of women reporting rapes or physical abuse, which were common among the male population. NGOs suggested that female guards may have been more diligent about protecting female prisoners from abuse, and female prisoners may not have reported abuse. However, female prisoners continued to endure significant hardship. For example, prisons did not provide feminine sanitary supplies for women, resulting in frequent fungal infections, as female inmates were forced to reuse torn pieces of dirty blankets during their menses. Pregnant and nursing mothers were not provided additional care or food rations.

NGOs estimated that there were between 350 and 400 juveniles in prison facilities; the majority were being held in pretrial detention. There was one juvenile prison in the ZPS; however, juveniles also were held in adult prisons throughout the country. Although juveniles were not officially held separately from adults, officials generally tried to place juvenile inmates in cells separate from adults. It became more common for juveniles to be sent to prison instead of to reformatory homes, as stipulated in the Children's Act. Juveniles were particularly vulnerable to the effects of poor prison conditions, and local NGOs reported several complaints of physical and sexual abuse.

The mentally disabled were the most affected by the collapsed medical infrastructure within the ZPS. Inmates with psychiatric conditions were examined by two doctors, who must both confirm a mental disability and recommend that a patient either be released or returned to a prison facility. However, prisoners with mental disabilities routinely faced long waiting periods, as much as three years, before being evaluated. It also became more common for prisoners with mental disabilities to be sent to prison instead of mental institutions.

While the total number of prisoners was below capacity, NGOs reported that overcrowding continued because at least half of the cells at each prison were used by prison guards. According to the ZPS, remand prisons faced overcrowding due to the spillover from overcrowded police stations, lengthy pretrial periods, and the ZPS's inability to transport detainees to court for their trials. The ZPS's two remand prisons could hold 2,000 detainees but were operating over capacity. Pretrial detainees often were held in prisons with convicted prisoners until their bail hearings. The majority of the prisoners interviewed by the local human rights NGOs had spent at least one year, and in some cases between three and five years, in a remand prison before having a pretrial hearing.

The law provides international human rights monitors the right to visit prisons, but government procedures and requirements made it difficult to do so. Church groups seeking to provide humanitarian assistance were able to gain more access than in 2009. Organizations suspected of having nonhumanitarian motives for visiting prisoners faced restricted access. Organizations reported that their meetings with prisoners occurred without third parties present, and there were no restrictions placed by the ZPS on how they operated within the prisons. No mechanisms, including the existence of an ombudsman, existed to consider alternatives to incarceration for nonviolent offenders; to address the status and circumstances of confinement for juvenile offenders; and to improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for the charged offense.

Local NGOs continued to lobby the Government for institutional reforms, including alternative mechanisms to settle allegations out of court and to release prisoners who had committed misdemeanors and whose incarceration put pressure on the crowded prison system. One local NGO called for the introduction of counseling for 52 death row inmates. In August 2009 the Government granted amnesty to approximately 1,500 females, juveniles, and terminally ill inmates who had sentences of 36 months or less or had already served at least 20 years.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces repeatedly arbitrarily arrested and detained persons. For example, on January 30, police dispersed an MDC meeting on the constitutional reform process and arrested all 52 MDC supporters in attendance. Police forcibly marched the group to the police station where most were released without charge. Eleven individuals, including the MDC's chairman for Mashonaland Central, were detained, charged with breaching security laws, and released on bail.

On February 2, police arrested 22 WOZA members in a private house in Bulawayo. The members were discussing the constitutional process. They were released on the same day without charge.

*Role of the Police and Security Apparatus.*—The Zimbabwe Republic Police (ZRP) is responsible for maintaining law and order. Although the ZRP is officially under the authority of the Ministry of Home Affairs, in practice the President's Office, through the JOC, controlled some roles and missions. In February 2009 the NSC replaced the JOC in this role. The Zimbabwe National Army and Air Force, under the Defense Ministry, were responsible for external security; however, there were cases in which the Government called upon them for domestic operations. The CIO, under the Ministry of State for National Security, is responsible for internal and external security.

The lower ranks of the police were poorly trained and underpaid. The entire force was ill-equipped in both operational and administrative resources. Severely depleted human and material resources, especially fuel, further reduced police effectiveness in both deterring and responding to criminal activity during the year.

Security forces perpetrated politically motivated violence, including torture of citizens in custody, largely at the behest of the leadership loyal to ZANU-PF. Police disrupted public gatherings and demonstrations, sometimes using violent means. Similarly, requests by civil society to hold public events were routinely denied if security chiefs believed the agenda contradicted their own political goals or, just as frequently, to make a counter-point on an issue under debate. Reports that security services tortured political and civil society activists who defied ZANU-PF's political agenda continued throughout the year. It was difficult for rank-and-file police to remain impartial due to the continued politicization of the force's upper echelons. Police and army personnel suspected of being sympathetic to the MDC and other political parties continued to be threatened with demotion, suspension, incarceration, or transfer to remote areas. While not widespread, there were reports of police using excessive force in apprehending and detaining certain criminal suspects due to lack of resources and lack of appropriate training.

On November 14, the Standard newspaper published an article linking the cancellation of the annual police examination to a ploy by the police to hire war veterans and retired police officers ahead of the elections. The recruitment was not meant to appear as new recruitment, but as a transfer of war veterans and retired officers from one post to another. Two Standard journalists were arrested and charged with criminal defamation (see section 2.a.). The case continued at year's end.

Security forces were rarely held accountable for abuses. Frequent allegations of excessive force and torture were often dismissed by senior government officials, who claimed that the actions were necessary to maintain public order. Court orders compelling investigations into allegations of abuse were routinely ignored by authorities. For example, police were reluctant or refused to record reports of politically motivated violence or similarly motivated destruction of property that occurred. Government efforts to reform the security forces were minimal, and training was rarely provided.

ZRP leadership loyal to ZANU-PF stifled, derailed, or did not authorize the efforts of those police who sought to investigate cases of political violence. Police seldom responded during incidents of vigilante violence due in part to a lack of resources, manpower, will, or combination thereof.

In February 2009 parliament passed the National Security Council Act, the enabling legislation for the new NSC. The NSC was set up to replace the JOC and is mandated to ensure accountability of the country's security sector. The JOC, which consisted of the army, police, prisons, and CIO, was blamed for orchestrating many human rights abuses. The NSC consists of representatives from the three political parties that constitute the transitional unity government, including President Mugabe as chair, Prime Minister Tsvangirai, the two deputy prime ministers, six ministers, and the security chiefs. The NSC is required by law to meet at least once every month and started meeting in February. President Mugabe reportedly continued to meet with the JOC outside the NSC.

*Arrest Procedures and Treatment While in Detention.*—The Criminal Procedure and Evidence Act (CPEA) stipulates that arrests require a warrant issued either by the court or a senior police officer. The law requires that police inform an arrested person of the charges before taking the individual into custody; however, these rights were not respected in practice. The law requires a preliminary hearing before a magistrate within 48 hours of an arrest (or 96 hours over a weekend). Police typically made arrests, which may have been politically motivated, on Fridays, which permitted legal detention until Monday. There were numerous reports that security forces arbitrarily arrested political and civil society activists, interrogated and beat them for information about their organizations' activities, and then released them the next day without charge.

According to the CPEA, the court reserved the power to grant bail. However, the attorney general has the power to suspend bail while an appeal is lodged. High court judges at times granted bail independently. The act allows police to hold persons suspected of committing economic crimes for up to four weeks without bail.

In 2008 Johannes Tomana, then deputy attorney general, announced that the Attorney General's Office would "deny bail to all suspects arrested on charges of either committing or inciting political violence." In some cases, those arrested and denied bail were kept detained for weeks or months. In other cases, police continued to hold persons in jail even after a judge had granted bail or dropped the charges. On June 17, Zimbabwe Lawyers for Human Rights (ZLHR) attorney Alec Muchadehama filed an application for referral to the Supreme Court to challenge the constitutionality of section 121 of the CPEA, which provides the Government with seven days to file an appeal against a ruling granting bail, on behalf of MDC-T Director General Toendepi Shonhe. On June 23, a magistrate referred the case to the Supreme Court; it was pending at year's end.

Authorities often did not allow detainees prompt or regular access to their lawyers, and often informed lawyers who attempted to visit their clients that detainees were "not available," especially in cases involving MDC members and civil society activists. Often detainees were "moved" overnight or on weekends from one police station or prison to another, and police refused to disclose the new location to their families and lawyers. Family members sometimes were denied access unless accompanied by an attorney. Detainees were often held incommunicado.

Family members and attorneys often were denied access to detainees in prison and could not verify that a person had been arrested until the individual appeared in court (see section 1.c.).

The Government continued to use arbitrary arrest and detention as a tool of intimidation and harassment, especially against MDC members and supporters, civil society and student activists, and journalists.

For example, on November 25, police in Matabeleland North arrested 17 MDC officials on charges of causing violence. The meeting was organized by the MDC-T provincial chairperson for nine councilors who defected from the MDC-M. On November 29, police released the 17 officials on \$30 bail each. Seven officials subsequently sought medical treatment and claimed they were denied food while in detention. The magistrate's court postponed the hearing to January 2011.

Victims of theft during the 2008 political violence, who attempted to recover their property from ZANU-PF bases and subsequently were detained or charged with extortion or theft, were still standing trial at year's end.

The Government continued its harassment and intimidation of human rights lawyers during the year. Police often threatened lawyers when they attempted to gain access to their clients in police custody. Several lawyers were arrested in connection with legal advice they provided to their clients. For example, in early October, Detective Chief Inspector Steven Mpofu threatened attorney Lison Ncube against representing Choga Njiva, who was arrested on September 29 on allegations of armed robbery and the murder of a senior police officer in Bulawayo (see section 1.c.). Njiva's father gave Ncube the blood-soaked clothes in which Njiva was allegedly tortured while in detention. Inspector Mpofu threatened Ncube with arrest if he did not surrender the clothes.

In November 2009 police arrested human rights lawyer Mordecai Mahlangu and charged him with obstruction of justice after he wrote Attorney General Tomana a letter on behalf of his client, Peter Hitschmann, who had been subpoenaed to testify against MDC-T treasurer Roy Bennett in his trial. Mahlangu was released on bail after spending a night in jail. On January 14, Magistrate Archie Wochionga acquitted Mahlangu, ruling that the facts before him did not constitute a crime. Mahlangu then applied to the High Court for an order to declare his arrest and detention unlawful. Judge Felistus Chatukuta, the spouse of Wayne Bvudzijena, a high-ranking police official, heard the case on February 4. Mahlangu's lawyers asked Judge Chatukuta to recuse herself, citing a possible conflict of interest due to her relation-

ship to a member of the police. Chatukuta said she that would decide whether there was a conflict. The case was pending at year's end.

During the year civil society groups reported that numerous arrests of MDC-T parliamentarians were politically motivated and meant to erode the MDC-T's voting power in parliament and to harass MDC-T parliamentarians.

For example, in May Member of Parliament (MP) Paul Madzore and Senator Morgan Komich were arrested for insulting President Mugabe. Both were released and charges were dismissed.

On June 4, police arrested MDC-T MP Ian Kay for allegedly distributing expired and unregistered medicines to three clinics in his constituency. Police raided his house purportedly looking for drugs and unlicensed firearms. On June 7, Kay was released on \$500 bail. Kay was indicted and fined \$2,000.

On June 5, MDC-T legislator Eliah Jemere and the provincial party treasurer for Mashonaland Central, Gilbert Kagodora, were arrested for insulting the office of the president; both were released on bail on June 8. Kagodora was arrested after addressing an MDC rally. On November 26, Magistrate Charles Murove referred the case to the Supreme Court after Kagodora filed an application challenging the constitutionality of the charge.

On June 6, police in Mutare arrested Teddy Chipere, MDC chairman of Makoni Central, for insulting the office of the president. He was released on bail on June 9.

In February 2009 police arrested MDC-T treasurer Roy Bennett and charged him with insurgency and possessing weaponry with the intention of using it in connection with acts of insurgency. Bennett denied all the charges and was released on \$5,000 bail in March. After several delays because the Government's key witness failed to appear, Bennett's trial began on January 12. On May 10, Justice Chinembiri Bhunu acquitted Bennett on all charges at the close of the state's argument and without a defense hearing. The Government appealed the acquittal on May 12 on grounds that Bhunu had erred, prompting the defense to file papers opposing the appeal bid. A decision on the appeal was scheduled for July 28, but the court postponed indefinitely the next trial date.

Of the 17 MPs arrested in 2009, at least 15 were from the MDC, and four were suspended after they were sentenced to jail terms of more than six months. All four appealed their suspensions in the High Court, and three MPs—Ernest Mudavanhu, Shua Mudiwa, and Mathia Mlambo—won their appeals during the year, and the suspension was lifted. Suspended MPs were allowed to retain their seats during the appeal process but were barred from participating in parliament. There were numerous incidents of MDC-T parliamentarians being harassed by ZANU-PF supporters for their involvement in the constitutional outreach process.

There were no further developments in the appeal of MP Meki Makuyana, who had been facing suspension since 2009.

In June 2009 WOZA leaders Jenni Williams and Magodonga Mahlangu appeared in the Supreme Court after filing an appeal arguing that they were unlawfully arrested on charges of disturbing the peace in 2008. The remand hearing was postponed several times from July to October 2009 to allow for the Supreme Court ruling. By October 2009 the Magistrate Court resumed the remand hearing for Williams and Mahlangu; however, the Government did not make available its court file for any of the remand hearings from October to December 2009. In December 2009 the magistrate refused the application to remove the activists from remand stating that they were responsible for the delay by appealing to the Supreme Court. In January the defense lawyer filed an urgent application at the High Court requesting a review of the magistrate's decision. The state did not respond to the application and, after the elapse of the 10-day waiting period, the High Court ordered Williams and Mahlangu to be removed from remand. On November 26, the Supreme Court ruled that the police had violated Williams and Mahlangu's fundamental rights to freedom of assembly and freedom of expression. While ruling in favor of WOZA, the Supreme Court refrained from ruling on the legality of section 29 of the Public Order and Security Act (POSA), which had provided the legal basis for the arrest of Williams and Mahlangu.

There were no developments in other arrest cases reported in 2009 and 2008.

Prolonged pretrial detention remained a problem, and some detainees were incarcerated for several years before trial or sentencing because of a critical shortage of magistrates and court interpreters, poor bureaucratic procedures, and for political reasons. During the year some detainees in Harare Remand Prison went for months without attending court for bail hearings because the ZPS lacked fuel to provide transport. Others who had bail set but could not afford to pay remained in detention. According to lawyers, pretrial detainees were held without charge for as long as 11 years. Lawyers also reported that juveniles usually spent more time in pre-

trial detention than adults because they could not attend court unless a parent or guardian accompanied them; however, the Government did not routinely notify parents when a juvenile was arrested.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the judiciary was under intense pressure to conform to government policies, and the Government repeatedly refused to abide by judicial decisions. The Government routinely delayed payment of court costs or judgments awarded against it in civil cases.

NGOs reported several methods some senior government officials used to undermine the independence of the judiciary, including giving farms and homes to judges.

For example, on May 20, President Mugabe, without consulting Prime Minister Tsvangirai as stipulated in the GPA, appointed George Chiweshe, the former chairperson of the former Zimbabwe Electoral Commission (ZEC), as judge president of the High Court. Chiweshe replaced Rita Makarau, who was elevated to the Supreme Court. As head of the ZEC, Chiweshe withheld the 2008 presidential election result for more than a month, fuelling accusations that he rigged the outcome in favor of President Mugabe.

Magistrates heard the vast majority of cases. On June 18, the Judicial Services Act (JSA) went into effect. The JSA intended to provide greater independence for magistrates by removing authority over judicial magistrates and their support staff from the Public Service Commission and transferring it to the Judicial Services Commission (JSC). The act states that the JSC will also determine the remuneration and other conditions of service for the magistrates. Legal experts said that defendants in politically sensitive cases were more likely to receive a fair hearing in magistrates' lower courts than in higher courts, where justices were more likely to make political decisions. According to a November 2008 Human Rights Watch report, most junior magistrates and magistrates in rural areas did not benefit from government patronage. Instead, ZANU-PF sympathizers relied on threats and intimidation to force magistrates, particularly rural magistrates, to rule in the Government's favor. Some urban-based junior magistrates demonstrated a greater degree of independence and granted MDC and civil society activists bail against the Government's wishes. Other judicial officers, such as prosecutors and private attorneys, also faced political pressure, including harassment and intimidation. These conditions persisted in spite of the formation of the transitional unity government in 2009. For example, on May 17, Jonathan Samkange, who was accused of perjury as the counsel for the diamond company African Consolidated Resources in its civil suit against the Government-controlled Minerals Marketing Corporation of Zimbabwe and Zimbabwe Mining Development Corporation, was arrested for being late to his court hearing. He was released the same day. Unlike in 2009, there were no reports of lawyers and court officers being arrested on criminal charges after taking action that some in government opposed.

There were no updates in any of the 2009 or 2008 cases involving lawyers or court officials.

*Trial Procedures.*—The constitution provides for the right to a fair trial; however, this right frequently was compromised in practice due to political pressures. Defendants enjoy a presumption of innocence under the law; however, this was not always respected in practice. Trials were held by magistrates or judges without juries and were open to the public, except in cases involving minors or state security matters. Assessors, in lieu of juries, could be appointed in cases in which the offense could attract a death penalty or lengthy prison sentence. Every defendant has the right to a lawyer of his or her choosing, but most defendants in magistrates' courts did not have legal representation. In criminal cases, an indigent defendant may apply to have the Government provide an attorney, but this request was rarely granted except in capital cases, where the Government provided an attorney for all defendants unable to afford one. Litigants in civil cases may request free legal assistance from the Legal Resources Foundation or ZLHR.

Attorneys sometimes were denied access to their clients, especially in cases involving MDC members or civil society activists. Defendants have the right to present witnesses, present evidence on their own behalf, and question witnesses against them. However, these rights were not always observed in practice. Defendants and their attorneys have the right to be furnished with all government-held evidence relevant to their cases; however, this right was often not allowed in practice. Conviction requires proof beyond a reasonable doubt, and the prosecution bears the burden of proof. The right to appeal against both conviction and sentence exists in all cases, and it is automatic in cases in which the death penalty is imposed. The law extends these rights to all citizens; however, in politically sensitive cases, these rights were not always protected in practice. Government officials frequently ignored court or-

ders in such cases, delayed bail and access to medical care, and refused to enforce court orders related to land disputes.

The rights of an accused person apply to all citizens, including women, indigenous groups, and persons with disabilities.

*Political Prisoners and Detainees.*—There were reports of political detainees throughout the year, including MDC officials, their supporters, NGO workers, and civil society activists. Many were held for one or two days and released; others were held for weeks or months. During the year police beat and tortured numerous political and civil society activists and student leaders while in detention.

At year's end there were no known political prisoners in police custody.

*Regional Human Rights Court Decisions.*—The African Commission on Human and People's Rights (ACHPR), an organization mandated by the African Union based in Banjul, Gambia, hears cases when member countries' internal remedies have been exhausted or do not exist. There were four pending cases from Zimbabwe before the commission at year's end. Two were at the admissibility stage, during which the commission decides whether to hear the case, and the other two were at the merits stage, where the commission makes a recommendation. Two cases involved the Government's handling of the land reform and the other two involved government evictions of citizens from nonfarming areas under Operation Murambatsvina (loosely translated from Shona as "restore order" or "get rid of the filth").

In July 2009 the ACHPR ruled that the Government should repeal sections 79 and 80 of the Access to Information and Privacy Protection Act (AIPPA) because they contravened article 9 of the ACHPR. The Government took no action to comply (see section 2.a.).

In 2007 the Southern African Development Community (SADC) tribunal in Namibia, in its first decision since its establishment in 2000, ruled in favor of Michael Campbell, who was contesting the compulsory government acquisition of his farm. The tribunal was set up to provide that SADC member states adhere to the SADC treaty and protocols, protect the rights of citizens, and provide for the rule of law. According to the protocol establishing the tribunal, a person can bring a case after exhausting all available remedies or when unable to proceed under domestic jurisdiction. Campbell brought the case to the tribunal after the Supreme Court failed to issue a judgment in the case. However, in January 2008 the Supreme Court issued a judgment dismissing the Campbell case. Soon after the ruling, the then minister for lands, land reform, and resettlement, Didymus Mutasa, declared that the country would be bound only by its laws and the decisions of its superior courts.

In April 2008 the SADC tribunal ruled that more than 70 white farmers who had been evicted from their lands could remain on their property pending a May 2008 hearing; their cases effectively joined the Campbell case that was still pending before the tribunal. In June 2008 a group of 20 "war veterans" abducted and assaulted Michael Campbell and members of his family; they were hospitalized for their injuries. The perpetrators also looted the Campbell home and stole their car. In July 2008 the tribunal reaffirmed the injunction, condemning the Government's land seizures, and transferring the issue to the SADC summit for further action. However, the Government asserted that it would move forward with prosecution of the farmers who remained on the land, effectively ignoring the tribunal's authority.

In November 2008 the SADC tribunal ruled in favor of the 79 farmers in the Campbell case, finding that, by barring titleholders from being heard in the courts, the Government violated the rule of law; that the farmers were discriminated against on the basis of race; and that the Government should compensate three dispossessed landowners by June 2009. Although the tribunal ordered the Government not to interfere with any tribunal applicant still on his or her land or in possession of it when applying for relief, the Government continued prosecutions of farmers for remaining on government-confiscated farms during the year.

In an August 2009 letter, Minister of Justice Patrick Chinamasa informed the SADC tribunal that the country was withdrawing from the tribunal. Chinamasa claimed that because the SADC Protocol on the Tribunal was neither ratified domestically nor by two-thirds of SADC membership, the tribunal was not validly constituted and, therefore, had no jurisdiction over the country. Lawyers from across SADC argued that the SADC treaty was amended in 2001 to incorporate the tribunal into SADC as an integral organ and exclude the tribunal from the usual SADC requirement for ratification by two-thirds. On January 26, High Court judge Bharat Patel ruled that the tribunal was legally constituted and that the Government's objection was misconceived and disingenuous.

On July 16, the SADC tribunal for the third time found the Government in contempt of the November 2008 tribunal ruling by allowing ongoing invasions, arrests,

and prosecutions of evicted commercial farmers. In response Chinamasa declared “null and void” the SADC tribunal ruling. On August 29, President Mugabe stated that the land reform program was instituted to correct colonial imbalances, and the country would not comply with the SADC ruling. In an August session, the SADC members decided to review within the next six months the role, functions, and terms of reference of the tribunal.

On December 9, the SADC tribunal ruled that the Government had undermined the rule of law by refusing to compensate nine victims of state-sponsored political violence and torture as ordered by the Zimbabwean High Court in previous years. The Zimbabwe Human Rights NGO Forum filed the case at the SADC tribunal in April 2009 on behalf of the victims.

*Civil Judicial Procedures and Remedies.*—Civil judicial procedures allow for an independent and impartial judiciary. However, in practice the judiciary showed indications of being politically influenced or intimidated in cases involving high-ranking government officials, politically connected persons, or violations of human rights. There were systematic problems enforcing domestic court orders, as resources for the judiciary and police were severely strained.

*Property Restitution.*—The constitution stipulates that the Government must compensate persons for improvements made on land taken by the Government but does not set a timeline for the delivery of compensation. In practice the Government seldom provided restitution or compensation for the taking of private property.

For example, in Chiadzwa approximately 4,000 persons were to be resettled from the allocated mining grounds to a government-owned agricultural estate outside Mutare, according to a 2009 government pronouncement. The Government and the three companies with concessionary and exploratory rights entered into an agreement whereby each party would pay half of the resettlement expenses. The Zimbabwe Environmental Law Association (ZELA) filed an urgent application to the High Court in December 2009, seeking an injunction against the resettlement. In January High Court judge Joseph Musakwa dismissed the application. In December 2009 ZELA also filed a suit against the Ministry of Defense, the police, and the Ministry of Mines challenging the legality of the resettlement policy. No court date had been set by year’s end.

More than 70 persons were resettled at year’s end to a government-owned agricultural estate outside Mutare. They were given short notice to resettle, no one received compensation, and livelihoods in the new location were uncertain. Also there were no social services in the new area. In August the district administrator in Mutare issued a notice to 44 families, giving them 10 days to vacate their properties. The families refused to move without proper compensation and timely notification. The negotiation was pending at year’s end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, but the Government did not respect these provisions in practice. Security forces searched homes and offices without warrants, senior government officials pressured local chiefs and ZANU-PF loyalists to monitor and report on persons suspected of supporting political parties other than ZANU-PF, and the Government forcibly displaced persons from their homes. Elements of the Government coerced ZANU-PF supporters and punished MDC supporters by manipulating the distribution of food aid, agricultural inputs, and access to other government assistance programs.

The 2007 Interception of Communications Act (ICA) provides for the interception and monitoring of any communication (including telephone, postal mail, e-mail, and Internet traffic) in the course of transmission through a telecommunication, postal, or other system in the country. Civil liberties advocates criticized the ICA as repressive legislation that allows the Government to stifle freedom of speech and to target political and civil society activists.

According to local human rights and humanitarian NGOs, sporadic evictions continued during the year, especially of tenants and informal vendors suspected of supporting the MDC. During the week of August 23, police and national park guards assaulted and arrested informal market traders in Chinoyi, Mutare, Gweru, and Rusape because of their association with the Zimbabwe Congress of Trade Unions (ZCTU) and suspected association with the MDC.

Land seizures remained a serious problem. Constitutional amendment 17, enacted in 2005, transferred title of all land previously acquired for resettlement purposes to the Government, prohibited court challenges to the acquisitions, and allowed the Government to acquire any agricultural land for any purpose simply by publishing a notice of acquisition. The 2006 Gazetted Land (Consequential Provisions) Act requires all farmers whose land was forcibly seized by the Government and who were not in possession of an official offer letter, permit, or lease to cease to occupy, hold,

or use that land within 45 days and to vacate their homes within 90 days. Only a small number of farmers received an offer letter or lease. Failure to comply is a criminal offense punishable by a fine and a maximum prison sentence of up to two years. The act was primarily used to target the 4,500 large-scale and primarily white-owned farms in the country for seizure and redistribution to black Zimbabweans, including ZANU-PF supporters.

Some of the approximately 400 remaining white commercial farmers continued to be targeted, harassed, and threatened with eviction by farm beneficiaries, youths, and hired thugs. According to one commercial farmer union, an average of 150 farm incidents per month were documented during the year. In some instances farmers were forced off their farms at gunpoint, despite being in possession of a court order that allowed them to remain on the property, and not given the opportunity to collect their personal belongings. A few were arrested and kept in detention at the local police station for at least one night prior to being given access to a lawyer and released. Black farm workers on white-owned farms were beaten, intimidated, or displaced (see section 2.d.). Police, in most cases, did not intervene and stood aside while invaders and looters carried on their activities.

On January 12, a gang invaded a citizen's farm in Manicaland. The invaders tied two family members to a tree and beat them before going to another farm. At least four other families were harassed and chased off their farms in the same week. Police refused to investigate the cases.

Most invasions and evictions occurred in June. In Manicaland, for example, a farmer's wife was barricaded inside her home and given four hours to vacate the property, despite the fact that she had a High Court order allowing her to retain the farm. Another farmer in Manicaland was forced off his property despite his possession of a High Court order, and his foreman was beaten unconscious by the invaders.

Farmer unions and NGOs believed that former land minister Mutasa was responsible for the June wave of invasions. Mutasa allegedly ordered 300 persons to ignore a Chipinge Magistrates' Court to vacate the coffee plantation they had occupied because it was not listed for resettlement. Mutasa later stated that he was "protecting the poor." The NSC ordered an investigation into the June evictions. No further information was available on the investigation at year's end.

No action was taken against perpetrators of numerous 2009 and 2008 cases of land invasions, seizures of property, and attacks on farm owners and workers.

No action was taken or anticipated in the numerous other reported 2009 and 2008 cases of arbitrary interference with citizens' homes.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but legislation limits these freedoms in the "interest of defense, public safety, public order, state economic interests, public morality, and public health." The Government restricted these rights in practice. Journalists and publishers practiced self-censorship.

Under the criminal code, making a false statement prejudicial to the Government carries a maximum prison sentence of 20 years. Security authorities continued to restrict freedom of speech and arrest individuals, particularly those who made or publicized comments critical of President Mugabe or made political statements opposing the Government's agenda.

For example, on November 5, police in Bulawayo ordered the Zimbabwe human rights NGO Forum to take down nine billboards and street signs on the grounds of their being offensive and potentially causing disharmony. The NGO had obtained permission in Bulawayo, among other major cities, to erect the billboards and street signs. The ICA continued to be used to monitor speech and to punish those who criticized the Government.

There were credible reports that CIO agents and informers routinely monitored political and other meetings. Persons deemed critical of the Government were frequently targeted for harassment, abduction, interrogation, and torture. In September the trial of Douglas Mwonozora, Nyanga North legislator and chairperson of the parliamentary constitution-making committee, was postponed. Mwonozora called President Mugabe a "goblin" in March 2009 and was also charged with undermining the police when he allegedly said they were being used by ZANU-PF to intimidate villagers. On December 6, the case was referred to the Supreme Court. The case was pending at year's end. On September 3, Chipinge provincial magistrate Samuel Zuze sentenced Gift Mafuka to one year in prison with hard labor for insulting President Mugabe. Mafuka allegedly asked two children why they were wearing T-shirts picturing an old person (Mugabe) with wrinkles. His sentence was reduced by two months on the condition that he not call Mugabe "old" for the next five years. On

November 23, Magistrate Samuel Zuze released Mafuka on \$100 bail pending an appeal filed against both his conviction and sentence. The appeal was pending at year's end.

The Government continued to restrict freedom of the press. The Ministry of Media Information and Publicity (MMIP) controlled the state-run media. Government-controlled media generally portrayed the activities of ZANU-PF officials positively, portrayed other parties and antigovernment groups negatively, and downplayed events or information that reflected adversely on the Government. High-ranking ZANU-PF officials, including President Mugabe, used the media to threaten violence against critics of the Government. There were also credible reports that the MMIP permanent secretary, George Charamba, routinely reviewed state-owned media news and excised reports on the activities of groups critical of the Government.

The four main independent domestic weekly newspapers continued to operate despite threats and pressure from the Government. On June 4, NewsDay, an independent daily newspaper, began publishing in Harare and Bulawayo after receiving a license from the Zimbabwe Media Commission. The Daily News, which was banned in 2003, also resumed operations but had not resumed printing at year's end. The independent newspapers continued to criticize the "inclusive" government and ZANU-PF; however, they also continued to exercise some self-censorship due to government intimidation and the continuing prospect of prosecution under criminal libel and security laws.

Radio remained the principal medium of public communication, particularly for the rural majority. The Government controlled all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Holdings (ZBH), supervised by the MMIP. On July 30, the Government officially launched the Voice of Zimbabwe radio, a subsidiary of the state-controlled ZBH in Gweru. The popularity of independent shortwave and medium-wave radio broadcasts to the country continued to grow, despite government jamming of news broadcasts by radio stations based in other countries, including the Voice of America's Studio 7, SW Radio Africa, and Voice of the People.

Police increased radio seizures toward year's end. On October 12, police in Gweru raided the office of the Democratic Councils Forum (Demcof) and seized 862 solar radio sets to be distributed to rural areas in Midlands Province. Cleopas Shiri, Demcof training coordinator, was arrested, charged with customs violation, and released on bail on October 14. Shiri appeared in court for several hearings. The case was pending at year's end.

On October 26, police in Murehwa seized radios previously distributed by NGOs to villagers in the district. Police reportedly wanted to establish the reasons behind the radio distribution and whether they had cleared customs. In mid-November police in Matabeleland South Province raided NGOs and private residences for wind-up shortwave radios distributed by VOA's Studio 7 program.

The Government controlled the only domestically based television broadcasting station, the Zimbabwean Broadcasting Corporation (ZBC). In May the ZBC launched a second news and entertainment channel that broadcast from noon to midnight. International satellite television broadcasts were available through private firms but were too expensive for most citizens. Most citizens relied on free satellite decoders with a selection of South African and gospel channels for entertainment, news, and information.

After years of using accreditation laws to prevent most major international media outlets and some local journalists from covering the country's elections, in July 2009 the Government allowed CNN and BBC film crews back into the country. However, foreign journalists continued to report that government agents followed them and prevented them from covering certain news events.

For example, on February 12, police arrested a Mexican journalist who was filming potential tourist sites. The journalist, who was in a vehicle belonging to Minister of Tourism Walter Mzembe, and who had a letter of authorization signed by Mzembe, was released several hours after Mzembe's personal intervention.

Senior ZANU-PF officials repeatedly criticized both local and foreign independent media for what they deemed to be biased reporting meant to discredit President Mugabe and misrepresent the country's political and economic conditions.

In early January journalist Stanley Kwenda fled the country after he was reportedly threatened with death by a senior police officer, Chief Superintendent Chrispen Makedenge. Kwenda published a report describing the suicide of Makedenge's wife after years of suffering abuse and threats by her husband. Kwenda returned to Zimbabwe in August without incident.

On February 10, police arrested Barnabas Madzimore and Fortune Mutandiro on the charge of writing and publishing falsehoods prejudicial to the state in the January 10 edition of *The Zimbabwean*. The story reported that Defense Minister

Emmerson Mnangagwa and other leading members of the ZANU-PF party wanted to take control of the party. Madzimore and Mutandiro were initially arrested and released without charge on January 17.

On March 1, freelance journalist Andrison Manyere was arrested outside the High Court in Harare after filming the arrival of several men imprisoned since 2007 on allegations of plotting to overthrow the Government. After seizing Manyere's camera, prison guards warned other journalists not to take pictures or footage of the suspects. Prison guards accused Manyere of filming without the permission of the commissioner of the Zimbabwe Prison Services. Manyere was held overnight and then released after paying an admission of guilt fine.

Security forces arbitrarily harassed and arrested local and foreign journalists who contributed to published stories critical of government policies or security force operations.

In March police arrested and detained Mashudu Metsianda, a journalist working for the Government-controlled daily newspaper, the Chronicle, in Beitbridge after the newspaper published his story on police. The charge was later dropped.

On March 21, police detained freelance journalist Nunurai Jena at the Beitbridge border post after security officials discovered that he had tape-recorded Zimbabwe Revenue Authority (ZIMRA) officials as they searched and questioned passengers travelling with him on the bus from South Africa. The security officials asked why he had not declared the tape recorder at the border and why he had recorded proceedings in a protected area without ZIMRA authorization. Jena was released without charge four hours later after being ordered to delete the contents of the recorder.

On November 17, police in Bulawayo arrested and charged Nquobani Ndlovu, a journalist with the Standard, with criminal defamation for an article in the November 14 edition of the newspaper. Police interrogated Ndlovu about his sources, who claimed that the cancellation of the annual police examination was a ploy to hire war veterans and retired police officers ahead of the upcoming election. On November 22, the magistrate court released Ndlovu on \$100 bail, a decision that prompted the Government to invoke section 121 of the Criminal Procedure and Evidence Act, giving the Government an additional seven days to appeal. On November 25, the High Court dismissed the appeal and ordered his immediate release. Ndlovu was released on November 26. Ndlovu's case continued at year's end.

On November 30, police in Harare arrested Nevanji Madanhire, Harare-based editor of The Standard, and charged him with criminal defamation in connection with the publication of a story by journalist Nquobani Ndlovu on police recruitment. Madanhire was released the following day on \$100 bail. The case continued at year's end.

In March 2009 police arrested editor Brezhnev Malaba and reporter Nduduzo Tshuma of The Chronicle, the Government-controlled daily newspaper in Bulawayo, after they published a story alleging police involvement in a Grain Marketing Board corn scandal. On August 16, Magistrate Sibongile Msipa referred the case to the Supreme Court after Malaba's lawyer filed an application challenging the constitutionality of the charge. The case was pending at year's end.

In May 2009 police arrested Zimbabwe Independent editors Constantine Chimakure and Vincent Kahiya for publishing a story that revealed the role and names of police and intelligence agents in the abduction of human rights activists and charged them under the criminal code with publishing or communicating a statement with the intention of undermining public confidence in law enforcement agents (see section 1.b.). The matter was referred to the Supreme Court on June 3. The next hearing was scheduled to occur in March 2011.

In October 2009 police arrested freelance journalist Annie Mpalume in Manicaland Province's Chiadzwa diamond fields on allegations of entering a protected area without a pass. Mpalume was charged with violating the Protected Areas Act and released on bail; the case was pending at year's end.

There were no developments in the 2009 or 2008 cases of harassment, abuse, and detention of journalists.

The Government continued to use the AIPPA to serve as the primary justification to control media content and licensing of journalists. The main provisions of the law give the Government extensive powers to control the media and suppress free speech by requiring the registration of journalists and prohibiting the "abuse of free expression." In 2008 the Government amended the AIPPA in order to abolish the Media and Information Commission. During its existence, the commission, under the MMIP, denied many local and foreign journalists accreditation.

On April 28, the Government adopted new regulations for the accreditation of journalists and the registration of media services and effectively instituted a new pricing regime for accreditation and registration. The new regulations significantly reduced the previously prohibitive fees. According to the regulations for a mass

media service, the application fee was \$500 and the registration fee was \$1,500. Local journalists were required to pay a \$10 application fee and a \$20 accreditation. Local journalists working for foreign media paid a \$20 application fee and an accreditation fee of \$100, as opposed to \$1,000 and \$3,000 under the previous regime. A foreign media organisation wishing to set up an office in Zimbabwe paid a \$500 application fee and a \$2,000 operating license, as opposed to \$10,000 and \$20,000 previously. The application fee for a news agency was \$300 and the registration fee was \$1,000. The Zimbabwe Media Commission set June 4 as the deadline for the renewal of accreditation and registration but had not set a deadline for the submission of new applications. Practicing journalism without accreditation can incur a fine or maximum of two years' imprisonment.

In May 2009 the MMIP convened a media conference and pledged to repeal the AIPPA. At least four independent newspapers, including the Daily News, had been shut since its enactment in 2002. No further action to repeal the law was taken by year's end.

The Government created the Zimbabwe Media Commission in December 2009 to succeed the Media and Information Commission and oversee media regulation, registration, and accreditation. The Zimbabwe Media Commission held its first meeting in March. The Broadcasting Authority of Zimbabwe, the regulatory body that licenses radio and television stations, was not formally constituted by year's end.

As of year's end, the Government had not taken any action to repeal sections 79 and 80 of the AIPPA as ordered to do by the ACHPR in 2009.

The Broadcasting Services Act, which parliament's legal committee found to be unconstitutional when it was passed in 2001, was amended in 2008 to give the Broadcasting Authority of Zimbabwe autonomy over allocation of licenses. The amendment also eased foreign funding restrictions, although it left the determination of how much foreign funding should be allowed to the discretion of the head of the MMIP.

In 2006 the Government passed the General Laws Amendment Act (GLAA), which amended sections of POSA to allow authorities to monitor and censor "the publication of false statements that will engender feelings of hostility towards—or cause hatred, contempt, or ridicule of—the president or acting president." The GLAA imposes a prison term for any journalist who "insults the president or communicates falsehoods."

The criminal code makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts criticized this section, saying that it imposes limits on freedom of expression beyond those permitted by the constitution.

The extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

POSA and the criminal code grant the Government a wide range of legal powers to prosecute persons for political and security crimes that are not clearly defined. The 2006 enactment of the amended criminal code consolidated a variety of criminal offenses, including crimes against public order, reportedly to amend progressive portions of POSA. However, the Institute for Justice and Reconciliation and the Solidarity Peace Trust reported that almost all the offenses in POSA were transferred to the criminal code, in some cases with drastic increases in penalties for violations. Failure to give police the requisite advance written notice of a meeting or demonstration remains an offense under POSA.

*Internet Freedom.*—There were no government restrictions on the Internet; however, the ICA permits the Government to monitor all communications in the country, including Internet transmissions. Internet access was available, but due to a lack of infrastructure it was not widely accessed by the public beyond commercial centers. According to International Telecommunication Union statistics for 2009, approximately 12.3 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—The Government continued to restrict academic freedom. The president is the chancellor of all five state-run universities and appoints all vice chancellors. The Government has oversight of all higher education policy at public universities. The University of Zimbabwe Amendment Act and the National Council for Higher Education Act restrict the independence of universities, subjecting them to government influence and extending the disciplinary powers of the university authorities over staff and students.

In late August the Ministry of Education announced that female students who become pregnant during the academic school year would be allowed a three-month maternal leave and would no longer face automatic expulsion. Male students who were to become fathers would also be authorized a three-month leave. While designed to

de-stigmatize teenage pregnancy, conservative groups loudly condemned the policy as encouraging teenage pregnancy.

CIO personnel at times assumed faculty and other positions and posed as students at the University of Zimbabwe and other public universities to intimidate and gather intelligence on faculty and students who criticized government policies and actions. CIO officers regularly attended all classes where noted MDC activists were lecturers or students. In response both faculty and students often practiced self-censorship in the classroom and their academic work.

According to the Students Solidarity Trust, a local NGO that provides assistance to student activists, approximately 190 students were arrested or detained, and approximately 10 students were expelled or suspended, for engaging in student activism between January and June, as compared with 134 students arrested or detained and 14 students expelled or suspended between January and June 2009. The NGO also reported seven cases of assault and four cases of torture and abduction during the same time period.

For example, on March 29, police arrested eight University of Zimbabwe students for participating in an allegedly illegal gathering. They were granted bail on March 31.

On June 15, police arrested and beat two student activists at the Masvingo Polytechnic College for allegedly assaulting the principal, theft, and malicious damage to property. In July police arrested two student activists, three University of Zimbabwe students, and five ZINASU activists in Bulawayo and Harare for participating in allegedly illegal gatherings or demonstrations on university campuses. All their cases were pending at year's end.

During the political and economic crisis in 2008, the Government failed to provide students with adequate public education; however, during the year access to public education improved. In February 2009 the Government began paying all civil servants, including teachers, a monthly stipend of \$100, which provided a significant incentive for teachers who had fled election violence and hyperinflation in 2008 to return to the classroom. In May 2009 the Government increased salaries to approximately \$150. At the same time, in response to pressure from teachers and the public, the Government also reduced school fees from between \$50 and \$150 to between \$10 and \$20 per trimester and eliminated school fees for teachers' children. Some teachers in affluent urban neighborhoods were reported to receive substantial salary increases from parents. There were no salary increases during the year.

On February 5, approximately 2,000 government workers, including teachers, initiated a strike in "demand" of higher wages, improved working conditions, and price cuts at government-controlled utilities. According to one estimate, teachers constituted approximately two-thirds of the country's 180,000 nonsecurity-sector civil service employees. Approximately 36,000 teachers participated in the strike, resulting in the closure of two-thirds of the country's public schools.

The Government on occasion restricted human rights activists from using cultural platforms. For example, on March 26, police arrested Bulawayo artist Owen Maseko following the launch of a provocative exhibition on the Gukurahundi massacres. The artwork depicted political violence in the two Matabeleland provinces in the 1980s. One piece showed former vice president Joshua Nkomo and President Mugabe seated at a table signing the 1987 Unity Accord, with blood dripping from the ceiling on to Nkomo's shoulders. Police later covered the paintings with newspapers and blacked out the gallery's street-level windows. Maseko was charged with undermining the authority of President Mugabe and was released on a \$100 bail on March 30. At the September 13 hearing, the state sought to introduce a new charge of publishing or communicating falsehoods prejudicial to the Government. Magistrate Ntombizodwa Mazhandu ruled that the state can bring a new charge only if the initial charge had been withdrawn. The state then withdrew the initial charge. On September 18, Magistrate Mazhandu granted an application to refer the matter to the Supreme Court, whereby the court will determine whether Maseko's freedom of expression had been violated. The case was pending at year's end.

On June 17, Michael Mabwe, cofounder and coordinator of Zimbabwe Poets for Human Rights, was called to the police station for allegedly contravening POSA by performing a poem that castigated the Government's violation of human rights. Mabwe was released on the same day without charge.

In a government gazette published on August 27, Home Affairs Secretary Melusi Matshiya announced that it was illegal to depict the Gukurahundi as a tribal-based event. The ban targeted Owen Maseko's exhibition, which the Government deemed tribal-based.

On August 31, Bulawayo Art Gallery Director Voti Thebe appeared in court for displaying Owen Maseko's exhibition. Thebe was released, but his trial was pending at year's end.

In early September the Government cancelled work permits for the South African musical group Freshlyground ahead of its October 3 concert in Harare. The decision came after the band made a video, *Chicken to Change*, featuring satirical puppetry of President Mugabe.

On November 10, in Buhera, an unmarked vehicle with four CIO agents interrupted a performance on healing and reconciliation facilitated by three NGOs. The CIO agents questioned the facilitators about the script and the alleged political content of the play. Even though the producers had obtained clearance from the police, the agents questioned the facilitators on why clearance was not sought previously.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government restricted this right in practice. POSA does not require permits for meetings or processions, but it requires that organizers notify the police of their intentions to hold a public gathering, which by definition constitutes 15 or more individuals, seven days in advance. Failure to do so results in criminal prosecution as well as civil liability. In 2008 POSA was amended as part of constitutional amendment 18 to require police to go to a magistrate's court and state in an affidavit why a public gathering should not take place. Although many groups that held meetings did not seek permits, other groups informed the police of their planned events and were denied permission, or their requests went unanswered. Police insisted that their permission was required to hold public gatherings and sometimes approved requests; however, they disrupted many events whether or not they were notified.

On January 18, police in Harare used batons to disperse a demonstration on education issues at the Ministry of Education. Police arrested three persons—WOZA member Thabita Taona, a journalist, and a bystander. The journalist and bystander were released the same day. Taona spent two nights in police custody before she was released.

On January 25, police in Bulawayo disrupted a peaceful march by 200 WOZA members and beat 11 participants. Six members were arrested and released several hours later without charge. The women were treated for soft tissue bruising.

On February 17, police arrested two women in Mutare one day after a peaceful Valentine's Day demonstration and a door-to-door search for persons who took part. The police found WOZA materials in their homes after an illegal search. The two women were subjected to intimidation and threats during their two nights in custody. They appeared in court on February 19 and were released after the police failed to produce evidence to support charges of criminal nuisance.

On September 20, in Harare, 83 WOZA and Men of Zimbabwe Arise members were arrested during a march to protest unprofessional police conduct. After two days in detention, they were released without bail. Police detained WOZA national coordinator Jenni Williams for two hours on September 22 for unlawfully addressing the 83 members after their release. Williams was released without charge.

On November 25, police in Nkayi in Matabeleland North arrested 17 MDC-T officials, some of whom were city councilors, on charges of holding a public meeting without police authority. The officials denied the charges and claimed that the alleged meeting was a private Christmas party. The officials were released, and a hearing was scheduled for January 2011.

According to a February report submitted by the Zimbabwe Lawyers for Human Rights to the Parliamentary Portfolio Committee on Home Affairs and Defence, at least 125 persons were arrested in 2009 for participating in gatherings and charged under either POSA or various provisions of the criminal code. In 2008 approximately 270 individuals, of a total of 1,446 human rights activists arrested or detained during the year, were charged with participating in unlawful gatherings under either POSA or the criminal code. None of the 2008 and 2009 cases with connection to POSA or the criminal code had been successfully prosecuted by the Government.

In June 2009 police in Harare used batons to disperse a march by approximately 700 WOZA members to commemorate the International Day of Refugees. Police arrested five demonstrators and three journalists. Four of the arrested demonstrators suffered severe deep tissue injuries, one had a broken finger, and two were unable to walk without assistance. In August 2009 the four were summoned to the police station to make statements and answer questions in connection with their assault. No further action was taken by year's end.

In September 2009 approximately 1,300 WOZA members in Bulawayo marched to commemorate the UN's International Day of Peace. One victim, Frances Vale, was unable to walk after being beaten by four police officers; he also suffered a fractured arm. Vale lost his job because his arm was improperly treated. He sued the police for damages, and the case was pending at year's end.

No further action was taken in the 2009 or 2008 cases in which opposition figures and civil society members were harassed or arrested by government authorities.

In response to continued unrest among student groups angered by increasing tuition, the Government continued to harass university student unions and student demonstrators. On January 14, police in Bindura arrested 28 students from the Bindura University of Science on allegations that they contradicted university authority by claiming that the Ministry of Higher Education would not provide university students with their exam results until they had paid the school fees. They were acquitted in July after the Government failed to make its case.

In August 2009, 14 ZINASU representatives were arrested at the University of Zimbabwe while speaking to students about school fees. The students were charged under the Criminal Law (Codification and Reform) Act for participating in a gathering with intent to promote public violence, breach of peace, or bigotry; they were granted bail by a Harare magistrate. During a hearing in September 2009, a magistrate conceded that the section of the law the students were accused of contravening had been found unconstitutional and repealed several years earlier. On August 26, the magistrate court removed the students from remand and advised the prosecutor to proceed by summons if he wished to bring the students to trial.

There were no developments in other student cases reported in 2009 or 2008.

*Freedom of Association.*—Although the constitution and law provide for freedom of association, the Government restricted this right in practice. Organizations generally were free of governmental interference only if the Government viewed their activities as nonpolitical. ZANU-PF supporters, sometimes with government support or acquiescence, intimidated and abused members of organizations perceived to be associated with other political parties. Suspected security force members visited the offices and inquired into the activities of numerous NGOs and other organizations that they believed opposed government policies.

In late November, Criminal Investigative Department (CID) officers in Chivhu disrupted a Transparency International (TI) community outreach event. Despite a police clearance obtained prior to the event from the Chivhu Central Police, the CID insisted that clearances must be obtained from all security departments and threatened TI staff with arrest for distributing fliers. TI members eventually gained permission from the police to resume; however, six CID and three police officers patrolled the event. The event was disrupted for a second time shortly after it began by three CIO agents. TI was subsequently ordered to cancel the event and leave Chivhu.

In early August the district administrator in Murehwa banned the NGO Crisis Coalition from conducting civic education activities in the area ahead of the constitutional outreach meetings by refusing to grant them clearance for the event.

The formation of political parties and unions was not restricted; however, security forces and ZANU-PF supporters continued to interfere with activities of both during the year. On May 8, police in Waterfalls arrested Job Shikhala, MDC-99 leader, citing contravention of the POSA for holding a meeting without police permission. The meeting in question was the launching of the MDC-99 political party. Shikhala was released several days after arrest. On June 8, he was acquitted after the police failed to produce evidence in the case.

On December 29, police barred the new political party, Zimbabwean African Political Union, from holding a public meeting at Tsholotsho Business Center on the grounds that they did not have sufficient manpower to cover the event.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government restricted these rights in practice. The Government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing assistance to refugees, asylum seekers, stateless persons, and other persons of concern but it interfered with some humanitarian efforts directed at internally displaced persons (IDPs).

Unlike in 2009, the Government did not invoke travel bans on foreign correspondents; however, security forces continued to harass foreign journalists.

The constitution prohibits forced exile, and there were no reports that the Government used it. A number of persons, including former government officials, prominent businessmen, human rights activists, MDC members, and human rights lawyers, left the country and remained in self-imposed exile.

The registrar general continued to deny passports based on his interpretation of the Citizenship Act. The act requires all citizens with a claim to dual citizenship

to have renounced their claim to foreign citizenship by January 2002 to retain their Zimbabwean citizenship. The act revokes the citizenship of persons who fail to return to the country in any five-year period. However, the High Court ruled in 2002 that this interpretation does not take into account the fact that persons are not automatically assured foreign citizenship merely because their parents were born in a foreign country, as some countries require persons to confirm their citizenship, in which case they could be rendered stateless. It further held that it is incorrect to presume that, when persons have a parent or parents born out of the country, they are citizens of the other country by descent. In addition some countries, including countries in southern Africa, do not have a means to renounce citizenship. Independent groups estimated that as many as two million citizens may have been disenfranchised by the law, including those perceived to have anti-ZANU-PF leanings, such as the more than 200,000 commercial farm workers from neighboring countries and approximately 30,000 mostly white dual nationals. The problem became particularly acute during voter registration in late 2007 and during the 2008 elections, when some were denied the right to vote—despite having voted previously—because they could not adequately demonstrate their citizenship.

*Internally Displaced Persons (IDPs).*—According to the Internal Displacement Monitoring Center's 2009 estimate, between 600,000 and one million persons remained displaced within the country as a result of government policies, including state-sponsored election-related violence, land reform, and Operation Murambatsvina in 2005. According to an IDP assessment report conducted during the year, approximately one-third of the IDPs interviewed cited Murambatsvina as the cause of displacement. Nevertheless, the Government denied that a serious IDP problem existed. Historically, the Government did not tolerate use of the phrase “internally displaced persons” and instead referred to “mobile and vulnerable populations” (MVPs). In 2009 the Government started acknowledging that there were some IDPs in the country and began to agree to use of the term when describing some populations. However, some government officials continued to refuse to describe victims of farm-related displacements as IDPs or MVPs and preferred to call them “squatters.”

Estimates for the number of IDPs varied widely and were not supported by comprehensive surveys conducted on a national scale due to the sensitivity of the issue. According to the International Organization for Migration (IOM), new displacements documented were mostly from disputed farming areas. In 2009 the IOM documented the displacement of 3,500 households with another 1,600 deemed at risk of displacement due to verifiable threats or eviction notices. During the year the IOM documented 466 displaced households with another 527 households deemed at risk. Since 2009 the IOM has assisted more than 475 households with temporary shelter, more than 1,000 households with emergency shelter, and 1,500 households with transitional shelter. The IOM and World Food Program have assisted approximately 110,000 individuals with food assistance since 2009.

The Government's campaign of forced evictions and the demolition of homes and businesses continued during the year under the land reform policy. For example, on August 25, police raided and burned an informal settlement at a race course in Harare. Approximately 50 armed police officers, accompanied by police dogs, arrived at the settlement and ordered an estimated 100 individuals to move. Police then began burning shacks and tents and beating the few who resisted. Nearly 55 individuals, including five minor children, were arrested and released the same day. Police initially denied a request for access by a ZLHR lawyer. The majority of the individuals were employees of the race course, while the remaining were victims of Operation Murambatsvina. At year's end, ZLHR was in the process of assessing the property damage to file civil claims against the city of Harare, the police, and the Ministry of Home Affairs.

Beginning in late September, the Government evicted approximately 1,750 households from resettled former commercial farm lands without any provisional planning to resettle the displaced population. As of early December, approximately 1,050 households remained at risk of displacement. Illegal farm settlers, former farm workers, and persons internally displaced from other parts of the country constituted the affected population, and a majority had resided on their land for many years without formal offer letters or title deeds. Eviction notices were served in the presence of the police and the army. The eviction, which initiated at the start of the rain and planting season, presented humanitarian challenges for the affected population, particularly in terms of food security and relocation options.

International organizations reported that the environment for humanitarian assistance operations had improved noticeably for the early part of the year. The Government did not substantially restrict NGO ability to provide IDP assistance. No formal restrictions existed at the national level. In a few isolated cases, organiza-

tions were advised by local authorities not to travel to places where there were ownership disputes on certain farms where workers might be at risk. There were cases of the Government interfering with aid distribution, notably in ZANU-PF strongholds, and linking the provision of assistance to “voluntary” work in the community.

Projection of an early election in 2011 led to an increasing politicization of humanitarian assistance at the community level toward the end of year. There were credible reports of ZANU-PF local councilors and officials in Mashonaland forming “committees” through which NGOs had to channel humanitarian assistance. As a result, MDC supporters were excluded from receiving subsidized farm inputs, food aids, and medicines.

In 2009 more than 5,000 farm workers and their families were affected by government-condoned eviction and demolition of homes and businesses. Approximately 3,300 families were forcibly displaced, sometimes violently, during government-condoned takeovers of commercial farms; an additional 1,800 farm workers and their families were allowed to remain on seized farms, but they remained at risk of displacement by new owners. According to a 2002 national census, the average household size was five persons per household, which suggested that 25,000 persons might have been affected by the land reform program. Most were displaced from farms taken during the Government’s politicized land reform program. In previous years new farm owners often allowed the farm workers of the previous owner to remain on the property. However, in 2009 evictions increased and hundreds of workers’ homes were burned by new proprietors.

Between April and June 2008, at least 30,000 persons were displaced in the wake of government-sponsored political violence and destruction of property, particularly in rural areas. In 2008, when violence levels in rural areas declined in the wake of political talks, many IDPs returned to or near their homes and were “fined” in food, animals, or money by local ZANU-PF militias. Many IDPs returned to their rural home areas and rebuilt homes damaged or destroyed in 2008, while others integrated into new communities within the country or in the diaspora. However, many families had not found permanent shelter or integration and continued to live in tents that were provided as temporary shelter. During the year the IOM started working with local authorities and communities to develop plans for integrating displaced families and affording them access to basic social services and living conditions.

*Protection of Refugees.*—The country’s law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In law and practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government maintained a formal encampment policy whereby refugees must live at the Tongogara refugee camp, with access to very basic services and accommodation. The UNHCR ran a transit center to host refugees from Tongogara with serious protection problems or who were in the process of resettlement interviews. However, the Government’s encampment policy posed limitations on refugees’ freedom of movement and ability to earn a livelihood. In some cases, the Government informally allowed refugees with special needs to live in urban centers. The Government granted work permits to a few refugees, primarily those with special skills.

Some refugees lived in urban areas without the permission of the Government and remained at risk of arrest and return to the refugee camp. Approximately one-quarter of the refugees lived in Harare at year’s end. There were reports of arrests and returns to the camp during the year. There were also several cases of criminal allegations against refugees; in such cases, the UNHCR assisted the refugees in obtaining access to legal representation. The detention of potential refugees at the border due to illegal entry was also a problem, since the Government lacked the budget and capacity to transfer them to Tongogara camp.

The UNHCR had a resettlement program that processed approximately 230 individuals for resettlement abroad during the year. The UNHCR was in the process of identifying up to 700 refugees for resettlement by year’s end.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully; however, this right was restricted in practice because the political process continued to be biased heavily in favor of ZANU-PF, which has dominated politics and government since independence in 1980.

*Elections and Political Participation.*—Harmonized elections for the presidency, the House of Assembly, Senate, and local government were held in 2008. As in previous elections in 2000, 2002, and 2005, the preelection period was not free and fair. The environment was characterized by some violence and a media environment that heavily favored Mugabe. Although Tsvangirai was allowed to campaign, the police did not permit the MDC to hold all of its planned rallies, and some MDC activists were intimidated and beaten in the weeks before the election. Foreign journalists were not granted permission to cover the elections.

The law stipulates that the Zimbabwe Electoral Commission (ZEC) is responsible for maintaining and updating the voters' roll. However, the ZEC lacked the capacity to carry out these functions and relied heavily on the Registrar General of Voters Office to help it. In the weeks preceding the March elections, the registrar general and the ZEC did not ensure an open inspection of the voters' roll until they were compelled to do so by a court order. In 2009 a local NGO examined the voters' roll in its report *2013 Vision: Seeing Double and the Dead: A Preliminary Audit of Zimbabwe's Voters' Roll* and found numerous inaccuracies. Notably, the report documented attempts to register voters at ghost addresses, multiple registrations of the same person in different constituencies, and an improbable number of registered voters over the age of 90.

The March 2008 election was largely peaceful, with international observers from African organizations present; international observers from Western nations were not invited. Domestic observers played a critical role in the 2008 election and observed both voting and vote tallying at polling places across the country. For the first time, election results were posted outside each polling station. At numerous polling places, observers photographed the final vote count sheet and distributed the images.

The March 2008 election results demonstrated a significant shift in the political environment. The MDC secured a majority in numerous local government councils and in the House of Assembly. Lovemore Moyo of the MDC-T was elected Speaker of the House by secret ballot, marking the first time for a member not affiliated with ZANU-PF to hold the position.

The results of the presidential race were not released for more than a month, calling into question the credibility and independence of the ZEC. According to the ZEC tally, the MDC-T's Tsvangirai obtained 47.9 percent of the vote, while Mugabe obtained 43.2 percent. Simba Makoni, an independent candidate, received 8.3 percent. Initially, the MDC-T challenged the results, asserting that Tsvangirai had secured the majority of votes needed to win the presidency. According to the ZEC tally, since no candidate secured the 50 percent-plus-one needed to win outright, a run-off election was set for June 2008.

The months leading to the run-off election were marred by widespread violence and intimidation perpetrated by the ZANU-PF government and its supporters. The violence left more than 150 dead, thousands injured, and tens of thousands displaced. In June 2008, in the wake of the violence, Tsvangirai announced that he would not contest the run-off election. Nevertheless, the Government held the election, and in June 2008 the ZEC announced that Mugabe had won with more than 85 percent of the vote; he was inaugurated immediately.

Due to a government policy shift from the first round, the Zimbabwe Election Support Network (ZESN) and other domestic observers faced significant obstacles that prevented them from observing the June election. The Government greatly reduced the number of accreditations from more than 8,600 in the harmonized election to 500 in the presidential run-off. Observers charged that the shortage of accreditations was to curtail the ability of civil society to monitor the election, especially polling.

While the country did not allow citizens of most Western countries to observe the elections, it allowed election observer missions from three African groups: the Pan African Parliament, the SADC, and the African Union. Each group subsequently issued statements critical of the election, as did the leaders of a number of neighboring countries, including Botswana and Zambia.

Following domestic and international protests of Mugabe's inauguration, ZANU-PF and the MDC resumed negotiations, with former South African president Thabo Mbeki as lead SADC mediator. In September 2008, Mugabe, Tsvangirai, and MDC-M party leader Arthur Mutambara signed a power-sharing agreement, known as the GPA, to establish an "inclusive" government.

In January 2009, after several months of additional negotiations on the distribution of ministries and despite the abductions of MDC officials and Mugabe's reappointment of Reserve Bank governor Gideon Gono and appointment of Attorney General Johannes Tomana in violation of the GPA, Mugabe, Tsvangirai, and Mutambara agreed to implement an inclusive government. In February 2009 par-

liament passed constitutional amendment 19, which added to the Government the positions of prime minister, two deputy prime ministers, and a number of additional ministries and deputy ministry positions. Passage of the amendment paved the way for the inauguration of MDC-T leader Tsvangirai as prime minister, alongside deputy prime ministers Arthur Mutambara and Thokozani Khupe. Forty-one ministers and 20 deputy ministers also were sworn into office.

In December 2009, several months after parliament submitted nominations to his office, President Mugabe named the members of three of four independent commissions, including the Media, Human Rights, and Electoral Commissions, as provided for in the GPA. On March 31, the president swore into office the Human Rights Commission, headed by prominent academic Reginald Austin, and the electoral commission, headed by former judge Simpson Mutambanengwe. President Mugabe had not appointed members to the Anticorruption Commission by year's end.

The GPA mandates the writing of a new constitution. In July 2009 the first All Stakeholders Conference was held in Harare to create a framework for the process. ZANU-PF supporters and war veterans disrupted the conference on its opening day, and it only resumed the following day after intervention by President Mugabe. The Constitutional Parliamentary Committee (COPAC), with three cochairpersons from the MDC-T, MDC-M, and ZANU-PF, led the process. Seventy outreach teams, with 12 members in each team, were set up to solicit public input. The outreach process was scheduled to begin in November 2009, to be completed by February, with the draft to be voted on in a national referendum by July. COPAC officially began the outreach on June 18, seven months behind schedule; it was completed by October. The outreach effort was rife with reports of intimidation, disruption, harassment, arrest of MDC-T supporters and members of parliament, and pre-coaching conducted by ZANU-PF supporters. Contrary to expectation, there were few cases of violence and human rights abuses.

The cabinet agreed to amend portions of the Electoral Act in early July. The reforms, which had previously been agreed by the GPA negotiators, were designed to minimize election rigging by requiring presidential election results be announced within five days of voting, the voters' rolls be specific to polling stations, and electronic copies of the voters' roll be freely accessible. The amendments were pending approval by parliament at year's end.

President Mugabe continued to make unilateral decisions without consulting the other two principals in the Government, as required by the GPA. For example, on May 20, President Mugabe appointed one judge to the Supreme Court and four to the High Court without consulting Prime Minister Tsvangirai and Deputy Prime Minister Mutambara. On July 24, President Mugabe reassigned the country's ambassadors and representatives to Russia, Italy, Sweden, and South Africa, and the UN without consulting his coprincipals in the inclusive government.

The ZEC was established in 2005 but was not constitutionally mandated until the passage of amendment 19. Under the amendment, the ZEC is charged with directing voter registration, maintaining the voters roll, conducting voter education, accrediting observers, and conducting elections. The ZEC consists of nine members, four of whom must be women, who are appointed by the president. The chairperson is appointed after consultation with the Judicial Service Commission, while the other eight are appointed from a list of nominees submitted by the Parliamentary Committee on Standing Rules and Orders. The ZEC also has provincial and district offices. President Mugabe announced the eight members of the ZEC in December 2009 and named Namibia-based Judge Simpson Mtambanengwe as chairperson on March 31. Since the ZEC's inception, observers have questioned its independence and impartiality.

The constitution empowers the ZEC to set the boundaries of parliamentary and local constituencies. The delimitation report was completed in 2008 without debate in parliament, in contravention of the constitutional requirement. The MDC and members of civil society criticized the delimitation of wards and constituencies as favoring ZANU-PF.

Although the constitution allows for multiple parties, ZANU-PF and security forces intimidated and committed abuses against other parties and their supporters and obstructed their activities.

Under the constitution, the president may unilaterally declare a state of public emergency for a period of up to 14 days. The GPA stipulates that the president must consult with prime minister prior to dissolving parliament, prior to appointing or removing a vice president and any minister or deputy minister, and prior to appointing eight provincial governors who sit in parliament.

In the 2008 elections the MDC-T won a majority of seats in city councils across the country. However, the Government routinely interfered with MDC-led local governments. For example, on August 25, the ZANU-PF minister of local government,

urban, and rural development suspended seven MDC-T councilors from the Harare City Council on the charge that they had illegally evicted widows and orphans from houses belonging to the council. Councilors Job Mbadzi and Herbert Gomba were acquitted, while Peter Marange was found guilty and given a warning. On December 6, councilors Silas Machetu, Maxwell Katsande, Paul Gorekore, and Johnson Zaranyika were convicted and dismissed from the council. The councilors appealed their conviction in the High Court; the case was pending at year's end (see section 4).

Under the Urban Councils Act, the Ministry of Local Government, Urban, and Rural Development has the power to appoint "special interest councilors" to local councils to represent special interest groups. Such appointments are intended to fill "gaps" by including members of business and civil society in the councils.

After the 2008 elections, there were 34 women in the 210-seat House of Assembly. Women won 23 of the 60 elected seats in the Senate, including the president of the Senate. One vice president, one deputy prime minister, five ministers, and two governors were women. Of the 270 elected positions in the House of Assembly and the Senate, 57 were filled by women, constituting 21 percent of the total, short of the SADC target of one-third for female representation. Women participated in politics without legal restriction, although according to local women's groups husbands commonly directed their wives to vote for the husbands' preferred candidates, particularly in rural areas. The ZANU-PF congress allotted women one-third of party positions and reserved 50 positions for women on the party's 180-member central committee, which was one of the party's most powerful organizations.

There were 11 members of minority groups in the cabinet, including Deputy Prime Minister Thokozani Khupe; former vice president Joseph Msika, who died in August 2009, and his replacement selected by the ZANU-PF party congress; and Vice President Joshua Nkomo, who was sworn in on December 2009. There were 46 members of minority groups in the House of Assembly, including three whites.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively and impartially, and officials frequently engaged in corrupt practices with impunity. According to World Bank Worldwide Governance Indicators, corruption was a severe problem. Implementation of the Government's redistribution of expropriated white-owned commercial farms often favored ZANU-PF elite and continued to lack transparency. High-level ZANU-PF officials continued to select numerous farms and register them in the names of family members to evade the Government's policy of one farm per official. The Government continued to allow individuals aligned with top officials to seize land not designated for acquisition. Public officials were not subject to financial disclosure laws.

Corruption was particularly pervasive in local government where officials abused their positions and government resources openly and with impunity. According to Transparency International-Zimbabwe's (TIZ) Advocacy and Legal Advice Center (ALAC), a total of 642 corruption-related complaints were received between April 2009 and April 2010; the vast majority of complaints received in 2009 came from urban residents complaining about local government bribery, misappropriation of government resources, and abuse of power. Local councilors' control of the designation and allocation of new land lots for residential and commercial use led to numerous allegations of bribe attempts and rent-seeking opportunities. Local government officials also demanded bribes or excessive fees for "expediting" paperwork, including birth certificates, passports, and licenses. Allegations of corruption were reported for both ZANU-PF and MDC-T councilors.

For example, in Chitungwiza, a high density suburb outside of Harare, MDC-T councilors were unable to deliver city services largely due to council corruption and a lack of oversight and accountability. In response the MDC-T expelled all of the MDC-T councilors in Chitungwiza from the party early in the year. However, the expelled councilors remained in their elected positions and continued to serve as independent councilors at year's end.

Corruption occurred at every level of the police force but took different forms depending on position, rank, or location. At the lower levels, corrupt officers extorted nominal to exorbitant fees for varying offenses from the public in an effort to augment their low salaries. However, numerous reports of corrupt police officials being investigated and arrested for criminal activity appeared throughout the year. Armed police continued routinely to erect roadblocks in and around cities and rural districts, claiming to be looking for criminals, smuggled goods, and food. However, in many cases police arbitrarily seized goods for their own consumption or extracted bribes from commuters.

Constitutional amendment 19 requires that a previous anticorruption commission be disbanded and a new one appointed. The commission members had not been named by year's end.

In early January the MDC-T set up a 13-member team to investigate reports of alleged corruption by its cabinet ministers, law makers, and councilors. Prosecutions for corruption continued but were selective and generally seen as politically motivated. The Government targeted MDC-T officials, persons who had fallen out of favor with ZANU-PF, and individuals without high-level political backing. On March 15, Justice and Legal Affairs Minister Patrick Chinamasa claimed that corruption was rampant among legal practitioners, both in public and private practice, and blamed leading criminal lawyers for bribing magistrates and prosecutors. Chinamasa also cautioned prosecutors against recklessly invoking a section of the CPEA, which allows the police to keep the accused in custody for an additional seven days after the granting of bail to allow the Government to appeal a decision to grant bail. In practice Chinamasa did not enforce this policy.

On April 7, police arrested two Harare city councilors, Casper Takura and Warship Dumba, on the charge of criminal defamation for their involvement in a report that exposed illegal business dealings between businessman Phillip Chiyangwa and Local Government Minister Ignatius Chombo (ZANU-PF). The report documented how city-owned properties were sold to Chiyangwa in violation of city policy and law, and how Chombo and city council employees illegally sold property between 2005 and 2009. Takura and Dumba were released without charge. Chiyangwa sued the mayor of Harare, Muchadeyi Masunda, and nine councilors for criminal defamation in connection with the same report. The trial began on May 6 and was postponed to allow the High Court to deal with a separate application by the mayor and councilors challenging the magistrate's decision to place them in detention. On November 2, Chiyangwa withdrew the charges against the mayor and councilors. On August 25, Chombo suspended seven MDC-T councilors from the Harare City Council, accusing them of illegally evicting widows and orphans from council houses. The MDC-T denounced this move as part of a ploy to frustrate the investigation into the allegations against Chiyangwa, Chombo, and the city council employees. Chombo set up an independent disciplinary committee to conduct hearings on the allegations. The committee acquitted two councilors, Job Mbadzi and Herbert Gomba, and found Councilor Peter Marange guilty. The other four councilors, Silas Machelu, Maxwell Katsande, Paul Gorekore, and Johnson Zaranyika, were convicted and dismissed from the council on December 6. The four councilors appealed their conviction in the High Court; the case was pending at year's end.

On June 28, police arrested businessman and prominent ZANU-PF member Temba Mliswa for fraudulently taking over a car accessory company in Harare. Mliswa was arrested along with Martin Mutasa, son of the ZANU-PF minister of presidential affairs, after publically accusing Commissioner General Augustine Chihuri of corruption. Mliswa was released on bail on July 5 but was continuously rearrested on new charges following his release. He was finally released on \$1,000 bail on August 10 after nearly six weeks of incarceration. Mliswa faced more than 70 charges related to the alleged illegal seizing of farms and farm equipment since 2002. On December 22, the court acquitted Mliswa of some of the fraud and extortion charges, citing insufficient evidence; however, testimony during the trial indicted that Mliswa's extensive list of alleged crimes was committed with the complicity, participation, and knowledge of several senior ZANU-PF, military, and police officials. Other charges were pending at year's end.

In March 2009 Brigadier General Douglas Nyikayaramba, head of a committee to administer the provision of farming inputs, namely seed and fertilizer, named nine MPs whom he stated had abused a program that provided inputs to legislators by taking more inputs than they were allocated. Those accused included MDC-T MPs Evelyn Masaiti, Ernest Mudavanhu, Hamandishe Maramwidze, Edmore Marima, Heya Shoko, Ransome Makamure, and Tachiona Mharadza. ZANU-PF MPs Tranos Huruba and Ivine Dzingirayi were also accused. Mudavanhu was released on bail in September 2009 pending appeal. Makamure, Marima, and Shoko were acquitted in 2009. Dzingirayi, Masaiti, and Mudavanhu were acquitted during the year; the remaining case was pending at year's end. Convicted MPs could lose their seats in parliament.

There were reports that ZANU-PF officials in the Government removed persons perceived to be MDC supporters from the civil service and the military. There also were reports that the Government assigned soldiers and youth service members to work in government ministries. It was common for the minister of local government to appoint ZANU-PF supporters to bureaucratic positions in MDC-led local governments. City public administrators reportedly earned hugely inflated salaries. In August 2009 the comptroller and auditor general submitted a report to parliament that

documented significant irregularities within the Ministry of Youth Development, Indigenization, and Empowerment. Notably, the report stated that there were more than 10,000 names on the ministry's payroll that were not reflected in human resources records and that 458 persons were listed twice.

NGOs documented numerous cases of public officials soliciting bribes to allocate lots and market stalls in the major cities. For example, there were reports that the Chitungwiza local council artificially lowered prices for residential stands to \$200, while the market value was closer to \$2,500, and collecting large bribes from well-connected individuals.

In December 2009 the MDC-T announced it was suspending MDC-T mayor of Chitungwiza, Israel Marange, and several other MDC-T officials who were accused of corruption. Minister of Local Government Chombo, however, refused to dismiss the councilors, saying the issue was internal to the MDC-T. The councilors continued to serve at year's end.

In April 2009, TIZ's ALAC began an anticorruption campaign by inaugurating a toll-free hotline for residents to report corruption, seek free legal advice, and propose solutions to prevent corruption. TIZ also established a monthly newsletter to discuss hotline complaints. Although the hotline was initially advertised in government-controlled media, in August 2009 the national public broadcaster, Zimbabwe Broadcasting Holdings, refused to carry TIZ's advertisements. Many hotline callers complained about police soliciting bribes at traffic stops, corruption in the allocation of vending stalls, and officials' misappropriation of funds. The complainants were also disgruntled about the ineffectiveness of public institutions mandated to fight corruption, including the police and the Anticorruption Commission.

The Government stated that the AIPPA was intended to improve public access to government information; however, the law contains provisions that restrict freedom of speech and press, and these elements of the law were the ones the Government enforced most vigorously.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated in the country, investigating and publishing their findings on human rights cases; however, they were subject to government restrictions, interference, monitoring, and harassment. Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of POSA and the AIPPA; election observation; constitutional and electoral reform; increasing women's access to the courts; raising awareness of the abuse of children; conducting civic education; advocating for the independence of the judiciary; and combating torture, arbitrary detention, and restrictions on freedom of the press and assembly. Major domestic independent human rights organizations included the Crisis in Zimbabwe Coalition, Zimbabwe Human Rights NGO Forum, ZESN, ZLHR, Zimbabwe Peace Project, National Constitutional Assembly (NCA), Students Solidarity Trust, and WOZA.

The Government continued to use the Government-controlled media to disparage and attack human rights groups. Articles typically dismissed the efforts and recommendations of NGOs that were considered critical of the Government as efforts by groups that merely did the bidding of Western governments.

During the year police arrested or detained NGO members, often in connection with demonstrations or marches; several were beaten during arrest and tortured while in custody. Numerous NGO members died in postelection violence in 2008.

On March 23, police in Harare arrested Zimbabwe Human Rights Organization (ZimRights) director Okay Machisa for planning an exhibition of 65 photographs showing a range of images from the 2008 election. Machisa was released several hours later after Prime Minister Tsvangirai pressured co-minister of home affairs Giles Mutsekwa to secure his release. On March 24, High Court judge Samuel Kudya ordered that the photos be released within an hour and ordered the police not to intervene in the exhibition. The photos arrived at the gallery only a few minutes before Tsvangirai's arrival to open the exhibit. After his departure, police returned to the gallery three times to search for the photos and Machisa and demanded entry without a warrant. ZimRights staff removed the photos from the gallery prior to the police return and denied entry throughout the night. On April 26, police arrested Joel Hita, ZimRights regional chairperson for Masvingo, and three other employees for organizing the same photo exhibition without notifying the police. The case was pending at year's end.

The Government harassed some NGOs it believed opposed government policies, investigated their activities, and harassed their leaders. For example, on May 27, police in Mutare raided the office and residence of the Center for Research and Development director Farai Maguwu and arrested Lisben Maguwu. Lisben was

charged with obstructing justice by assisting Farai Maguwu to escape through a window. Farai Maguwu went into hiding and, accompanied by lawyers, turned himself in on June 3. He appeared in court on June 8 and was detained illegally for more than 48 hours. While in police custody, he developed bronchitis; however, police denied him access to private medical care despite multiple court orders. The Government initially charged him with communicating information prejudicial to the state to Kimberly Process Certification Scheme monitor Abbey Chikane. The Government then charged him with communicating information that was prejudicial to the state's economic interest to human rights activists Gabriel Shumba, Tor Hugne-Olsen, and Anton Dekker. The magistrate court repeatedly denied bail, citing the gravity of the charge and the ongoing investigation. On July 12, the High Court granted bail on an appeal of the bail denial at the magistrate court. Bail conditions included \$1,500, daily reporting to the Mutare police station, restricted movement in Mutare, and surrender of his international passport. In July police in Mutare called Farai Maguwu to the police station for driving a car alleged to be stolen. The magistrate court relaxed the bail conditions on August 17. On October 22, Magistrate Vongai Muchuchuti acquitted Farai Maguwu after the Government withdrew its case.

Representatives of international and foreign NGOs were arbitrarily harassed. For example, on September 9, police arrested four foreigners along with two members from the Allen Temple AIDS Ministry on the charge of practicing medicine without the supervision of a pharmacist. The four pled not guilty and were released on September 13 on \$200 bail each. The case was pending at year's end.

In 2007 parliament unanimously approved constitutional amendment 18, which provides for the establishment of a parliamentary human rights commission; this was reiterated in amendment 19, which was adopted by parliament in February 2009. In December 2009 President Mugabe announced eight members of the Human Rights Commission, four of whom are required to be women, and, on March 31, named Namibia-based academic Reginald Austin as chairperson.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law provide that no person can be deprived of fundamental rights, such as the right to life, liberty, and security of person, based on one's race, tribe, place of origin, political opinions, color, creed, gender, or disability; however, the constitution allows for discrimination, primarily against women, on the grounds of "customary law." Discrimination against women and persons with disabilities persisted. The Government and ZANU-PF continued to infringe on the right to due process, citizenship, and property ownership in ways that affected the white minority disproportionately.

*Women.*—The law makes rape and nonconsensual sex between married partners a crime; however, few cases of rape, especially spousal rape, were reported to authorities because women were unaware that spousal rape was a crime and feared losing the support of their families, particularly in rural areas. Government statistics on rape were unavailable, but anecdotal evidence indicated it remained a widespread problem. The criminal code defines sexual offenses as rape, sodomy, incest, indecent assault, or immoral or indecent acts with a child or person with mental disabilities and provides for penalties up to life in prison for sexual crimes. Police acted on reported rape cases not associated with political violence, and the Government media frequently published stories denouncing rape and reporting convictions. In many cases, the survivors knew their rapists. The criminal code also makes it a crime to knowingly infect anyone with HIV and provides for penalties up to five years in prison. Local NGOs dealing with women's rights reported that rape cases were brought to the court and there were convictions; however, statistics were unavailable. Children born from rape suffered stigmatization and marginalization if their mothers or extended families failed to report the rape and failed to register their births.

Rape survivors seldom received protection in court under law. For example, in August, Mildred Mapingure filed a suit against the Government, claiming \$52,000 in damages for wrongful birth. Mapingure was raped by armed robbers and became pregnant. She reported the rape to the police and applied for termination of pregnancy in accordance with the Termination of Pregnancy Act. The courts delayed hearing the matter and granted Mapingure authority to terminate the pregnancy only when she was seven months pregnant. The doctors refused to terminate the pregnancy at that advanced stage and she gave birth as a result.

During the year, two adult rape clinics were set up in public hospitals in Harare and Mutare. The clinics were designed to receive referrals from the police and NGOs working with rape survivors and to administer HIV tests and provide medicines to prevent HIV infection, other sexually transmitted diseases, and pregnancy. The clin-

ics could collect evidence and give medical examination that could be used for court processes. According to one medical NGO, the clinics were well organized but had been poorly advertised due to fear that their capacity could not meet likely demand.

In November 2009 the IOM, UNICEF, and the UN Population Fund created a one-stop center project for gender-based violence survivors. One one-stop center and three general centers were set up around the country. The announcement came in response to a survey that found that the country's social, political, and economic instability had led to an increase in sexual abuse of women, girls, and some boys. More than 50 percent of the 1,900 persons interviewed, both male and female, reported that they had been raped. Nearly half of the respondents stated that they did not know what to do to cope with rape experiences.

Domestic violence against women, especially wife-beating, continued to be a serious problem. The Musasa Project, a local NGO that worked for the protection and promotion of women's rights, reported that many women in the country were in an abusive marital relationship. Most cases of domestic violence went unreported, due to traditional sensitivities and the women's fear of abandonment without support. Authorities generally considered domestic violence to be a private matter and usually only arrested an offender for assault if there was physical evidence of abuse. There were newspaper reports of wife killings, and there were a few reports of prosecutions and convictions for such crimes; however, details were unavailable.

In 2007 the Government enacted the Domestic Violence Act, which criminalizes domestic violence and provides enhanced protection for victims of abuse; the act was viewed as a milestone by women's rights groups. The law provides for a fine and a maximum prison sentence of 10 years. The Ministry of Women's Affairs, Gender, and Community Development and local women's groups coordinated efforts to develop an implementation strategy after the act passed parliament in 2006. In October 2009 the ministry created an 11-member Anti-Domestic Violence Council to monitor the implementation of the act, with members drawn from government, civil society, churches, and traditional leaders. The council was ineffective, due to the unavailability of statistics and information on prevailing trends of domestic violence and lack of funding.

The Government continued a public awareness campaign about the act. Several women's rights groups worked with law enforcement and provided training and literature on domestic violence as well as shelters and counseling for women. However, the high turnover rate within the police force demanded a continuous level of training that could not be met. Local women's rights groups reported that awareness of the domestic violence act increased; however, the press reported that the act proved difficult to implement. For example, one impediment was the police form to report domestic violence: not only was it difficult to complete, but due to budget constraints police would ask victims to make their own photocopies of the form.

Labor legislation prohibits sexual harassment in the workplace, and an employer may be held liable for civil remedies if found to be in violation of provisions against "unfair labor practices," including sexual harassment. Penalties for these violations are not specified in the law. Women commonly faced workplace sexual harassment, government enforcement was not effective, and there were no reports of any prosecutions during the year.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Inadequate medical facilities, including a lack of electricity and medication, contributed to a relatively high maternal mortality ratio of 880 deaths per 100,000 live births. HIV/AIDS disproportionately affected females and was the major contributing factor to maternal deaths in the context of a weakened health delivery system. According to UNICEF's November 2009 Multiple Indicators Monitoring Survey (MIMS), 65 percent of women who were married or in a union used modern methods of contraception. Approximately 60 percent of births were attended by skilled attendants, while 40 percent of women gave birth at home. Half of the mothers between the ages of 15 and 19 delivered their babies at home. Approximately 93 percent of women received prenatal care during pregnancy at least once. There was no information available on whether women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Despite laws aimed at enhancing women's rights and countering certain discriminatory traditional practices, women remained disadvantaged in society. Economic dependency and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women remained vulnerable to entrenched customary practices, including pledging young women to marry partners not of their choosing and forcing widows to marry the brothers of their late spouses.

The law recognizes women's right to own property independently of their husbands or fathers; however, many women continued to be unaware of their property and inheritance rights. Divorce and maintenance laws were equitable, but many women lacked awareness of their rights. Women have the right to register their children's birth; however, in practice either the fathers or male relatives must be present. On June 3, the Supreme Court ruled in *Margaret Dongo v. Registrar General* that the registrar general has no right to bar mothers from obtaining passports for their children. The ruling followed a constitutional challenge filed against the discriminatory effect of the Guardianship of Minors Act, whereby the legal guardianship of minor children born in wedlock is vested only in their fathers. Justice Rita Makarau ruled that the application for a passport is not a judicial act and that the exclusive assistance of the minor child's legal guardian is not a legal requirement.

Women and children continued to be adversely affected by the Government's forced evictions, demolition of homes and businesses, and takeover of commercial farms. Many widows who earned their income in the informal economy or by renting cottages on their property lost income when their market stalls or cottages were destroyed. Widows faced particular difficulties when forced to relocate to rural areas.

The Ministry of Women's Affairs, Gender, and Community Development continued its efforts to advance women's rights. The ministry, through collaboration with local NGOs, continued training workshops for traditional leaders in rural communities to create more awareness of women's issues. The Government gave qualified women access to training in the armed forces and national service. Although there were advances for women within the armed forces in recent years, they continued to occupy primarily administrative positions. In recent years, women progressed in health and education but in general were concentrated in the lower echelons of the workforce, especially in the financial industry. Women held positions of importance in the legislative and executive branches of the Government.

NGOs reported that anecdotal evidence indicated that women experienced economic discrimination, including in access to employment, credit, pay, and owning or managing businesses.

Several active women's rights groups concentrated on improving women's knowledge of their legal rights, increasing their economic power, combating domestic violence, and protecting women against domestic violence and sexual transmission of HIV/AIDS. The Government established the National AIDS Trust Fund to levy a 3 percent tax on incomes of individuals in formal employment and corporate entities.

*Children.*—Citizenship is derived from birth in the country and from one's parents, and every birth has to be registered with the Births and Deaths Registry. The 2003 Citizenship Amendment Act significantly changed citizenship laws and resulted in statelessness for some persons who were born to foreign-born parents (see section 2.d.). Not all births were registered immediately, particularly if a child was born in a rural area outside a government hospital. Other reasons for failure to register births included fathers being absent or lacking time to register, parents not having a national identity card or birth certificate, the high cost of registration, and proximity to a place of registration. The failure to register all births resulted in some difficulties in accessing public services, particularly education and identification documents.

Although legislation existed to protect children's rights, it was difficult to administer and enforce, primarily due to a lack of resources. Many orphaned children were unable to obtain birth certificates, which the Child Protection Society reported made it difficult for the children to enroll in school and access health services; however, the Government made improvements in 2007 by decentralizing the authority to issue birth certificates to local registrar general offices throughout the country. According to the UNICEF's MIMS, 37 percent of children under five years of age possessed birth certificates.

Schools and clinics operated in most communities, although many families struggled to pay fees and purchase educational materials for their children. According to statistics from UNICEF, one-quarter of the country's children were orphans, of which approximately 70 percent were orphaned due to HIV/AIDS. Orphans and vulnerable children (OVC) together constituted 37 percent of the country's children, and approximately 80 percent of OVCs did not receive any form of external support. An estimated 100,000 children lived in child-headed households. Data on street children was not available at year's end.

In 2007 the Ministry of Public Service, Labor, and Social Welfare and UNICEF formalized agreements with 21 NGOs to advance the National Action Plan for OVCs, which was designed to ensure that OVCs were able to access education, food, health services, and birth registration and were protected from abuse and exploitation. UNICEF reported that by February the NGOs involved had reached more

than 800,000 OVCs with comprehensive support and protection since the beginning of the program.

Primary education is not compulsory, free, or universal. According to the UNICEF's MIMS, 92 and 90 percent of female and male children of primary school age, respectively, attended primary school. Ninety-four percent of children of primary school age attended school in urban areas compared with 90 percent in rural areas. In 2009 the Ministry of Education, Sport, Art, and Culture drastically reduced school fees, particularly in rural areas, to increase enrollment. However, due to a lack of funding from the central government, some schools began to charge levies of up to several hundred dollars for the school year, which were prohibitive for many students. Some children continued to pay school fees and levies with crops and livestock if they did not have adequate hard currency. Despite a directive from the minister of education that no child should be refused education for not paying school fees, there were reports that students with unpaid fees were locked out or turned away from schools.

Continuing economic hardship, displacement of thousands of children from their homes as a result of election-related violence in 2008, farm-related violence during the year, emigration of qualified teachers, and distance of the closest schools continued to affect enrollment rates. According to UNICEF, 71 percent of children who were not enrolled in school did not attend in 2009 because of financial constraints. In most regions of the country, fewer girls than boys attended secondary school. If a family was unable to pay tuition costs, it was most often female children who left school or never began. The Child Protection Society reported that girls were more likely to drop out because they were more readily employable, especially as domestic workers.

Child abuse, including incest, infanticide, child abandonment, and rape, continued to be serious problems. Police statistics showed that reports of child rape tripled between 2005 and 2007. Anecdotal evidence suggested that a relative or someone who lived with the child was the most common abuser. Girl Child Network (GCN) reported that girls believed to be virgins were at risk of rape due to the belief among some that having sex with a virgin would cure men of HIV/AIDS. In 2008 UNICEF and the Government launched the Stand Up and Speak Out child abuse awareness and prevention campaign. In October 2009 the NGO Plan Zimbabwe and the Ministry of Education, Sport, Art, and Culture launched the Learn Without Fear campaign, aimed at eradicating child abuse in schools. The campaign began after a study found that many children had been victims of unreported sexual and physical abuse by their teachers and peers. During the year the GCN reported an increase in the reports of violence in schools, with numerous cases of children suffering serious injuries from corporal punishment.

The traditional practice of offering a young girl in marriage as compensatory payment in interfamily disputes continued, as did arranged marriage of young girls. The legal age for a civil marriage is 18, although 16- and 17-year-old girls could marry with their parents' approval. Customary marriage, recognized under the Customary Marriages Act, does not provide for a minimum marriage age for either boys or girls; however, the criminal code prohibits sexual relations with anyone younger than 18 years of age. According to UNICEF, one-third of women married when they were under 18 years of age, and 5 percent of women married when they were under 15 years of age. Approximately 21 percent of young women between the ages of 15 and 19 were married or in a union. Child welfare NGOs reported that they occasionally saw evidence of underage marriages, particularly in isolated religious communities or among HIV/AIDS orphans who did not have relatives willing or able to take care of them.

Statutory rape, legally defined as sexual intercourse with a child under the age of 12, carries a fine of \$2,000, imprisonment up to 10 years, or both. A person in possession of child pornography can be charged with public indecency and faces a fine of \$600, imprisonment up to six months, or both. Child prostitution carries a fine of \$200, imprisonment up to six months, or both. Those charged with child prostitution were often also charged with statutory rape. A parent or guardian who causes or allows a child under 18 years of age to associate with or become a prostitute could face up to 10 years in prison.

Traditionally, the Government gave preference to National Youth Service (NYS) graduates among those seeking employment in the Government, especially in the security forces. From the time of its inception in 2000 until its suspension in 2007, an estimated 80,000 NYS youths underwent militia training at more than 150 training camps across the country. The stated purpose of the training camps was to instill national pride in youth, highlight the history of the struggle for independence, and develop employment skills; however, news reports quoted deserters as stating that the camps subjected trainees to partisan political indoctrination as well as mili-

tary training. There were numerous credible reports that graduates were used by the Government to carry out political violence, human rights violations, and intimidation. There were numerous reports from NGOs that children as young as 16 participated in ZANU-PF affiliated youth militias, which perpetrated violence across the country during the 2008 election period. After the program's suspension in 2007, some participants were absorbed into the country's security structures, including the army, prisons, air force, intelligence organization, and police. Persons under the age of 18 are prohibited from joining the military or police.

There were approximately one million orphans and OVCs in the country. One of the biggest contributing factors was the high HIV/AIDS rate. Approximately 13 percent of the population was infected, and an estimated 2,214 persons died per week. The vast majority of orphans were cared for by the extended family. Many grandparents were left to care for the young and, in many cases, children or adolescents headed families and were forced to work to survive. Orphaned children were more likely to be abused; not to be enrolled in school; to suffer discrimination and social stigma; and to be vulnerable to food insecurity, malnutrition, and HIV/AIDS. Extended families and communities often refused to take orphans due to fear that they or their own children might contract HIV. Some children were forced to turn to prostitution for income.

UNICEF estimated that at least 10,000 children were displaced in election-related violence in 2008. Several thousand were also displaced with their parents as a result of farm-related violence and evictions in 2009. At year's end, NGOs were uncertain how many children remained affected. Economic hardships and the Government's lack of support for social welfare institutions contributed to a highly vulnerable population of street children throughout the country. NGOs operated training centers and homes for street children and orphans, and government officials referred children to these centers.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>, as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish community numbered approximately 270 persons. There were no reports of anti-Semitic acts or underlying pattern of discrimination.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with disabilities in employment, access to public places, and the provision of services; however, the law was not widely known or implemented by government institutions. The lack of resources devoted to training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings be accessible to persons with disabilities, but implementation was slow. NGOs continued to lobby to include persons with albinism in the definition of "disabled" under the law. Persons with disabilities faced harsh societal discrimination. Traditional belief viewed persons with disabilities as bewitched and, consequently, as persons who should be locked away; children with disabilities often were hidden when visitors arrived.

Children with disabilities were discriminated against in educational institutions. The unavailability of essential services, including sign language interpreters, Braille materials, and ramps prevented children with disabilities from attending school. Many schools refused to accept children with certain disabilities.

According to the National Association of Societies for the Care of the Handicapped, persons with disabilities continued to be a forgotten and invisible group in society. For example, although an estimated 10 percent of citizens had disabilities, they were marginalized from HIV/AIDS intervention programs. The organization also reported that only 33 percent of children with disabilities had access to education.

Persons with mental disabilities also suffered from inadequate medical care and general provision of health services. There were eight centralized mental health institutions in the country with a holding capacity of more than 1,300 patients. The eight institutions were allocated approximately 1 percent of the Ministry of Health's budget. Inpatients received cursory screening, and most waited for at least one year for a full medical review. A shortage of drugs and adequately trained mental health professionals resulted in patients not being properly diagnosed and not receiving adequate therapy. There were fewer than 10 certified psychiatrists working in public and private clinics and teaching in the country. There was a 50 percent vacancy

rate for psychiatric-trained nurses; more than 90 percent of the available psychiatric services were provided at the mental institution in Bulawayo. NGOs reported patients being subjected to deplorable living condition in terms of food, water, clothing, and sanitation. Budgetary constraints and low holding capacity at these institutions resulted in persons with mental disabilities being kept at home and cared for by family, normally under chains and without treatment. No social workers worked on the issue of reintegration for recovering patients.

The amendments to electoral laws changed voting procedures for persons with disabilities. In 2008 the ZEC issued a notice explaining that “only the presiding officer and two other electoral officers or employees of the commission will assist any voter who requests to be assisted.” Some groups complained that this ruling violated persons with disabilities’ right to cast their votes in secret. Ahead of the June 2008 run-off election, there were widespread reports that ZANU-PF militias and war veterans instructed voters to claim blindness at the polling place in order to be assisted to vote for Mugabe. In 2009 the National Association of Societies for the Care of the Handicapped launched a five-year program to provide civic education to persons with disabilities with the goal of encouraging greater civic participation.

The Government broadcast a regular, prime-time program on state radio to promote awareness of the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 14 percent, whites and Asians less than 1 percent, and other ethnic groups 3 percent. There was some tension between the white minority and other groups, and in numerous instances ZANU-PF leadership manipulated this tension to further their political agenda. Historical tension between the Shona majority and the Ndebele minority caused the latter to perceive itself as marginalized by the Shona-dominated government.

The Government continued its attempts to attribute the country’s economic and political problems to the white minority and Western countries. ZANU-PF supporters seldom were arrested or charged for infringing upon minority rights, especially those of the white commercial farmers targeted in the land redistribution program.

In 2008 President Mugabe signed the Indigenization and Economic Empowerment Bill into law. The law’s official purpose was to increase the participation of indigenous citizens in the economy, with the ultimate objective of at least 51 percent indigenous ownership of all businesses. During the year the minister of youth development, indigenization, and empowerment, Saviour Kasukuwere, gazetted the indigenization regulations, stipulating that all businesses with a net annual turnover of \$500,000 or higher had to submit plans on how they intended to comply with the law by April. The deadline was extended indefinitely after protests from some sections in government as well as business and civic organizations. An indigenous Zimbabwean was defined as any person, or the descendant of such person, who before the date of the country’s independence in 1980 was disadvantaged by unfair discrimination on the grounds of his or her race. The law was criticized as an attempt to create patronage for ZANU-PF.

During the year ZANU-PF used the law as justification to force domestic partnerships on foreign business owners, who were typically white. Numerous businesses, including privately owned conservancies and factories, reported that senior ZANU-PF or military officials sought to force partnerships on them without contributing to the enterprise. The original foreign partners in these businesses were told by the officials that they should cede half of the business or face unnamed consequences.

Historically, the Government has discriminated against language minorities through the Education Act, which enforced the teaching of English in schools, along with Shona or Ndebele, depending on the region. In 2001 other minority language groups (Tonga, Shangani, Kalanga, Suthu, Venda, and Nambya) formed the Zimbabwe Indigenous Languages Promotion Association (ZILPA) to petition the Government for legal reforms so that their languages could be taught in their schools. In 2008 the Government agreed to allow the teaching of these languages in the areas in which they were spoken, along with English and Shona or Ndebele. The Government did not provide resources for related teacher training or instructional materials. Nonetheless, the Tonga successfully developed curriculum and instructional materials to cover the seven years of primary school education. In August 2009 Ministry of Education, Sport, Art, and Culture officials met with ZILPA and agreed to support its request for funding to teach all minority languages.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Leadership in both ZANU-PF and MDC, including President Mugabe and Prime Minister Tsvangirai, publicly denounced the LGBT community

and warned against the inclusion of LGBT rights in the constitution. Over a period of years, Mugabe publicly denounced the LGBT community, blaming it for Africa's ills and declaring its members to be worse than "pigs and dogs." Although there was no statutory law proscribing homosexual conduct, common law prevents gay men, and to a lesser extent, lesbians, from fully expressing their sexual orientation and, in some cases, criminalizes the display of affection between men. The criminal code definition of sodomy includes "any act involving physical contact between males that would be regarded by a reasonable person to be an indecent act." Sodomy carries a penalty of up to one year in prison or a fine up to \$5,000. There were no known cases of sodomy charges being used to prosecute consensual homosexual activity.

Gays and Lesbians of Zimbabwe (GALZ), the sole organization dedicated to advancing the rights of the LGBT community in the country, experienced discrimination and harassment. On May 21, police, armed with a search warrant, raided the GALZ office to search for dangerous drugs and pornographic materials, citing contravention of Censorship and Entertainment Control Act. The police forced GALZ employees Ellen Chademana and Ignatius Muhambi to provide passwords to their personal e-mail accounts and arrested them for possession of pornographic materials. In a second raid police charged the employees with contravening the Criminal Law (Codification and Reform) Act for undermining the authority of President Mugabe after finding a picture of the president along with the plaque of a foreign gay and lesbian activist. Police also raided the house of the director of GALZ on May 25. Police denied ZLHR lawyers access to the employees from May 21 to May 23 and granted the first initial visit on May 24. Four self-identified police officers removed the two employees from their cell on the evening of May 25 and beat them in the face and knees during the course of an interrogation. ZLHR lawyers observed that the two had swollen faces, had plastic bags tied to their feet, and struggled to speak during a consultation following the beating. On May 25, ZLHR lawyers filed an urgent application at the High Court appealing the legality of the arrest and detention. On May 26, the two appeared before the magistrate court and were remanded from custody on \$200 bail. Chademana's hearing, postponed six times from July 1 as the Government's witnesses failed to turn up, finally commenced on August 2 and ended on November 18. On December 16, Chademana was acquitted on the charge of possessing pornographic materials. Muhambi's trial started on June 30, and after multiple hearings he was acquitted of the charge of possessing pornographic materials on July 23. Both still faced charge of undermining the president at year's end.

The Government censorship board continued to confiscate materials sent to GALZ from outside the country and refused to release the material, claiming that it was "indecent." In 2008 GALZ filed three lawsuits against the censorship board, seeking the release of the materials. Due to the courts' refusal to act, three cases from 2008 were pending at year's end.

General homophobia and restrictive legislation made it difficult for the LGBT community to feel safe about being open about their sexuality in public. Because of significant social pressure, some families reportedly subjected men and women to "corrective" rape and forced marriages to encourage heterosexual conduct; the crimes were rarely reported to police. Women, in particular, were subjected to rape by male members of their own families.

On December 1, approximately 30 members of an LGBT NGO participated in a march in Bulawayo to celebrate "16 days of activism on violence against women." Police ordered the members to leave the venue of commemoration, citing as their reason the illegality of homosexuality.

Members of the LGBT community reported widespread societal discrimination based on sexual orientation. Many persons who identified with the LGBT community did not seek medical care for sexually transmitted diseases or other health issues due to fear that health providers would shun them. In the 2006-07 Presidential HIV/AIDS Strategic Plan, the Government agreed to address HIV/AIDS among gay men. However, as of year's end, the Government had not made any effort to address the health needs of this population. Many LGBT persons reported leaving school at an early age, decreasing their capacity for economic gain. Coupled with socioeconomic discrimination, higher rates of unemployment and homelessness among members of the LGBT community were reported.

*Other Societal Violence or Discrimination.*—The Government has a national HIV/AIDS policy that prohibits discrimination against persons with HIV/AIDS, and the law prohibits discrimination against workers with HIV/AIDS in the private sector and parastatals. Despite these provisions, societal discrimination against persons affected by HIV/AIDS remained a problem. Although there was an active information campaign by international and local NGOs, the Ministry of Health and Child Wel-

fare, and the National AIDS Council to destigmatize HIV/AIDS, ostracism and condemnation of those affected by HIV/AIDS continued.

*Incitement to Acts of Discrimination.*—Throughout the year, government-controlled newspapers, radio, and television stations continued to selectively vilify white citizens and to blame them for the country's problems.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—While the law provides private sector workers with the right to form or join unions without prior authorization, and workers exercised these rights, they were not always respected in practice. The 2005 Labor Amendment Bill eliminated previous public sector worker rights and excluded such employees from protection under labor laws, placing them instead under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strikes, or alternative dispute resolution mechanisms. These restrictions, however, were not enforced in practice. Public sector employees participated in unions and professional organizations. Some, particularly teachers and medical professionals, continued to mount campaigns for improved wages and conditions; union leaders and members continued to face harassment. Unions risked suspensions from registration for 12 months, and government recourse to draconian laws such as POSA, AIPPA, and the criminal law often curtailed trade union freedoms. The Government also restricted union activity indirectly by defining all senior employees as managers, although such employees did not enjoy benefits commensurate to the title; this restriction was not widely enforced in practice. Employees in positions designated as managerial were excluded from general union membership. Unions must be registered with the Ministry of Labor and Social Welfare.

During the year approximately 350,000 persons belonged to the 36 unions that form the ZCTU; approximately 55 percent of industries were unionized. The ZCTU estimated that 600,000 persons were employed in the formal sector. Approximately three million persons worked in the informal sector, of which 1.25 million belonged to a trade union for informal sector workers.

The Zimbabwe Federation of Trade Unions (ZFTU), a government-created alternative labor body, continued to support splinter unions in each economic sector; however, there was no evidence that either employers or employees viewed the splinter unions as legitimate. The Government was disinclined to include the ZFTU in labor-related discussion with employer and labor organizations. In addition to fostering confusion among workers, splinter unions forced existing unions to spend scarce resources guarding against declining membership. The splinter unions did not bargain collectively, handle worker complaints, or provide worker education they were not very influential.

ZANU-PF elements of the Government openly targeted the ZCTU, declaring it aligned with the MDC. The Government continued to use POSA to limit the ZCTU and its affiliates' ability to meet with and consult their constituencies, although the law does not apply to labor unions. Under POSA, public gatherings require prior approval from the local police except for those organized by churches and unions. In practice unions often applied for permission and were denied. Unions were also prevented from holding meetings with their members and carrying out organizational activities, sometimes by the police or ZANU-PF supporters and under threat of arrest.

On February 19, a group of 17 security officials representing the JOC interrogated Gertrude Hambira, the secretary general of the General Agriculture and Plantation Workers' Union of Zimbabwe (GAPWUZ), about the union's role in producing a film, House of Justice, which documented abuse suffered by farm workers. Deputy Police Commissioner Innocent Matibiri led the 45-minute questioning. The interrogators accused Hambira of overstepping her bounds because the video dealt with human rights issues and not trade union issues. They also cautioned Hambira's lawyer against associating with such dangerous persons. On February 24, security officials raided GAPWUZ's office in downtown Harare looking for documents and for Hambira. On February 25, police questioned the deputy secretary general and GAPWUZ president over the same report. Hambira fled the country shortly after the incident and remained in hiding at year's end. During her absence, Hambira's family members were approached by unknown individuals asking for her whereabouts.

On March 2, two plainclothes police officers attempted to participate in a ZCTU's educational workshop in Mutare. After being ejected from the meeting, the two left and returned with a group of 20 police officers and two CID senior assistant inspectors. They ordered the workshop participants to disperse, and accused the ZCTU of conducting a workshop without police approval in contravention of POSA. Three ZCTU employees were arrested, two of whom were released later on the same day.

Police charged the remaining employee with criminal nuisance and ordered him to pay a fine of \$20. The ZCTU filed an appeal against the payment of the fine at the Mutare Magistrate Court and sent a protest letter to the minister of labor and social services. The matter was pending at year's end.

Police often denied the ZCTU's applications to hold commemorations in particular venues and banned processions from taking place. On May 14, the ZCTU notified police of its intention to commemorate Health and Safety Day in Kwekwe on June 6. Police ordered the commemoration to take place in Hwange instead. The ZCTU appealed on June 17. In a June 22 response, police stated that the commemorations were not approved because police officers were engaged in World Cup activities. On June 30, ZLHR lawyers appealed to the Bulawayo High Court; on July 2, the court granted the ZCTU permission to proceed with the commemorations and ordered police not to interfere. In similar fashion police banned an April 30 procession for International Workers Day in Masvingo and a May 24 procession for the commemoration of the death of 472 miners in Bulawayo. The police also sought to restrict union activities by prescribing certain conditions. For example, on International Workers Day in Harare, the police stipulated that the commemoration could take place on the condition that politicians not be invited.

In 2008 in its report on trade union rights abuses, the International Labor Organization's (ILO) Application of Standards Committee included cases filed by the ZCTU concerning violations of freedom of association and protection of the right to organize for the second consecutive year. The Government was criticized regarding implementation of ILO Convention 87, which deals with freedom of association. The committee called on the Government to halt arrests, detentions, and threats and criticized it for refusing to appear before the committee for two consecutive years to face the allegations.

In 2008 the ILO appointed a commission of inquiry to investigate complaints that worker rights were violated under ILO Conventions 26 and 87. In May and August 2009, a three-person ILO commission of inquiry visited the country and interviewed more than 100 individuals, including those from government, civil society, unions, workers, and employers. The report was submitted to the Government in January; the Ministry of Labor accepted the report's findings and recommendations on behalf of the Government in April. In August the ILO, working in conjunction with the Government, the Employers' Confederation of Zimbabwe, and the ZCTU, conducted a mission visit to follow up on the implementation of the recommendations made in the report. A technical assistance package aiming at legislative and policy reform, institutional reform, strengthening of social dialogue, capacity building for key institutions, and knowledge and communication of information was provided during this visit.

Although the Labor Relations Amendment Act (LRAA) explicitly recognizes the right to strike, it is circumscribed with procedural limits, including 14-day advance-notice requirements, mandated 30-day reconciliation periods, and possible mandatory referral to binding arbitration. It also requires that at least 50 percent of employees vote for a strike, although workers protesting health and safety standards or lack of equipment may strike without the notification and arbitration procedure. The act prohibits essential services employees from striking on the grounds that it would "endanger(s) immediately the life, personal safety, or health of the whole or any part of the public." The law also allows that any nonessential service may be declared an essential service by the minister if a strike in a sector, service industry, or enterprise persists to the point that the lives, personal safety, or health of the whole or part of the population is endangered. Managers were also prohibited from striking; in some industries, the Government defined most employees as managers.

In practice the Government harassed union leaders who called for strikes and union members who attempted to participate in them. Government-imposed delays prevented most employees and their unions from declaring legal strikes, and those who participated in strikes deemed illegal faced government intimidation and sentences of up to five years in prison.

There were no further developments in any of the 2009 or 2008 cases of union harassment.

*b. The Right to Organize and Bargain Collectively.*—The LRAA provides workers the right to organize and permits unions to bargain collectively over wages and conditions of employment, and workers exercised this right in practice; however, government harassment of union leaders and interference by the ZFTU sometimes made such negotiations difficult. Collective bargaining agreements applied to all workers in an industry, not just union members. Public sector employees do not have the right to collective bargaining, strike, or alternative dispute resolution mechanisms; however, these restrictions were not enforced in practice. Teachers, the largest civil servant sector, engaged in labor actions during the year. In mid-Sep-

tember, the Zimbabwe Teachers Association, Teacher Union of Zimbabwe, and Progressive Teacher Union of Zimbabwe issued an ultimatum calling for a salary increase from \$150 to \$500. The ultimatum lapsed without any action from the Government. In November Finance Minister Tendai Biti announced a 40 percent increase in the civil service wage bill. However, the announcement did not specify the exact increase in teachers' salaries, and negotiations between the teacher unions and government continued at year's end.

The minister of labor and social welfare retained the power to veto agreements that she believed would harm the economy, but she did not involve herself directly in labor negotiations unless requested to do so by one of the parties. Agreements reached by employers and employees must be gazetted by the Ministry of Labor to go into effect. In practice any agreement could be administratively blocked when left ungazetted over an indefinite period of time.

Although the law prohibits antiunion discrimination, in practice union members faced discrimination and harassment. A labor court handled complaints of such discrimination under the mechanism for resolving cases involving "unfair labor practices." The determining authority may direct that workers fired due to antiunion discrimination be reinstated, although this did not happen in practice.

There were no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, with the exceptions of working for parents or the national youth service; however, such practices occurred. Forced labor is punishable by a fine, two years' imprisonment, or both. Forced labor by children occurred across a wide range of sectors; however, no detailed information was available on the extent of the practice.

NGOs reported that compulsion to work was no longer a factor for adults and children working in the Marange diamond fields during the year; however, adults and children continued to work for economic reasons. In 2009 Human Rights Watch and other NGOs reported that adults and children were subject to forced labor conditions while digging for diamonds in the Marange diamond fields. According to a June 2009 Human Rights Watch report, *Diamonds in the Rough: Human Rights Abuses in the Marange Diamond Fields*, children as young as 12 were forced to dig for diamonds in January and February. One victim told Human Rights Watch, "we worked together with about 30 children of ages between 10 and 17 years. The children worked the same 11 hours each day as adults did. The soldiers had a duty roster for all villagers in Chiadzwa to take turns to work in the fields, irrespective of age."

Workers on seized farms reported that new owners occasionally forced them to work without pay and under threat of eviction from the farm.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Under the LRAA, child labor is punishable by a fine, two years' imprisonment, or both; however, child labor was common. Under the LRAA, a child between the ages of 13 and 15 can work as an apprentice or if the work is an integral part of "a course of training or technical or vocational education." The law further states that no person under the age of 18 shall perform any work likely to jeopardize that person's health, safety, or morals. The status of children between 15 and 18 years of age is not directly addressed, but 15 years of age remains the minimum for light work, work other than apprenticeship, or work associated with vocational education.

The Government released the 2004 Child Labor Report in 2006. According to the survey, approximately 46 percent of children between the ages of five and 17 were engaged in economic activity. The unemployment rate continued to grow, with some estimates as high as 90 percent, which decreased the number of children employed in the formal sector. However, the incidence of children who worked in the informal sector continued to increase as more children worked to fill the income gap left by ill, unemployed, underemployed, or deceased relatives. Children often lacked access to necessary safety equipment and training. Children worked in the agricultural sector, in forestry, as domestics, in illegal gold and diamond mining, as street vendors, and as car-watchers. Although the Government and NGOs increasingly discussed the problem of child labor in the agricultural, domestic, and informal sectors, concrete data on the number of cases remained difficult to evaluate and confirm. An August 2007 survey by a domestic NGO documenting child labor reported that approximately one-third of children were working. Due to the economic downturn and reduction in school hours in 2008 and decreased school enrollment, the organization

believed the percentage of children working was higher than one-third during the year.

Most economically active children worked in the agriculture industry and were also involved in mining, domestic labor, and other areas of the informal economy. Children worked in all aspects of tobacco farming, from planting to preparation of leaves for sale; in the forestry regions of the eastern highlands on timber plantations; in some sugarcane plantations in the southeast; on tea and coffee plantations; and on small farms. Children worked on cotton farms; one NGO reported that school attendance rates declined in cotton growing areas during the harvest. Children also worked on some small commercial farms in all aspects of maize production. At one maize farm near Marondera, a local NGO found dozens of boys between the ages of 12 and 16 working. In cities children commonly worked as street vendors and as guards for parked automobiles. Throughout the country, children, particularly girls, worked as domestic laborers, often for family members. Information on the extent to which child labor occurred in the production of commercial products was not available. In 2009 Human Rights Watch reported that children as young as 12 living near the Chiadzwa Diamond Mine in Manicaland continued to work as forced laborers under the guard of security forces in diamond fields. During the year NGOs reported that forced child labor in the Chiadzwa diamond field had ceased and the remaining children worked for economic reasons.

Children were also engaged in the artisanal mining of gold and faced hazards to their health and safety. In particular children between the ages of 12 and 16 were used to crawl into small spaces in abandoned gold mine shafts near Shurugwi in Midlands Province. Also near Kwekwe, Bindura, and Mazowe, boys were involved in alluvial gold panning. In other areas, children panned for alluvial gold and used dangerous chemicals, including mercury, in purification processes. Most of these children worked for themselves, a family member, or someone in the community.

Some employers did not pay wages to child domestic workers, claiming that they were assisting a child from a rural home by providing housing and board. In addition some employers paid the parents for the child's work. Relatives often took AIDS-orphaned children into their homes but used them as domestics without pay.

The Department of Social Welfare in the Ministry of Labor and Social Welfare is responsible for enforcing child labor laws, but the department lacked personnel to carry out inspections or other monitoring. In 2007 the ministry signed a memorandum of understanding with the ILO to collaborate on a multiphase program for the elimination of the worst forms of child labor. The program was expected to address child labor issues and the implementation of ILO Convention 182, including identifying the worst forms of child labor and implementing activities pertaining to the prevention of child labor and the protection of working children. In 2008 the Government and the ILO initiated a nationwide survey on the worst forms of child labor; the survey had not been released at year's end.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—There is no national minimum wage except for agricultural and domestic workers. The minimum wage did not provide a decent standard of living for a worker and family, and more than 85 percent of the population continued to live below the Government's poverty line. The Ministry of Labor and Social Welfare is responsible for enforcing the minimum wage; however, monitoring systems were ineffective, and many agricultural and domestic workers were remunerated below the minimum wage. In 2008 the ILO reported that four of five jobs in the country were in the informal sector, 78 percent of which were in agriculture. This trend continued during the year. These jobs generally provided extremely low cash income and poor working conditions and did not offer adequate worker protections.

The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. No worker is allowed to work more than 12 continuous hours; however, there was little or no enforcement, particularly in agricultural and domestic worker sectors. The law prescribes that workers receive not less than twice their standard remuneration for working on a public holiday. However, workers were unlikely to complain to authorities about violations due to fear of losing their jobs.

The public service commission sets conditions of employment in the public sector. Health and safety standards were determined on an industry-specific basis. The Government designated the Zimbabwe Occupational Safety Council, a quasi-governmental advisory body made up of six representatives each from the Government, employers, and trade unions, to regulate working conditions; however, budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council largely ineffective. Industries did not have the capacity to replace

or update nonfunctioning and archaic machinery, further aggravating workplace conditions. The National Social Security Administration (NSSA) continued to experience difficulty monitoring the thousands of work sites across the country; however, it closed shops and factories not in compliance. Economic hardship also resulted in factories shutting on their own or operating informally. The NSSA could not inspect the informal sector due to budget constraints. The NSSA reported in 2007 that a high turnover in staff meant that only 20 of 31 safety and health inspector positions were filled to monitor an estimated 14,000 registered factories. For the period May 2009 to May 2010, the ZCTU reported 44 workplace fatalities and 686 injuries, a significant decrease from 106 fatalities and 3,122 injuries over the same period in 2008-09. As of year's end, the Government had not taken action to address health risks in the workplace. Workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment, but in practice they risked the loss of their livelihood if they did.

Information on the treatment of foreign and migrant workers was not available. The Government considered many commercial farm workers to be foreigners because one or both parents were born in another country.

---



## EAST ASIA AND THE PACIFIC

### AUSTRALIA

Australia is a constitutional democracy with a federal parliamentary government. Its population was approximately 22.5 million. Citizens periodically choose their representatives in free and fair multiparty elections. On June 24, Julia Gillard replaced Kevin Rudd as leader of the governing Australian Labor Party (ALP) and as prime minister. In federal parliamentary elections held August 21, neither the ALP nor the opposition Liberal Party and National Party coalition won enough seats to form a government. Subsequently, the ALP secured the support of the Greens Party member of Parliament (MP) and three independent MPs to gain a majority of 76 seats in the 150-seat House of Representatives and formed a government with Gillard as prime minister. Security forces reported to civilian authorities.

Problems were reported in a few areas, including domestic violence against women and children, racially based attacks on foreign students, and societal discrimination against indigenous persons.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

In June the Queensland State Crime and Misconduct Commission released a report into authorities' investigation of the 2004 death of an indigenous citizen in police custody on Palm Island. The commission's report found that the initial police investigation and subsequent internal review of that investigation were flawed and recommended that six police officers involved in the investigations face disciplinary action. On November 23, the commission found insufficient evidence for additional charges against the officer linked to the death; he had been acquitted of manslaughter in 2007.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice. There were occasional reports that police and prison officials mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination by some police and prison custodians persisted.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted visits by independent human rights observers.

In December 2009 a prisoner at the Capricornia Correctional Center in Queensland State allegedly killed another prisoner. The trial for the alleged killer was pending at year's end.

Three suicides occurred in the Villawood immigration detention center in Sydney during the year (see section 2.d.).

In July the Western Australia State government provided compensation to the family of an Aboriginal elder who died in 2008 of heatstroke in a prison van, operated by a private security company, during a 220-mile drive to court to face a drunk-driving charge. No charges were filed against the two security guards involved. At year's end authorities were reviewing the case to determine whether to file charges against the security guards, the security company, and the Department of Correctional Services under the Occupational Safety and Health Act.

According to a December publication of the Australian Bureau of Statistics (ABS), as of June there were 29,700 prisoners in the country, including 2,228 female prisoners and 6,367 unsentenced prisoners. Unsentenced prisoners included pretrial de-

tainees, convicted prisoners awaiting sentencing, and persons awaiting deportation. No further breakdown was available.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to government-funded legal aid offices; federal, state, and territorial ombudsmen; and judicial authorities without censorship. Authorities investigated allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions. Both federal and state governments funded “juvenile diversion” programs to keep young persons out of the court and prison systems.

Federal, state, and territorial government ombudsmen can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders, addressing the status and circumstances of confinement of juvenile offenders, and improving pretrial detention, bail, and recordkeeping procedures.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the armed forces and police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Police officers may seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear; however, they also may arrest a person without a warrant if there are reasonable grounds to believe the person committed an offense. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest, and arrested persons must be brought before a magistrate for a bail hearing at the next sitting of the court. However, the law permits police to hold individuals in preventive detention for up to 24 hours without charge if a senior police official finds it is “reasonably necessary to prevent a terrorist act or preserve evidence of such an act.” Individuals may be detained for an additional 24 hours under court order.

Although the law states that the maximum investigation period for which a person may be held and questioned without charge is 24 hours (unless extended by court order), it also provided that this allowable time for questioning a suspect may be spread across an unspecified number of days (a concept known as “dead time”)—a provision criticized by human rights groups, the media, and the legal profession.

On November 15, Parliament passed the National Security Legislation Amendment Bill 2010, which includes new powers for police to enter premises without a warrant in emergency circumstances; addresses the “dead time” issue by establishing a seven-day limit on the amount of time a terrorism suspect can be held for questioning; expands counterterrorism laws to apply to those who incite violence on the basis of race, religion, ethnic origin, and political opinion; and extends the expiration period of regulations proscribing a terrorist organization from two to three years. It became law on November 24. Some of these provisions took effect in November and some in December.

The Parliamentary Joint Committee on Law Enforcement Bill 2010, passed on November 15 and enacted into law on November 24, created parliamentary oversight of both the Australian Federal Police Commission and the Australian Crime Commission.

A separate provision of law permits the attorney general to grant the Australian Security Intelligence Organization (ASIO) authority to detain a person for a continuous period of up to 168 hours in special circumstances, such as “reasonable grounds for believing that issuing the warrant to be requested will substantially assist the collection of intelligence that is important in relation to a terrorism offence.” However, ASIO has not used this authority.

The law permits a judge to authorize “control orders” on individuals suspected of involvement with terrorism-related activities. These orders may include a range of measures, such as monitoring of suspects and house arrest, and may be in effect for up to a year without the filing of criminal charges. If a control order is still warranted after one year, a new court order must be sought.

In March Parliament passed the Independent National Security Legislation Monitor Bill, which provides for the appointment of an independent monitor to help ensure that counterterrorism laws strike an appropriate balance between protecting the community and protecting human rights. The Government had not appointed a monitor by year’s end.

Bail generally is available to persons facing criminal charges unless the person is considered to be a flight risk or is charged with an offense carrying a penalty of

12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees. Government-provided attorneys are available to provide legal advice to detainees who cannot afford counsel.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In the state district and county courts and the state and territorial supreme courts, there generally are a judge and jury for serious offenses. The judge conducts the trial, and the jury decides on the facts and the verdict. Defendants have the right to an attorney, and government-funded attorneys are available to low-income persons. The defendant's attorney can question witnesses, present evidence on the defendant's behalf, and access relevant government-held evidence. Defendants enjoy the presumption of innocence and have the right to appeal the court's decision or the sentence imposed. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There is also an administrative process at the state and federal levels to seek redress for alleged wrongs by government departments. Generally, administrative tribunals may only review a government decision if the decision is in a category specified under a law, regulation, or other legislative instrument as subject to a tribunal's review.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Although the constitution does not explicitly provide for freedom of speech or of the press, the High Court has held that a right to freedom of expression is implied in the constitution, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government routinely monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Internet access was widely available to and used by citizens. In June 2009 the ABS estimated that 72 percent of households had Internet access.

Law enforcement agencies require a warrant to intercept telecommunications, including Internet communications. In emergency situations the director general of the Australia Security Intelligence Organization may issue a warrant for this purpose without prior judicial authorization, but the attorney general must be informed.

The Australian Communications and Media Authority (ACMA) maintains a list of so-called "refused classification" Web site content, primarily pertaining to child pornography, sexual violence, and other activities illegal in the country, compiled as a result of a consumer complaints process. ACMA may issue a notice to the provider to remove domestically hosted "refused classification" material, or links to such material, that is the subject of such a complaint if an investigation concludes the complaint is justified. The list is made available to providers of filtering software.

On July 9, the Government announced suspension of plans to introduce mandatory Internet filtering, in order to review what should constitute "refused classification" material. However, three major telecommunications providers agreed to block voluntarily Web sites containing child pornography. Anticensorship groups had criticized the Government's mandatory filtering plan.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—While the rights of peaceful assembly and association are not codified in law, the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not address forced exile, but the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In law and practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government funded refugee resettlement services, such as language and employment programs.

Unauthorized arrivals seeking asylum are processed at the Christmas Island Detention Center, located off the country's northwest coast. Under a policy in effect since 2008, following health, identity, and security checks, unauthorized arrivals are to remain in immigration detention while their applications are being processed only if it is determined that they pose a threat to the community. However, the Australian Human Rights and Equal Opportunity Commission (HREOC) reported that in practice a "shortage of community-based accommodation appears to be preventing the release of some detainees from closed detention facilities into community detention." The HREOC also called for the end of the "two-tiered" system for unauthorized arrivals, whereby those who are intercepted on the mainland have more legal rights than those who arrive in a so-called "excised" offshore location (for example, Christmas Island). Human rights groups also criticized this system as discriminatory. On November 11, the High Court ruled, in a case brought by two asylum seekers held offshore, that the two were denied "procedural fairness" in the processing of their applications, and that all refugee-status assessments, regardless of the place or manner of the asylum seeker's arrival, are subject to the provisions of the Migration Act and the decisions of the country's courts, in the context of procedural fairness.

The Department of Immigration and Citizenship provided immigration advice and assistance to persons making an initial asylum claim or application for lawful residence. There is also a statutory obligation to facilitate access to legal representation for persons in immigration detention.

The Christmas Island Detention Center remained at or near capacity throughout the year; some asylum seekers were transferred to detention centers on the mainland due to the lack of adequate capacity at the Christmas Island center. As of October 22, there were 3,781 persons in immigration detention centers, including 1,754 detained on the mainland and 2,027 detained on Christmas Island. As of October 22, there were 772 children (aged under 18 years) in immigration detention. Of these, 11 were detained in the community under residence determinations, 654 were in alternative temporary detention in the community, 47 were in immigration residential housing, and 60 were in immigration transit accommodation. On October 18, the Government announced it would move hundreds of children and vulnerable families out of immigration detention facilities and into community-based accommodation by June 2011. By year's end it had begun to do so.

On September 1, 92 Afghan asylum seekers, many of whom had had their initial asylum claims denied, scaled the perimeter fence of the immigration detention center in Darwin and staged a peaceful protest outside the center seeking support for their claims. Police took the protesters into custody without incident, and four were hospitalized: two for heat exhaustion, one for chest pains, and one for a preexisting injury.

In September protests also occurred at the Villawood Detention Center in Sydney following the September 20 suicide of a Fijian detainee whose asylum claim had been denied. Two separate groups of protesters climbed onto the center's roof; both incidents were resolved peacefully. Protests broke out at the center again after an Iraqi detainee committed suicide on November 17. Several detainees climbed onto the center's roof, and some detainees set fires in the facility. These incidents also were resolved peacefully. In addition, groups of detainees at the Villawood and Christmas Island Detention Centers reportedly went on hunger strikes. Authorities opened investigations into both suicide cases. On December 8, a British detainee who had violated his visa conditions and was awaiting deportation was found dead at Villawood. That death also was ruled a suicide and was under investigation at year's end.

In September five men went on trial in Perth charged with rioting and weapons offenses allegedly committed during a violent incident at the Christmas Island Detention Center in November 2009 between groups of Afghan and Sri Lankan asylum seekers. The groups assaulted each other with tree branches, pool cues, and broom handles. On November 4, two of the men were found guilty and given six-month suspended jail sentences. Charges against the other three men were dropped.

Delays in processing asylum applications became a problem during the year, especially among a small number of asylum seekers who remained in long-term detention despite having exhausted the appeal process. They could not be returned to their home country, because they lacked travel documents or could not obtain necessary transit visas. The Commonwealth ombudsman reviews all cases of persons in detention for two years or more. As of October 22, there were 19 persons in immigration detention longer than two years.

Detention facilities were monitored by Parliament, the ombudsman, the UNHCR, and an advisory group comprising experts in immigration and humanitarian issues.

In response to a growing number of asylum seekers arriving by boat, the Government announced in April that the processing of new asylum applications for persons from Sri Lanka and Afghanistan would be suspended immediately for three and six months, respectively. In July the Government announced it would resume processing of applications from Sri Lanka, citing new UN guidelines pointing to an "improved human rights and security situation in Sri Lanka." In August the UN Committee on the Elimination of Racial Discrimination released its Concluding Observations of the Committee on the Elimination of Racial Discrimination for Australia. It expressed concerns with the two-tier processing arrangements for unauthorized arrivals and recommended lifting the suspension of processing of Afghan asylum seekers. In September the Government resumed processing of Afghan asylum seekers.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage and mandatory voting.

*Elections and Political Participation.*—In federal elections held August 21, the incumbent Australian Labor Party (ALP) government won 72 seats in the 150-seat lower house of Parliament; the opposition Liberal-National Party coalition won 73; and others won five. The ALP formed a new government with the support of one Greens Party and three independent MPs. Political parties operated without restriction or outside interference.

There are no legal impediments to public office for women or indigenous persons. Following the August elections, there were 64 women in the 226-seat federal Parliament (37 in the House of Representatives and 27 in the Senate). There were four female ministers in the 20-member federal cabinet, two women among the 10 ministers outside the cabinet, and six women among the 12 parliamentary secretaries. There were two women among the eight premiers and chief ministers of the six states and two territories. The prime minister and the governor-general were women, and there were three female judges on the seven-member High Court.

Indigenous persons generally were underrepresented among the political leadership. On August 21, an indigenous person was elected to the federal House of Representatives for the first time. There were no indigenous federal senators. There was one indigenous citizen in the Tasmania State parliament, one in the New South Wales State parliament, two in the Western Australia State parliament, and five in the Northern Territory legislative assembly. There was one Asian-Australian in the federal cabinet.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these provisions effectively. There were isolated reports of government corruption.

On December 16, a former Queensland State government minister, Gordon Nuttall, was sentenced to an additional five years' imprisonment for corruptly arranging government contracts for his friends. Nuttall previously was sentenced to a seven-year prison term for receiving illegal payments from businessmen.

Queensland, Western Australia, and New South Wales states have independent anticorruption bodies that investigate alleged government corruption, and every jurisdiction has an ombudsman who investigates and makes recommendations in response to complaints about government decisions. Public officials are subject to financial disclosure laws.

Federal, state, and territorial governments have freedom of information laws that provide the public with access to government information, subject to both an application and a processing fee. Government information may be exempted from disclosure to protect essential public interests or the private or business affairs of others. An applicant, including foreign media, may appeal a government decision to deny a request for information to the quasi-legal Administrative Appeals Tribunal, an executive body that reviews administrative decisions by government entities. An adverse Administrative Appeals Tribunal decision may be appealed to the Federal Court of Australia.

On May 31, the 2010 Australian Information Commissioner Act and Freedom of Information Amendment (Reform) Act came into effect. The former established a freedom of information commissioner, appointed on November 1, to promote and protect information rights. The latter established a framework for release of government information that included abolition of the federal government's freedom of information application fees and reduction of the period for gaining access to most Commonwealth records from 30 to 20 years.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The HREOC, which was adequately funded by the federal government, investigates complaints of discrimination or breaches of human rights under the federal laws that implement the country's human rights treaty obligations. It enjoyed a high level of public trust, and its reports were deemed credible and reported widely by the media and nongovernmental organizations (NGOs). On October 29, the HREOC released a report on the Christmas Island immigration detention center (see section 2.d.), which recommended that the Government stop holding detainees on the island and end the processing of unauthorized asylum seekers outside the provisions of the Migration Act. The Government did not take up these recommendations.

In addition to the HREOC at the federal level, each state and territory has a human rights ombudsman.

In April the Government released Australia's Human Rights Framework, its response to the September 2009 recommendations of the National Human Rights Consultation Committee established in 2008 to review how better to protect human rights in the country. As part of this framework, the Government committed to establishing a new Parliamentary Joint Committee on Human Rights; requiring that each new bill be accompanied by a statement of compatibility with international human rights obligations; combining federal antidiscrimination laws into a single act to make the system more user-friendly; and creating an annual NGO Human Rights Forum. However, the Government did not take up the commission's recommendation for introduction of a federal human rights act (bill of rights).

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Federal laws prohibit discrimination based on sex, disability, race, color, descent or national or ethnic origin, marital status, or age. An independent judiciary and a network of federal, state, and territorial equal opportunity offices effectively enforced the law.

*Women.*—The law criminalizes rape, including spousal rape, and the Government enforced the law effectively when cases were reported to the authorities. Penalties for rape are prescribed in the laws of the individual states and territories.

The law prohibits violence against women, including domestic abuse, and the Government enforced the law. Nonetheless, violence against women remained a problem, particularly in indigenous communities.

According to the ABS, approximately one in three women experienced physical violence during their lives, and almost one in five experienced sexual violence. Aboriginal women were 40 times more likely to be victims of family violence, compared with other women. Domestic violence was believed to be widely underreported in indigenous communities; among reasons cited for this were cultural factors and the isolation of many indigenous communities. The federal and state governments funded programs to combat domestic violence and support victims, including the funding of numerous women's shelters. Police were trained in responding to domestic violence.

The law prohibits sexual harassment. Complaints of such harassment can give rise to criminal proceedings or disciplinary action against the subject of the complaint and to compensation claims by the plaintiff.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. State and territorial governments provided comprehensive sex education and sexual health and family planning services. Women had access to contraception and skilled medical care, including essential prenatal, obstetric, and postpartum care, and women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV. According to indicators published by the Population Research Bureau, an estimated 85 percent of married women aged 15-49 used some form of contraception, and 75 percent used modern contraceptive methods. Indigenous persons in isolated communities had more difficulty accessing such services than the population as a whole. Cultural factors and language barriers also inhibited use of sexual health and family planning services by indigenous persons, and rates of sexually transmitted diseases and teenage pregnancy among the indigenous population were higher than among the general population. According to a UN report on Trends in Maternal Mortality, 1990-2008, the country's estimated maternal mortality ratio was eight deaths per 100,000 live births.

The independent federal sex discrimination commissioner, who is part of the HREOC, undertakes research, policy, and educational work designed to eliminate discrimination between men and women. There is a federal Office for Women, which focuses on reducing violence against women, promoting women's economic security, and enhancing the status of women.

The HREOC received 532 complaints alleging 968 grounds of discrimination under the Sex Discrimination Act from July 2009 through June 2010. Of these, 21 percent alleged discrimination based on pregnancy, and 21 percent alleged sexual harassment. The commission resolved 568 complaints during the period, 275 by conciliation.

Women have equal status under the law, and the law provides for pay equity. According to the ABS, the pay gap between male and female full-time workers was 11 percent. The law requires organizations with 100 or more employees to establish a workplace program to remove barriers to women entering and advancing in their organization.

There were highly organized and effective private and public women's rights organizations at the federal, state, and local levels.

In August the UN Committee on the Elimination of Discrimination against Women released its Concluding Observations of the Committee on the Elimination of Discrimination against Women for Australia, which praised the Government's approach in several areas. It also pointed to the disadvantaged status of indigenous women, urged the Government to pursue proposed reforms to the Sex Discrimination Act, and expressed concern at the persistence of violence against women.

*Children.*—Citizenship is not derived by birth in the country. Children are citizens if at least one parent was a citizen or permanent resident at the time of the child's birth. Children born in the country to parents who are not citizens or permanent residents acquire citizenship on their tenth birthday if they have lived most of their life in the country.

State and territorial child protection agencies investigate and institute prosecutions of persons for child neglect or abuse. All states and territories have laws or guidelines that require members of certain designated professions to report suspected child abuse or neglect. The federal government's role in child abuse prevention is limited to funding research, carrying out education campaigns, developing an action plan against the commercial exploitation of children, and funding community-based parenting programs.

According to the Australian Institute of Health and Welfare, there were 31,300 substantiated cases of child abuse and neglect from July 2009 to June 2010. These included physical abuse, sexual abuse, emotional abuse, and neglect.

There were reports of female genital mutilation performed on children in Muslim communities despite a law prohibiting the procedure. Hospitals conducted outreach on this matter.

There were some cases of children under age 18 engaged in prostitution. Some teenagers—primarily girls, but also some boys—were forced into prostitution by pimps. The law provides for penalties of up to 25 years' imprisonment for commercial sexual exploitation of children.

The law prohibits child sex tourism and related offenses for the country's residents and citizens overseas and provides for a maximum sentence of 17 years' imprisonment upon conviction. The act prohibits citizens and residents from engaging in, facilitating, or benefiting from sexual activity with children under 16 years old

overseas. During the year the Government continued its awareness campaign to deter child sex tourism through the distribution of materials to citizens and residents traveling overseas.

The legal age for consensual sex is 16 in the Australian Capital Territory, New South Wales, the Northern Territory, Victoria, and Western Australia, and 17 in Tasmania and South Australia. In Queensland the age of consent for anal sex is 18, while the age of consent for all other sexual behavior is 16. Maximum penalties for violations vary across jurisdictions. Defenses include reasonable grounds for believing that the alleged victim was above the legal age of consent and situations in which the two persons are close in age.

The Government has enacted laws aimed at restricting the trade in, and possession of, child pornography; the law allows suspected pedophiles to be tried in the country regardless of where the crime is committed. All states and territories criminalize the possession, production, and distribution of child pornography. Maximum penalties for these offenses range from four to 21 years' imprisonment. Federal laws criminalize using a "carriage service" (for example, the Internet) for the purpose of possessing, producing, and supplying child pornography. The maximum penalty for these offenses is 10 years' imprisonment and/or a fine of A\$275,000 (approximately \$275,000). The Australian Federal Police worked with its international partners to identify and charge persons involved in the online exploitation of children, and the Government increased the number of staff dedicated to online child protection.

The Government largely continued federal emergency intervention measures initiated by a previous government to combat child sexual abuse in 73 Northern Territory Aboriginal communities. The measures were taken following a 2007 government report documenting widespread instances of such abuse. These measures included emergency bans on alcohol and pornography sales, restrictions on the payment of welfare benefits in cash, linkage of support payments to school attendance, and medical examinations for all Northern Territory indigenous children under age 16. While public reaction to the intervention remained generally positive, some Aboriginal activists asserted that there was inadequate consultation and that the measures were racially discriminatory since nonindigenous persons were not subject to such restrictions. The UN special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, who toured Northern Territory indigenous communities in August 2009, echoed these concerns in a report released in February. Effective July 1, the Government extended restrictions on cash welfare payments to nonindigenous recipients in the Northern Territory.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport—4308.html>.

*Anti-Semitism.*—According to the 2006 census, the country's Jewish community numbered 88,832 persons. Civil-society organizations estimated the number in 2010 to be 120,000. In the 12-month period ending September 30, an annual report on anti-Semitism by the Executive Council of Australian Jewry, an NGO, recorded 394 anti-Semitic incidents, compared with 962 during the previous 12 months. The report noted that although there was a "dramatic decrease" in the total number of incidents reported, incidents involving harassment of Jewish persons on their way to or from a synagogue increased. Among the "most disturbing" incidents listed in the report were an assault on an Orthodox man on a train in Melbourne, the assault of synagogue staff in Sydney by a man who was later arrested and charged, and vandalism to synagogue buildings in Sydney and Melbourne.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment; education; access to premises; provision of goods, services (including health services), and facilities; accommodation; purchase of land; activities of clubs and associations; sport; and the administration of federal laws and programs. The Government effectively enforced the law.

The disability discrimination commissioner, who is part of the HREOC, promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The commissioner also promotes implementation and enforcement of state laws that require equal access to buildings and otherwise protect the rights of persons with disabilities, including ensuring equal access to communications and information. The law also provides for mediation by the HREOC of discrimination complaints, authorizes fines against violators, and awards damages to victims of discrimination.

The HREOC's July 2009 to June 2010 annual report stated that 1,057 complaints citing 2,354 alleged grounds of discrimination were filed under the Disability Discrimination Act during that period. Of these, 36 percent were employment related, and 37 percent involved the provision of goods and services. The HREOC resolved 978 complaints during the period, 486 of them through conciliation.

*National/Racial/Ethnic Minorities.*—According to the HREOC's July 2009 to June 2010 annual report, it received 550 complaints under the Racial Discrimination Act, citing 922 alleged grounds of discrimination. Of these, 44 percent involved employment, 18 percent involved provision of goods and services, and 19 percent alleged "racial hatred." Persons born outside the country filed 38 percent of the complaints, and Aboriginals and Torres Strait Islanders filed 39 percent. During this period 524 complaints were resolved, 245 through conciliation.

In August the UN Committee on the Elimination of Racial Discrimination released its Concluding Observations of the Committee on the Elimination of Racial Discrimination for Australia. It expressed concern at the absence of protection against racial discrimination in the constitution and racially motivated assaults of Indian students in the state of Victoria.

*Indigenous People.*—According to the 2006 census, Aboriginals and Torres Strait Islanders numbered approximately 517,200 persons, approximately 2.5 percent of the total population.

Indigenous ownership of land is predominately in non-urban areas; the land was previously government owned. The 1976 Federal Aboriginal Land Rights (Northern Territory) Act transferred almost 50 percent of the land in the Northern Territory to indigenous ownership. The National Native Title Tribunal resolves native land title applications through mediation and acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. In 2002 the High Court ruled that native title rights do not extend to mineral or petroleum resources and that, in cases where leaseholder rights and native title rights are in conflict, leaseholder rights prevail but do not extinguish native title rights. At year's end the Western Australia State government was continuing its efforts to negotiate a native title agreement with the Nyoogar people.

The A\$1.7 billion (approximately \$1.7 billion) Indigenous Land Corporation is a special account that provides a continuing source of funds for indigenous persons to purchase land for their use. It is separate from the National Native Title Tribunal and is not for payment of compensation to indigenous persons for loss of land or to titleholders for return of land to indigenous persons.

As part of the intervention to address child sexual abuse in Northern Territory indigenous communities (see section 6, Children), the Government took control of certain indigenous communities through five-year land leases. During the year Amnesty International raised concerns about reported delays in government payment of rent to the communities for those leases. As of May the Government stated it had made payments to 45 out of 64 communities; it stated it would pay rent to the Aboriginal corporations that hold the land titles in the remaining communities once they provided certain financial account information. In 2009 the Government warned it would permanently acquire some townships in Alice Springs unless the townships relinquished control of services and signed 40-year leases with the Government; the leases subsequently were signed. (These townships are not Aboriginal land but special-purpose leases granted to local indigenous associations by the Northern Territory government.)

The Government expressed a commitment to "closing the gap" on indigenous disadvantage, and since 2008 the prime minister has reported to Parliament on this at the beginning of each year. In July 2009 the Productivity Commission reported improvements among the indigenous population in key indicators, such as income, employment, home ownership, infant mortality, and completion of secondary school. However, significant gaps remained between indigenous and nonindigenous citizens in these and other key areas. According to the ABS, during the year indigenous adults were 14 times as likely as nonindigenous adults to be imprisoned and comprised 26 percent of the prison population. According to the Australian Institute of Health and Welfare, life expectancy for indigenous persons was 67 years for men and 73 for women, compared with 77 and 82 respectively for the nonindigenous.

In March the UN special rapporteur on indigenous issues reported on the human rights of indigenous persons following an 11-day visit in August 2009, which included a meeting with the indigenous affairs minister. While praising efforts to address indigenous disadvantage and moves to establish a national indigenous representative body, the report asserted that some aspects of the Northern Territory intervention were incompatible with the country's international obligations and urged the Government to make the intervention compliant with the Racial Discrimi-

nation Act. In June Parliament passed legislation restoring the Racial Discrimination Act—suspended in the Northern Territory in August 2007 in connection with the intervention—effective in December.

In August the UN Committee on the Elimination of Racial Discrimination, in its Concluding Observations of the Committee on the Elimination of Racial Discrimination for Australia, welcomed the Government's February 2008 national apology to indigenous people, its support for the UN Declaration on the Rights of Indigenous Peoples, and its commitment to "close the gap" in regard to indigenous disadvantage. It encouraged the country to increase funding for indigenous legal aid, and expressed concern at indigenous deaths in custody and the absence of "appropriate compensation payment schemes" for those forcibly removed from their parents in the past (known as the "stolen generations").

On May 2, a new national representative body for Aboriginals and Torres Strait Islanders, the National Congress of Australia's First Peoples, was formally established.

The HREOC has an Aboriginal and Torres Strait Islander social justice commissioner.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—In 2008 and 2009, the Government amended 84 laws to eliminate discrimination against same-sex couples and their children in a wide range of areas, including taxes, child support, immigration, pensions, and social security.

Gay pride marches took place in major cities during the year; such marches were authorized by the Government, and police provided sufficient protection to participants.

In August a man was charged with assault occasioning bodily harm in relation to an attack on a gay rights activist in Sydney. The victim stated that the accused had made violent homophobic comments toward him. The case was pending at year's end. On December 10, three teenagers were sentenced to prison terms for the January assault of a gay couple in the Queensland town of Maryborough.

The HREOC received 19 complaints of employment discrimination based on sexual orientation from July 2009 through June 2010.

*Other Societal Violence or Discrimination.*—Federal and various state laws prohibit discrimination on the grounds of HIV-positive status. The HREOC reviews complaints of discrimination on the grounds of HIV/AIDS status under the category of disability-related complaints, but a specific breakdown of HIV/AIDS-related cases was not available. There were no reports of violence against persons based on HIV/AIDS status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers, including public servants, the right of association domestically and internationally and protection against antiunion discrimination, and workers exercised these rights in practice. An ABS survey released in May indicated that in 2009 union membership was 20 percent of the total workforce and 14 percent of the private-sector workforce—virtually identical to 2008 percentages. The ABS estimated union membership in the agricultural sector at 4 percent. Union membership was estimated at 46 percent in the public sector, 13 percent in retail, 22 percent in mining, 25 percent in manufacturing, and 20 percent in construction. Unions carried out their functions free from government or political control. Almost all unions were affiliated with the Australian Council of Trade Unions (ACTU).

In March 2009 Parliament passed the Fair Work Act, the major component of the Government's workplace reforms, which replaced the Workplace Relations Act (WRA) as the country's basic labor law for private-sector workers. The Fair Work Act became fully effective in 2010.

Under the law workers are free to join or decline to join industrial associations, and discrimination against individuals for membership or nonmembership in a union is prohibited. In New South Wales (NSW), registration of a union may be cancelled in case of a strike having a substantially adverse effect on public service or defying an order of the NSW Industrial Relations Commission. Nationally, employers and other unions have the right to challenge changes to union "eligibility rules," which essentially outline the types of employees the union may represent.

Unions and the International Confederation of Trade Unions continued to claim that the Australian Building and Construction Commission (ABCC), which has special powers to investigate industrial activity in that sector, discriminated against unions. The ABCC has the authority to interview individual workers privately in connection with its investigations, and workers may be prosecuted for refusing to comply; penalties range from a fine of up to A\$22,000 (approximately \$22,000) to

a prison term of up to six months. On November 24, union member Ark Tribe was found not guilty of failing to attend an ABCC interview in 2008.

The law provides for the right to strike but confines strikes to the period when unions are negotiating a new enterprise agreement and specifies that strikes must concern matters under negotiation. This is known as “protected action.” Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action. The law subjects strikers to penalties for taking industrial action during the life of an agreement and contains secondary-boycott provisions. Industrial action must be authorized by a secret ballot of employees; unions complained that this requirement was unduly time consuming and expensive to implement. The law permits the Government to stop strikes if they are judged to have an “adverse effect” on the employer or damage third parties, but this provision was not used during the year. Strikes in essential services—such as law enforcement, air-traffic control, and sanitation—are regulated by federal and state laws.

According to the ABS, during the 12-month period ending in September, 221 industrial disputes began, 19 more than during the previous 12 months. (Industrial disputes include both strikes and employer-initiated work stoppages, such as lockouts.) During the same period, total workdays lost due to industrial disputes rose from 119,100 to 144,100.

*b. The Right to Organize and Bargain Collectively.*—Federal, state, and territorial laws provide workers with the right to organize and bargain collectively, and workers exercised this right in practice.

Under the WRA, negotiation of contracts covering wages and working conditions shifted further from a centralized awards system to enterprise-level agreements certified by the Australian Industrial Relations Commission. The WRA also provided for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers, which were subject to fewer government regulations than awards or enterprise bargaining agreements. Transitional amendments to the WRA in 2008 abolished the signing of new AWAs and established a new “no disadvantage” test for future workplace agreements designed to ensure that they contain basic worker protections. Existing AWAs may continue until their expiration. In addition the 2008 law directed the Australian Industrial Relations Committee to create a national safety net of minimum employment standards and industrial awards, which came into effect in 2010.

The Fair Work Act requires employers to act in “good faith” when a majority of employees want a collective agreement; gives unions greater ability to access work-sites; enables low-paid workers to engage in multi-employer “good faith bargaining”; reduces the list of “prohibited content” issues that may not be included in a collective agreement; and gives stronger intervention powers to a new independent industrial relations umpire, Fair Work Australia, which assumed the functions of the Australia Industrial Relations Commission and other workplace bodies during the year. In July 2009 new provisions took effect providing unfair dismissal rights—previously removed for those in businesses with 100 or fewer employees under 2005 amendments to the WRA known as WorkChoices—to employees in all businesses. To be eligible an employee must have served with the employer at least six months (one year in the case of an employer with fewer than 15 employees).

Under the Fair Work Act, union officials have the right to enter workplaces if they hold right-of-entry permits granted by Fair Work Australia. Written notice is generally required to enter a workplace and should be provided no less than 24 hours and no more than 14 days before the proposed visit. A permit holder may enter premises to hold discussions with one or more employees. Eligibility to enter premises is not dependent on whether a union is party to an award or enterprise agreement, but rather on whether a union covers the work of a particular employee.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law explicitly prohibits forced or compulsory labor; however, trafficking in persons was a limited problem.

Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, enforced by state educational authorities, effectively prevented most children from joining the work force full time until they were 15 or 16 years of age. Federal, state, and territorial governments monitored and enforced a network of laws, which varied among jurisdictions, governing the minimum ages for leaving school, claiming unemployment benefits, and engaging in specified occupations. The ACTU also monitored adherence to these laws.

*e. Acceptable Conditions of Work.*—Although a formal minimum wage exists, most workers received higher wages through enterprise agreements or individual contracts. There are above-minimum wage classifications for individual trades and professions. On June 29, Fair Work Australia, which determines minimum wage increases, increased the federal minimum award wage from A\$543.78 (approximately \$544) per week to A\$569.90 (approximately \$570), which provided a decent standard of living for a worker and family. The law makes casual and part-time workers, contractors, and the self-employed eligible for payment of up to 18 weeks of the national minimum wage. In June Parliament passed legislation establishing a taxpayer-funded, paid parental leave benefit, to go into effect in January 2011.

The Fair Work Ombudsman provides employers and employees advice about their rights and has authority to investigate employers alleged to have exploited employees unlawfully.

Under the Fair Work Act, maximum weekly hours are 38 plus “reasonable” additional hours. Industry standards or awards mandate rest periods and pay for overtime.

Over the past two decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. The ABS reported that, as of July, approximately 3.37 million persons (30 percent of the workforce) were employed as “part-time” workers, of whom 70 percent were women. Federal or state occupational health and safety laws apply to every workplace. Federal and state laws provide employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Workers exercised these rights in practice and have recourse to state health and safety commissions, which investigate complaints and order remedial action.

Labor law protects citizens, permanent residents, and migrant workers. Migrant worker visas require that employers respect these protections and provide bonds to cover health insurance, worker’s compensation insurance, unemployment insurance, and other benefits. There were some complaints, although to a lesser extent than in previous years, that some individuals on so-called “457” employer-sponsored, skilled-worker visas were being underpaid and used as a less expensive substitute for Australian workers. During 2009, in response to such complaints, the Government tightened eligibility requirements for “457” visas, including increasing minimum salary levels to “market rates” and increasing English-language requirements. There were no reports of worker rights abuses in the country’s three inhabited dependent territories of Christmas Island, Cocos (Keeling) Island, and Norfolk Island.

---

## BURNEI DARUSSALAM

Brunei Darussalam is a sultanate ruled by the same family for more than 600 years, and it has a population of approximately 428,000. Sultan Haji Hassanal Bolkiah governed under emergency powers that place few limits on his power. The Legislative Council, made up of appointed, indirectly elected, and ex-officio members, with a limited role in recommending and approving legislation, met during the year. Security forces reported to the sultan.

The following human rights problems were reported: inability of citizens to change their government; limits on freedom of speech, press, assembly, and association; restrictions on religious freedom; discrimination against women; trafficking in persons; restricted labor rights; and exploitation of foreign workers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 criminal offenses, and as of October official statistics reported 53 persons caned, most commonly for drug-related offenses and immigration violations. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

At year's end the trial continued of four police officers accused in January 2009 of "culpable homicide not amounting to murder and voluntarily causing grievous harm" to Abdul Rahim Abdullah Tan, who died in police custody.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards. There were 374 convicted persons and 22 persons awaiting trial. Jerudong Prison holds "serious offenders," and, separately, approximately 40 female prisoners. Juveniles are not subject to imprisonment.

Approximately 30 percent of the inmate population consisted of foreigners of various religions. Inmates were permitted to practice their religions. A government-appointed committee composed of retired government officials monitored prison conditions and investigated complaints of inhumane conditions.

During the year there were no reports that human rights monitors requested prison visits; foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

The prison has an ombudsmen system in place. "Visiting justices," ranging from prominent businessmen and community leaders to representatives of public institutions, visited prisons once a month.

*d. Arbitrary Arrest or Detention.*—The law provides for prompt judicial determination regarding the validity of an arrest, and in practice the Government generally observed this provision; however, it could be superseded through the invocation of emergency powers.

*Role of the Police and Security Apparatus.*—The police force and Internal Security Department (ISD) are under the direct control of the Prime Minister's Office. Civilian authorities maintained effective control over the police force and ISD, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—A magistrate must endorse a warrant for arrest, except when police are unable to obtain an endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests without warrants of persons caught in the act of committing a crime. After arrest police may detain a suspect up to 48 hours before bringing the individual before a magistrate. There were no reports that persons were detained without a hearing.

The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable two-year periods. The Government regularly convenes an independent advisory board consisting of executive and judicial branch officials to review individual ISA detentions and recommend whether they should be renewed for an additional two years.

According to reports, detainees were promptly informed of the charges against them. Information on detainees was made public only after their release.

The criminal procedure code allows for bail except in cases indicated as "discretionary" by law. Detainees generally had prompt access to lawyers and family visitations; however, police may deny access in exceptional cases, such as probable cause to suspect witness tampering. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. In noncapital cases indigent defendants may act as their own lawyers in court.

*e. Denial of Fair Public Trial.*—The law does not provide specifically for an independent judiciary, but the courts appeared to act independently, and there were no known instances of government interference with the judiciary. All higher-court judges are appointed by the sultan and serve at his pleasure.

*Trial Procedures.*—Secular law, based on English common law, provides all citizens with a fair and efficient judicial process. Defendants in criminal proceedings are presumed innocent. Most criminal cases are conducted in public trials by a judge or panel of judges. Procedural safeguards include the right to defense counsel, an interpreter, and a speedy trial, as well as the right to confront accusers and to avoid self-incrimination. Lawyers have access to the accused once charges are filed through the trial process, but not during initial questioning. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal. ISA detainees were denied the right to legal counsel and were not presumed to be innocent.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no specific provision of law to bring civil suit for human rights violations. In customary practice individuals may present written complaints about rights violations to the sultan directly for review.

Such complaints typically were handled privately, and there were no reports of civil remedies handled in this manner during the year. Individual government servants who act outside their authority resulting in civil wrongdoing may be subject to fines or prosecution. Civil courts were generally unbiased.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law permits government intrusion into the privacy of individual persons, families, and homes. Sharia (Islamic law) permits enforcement of khalwat, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. During the year 51 khalwat cases were reported.

The Government monitored citizens' private e-mail, cell phone messaging, and Internet chat room exchanges believed to be subversive. An informant system was used as part of the Government's internal security apparatus to monitor suspected dissidents.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Under the emergency powers, the Government significantly restricted freedom of speech and of the press. Members of the Legislative Council are allowed to "speak their opinions freely," but they are prohibited from using language or exhibiting behavior deemed "irresponsible, derogatory, scandalous, or injurious."

Under the Seditious Act, it is an offense to challenge in any way the authority of the sultan or members of the royal family. The act also makes it an offense to challenge "the standing or prominence of the national philosophy, the Malay Muslim Monarchy concept." This ideology permeates the country's life and government administration, promoting Islam as the state religion and monarchical rule as the sole acceptable governing system and upholding the rights and privileges of the Brunei Malay race.

The act provides for prosecution of newspaper publishers, proprietors, or editors who publish anything allegedly having a seditious intent. Publication may be suspended for up to one year, and publishers, printers, or editors can be prohibited from publishing, writing, or editing any other newspaper. Printing equipment can also be seized. Persons convicted under the act face fines of up to BN\$5,000 (approximately \$3,500) and jail terms of up to three years.

The law requires local newspapers to obtain operating licenses and prior government approval of foreign editorial staff, journalists, and printers. The law also gives the Government the right to bar distribution of foreign publications and requires distributors of foreign publications to obtain a government permit. The law allows the Government to close a newspaper without giving prior notice or showing cause. Journalists deemed to have published or written "false and malicious" reports may be subjected to fines or prison sentences.

Foreign newspapers were routinely available, although the Government must approve their distribution. Internet versions of foreign media were routinely available.

The Government owned the only television station. Three Malaysian television stations were also available, along with two satellite television services. Some content was subject to censorship based on theme, but such censorship was not consistent.

The country's major newspapers practiced self-censorship. However, letters to the editor often included comments critical of the Government's handling of certain social, economic, and environmental matters. On occasion the Government responded to public opinion on topics concerning social or environmental problems and the delay of public services.

*Internet Freedom.*—According to International Telecommunication Union statistics for 2009, approximately 81 percent of the country's inhabitants used the Internet. The Government monitored private e-mail and Internet chat room exchanges of citizens believed to be subversive. There was anecdotal information that fear of government surveillance reduced the number of visitors to Internet forums. The primary Internet service provider was state owned.

*Academic Freedom and Cultural Events.*—The Government generally respected academic freedom; however, some researchers chose to publish under a pseudonym from overseas when they perceived that subject matter would not be well received.

A censorship board made up of officials from the Prime Minister's Office and the Ministries of Home Affairs and Religious Affairs determines the suitability of concerts, movies, cultural shows, and other public performances. Religious authorities also review publications to ensure compliance with social norms.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Under the emergency powers, the Government significantly restricted the right to assemble. According to the Societies Order, public gatherings of 10 or more persons re-

quire a government permit, and police have the authority to stop an unofficial assembly of five or more persons deemed likely to cause a disturbance of the peace.

*Freedom of Association.*—The law requires formal groups, including religious, social, or cultural, to register with the Registrar of Societies and provide regular reports on membership and finances. The Government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibited Muslims from joining these organizations.

The National Development Party maintained that government restrictions limited the party's growth.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad. In September 2009 the Government introduced guidelines stating that no government officials may travel alone and that nonrelated male and female officers may not travel together. The Government restricted the movement of former political prisoners during the year following their release.

By law the sultan may forcibly exile, permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. However, there have been no cases of banishment since 1984.

*Protection of Refugees.*—The country is not a party to the Convention relating to the Status of Refugees and its 1967 Protocol. The country's laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. In practice the Government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, as in past years, there were no such expulsions or returns during the year.

*Stateless Persons.*—The law, administered on a case-by-case basis, allows citizenship to permanent residents who have contributed to the country's economic growth, to women married to citizens for two years, to women married to permanent residents for five years, and to children of permanent resident fathers after the age of two years and six months. According to unofficial sources, there were approximately 20,000 "stateless" persons in the country, including persons born and raised in the country who were not automatically accorded citizenship and its attendant rights but were granted permanent resident status. The births of members of the Dusun and Iban indigenous groups living in rural areas often were not registered. Coupled with illiteracy, this made it difficult to issue certificates of identity to such persons. Government policy mandates that a child of stateless parents born in the country must apply for a special pass. Individuals who do not have a certificate of identity or special pass do not enjoy full privileges of citizenship, do not have the right to own land, and are not entitled to full subsidized health care or higher education. In July 2009 the Land Code Strata Act, which allows permanent residents to own unit/s of multistory property for a maximum of 99 years, came into force. In lieu of passports, the Government issued certificates of identity to allow these persons international travel and reentry; foreign visas may be entered in the certificates.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens do not have the right to change their government peacefully. The same family has ruled the country for more than 600 years. In 1962 the then sultan invoked an article of the constitution that allowed him to assume emergency powers for two years. These powers have been renewed every two years since 1962. The state of emergency places few limits on the sultan's power. The sultan also serves as prime minister, minister of defense, minister of finance, chancellor of the national university, inspector general of the Royal Brunei Police Force, and head of the Islamic faith.

*Elections and Political Participation.*—Political authority and control rested entirely with the sultan. A 29-person legislative council (LegCo), which has no independent power and was composed primarily of appointed members, provides a forum for public discussion of proposed government programs as well as administrative de-

iciencies. It convenes once a year. Council members may be disqualified from service on the basis of various offenses, including disloyalty to the sultan.

Persons 18 years of age and above may vote by secret ballot in village consultative council elections, which are based on a traditional system of village chiefs. Candidates must be Muslim, be approved by the Government, and be citizens or permanent residents for more than 15 years. The councils communicate constituent wishes through a variety of channels, including periodic meetings chaired by the minister of home affairs. The Government also meets with mukim (collections of villages) representatives to allow for airing of local grievances and concerns.

The Brunei National Development Party was the country's only registered political party. The party pledged to support the sultan and the Government. Although the party criticized administrative deficiencies, its few activities received limited publicity, and it was hindered by membership restrictions.

Individuals sought to express their views or influence government decisions and policies by posting messages to Internet discussion boards, writing letters to local newspapers, and petitioning the sultan or handing him letters when he appeared in public.

On May 29, the sultan appointed the first female cabinet member, Datin Adina, as deputy minister for culture, youth, and sports. Two other women held ministerial rank—the sultan's sister, Princess Masna, ambassador-at-large in the Ministry of Foreign Affairs and Trade; and Datin Hayati, appointed in August 2009, the first female attorney general. There were three female permanent secretaries—in the Ministry of Education, Ministry of Defense, and the Ministry of Foreign Affairs and Trade. There were no female members appointed in the LegCo.

Ethnic Chinese held one cabinet-level post and two LegCo positions.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively; however, officials sometimes engaged in corrupt practices with impunity.

In accordance with its zero tolerance policy for corrupt practices, the Government successfully prosecuted a number of low-level officials. On February 18, a former government minister accused of corruption in awarding government projects was sentenced to seven years in prison and ordered to pay 90 percent of the prosecution costs, which amounted to approximately \$403,000 and restitution to the Government. The total amount he received in gratuities was BN\$4.2 million (\$3.2 million). The former minister's alleged partner was sentenced in absentia to seven years in prison, and an arrest warrant was issued. If captured, he would also be liable for 10 percent of the prosecution costs, amounting to HK\$347,000 (\$44,700).

The police and the ISD were considered free of major corrupt practices, although there were reports of petty corruption.

The Anticorruption Bureau, under the purview of the Prime Minister's Office, reports directly to the sultan.

Government officials were not subject to financial disclosure reports.

The law provides for public access to government information. During the year the LegCo approved, and the Government published, a summary of the budget for the fiscal year. However, the Government continued to restrict and classify as confidential some information on the financial dealings of the Government and the royal family. The law provides that no court can compel any person to give evidence relating to unpublished government records unless the relevant ministry's permanent secretary gives consent.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Few civil society organizations dealt directly with human rights. A nongovernmental organization (NGO) seeking to operate in the country is required to apply for permission under the Companies Act and provide a list of members. The Government may suspend the activities of a registered NGO if it deems such an act in the public interest. In the past the Consumers' Association of Brunei attempted to address human rights, but the Government impeded these attempts. However, the association remained active in building relationships with other NGOs in the region dealing with consumer protection issues. There were NGOs that dealt with such issues as assisting victims of domestic violence.

The Government was not known to have interacted with international human rights NGOs.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, or social status.

*Women.*—The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not rape. Protections against sexual assault by a spouse are provided under the amended Islamic Family Law Order 2010 and Married Women Act Order 2010, and the penalty for breaching a protection order is a fine not exceeding BN\$2,000 (\$1,538) or imprisonment not exceeding six months. During the year 23 rape cases were reported; at year's end police were investigating 11 and had forwarded 10 to the Attorney General Chambers.

There is no specific domestic violence law, but arrests have been made in domestic violence cases under the Women and Girls Protection Act. The police investigate domestic violence only in response to a report by a victim. The police were generally responsive in the investigation of such cases. During the year there were a total of 62 cases of spousal dispute abuse reported; at year's end 55 cases were under investigation, and eight had been forwarded to the Attorney General Chambers. The criminal penalty for a minor domestic assault is one to two weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer prison sentence.

A special unit staffed by female officers existed within the police department to investigate domestic abuse and child abuse complaints. A hotline was available for persons to report domestic violence. The Ministry of Culture, Youth, and Sport's Department of Community Development provided counseling for women and their spouses. Based on individual circumstances, some female and minor victims were placed in protective custody while waiting for their cases to be brought to court.

Islamic courts staffed by male and female officials offered counseling to married couples in domestic violence cases. Officials did not encourage wives to reconcile with flagrantly abusive spouses, and Islamic courts recognized assault as grounds for divorce.

The law prohibits sexual harassment and stipulates that whoever assaults or uses criminal force, intending thereby to outrage or knowing it is likely to outrage the modesty of a person, shall be punished with imprisonment for as much as five years and caning.

Couples and individuals have the right to decide the number, spacing, and timing of their children and have access to contraceptive devices and methods through the Government and private clinics. According to information gathered by the UN, in 2008 the maternal mortality rate was an estimated 21 deaths per 100,000 live births. Citizens enjoy free medical and health care, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. Women had equal access to diagnostic and treatment facilities for sexually transmitted diseases. Women had equal access to HIV treatment and counseling, as well as follow-up treatment.

In accordance with the Government's interpretation of Qur'anic precepts, Muslim women have rights similar to those of Muslim men in areas such as divorce and child custody. Islamic law requires that males receive twice the inheritance of women. Civil law permits female citizens to pass their nationality on to their children and to own property and other assets, including business properties.

Unlike in previous years, women with permanent positions in the Government could apply for travel allowances for their children; however, they could not do so for their husbands working in the private sector. With this exception, they received the same allowance privileges as their college-educated counterparts. According to government statistics, women made up 57 percent of the civil service force and held 28 percent of senior management posts. Women are not discriminated against in access to employment and business.

*Children.*—Birth registration is universal except for Dusun and Iban indigenous persons in rural areas (see section 2.d.). Citizenship is derived through one's parents rather than through birth within the country's territory. Parents with stateless status are required to apply for a special pass for a child born in the country; failure to register a child made it difficult to enroll the child in school.

By law sexual intercourse with a female under 14 years of age constitutes rape and is punishable by imprisonment for not less than eight years and not more than 30 years and not less than 12 strokes of the cane. The law protects women, girls, and boys from exploitation through prostitution and "other immoral purposes," including pornography.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>

as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law does not mandate accessibility or other assistance for persons with disabilities. The Government provided educational services for children with disabilities, but the level of services available was uneven. The Department for Community Development conducted several programs targeted at promoting awareness of the needs of persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no reports of societal violence or discrimination based on sexual orientation. The law makes it a criminal offense to have "sexual intercourse against the order of nature." There were no reports of official discrimination based on sexual orientation in employment, housing, access to education, or health care.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Under the Trade Unions Act, unions are legal and must be registered with the Government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions of their choice without previous authorization or excessive requirements. Foreign workers are prohibited from forming or joining trade unions. In practice trade union activity was minimal, and the Government discouraged union formation. The three registered trade unions were in the oil sector and had a total membership of less than 5 percent of the industry's total work force.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Department of Labor.

The Government prohibits strikes, and the law makes no explicit provision allowing the right to strike.

*b. The Right to Organize and Bargain Collectively.*—The law prohibits employers from discriminating against workers in connection with union activities but provides no legal framework for collective bargaining. There was very little union activity in the country, and employer discrimination against union members was not reported. Employers in the industrial sector did not encourage foreign workers to form unions.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). Labor laws are fully applicable in the MEZ.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no credible reports of forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Various laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission is required for those under 18. Female workers under 18 may not work at night or on offshore oil platforms. The Department of Labor, which is part of the Ministry of Home Affairs, effectively enforced laws related to the employment of children. There were no reports of violations of child labor laws.

*e. Acceptable Conditions of Work.*—Most employed citizens commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. Overtime is required for work in excess of 48 hours per week, and double time is required for work performed on legal holidays, but this frequently was not observed in practice.

Occupational health and safety standards were established by government regulations. The Labor Department inspected working conditions on a routine basis and in response to complaints. It generally enforced labor regulations effectively, but enforcement in the unskilled labor sector was lax, especially for foreign laborers at construction sites, where pay arrearage and inadequate safety and living conditions were reported. It may close a workplace where health, safety, or working conditions are unsatisfactory. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but in general this did not occur.

According to government data, 87,867 foreigners worked in the country; such workers are excluded from most labor law protections, including freedom of association. During the year the minister responsible for labor was given additional author-

ity to protect their rights, and the Government usually was quick to investigate and impose fines and punishment. Employers found guilty of abuses typically were fined or sentenced to prison and ordered to compensate the victim.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hotline for worker complaints. Government mediation continued to be the most common means used to resolve labor disputes. Abusive employers faced criminal and civil penalties. When grievances could not be resolved, repatriation of foreign workers was at the expense of the employer, and all outstanding wages were ordered paid. The majority of abuse cases were settled out of court by the employer paying financial compensation to the worker.

Foreign migrant workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. The Government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries; nevertheless, foreign workers continued to pay high fees to manpower agents to obtain work in the country.

There were credible reports of domestic and construction workers from neighboring countries paying the equivalent of two months' wages to fictitious employers to obtain labor passes and work freelance on the local economy. There were also credible reports of citizens from South Asian countries working for little or no pay for up to two years to pay back foreign agents for securing jobs for them.

During the year there were 10 cases reported of nonpayment of salaries. Eight of the complaints were made by domestic workers and were referred to the Attorney General Chambers. Two cases involved complaints made by workers in the formal sector; at year's end both were under investigation.

The Government also prosecuted employers who employed irregular immigrants or did not process workers' documents, rendering them irregular.

Immigration law allows for prison sentences and caning for workers who overstay their work permits and for irregular immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions were for those who overstayed their work permits, many workers stayed in an irregular status due to their former employers' negligence.

---

## BURMA

Burma, with an estimated population of 56 million, is ruled by a highly authoritarian military regime dominated by the majority ethnic Burman group. The State Peace and Development Council (SPDC), led by Senior General Than Shwe, was the country's de facto government. Military officers wielded the ultimate authority at each level of government. In 1990 prodemocracy parties won more than 80 percent of the seats in a general parliamentary election, but the regime continued to ignore the results. In 2008 the regime held a referendum on its draft constitution and declared the constitution had been approved by 92.48 percent of voters, a figure no independent observers believed was valid. The Government held parliamentary elections on November 7, the first elections since 1990. The Government-backed Union Solidarity and Development Party (USDP) claimed an overwhelming majority of seats in the national parliament and state/regional assemblies. Democracy activists and the international community widely criticized both the constitutional referendum and the elections process as seriously flawed. Parliament was scheduled to convene on January 31, 2011, with a special joint session of the upper and lower houses to follow within 15 days. The constitution was to go into effect when that joint session was convened. The constitution specifies that the SPDC will continue to rule until a new government is formed.

The regime continued to abridge the right of citizens to change their government and committed other severe human rights abuses. Government security forces were responsible for extrajudicial killings, custodial deaths, disappearances, rape, and torture. The Government detained civic activists indefinitely and without charges. In addition regime-sponsored mass-member organizations engaged in harassment and abuse of human rights and prodemocracy activists. The Government abused prisoners and detainees, held persons in harsh and life-threatening conditions, routinely used incommunicado detention, and imprisoned citizens arbitrarily for political motives. The army continued its attacks on ethnic minority villagers, resulting in deaths, forced relocation, and other serious abuses. The Government routinely infringed on citizens' privacy and restricted freedom of speech, press, assembly, association, religion, and movement. The Government did not allow domestic human

rights nongovernmental organizations (NGOs) to function independently, and international NGOs encountered a difficult environment. Violence and societal discrimination against women continued, as did recruitment of child soldiers, discrimination against ethnic minorities, and trafficking in persons, particularly of women and girls. Workers' rights remained restricted. Forced labor, including that of children, also persisted. The Government took no significant actions to prosecute or punish those responsible for human rights abuses.

Ethnic armed groups and some cease-fire groups (armed ethnic guerillas) allegedly committed human rights abuses, including forced labor and recruitment of child soldiers.

The Government released Aung San Suu Kyi—general secretary of the National League for Democracy (NLD)—from house arrest on November 13, the date her sentence (for allegedly having violated the terms of her confinement) expired.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports the Government or its agents committed arbitrary or unlawful killings. The Government rarely punished officials responsible for the deaths.

Government soldiers reportedly killed several individuals in Rakhine State. On February 22, two soldiers beat and killed Aung Cho after a shop owner accused him of stealing. On March 12, seven government soldiers reportedly killed Kyaw Win Maung after a minor street quarrel. On March 21, government soldiers allegedly killed Wai Phyo Aung after he deserted his army battalion two days earlier. Wai Phyo Aung's parents received no compensation, and no investigatory action was reported.

In May government troops reportedly killed two Rohingya attempting to cross the Naff River by boat; the two reportedly were fleeing to Bangladesh. Also in May soldiers killed a teenage boy after a traffic accident in Bago Division; the soldiers involved in the accident reportedly were drunk.

During the year there were reports of killings in connection with conflict in Karen State (see section 1.g.).

There were no developments in the May 2009 killing of army sergeant Myint Soe in Magwe Division during interrogation by military agents.

There were no developments in the November 2009 death of Win Maung, who reportedly died one day after police in Bago Division interrogated him regarding a theft case.

At year's end no officials had been held accountable for the deaths of several persons in the custody of security forces in 2008, including Zawmir Uddin in Rakhine State, a medical worker in Khawzar police station in Mon State, at least 40 inmates at Insein Prison, and a man in Magwe police station.

The Government continued to take no action to investigate or punish those responsible for extrajudicial killings of at least 30 persons during the regime's violent suppression of peaceful prodemocracy demonstrations in 2007. The Government did not investigate or punish those responsible for custodial deaths in 2007, including the following cases: Maung Chan Kun, Lin Lin Naing, Ko Naing Oo, NLD member Win Shwe, and Ko Ko Win.

The Government took no action to investigate or take responsibility for the 2003 attack by government-affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin. As many as 70 persons were killed, and the whereabouts of 31 persons who disappeared remained unknown.

*b. Disappearance.*—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more. Such disappearances generally were attributed to authorities who detained individuals for questioning without informing family members and to the army's practice of seizing private citizens for portering or related duties, often without notifying family members. Military forces routinely ignored requests by family members for information.

There were reports of disappearances during the year in connection with conflicts in Shan and Karen states (see section 1.g.).

On August 5 two leaders of an ethnic militia group in Shan State, Salang Hkun Myant and Saland Lau Yawng, disappeared after they were summoned to Nay Pyi Taw.

The whereabouts remained unknown of four Arakanese university students arrested in September 2009. Authorities alleged the students were conspiring to plan activities commemorating the 70th anniversary of the death of a prominent Arakanese monk who advocated for independence from British rule.

During the year seven members of Lin Let Kye (Shining Star), a group formed in 2008 to assist in the Cyclone Nargis relief effort, who disappeared in October 2009 were found serving prison sentences ranging from seven to 14 years for allegedly violating the Unlawful Associations Act.

According to a human rights representative, 14 other persons also involved with Nargis relief efforts, including entertainers, writers, and press workers, were arrested in October 2009. Of this group, six had been released and eight remained in prison at year's end. With the exception of Nyan Tun, who was being held at a prison near Pyay, their identities and locations were unknown.

According to the UN Working Group on Enforced or Involuntary Disappearances, there were five unresolved disappearance cases at the end of 2009.

The whereabouts of persons seized by military units to serve as porters, as well as of prisoners transferred for labor or portering duties, often remained unknown. Family members generally learned of their relatives' fates only if fellow prisoners survived and later reported information to the families.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Laws prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. Security forces routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. As in previous years, authorities took little or no action to investigate the incidents or punish the perpetrators. There were reports of physical abuse, torture, and rape in connection with conflicts in Shan and Karen states (see section 1.g.).

On April 18, authorities arrested and reportedly tortured an NLD member to prevent him from organizing citizens to boycott the November elections; he was freed later that month.

In May authorities reportedly tortured during interrogation Maung Zeya and his son, Sithu Zeya, for taking photographs at the site where a bomb exploded in April during the annual Thingyan water festival. In June authorities sentenced both to two years in prison; on December 21, Sithu Zeya received an additional eight-year sentence.

In May police reportedly beat and severely injured several youths during interrogation in connection with bombings at the Myitsone dam site near Myitkyina, Kachin State. Police detained a total of 43 youths for two to three weeks before releasing them; however, some remained in detention at year's end.

On July 30, prison guards placed Myo Kyaw Zin, an NLD member, in solitary confinement for one month following his complaints to prison guards about the treatment of political prisoners held in Putao prison in northern Kachin State.

In August there were reports that authorities ruptured the eardrum of NLD member Hyat Aung during interrogation, resulting in hearing loss. He was believed to remain in custody at year's end.

By year's end police had not investigated an April 2009 incident in which thugs assaulted five NLD members, reportedly on orders from the regime, in four separate incidents.

Former political prisoners released in September 2009 claimed the Government subjected them to eight different types of torture—ranging from forced squatting for prolonged periods to electric shocks—during interrogation to extract confessions or to intimidate. They also complained of inedible food, beatings, and unsanitary conditions leading to severe health problems. Many were held in solitary confinement and forced to share an eight-by-eight-foot cell with up to three other prisoners with only a bucket to use as a toilet.

Many monks held since 2007 for participating in the September 2007 prodemocracy protests against the regime were defrocked and forced to eat three meals a day (monks generally do not eat after midday). Authorities beat, sometimes severely, those who resisted.

The armed forces reportedly used coercive and abusive recruitment methods to procure porters. Persons forced into portering or other labor faced extremely difficult conditions, beatings, rape, lack of food and clean water, and mistreatment that at times resulted in death.

*Prison and Detention Center Conditions.*—Prison and labor camp conditions generally were harsh and life threatening. Prison food, clothing, and medical supplies were scarce and of poor quality. Bedding often was inadequate, sometimes consisting of a single mat or wooden platform on the floor. In many cases family members of prisoners, who generally were allowed one or two visits per month, supplemented prisoners' official rations of medicine and basic necessities. According to the Thailand-based Assistance Association for Political Prisoners (Burma) (AAPFB), au-

thorities sent more than 200 political prisoners to remote prisons located hundreds of miles from their families.

The Department of Prisons operated a reported 42 prisons and more than 100 labor camps. According to a human rights activist, there were approximately 63,000 male and 8,900 female prisoners. Pretrial detainees were held together with convicted prisoners, but political prisoners were typically held separately from common criminals. Former prisoners complained of being held in aging physical structures that received no maintenance and were infested with rodents, bacteria, and mold.

The Government denied prisoners adequate medical care, although medical services in prisons partially reflected the poor health care services available to the general population. Collective reports from three dozen prisons indicated hepatitis B and amoebas were the most prevalent medical problems. Prisoners also suffered from various diseases, including malaria, heart disease, high blood pressure, and stomach problems—the result of unhygienic conditions and spoiled food. HIV/AIDS infection rates in prisons reportedly were high due to communal use of syringes for medical injections and sexual abuse by infected prisoners. One former political prisoner, who was released in 2009, claimed the annual budget for medical supplies in the prison where he was incarcerated was 50,000 kyat (approximately \$50). There were no medical doctors or trained health-care professionals on staff at several prisons. Prison officials took common criminals to the local hospital for treatment but were required to seek authorization from higher authorities before allowing political prisoners to seek medical assistance outside the prison. Political prisoners waited days to receive medical treatment for life-threatening conditions and several months for treatment of chronic and urgent problems.

According to a political prisoner released in 2009, approximately three prisoners per month in one particular prison died due to the conditions. In April and May, eight criminal prisoners reportedly died of illnesses related to a heat wave.

In May political prisoner Ko Kyaw Soe died in Myingyan prison at the age of 39. According to the AAPPB, he was the 144th prisoner since 1998 to die while in the custody of prison authorities as a result of malnutrition, mistreatment, or inadequate medical care.

According to the AAPPB, at least 137 political prisoners were in poor health due to harsh conditions, transfers to remote areas where there were no doctors, and the denial of proper medical care. Several political prisoners complained of inadequate treatment for medical problems, including hepatitis B, heart conditions, back pain, stomach problems, kidney stones, eye diseases, and dental problems.

NLD member Naw Ohn Hla—held since October 2009 for offering Buddhist scriptures to monks—complained openly in court during a February 1 hearing about the poor living conditions at Insein Prison. Naw Ohn Hla shared a nine-by-ten-foot cell with nine other inmates. Authorities did not respond to Naw Ohn Hla's complaints.

Shan State Army-North General Hsay Ten, the 74-year-old Shan ethnic politician serving a 106-year prison sentence for taking part in a 2005 meeting with other politicians to discuss the authorities' plans for political transition, suffered from heart problems, diabetes, and cataracts. Authorities repeatedly denied him adequate medical care. Between August 2 and 9, authorities transferred him to three different prisons. He arrived at Sittwe Prison with a dislocated arm due to the heavy shackles placed on him during transport.

Political prisoner Mya Aye, serving a 65-year sentence on a variety of charges, reportedly was not adequately treated for a heart condition. Prison authorities reportedly permitted a general practitioner to treat him but not a specialist.

The heart condition of political prisoner Su Su Nwe, who was moved to Kale prison, continued to deteriorate due to lack of proper treatment.

Comedian/activist Zarganar, serving a 35-year sentence in Kachin State, continued to suffer from hypertension and cardiac problems and did not receive adequate medical care.

On July 16, political prisoner Myo Kyaw Zin, serving a 17-year term, was beaten by criminal prisoners. Authorities put Myo Kyaw Zin into solitary confinement for one month after he reported the incident.

Prisoners and detainees did not have the right to manifest their religious beliefs or practices in public. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or to request investigation of credible allegations of inhumane conditions. The Government did not investigate or monitor prison and detention center conditions.

The Government did not permit media or other independent groups to monitor prison conditions. The Government continued to deny the International Committee of the Red Cross (ICRC) unfettered access to prisons. As a result the ICRC could not follow the cases of more than 4,000 detainees, including prisoners of conscience, minors, foreigners, and sick and elderly prisoners. The Government limited the

ICRC's activities to supporting family visits to detainees and providing physical rehabilitation for landmine victims and other persons with disabilities. There was no ombudsman to serve on behalf of prisoners and detainees.

*d. Arbitrary Arrest or Detention.*—The law does not prohibit arbitrary arrest or detention, and the Government routinely employed both practices. The law allows authorities to extend sentences after prisoners have completed their original sentence, and the Government regularly used this provision. The 1975 State Protection Law allows authorities to order detention without charge or trial of anyone they believe is performing or might perform any act that endangers the sovereignty and security of the state or public peace and tranquility.

*Role of the Police and Security Apparatus.*—The police force falls administratively under the Ministry of Home Affairs. Military Security Affairs (MSA) falls under the Ministry of Defense. MSA officers and Police Special Branch (SB) officers were responsible for detaining persons suspected of “political crimes” perceived to threaten the Government.

Security forces maintained a tight grip on inhabitants, due in large part to the fear imposed by arbitrary detention, and also through threats to an individual's livelihood, such as ordering small businesses to close.

Impunity was a serious problem. There are no effective legal mechanisms available to investigate security force abuses, and the Government took no significant measures to reform the security forces.

*Arrest Procedures and Treatment While in Detention.*—By law warrants for searches and arrests are required; however, the MSA and police have special authority to conduct searches and make arrests at will. The law permits a court to detain persons without charge for up to two weeks, with the possibility of a second two-week extension. However, authorities frequently and arbitrarily extended detentions beyond this period, sometimes up to a year, without bringing the detainees before a judge or informing persons of the charges against them. The Government often held persons under the Emergency Act of 1950, which allows for indefinite detention.

Bail was commonly offered in criminal cases but rarely allowed for political prisoners. The Government regularly refused detainees the right to consult a lawyer and occasionally imprisoned or detained lawyers.

The Government continued to use incommunicado detention and often failed to inform detainees' relatives of detentions until much later.

In January antinarcotics police reportedly assaulted a man whom they accused of being in possession of opium. Authorities found no illegal narcotics when they searched his home but arrested him without charge or providing a reason.

In December 2009 authorities released U Aye Myint, a labor activist from Magwe Region active in land-rights cases for farmers, who was sentenced in September 2009 to two years' imprisonment for threatening to injure a public servant.

During the year the regime continued to hold numerous prodemocracy and human rights activists and several top opposition leaders (see Political Prisoners and Detainees). Other activists wanted by the regime remained in hiding or self-imposed exile.

House arrest, a form of detention, was usually reserved for high-profile political prisoners.

*Amnesty.*—In March the Government released a foreign human rights activist arrested in September 2009, convicted, and imprisoned on politically motivated charges. He reported mistreatment by prison authorities during his incarceration. On August 22, the Government released 170 prisoners, but none were political prisoners.

*e. Denial of Fair Public Trial.*—The judiciary is not independent of the Government. The SPDC appoints justices to the Supreme Court, which in turn appoints lower-court judges with SPDC approval. These courts adjudicate cases under decrees promulgated by the SPDC that effectively have the force of law. The regime frequently directed verdicts in politically sensitive trials of civilians.

Supreme Court justices and senior officials in the Office of the Attorney General allegedly were most often responsible for passing along and enforcing the orders of the military rulers.

The Government continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system remain formally in place, the court system and its operation were seriously flawed, particularly in the handling of political cases. The misuse of blanket laws—including the Emergency Provisions Act, Unlawful Associations Act, Habitual Offenders Act, Electronic Transactions Law, Television and Video Act, and Law on Safeguarding the State from the Danger of Subversive Ele-

ments—as well as the manipulation of the courts for political ends continued to stifle peaceful dissent and deprive citizens of the right to a fair trial. Executive Order 5/96, providing for the arrest of any person deemed a threat to the National Convention (composed of handpicked delegates convened to draft a new constitution) and the “roadmap to democracy,” effectively suppressed open debate among citizens. Pervasive corruption further served to undermine the impartiality of the justice system.

*Trial Procedures.*—The law provides for the right to a fair trial, but it also grants broad exceptions, in effect allowing the regime to violate these rights at will. In common criminal cases, the court generally respected some basic due process rights, whereas there was a fundamental lack of due process in most politically sensitive cases.

Defendants do not enjoy a presumption of innocence. Juries are not used in trials. Defendants have the right to be present at their trials. In political cases defendants were rarely given timely access to an attorney. By law the Government is not obligated to provide an attorney at public expense except in death penalty cases. Defendants and their attorneys were given access to government-held evidence relevant to their cases only after charges were made and when the case was put before the court.

Common criminal cases were open to the public. Defense attorneys in criminal cases generally had 15 days to prepare for trial. However, courts often did not notify defense attorneys in political cases of the trial start date, leaving them little or no time to prepare. Even when lawyers of political activists were allowed the 15 days to prepare their clients’ cases, they often were not allowed to present arguments on the day the case was tried in court. Instead, in some instances the court sentenced defendants immediately upon entering the courtroom, without arguments. Defense attorneys could call witnesses, cross-examine them, and examine evidence. However, their primary function was not to disprove a client’s guilt, which was usually a foregone conclusion, but rather to bargain with the judge to obtain the shortest possible sentence for the client.

Political trials normally were not open to family members or the public. NLD members and other prodemocracy activists generally appeared able to retain the counsel of lawyers; however, lawyers were not always given the opportunity to mount a proper defense. They often were denied adequate access to their clients before trial, were not informed when trials would begin, and occasionally were not allowed to attend their clients’ trials. Reliable reports indicated senior government authorities dictated verdicts in political cases, regardless of the evidence or the law.

Persons complained they were not informed of the arrests of family members in a timely manner, not told their whereabouts, and often denied the right to see them and attend court hearings.

The penal code allows the Government to render excessive sentences against political activists by allowing government prosecutors to charge detainees with multiple violations of archaic or widely ignored laws, such as violating currency laws, publishing materials likely to cause alarm, or spreading rumors. This practice could result in lengthy cumulative sentences. The regime often prosecuted political prisoners under such measures as the Emergency Provision Act, Law on Safeguarding the State from the Danger of Subversive Elements, Television and Video Act, Unlawful Associations Act, Electronic Transactions Law, and Law Relating to the Forming of Organizations.

The Government routinely extended prison sentences under the Law Safeguarding the State from the Dangers of Subversive Elements. The minister of home affairs has the right to extend unilaterally a prison sentence by two months on six separate occasions, for a total extension of up to one year. SPDC Chairman Senior General Than Shwe can unilaterally extend or shorten a period of detention, as he did to reduce by half NLD leader Aung San Suu Kyi’s most recent detention in 2009.

The law provides those convicted of crimes with the right of appeal, and there is a multistage appeals process; however, in most appeal hearings the verdicts were upheld.

*Political Prisoners and Detainees.*—Human rights observers reported there were more than 2,100 “security detainees,” including political prisoners, violators of state security laws, and those accused of fostering religious disturbances. Because the Government usually charged political detainees with criminal offenses, it denied holding any political prisoners. Despite government assertions, a vast majority of these prisoners were not believed to have engaged in any violence, theft, or other common crimes.

On January 7, Special Branch police arrested monk Ashin Uk Kong Sah after he launched a campaign opposing the election in Mon State. On September 7, he was

sentenced for a total of 15 years under the Electronic Transactions Law, Press Act, and section 505(b) of the penal code (inciting public unrest).

On January 14, three NLD members were sentenced to three years with hard labor under the Unlawful Associations Act for allegedly accepting money from an exile group located on the border with Thailand.

In April authorities arrested 12 members of Best Manure, an antigovernment group formed in the wake of the September 2007 monk-led uprising, for distributing pamphlets that encouraged citizens to participate in a campaign demanding the release of Aung San Suu Kyi and all other political prisoners.

In June a district court sentenced monk U Gawthita to seven years' imprisonment for antigovernment activities. He was accused of defaming the Buddhist religion (Sasana) and violating the Unlawful Associations Act.

On January 21, authorities charged eight activists for their roles in the September 2007 monk-led uprising. Authorities arrested the eight men, who included four monks and a schoolteacher, in 2009 during a crackdown that coincided with the two-year anniversary of the event. At year's end the activists remained in detention, awaiting conclusion of their trial.

On February 15, a township court sentenced Naw Ohn Hla, Myint Myint San, Ma Cho, and Cho Cho Lwin to two years in prison. Arrested in October 2009, they were part of the Tuesday Prayer Group, a collection of prodemocracy activists who visited Rangoon's Shwedagon Pagoda every Tuesday to pray for the release of Aung San Suu Kyi and other political prisoners.

At year's end other political activists convicted in 2009 who remained in prison included Ashin Sandimar, Kyaw Zin Min, Wunna Nwe, and Zin Min Shein, all convicted of violating the Explosives Law and Unlawful Associations Act. Another seven—Saw Maung, Aung Moe Lwin, Moe Htet Nay, Tun Lin Aung, Zaw Latt, Naing Win, and Tun Lin Oo—convicted of violating the Unlawful Association Act, also remained in prison. Ko Tin Htut, sentenced to 15 years' imprisonment for carrying a poster calling for the release of all political prisoners, also remained imprisoned.

Political activists detained in 2008 and convicted in 2009 who remained in prison included Bo Min Yu Ko, sentenced to 104 years' in prison; Kyaw Ko Ko, three years; Tin Min Htut and Nyi Pu, 15 years each; Ye Min Oo, Ye Myat Hein, Kyi Phyu, and Si Thu Maung, five to six and one-half years each; and Aung Kyaw Oo, four and one-half years.

Also remaining in prison were members of the Generation 88 Students group sentenced in 2008: Min Ko Naing, Ko Ko Gyi, Kyaw Min Yu, Mya Aye, Aung Thu, Min Zeya, Myo Aung Naing, Nilar Thein, Zeya, Kyaw Kyaw Htwe (Markee), Panneik Tun, and Zaw Zaw Min, each sentenced to 65 years' imprisonment; and Tin Htoo Aung, sentenced to 33 years.

Zaw Thet Htwe, sentenced in 2008 to 19 years under the Electronic Transactions Law, continued to serve his prison term, reduced to 15 years on appeal. Monk U Gambira, sentenced in 2008 to 68 years' imprisonment, also remained in prison.

Human rights activists Myo Min, sentenced to eight years for illegally crossing the border and violating the Unlawful Associations Act, and Myint Aye, sentenced to 28 years for conspiracy to commit bombings, continued to serve their prison terms following their convictions in 2008.

Myanmar Development Committee leader Htin Kyaw, sentenced in 2008 to 12 years' imprisonment, and human rights activists Aung Zaw Oo and Win Maw, sentenced in 2008 to 12 years and two years, respectively, remained in prison. Authorities subsequently charged Win Maw with breaching the Electronic Transactions Law, which could lead to an additional sentence of seven to 15 years. He remained in prison at year's end.

Aung Htun was in Maubin prison, and Aung Kyaw San was in Maisat prison; the whereabouts of both were previously unknown. The whereabouts of Myat Thu remained unknown; human rights observers believed he continued to be detained without charge. The three were detained in 2007-08.

In January authorities released lawyer Pho Phyu, arrested in 2009 for reporting labor rights violations to the International Labor Organization (ILO) on behalf of a group of farmers. On February 13, authorities released NLD Vice Chairman U Tin Oo, imprisoned or under house arrest since the 2003 Depayin incident.

On November 13, the Government released Aung San Suu Kyi, general secretary of the NLD, from house arrest. In August 2009 she was convicted on charges of violating the terms of her house arrest and remained confined for an additional 18 months. She had been jailed or under house arrest for more than 15 of the last 21 years.

*Civil Judicial Procedures and Remedies.*—Civil judicial procedures and remedies existed in principle, but in practice there was no assurance a complainant would receive a fair hearing.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Land Acquisition Act protects the privacy and security of the home and property. There were no laws protecting correspondence or other communications of citizens. Through its intelligence network and administrative procedures, the Government systematically monitored the travel of citizens and closely monitored the activities of those known to be active politically.

Forced entry without a court order is illegal, but the Government generally did not respect this law.

The law requires that persons who intend to spend the night at a place other than their registered domicile must inform local Peace and Development Council authorities in advance. Any household that hosts a person not domiciled there must maintain a guest list and submit it to authorities. Ward-level officials continued unannounced nighttime checks of residences for unregistered visitors. In contrast with 2009, there were no reports that the Government required family photographs. Previously, authorities in Rangoon Division sporadically required households to have “family photographs” taken for government agents to use when conducting nighttime checks of residences.

Security personnel regularly screened private correspondence, telephone calls, and e-mail.

The Government continued to control and monitor closely the licensing and procurement of all two-way electronic communication devices. Possession of an unregistered telephone, fax machine, or computer modem is punishable by imprisonment. Users of unregistered cordless telephones face up to three years in prison and a heavy fine. Use of unregistered radios is also punishable by a fine and imprisonment.

Activists and politicians reported that authorities routinely monitored their movements.

The Government reportedly continued its practice of conscripting members of ethnic minorities for service as military porters in Bago Division and in Chin, Karen, Kachin, Kayah, Rakhine, and Shan states (see section 1.g.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. The Government defines civil servants as employees at or below the director general and managing director levels; according to government claims, ministers are not considered civil servants. In April the Government’s mass mobilization organization—the Union Solidarity and Development Association (USDA)—was transformed into a political party, the Union Solidarity and Development Party (USDP), to contest the November 7 elections. Many of the Government’s top leaders, including the prime minister, maintained high-level roles in the USDP. A number of reports indicated that the USDP, and its predecessor USDA, used coercion to compel citizens to join or support the party; state-sector employees were the most susceptible to such pressure.

Although students are not prohibited from joining a party, the Government reportedly discouraged students from participating in politics.

The law does not permit private ownership of land; the Government can confiscate the land of individuals at any time. Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the Government, especially in rural areas.

In early February authorities ordered approximately 270 Rangoon households, whom it claimed were illegal squatters, to move so the houses could be demolished. Police detained U Tun Yi, a resident affected by the removal, who submitted a letter to request that authorities stop the demolition. Police released him at the end of February.

On May 30, the local government ordered 1,000 civilians from Myitkyina and Waingmaw townships to move from the vicinity of the Myitson dam project site in Kachin State. Several protested the forced relocation and then fled to the border with China when the regime threatened to arrest them.

There were some reports of forced relocations and demands for forced labor to build infrastructure. While more frequent in rural areas, reports of forced relocation in urban areas also existed. There were numerous reports government troops looted and confiscated property and possessions from forcibly relocated persons or persons who were away from their homes. The practice was more prevalent in Shan, Kayah, and Karen states and in areas of Mon State and Bago Division. The Government made no attempts to punish offenders or compensate victims for their losses (see also section 2.d.).

The Government routinely confiscated food, cash, and other property from civilians. Military personnel routinely confiscated livestock, fuel, food supplies, money, and other items. Such abuses were widespread.

Marriages between female citizens and foreigners are banned, and the Government ordered local attorneys not to be witnesses to such marriages; however, the ban was not widely enforced.

The Government punished family members for alleged violations by individuals.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Ethnic insurgent groups continued to battle the Government for autonomy or independence, including the Shan State Army-South; the Karenni National Progressive Party; and the Karen National Union (KNU), through its armed wing, the Karen National Liberation Army (KNLA). Heavy fighting between the Government army and a break-away faction of the Democratic Karen Buddhist Army (DKBA) broke out on the border with Thailand on November 8. In ethnic minority regions, military personnel reportedly killed and raped civilians, shelled villages and burned homes, destroyed food and seized possessions, confiscated land, forced villagers to work on infrastructure projects, and demanded villagers provide food and construction materials for military camps. International NGOs reported similar abuses in Chin State. One NGO also reported that the Government restricted humanitarian access to the state and forced farmers to grow jatropha (physic nuts, an inedible castor oil crop) instead of food crops.

The Government continued to pressure cease-fire and armed rebel groups to join the Government army-dominated Border Guard Force. Tensions remained high, with some cease-fire groups reportedly concerned the army could undertake military action to compel them to join the border force; several small cease-fire groups subsequently agreed to join.

*Killings.*—On January 17, two villagers died when two government soldiers, targeting what they believed to be a Karen National Liberation Army stronghold, allegedly burned 13 houses in eastern Bago Division.

On April 19, 15 unknown assailants beat to death a Catholic priest in Pekhone Township, Kayah State, reportedly due to tension between the Government army and the Catholic Church regarding land confiscated in 2006.

On May 16, government army soldiers reportedly killed 15-year-old Tin Min Naing in Bago Division after he fled a group of soldiers when faced with their demand that he join the army.

In early December government army soldiers reportedly entered a KNU/KNLA Peace Council (KPC) camp near Myawaddy in Karen State, shot one soldier, and took six others as prisoners. On December 8, villagers found the mutilated bodies of the six prisoners and claimed they had been tortured before being killed. The KPC, which is distinct from the KNU, signed a cease-fire agreement with the Government in 2007.

There were no developments in the June 2009 incident in which government army soldiers from Light Infantry Battalion 205 in Hpa An District reportedly raped and killed two Karen girls.

There were no reported developments regarding the Government army's forcible relocation in August 2009 of hundreds of villagers in three townships in Shan State. During the forced relocation, authorities reportedly beat and killed villagers; others sought safety by hiding in the jungle.

There were no reported developments in the September 2009 incident in which police officers in Shan State reportedly raped and killed a 14-year-old girl and allegedly arrested, detained, and tortured seven persons, including some of those who found her body. Police allegedly threatened the victims' relatives to prevent the perpetrators from being tried.

According to the most recent data available, up to 100 persons were killed and 500 injured by land mines during the year.

In 2008 there were unverified reports of deaths and injuries caused by security forces using civilians to clear land mines, particularly in Karen State, where the army continued attacks against ethnic villages. UN Special Rapporteur on Human Rights for Burma Tomas Ojea Quintana cited similar reports in his March 10 report on the country.

*Disappearance.*—There were reports of disappearances during government army attacks in Shan and Karen states. Observers believed that many persons were killed and others fled to the border.

*Physical Abuse, Punishment, and Torture.*—The Thailand-based Karen Women's Organization documented approximately 4,000 cases of abuse against women in Karen State over the past few years. The abuses included rape, killings, torture, and

forced labor in more than 190 villages by government troops from more than 40 army battalions.

NGOs and international organizations continued to report numerous sexual assaults by soldiers throughout the rest of the country.

In contrast with 2009, during the year the Government army in Chin State reportedly stopped the practice of forcing villagers to construct fences in an army camp and transport army supplies.

There were no reports the Government investigated or otherwise attempted to identify and punish those responsible for numerous acts of killing, injury, and destruction committed against Karen or other ethnic communities.

*Child Soldiers.*—The Government army continued to recruit and use child soldiers. The minimum age of enlistment in the army is 18 years, and the Government's official policy is to avoid conscripting child soldiers; however, it did not deny their existence. Informal recruiting targeted vulnerable children. Authorities routinely falsified the enlistment papers of those under age 18. According to the Office of the UN High Commissioner for Refugees (UNHCR), the army recruited children as young as 10 years old. Credible sources indicated the number of child soldiers may have risen to 12,000, although accurate statistics were difficult to obtain.

During the year exile media reported that the military forcibly enlisted children as young as 14 into the army in Mon and Rakhine states and Bago and Irrawaddy divisions. According to media reports, the South East Command paid brokers 200,000 kyat (\$200) for each child soldier they conscripted. Other children were kid-napped.

The ILO and the UN Children's Fund were the only international bodies in the country with a mandate to address the problem of child soldiers. The ILO reported there were 201 complaints of cases of child-soldier recruitment during the year. The Government cooperated with the ILO to return 73 underage recruits—40 from complaints received in the year and 33 from 2009 cases. There were no reports of harassment of persons who complained about child-soldier cases.

By year's end the ILO had received 331 complaints of underage recruitment since it began monitoring the problem in 2007. In response the military discharged 142 underage recruits and returned them to their families; 120 other cases were in process towards discharge. According to the ILO, commercial brokers or military personnel abducted the majority of recruits. The ILO reported that the Ministry of Home Affairs generally responded favorably once the ILO filed a complaint on behalf of a family member. The Government occasionally investigated and at times prosecuted the soldiers and brokers involved. In 2009 an army captain received a one-year sentence to a civilian prison and dismissal from the army for his role in child soldier recruitment; however, most military perpetrators, if punished at all, received one to three months in a military prison with hard labor, loss of 12 months' seniority for pension and promotion rights, salary deductions, and a reprimand. The chances of sanction of any type remained limited if the perpetrator was in the military. The number of child soldiers recruited likely far outnumbered the ones released. There were no reports of prosecutions against identified civilian brokers.

Ethnic militias denied the existence of child soldiers in their ranks, although their existence was widely reported.

According Human Rights Watch, government forces and various armed insurgent groups continued widespread and systematic forced recruitment of child soldiers.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Other Conflict-Related Abuses.*—In Shan and Karen states, military forces displaced civilians from their traditional villages—which often were burned to the ground—and moved them into settlements tightly controlled by government troops in strategic areas. In other cases villagers driven from their homes fled into the forest, frequently in heavily mined areas, without adequate food, security, or basic medical care.

Between July 18 and 20, according to a human rights group, more than 1,000 Karen residents from 10 villages were displaced as government troops mounted offensives against the Karen National Liberation Army.

On July 23, the Government army attacked with mortars and then burned 50 homes, a school, and a church in Tha Dah Der, a Christian village in northern Karen State. More than 600 villagers fled into the jungle on the border with Thailand; only 350 had returned at year's end. In addition 300 persons from two neighboring villages—Tha Kaw To Baw and Ti Mu Der—also fled. According to observers, all persons from the two latter villages returned to their homes, which were not attacked.

On November 8, fighting between the Government army and a breakaway faction of the DKBA near Myawaddy in Karen State forced thousands of civilians to flee their homes. According to some reports, more than 20,000 refugees crossed the border into Thailand, although sources indicated that most returned to their homes shortly thereafter. Fighting continued sporadically through year's end.

Forced relocations generated large migrations to neighboring countries or to parts of the country not controlled by the Government (see section 2.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Government severely and systematically restricted freedom of speech and press. Authorities arrested, detained, convicted, and imprisoned citizens for expressing political opinions critical of the Government and for distributing or possessing publications in which opposition opinions were expressed. Security services also monitored and harassed persons believed to hold antigovernment opinions.

On March 17, the SPDC announced that political parties must seek government approval before publishing party materials or broadcasting any programs. The same directive subjected electoral publications to the 1962 Printers and Publishers Registration Act, under which disseminating information that criticizes the Government or disturbs the peace is punishable by up to seven years in prison.

On April 17, authorities arrested and reportedly tortured during interrogation former political prisoner Maung Zeya and his son, Sithu Zeya, for taking photographs at the sites where three bombs exploded during the annual Thingyan water festival. The court initially sentenced each to two years in prison, although additional charges were pending. Authorities sentenced Sithu Zeya to an additional eight years on December 21.

Privately owned media existed, but the Government's Press Scrutiny and Registration Division tightly controlled all media and publications and took action against any attempt to provide independent interpretation or comment on news. The Ministry of Information issued licenses to private media publishers as long as the media printed government-approved material. The Press Scrutiny Board suspended the licenses of newspapers that printed items it deemed objectionable. Government agents or supporters held an estimated one-third of private media licenses.

Government scrutiny of the press increased after officials announced that elections would be held on November 7. In June the Government-controlled Union Election Commission (UEC) released guidelines prohibiting political party publication of anything that criticized the military, government, or civil service personnel. That same month the editor of a local weekly journal complained the censor board cut information about the visit of foreign government officials. Also in June another journal cancelled publication of an issue after suffering heavy cuts by the censorship board, which approved only four of the 20 pages it submitted.

In July the censor board suspended the weekly newspaper *The Voice* for two weeks for publishing an article that allegedly "misquoted" provisions of the 2008 constitution. Soon thereafter the censor board issued a directive to newspapers calling for the "correct and complete quoting of the constitution, electoral laws, and its rules." In a separate incident, another journal, *Flower News Weekly*, dropped a legal issues section of the newspaper and issued a "correction" after being pressured by authorities.

The Government continued to use force or intimidation to prohibit all public speech or planned events critical of the regime by all persons. The Government pursued this policy consistently with few exceptions.

In contrast with 2009, the Government did not ban ceremonies commemorating Human Rights Day. However, human rights activists reported that local authorities sought reprisal against the owner of a teashop who hosted a ceremony at his home in Pyay.

The law prohibits the publication or distribution of any printed material without obtaining prior approval from the Government. The Government controlled content in all print publications, and it owned and controlled all domestic radio and television broadcasting facilities. The official print and broadcast media were propaganda organs of the Government and did not report opposing views except to criticize them. The Ministry of Information's Press Scrutiny and Registration Division censored all private publications, including books. The censorship process for books can take several months or several years.

Reporters were subject to arrest, harassment, intimidation, and violence by the authorities and supporters of the regime.

On January 29, the Rangoon Special Court at Insein Prison sentenced reporter Ngwe Soe Lin to 13 years' imprisonment for attempting to smuggle information to the exile media.

Twelve persons, including staff members from The Voice, Foreign Affairs, Pyi Myanmar, and Kandarawaddy journals, were arrested in October 2009 but were released approximately one month later.

At year's end approximately 40 journalists were in prison, some serving sentences of up to 35 years. Freelance journalist Zaw Tun, sentenced to two years in prison in June 2009 for allegedly obstructing the work of an official, remained in prison. Sein Win Maung, office manager of Myanmar Nation magazine convicted in 2008 for violating the Printers and Publishers Act, continued serving a seven-year sentence. Myat Swe and his father, Thein Swe, co-owners of the English- and Burmese-language weekly newspaper Myanmar Times, reportedly remained in prison.

Poet Saw Wai, arrested in 2008, was freed on May 26.

The media practiced self-censorship due to fear of government reprisal. Publications generally did not report on sensitive economic and political topics or local tragedies if they might give a poor impression of governance.

Imported publications remained subject to predistribution censorship by state censorship boards, and possession or distribution of publications not approved by the censorship boards was a serious offense. The Government also restricted the importation of foreign news periodicals.

A few foreign news agencies were present but, except for some Chinese, had no expatriates based in the country. Foreign news agency bureau chiefs were rarely permitted to enter on journalist visas.

In March police arrested and expelled a CNN reporter shortly after he arrived in Nay Pyi Taw to cover the annual Armed Forces Day celebration. Officials gave no explanation. The reporter had previously been deported while he was in the country reporting on Cyclone Nargis in 2008.

Due to widespread poverty, limited literacy, and poor infrastructure, radio and television remained the primary media of mass communication. News periodicals rarely circulated outside of urban areas. The Government and government cronies continued to monopolize and control the content of the seven privately owned FM radio stations and one government-run shortwave radio station. Foreign radio broadcasts, such as those of Radio Free Asia, Voice of America, the BBC, and Democratic Voice of Burma, remained the principal sources of uncensored information.

The Government continued to monopolize and control all domestic television broadcasting. It offered five public channels—four controlled by the Ministry of Information (MRTV, MRTV-3, MRTV-4, and Myanmar International) and one controlled by the armed forces (Myawaddy). The general population was allowed to register satellite television receivers for a fee, although it remained far too expensive for the majority of persons.

The 1996 Television and Video Act makes it a criminal offense—punishable by up to three years in prison—to publish, distribute, or possess a videotape not approved by a state censorship board. The Government continued to crack down on uncensored foreign videotapes and digital videodiscs, although pirated copies remained widely available on the street.

*Internet Freedom.*—No laws or regulations exist regarding monitoring Internet communications or establishing penalties for the exercise of freedom of expression via the Internet. However, the Government monitored Internet communications and blocked Web sites so individuals could not freely engage in such activities. The Electronic Transactions Law prohibits Internet users from posting information that may undermine the interests and security of the state.

The Government increased its control of the Internet in advance of the November elections. There were reports the Government sought to centralize network management in Yadanabon Cyber City (Mandalay Region) to make it easier for authorities to monitor electronic communications. Some domestic Internet service providers reportedly obtained censorship and surveillance equipment. There were also reports that government authorities pressured private Internet cafe owners in Rangoon to install closed-circuit television cameras and increase staffing to monitor patrons and Internet usage. Authorities reportedly claimed these new measures were enacted in response to several thwarted bomb attacks at Internet cafes in November, although the Government provided no evidence of such planned attacks.

Internet access and usage was extremely limited, due to government restrictions and lack of infrastructure. According to the International Telecommunication Union, in 2008 0.2 percent of inhabitants used the Internet, mostly in cybercafes in cities.

Authorities frequently blocked access to Web sites attracting many users or to large attachments related to political issues. E-mail messages sometimes took several days to arrive in a receiver's inbox, often with attachments deleted. Citizens believed this was due to the regime's censorship of e-mail.

The Government banned most Web sites critical of the regime and its activities. Authorities also blocked access to some popular, free e-mail services, social networking sites, and blogs as well as to other Internet messaging services.

The Government attempted to block most Web sites containing words it considered suspicious, such as Burma, drugs, military government, democracy, student movement, 8888, and human rights. Users could sometimes reach the home pages of Democratic Voice of Burma and BBC's Burma service, but they could not access most articles on the sites. Occasionally the Government mistakenly blocked educational or other sites when its software detected censored words.

While the Government rarely charged persons explicitly for expressing political, religious, or dissenting views in electronic forums, including e-mail, it often charged persons suspected of such activities with other crimes.

On January 7, a court found Win Naing Kyaw, a former military officer, guilty of violating the Electronic Transactions Law. He was allegedly involved in leaking photographs of a ranking government official's visit to North Korea to a Web site run by Burmese journalists living in exile.

Nay Phone Latt (Nay Myo Kyaw), Internet blogger and owner of three Internet cafes sentenced in 2008 to 20 years and six months, remained in prison.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom. University teachers and professors, most of them state employees, were subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. Teachers could not discuss politics at work, join or support political parties, or engage in political activity, and they had to obtain advance approval for meetings with foreigners. The Government closely monitored curricula and censored course content. Like all other state employees, professors and teachers were required to join the USDA. However, election laws released during the year prohibited government employees, including teachers, from joining political parties. While these government employees did not join the political party successor of the USDA, the USDP, the Government still pressured them to vote for USDP candidates. Foreigners were not permitted to visit university campuses without prior approval or attend any meetings involving students, including graduation ceremonies.

To limit the possibility of student unrest, some years ago the Government placed undergraduate campuses in remote areas, warned teachers and students that disturbances would be dealt with severely, and kept most on-campus dormitories closed. Many students opted to use self-study or private tutoring.

The Government tightly controlled the limited number of private academic institutions and their curricula. Similar controls extended to Buddhist monastery-based schools, Christian seminaries, and Muslim madrassahs. In contrast with 2009, there were no reports that the Government suppressed private tutoring.

The Government monitored most cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law limits freedom of assembly, and the Government severely restricted it in practice. A long-standing ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although it was not enforced consistently.

The regime and its supporters routinely used intimidation, violence, and the power of arrest to disrupt peaceful demonstrations and meetings.

*Freedom of Association.*—The Association Law provides for citizens to form associations and organizations; however, the Government restricted freedom of association, particularly for prodemocracy supporters and those who contacted exile groups or individuals thought to be associated with groups in exile. A statute prohibits associating with any organization that the head of state declares to be unlawful.

Freedom of association generally existed only for government-approved organizations, including trade associations, professional bodies, and the USDP. Few secular, nonprofit organizations existed, and those that did took special care to act in accordance with government policy. Forty-seven political parties applied for permission to form and register under the Government's highly restrictive electoral laws issued in March; the Government ultimately granted permission to 37. The Government failed to consider the applications of three parties (all ethnic Kachin) and announced the dissolution of 10 parties, including the NLD, which refused on principle to register under the election laws. The NLD maintained its right to exist as a political party because it was registered under previous electoral legislation; it filed a suit against the Government for illegally applying electoral legislation retroactively to deregister the party. In November the Supreme Court declined to admit the party's appeal of its deregistration; the NLD stated it would pursue one final level of appeal. Authorities and the Government's election commission ensured strict control over the activities of newly registered political parties.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—There are no laws explicitly protecting freedom of movement within the country, foreign travel, emigration, and repatriation. However, there are regional- and local-level orders, directives, and instructions restricting freedom of movement. The Government did not fully cooperate with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Although the Government restricted freedom of movement, most citizens were able to travel within the country. However, authorities closely monitored the movements of some opposition party members. Ethnic minority areas previously affected by conflict continued to experience strict controls on personal movement, including frequent military checkpoints and monitoring by military intelligence.

The Government restricted the ability of internally displaced persons, refugees, and stateless persons to move. In particular the Government tightly controlled the movement of Muslim Rohingya, especially in Buthidaung, Kyauktaw, Maungdaw, and Rathedaung townships along the border with Bangladesh. Muslim youths from Rakhine State accepted for admission to universities and medical schools outside the state were unable to enroll due to travel restrictions imposed on them. The Government also required other noncitizens, primarily ethnic South Asians and Chinese, to obtain prior permission to travel internally. Nonetheless, the country's borders with China, Thailand, Bangladesh, and India remained very porous, with significant undocumented migration and commercial travel.

An ordinary citizen needed a passport from the Ministry of Home Affairs and a departure form from the Ministry of Immigration and Population to travel outside the country. To address the problem of trafficking in persons, the Government continued to hinder or restrict international travel for women, particularly those less than 25 years of age.

Although there is no law explicitly restricting the foreign travel of citizens, the Government carefully scrutinized prospective travel abroad of all passport holders. Rigorous control of passport and exit visa issuance perpetuated rampant corruption, as applicants were sometimes forced to pay bribes of up to 400,000 kyat (\$400).

The Government regularly declined to issue passports to former political prisoners, activists, and some local staff of foreign embassies. College graduates who obtain a passport (except for certain government employees) are required to reimburse the Government for the cost of their education. It frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.

The Government permitted foreign diplomats and foreign UN employees based in Rangoon to travel outside of Rangoon to designated tourist sites without prior permission but with prior notice; all other travel required advance permission and was sometimes denied.

According to the UNHCR in Rangoon, approximately 120,000 Burmese refugees lived in camps in Thailand. The regime allowed the UNHCR limited access to monitor the potential areas of return to assess conditions for the voluntary return of the refugees and internally displaced persons, leading UNHCR officials to determine that conditions remained unsuitable for their return.

Approximately 21,000 Rohingya lived as legally registered refugees in camps in southeastern Bangladesh, and some NGOs estimated as many as 500,000 others, who were not registered by either Burmese or Bangladeshi authorities, lived outside the camps and in the border area. Neither Bangladesh nor Burma claimed the stateless Rohingya refugees as citizens.

There are no provisions for forced exile or restrictions on emigration. In general citizens who emigrated legally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return. The Government often revoked passports for political reasons.

*Internally Displaced Persons (IDPs).*—According to the UNHCR, there were at least 451,000 IDPs in the country as of December, although accurate figures were difficult to determine due to poor access to affected areas. According to several international organizations, there were believed to be several million IDPs, but exact estimates were impossible due to lack of international access to certain areas of the country. Most international attention continued to focus on the eastern region, where conflict and repressive government policies displaced hundreds of thousands in the past decade within partial reach of international assistance, according to international relief and monitoring organizations. The UNHCR estimated there

were 450,000 IDPs throughout the country at year's end. The Thai-Burma Border Consortium estimated at least 470,000 IDPs in the east, of whom 231,000 were in temporary settlements in areas administered by ethnic nationalities, 111,000 were in hiding in remote areas, and 128,000 had followed SPDC eviction orders and moved to designated relocation sites. The Karen, Shan, Rohingya, and Kayah were the most affected groups. The main causes of internal displacement were army offensives against ethnic opposition groups, forced relocation and labor, and recruitment of child soldiers. The Government provided little or no protection or assistance to IDPs, many of whom were forcibly resettled under dangerous conditions. Authorities denied humanitarian organizations access to many IDPs in eastern regions along the Thai border on security grounds. IDPs in these areas regularly suffered hardships as a result of fighting between government army and insurgent groups, according to credible observers along the border. In addition both government army and insurgent groups frequently raped female IDPs, according to these observers. Karen IDPs in these areas have remained displaced for a number of years.

According to NGOs, internal conflict in Karen State displaced more than 20,000 persons during the year. Heavy fighting broke out near Myawaddy on November 8 and continued sporadically at year's end. Persons in the area reported that many individuals crossed the border into Thailand daily but returned to their homes at night when fighting calmed down (see section 1.g.).

The UN estimated that more than 100,000 persons remained homeless after Cyclone Giri struck Rakhine State in September. The UN Human Settlements Program reported in June that more than 100,000 families in the Irrawaddy Delta remained without adequate shelter following Cyclone Nargis in 2008.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol. The law does not provide for the granting of asylum or refugee status, and the Government did not grant such status. The Government has not established a system for providing protection to refugees. In practice the Government did not provide protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The UNHCR continued to negotiate for permission to work with what the Government termed "communities that are affected by displacement." Despite the 2007 expiration of the memorandum of understanding (MOU) between the Government and the UNHCR, the Government continued to allow the UNHCR to provide humanitarian assistance to Rohingya in northern Rakhine State, whom the Government does not recognize as citizens.

A separate MOU permitted the UNHCR to work with implementing partners in the southeast region, including parts of Karen and Mon states and Tanintharyi Division. Under the MOU, authorities permitted UNHCR foreign personnel to monitor their project activities in the region.

*Stateless Persons.*—Citizenship is granted to anyone whose parents are both nationals of the country as prescribed by law. In practice the Government did not implement laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis.

There are 135 officially recognized "national races" who qualify for citizenship. Some members of native-born but so-called nonindigenous ethnic populations, such as Chinese, Indians, Bengalis, some Eurasians, and the country's Rohingya population, are not included in the list and are denied the full benefits of citizenship based on their nonindigenous ancestry. Of these, the Muslim Rohingya fared the worst, with nearly all Rohingya denied any benefits of citizenship.

According to the UNHCR, there were approximately 724,000 legally stateless persons, mostly Rohingya, residing in northern Rakhine State near the border with Bangladesh. The Government does not recognize the existence of the Rohingya ethnicity and claims the Muslim residents of northern Rakhine State are the descendants of illegal immigrants from Bangladesh who moved into the country during British colonial rule. The Government consistently denied citizenship to most Rohingya on the grounds their ancestors did not reside in the country for one year prior to the start of British colonial rule in 1824, as required by the highly restrictive citizenship law. Only Rohingya who were able to prove long familial links to the country were eligible to apply for naturalization.

Rohingya experienced severe legal, economic, and social discrimination. The Government required them to receive prior approval for travel outside their village tract of residence, limited their access to higher education, and prohibited them from working as civil servants, including as doctors, nurses, or teachers. Authorities required Rohingya to obtain official permission for marriages.

The Government claimed it continued a program originally supported by the UNHCR to issue Temporary Registration Cards (TRCs) to stateless persons in Rakhine State. However, for years the UNHCR has not been able to obtain statistics from the Government on the issuance of TRCs in northern Rakhine State, where the majority of Rohingya live.

In previous years Rohingya without temporary identification cards did not have the right to vote in the constitutional referendum. However, in late July and August organizers of the progovernment USDP and ward authorities in various parts of the country reportedly offered national registration cards (NRCs) to individuals in exchange for joining the USDP. The Government requires citizens over the age of 18 to produce NRCs when they travel, enroll in universities, and vote. There also were reports that Deputy Minister for Home Affairs (MOHA) Brigadier General Phone Swe (retired) went to Rakhine State in July to issue citizenship scrutiny cards (CSCs), which serve a similar role as NRCs in that they prove citizenship and allow access to services, to Muslims who agreed to join the USDP. However, after some Muslims joined the USDP, MOHA reportedly reneged, instead issuing a TRC, which does not serve as proof of citizenship. To get the more useful CSC, authorities reportedly told Muslims they must pay a bribe of up to 250,000 kyat (\$250) to local immigration authorities.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The regime continued its systematic use of coercion and intimidation to deny citizens the right to change their government. The regime continued to prevent the parliament elected in 1990 from convening.

The 2008 constitution—not yet in force at year’s end—provides for popularly elected legislators to a bicameral parliament; however, it stipulates that at least 25 percent of the seats must be reserved for military members appointed by the uniformed commander in chief of Defense Services. It also bars many persons from office who had not resided in the country for at least 10 consecutive years prior to election, had prior misconduct the regime deemed disqualifying, accepted assistance from a foreign government, or were entitled to citizenship of a foreign nation. Additionally, by the constitution’s own terms, the SPDC will continue to “exercise state sovereignty” until the parliament is convened, which was scheduled for January 31, 2011.

Since 1962 active-duty military officers have occupied the most important positions in the central government and in local governments, and the regime placed active-duty or retired military officers in senior-level positions in almost every ministry. Active-duty or retired military officers occupied 30 of 33 ministerial-level posts, including prime minister and the mayoral posts in Rangoon, Mandalay, and the administrative capital Nay Pyi Taw.

In April and August, senior-level military officers, including all supraregional and regional commanders, reportedly retired from the military to prepare to contest the November 7 elections. The prime minister, who previously held the rank of general in the army, and others retained their cabinet positions. In late August there was a massive reshuffle of top military positions. Many senior generals retired from the military, with other generals assuming those commands. Than Shwe and some others remained on active duty in the military and retained their senior government positions.

*Elections and Political Participation.*—The country held its first election in 20 years on November 7. Electoral laws, published on March 8, are based on the flawed 2008 constitution. Under the laws political parties were required to compete under highly restrictive conditions that limited campaign activities, imposed relatively high candidate fees, and gave unusually broad powers to a government-appointed UEC to control the activities of political parties and their members.

In early August the UEC announced there would be 330 township-based constituencies of the lower house (People’s Parliament), 168 constituencies of the upper house (National Parliament), and 665 constituencies of the regional/state parliaments. One-quarter of all national and regional parliamentary seats were reserved for military appointees. All levels of parliament were scheduled to convene on January 31, 2011. A joint session of the upper and lower houses—the Union Assembly—was to convene within 15 days of that date. In addition the upper and lower houses each were to select a vice president, the military members of both the upper and lower houses would select a third vice president, and the entire bicameral parliament would select the president from among the three vice presidents. The constitution provides for the military to take over the Government should the president, who must have a military background, judge the security situation to be unstable.

After announcing the election date, the Government gave registered political parties approximately two weeks' notice to submit names of their candidates. Many political parties complained that the Government's short notice did not provide them sufficient time to find candidates and identify constituencies in which they would contest seats.

Individual members of some prodemocratic opposition parties used their own money to conduct campaign activities because restrictive laws made it difficult for candidates to raise money legally. The registration fee of 500,000 kyat (\$500) per candidate was well above the means of the average citizen.

The leader of one prodemocracy opposition party resigned in protest because he believed the elections would not be free and fair. Other parties, including the NLD, opted not to participate in the elections from the beginning. Parties accused the UEC of forwarding their party membership lists to SB police, who then visited party members at their homes on instruction from high-level SPDC officials. The SB reportedly requested members' biographies and two passport-size photographs.

The UEC did not approve the registration of three ethnic Kachin political parties, reportedly because of past ties to the Kachin Independence Army cease-fire group, which had refused to integrate into the Government army-dominated Border Guard Force. In September the UEC announced elections would not be held in some ethnic areas, reportedly because of tensions over Border Guard Force problems.

The Government-backed USDP, headed by the prime minister, drew upon the resources of the Government and government-affiliated businesses and reportedly bribed, coerced, and intimidated citizens into signing up for membership. It fielded candidates in nearly all constituencies. The USDP began its unofficial election campaign in late 2009, earlier than any other parties were permitted to engage in campaign activity.

The constitution specifies the SPDC will continue to "exercise state sovereignty" and "carry out... all the functions of the parliament" until the new parliament is convened. According to senior government officials, the SPDC would disband after the new government was in place.

The Government maintained tight control over the operations of political parties and political opponents' rights to organize and publicize their views. Persons who opposed the Government were subjected to imprisonment, violence, and harassment, including members of parties campaigning in the elections, despite assurances from the Government that the process would be free and fair.

On September 14, the Government declared that the NLD and all other parties that did not reregister according to SPDC-issued electoral laws ceased to exist as political entities.

In the November elections, the Government-backed USDP, whose candidates included cabinet ministers and other high-ranking government and military officials, won approximately 77 percent of all seats, with a reported 77 percent voter turnout. There were widespread complaints by prodemocratic and ethnic political parties of election fraud, especially around the use of highly suspect "advance votes" by the USDP. Some ethnic political parties fared well at the regional level. It was unclear what policy role the newly elected parliament would play.

Ethnic cease-fire groups—many of which have agreements with the Government—were threatened with military action unless they agreed to come under control of the military through its Border Guard Force and agreed to participate in the elections.

No women were in the senior ranks of political leadership. Members of certain minority groups were denied a role in government and politics. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court.

#### *Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the Government rarely and inconsistently enforced the anticorruption statute, and officials frequently engaged in corrupt practices with impunity. A complex and capricious regulatory environment fostered corruption. Authorities usually enforced anticorruption laws only when the regime's senior generals wanted to take action against officials whose egregious corruption had become an embarrassment or when they wanted to punish officials deemed a threat to the senior generals' power.

Police corruption was a serious problem. Police typically required victims to pay substantial sums for crime investigations and routinely extorted money from the civilian population.

Public officials were not subject to financial disclosure laws. The Government did not provide access to most official documents, and there is no law allowing for it. Most government data, even routine economic statistics, were classified or tightly controlled. Government policymaking was not transparent, with decision making

confined to the top layers of government, and new government policies rarely were published or explained openly.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not allow domestic human rights organizations to function independently, and it remained hostile to outside scrutiny of its human rights record.

More than 60 nonpolitical, international humanitarian NGOs operated in the country. A few others had a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country.

The Government maintained travel restrictions on foreign journalists, NGO staff, UN agency staff, and diplomats in most regions. Human rights advocates regularly were denied entry visas unless traveling under the aegis of a sponsor acceptable to the Government and for purposes approved by the Government. The Government's monitoring of the movements of foreigners, frequent interrogation of citizens concerning contacts with foreigners, restrictions on the freedom of expression and association of citizens, and practice of arresting citizens who passed information about government human rights abuses to foreigners obstructed efforts to investigate such abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified.

Authorities often allowed NGO staff to travel "unaccompanied" to areas affected by Cyclone Nargis in 2008 and 2009, although SB police monitored many visits. The work of the Tripartite Core Group—composed of the UN, the Association of South East Asian Nations, and the Government—formed to address Cyclone Nargis-related matters, ended in July. In August a senior government official declared the recovery period over, and the Government announced more restrictive policies regarding NGO travel and activities in cyclone-affected areas. Some international NGOs and UN agencies were required to have a government representative accompany them on field visits to other areas of the country, at the NGO or UN expense, although this rule was not consistently enforced. Foreign staff often experienced difficulty obtaining permission to travel to project sites outside of the cyclone-affected areas.

Many international humanitarian NGOs and UN agencies reported government pressure to limit their activities, and access to human rights activists, prisoners, and ethnic minorities by international personnel was highly restricted. The Government reportedly asked some personnel of international organizations to go on leave outside the country and not to return until after the elections. Employees of these international organizations reported difficulty getting the Government to approve long-term visas. UN agencies and NGOs continued to negotiate with the Government to agree on mutually acceptable guidelines for the activities of humanitarian organizations.

On February 15-19, UN Special Rapporteur on Human Rights for Burma Tomas Ojea Quintana visited the country. He met with several political prisoners at Insein Prison (Rangoon), Butheedaung Prison (Rakhine State), and Sittwe Prison (Rakhine State). He also met with representatives from several progovernment cease-fire groups in Rangoon and with government officials in Nay Pyi Taw. Quintana concluded there persisted a pattern of gross and systematic human rights violations that had continued for many years involving government officials in the military and judiciary at all levels.

The Government generally was resistant to attempts by senior UN officials to visit the country.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The SPDC continued to rule by decree and was not bound by any constitutional or statutory provisions concerning discrimination based on race, gender, disability, language, or social status.

*Women.*—Rape is illegal, but the Government did not enforce the law effectively. If the victim is under 14 years of age, the sexual act is considered rape, with or without consent. In such cases the maximum sentence is two years' imprisonment when the victim is between ages 12 and 14, and 10 years' to life imprisonment when the victim is under 12. Spousal rape is not a crime unless the wife is under 14.

The regime did not release statistics concerning the number of rape prosecutions and convictions. The police generally opened and investigated reported cases of rape. However, in ethnic areas, when government soldiers committed rape, the army rarely took action to punish those responsible.

Domestic violence against women, including spousal abuse, remained a problem. Spousal abuse or domestic violence was difficult to measure because the Government did not maintain statistics. There are no laws specifically against domestic violence or spousal abuse (including spousal rape), although there are laws related to committing bodily harm against another person. The related prison terms range from one year to life, in addition to possible fines.

Police generally were reluctant to act in domestic violence cases; however, in cases where women sustained injuries and filed a report, police generally took action. Punishment for men in these cases typically was a fine but no imprisonment. The Government-affiliated Myanmar Women's Affairs Federation (MWAFF)—usually chaired by the wife of the prime minister—sometimes lobbied local authorities, including the police, to investigate domestic violence cases involving spousal abuse. Since the MWAFF was controlled by wives of regime leaders, police usually investigated cases referred to them by the group.

The penal code prohibits sexual harassment and imposes fines or up to one year's imprisonment. There was no information on the prevalence of the problem because these crimes were largely unreported.

Couples and individuals had the right to decide the number, spacing, and timing of children. The Government has pronatalist policies but allows for government and private-sector clinicians to provide contraceptives under the banner of "birth spacing." There was a significant unmet need for family planning, and the most commonly reported barrier to accessing family planning services was cost and availability. Reproductive health services, including the availability of contraceptives, generally were limited to private clinics. Health authorities heavily regulated distribution of contraceptives. Community health workers were only allowed to advise on condoms. A client must be seen by a midwife to get injectables or oral contraceptive pills. With an acute shortage of midwives, this impeded access and prevalence. According to data gathered by the UN in Rangoon, the estimated maternal mortality ratio in the year was 240 per 100,000 live births. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

By law women enjoy the same legal rights as men, including property and inheritance rights; however, it was not clear if the Government enforced the law. Women remained underrepresented in most traditionally male occupations (e.g., mining, forestry, carpentry, masonry, and fishing) and were effectively barred from certain professions, including the military officer corps. Poverty affected women disproportionately.

There were no registered, independent women's rights organizations, although there were several groups with some relationship to the Government. The MWAFF was the leading "nongovernmental" women's organization. The Myanmar Maternal and Child Welfare Association, another government-controlled agency, provided basic health assistance to mothers and children. The Myanmar Women Entrepreneurs' Association, a professional society for businesswomen, provided loans to women starting new businesses. While not controlled by the Government, the entrepreneurs' association enjoyed good relations with the Government and was allowed to conduct its activities to support women in business.

*Children.*—By law citizenship is derived through parents, both of whom must be nationals of the country. In major cities (e.g., Rangoon and Mandalay), birth registration was not a problem for most Burmese who sought it. In these larger cities, births must be registered to qualify for basic public services and obtain national identification cards. In smaller towns and villages, birth registration was often informal, sometimes just the village midwife recording births in a notebook; however, it was unclear what the midwife did with that information. Access to public services in such remote communities often was not a problem, since the Government provided little service to these areas. The only exception to the examples above was the Rohingya community, where birth registration was a significant problem (see section 2.d.).

By law education is compulsory, free, and universal through the fourth standard (approximately age 10). However, the Government continued to allocate minimal resources to public education, and schools routinely charged informal fees. Rates of school attendance were low, largely due to economic hardship.

There are laws prohibiting child abuse, but they were neither adequate nor enforced. The Government claimed child abuse was not a significant problem. However, accurate statistics were not available, and some international NGOs believed the problem was more widespread than the Government acknowledged.

The 1993 Child Law contains many provisions to protect children from abuse, sale, and other types of exploitation. The punishment for violators is up to two years' imprisonment or a fine of up to 10,000 kyat (\$10).

Children reportedly engaged in prostitution for survival without third-party involvement. The penalty for child prostitution is 10 years' imprisonment. The law prohibits pornography; the penalty is three to five years' imprisonment. The law prohibits statutory rape, punishable by two years to life in prison. In Rangoon and Mandalay, observers noted widespread presence of female prostitutes who appeared to be in their teens. Additionally, some brothels reportedly offered young teenage "virgins" to their customers for a substantial additional fee. Although there is no law explicitly banning child sex tourism, article 13 of the 1949 Suppression of Prostitution Act and the Prostitution Act prohibit pimping and prostitution, respectively, and the penal code prohibits having sex with a minor.

The Government did not dedicate significant resources to protecting the rights and welfare of children. Children were at high risk, as deteriorating economic conditions forced destitute parents to take them out of school to work in factories and teashops or to beg. Many were placed in orphanages. With few or no skills, increasing numbers of children worked in the informal economy or in the street, where they were exposed to drugs and petty crime, risk of arrest, trafficking for sex and labor exploitation, and HIV/AIDS.

The mortality rate of internally displaced children in conflict areas was significantly higher than in the rest of the country. In addition such children had few learning resources.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There was one synagogue in Rangoon serving a small Jewish congregation. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—There is no law providing for equal treatment before the law and for general protection against discrimination, including discrimination against persons with disabilities. Under the constitution all citizens have the right to education and health care. The Government did not actively discriminate against persons with disabilities in employment, access to healthcare, education, or the provision of other state services or other areas, but there were few official resources to assist persons with disabilities. There are no laws mandating accessibility to buildings, public transportation, or government facilities.

The Ministry of Health is responsible for medical rehabilitation of persons with disabilities, and the Ministry of Social Welfare is responsible for vocational training. The Government operated three schools for the blind, two for the deaf, two rehabilitation centers for adults with disabilities, and two for children with disabilities. However, the Government provided inadequate funds for its schools and programs for persons with disabilities.

Military veterans with disabilities received benefits on a priority basis, usually a civil service job at equivalent pay. Official assistance to nonmilitary persons with disabilities in principle included two-thirds of pay for up to one year for a temporary disability and a tax-free stipend for permanent disability; however, the Government did not provide job protection for private-sector workers who became disabled.

*National/Racial/Ethnic Minorities.*—Ethnic minorities constitute approximately 30 to 40 percent of the population, and the seven ethnic states make up approximately 60 percent of the national territory. Wide-ranging governmental and societal discrimination against minorities persisted. Tension between the Government army and ethnic populations remained high; the army occupied some ethnic groups' territories and controlled certain cities, towns, and highways. Abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of members of ethnic groups by government soldiers. Some armed ethnic groups also may have committed abuses, but on a much smaller scale than the Government army (see section 1.g.).

Rohingya Muslims in Rakhine State were discriminated against because of their ethnicity. Most faced severe restrictions on their ability to travel, engage in economic activity, obtain an education, and register births, deaths, and marriages (see section 2.d.).

Ethnic minority groups generally used their own languages at home. However, throughout all parts of the country controlled by the Government, including ethnic minority areas, Burmese remained the mandatory language of instruction in state schools, and teaching in local languages was not offered. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

The Government continued to resettle groups of ethnic Burmans in various ethnic minority areas. During the year the Government reportedly resettled groups of ethnic Burmans in Maungdaw and Butheedaung townships in Rakhine State, giving them farmland confiscated from Rohingya residents.

During the year there were several reports of ethnic villages being displaced for economic development, such as the Myitsone Dam project in Kachin State.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The penal code contains provisions against “sexually abnormal” behavior, and authorities applied them to charge gay men and lesbians who drew official attention. The maximum sentence is 20 years’ imprisonment and a fine. Under the penal code, laws against “unnatural offenses” apply equally to both men and women. Nonetheless, such persons had a certain degree of protection through societal traditions.

There was no official or social discrimination based on sexual orientation in employment.

*Other Societal Violence or Discrimination.*—There existed discrimination against HIV-positive patients, although HIV activists reported that awareness campaigns helped to reduce discrimination and stigma. Some persons reportedly were reluctant to visit clinics that treat HIV/AIDS patients for fear of being suspected of having the disease.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law permits workers to form trade unions with the prior consent of the Government; however, no free trade unions existed in the country. Domestic and internationally affiliated unions are not allowed, nor is individual membership in unions.

The Government maintained its 2006 ruling criminalizing contact with the Federation of Trade Unions-Burma (FTUB), claiming it was a “terrorist group.”

The Government forbids seafarers who found work on foreign vessels through the Seafarers Employment Control Division from having contact with the Seafarers’ Union of Burma—affiliated with the Government-banned FTUB—or the International Transport Workers’ Federation.

In June an individual active in assisting victims of forced labor applied to form a trade union but was warned by police he would be arrested if he persisted in forming “an illegal organization.” The individual did not pursue the application and remained free at year’s end.

Several FTUB leaders and labor activists were freed in 2009 after serving long-term sentences, including FTUB Central Executive Committee members Myo Aung Thant, U Thein Aung, Kyi Thein, and Chaw Su Hlaing. However, the whereabouts of Khin Maung Win, Ma Khin Mar Soe, Ma Thein Thein Aye, U Aung Moe Tin Oo, U Tin Hla, and 10 FTUB organizers in the Bago area were unknown at year’s end.

Six labor activists—Thurein Aung, Kyaw Kyaw, Wai Lin (Wai Aung), Nyi Nyi Zaw, Kyaw Win (Wanna), and Myo Min—arrested in connection with a labor rights seminar in Rangoon and sentenced in 2007 to 20 to 28 years’ imprisonment for sedition remained in prison. Labor activists Kan Mint and Nyunt Win, arrested and tried in 2008 on a number of charges, including links with exiled groups and sedition, were sentenced to 11 and one-half years’ and 10 years’ imprisonment in December 2008, respectively. At year’s end five of the six labor activists remained in prison; the whereabouts of Khin Maung Cho, arrested in 2008, were unknown.

Labor activists reported at the International Labor Conference that 32 labor activists, including eight FTUB female members, remained imprisoned.

Although the law prohibits labor strikes, a number of strikes took place at privately owned factories in Rangoon area industrial zones during the year. These were all of short duration, lasting less than a day on average. By all reports these were prompted by workers seeking wage increases or other benefits. In each case the strike was ended through a negotiated settlement. The Government closely monitored the strikes but did not use force to end them and appeared to have played a role in mediating between labor and factory management.

*b. The Right to Organize and Bargain Collectively.*—Although the 2008 constitution provides that workers have a right to organize and have workers’ representatives, the Government generally does not allow workers to organize or bargain collectively. However, workers’ supervision committees existed at factories in some government-designated industrial zones to address grievances. When a dispute cannot be resolved at the factory level, it is referred to a township committee chaired by the township chairman. The township committee attempts to resolve the problem through negotiation or, if necessary, arbitration. During the period a dispute is be-

fore the supervision committee process, the workers are required to continue their work, and demonstrations are prohibited.

There are no export processing zones; however, there are special military-owned industrial parks. Labor laws are applicable in all industrial zones and across all industries, but they were not always enforced.

*c. Prohibition of Forced or Compulsory Labor.*—The SPDC Supplementary Order 2004 and Ministry of Home Affairs Order 1/99 prohibit forced or compulsory labor (except as a criminal punishment); however, there were reports that such practices occurred. The law provides for the punishment of persons who impose forced labor on others. However, government and military use of forced or compulsory labor remained a widespread and serious problem, particularly targeting members of ethnic minority groups. Throughout the country international observers verified that the Government routinely forced citizens to work on roads, construction, and other maintenance projects. Citizens also were forced to work in military-owned industrial zones.

The ILO continued to receive and investigate forced labor complaints. During the year the ILO received 201 complaints of cases of child-soldier recruitment, an increase from 86 cases in 2009. Since the ILO began monitoring underage recruitment in 2007, it has received 331 complaints. At year's end a total of 142 underage recruits had returned to their families, and 120 cases were being processed for discharge. A further 60 cases were under review, while nine lacked sufficient evidence to advance.

The ILO reported one complaint in 2009 of internal trafficking of 100 boys ages 13 to 15 for forced labor at a horticultural plantation. The boy who reported the case was initially abducted in Rangoon Division and taken to the plantation. According to the ILO, the boy escaped the plantation during the year and was home with his family; at year's end the status of the other boys was unknown.

The Government's use of forced labor in support of military garrisons or military operations remained serious in ethnic or religious minority regions.

On January 2, SPDC soldiers demanded that 30 villagers from Klaw Mi Der in Karen State retrieve rations from an SPDC base. The soldiers forced 10 women and 20 men to make the two-hour round trip journey on foot; they were not compensated for their work. On January 12, government soldiers ordered villagers to porter rations for eight hours, according to the Karen Human Rights Group. On February 9, light infantry battalions forced 30 male villagers to porter rations six hours in Karen State.

In May in Rangoon, the Government reportedly forced some villagers to work on a road construction project for six days. Each person who refused had to pay a fine of 2,000 kyat (\$2) per day.

In June there were reports that 40 villagers were forced to act as security for a camp of 180 government soldiers searching for Arakan Liberation Army members and six government army defectors. The villagers also had to carry the soldiers' uniforms, backpacks, ammunition, and other equipment.

Authorities continued to use forced labor countrywide to maintain existing civil infrastructure, including transportation and irrigation facilities. Authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations.

During the year the Government released most Magwe farmers sentenced to hard labor in October 2009 on charges of trespassing after returning to land confiscated by the Government; however, an ILO facilitator and another individual connected with the case remained in prison at year's end.

Although the Government took steps to address forced labor, it remained widespread. In February the Government agreed to extend the Supplementary Understanding of 2007 with the ILO, an agreement under which the ILO receives forced-labor complaints, the Government investigates such complaints, and the Government works with the ILO to engage in awareness-raising activities. The Government willingly participated in some joint investigations of forced-labor cases; however, the ILO reported rare instances of persons who had filed complaints later being charged under the Official Secrets Acts.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets a minimum age of 13 for the employment of children. The 1993 Child Law provides for the protection of children in the workplace by classifying children ages 14 to 17 as youths and allowing them to engage in light duties. Light duties are not defined, however, and in practice the Child Law was not enforced. Child labor was prevalent and highly visible. In cities child workers were found mostly in the food-processing,

street-vending, refuse-collecting, and light-manufacturing industries and as restaurant and teashop attendants. In rural areas children routinely worked in family agricultural activities.

Forced labor, including child forced labor, is illegal under Order 199. Nonetheless, the Government army continued to recruit and use child soldiers. Ethnic armed groups and some cease-fire groups also allegedly recruited child soldiers (see section 1.g.).

According to media reports, a child soldier who was illegally recruited by an army officer in 2007 at the age of 14 was officially discharged from the army in June with the help of ILO. The child reported that officers and older soldiers bullied and beat child soldiers, would not allow them to receive medical treatment, and put them on the front lines during battles. Following battle, child soldiers were required to do chores and were not permitted to rest.

The Ministry of Social Welfare is broadly responsible for enforcing laws and regulations against forced labor, and the Ministry of Labor enforced the law in industrial zones. The UN Children's Fund continued to work with the Ministry of Labor to facilitate several interagency meetings and workshops on the protection of children.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The Ministry of Finance and Revenue sets the minimum wage. It was not clear what methodology or process it uses. The minimum monthly wage for salaried public employees remained on par with the market monthly wage of 30,000 to 45,000 kyat (\$30 to \$45) for what was in effect an eight-hour workday. The rate for day laborers was 1,000 kyat (\$1) per day. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned by senior officials provided a worker and family with a decent standard of living. Low real wages in the public sector fostered widespread corruption and absenteeism. In the private sector, urban laborers performing unskilled work earned 1,000 to 3,000 kyat (\$1 to \$3) per day, while rural agricultural workers generally earned less. Skilled workers in the private sector tended to earn somewhat more than rural agricultural workers and urban laborers; for example, a skilled factory worker earned 30,000 to 50,000 kyat (\$30 to \$50) per month, according to private-sector employers.

A surplus of labor, a poor economy, and the lack of protection by the Government continued to foster substandard conditions for workers. The law prescribes a five-day, 35-hour workweek for employees in the public sector and a six-day, 44-hour workweek for private sector employees, with overtime paid for additional work. Factory workers at state-owned enterprises must work 44 to 48 hours per week, depending on the type of factory. The law also allows for a 24-hour rest period per week, and workers are permitted 21 paid holidays per year; however, in practice such provisions benefited only a small portion of the labor force, since most workers were engaged in rural agriculture or the informal sector. The laws were generally enforced in the Government sector, but there were frequent violations by private enterprises. There were reports that workers at garment factories near Rangoon were forced to work long hours without receiving overtime pay and were dismissed for being absent from work for more than three days due to sickness.

Numerous health and safety regulations exist, but the Government did not enforce them. Although the law permits workers to remove themselves from hazardous conditions, many could not expect to retain their jobs if they did so and accepted unfavorable working conditions as preferable to unemployment.

## CAMBODIA

Cambodia is a constitutional monarchy with an elected government and a population of approximately 14 million. In the most recent national elections, held in 2008, the Cambodian People's Party (CPP), led by Prime Minister Hun Sen, won 90 of 123 National Assembly seats. Most observers assessed that the election process improved over previous elections but did not fully meet international standards. The CPP consolidated control of the three branches of government and other national institutions, with most power concentrated in the hands of the prime minister. Although civilian authorities nominally controlled the security forces, in many instances security forces acted under directives of CPP leadership.

Members of security forces committed arbitrary killings and acted with impunity. Detainees were abused, often to extract confessions, and prison conditions were harsh. Human rights monitors reported arbitrary arrests and prolonged pretrial de-

tention, underscoring a weak judiciary and denial of the right to a fair trial. Land disputes and forced evictions, sometimes violent, continued. The Government restricted freedom of speech and of the press through defamation and disinformation lawsuits and at times interfered with freedom of assembly. Corruption was endemic. Civil society expressed significant concern that the draft Law on Associations and Nongovernmental Organizations (NGOs) could seriously constrain the ability of NGOs to operate. Domestic violence and child abuse occurred, education of children was inadequate, and trafficking in women and children persisted. The Government offered little assistance to persons with disabilities. Antiunion activity by employers and weak enforcement of labor laws continued, and child labor in the informal sector remained a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed politically motivated killings; however, security forces reportedly committed arbitrary killings, although fewer than in previous years.

The NGO Cambodian Human Rights and Development Association (ADHOC) reported 12 arbitrary killings, four of which were allegedly committed by police, three by military police officers, and five by soldiers. Police arrested suspects in three cases.

On January 10, a local human rights organization reported that two commune police officers in Kandal Province, Chil Sarath and Sun Vantha, beat Lon Chhun Leng. The victim subsequently died from his injuries. The perpetrators reportedly had a public dispute with the victim earlier the same evening at a wedding party. The victim's family filed a complaint with the provincial court. At year's end, the case was pending, no hearing date had been set, and the two commune police officers remained free.

On March 22, a group of police officers led by Nov Hach, police chief of Me Sang District in Prey Veng Province, reportedly shot Chhoeun Chheang during an arrest attempt. In 2005 the provincial court had convicted Chhoeun in absentia on robbery charges and issued a warrant for his arrest. According to a local human rights organization, police reportedly were carrying out the warrant when the victim was shot and then abandoned; he subsequently died from his wounds. There was no reported investigation of the shooting.

On April 16, Sok Ry, deputy police chief of Trapeang Phlong commune in Kampong Cham Province, allegedly shot robbery suspect Horm Vanda during an arrest attempt. The victim's family filed a complaint with the provincial court. At year's end, the case was pending, no hearing date had been set, and the deputy police chief remained free.

On April 26, community activist Pech Sophon was shot and killed in front of his house in Samlot District in Battambang Province by a group of unknown persons. According to a local human rights organization, the victim was an active leader in his community's land dispute with local authorities, the military, and a private company. Police investigated the killing but did not release information about the investigation.

On July 20, the appeals court upheld the decision of the Takeo Provincial Court to dismiss a complaint made by the family of fisherman Mao Sok, who died in March 2009 while in custody of the Takeo Provincial Fishery Department.

There were no developments in the following cases: the April 2009 death of Kong La while in custody of the Mong Russei District police in Battambang Province; the June 2009 death of Loeung Saroeun, who was immolated by a soldier in the military's 14th Intervention Brigade in Pursat Province; and the July 2009 death of Soy Sokhorn, who was shot and killed by a Phnom Penh military police officer.

There were no developments in the following 2008 cases: the killing of Buern Soksina in Preah Vihear Province, the death resulting from a beating by security forces of a villager in Preah Vihear Province, the death of a bystander in Phnom Penh shot by a military police officer, the deaths of former CPP activist Cheang Sorn and Norodom Ranariddh Party deputy chief Sok Run, or the killing of journalist Khem Sambo and his son.

Mines dating from the Indochina conflict and Khmer Rouge period continued to cause casualties. According to the Cambodia Mine/UXO Victim Information System, from January to November, mines and unexploded ordnance caused 70 deaths, 41 amputations, and 149 other injuries. The Government's Cambodian Mine Action and Victim Assistance Authority continued to take steps to prevent civilian casualties caused by land mines and unexploded ordnance, including a mine clearance pro-

gram and distribution of prevention materials such as leaflets, books, and signs. Information about the danger of mines and unexploded ordnance is a mandatory component of student curriculum in public schools, and provincial mine-action units conducted regular meetings with villagers at the commune and village levels to share information.

On March 25, a mob attacked three men after the three allegedly hit two young women and stole their motorbike in Phnom Penh. According to press reports, police initially chased and subdued the three suspects, but then a mob of more than 400 persons forcibly removed the suspects from police custody and attacked them with sticks, steel pipes, and rocks, killing two. Police stood by throughout the incident. The mob left for dead the third man, Sok Siek, but he regained consciousness, and police arrested him and charged him with robbery. Police declared that they could not investigate the case of mob violence, because there were too many persons involved and no way to determine who was responsible, despite photographs of the attack.

During the year local organizations reported at least two other mob killings.

There were no developments in the February 2009 killing of Hang Heoun, accused of sorcery, in Sandan District, Kampong Thom Province. The seven alleged perpetrators remained in pretrial detention, and no trial date was set.

There were no developments in two other mob killings reported in 2009 or the two mob killings in 2008.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, beatings and other forms of physical mistreatment of police detainees and prison inmates continued, although the number of incidents decreased from 2009.

There were credible reports that military and civilian police officials used physical and psychological torture and on occasion severely beat criminal detainees, particularly during interrogation. During the year nongovernmental organizations (NGOs) reported that authorities allegedly tortured at least 111 prisoners: 93 in police custody and 18 in prisons. Kicking, punching, and pistol whipping were the most common methods of physical abuse, but techniques also included electric shock, suffocation, caning, and whipping with wire. The NGOs reported that it was not uncommon for police to torture detained suspects until they confessed to a crime. Courts used forced confessions as legal evidence during trial despite admissibility prohibitions under the law.

On February 5, two persons reported that Svay Chrum District police officers beat them while in police custody to obtain a confession for a robbery the two claimed they did not commit. Police later released them without charges. There was no investigation into their complaints.

On May 15, three Thnoat Chum commune police allegedly beat and administered electric shocks to a person to obtain his confession for street fighting. The victim, who was seriously injured and lost consciousness as a result, claimed he was not involved in the fighting. He filed a complaint with the provincial court, which charged one commune police officer. At year's end, the case was pending and no hearing date had been set; the police officer remained free.

Five persons from the village of Tumnob Teuk, who reported in 2009 that military police from the Bavel District in Battambang Province beat, kicked, and administered electric shocks to them to extract confessions for a robbery they claimed they did not commit, remained in jail despite being acquitted of the robbery charges by the Battambang Provincial Court. The prosecutor filed an appeal of the acquittals; at year's end, no hearing date had been set.

ADHOC reported 89 cases of physical assault on civilians by local authorities, government agents, or private bodyguards during the year, compared with 100 cases in 2009.

There were 11 government-operated drug rehabilitation centers. Most observers agreed that the majority of detainees in such facilities were there involuntarily, committed to the facilities by law enforcement authorities or family members, and that as many as one-third of detainees were under the age of 18. Employees of the centers frequently used involuntary methods to "control" detainees, including tying detainees up or submitting them to intense exercise and electric shocks. Government leaders acknowledged the importance of treating drug addiction as a medical rather than criminal matter, but there was little reported action to follow up such statements.

In contrast with 2009, there were no reported cases that the Government forced drug addicts to accept treatment with the controversial herbal substance Bong Sen without informed consent.

There were no new developments in the 2008 reported cases of detainee abuse by authorities at two Ministry of Social Affairs, Veterans, and Youth Rehabilitation (MOSAVY) rehabilitation centers. At year's end, one center remained closed, while another was being used to hold homeless persons and some drug users and sex workers.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards. Conditions remained harsh and at times were life threatening. Government efforts to improve them continued to be hampered by a lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, medical and sanitation problems, food and water shortages, malnutrition, and poor security.

According to the Ministry of Interior Prison Department, there were 14,043 prisoners and detainees, including 915 women and 772 juveniles. There were 25 prisons in the country, which were designed to hold between 8,000 and 11,000 persons. There were reports at some prisons that cells of 40 by 20 feet held up to 110 prisoners. At the Correctional Center 1 prison, 26-by-26-foot cells held an average of 50 prisoners. In some prisons authorities used shackles and held prisoners in small, dark cells as a form of punishment.

The Prison Department reported 83 prisoners and detainees died while in custody. Police claimed that they investigated the deaths and found evidence of preexisting conditions or other illness.

On January 21, the Phnom Penh Municipal Court dismissed the wrongful death complaint filed by family of prisoner Heng Touch, who died in 2008 after sustaining injuries in prison under suspicious circumstances. The family did not appeal the dismissal.

There were no developments in the 2008 deaths of prisoners Yan Sok Kea and Bun Vannarith while in police custody, or an elderly woman confined in a MOSAVY rehabilitation facility.

The Government increased ration allowances for prisoner food and other necessities, but allowances remained inadequate. Observers continued to report that ration allowances for purchasing prisoners' food sometimes were misappropriated, exacerbating malnutrition and disease.

In most prisons there was no separation of adult and juvenile prisoners, of male and female prisoners, or of persons convicted of serious crimes and persons detained for minor offenses. Pretrial detainees were routinely held together with convicted prisoners. According to government statistics, an estimated 34 percent of prisoners held in municipal and provincial prisons were pretrial detainees.

Prisoners and detainees were routinely allowed access to visitors, although rights organizations confirmed that families sometimes had to bribe prison officials to visit prisoners or provide food and other necessities. NGOs also confirmed accounts that prisoners whose families bribed prison authorities received preferential treatment, including access to visitors, transfer to better cells, and the opportunity to leave cells during the day.

There were credible reports that officials occasionally demanded bribes before allowing prisoners to attend trials or appeal hearings and before releasing inmates who had served their full term of imprisonment.

Prisoners and detainees were allowed to observe their own religion.

Complaints about alleged abuse could be submitted to judicial authorities through lawyers without censorship; however, a large number of prisoners and detainees could not afford legal representation. The Government investigated such complaints and monitored prison and detention center conditions through the Ministry of Interior's General Department of Prisons, which produced biannual reports on the management and development of prisons in the country. These and other investigation reports reportedly were available to the public upon request.

The Government generally continued to allow international and domestic human rights groups, including the International Committee of the Red Cross and the Office of the UN High Commissioner for Human Rights (UNHCHR), to visit prisons and provide human rights training to prison guards. Some NGOs reported that at times cooperation from local authorities was limited, making it difficult to gain access to pretrial detainees. The Ministry of Interior continued to require that lawyers, human rights monitors, and other visitors obtain permission prior to visiting prisoners; the ministry withheld such permission in some politically sensitive cases. In some instances officials continued to permit NGOs to interview prisoners in private. UNHCHR representatives reported they usually were able to have a private meeting when interviewing a particular prisoner of interest.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, at times the Government did not respect these prohibitions. The

criminal procedures code allows for pretrial detention of up to six months for misdemeanors and 18 months for felonies. One in every 10 detainees in pretrial detention was held longer than the legal time limit, sometimes without legal representation or trial. During the year the Ministry of Interior reported having 210 persons in pretrial detention in excess of the legal time limit permitted for the charged offense. Additionally, some courts lost case files during pretrial detention periods, delaying court procedures.

ADHOC reported at least 75 cases of illegal arrest or detention during the year. ADHOC stated that victims in 21 illegal detention cases subsequently were freed following detainee complaints, interventions by human rights NGOs, or payment of bribes. ADHOC believed that the actual number of arbitrary arrests and detentions was somewhat higher, because some victims in rural areas did not file complaints due to difficulty in traveling to the NGO's offices or concern for their family's security. According to ADHOC, authorities took no legal or disciplinary actions against the persons responsible for the illegal detentions.

Throughout the year Phnom Penh municipal authorities arrested dozens of persons—usually the homeless, mentally ill, drug users, or commercial sex workers—during systematic street sweeps. Detainees typically lost all money and belongings in the course of a sweep. Authorities called the street sweeps part of an effort to “regulate society.” Occasionally authorities placed the detainees in a MOSAVY-operated rehabilitation facility 15 miles from Phnom Penh. Detainees were told they were free to leave but would not be provided transportation if they left the rehabilitation center.

*Role of the Police and Security Apparatus.*—The General Commissariat of the National Police, which is under the supervision of the Ministry of Interior, manages all civilian police units. The police forces are divided into those who have the authority to make arrests, those without such authority, and the judicial police. Military police were permitted to arrest civilians if the officers met the training and experience requirements to serve as judicial police, if civilians were on military property, or when authorized by local governments. In practice, however, the military police sometimes engaged in regular civilian law enforcement activities under the authority and direction of provincial or local governments.

Police officials killed citizens and committed other abuses with impunity, and in most cases the Government took little or no action. The law requires police, prosecutors, and judges to investigate all complaints, including those of police abuses; however, in practice judges and prosecutors rarely conducted an independent investigation as part of a public trial. Presiding judges usually passed down verdicts based only on written reports from police and witness testimonies. In general police received little professional training. Police who failed to prevent or respond to societal violence were rarely disciplined.

On March 7, Oddar Meanchey forestry officials claimed that persons from a group of 200 military families shot at them when they attempted to remove the families from a protected forest area. The Forestry Administration had announced the week before that it was seeking the arrest of a village chief and a Royal Cambodian Armed Forces officer who they claimed had illegally convinced the families to settle in the protected area.

On March 8, villagers evicted in 2009 from disputed land in Kraya commune, Kampong Thom Province, attempted to return to their former farmland that had been converted into a rubber plantation owned by a Vietnamese company. Police assigned to guard the plantation opened fire on the villagers, wounding three, after the villagers allegedly attacked them with knives. The provincial government had resettled the evictees on land near the site, but villagers claimed they had not received land suitable for planting crops.

On August 20, the Siem Reap Provincial Court convicted nine villagers from Chi Kraeng commune of forming an illegal armed force and sentenced them to three years in prison. The court convicted three additional villagers from the same commune for attempting to confine court officials and sentenced them to three years in prison. The villagers were arrested in March 2009 during a land dispute in which police opened fire on a crowd of protesters, injuring three. The court revised the sentences of all 12 villagers to 17 months, equivalent to time served, but the villagers remained in prison pending the possibility of appeal by the prosecutor or to face additional charges. Despite calls from the Ministry of Justice for provincial authorities to take action against the shooters in the case, at year's end no action had been taken.

There was no development in the June 2009 case in which a Ratanakiri provincial police sergeant shot and wounded a villager during a protest over an economic land concession.

There were no developments in the 2008 case of Brigade 70 Major Meur Bora, who reportedly beat two men following a minor traffic accident, or in the 2008 case of an alleged government bodyguard who shot and killed a woman in a bar.

*Arrest Procedures and Treatment While in Detention.*—The law requires police to obtain a warrant from an investigating judge prior to making an arrest, but police may arrest without a warrant anyone caught in the act of committing a crime. The law allows police to take a person into custody and conduct an investigation for 48 hours, excluding weekends and government holidays, before charges must be filed. In felony cases of exceptional circumstances prescribed by law, police may detain a suspect for an additional 24 hours with the approval of a prosecutor. However, authorities routinely held persons for extended periods before charging them. There was a functioning bail system; however, many prisoners, especially those without legal representation, had no opportunity to seek release on bail. Under the criminal procedures code, accused persons may be arrested and detained for up to 24 hours before being afforded access to legal counsel, but prisoners routinely were held for several days before gaining access to a lawyer or family members. According to government officials, such prolonged detention largely was a result of the limited capacity of the court system.

On May 29, police in Phnom Penh arrested Leang Sokchhoeun and reportedly held him incommunicado for 33 hours, during which time he was also transported to Takeo Province. Leang's lawyer and family reported making multiple requests to speak with Leang after the expiration of the 24-hour detention period permitted by law, but police denied all requests (see also section 2.a.).

There were no developments in the case of police officer Prip Pov, who remained in hiding after he was sentenced in absentia to one year in prison in April 2009.

*Amnesty.*—The king may grant amnesty in certain cases, which he often does during important Buddhist religious ceremonies and national holidays. The Ministry of Interior reported that King Norodom Sihamoni pardoned 154 persons during the year.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, but the Government generally did not respect judicial independence in practice. The courts were subject to influence and interference by the executive branch, and there was widespread corruption among judges, prosecutors, and court officials.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and the Government did not provide for due process.

Observers reported that many cases were pending due to a shortage of judges and courtrooms. Observers also speculated that court officials might have been focusing on cases from which they could gain financial benefits.

There remained a critical shortage of trained lawyers, particularly outside Phnom Penh. Persons without means to secure counsel were often effectively denied the right to a fair trial. According to the bar association, approximately 30 percent of the country's 751 lawyers provided pro bono legal counsel to poor persons, which was inadequate to cover the basic legal rights of all of the country's poor.

Sworn written statements from witnesses and the accused usually constituted the only evidence presented at trials. The accused person's statements sometimes were coerced through beatings or threats, and illiterate defendants often were not informed of the contents of written confessions that they were forced to sign. In cases involving military personnel, military officials often exerted pressure on judges of civilian criminal courts to have the defendants released without trial.

Court delays or corrupt practices often allowed accused persons to escape prosecution. Government officials or members of their families who committed crimes often enjoyed impunity.

In many criminal cases, rich or powerful defendants, including members of the security forces, usually paid money to victims and authorities to drop criminal charges against them. Authorities were known to urge victims or their families to accept financial restitution in exchange for dropping criminal charges or failing to appear as witnesses.

*Trial Procedures.*—Trials are public. Juries are not used; the presiding judge possesses the authority to pass a verdict. Defendants have the right to be present and consult with an attorney, confront and question witnesses against them, and present witnesses and evidence on their own behalf. In felony cases, if a defendant cannot afford an attorney, the court is required to provide the defendant with free legal representation; however, the judiciary often lacked the resources to provide legal counsel, and most defendants sought assistance from NGOs or went without legal representation. Trials based on the civil code system typically were perfunctory, and extensive cross-examination usually did not take place. Defendants and their attor-

neys have the right to examine government-held evidence relevant to their cases; however, on rare occasions it was difficult for them to obtain such access, especially if the case was political or involved a high-ranking government official or well-connected member of the elite.

Defendants are entitled by law to the presumption of innocence and the right of appeal, but due to pervasive corruption, defendants often were expected to bribe judges to secure a favorable verdict. A citizen's right to be present at his appeal often was limited by difficulty in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Consequently, more than half of all appeals were heard without the presence of the defendant.

There was no development in the case of Thach Saveth. In 2009 the appeals court upheld Thach's 2005 conviction for killing labor leader Ros Sovannareth. Thach's lawyer appealed to the Supreme Court; as of year's end, no trial date had been set. Many observers, including local NGOs and the International Labor Organization (ILO), reported procedural irregularities in the case and a lack of evidence linking Thach to the crime.

There were no developments in the case of Born Samnang and Sok Sam Oeun, who remained free on bail after the Supreme Court remanded their case to the appeals court in 2008. The two were convicted in 2004 for the killing of labor leader Chea Vichea. The case remained with the appeals court for reinvestigation and retrial.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The country has a judiciary in civil matters, and citizens are entitled to bring lawsuits seeking damages for human rights violations. Generally, there are both administrative and judicial remedies. Enforcing a court order for a civil or criminal case often was a problem. Persons sporadically turned to vigilante justice.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law provides for the privacy of residence and correspondence and prohibits illegal searches; however, observers reported that police routinely conducted searches and seizures without warrants.

There continued to be reports of authorities entering private properties without proper judicial authorization. Due to forced collectivization during Khmer Rouge rule and the return of hundreds of thousands of refugees, land ownership was often unclear. The land law states that any person who peacefully possessed private or state private property (not state public land) without contention for five years prior to the 2001 promulgation of the law has the right to apply for a definitive title to that property. Most of the country's impoverished population continued to lack the knowledge and means to obtain adequate formal documentation of land ownership.

Provincial and district land offices continued to follow pre-2001 land registration procedures, which did not include accurate land surveys and opportunities for public comment. The Cadastral Commission failed to implement the identification and demarcation of state land, leading to land conflicts, arbitrary evictions, and ill-defined, uncontrolled state development. Land speculation, often in the form of land concessions, continued to fuel disputes in every province and increased tensions between poor rural communities and speculators. Urban communities faced forced eviction to make way for commercial development projects.

The Cadastral Commission continued to perform its functions slowly. The courts remained responsible for resolving disputes in cases where land was registered or disputants were given land titles. The National Authority for Land Dispute Resolution was ineffective, and confusion existed over its jurisdiction, which overlapped with that of the national and provincial cadastral commissions. Implementation of social land concessions for landless citizens was limited.

Cases of inhabitants being forced to relocate continued to occur when officials or businesspersons colluded with local authorities; the number of cases reported increased from 2009. Some persons also used the court system to intimidate the poor and vulnerable into exchanging their land for compensation below market value. ADHOC reported receiving 202 land-related cases during the year. During the same period, another NGO received 75 land-related cases in Phnom Penh and 13 provinces, affecting 7,040 families. The poor often had no legal documents to support their land claims and lacked faith in the judicial system. Some of those expelled successfully contested these actions in court, but the majority of the cases in the courts were being processed at year's end.

On March 19, violence broke out when authorities tried to carry out a Supreme Court-ordered eviction of families from a 162-acre plot of land in Udong District, Kampong Speu Province. Kuo Sheng, the Taiwanese owner of Meng Keth Company,

claimed that he purchased 551 acres of land from 1997 to 2000 to plant trees and build a factory. A representative of the company stated that it would compensate villagers who could show a copy of their land documents. Village representatives insisted that none of the villagers sold their land to the company. Police and villagers attacked one another when the authorities attempted to evict villagers with force.

On May 25, a group of military police, provincial police, and soldiers burned the houses of more than 100 villagers in O'Ampil Village, Anlong Veng District, Oddar Meanchey Province. Authorities claimed that the land was part of the Kulen Prumtep Wildlife Sanctuary and that a court ordered the eviction. Military and police agents burned the homes after the villagers refused to leave. Villagers maintained that they purchased the land from the Ministry of Environment in 2000 and that the eviction order should not have been enforced because there were cases pending in the court.

In July 42 HIV/AIDS-affected families that were forcibly relocated from the Borei Keila neighborhood in Phnom Penh to the Tuol Sambo resettlement site in June 2009 received new concrete houses built by the NGO Caritas Cambodia. NGOs reported that six families entitled to apartments at Borei Keila had not yet received them.

In March Sam Rainsy Party parliamentarian Son Chhay received a court order from the Siem Reap Provincial Court instructing him to vacate his land. The Supreme Court upheld a 2009 lower-court decision ordering Son Chhay to sell 7.8 acres of his land to a government agency for an amount reportedly below the market price.

There were no developments in the case of Chea Sam Ath, who allegedly posed as a local village chief and ordered soldiers to shoot villagers protesting eviction in Malai District, Banteay Meanchey Province, in 2008. The investigation continued; Chea Sam Ath reportedly relocated to Oddar Meanchey Province.

In May the Ratanakiri Provincial Court announced that it would appoint a new judge, the third in the long-running dispute between Jarai ethnic minority villagers from Kong Yu and Kong Thom and businesswoman Keat Kolney. The villagers had filed a civil complaint against Keat Kolney, accusing her of tricking them into thumbprinting transfer documents for 1,112 acres of land in Pate commune, O'Yadav District, Ratanakiri Province, in 2004. At year's end, the civil case remained unresolved.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, these rights were not always respected in practice.

The constitution requires that free speech not adversely affect public security. The constitution also declares that the king is “inviolable,” and a Ministry of Interior directive conforming to the defamation law reiterates these limits and prohibits publishers and editors from disseminating stories that insult or defame government leaders and institutions.

The 1995 press law prohibits prepublication censorship or imprisonment for expressing opinions. However, the Government continued to use the older UN Transitional Authority in Cambodia (UNTAC) law to prosecute journalists and others on defamation, disinformation, and incitement charges. A 2006 amendment to the UNTAC law eliminates imprisonment for defamation but not for incitement or spreading disinformation, which carry prison sentences of up to three years. Judges also can order fines, which may lead to jail time if not paid.

On March 12, the Phnom Penh Municipal Court charged opposition party leader Sam Rainsy with disinformation and forgery of public documents under articles 62 and 49 of the UNTAC law. The Government charged that maps presented by Rainsy in February during his public commentary about border demarcation with Vietnam were falsified. Although Rainsy remained in self-imposed exile in France, on September 23, the court convicted Rainsy in absentia, sentencing him to 10 years in prison, a fine of five million riels (approximately \$1,180), and additional compensation of 60 million riels (\$14,150).

Also in March, Kao Kim Hourn, Ministry of Foreign Affairs secretary of state and president of the University of Cambodia, filed a defamation complaint against Bun Tha, editor in chief of the newspaper *Khmer Amatak* (Immortal Khmer), for publishing articles criticizing fees charged to scholarship applicants at the university. The articles claimed the fees were unfair and implied corruption might be involved. Kao Kim Hourn stated in his complaint that the editor failed to seek comment from the university for the articles and that the fees had a legitimate use in funding housing for scholarship recipients and paying teacher salaries. The case was withdrawn in August, after the editor wrote an apology to Kao Kim Hourn.

On May 29, police from the Ministry of Interior's Internal Security Department arrested Leang Sokchoeun, an employee of a local human rights NGO, on charges of disinformation, allegedly in connection with a series of leaflet distribution activities in Takeo Province. The leaflets reportedly contained criticism of the relationship between the Government and Vietnam; the prosecutor claimed that the content was insulting to the Government and to former king Norodom Sihanouk. Leang maintained his innocence and said he had only a tenuous connection to others allegedly involved in the incident. On August 30, the Takeo Provincial Court convicted Leang and three others on disinformation charges and sentenced Leang to two years in prison. Leang's family appealed the verdict; at year's end, no date to hear the appeal had been set.

On December 19, the Phnom Penh Municipal Court convicted Seng Kunnaka of the UN World Food Program in Phnom Penh and sentenced him to six months in prison. He was charged with incitement under article 495 of the new penal code for printing and sharing a Web article critical of senior government officials. At year's end, Seng was serving his sentence in prison.

There were developments in several 2009 cases during the year. On January 27, the Svay Rieng Provincial Court convicted Sam Rainsy in absentia on charges of inciting racial hatred and destruction of public property in connection with an October 2009 incident in which a group of villagers uprooted wooden stakes demarcating the border with Vietnam. The court sentenced Rainsy to two years in prison and a fine of eight million riels (\$1,890). The court also convicted two villagers who participated in uprooting the border stakes and sentenced each to one year in prison. Rainsy and the villagers appealed the decisions. On October 5, the appeals court upheld the lower court verdict and sentence against Rainsy. The verdict against the villagers was also upheld, but the remainder of their one-year sentences was suspended, and the villagers were released after serving nearly 10 months in prison. Rainsy appealed his verdict to the Supreme Court; as of year's end, no trial date had been set.

Also in January the Government granted permission for the pro-opposition newspaper Moneaksekar Khmer (Khmer Conscience) to resume publication after a six-month hiatus. The Government had accused editor Dam Sith of defamation, disinformation, and incitement but dropped the charges after Dam Sith apologized and closed the newspaper in June 2009.

On April 13, the Government agreed to the king's pardon of Hang Chakra, the publisher of the pro-opposition newspaper Khmer Machas Srok (Khmer Owners of the Land). Hang served nine months of a 12-month sentence for disinformation in connection with a series of articles that alleged corruption among Deputy Prime Minister Sok An's advisers and staff.

On June 2, the Supreme Court upheld the defamation verdicts of the trial court and appeals court against opposition parliamentarian Mu Sochua. Prime Minister Hun Sen sued Mu in April 2009, stating that comments Mu made in a press conference and her subsequent efforts to attract international support defamed him. The court ordered Mu to pay a fine of eight million riels (\$1,890) plus compensation to the prime minister of 8.5 million riels (\$2,000), but Mu refused to pay. On July 15, the Phnom Penh Municipal Court asked the National Assembly to dock Mu's salary as a lawmaker to cover the compensation owed to the prime minister; the National Assembly approved the request on July 29 and began deducting four million riels per month from Mu's salary. On August 9, the court issued a similar request to dock Mu's salary to cover the fine owed in the case, which also was approved.

In a continuation of the 2008 defamation suit filed in France by Foreign Minister Hor Namhong against Sam Rainsy, on May 20, the French appeals court upheld the January 2009 guilty verdict against Rainsy and ordered him to pay 2,000 euros (\$2,650) to the foreign minister.

All major political parties had reasonable and regular access to the print media. All major Khmer-language newspapers received financial support from political parties and were politically aligned. There were an estimated 20 Khmer-language newspapers published regularly. In prior years at least four major newspapers supported opposition parties. During the year, due in part to financial difficulties, only one pro-opposition newspaper was publishing regularly. Another pro-opposition media outlet maintained a Web site but only sporadically published a newspaper. Although the three newspapers with the largest circulations were considered pro-CPP, most newspapers criticized the Government, particularly on corruption and land grabbing. The prime minister, royalist party leaders, and opposition party leaders frequently came under attack.

The Government, military forces, and ruling political party continued to dominate the broadcast media and influence the content of broadcasts. There were nine do-

mestic television stations and approximately 50 radio stations. All television stations and most radio stations were controlled or strongly influenced by the CPP, although a few were independent or aligned with other parties. On July 8, the pro-CPP Deum Ampil (Tamarind Tree) media outlet, which included a daily newspaper, Web site, and radio station, closed after a dispute between publisher Soy Sopheap and the outlet's principal financial backer. Several days later the financial backer, the owner of a large development company, opened a new progovernment media outlet under the name Nokor Wat Media Center.

Journalists, publishers, and distributors were also subject to other forms of harassment and intimidation, including claims of illegal temporary detention, and most reporters and editors privately admitted to some self-censorship due to fear of government reprisals.

In March, Rin Bora, a soldier from Battalion 503, seriously assaulted Reaksmeay Kampuchea journalist Vong Thou for allegedly taking unfavorable photographs of gambling in the Poipet area. After the journalist filed a complaint with police, the perpetrator admitted the crime. The journalist dropped his complaint after Rin Bora apologized and paid civil compensation; the Government did not pursue criminal action after the civil complaint was dropped.

The Government-controlled national television and radio stations broadcast live segments of the verdict in the first trial at the Khmer Rouge Tribunal (see section 5) and taped National Assembly sessions; however, in some instances National Assembly broadcasts were heavily edited. National radio and television stations broadcast some human rights, social action, public health, education, and civil society programming produced by domestic NGOs.

*Internet Freedom.*—There were no reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

According to the Ministry of Posts and Telecommunications, there were 173,675 Internet subscribers, approximately 1 percent of the total population. Most subscribers were in Phnom Penh and Siem Reap. In urban areas Internet access was widely available through Internet cafes.

*Academic Freedom and Cultural Events.*—In general there were no legal impediments to academic freedom. However, scholars tended to be careful when teaching politically related subjects due to fear of offending politicians.

In July the Ministry of Education banned two general knowledge textbooks by Pen Puthsphea. Both books contained questions and answers referring to corruption within government as an impediment to development in the country and alleged that the Government does not respect human rights. Police and other government authorities collected copies of the books on sale in bookstores and warned vendors not to display or sell the volumes. Pen stated that he received anonymous telephone threats.

In contrast with 2009, there were no reports of government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of peaceful assembly, but at times the Government did not respect this right in practice.

On January 13, the Ministry of Education prohibited the assembly on school grounds of teachers, education officers, and school leaders to discuss social conditions or political topics. The order states that gatherings for such purposes are a violation of the national law on education.

The law requires that a permit be obtained in advance of a protest march or demonstration. One provision requires five days' advance notice for most peaceful demonstrations, while another requires 12 hours' notice for impromptu gatherings on private property or at the peaceful protest venue in each province and limits such gatherings to 200 persons. By law provincial or municipal governments hold primary responsibility for deciding whether to issue demonstration permits. In practice, particularly in Phnom Penh, lower-level government officials believed the national government to be the deciding authority and denied requests unless the national government specifically authorized the gatherings. The Government routinely did not issue permits to groups critical of the ruling party or of countries with which the Government had friendly relations. Authorities cited the need for stability and public security as reasons for denying permits. However, the law does not define the terms stability or public security to assist authorities in implementing the law. Police forcibly dispersed groups that assembled without a permit, in some instances causing minor injuries to some demonstrators.

On March 1, police from Phnom Penh's Dangkor District prevented a group of more than 100 villagers from marching to the prime minister's residence in

Takhmao to draw attention to their continuing land dispute with Ministry of Interior official In Samon. Police arrested eight villagers, detaining them for hours and threatening imprisonment, until the villagers agreed to thumbprint documents dropping their complaints over the land. Observers from several human rights organizations also reported that police temporarily confiscated their cameras and deleted all pictures of the day's events before returning the cameras.

On August 8, officials forcibly dispersed a gathering of more than 50 villagers from Battambang Province who assembled in front of the prime minister's home in Phnom Penh to protest a land dispute between 400 families and members of the military. Unidentified plainclothes officials dragged villagers from a park and forced them to board a bus chartered by the Government to return the villagers to Battambang. In some cases officials shoved and crushed villagers into the bus with little regard for safety. The bus then reportedly dropped the villagers nearly 20 miles from their community.

During the year ADHOC reported 183 protests, most of which were related to land or labor disputes.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice; however, the Government did not effectively enforce the freedom of association provisions of the law (see section 7.a.).

Membership in the Khmer Rouge, which ruled the country from 1975 to 1979 and after its overthrow conducted an armed insurgency against the Government, is illegal, as is membership in any armed group.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government generally did not provide protection or assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern, but it generally allowed humanitarian organizations to provide such protection and assistance. The Government cooperated with the UN High Commissioner for Refugees (UNHCR) to provide protection and assistance to Montagnard asylum seekers.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In December 2009 the Government issued a subdecree by which it assumed sole responsibility for the refugee-status determination process, taking final control of what had been a jointly managed process with the UNHCR since 2008. The UNHCR continued to provide training and other technical assistance, and it participated in interviews and made recommendations to the Government on asylum cases.

A 2005 memorandum of understanding with the UNHCR and the Government of Vietnam to resolve the situation of Montagnards under UNHCR protection remained in effect. Asylum seekers who reached the UNHCR Phnom Penh office were processed with government cooperation. During the year two Montagnards and 47 other new arrivals sought asylum; in addition, two children were born to asylum seekers in the country, one Montagnard and one non-Montagnard. According to the UNHCR, 12 Montagnards and two other refugees departed for a third country, while authorities returned seven rejected Montagnard asylum seekers to Vietnam. There were 65 Montagnards in the remaining UNHCR protection site in Phnom Penh, which was a limited-access site; Montagnard refugees and asylum seekers there under UNHCR protection could leave only with UNHCR permission and escort. According to the UNHCR, during the year no refugees requested local integration.

The Government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

There were no reported cases of government abuse or mistreatment of refugees or asylum seekers, and restriction of movement was applied only in the case of the Montagnards under the special processing agreement.

There were no developments in the case of the 20 Uighur asylum seekers forcibly deported to China in December 2009.

*Stateless Persons.*—The country had habitual residents who were de facto stateless, and the Government did not effectively implement laws or policies to provide

such persons the opportunity to gain nationality. Under the nationality law, citizenship may be derived by birth from a mother and father who are not ethnic Cambodians if both were born and living legally in Cambodia, or if either parent has acquired Cambodian citizenship.

A 2007 study commissioned by the UNHCR estimated that several thousand potentially stateless persons lived in the country. However, the study's estimates came from anecdotal evidence from NGOs, and local UNHCR representatives did not consider the figure conclusive. The most common reason for statelessness was lack of proper documents from the country of origin.

The UNHCR stated that the country's potentially stateless population included mostly ethnic Vietnamese. According to an NGO, individuals without proof of nationality often did not have access to formal employment, education, marriage registration, the courts, and land ownership.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice through periodic elections on the basis of universal suffrage. Suffrage is voluntary for all citizens age 18 years and older.

*Elections and Political Participation.*—The most recent national elections, held in 2008 for the National Assembly, were peaceful overall, with a process that was generally considered an improvement over past elections. However, observers noted that the elections did not fully meet international standards. Although some election day irregularities persisted, they were low in number and did not appear to affect the outcome or distort the will of the electorate.

In May 2009 the country held indirect elections for 374 provincial and 2,861 district council seats for the first time in its history as part of the Government's decentralization and deconcentration initiative. Voting was limited to the 11,353 commune councilors elected in the 2007 commune elections. The CPP won 302 provincial seats and 2,249 district seats; the remainder were split among various royalist and opposition parties.

Parties could register, and individuals were free to declare their candidacy without restrictions.

Some NGOs and political parties alleged that membership in the dominant CPP party provided advantages, such as gifts or access to government emergency aid.

Traditional culture limited the role of women in government; however, women took part in the May 2009 indirect provincial and district council elections. There were 28 women in the 123-seat National Assembly and nine women in the 61-seat Senate. There was a female deputy prime minister and 45 female ministers, secretaries of state, undersecretaries of state, and National Election Commission officials. Women also served as advisers, and there were 31 female judges and prosecutors in the municipal and provincial courts, appeals court, and Supreme Court. Although there were no female governors, the Government appointed women as deputy governors in all of the 23 provinces and the Phnom Penh Municipality. The National Election Committee reported that women held 15 percent of commune council seats, 13 percent of district council seats, and 10 percent of provincial council seats.

There were five members of minorities—four Cham and one other ethnic minority—in the National Assembly. There also were three members of minorities in the Senate. At least eight officials in senior positions in the Government were from minority groups.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

On January 20, the Government promulgated a new penal code that defines various corrupt acts and specifies the applicable penalties for such acts. The penal code entered into full effect on December 21. On April 17, the Government promulgated an anticorruption law, which provides the statutory basis for the establishment of a National Council against Corruption and an anticorruption unit to receive and investigate corruption complaints. Pursuant to the law, the Government appointed 11 council members in June. Fourteen investigators for the anticorruption unit were appointed in August, and it began receiving complaints the same month.

Corruption was considered endemic and extended throughout all segments of society, including the executive, legislative, and judicial branches of government. There were reports that police, prosecutors, investigating judges, and presiding judges received bribes from owners of illegal businesses. Reported public experience with cor-

ruption was widespread, indicating many corrupt practices were not hidden. Meager salaries contributed to “survival corruption” among low-level public servants, while a culture of impunity enabled corruption to flourish among senior officials. In April the Phnom Penh Municipal Court convicted and sentenced a Justice Ministry official to eight years in prison for accepting bribes.

Under the anticorruption law, public servants are subject to financial disclosure provisions.

The National Archives Law allows unlimited access to informational documents in the public archive. However, the law grants access to other unspecified government documents only after 20 years, and documents affecting national security and preservation of personal lives may be released only after 40 and 120 years, respectively. Some NGOs reported that in practice it was difficult for them to access information; the Government frequently did not or could not answer requests for information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often cooperated with human rights workers in performing their investigations; however, there were multiple reports of lack of cooperation and, in some cases, intimidation by local government officials.

There were approximately 40 human rights NGOs in the country, but only a small portion of them were actively involved in organizing training programs or investigating abuses.

Domestic and international human rights organizations faced threats and harassment from local officials. These took the form of restrictions on and disruptions of gatherings sponsored by NGOs, verbal intimidation, threats of legal action, and bureaucratic obstruction. NGO public interest lawyers reported being denied access to detained clients in some human rights abuse cases, and an NGO reported that government officials warned that the NGO’s representatives might be charged with disinformation and incitement if they spoke to the media about the cases.

On January 1, ADHOC employees returned to work in Ratanakiri Province, after they had departed in August 2009 following statements by a local judge that charges would be deferred if they left the province. No additional charges were filed against the workers upon their return, although an investigation continued in the land dispute involving local villagers, including original charges filed in 2009 against the ADHOC employees.

On December 15, the Government released for public comment a draft Law on Associations and Nongovernmental Organizations. International and domestic NGOs expressed significant concerns about the draft law, which includes language that imposes burdensome reporting requirements on NGOs, prevents associations with fewer than 21 members from attaining legal status, erects burdensome barriers to the registration of foreign NGOs, requires foreign NGOs to collaborate with the Government, and outlaws unregistered NGOs without adequate due diligence. Foreign governments expressed concern that the proposed law would greatly increase the Government’s regulation of both civil society and foreign NGOs.

There were no developments in the 2009 cases involving three employees of the local NGO Independent Democracy of Informal Economic Association and one Sam Rainsy Party commune councilor charged with incitement. All of those arrested remained free on bail and were awaiting trial; no date had been set by year’s end.

The Government cooperated with international governmental bodies and permitted visits by UN representatives. The UN special rapporteur for human rights in Cambodia, Surya Subedi, made visits in January and June, during which Subedi met with the prime minister and other senior government officials.

The Government had three human rights bodies: two separate Committees for the Protection of Human Rights and Reception of Complaints—one under the Senate and another under the National Assembly—and a Cambodian Human Rights Committee that reported to the prime minister’s cabinet. The committees did not have regular meetings or a transparent operating process. The Cambodian Human Rights Committee submitted government reports for participation in international human rights review processes, such as the Universal Periodic Review, and issued responses to reports by international government bodies, but it did not conduct independent human rights investigations. Credible human rights NGOs considered the Government committees to have limited efficacy.

The Government hosted the hybrid Extraordinary Chambers in the Courts of Cambodia (ECCC), which was administered jointly with the UN to try Khmer Rouge leaders and those most responsible for the abuses of the Khmer Rouge period. There

were no allegations of corruption in the court's administration during the year. Some observers believed that public comments by government leaders on matters related to the ECCC's jurisdictional mandate constituted a form of political interference; however, there was no evidence that the work of the court was inhibited in any way, and national authorities successfully fulfilled their responsibilities to apprehend and hand over to the tribunal all individuals indicted by the ECCC.

On July 26, the ECCC convicted Kaing Guek Eav (alias Duch), the former Khmer Rouge director of the S-21 torture prison (Tuol Sleng) who was charged with crimes against humanity and grave breaches of the 1949 Geneva Convention (war crimes), premeditated murder, and torture. The court sentenced him to 35 years in prison but subtracted five years to compensate for the period of unlawful detention that Duch spent in military detention. With 11 years already served, Duch therefore faced an additional 19 years in prison. The defense counsel announced it would appeal the verdict to the ECCC's Supreme Court Chamber, on the grounds that Duch does not fit into the category of persons over which the court has jurisdiction. The prosecution also submitted an appeal, on the grounds that the sentence was inadequate. On September 16, the court issued a closing order, or indictment, against the four other detained Khmer Rouge senior leaders charging them with crimes against humanity, war crimes, and genocide. The court also continued investigations of five unnamed persons.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status; however, the Government did not generally protect these rights.

*Women.*—The law prohibits rape and assault; nevertheless, local and international NGOs reported that violence against women, including domestic violence and rape, was common. Rape is a criminal offense and punishable by a prison sentence of between five and 10 years, according to the UNTAC law. A case of spousal rape may be prosecuted as “rape,” “causing injury,” or “indecent assault” under the UNTAC law. Under the 2005 domestic violence law, spousal rape may fall within the definition of domestic violence that includes “sexual aggression.” Charges for spousal rape cases under the UNTAC law and the domestic violence law were rare. The domestic violence law criminalizes domestic violence but does not specifically set out penalties. However, the UNTAC law on battery and injury can be used to penalize domestic violence offenses, with penalties ranging from two months’ to five years’ imprisonment.

According to one NGO, there were 501 cases of rape and 546 cases of domestic violence during the year; courts tried 180 of these cases. A different NGO documented 162 cases of domestic violence affecting 164 victims and 74 cases of rape affecting 76 victims in 13 provinces and Phnom Penh by the end of November. Five cases of domestic violence and three cases of rape resulted in the deaths of eight victims. During the year the Ministry of Interior’s antitrafficking department investigated 428 cases of violence against women and children, resulting in the arrest of 377 perpetrators and rescue of 423 victims. Of the 428 cases, 328 were for rape and attempted rape. The ministry reported that three cases of rape resulted in the death of four victims. The number of cases likely underreported the scope of the problem, due to ineffective enforcement, inadequate crime statistics reporting, and the fact that women were afraid to make complaints against perpetrators. NGOs reported that enforcement of the domestic violence law was weak, authorities continued to avoid involvement in domestic disputes, and victims frequently were reluctant to pursue formal complaints.

There were no developments in the November 2009 case of a 19-year-old woman reportedly raped by a police officer while another held her. Prosecution stalled, and the perpetrators remained free at year’s end.

The Government supported NGOs that provided training for poor women vulnerable to spousal abuse, prostitution, and trafficking. A local media center, an NGO, and the Ministry of Women’s Affairs produced programming on women’s matters. NGOs provided shelters for women in crisis.

The Government used the 2008 Law on the Suppression of Human Trafficking and Sexual Exploitation to prosecute sex tourists.

The labor law has provisions against sexual harassment in the workplace but does not specify penalties. There was no information on the rate of incidence.

Couples and individuals could decide the number, spacing, and timing of their children, and they had the information and means to do so free from discrimination. Women had access to contraception and prenatal care as well as skilled attendance at delivery and postpartum care, but access was often limited due to income and geographic barriers. According to 2008 UN estimates, the maternal mortality ratio

in 2008 was 290 deaths per 100,000 live births. Women were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The constitution provides for equal rights for women, equal pay for equal work, and equal status in marriage. However, a UN report criticized the continued teaching of a "Women's Law" in the primary school curriculum that it claimed legitimized an inferior role for women in society. For the most part, women had equal property rights, the same legal status to bring divorce proceedings, and equal access to education and some jobs; however, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas. Women often were concentrated in low-paying jobs and were largely excluded from management positions. Men made up the vast majority of the military, police, and civil service.

The Ministry of Women's Affairs, mandated to protect the rights of women and promote gender equality in society, continued its Neary Ratanak (Women as Precious Gems) program. The program aimed to improve the image of women through gender mainstreaming, enhanced participation of women in economic and political life, and protection of women's rights. Sixteen government ministries continued gender mainstreaming action plans with support from the UN Development Program and in close collaboration with the Ministry of Women's Affairs. The Government reported that women held 50 percent of wage employment jobs in agriculture and the industrial sector and 37 percent of jobs in the service sector, a benchmark set in the Government's 2006-10 National Strategic Development Plan. In the development plan for 2009-13, the Government set a new target of 50 percent for the women's share of wage employment in the service sector and committed to maintaining the current 50 percent ratio in the agricultural and industrial sectors.

*Children.*—By law citizenship may be derived by birth from a mother and father who are not ethnic Cambodians if both parents were born and living legally in Cambodia or if either parent has acquired Cambodian citizenship. The Ministry of Interior administered a modernized birth registration system, but not all births were registered immediately, due principally to parents' delay. The system did not include special outreach to minority communities. In addition, children born from the mid-1970s to the mid-1990s often were not registered, a result of the Vietnam/Khmer Rouge occupation/civil war. Many of these unregistered persons who later had families of their own did not perceive a need for registration. It was common for young persons not to be registered until a need arose. The failure to register all births resulted in discrimination, including the denial of public services. A study commissioned by the UNHCR on statelessness in the country stated that the birth registration process often excluded children of ethnic minorities and stateless persons. NGOs that provided services to disenfranchised communities reported that children without birth registration and family books were often denied access to education and health care. They stated that later in life the same individuals may be unable to access employment, own property, vote, or use the legal system.

Children were affected adversely by an inadequate educational system. Education was free, but not compulsory, through grade nine. Many children left school to help their families in subsistence agriculture, worked in other activities, began school at a late age, or did not attend school at all. The Government did not deny girls equal access to education; however, families with limited resources often gave priority to boys. According to international organization reports, school enrollment dropped sharply for girls after primary school. Schools in many areas were remote, and transportation was a problem. This especially affected girls, due to safety concerns in traveling between their homes and schools.

Child abuse was believed to be common, although statistics were not available. Child rape remained a serious problem; during the year a local NGO reported 357 cases of rape and attempted rape committed against persons under age 18. Thirty-three of the cases involved children below age five, 76 involved children ages five to 10, and 248 involved children ages 10 to 18. Sexual intercourse with a person under age 15 is illegal; however, child prostitution and trafficking in children occurred. During the year raids on brothels rescued underage girls trafficked for prostitution. The Ministry of Interior reported arrests of 19 foreign pedophiles during the year. Some children engaged in prostitution for survival without third-party involvement.

In April the Phnom Penh Municipal Court convicted and sentenced a senior Justice Ministry official to eight years in prison for accepting large bribes in exchange for attempting to engineer the release of convicted Russian pedophile Alexander Trofimov on the pretense of extradition to Russia. The official reportedly counterfeited extradition papers and forged the signatures of the justice minister and prime minister.

The Government offered limited, inadequate services to street children at a rehabilitation center. A domestic NGO estimated that more than 1,500 street children

in Phnom Penh had no relationship with their families and an estimated 10,000 to 20,000 children worked on the streets but returned to families in the evenings. An estimated 500 to 2,000 children lived with their families on the streets in Phnom Penh.

The Ministry of Interior reported that at least 52 children under the age of six reportedly were living with their mothers in prison. A local NGO reported 47 such children in 19 prisons and claimed that the children were subjected to mistreatment by prison guards and faced physical dangers from adult criminal cellmates. The children generally lacked proper nutrition and education.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The 2009 Law on the Protection and Promotion of the Rights of Persons with Disabilities prohibits discrimination, neglect, exploitation, or abandonment of persons with disabilities. It includes persons with mental illnesses and intellectual impairments in the definition of persons with disabilities and requires that public buildings and government services, including education, be accessible to persons with disabilities. The Ministry of Social Affairs holds overall responsibility for protecting the rights of persons with disabilities, although the law assigns specific tasks to other ministries, including the Ministries of Health, Education, Public Works and Transport, and National Defense. The Government requested that all television channels adopt sign language interpretation for programming; as of year's end, two major television stations had sign language interpretation, and the Ministry of Information was working with the other stations to develop such capabilities. The Government continued efforts to implement the law, although the full period for compliance in some cases extends to 2015. By year's end, the Council of Ministers had approved three of four subdecrees to support the law and was reviewing the fourth.

Programs administered by various NGOs brought about substantial improvements in the treatment and rehabilitation of persons with disabilities, but they faced considerable societal discrimination, especially in obtaining skilled employment.

There are no legal limitations on the rights of persons with disabilities to vote or participate in civic affairs, but the Government did not make any concerted effort to assist them in becoming more civically engaged. MOSAVY is responsible for making policy to protect the rights of persons with disabilities and for rehabilitation and vocational skills training for such persons.

*National/Racial/Ethnic Minorities.*—The rights of minorities under the nationality law are not explicit; constitutional protections are extended only to "Khmer people." Citizens of Chinese and Vietnamese ethnicity constituted the largest ethnic minorities. Ethnic Chinese citizens were accepted in society, but animosity continued toward ethnic Vietnamese, who were seen as a threat to the country and culture. Some groups, including political groups, continued to make strong anti-Vietnamese statements. They complained of political control of the CPP by the Vietnamese government, border encroachment, and other problems for which they held ethnic Vietnamese at least partially responsible.

*Indigenous People.*—The Government often ignored efforts by indigenous communities to protect their ancestral lands and natural resources. Despite the 2001 land law requiring the registration of communal lands of indigenous people, little was done to implement communal land titling. NGOs called for a moratorium on land sales and land concessions affecting indigenous communities. International and local NGOs were active in educating the indigenous communities about the land registration process and providing legal representation in disputes. NGOs reported loss of agricultural space and livelihoods due to the increased granting of economic land concessions on indigenous land. The NGO Indigenous Rights Active Members reported that it had recorded 14 continuing land disputes involving minority groups.

The Khao Chuly Group continued to clear land in Pech Chreada District, Mondulkiri Province, for a rubber plantation, despite disputes with local ethnic Phnong villagers. Approximately 800 families in Bou Sraa commune reported being affected by the plantation.

There were no developments in the 2008 land concession case affecting members of the indigenous community of Kak Village in Ta Lav Commune, Andoung Meas District, Ratanakiri Province. NGOs reported that much of the area in the 17,000-

acre economic land concession for a rubber plantation may be eligible for registration as indigenous community land under the law.

There were no further developments in the 2008 case in Ratanakiri Province where the BVB Investment Company and members of one of the affected communities, Yeak Laom Commune, reached an agreement for land use. However, other communities in the area continued to raise concerns about the development of the land without consultation with the traditional indigenous landholders.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no laws criminalizing homosexual acts, nor was there official discrimination against the lesbian, gay, bisexual, and transgender (LGBT) community, although some societal discrimination and stereotyping persisted, particularly in rural areas. In May several local businesses and NGOs hosted the sixth annual Phnom Penh Pride festival, a week-long series of events that highlighted the LGBT community.

There were no reports of government discrimination based on sexual orientation in employment, statelessness, or access to education or health care. However, homosexual conduct was typically treated with fear and suspicion, and there were few support groups where such cases could have been reported.

There were a few reports of private individuals refusing to employ or rent property to persons based on sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There was no official discrimination against those infected with HIV/AIDS. Societal discrimination against those infected with HIV/AIDS remained a problem in rural areas; however, discrimination was moderated by HIV/AIDS awareness programs.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law permits private-sector workers to form and join trade unions of their own choice without prior authorization. Despite some improvement, enforcement of the law was poor. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations, although a few unions attempted to intimidate workers who wanted to withdraw. Unions may affiliate freely, but the law does not explicitly address their right to affiliate internationally. Several local federations and confederations existed, such as the Cambodian Independent Teachers' Association (CITA), the National Independent Federation Textile Union of Cambodia, and others. These groups also affiliated internationally with trade unions, such as the International Textile, Garment, and Leather Workers' Federation, the International Trade Union Confederation, and others. While the law applies to foreign workers, it does not apply to civil servants, including teachers, judges, and military personnel, or to domestic workers.

Approximately 5 percent of the labor force, estimated to be 8.8 million persons, was unionized. Unions were concentrated in the garment and footwear industries, where approximately 60 percent of the estimated 363,200 workers were union members. The Cambodian Tourism and Service Workers Federation reported that it represented approximately 3,750 hotel, casino, and airport workers. There were more than 1,944 registered factory-level unions, 44 union federations and associations, and eight union confederations; the majority were aligned with the Government, and nine were independent.

Few agricultural workers belonged to unions. The Farmers Association for Peace and Democracy had 1,000 members, and the Cambodian Federation of Independent Trade Unions, which organizes rubber plantation workers in addition to garment and shoe workers, had an unknown number of members who worked on rubber plantations.

CITA, registered as an "association" due to prohibitions on public-sector unions, represented 9,300 of the country's 104,610 teachers. CITA's requests for marches and other protests were frequently denied, although the union reported no direct government interference in day-to-day activities. Some CITA members feared that affiliation with the teachers association could hamper their chance of career advancement.

Another public-sector association, the Cambodian Independent Civil Servants Association (CICA), represented approximately 1,600 officials of 177,000 civil servants nationwide. CICA leaders alleged that fears of harassment, discrimination, or demotion prevented other civil servants from joining.

Union strength waned during the year, and many unions were unable to represent member interests adequately due to insufficient resources, training, and experience. In addition, corruption plagued the ranks of unions, employers, and government officials, hampering legitimate industrial relations. Violence, harassment,

and intimidation between rival unions were common. Union leaders from across the political spectrum complained that the pro-government Khmer Youth Federation of Trade Unions habitually threatened and harassed workers from other unions.

On November 2, the Supreme Court ordered a reinvestigation into the 2007 killing of local union leader Hy Vuthy and returned the case to the lower court. Two men on a motorbike reportedly shot Hy, president of the Suntex garment factory chapter of the Free Trade Union of Workers in the Kingdom of Cambodia, while he was walking home from his factory shift. Police had made no arrests, and lower courts had ordered the case dismissed.

In February 2009 the appeals court upheld the 2005 conviction of Thach Saveth for killing union leader Ros Sovannareth in 2004. Thach Saveth appealed to the Supreme Court (see section 1.e.).

In August 2009 the appeals court ruled to reinvestigate the case of the 2004 killing of labor union leader Chea Vichea. In 2008 the Supreme Court provisionally released the two suspects convicted of the crime (see section 1.e.).

Although the law provides for the right to strike and protections from reprisal, requirements to conduct a lawful strike are cumbersome. The law stipulates that strikes can be held only after several requirements have been met, including the failure of other methods of dispute resolution (such as negotiation, conciliation, or arbitration), a secret-ballot vote of union membership, and a seven-day advance notice to the employer and the Ministry of Labor and Vocational Training (MOLVT). There is no law prohibiting strikes by civil servants, workers in public sectors, or workers in essential services.

The MOLVT reported that 13 strikes occurred in the Phnom Penh area in the first seven months of the year. The Garment Manufacturers Association of Cambodia reported 30 strikes nationwide during the same period. International observers, employers, and many union leaders agreed that almost no strikes fulfilled all prestrike legal requirements. Although some unions complained of a lack of MOLVT involvement, the MOLVT resolved approximately 50 percent of the disputes.

The Government allowed most strikes held at factories but denied worker requests to hold protest marches outside the factory area. Police intervention in strikes generally was minimal and restrained, even in those cases where property damage occurred.

On January 15, four garment workers protesting the dismissal of their three union leaders from Tage factory were injured in a scuffle with riot police but not seriously. During the year an estimated 900 workers protested the January 8 dismissal of the union leaders.

On June 21, approximately 2,000 workers at the Ocean garment factory protested in front of the factory, demanding the reinstatement of seven union representatives who were dismissed after they opposed the introduction of overtime hours. Mann Seng Hak, secretary general of the Free Trade Union of Workers of the Kingdom of Cambodia, claimed the factory owner violated the law by suspending union representatives before submitting such action for MOLVT approval.

On July 27, two female garment workers were injured after approximately 50 police tried to force an estimated 3,000 striking workers to end a week-long strike at the PCCS garment factory. A local police chief denied allegations that police used excessive force to break up the strike, adding that police only pushed workers back inside the factory compound.

In spite of legal provisions protecting strikers from reprisals, there were credible reports that workers were dismissed on spurious grounds after organizing or participating in strikes. While most strikes were illegal, participating in an illegal strike was not by itself a legally acceptable reason for dismissal. In some cases employers pressured strikers to accept compensation and leave their employment. There are potential remedies for such dismissals, although none was particularly effective. The MOLVT may issue reinstatement orders, but these often provoked management efforts to pressure workers into resigning in exchange for a settlement. Collective disputes, such as when multiple employees are dismissed, may be brought before the Arbitration Council for a decision. Parties may choose if decisions are binding or nonbinding; if neither party objects to the arbitral award within eight days of its being issued, it automatically becomes binding. Individual disputes may be brought before the courts, although the judicial system was neither impartial nor transparent. Some unions urged the Government to expand the role of the Arbitration Council to include individual and collective interest disputes and to make its decisions binding.

On May 1, Ath Thorn, president of the Cambodian Labor Confederation and the Coalition of Cambodian Apparel Workers Democratic Union, led several thousand workers in a demonstration advocating numerous concessions by industry and the Government, including an increase of the garment-worker minimum wage and im-

plementation of health-care and pension systems for garment workers. The march was peaceful, without any confrontation with police. In a separate event, participants in a 300-strong march led by Rong Chhun, president of the Cambodian Confederation of Unions and CITA, scuffled briefly with police due to a disagreement over the route of the march. Later the same evening, police prevented Rong Chhun and his colleagues from showing a film documentary in a public park about the killing of labor leader Chea Vichea. The documentary had not been authorized by the Ministry of Culture and Fine Arts, and municipal officials denied a permit for the screening. Police removed the screen that Rong Chhun and his supporters erected in the park and prevented its replacement.

On September 13, garment workers launched a five-day strike to protest the minimum wage increase approved in July (see section 7.e.), which some union leaders contended was insufficient to combat the rising cost of living in and around Phnom Penh. Authorities publicly agreed to allow the strike to proceed. There were minimal reports of individual violence perpetrated by both workers and police; however, employers filed a large number of civil complaints against union leaders and workers that resulted in court injunctions and suspensions. On September 16, the unions involved called off the strike after the Government offered to broker a solution between workers and employers. The majority of workers returned to their jobs, but employers were reluctant to negotiate outstanding problems, including the return of 379 workers who remained suspended during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, but the Government's enforcement of these rights was inconsistent. Collective bargaining agreements existed within the garment and hotel industry and with contract workers at the two international airports.

There were 55 collective bargaining agreements registered with the MOLVT during the year. However, these were not comprehensive agreements, but rather simple agreements covering a few points on wage-related matters.

A regulation establishes procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. The law requires trade unions and employers' organizations to file charters and lists of officials with the MOLVT. The Bureau of Labor Relations is responsible for facilitating the process of union registration and certification of "most representative status" for unions, which entitles a union representing an absolute majority of workers in a given enterprise to represent all the workers in that establishment.

Enforcement of the right of association and freedom from antiunion discrimination was inconsistent. Acts of union discrimination by the employer often went unpunished. Government enforcement of rights was hampered by a lack of political will and by confused financial and political relationships among employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay officials adequate salaries. The MOLVT often decided in favor of employees but rarely used its legal authority to penalize employers who defied its orders, instead referring many cases to the Arbitration Council.

There were credible reports of antiunion harassment by employers, including the dismissal of union leaders, in garment factories and other enterprises. By year's end approximately 40 union leaders were dismissed or suspended without cause. In some factories persons employed in management appeared to have established their own unions, supported promanagement unions, or compromised union leaders through efforts to jeopardize their employment.

Prominent independent and opposition union leaders reported receiving veiled threats of violence. Four union leaders affiliated with the Free Trade Union of Workers in the Kingdom of Cambodia were injured by enforcers hired by factory management, and one was beaten by a Chinese supervisor. Both independent and progovernment union leaders were injured by unidentified assailants. In two cases, nine union leaders were threatened with suits or sued for defamation, perjury, inciting workers to strike, destroying private property, and attempting to incite workers to commit assault. On several occasions dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce laws requiring their reinstatement.

During the year the MOLVT formally warned 404 companies of legal violations. The MOLVT sent 86 cases of unresolved labor disputes to the Arbitration Council. The Arbitration Council received 145 cases from across the country, of which approximately 70 percent were successfully resolved. One hundred forty-five cases were completed, with 104 arbitral awards and 30 agreements between the parties

during the process; 11 cases were pending. Of 104 awards, 58 were opposed by one of the parties—45 by employers and 13 by workers.

There are no special laws or exemptions from regular labor laws in export processing zones (known as special economic zones).

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, but there were reports that such practices occurred in domestic service and other, almost exclusively informal-sector, activities. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides protections for children from exploitation in the workplace; however, enforcement was often weak. The law establishes 15 years as the minimum age for employment and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 to engage in "light work" that is not hazardous to their health and does not affect school attendance.

Child labor was widespread in agriculture, brick making, salt production, shrimp processing, fishing, domestic service, and on rubber plantations. Child labor was also reported in the formal sector but to a much lesser extent. According to a 2006 study conducted by the World Bank and others, more than 750,000 economically active children were below the absolute minimum working age of 12. An additional 500,000 children (12 to 14 years old) conducting non-light economic activity were below the minimum age for this type of work. According to the report, more than 250,000 children ages 15 to 17 worked more than 43 hours per week or in hazardous sectors. An expert from the ILO's International Program on the Elimination of Child Labor stated that the number of children working in hazardous work conditions rose to approximately 300,000 during the year. Three-quarters of economically active children were in the agriculture sector, 15 percent in commerce, 5 percent in small-scale manufacturing, and 2 percent in services.

According to a 2007 report, a total of 21,266 child domestic workers were found in Phnom Penh and the three provinces of Battambang, Kampong Cham, and Siem Reap. The children typically did not attend school, worked long hours with no medical benefits, and received little or no pay. On February 19, the Phnom Penh Municipal Court sentenced schoolteacher Meas Nary to 20 years in prison—the maximum permitted under the human trafficking law—for her role in detaining and abusing her 11-year-old ward, whom she used as a domestic servant. Meas' husband, Var Savoeun, received a 10-year term. A relative of the child, Thoeung Reth, who sold her to the Phnom Penh couple, was sentenced to five years in prison on trafficking charges.

On June 11, police arrested a Koh Kong woman for forcing her 12-year-old stepson to scavenge for money and allegedly beating him if he did not earn enough. The intentional battery and assault charges carry potential prison terms of between two months and five years. At year's end, the case was pending in court.

The MOLVT has responsibility for child labor inspection in both the formal and informal sectors of the economy, but its labor inspectors played no role in the informal sector or in enforcing the law in illegal industries, such as unregistered garment factories operating without a license from the MOLVT and the Ministry of Commerce. Within the formal sector, labor inspectors conducted routine inspections of some industries, such as garment manufacturing (where the incidence of child labor was negligible), but in some industries with the highest child-labor risk, labor inspections were entirely complaint-driven.

The constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem. Widespread corruption, lack of transparency, inadequate resources, and staffing shortages remained the most challenging obstacles. For more information on forced child labor, see also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The law requires the MOLVT to establish a garment-sector minimum wage based on recommendations from the Labor Advisory Committee. On July 8, the committee agreed to increase the minimum wages for garment workers to \$61 per month from \$50 per month for regular workers and \$56 per month from \$45 per month for probationary workers. The new minimum monthly wages include an existing \$6 cost-of-living allowance, which workers began receiving in 2008. The new wages came into effect on October 1 and were scheduled to remain in force until 2014. Workers and union leaders claimed prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living, although garment-sector wages were generally higher than wages in the informal economy. The vast majority of employers in garment factories paid the minimum wage to permanent workers,

although temporary and other such workers often were paid less. The law does not mandate a minimum wage for any other industry.

The law provides for a standard legal workweek of 48 hours, not to exceed eight hours per day. The law establishes a rate of 130 percent of daytime wages for nightshift work and 150 percent for overtime, which increases to 200 percent if overtime occurs at night, on Sunday, or on a holiday. Employees are allowed to work up to two hours of overtime each day. However, the Government did not enforce these standards effectively. Workers reported that overtime was excessive and sometimes mandatory. Similarly, outside the garment industry, regulations on working hours were rarely enforced. Involuntary overtime remained a problem, although the practice decreased during the year. Employers used coercion to force employees to work. Workers often faced fines, dismissal, or loss of premium pay if they refused to work overtime.

The law states that the workplace should have health and safety standards adequate to provide for workers' well-being. The Government enforced existing standards selectively, in part because it lacked trained staff and equipment. The MOLVT's Department of Labor Inspection was the primary enforcement agency, and during the year it issued 404 warnings about labor law violations to companies. The agency appeared to conduct proactive inspections, but endemic corruption hindered the efficacy of such inspections. Work-related injuries and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in some small-scale factories and cottage industries were poor and often did not meet international standards. Penalties are specified in the law, but there are no specific provisions to protect workers who complained about unsafe or unhealthy conditions. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment, but those who did so possibly risked loss of employment.

Personnel in the air and maritime transportation industries are not entitled to the full protections of the law. Articles 1 and 283 apply to the specific cases of these industries instead, but workers in these industries are free to form unions.

On April 29, the International Labor Organization issued a report which estimated that more than 1,500 workers were killed annually by work-related accidents. Work-related accidents happened frequently in construction, brick making, fishing, the garment industry, and enterprises not complying with labor standards or with improperly installed safety systems. On April 30, more than 350 government officials, employers, and workers observed World Day for Occupational Health and Safety in Kampot Province. The event was aimed at understanding the risks of occupational health and safety and preventing work-related accidents.

On June 2 and 3, approximately 50 workers fainted at a Chinese-owned shoe factory Tiger Wing, located in the outskirts of Phnom Penh. Police claimed that the incidents were caused by workers' poor health, while a district official stated that chemical fumes from shoe glue caused the mass fainting. Health department officials ruled that the workers fainted due to heat exhaustion.

On July 4, authorities ordered the temporary closure of the Pine Great Cambodia Garment factory in the capital's Meanchey District after 47 of its employees fainted while they were working. A commune chief reported an additional 50 workers complained of headaches after returning home from their shifts. The deputy director of the Occupational Health Department denied chemicals could cause such an incident.

---

## CHINA, THE PEOPLE'S REPUBLIC OF

The section for Tibet, the report for Hong Kong, and the report for Macau are appended below.)

The People's Republic of China (PRC), with a population of approximately 1.3 billion, is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount authority. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its nine-member Standing Committee. Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. Civilian authorities generally maintained effective control of the security forces.

A negative trend in key areas of the country's human rights record continued, as the Government took additional steps to rein in civil society, particularly organizations and individuals involved in rights advocacy and public interest issues, and increased attempts to limit freedom of speech and to control the press, the Internet,

and Internet access. Efforts to silence political activists and public interest lawyers were stepped up, and increasingly the Government resorted to extralegal measures including enforced disappearance, “soft detention,” and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions. Public interest law firms that took on sensitive cases also continued to face harassment, disbarment of legal staff, and closure.

Individuals and groups, especially those seen as politically sensitive by the Government, continued to face tight restrictions on their freedom to assemble, practice religion, and travel. The Government continued its severe cultural and religious repression of ethnic minorities in Xinjiang Uighur Autonomous Region (XUAR) and Tibetan areas. Abuses peaked around high-profile events, such as the awarding of the Nobel Peace Prize to democracy activist Liu Xiaobo and sensitive anniversaries.

As in previous years, citizens did not have the right to change their government. Principal human rights problems during the year included: extrajudicial killings, including executions without due process; enforced disappearance and incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as “black jails”; torture and coerced confessions of prisoners; detention and harassment of journalists, writers, dissidents, petitioners, and others who sought to peacefully exercise their rights under the law; a lack of due process in judicial proceedings, political control of courts and judges; closed trials; the use of administrative detention; restrictions on freedoms to assemble, practice religion, and travel; failure to protect refugees and asylum-seekers; pressure on other countries to forcibly return citizens to China; intense scrutiny of, and restrictions on, nongovernmental organizations (NGOs); discrimination against women, minorities, and persons with disabilities; a coercive birth limitation policy, which in some cases resulted in forced abortion or forced sterilization; trafficking in persons; prohibitions on independent unions and a lack of protection for workers’ right to strike; and the use of forced labor, including prison labor. Corruption remained endemic.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year security forces reportedly committed arbitrary or unlawful killings. No official statistics on deaths in custody were available. In April 2009 the Supreme People’s Procuratorate (SPP) disclosed that at least 15 prisoners died “unnatural deaths” under unusual circumstances as of the 2009 disclosure. According to a Chinese press report, seven of the prisoners died of beatings, three were classified as suicides, two were described as accidents, and three remained under investigation.

On March 8, Zhou Lingguang, a Huazhou, Guangdong Province native died while in detention in Guangzhou. Zhou had been remanded to one year of reeducation through labor (RTL) in 2009 for gambling, but due to space limitations had been transferred to a Juvenile Detention Center. According to prison officials, Zhou’s heart “abruptly stopped beating.” Family members questioned the official explanation, and demanded an independent autopsy. When the family viewed Zhou’s body, they reported his corpse was covered except for the head and that he was enclosed in a glass case. They were not permitted to take photographs. Prison officials refused the family’s request to release surveillance footage.

On March 31, Yang Xiuan, an inmate serving a mandatory drug rehabilitation sentence died in a treatment center in Ziyang, Sichuan Province. A center official said he had died of natural causes, but his family doubted the official cause of death claiming that when they saw Yang’s body his face was badly bruised.

On May 3, authorities notified Fu Changping’s family that he died in an RTL facility in Jixi, Heilongjiang Province. Although facility officials claimed he died “normally,” Fu’s family said his body was covered in cuts and bruises. Medical records from when Fu entered the camp weeks earlier noted Fu was in good health. Authorities threatened to withhold compensation for Fu’s death if the family continued to suggest Fu was murdered.

On August 8, detainee Ren Aiguo was discovered dead in a detention center located in Heshun County, Jinzhong, Shanxi Province. An inspection team organized by local officials ruled the death a suicide. Ren’s family challenged the ruling, claiming inspectors failed to properly investigate the death and ignored critical questions. The family questioned the lack of surveillance footage, although the room in the detention center where Ren was found was equipped with a video camera. The inspection team claimed the monitoring equipment in the facility had been out of service.

There were no known developments in the 2009 deaths in custody of Lin Guojiang, Li Qiaoming, Li Wenyan, all of whom died under suspicious or unex-

plained circumstances, or regarding the allegation that Tibetan monk, Phuntsok Rabten, was beaten to death by police.

In June Guangxi Litang Prison authorities reported the April 2009 death of He Zhi, a Falun Gong practitioner who was sentenced to eight years' imprisonment in 2005. Authorities at Guangxi Litang Prison, where many Falun Gong practitioners reportedly are imprisoned, stated the cause of death was "falling from bed," but He's brother claimed he found other injuries and bruises on He's body.

According to a media report, Yu Weiping, an inmate at Rushan Detention Center in Weihai, Shandong Province, died in November 2009. His family found small holes in his chest and bruises on his body. Authorities told the family the holes were scars left from pimples; however, an autopsy revealed that sharp objects pierced Yu's chest, rupturing his heart. The family reported the death to the Weihai Public Security Bureau and demanded an investigation. By year's end there was no reported response.

According to official media reports, 197 persons died and 1,700 were injured during the July 2009 rioting in Urumqi. In November 2009 eight ethnic Uighurs and one ethnic Han were executed without due process for crimes committed during the riots. At year's end 26 persons had been sentenced to death; nine others reportedly received suspended death sentences. Of these, three were reportedly ethnic Hans and the rest were Uighurs. In April a Uighur woman became the second woman sentenced to death for involvement in the violence. In December Uighur journalist Memetjan Abdulla was sentenced to life in prison for transmitting information about the riots because he translated an article from a Chinese-language Web site and posted it on a Uighur-language Web site. China Daily reported that, according to the president of the XUAR Supreme People's Court, courts in the XUAR had tried 376 individuals in 2010 for "crimes against national security" and their involvement in the July 2009 violence.

Defendants in criminal proceedings were executed following convictions that sometimes lacked due process and adequate channels for appeal.

*b. Disappearance.*—According to a January NGO report and media accounts, Guo Yongfeng, a Shenzhen democracy activist and organizer of the Citizens' Association for Government Oversight, disappeared in September 2009 after being called in to a police station for questioning. Friends of Guo claimed that he had been sentenced to 18 months' detention in an RTL camp; however, security officials would neither confirm nor deny this claim.

In February 2009 authorities detained rights lawyer Gao Zhisheng, who had represented Christians and Falun Gong practitioners. At year's end his whereabouts and legal status remained unknown. According to NGO and media reports, he was seen in his hometown in August 2009 under heavy police escort. Gao was seen briefly in Beijing in March and April, but subsequently disappeared again.

In an October 2009 report, the NGO Human Rights Watch documented the disappearances of hundreds of Uighur men and boys following the July 2009 protests in Urumqi.

On July 7, authorities released underground Catholic bishop Julius Jia Zhiguo of Zhengding, Hebei Province, who had been detained since March 2009.

The whereabouts of underground Catholic priests Zhang Li and Zhang Jianlin, from Zhangjiakou, Hebei Province, whom authorities detained in 2008, remained unknown.

At year's end the Government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations. In October the Duihua Foundation, an international human rights NGO, estimated that fewer than a dozen continued to serve sentences for offenses committed during the demonstration, although other estimates were higher. Many activists who were involved in the demonstrations continued to suffer from official harassment.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. On July 1, new rules went into effect excluding evidence, including confessions, obtained under torture in certain categories of criminal cases. However, during the year there were reports that officials used electric shocks, beatings, shackles, and other forms of abuse.

In July the Ministry of Public Security (MPS) ordered local police officials to cease parading criminal suspects in public and called on local departments to enforce laws in a "rational, calm, and civilized manner." The new regulations were a response to the public outcry over "shame parades," in which individuals suspected of being prostitutes were shackled and paraded in public. According to press reports, in July,

prior to the MPS order, police in Dongguan, Guangdong Province, forced arrested women in prostitution to parade in the streets barefoot and handcuffed and published their photos on the Internet.

On May 30, the Supreme People's Court, the SPP, the MPS, the Ministry of State Security, and the Ministry of Justice issued regulations regarding the use of evidence in criminal cases. In July the lawyer for Chongqing businessman Fan Qihang revealed evidence that Fan was tortured while in custody in June 2009 on corruption charges. Despite the new regulations that evidence obtained through torture could not be used as a basis for judgment in a criminal case, Fan was executed in September.

Henan activist Liu Shasha stated that on July 16 she was kidnapped outside People's University in Beijing. She identified those responsible as Beijing security officials and officials from Tongbai County, Henan Province, who hooded her and drove her to an unknown location outside Beijing. There, she said, her hands were bound and she was beaten. Liu's cell phone and bank card were taken, and she was dropped off in Ci County, outside Handan, Hebei Province. She returned to Beijing on July 18, and filed a police report regarding the incident.

On July 8, lawyers met with imprisoned activist Guo Feixiong (aka Yang Maodong) in Guangdong Province's Meizhou Prison. During the meeting, Guo presented the lawyers a copy of a document stating his reasons for seeking a review of the judgment, including that he was subjected to torture during the investigation of his case.

According to a July 7 NGO report, democracy activist Xu Wanping, who founded the China Action Party after the 1989 Tiananmen massacre and was serving a 12-year sentence for "inciting subversion of state power," was repeatedly subjected to solitary confinement in Yuzhou Prison, Jiangbei District, Chongqing. The longest period of such confinement reportedly lasted 11 months. Xu's mental and physical health have deteriorated, and he reportedly has not received adequate medical attention while incarcerated. Xu has been denied release on medical parole.

In March lawyer Gao Zhisheng revealed to journalists that he had been tortured during a period of illegal detention beginning in February 2009 (see section 1.b.).

According to an NGO report, Shen Pailan, a Shanghai-based activist and petitioner was tortured and beaten while in detention between March 24 and April 9. On March 24, Shen was kidnapped by employees of the Maqiao municipal government in Minhang District, Shanghai. While detained at a hotel, Shen was tortured and beaten. Shen was later transferred to Zhuangqiao Town Police Station and then to Minhang District Detention Center, where the police announced that she would be subjected to 15 days of administrative detention and fined RMB 500 (approximately \$75) for "assault."

According to a November 2009 Human Rights Watch report, in March 2009 An Weifeng was released for medical treatment from Bancheng Prison in Chengde, Henan Province, after being severely beaten and subjected to torture by police.

In November 2008 the UN Committee Against Torture (UN CAT) stated its deep concern about the routine and widespread use in the country of torture and mistreatment of suspects in police custody, especially to extract confessions or information used in criminal proceedings. UN CAT also acknowledged government efforts to address the practice of torture and related problems in the criminal justice system. Many acts of torture allegedly occurred in pretrial criminal detention centers or RTL centers. Sexual and physical abuse and extortion occurred in some detention centers.

There were widespread reports of activists and petitioners being committed to mental health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to China News Weekly, the MPS directly administers 22 high-security psychiatric hospitals for the criminally insane (also known as anfang facilities). From 1998 to May 2010, more than 40,000 persons were committed to anfang hospitals. In May an MPS official stated in a media interview that detention in anfang facilities was not appropriate for patients who did not demonstrate criminal behavior. However, political activists, underground religious believers, persons who repeatedly petitioned the Government, members of the banned Chinese Democracy Party (CDP), and Falun Gong adherents were among those housed with mentally ill patients in these institutions. Regulations governing security officials' ability to remand a person to an anfang facility were not clear, and detainees had no mechanism for objecting to claims of mental illness by security officials. Patients in these hospitals reportedly were medicated against their will and forcibly subjected to electric shock treatment.

According to a June 29 NGO report, Liao Meizhi was detained in February by individuals allegedly engaged by the Qianjiang Bureau of Health and the Laoxin Town Public Health Clinic while she was in petitioning with family members. She

subsequently was committed to a psychiatric hospital. Liao had previously been detained in psychiatric institutions for petitioning. It was not known whether an independent doctor assessed her mental health.

On June 5, a Beijing Chaoyang District Court ruled that China Petroleum and Chemical Corporation (Sinopec) had not violated the rights of former employee Chen Miaocheng, who died after 13 years of detention in a psychiatric institution. Chen, was involuntarily hospitalized in 1995 for “paranoid schizophrenia” but cleared for release in December 1996 by doctors at Beijing’s Huilongguan Hospital. However, the hospital refused to discharge Chen unless his employer, Sinopec, agreed to his release. Sinopec refused, and Chen died in the hospital 12 years after being cleared for discharge. It remains unclear why Chen’s employer needed to clear his release, or why this was withheld. Chen’s widow filed a lawsuit against Sinopec, arguing that by having Chen involuntarily committed to a psychiatric institution, Sinopec had violated Chen’s rights to life, liberty, and health. The court ruled that Sinopec had not violated the law when it committed Chen to the hospital and was not liable for his death since Chen died from pneumonia.

According to an NGO report, on March 29, officials in Wuhan, Hubei, illegally detained petitioner Liu Caixia in a psychiatric institution. Liu, a former accountant at Central China University of Science and Technology in Wuhan, traveled to Beijing on March 26 to petition the Government over losing her job. Liu was detained in Beijing by officials from the Beijing Liaison Office of the Hongshan District Government and forcibly returned to Wuhan. Liu reportedly was detained in the psychiatric ward of the Huashan Town Health Clinic in Hongshan District.

*Prison and Detention Center Conditions.*—Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading. Prisoners and detainees were regularly housed in overcrowded conditions with poor sanitation. Inadequate prison capacity remained a problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives. Some prominent dissidents were not allowed to receive such goods. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment.

Article 53 of the Prison Law mandates that a prison shall be ventilated, allow for natural light, and be clean and warm. However, in many cases there were inadequate provisions for sanitation, ventilation, heating, lighting, basic and emergency medical care, and access to potable water.

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in penal and RTL facilities were required to work, often with no remuneration. Information about prisons, including associated labor camps and factories, was considered a state secret.

In response to claims that the organs of executed prisoners were harvested for transplant purposes, Vice Minister of Health Huang Jiefu in August 2009 stated that inmates were not a proper source for human organs and that prisoners must give written consent for their organs to be removed.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. According to NGO reports, conditions in these facilities were similar to those in prisons, with detainees reporting beatings, sexual assaults, lack of proper food, and no access to medical care.

Information on the prison population is not made public. In 2004 then minister of justice Fan Fangping reportedly said there were more than 670 prisons housing “more than 1.5 million prisoners.” According to domestic media reporting, a Ministry of Justice survey estimated that the prison population as of the end of 2005 was 1.56 million. The law requires juveniles be housed separately from adults, unless facilities are insufficient. In practice children were sometimes housed with adult prisoners and required to work. Political prisoners were housed with the general prison population and reported being beaten by other prisoners at the instigation of guards.

Many prisoners and detainees did not have reasonable access to visitors and were not permitted religious observance. Under Article 52 of the Jail Law, “considerations shall be given to the special habits and customs of prisoners of minority ethnic groups.” The Detention Center Regulation Article 23 had similar requirements. However, little information was available about the implementation of these regulations.

Prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. Article 47 of the Prison Law further states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free

from examination. The law further states that a prison “shall set up medical [facilities], living and sanitary facilities, and institute regulations on the life and sanitation of prisoners.” It also states that the medical and health care of prisoners shall be put into the public health and epidemic prevention program of the area in which the prison is located. However, authorities did not investigate credible allegations of inhumane conditions nor document the results of such investigations in a publicly accessible manner.

The law requires the Government to investigate and monitor prison and detention center conditions, and an official from the Prosecutor’s Office is designated responsible for investigating and monitoring prison and detention center conditions.

The Government generally did not permit independent monitoring of prisons or RTL camps, and prisoners remained inaccessible to local and international human rights organizations, media groups, and the International Committee of the Red Cross (ICRC).

*d. Arbitrary Arrest or Detention.*—Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges.

*Role of the Police and Security Apparatus.*—The main domestic security agencies include the Ministry of State Security, the MPS, and the People’s Armed Police. The People’s Liberation Army was primarily responsible for external security but also had some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as “urban management” officials, to enforce laws.

The MPS coordinates the country’s police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Judicial oversight of the police was limited, and checks and balances were absent. Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. In 2009 the Supreme People’s Procuratorate acknowledged continuing widespread abuse in law enforcement. In 2009 domestic news media reported the convictions of public security officials who had beaten to death suspects or prisoners in their custody.

*Arrest Procedures and Treatment While in Detention.*—The law allows police to detain suspects for up to 37 days before formal arrest. After arrest, police are authorized to detain a suspect for up to an additional seven months while the case is investigated. After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. As a result, pretrial detention periods of a year or longer are not uncommon. In practice the police sometimes detained persons beyond the period allowed by law. The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Police often violated this right.

The criminal procedure law requires a court to provide a lawyer to a defendant who has not already retained a lawyer; who is blind, deaf, mute, a minor; or who may be sentenced to death. This law applies whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often did not appoint counsel in such circumstances.

Criminal defendants are entitled to apply for bail while awaiting trial. However, in practice few suspects were released on bail.

The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials are not required to provide notification if doing so would “hinder the investigation” of a case.

The law protects the right to petition the Government for resolution of grievances. However, citizens who traveled to Beijing to petition the central government were frequently subjected to arbitrary detention, often by police dispatched from the petitioner’s hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a May 27 Shanxi provincial government report, the Shanxi Provincial People’s Congress adopted regulations that listed eight types of “prohibited” petitioning, including “illegally gathering, encircling or rushing into government offices or important public spaces, stopping cars or hindering public transportation, linking up with others to petition,” and similar acts. The regulations also stated that petitioners sus-

pected of “misrepresenting facts to frame others” could be subject to criminal charges.

According to NGO reports, Luan Chuyu of Nantong, Jiangsu Province, a villager facing forced eviction, was detained by police while petitioning in Beijing; she was held in a “black jail” from June 16-18 and then forcibly returned to Nantong, where she was detained illegally in a local black jail for an additional month. Luan was released after local officials pressured her into signing an agreement consenting to the demolition of her home.

On September 5, Liu Yujie a petitioner from Shiyan, Hubei Province, who had been demanding a meeting with Supreme People’s Court President Wang Shengjun after losing her home in what she believed to be an unjust court ruling, was detained by police outside the Supreme People’s Court in Beijing per a human rights NGO report. Liu was reportedly taken to a black jail in Jiujingzhuang, Beijing. Shiyan municipal officials in Beijing took custody of Liu and moved her to a black jail operated by the Beijing Liaison Office of Tanghe County, Henan Province. At year’s end her status remained unclear.

According to NGO reports, on October 6, petitioner Liu Xianzhi of Henan Province, was detained in Beijing and forcibly returned to her hometown of Nancao Township. While in Beijing Liu was reportedly held in a black jail operated by local government officials where she was beaten and sustained head and neck injuries.

In July 2009 Noor-Ul-Islam Sherbaz, a minor, was detained and accused of participating in the July riots in Urumqi. In contravention of the law on the detention of juveniles, Sherbaz’s parents had no contact with their son after his arrest and were not allowed to be present during police interrogations. On April 13, Aksu Intermediate People’s Court found Sherbaz guilty of murder, at a trial that reportedly lasted 30 minutes, and sentenced him to life imprisonment.

The law permits nonjudicial panels, known as “labor reeducation panels,” to remand persons to RTL camps or other administrative detention programs for up to three years without trial. Labor reeducation panels are authorized to extend these administrative sentences for up to one year. Detainees are technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension. However, appeals were rarely successful. Other forms of administrative detention include “custody and education” (for women engaged in prostitution and those soliciting prostitution) and “custody and training” (for minor criminal offenders). The 2008 Anti-Drug Law established a system of “compulsory isolation for drug rehabilitation.” The minimum stay in such centers is two years and the law states that this treatment can include work. Public security organs authorize detention in these centers and it often is meted out as an administrative rather than criminal measure. Administrative detention was used to intimidate political activists and prevent public demonstrations.

Shanghai housing activist Mao Hengfeng was detained early in the year and sentenced to 18 months of RTL on March 4 for “disturbing social order.” Mao’s family members and lawyer were prevented from visiting her for extended periods during the year.

On August 6, a district court in Baoding, Hebei Province, heard a suit brought by reporter and activist Xu Yishun (also known by his pen name Kong Fanzhong). Xu challenged a Baoding RTL Management Committee’s May 25 decision to sentence him to 18 months RTL for fraud. The hearing ended without issuance of a verdict.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy. These charges remain ill defined, including what constitutes a state secret. Citizens also were detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity.

Human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members were among those targeted for arbitrary detention or arrest.

The Government continued to use extrajudicial house arrest against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. Numerous dissidents, activists, and petitioners were placed under house arrest during the October National Day holiday period and at other sensitive times, such as during the Shanghai Expo and the December Nobel Prize ceremony. Conditions faced by those under house arrest varied but sometimes included complete isolation in their homes under police guard. In some instances security officials were stationed inside the homes of subjects under house arrest. Others were occasionally permitted to leave their homes to work or run errands but were required to ride in police vehicles. When

permitted to leave their homes, subjects of house arrest were usually under police surveillance.

In March several Beijing dissidents, including Cha Jianguo, Gao Hongming, Li Hai, Xu Yonghai, and Qi Zhiyong, were placed under house arrest to prevent them from commemorating the 1989 Tiananmen massacre.

On April 3, security guards at a Beijing housing compound prevented artist and activist Yan Zhengxue from leaving his residence to attend an arts exhibition. When Yan argued with the guards blocking his exit, they beat him, inflicting multiple injuries. Beijing artist and activist Yang Licai was also placed under house arrest in late March with a police vehicle and five police officers stationed outside his home. Retired Shandong University professor Sun Wenguang was placed under house arrest at his home in Jinan, Shandong.

On September 9, blind human rights lawyer Chen Guangcheng was released after completing a prison sentence of three years and four months on politically motivated charges of “disrupting traffic.” Since his release, Chen, his wife, and his mother have been under house arrest and prevented from communicating with others. Chen was not allowed to seek medical attention for a gastrointestinal condition he developed in prison.

On December 10, ethnic Mongolian activist Hada was released from prison after serving a 15-year prison sentence for espionage and separatism. Hada founded the Southern Mongolia Democracy Alliance, which called for a referendum on the future of the province of Inner Mongolia. At year’s end neither he, his wife, nor his son have been seen publicly since his release.

After the announcement of the awarding of the 2010 Nobel Peace Prize to imprisoned writer Liu Xiaobo, his wife, Liu Xia, was placed under extrajudicial house arrest. At year’s end she had not been seen in public since October, and her electronic and telephone communication ceased in November.

Police surveillance, harassment and detentions of activists increased around politically sensitive events. Shanghai residents experienced more stringent security measures during the Shanghai World Expo from May 1 to October 31. In the period leading up to, and during the Expo, several prominent Shanghai activists, including Feng Zhenghu and Zheng Enchong, were placed under house arrest. Others were prevented from entering the city. Authorities prevented blogger Wen Kejian and artist Ai Weiwei from entering Shanghai on separate occasions during the Expo. Authorities prevented activists from departing China prior to the December 10 Nobel Peace Prize award ceremony, and briefly detained a number of prominent rights activists immediately before and during the Nobel ceremony. The annual plenary session of the National People’s Congress (NPC) and the Chinese People’s Political Consultative Conference (CPPCC), the anniversary of the Tiananmen massacre, the October announcement of the Nobel Peace Prize triggered similar security responses. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of supporting the “three evils” of religious extremism, “splittism,” and terrorism.

*e. Denial of Fair Public Trial.*—The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary was not independent. Legal scholars have interpreted President Hu Jintao’s doctrine of the “Three Supremes” as stating that the interests of the Party are above the law. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the Government and the CCP, particularly in politically sensitive cases. The CCP Law and Politics Committee has the authority to review and influence court operations at all levels of the judiciary.

Corruption also influenced court decisions. Safeguards against judicial corruption were vague and poorly enforced. Local governments appoint and pay local court judges and, as a result, often exerted influence over the rulings of judges in their districts.

Courts are not authorized to rule on the constitutionality of legislation. The law permits organizations or individuals to question the constitutionality of laws and regulations, but a constitutional challenge can only be directed to the promulgating legislative body. As a result, lawyers had little or no opportunity to use the constitution in litigation.

On February 9, Tan Zuoren was sentenced to five years in prison and three years’ deprivation of political rights for “inciting subversion of state power” in a trial that was closed to the public (see Political Prisoners section). Tan had attempted to collect the names of students who died in the May 2008 Sichuan earthquake. The sentence was upheld by the Sichuan High People’s Court on June 9.

On July 23, an Urumqi court sentenced Uighur journalist Gheyret Niyaz to 15 years in prison for “endangering state security.” Niyaz, detained since October 2009, was reportedly not allowed access to defense counsel during his trial.

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter 08 manifesto, which called for increased political freedoms and human rights in China, was found guilty of the crime of “inciting subversion of state power” in a December 2009 trial that included serious due process violations. The Beijing High People’s Court denied Liu’s appeal on February 11.

*Trial Procedures.*—There was no presumption of innocence, and the criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the China Law Yearbook, in 2009 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 997,872 criminal defendants tried in 2009, 1,206 were acquitted. In many politically sensitive trials, courts handed down guilty verdicts with no deliberation immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely resulted in overturned convictions. Appeals processes failed to provide sufficient avenues for review, and there were inadequate remedies for violations of defendants’ rights.

Supreme People’s Court regulations require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public and sometimes even to family members and to withhold access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as Chinese citizens. In practice foreigners were permitted to attend court proceedings only by invitation. As in past years, foreign diplomats and journalists unsuccessfully sought permission to attend a number of trials. In some instances the trials were reclassified as “state secret” cases or otherwise closed to the public. Foreign diplomats requested but were denied permission to attend the February 2009 trial of human rights advocate Huang Qi on charges of illegally possessing state secrets. Huang was sentenced in November 2009 to three years’ imprisonment. His appeal was denied by the Chengdu Intermediate Court on February 8. According to NGO reports, Huang was not granted a formal appeal hearing before the decision was made. Requests by foreign diplomats to attend the February appeal hearing in the case of Liu Xiaobo were denied. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The law grants most defendants the right to seek legal counsel upon their initial detention and interrogation, although police frequently violated this right. Individuals who face administrative detention do not have the right to seek legal counsel. Human rights lawyers reported that they were denied the ability to defend certain clients or threatened with punishment if they chose to do so.

Both criminal and administrative defendants were eligible for legal assistance although 70 percent or more of criminal defendants went to trial without a lawyer. According to the China Law Yearbook, the number of legal-aid cases in 2009 totaled 542,686, a slight decrease from the previous year. Legal-aid personnel totaled 13,081, a slight increase over 2008, the vast majority of whom majored in law. Despite these slight shifts, the number of legal-aid personnel remained inadequate to meet demand. Non-attorney legal advisors provided the only legal-aid options in many areas.

Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. The Government took steps to discourage lawyers from representing defendants in sensitive cases. Following the July 2009 unrest in the XUAR, the Beijing Municipal Judicial Bureau posted a notice on its Web site urging justice bureaus, the Beijing Municipal Lawyers Association, and law firms in Beijing to “exercise caution” in representing defendants facing charges related to the riots. Similar measures were taken with respect to Tibetan defendants. Certain Beijing-based rights lawyers were told they could not represent jailed Tibetans. Tibetan filmmaker Dhondup Wangchen was denied counsel of his choosing as the attorney hired by his family was replaced with a government-appointed lawyer for his 2009 trial and 2010 appeal. Certain local governments in the XUAR and Tibetan areas implemented regulations stipulating that only locally registered attorneys were authorized to represent local defendants.

When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented attorneys from organizing an effective defense. Tactics employed by court and government officials included unlawful detentions, disbarment, harassment and physical intimidation and denial of access to evidence.

In August security guards barred lawyer Zhang Kai from entering a courthouse in Linfen County, Shanxi Province, to file an administrative lawsuit on behalf of members appealing the potential destruction of a church building. According to domestic media, on April 7, when two lawyers tried to file a suit at the Heilongjiang High People's Court on behalf of villagers who believed they were unfairly compensated in a land requisition case, court police assaulted them, detaining one of the lawyers for two hours. The lawyers believed the attack was intended to prevent them from filing the lawsuit.

In April 2009 Beijing lawyer Cheng Hai was attacked and beaten while on his way to meet with a Falun Gong client in Chengdu, Sichuan Province. According to Cheng, those responsible for the attack were officials from the Jinyang General Management Office, Wuhou District, Chengdu.

The annual licensing review process was used to withhold licenses, and therefore the ability to practice law, from a number of human rights and public interest lawyers. According to the Beijing Lawyers Association, 95 percent of Beijing attorneys were re-licensed in the 2010 annual review process. However, attorneys whose licenses were not renewed included a number of prominent human rights lawyers including Jiang Tianyong, Teng Biao, Wen Haibo, Zhang Lihui, Tong Chaoping, Yang Huiwen, and Li Jinsong. Shanghai rights lawyers Zheng Enchong and Guo Guoting were denied the renewal of their licenses as the result of a similar administrative finding in 2008.

On April 30, the Beijing Municipal Bureau of Justice permanently revoked the licenses of lawyers Liu Wei and Tang Jitian who had been active in defending human rights and religious freedom-related cases. On May 4, Liu and Tang filed a criminal complaint claiming that by revoking their licenses the Bureau of Justice Lawyers Management Department had abused its power in retaliation for their activism on behalf of lawyers.

Defense attorneys may legally be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to communicate with one another during trials. In practice criminal defendants were frequently not assigned an attorney until a case was brought to court. Despite a 2008 statement by SPC Vice President Zhang Jun that 37 percent of criminal defendants were represented by lawyers, in 2009 only one in seven criminal defendants reportedly had legal representation.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses and less than 10 percent of subpoenaed witnesses appeared in court. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the criminal procedure law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements to support their cases. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. Pretrial access to information by defense attorneys was minimal. Denial of due process by police and prosecutors led to particularly egregious consequences in capital cases.

At year's end the Criminal Code contained 68 capital offenses, including non-violent financial crimes such as counterfeiting currency, embezzlement, and corruption. In August state media reported that a pending amendment to the capital-punishment law would remove 13 nonviolent economic crimes—ranging from smuggling relics and endangered animals to falsifying tax receipts—from the list of capital crimes. Persons above the age of 75 would be eligible for the exemption from the death penalty. There was no public information on how many defendants were either sentenced to the death penalty or executed during the year.

In 2007 the Supreme People's Court (SPC) resumed the practice of reviewing all convictions that resulted in death sentences before executions may be carried out; with the exception of death sentences with a two-year reprieve. SPC spokesman Ni Shouming stated that, since reassuming the death penalty reviews, the SPC had returned 15 percent of death sentences to lower courts for further review based on unclear facts, insufficient evidence, inappropriate use of the death penalty, and inadequate trial procedures. Because official statistics remained a state secret, it was not possible to evaluate independently the implementation and effects of the procedures.

An international human rights NGO estimated that approximately 5,000 persons were executed during 2009.

*Political Prisoners and Detainees.*—Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law. However, the authori-

ties continued to imprison citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in RTL camps or administrative detention. The Government did not grant international humanitarian organizations access to political prisoners.

Foreign NGOs estimated that several hundred persons remained in prison for “counterrevolutionary crimes,” which were repealed from the criminal code in 1997. Thousands of others were serving sentences under state security statutes. Foreign governments urged the Chinese government to review the cases of those charged before 1997 with counterrevolutionary crimes and to release those who had been jailed for nonviolent offenses under repealed provisions of the criminal law. At year’s end no systematic review had occurred. The Government maintained that prisoners serving sentences for counterrevolutionary crimes and endangering state security were eligible to apply for sentence reduction and parole. However, political prisoners were granted early release at lower rates than prisoners in other categories. Persons were believed to remain in prison for crimes in connection with their involvement in the 1989 Tiananmen prodemocracy movement. The exact number was unknown because related official statistics were never made public.

On January 15, Zhou Yongjun, a former Tiananmen Square student leader, was sentenced to nine years in prison for “fraud” by a Shehong County, Sichuan Province court, following his November 2009 trial. Zhou had been detained in 2008 in Hong Kong while attempting to enter the country on a forged Malaysian passport in order to visit his ailing father. Although cleared by Hong Kong authorities of involvement in bank fraud, he was transferred to the custody of PRC authorities.

In August 2009 activist Tan Zuoren went on trial for defaming the CCP, the charge resulting from his social advocacy work. On February 9, Tan was sentenced to five years in prison and three years’ deprivation of political rights for “inciting subversion of state power.”

In July Charter 08 signatory and activist Liu Xianbin was indicted for subversion for an article he wrote following his 2009 release from a previous prison term. At year’s end Liu was detained and awaiting trial in Suining, Sichuan Province. Liu was reportedly denied access to his lawyers during his detention.

In March 2009 labor activist and lawyer Yuan Xianchen was convicted of “inciting subversion of state power” and sentenced to four years in prison and five years’ deprivation of political rights, on the basis of articles he had written on implementing constitutional democracy.

Many political prisoners remained in prison or under other forms of detention at year’s end, including rights activists Hu Jia and Wang Bingzhang; Alim and Ablikim Abdureyim, sons of Uighur activist Rebiya Kadeer; journalist Shi Tao; democratic reform advocate Wang Xiaoning; land rights activist Yang Chunlin; Internet commentator Xu Wei; labor activists Hu Mingjun, Huang Xiangwei, Kong Youping, Ning Xianhua, Li Jianfeng, Li Xintao, Lin Shun’an, Li Wangyang, and She Wanbao; Catholic bishop Su Zhimin; Christian activist Zhang Rongliang; Uighur activist Dilkes Tilivaldi; and Tibetan Tenzin Deleg.

In September rights lawyer Chen Guangcheng was released from prison following the completion of his sentence and was immediately placed under house arrest, along with his wife. In November democracy activist Qin Yongmin was released in Wuhan, after serving a 12-year sentence for “endangering state security.” According to media reports, police officers confiscated his prison writings and warned him not to speak to reporters or meet other dissidents. At year’s end Zhao Lianhai, who had been indicted on criminal charges for his advocacy on behalf of victims of tainted milk, was released on medical parole, but his whereabouts and welfare remained unconfirmed.

Criminal punishments continued to include “deprivation of political rights” for a fixed period after release from prison, during which time the individual is denied rights of free speech and association. Former prisoners sometimes found their ability to find employment, freedom to travel, access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment.

*Civil Judicial Procedures and Remedies.*—Courts deciding civil matters faced the same limitations on judicial independence as in criminal cases. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests have been infringed by government agencies or officials, including wrongful arrest or conviction, extortion of confession by torture, unlawful use of force resulting in bodily injury, illegal revocation of a business license, or illegal confiscation or freezing of property. In April the National People’s Congress Standing Committee amended the law to allow for compensation for wrongful detention, men-

tal trauma, or physical injuries inflicted by detention center or prison officials. In civil matters successful plaintiffs often found it difficult to enforce court orders.

Companies affected by a July 16 oil spill in Dalian, Liaoning Province, were prevented from filing lawsuits for damages resulting from the spill. City officials visited one company to urge it to drop its claims, according to domestic media. In August police in Beijing intercepted fishermen and other Dalian residents impacted by the spill when they attempted to file a petition seeking compensation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law states that the “freedom and privacy of correspondence of citizens are protected by law”; however, in practice authorities often did not respect the privacy of citizens. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored. The Public Security Bureau (PSB) and prosecutors are authorized to issue search warrants on their own authority without judicial review. Cases of forced entry by police officers continued to be reported.

Authorities monitored telephone conversations, fax transmissions, e-mail, text messaging, and Internet communications. Authorities also opened and censored domestic and international mail. Security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines.

The monitoring and disruption of telephone and Internet communications were particularly widespread in the XUAR and Tibetan areas. Authorities frequently warned dissidents and activists, underground religious figures and former political prisoners not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives.

Family members of activists, dissidents, Falun Gong practitioners, journalists, unregistered religious figures, and former political prisoners were targeted for arbitrary arrest, detention, and harassment (see section 1.d.).

Forced relocation because of urban development continued and in some locations increased during the year. Protests over relocation terms or compensation were common, and some protest leaders were prosecuted. In rural areas relocation for infrastructure and commercial development projects resulted in the forced relocation of millions of persons.

Property-related disputes between citizens and government authorities, which often turned violent, were widespread in both urban and rural areas. These disputes frequently stemmed from local officials colluding with property developers to pay little or no compensation to displaced residents, combined with a lack of effective government oversight or media scrutiny of local officials’ involvement in property transactions, as well as a lack of legal remedies or other dispute resolution mechanisms for displaced residents. The problem persisted despite central government efforts to impose stronger controls over illegal land takings and to standardize compensation. International media and other observers have raised doubt whether development of historically or culturally sensitive land, such as the Old City area in Kashgar, XUAR, was carried out in a transparent, fair manner.

In November Chinese media reported that a woman committed suicide by self-immolation in Chengdu, Sichuan Province, after district authorities ordered the house of her ex-husband be forcibly demolished following failed negotiations with the landlord. In December Chinese media reported a case of self-immolation to protest a forced eviction in Beijing. In this case, in an attempt to stop the forced demolition of his family’s house in Beijing’s Haidian district, the individual reportedly burned himself, but survived. His mother and his wife were injured during the confrontation with workers carrying out the demolition order. Local media reported that the head of the district where the demolition happened also had an interest in the real estate development company responsible for development of the area.

National law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations resulted in instances of local family-planning officials using physical coercion to meet government goals. Such practices included the mandatory use of birth control and the abortion of unauthorized pregnancies. In the case of families that already had two children, one parent was often pressured to undergo sterilization.

A U.S.-based human rights organization reported that in August, the one-month-old daughter of a mother in Changfeng County, Anhui Province, was detained by local family-planning officials until the woman signed a document consenting to a sterilization procedure.

In April as reported by a regional investigative newspaper affiliated with the newspaper Southern Daily and later in the international press, local family-planning officials in Puning, Guangdong Province, initiated an “education campaign” to encourage nearly 9,559 “most serious violators of family-planning policies” to undergo sterilization procedures. Reportedly, 1,300 persons were detained during this process, including family members of couples who had unauthorized births, until at least one member of the couple in violation submitted to a sterilization procedure.

In late-April officials in Pingxiang, Jiangxi Province, levied a RMB 2,000 (\$300) fine and threatened to demolish the home of the parents of a migrant worker who failed to submit his family-planning paperwork.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations and a traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies. National Population and Family Planning Commission (NPFPC) regulations ban non-medically necessary determinations of the sex of the fetus and sex-selective abortions, but some experts believed that the penalties for violating the regulations were not severe to deter unlawful behavior. According to government estimates released in February, the national average for the male-female sex ratio at birth was 119 to 100 in 2009 (compared with norms elsewhere of between 103 and 107 to 100). The Chinese Academy of Social Sciences estimated that by 2020, there could be as many as 24 million more men than women of marriageable age (ages 19-45) in China. In September Vice Premier Li Keqiang announced that the Government would “launch measures to narrow the widening ratio of men and women.”

Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in the 25th, 42nd, and 22nd provisions of the Population and Family Control Regulation of Liaoning, Jilin, and Heilongjiang provinces, respectively. An additional 10 provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan—require unspecified “remedial measures” to deal with unauthorized pregnancies (see section 6).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, although the Government generally did not respect these rights in practice. The Government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year the Government increased censorship and manipulation of the press and the Internet during sensitive anniversaries.

Foreign journalists were generally prevented from obtaining permits to travel to Tibet except for highly controlled, government-organized press visits. While foreign journalists were allowed access to Urumqi, XUAR after the July 2009 riots, and during the year, local and provincial authorities continued to strictly control the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR. Media outlets received regular guidance from the Central Propaganda Department, listing topics that should not be covered. After events such as the July 2009 riots, the 2008 Sichuan earthquake, or the 2010 Yushu earthquake media outlets were told to cover the stories using content carried by government-controlled Xinhua and China Central Television.

The General Administration of Press and Publication; the State Administration of Radio, Film, and Television, and the CCP remained active in issuing restrictive regulations and decisions constraining the content of broadcast media.

The range of permissible public discourse continued to expand, with significant exceptions including speech that challenged the Government or the CCP. Political topics could be discussed privately and in small groups without punishment. However, those who made politically sensitive comments in public speeches, academic discussions, and comments to the media remained subject to punitive measures. Authorities frequently intervened to halt public speeches and lectures on politically sensitive topics.

In March 2009 police detained Zhang Shijun, a former PLA soldier for publishing an open letter to President Hu Jintao expressing regret over his involvement in the Tiananmen massacre and urging the CCP to reconsider its condemnation of the 1989 demonstrations. At year’s end his whereabouts remained unknown.

The Government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Individuals who aired views critical of the Government or the CCP, particularly those who shared such views with foreign audiences, risked punishments ranging from disciplinary action in the workplace to police interrogation and detention. In 2008 to commemorate International Human Rights Day, a group of 303 intellectuals and activists released

a petition entitled “Charter 08,” calling for the CCP to respect human rights and implement democratic reforms in China. Many Charter 08 signers continued to report official harassment, especially around sensitive dates, such as the 2010 Nobel Peace Prize ceremony.

In addition to the arbitrary detention of activists during the 2010 World Expo, Shanghai authorities also prevented some local activists from participating in Expo seminars hosted by foreign governments. Activists reported that they were told by the authorities not to attend Expo events, including forum discussions on civil society and the rule of law hosted by a foreign government.

The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of privately owned print publications but no privately owned television or radio stations.

International media were not allowed to operate freely and faced heavy restrictions.

In early June, a foreign journalist was allowed to interview victims of the Sichuan earthquake only in the presence of foreign affairs and propaganda officials.

In February police harassed a group of nine Hong Kong journalists attempting to cover the sentencing in Chengdu of activist Tan Zuoren. When the journalists attempted to interview Tan’s lawyer and relatives outside the courthouse police reportedly used physical force to move them into a courthouse holding room, injuring one journalist in the process.

Authorities barred foreign journalists from filming in, or entering, Tiananmen Square during sensitive periods.

Authorities continued to enforce tight restrictions on Chinese citizens employed by foreign news organizations. In February 2009 the Government issued a code of conduct for Chinese employees of foreign media organizations. The code threatens dismissal and loss of accreditation for Chinese employees who engaged in “independent reporting” and instructed them to provide their employers with information that projects a good image of the country. The Foreign Correspondents’ Club of China denounced the code of conduct as part of a government effort to intimidate their Chinese employees.

Officials can be punished for unauthorized contact with journalists. Official guidelines for journalists were often vague, subject to change at the discretion of propaganda officials, and retroactively enforced. Propaganda authorities have forced newspapers to fire editors and journalists responsible for articles deemed inconsistent with official policy and have suspended or closed publications. The system of post-publication review by propaganda officials encourages self-censorship by editors, in an effort to avoid the losses associated with penalties for inadvertently printing unauthorized content.

Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings.

A domestic journalist can face demotion or job loss for publishing views that challenge the Government.

In August cartoonist Kuang Biao was reportedly reprimanded, fined RMB 1,500 (approximately \$224), and demoted by his employer, the Southern Metropolis Daily, for publishing a cartoon in his personal blog. The cartoon depicted journalist Chang Ping tied up and in a stranglehold in a reference to Chang’s 2008 removal as deputy editor of the Southern Metropolis Weekly after publishing an opinion piece on Tibet in the Financial Times.

Journalists who remained in prison included Lu Gongsong, Lu Jianhua, Huang Jinqiu, and Shi Tao. During the year journalists working in traditional and new media sources were also imprisoned.

According to government information, Uighur journalist Memetjan Abdulla was sentenced to life in prison in April reportedly for transmitting “subversive” information related to the July 2009 riots. Abdulla, an employee of the Uighur-language service of Chinese National Radio, was reportedly sentenced in a closed-door trial (see section 1.a.).

In July Uighur webmasters Dilshat Perhat, Nureli, and Nijat Azat were convicted of “endangering state security,” receiving sentences of five, 10, and 10 years, respectively. The verdicts were reportedly handed down at closed door trials in the Urumqi Intermediate Court.

In March the Economic Observer fired deputy editor in chief Zhang Hong for orchestrating a joint editorial published by 13 Chinese newspapers calling for reform of the household-registration, or hukou, system and characterizing the system as unconstitutional and unfair to rural residents.

Journalists and editors who exposed corruption scandals frequently faced retaliation. In July Zhejiang Province public security officials placed Economic Observer reporter Qiu Ziming on a national “wanted” list on charges of libel after Qiu published a series of reports alleging theft of state assets and insider trading in a publicly listed company. The Economic Observer issued a public statement criticizing the warrant and defending the stories as accurate. Other newspapers expressed public support for the Economic Observer, and the incident was widely discussed on the Internet. Local officials later rescinded the warrant and publicly apologized.

Authorities continued to confiscate “unauthorized publications,” but due to data collection methods, which put potentially politically sensitive documents in the same category as pornography and pirated materials, it is difficult to determine how much of the reported 65 million confiscated items in 2009 were in each category. Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. Authorities restricted reporting on stories such as the melamine milk scandal, schools destroyed during the Sichuan earthquake, and the July 2009 riots in Urumqi. Authorities also continued to ban books with content they deemed controversial.

Widespread attention in the press to suicides at a Shenzhen factory and the waves of strikes that hit Guangdong factories in May and June prompted the Government to pressure domestic media outlets not to report on labor disputes.

The law permits only government-approved publishing houses to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. Newspaper, periodicals, books, audio and video recordings, or electronic publication may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as state secrets.

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. The censorship process for private and government media also increasingly relied on self-censorship and, in a few cases, post-publication sanctions.

According to the PEN American Center, Korash Huseyin, former editor of the Uighur-language Kashgar Literature Journal, was released in 2008 after having served a full three year sentence, but his whereabouts remained unknown. Huseyin was sentenced in 2005 to three years in prison for publishing a short story that authorities considered critical of CCP rule of Xinjiang.

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the VOA, BBC, and Radio Free Asia (RFA). English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, Deutsche Welle, and Radio France International had large audiences, including human rights advocates, ordinary citizens, and government officials.

Television broadcasts of foreign news, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of foreign broadcasts also occurred around the anniversary of the 1989 crackdown in Tiananmen Square. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive.

Politically sensitive coverage in Chinese, and to a lesser extent in English, was censored more than coverage in other languages. The Government prohibited some foreign and domestic films deemed too sensitive.

Authorities continued to limit media reporting on disasters. Following a plane crash in Yichun, Heilongjiang, that killed 42 persons on August 24, local authorities attempted to prevent domestic reporters from covering the disaster. According to domestic media, local police detained four journalists from three separate domestic news organizations who were attempting to cover the crash. Police later apologized for the detentions. However, documents leaked to foreign media suggested that the CCP issued orders that only the CCP newspapers Heilongjiang Daily, People’s Daily, and Yichun Daily would be authorized to send reporters to Yichun to cover the crash.

According to the August 17, 2009 issue of *Caijing* magazine, the Government plans to provide 300 million users with high speed fiber optic cable Next Generation Broadcasting broadband and cable television in approximately 10 years at a cost of RMB 100 billion (approximately \$15.2 billion). According to comments made by a Shanghai China Telecom Deputy Chief Engineer “through the end of 2010, Shanghai Telecom city fiber optic cable network was capable of covering 1.5 million homes

and had 300,000 users. During the 12th Five Year Plan period, Shanghai Telecom will finish the overall coverage of optic cable access.” Some analysts believe that broadband and cable television could reduce the use of satellite dishes that the Government has suggested threaten the moral and political security of the country. Another strategy implemented in part to protect the country’s information security was the launch in 2008 of the Chinasat 9 broadcast satellite that uses a unique digital broadcast standard so individuals who buy boxes to decode the satellite signal will not be able to watch programming on other satellites with less restricted content.

There was also a government program called “connecting the villages” that has been replacing the many illegal albeit heretofore tolerated individual satellite dishes with community satellite cable systems. In January 2009 persons in rural Guizhou reported that this program was not popular there, since private dishes and receivers were inexpensive and brought in 60 channels while a community cable system often brings in only 20 or so channels.

An unofficial source described a government campaign to tear down some of the illegal satellite dishes, which were common throughout the country. The campaign has been most rigorous in minority areas. There is also a phenomenon known as “insertion broadcasting”—whereby politically incorrect parts of a broadcast from Hong Kong are replaced by material favored by the Government before broadcasting on Guangdong television. It also could refer to illegal insertion of programming into cable television systems.

*Internet Freedom.*—In June the Information Office of the State Council released its first White Paper on the Internet; it outlined the Government’s endeavors to guarantee certain freedoms of speech on the Internet as long as the speech did not endanger state security, subvert state power, damage state honor and interests, jeopardize state religious policy, propagate heretical or superstitious ideas, or spread rumors and other content forbidden by laws and administrative regulations among other caveats.

The China Internet Network Information Center announced in June that the number of Internet users had increased to 420 million, 364 million of whom had broadband access. Xinhua News Agency reported that users of Internet-capable mobile phones had reached 277 million and accounted for 65.9 percent of total Internet users in the country. In this rapidly expanding networked environment, the CCP continued to increase efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violate regulations. According to news sources, more than 14 government ministries participated in these efforts, resulting in the censorship of thousands of domestic and foreign Web sites, blogs, cellphone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective.

A 2005 State Council regulation deemed personal blogs, computer bulletin boards, and cellphone text messages as part of the news media, which subjected these media to state restrictions on content. Internet service providers were instructed to use only domestic media-news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of “subversive material.”

The Ministry of Public Security, which monitors the Internet under guidance from the CCP, employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. Officials considered tools like social networking, micro-blogging, and video-sharing sites a major vulnerability for social stability and political control. The Information Office announced the formation of a new bureau in April. This new agency, officially called the Internet News Coordination Bureau, often referred to as Bureau Nine, operates under the State Council Information Office and is mainly responsible for “guidance, coordination, and other work related to the construction and management of Web culture.” Previously, the Information Office operated a single Bureau of Internet Affairs which supervised sites that published news in China.

During the year provinces in northeast China strengthened control of the Internet, especially at Internet cafes. According to media reports, Liaoning Province successfully implemented a program to force independent Internet cafes to join larger franchises controlled by state-owned enterprises (SOEs). Liaoning Province also implemented regulations to ensure that the identities of all Internet cafe patrons could be verified and that software could be installed to allow authorities to monitor Internet use in real time and remotely control cafe computers.

Major news portals, which reportedly were complying with secret government orders, required users to register using their real names and identification numbers to comment on news articles. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was

monitored at all terminals in public libraries. Internet cafes were required to install software that allows government officials to monitor customers' Internet usage. Internet users at cafes were often subject to surveillance. Many cafes sporadically enforced regulations requiring patrons to provide identification. In June 2009 the Ministry of Industry and Information Technology (MIIT) issued a directive instructing Internet cafes and schools to install "Green Dam" software designed to censor objectionable Internet content based on an updatable central database. The software had been intended for installation in all computers sold in the country; however, objections from industry groups, Internet users, and foreign governments related to privacy and security concerns appeared to contribute to the postponement of enforcement of the directive. In July MIIT announced that it stopped funding the distribution and maintenance of the software.

The Government consistently blocked access to Web sites it deemed controversial, especially those discussing Taiwan and Tibetan independence, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen massacre. The Government also at times blocked access to selected sites operated by major foreign governments, news outlets, health organizations, educational institutions, and social networking sites, as well as to search engines, that allow rapid communication or organization of users.

Some Web sites included images of cartoon police officers that warn users to stay away from forbidden content. Operators of Web portals, blog-hosting services, and other content providers engaged in self-censorship to ensure their servers were free from politically sensitive content. Domestic Web sites that refused to self-censor political content were shut down, and many foreign Web sites were blocked.

During the year particularly during periods around sensitive events, authorities maintained tight control over Internet news and information. Access to foreign and domestic social networking sites was limited around Google's announcement it was considering leaving the country, the anniversary of the July 2009 riots in Xinjiang, the announcement of Liu Xiaobo's Nobel Peace Prize and the December prize ceremony, and other major events. In the wake of the riots in Urumqi, the Government asserted that information spread on the Internet had contributed to the violence, resulting in the complete shutdown of all Internet access, text messaging, and international telephone calls from the region. By January restrictions on international long-distance telephone calls to and from the XUAR had been lifted. Full Internet service was restored to the XUAR in May—10 months after it was blocked.

Authorities employed an array of technical measures to block sensitive Web sites based in foreign countries. The ability of users to access such sensitive sites varied from city to city. The Government also automatically censored e-mail and Web chats based on an ever-changing list of sensitive key words, such as "Falun Gong" and "Tibetan independence." While such censorship was effective in keeping casual users away from sensitive content, it was defeated easily through the use of various technologies. Software for defeating official censorship was readily available inside the country. Despite official monitoring and censorship, during the year dissidents and political activists continued to use the Internet to advocate and call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, corruption, and foreign policy concerns. Web users spanning the political spectrum complained of censorship. The blogs of a number of prominent activists, artists, scholars, and university professors were periodically blocked during the year.

Given the limitations of technical censorship, self-censorship by Internet companies remained the primary means for authorities to restrict speech online. All Web sites are required to be licensed by or registered with MIIT, and all Internet content providers faced potential suspension of their licenses for failing to adequately monitor users of e mail, chat rooms, and instant messaging services. The Internet Society of China, a group composed of private and state-run Internet companies, government offices, and academic institutions, cosponsored a Web site in 2009, China Internet Illegal Information Reporting Centre, which invited members of the public to report illegal online activity. Users were able to use the site to report not only crimes, such as pornography, fraud, and gambling, but also "attacks on the party and government." Self-censorship by blog-hosting services intensified prior to sensitive events.

On January 3, authorities disconnected labor activist Zhang Shanguang's Internet service by orders of the Ministry of State Security. His Internet service was restored January 5, but problems remained with his service. Zhang was sentenced to 10 years in prison in 1998 for "illegally providing intelligence to hostile organizations overseas" and "incitement to overthrow the Government," charges believed to be connected to his labor activism and contacts with foreign journalists and human rights organizations.

In July the Urumqi Intermediate People's Court convicted three Uighur webmasters—Dilshat Perhat, webmaster and owner of Diyarim; Nureli, webmaster of Salkin; and Nijat Azat, webmaster of Shabnam—of “endangering state security.” Dilshat Perhat received five years in prison; Nureli and Nijat Azat received three years and 10 years, respectively. The convictions reportedly were linked to posting politically sensitive language on the Web sites. The trials were reportedly closed.

Authorities continued to jail numerous Internet writers for peaceful expression of political views. Starting February 26, police in Yunxi County, Hubei, detained Chen Yonggang and held him for eight days on suspicion of “insulting and slandering others” after Chen posted articles online alleging that local officials and businessmen had been colluding to embezzle huge funds of money in the name of engineering projects.

On May 17, Tang Lin, the parent of a one-year-old tainted milk victim, wrote about the “Sanlu Milk Power Incident” in a QQ (on-line chat) group saying that he would “take extreme action.” Police in Chongqing arrested him May 19 and claimed that Tang's discussion in the group intended to “spread terrorizing information and create a terrorizing atmosphere.” He was punished with one-year of RTL. Tang's on-line message was deleted and there was no way for the public to know what he said to “spread terrorizing information.”

On May 28, National Security officers summoned Suining, Sichuan Province, dissident Liu Xianbin for articles he wrote and posted on overseas Web sites, as well as for his involvement with a recent seminar in Beijing regarding the case of three Fujian persons who were imprisoned for Internet postings. On June 28, Liu was formally detained, and at year's end, Liu remained in detention, awaiting a hearing on charges of “subversion of state power.”

On July 14, Web site managers at Sohu, Sina, and other major domestic Internet portals shut down the blogs of at least 100 prominent scholars, lawyers, and activists. Well-known bloggers, including He Weifang, Liu Junning, Pu Zhiqiang, Xu Zhiyong, and Zhang Zuhua, were among those whose blogs were removed.

On July 29, Nanjing resident Huang Yiyu was detained for an online post regarding an explosion at a Nanjing chemical factory. The explosion, which took place on July 28, killed at least a dozen workers and injured hundreds, according to state media reports; Huang's post, entitled “News from the Secret Information Office: Nanjing Chemical Factory Explosion Kills 259 People,” claimed that the number of fatalities from the blast was far higher. Huang was believed to have been released on August 2. Reportedly, local officials took extreme measures to prevent citizens from reporting on the incident, including dispatching armed police to search the homes of nearby residents with the aim of deleting any images or video of the scene.

On October 1, the revised State Secrets Law came into effect. An article published on Xinhua Net stresses the responsibility of providers of telecommunications services, especially Internet companies, to “stop the leaking of state secrets on the Internet in a timely fashion.” According to the revised law, Internet companies must cooperate with investigations of suspected leakages of state secrets, stop the transmission of such information once discovered, and report the crime to the authorities. Furthermore, they must comply with the authorities' orders when told to delete such information from their Web sites. Internet companies which fail to comply with the revised law will be punished by the relevant departments such as the police and the Ministry of State Security.

In November Cheng Jianping was sentenced to a year in RTL for “re-tweeting” a message related to a dispute between China and Japan. Her purported crime was “disturbing social order.”

Following his written support for Liu Xiaobo on the Internet, Zhao Dagong, a Charter 08 signatory, was detained by the Shenzhen Police in January. Police raided his house and took his computers for investigation. Authorities released Zhao from detention two weeks later.

In July 2009 Fan Yanqiong, along with two other bloggers, was charged with “false allegations with intent to harm” for reporting that a young woman was raped and killed by a group of men that included local officials. In April a court in Fuqing, Fuzhou Province, sentenced them to imprisonment on charges of defamation and leaking state secrets. Fan received a two-year sentence; authorities released Fan on medical parole in August, and at year's end she remained under house arrest in Nanping. Access to Fan remained controlled.

Tibetan Internet writers Kunchok Tsephel and Kunga Tseyang were sentenced to 15 years and five years in prison, respectively, in separate cases in November 2009. Kunchok Tsephel was convicted on “state secrets” charges, while Kunga Tseyang was convicted on multiple charges, including writing and posting splittist articles on the Internet and having contact with a monk in India. Internet writer and environmental activist Chen Daojun was sentenced to three years in prison in 2008.

According to Reporters Without Borders 2010 statistics, there were 30 reporters and 74 cyber dissidents in prison.

Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to the state.

*Academic Freedom and Cultural Events.*—The Government continued restrictions on academic and artistic freedom and political and social discourse at colleges, universities, and research institutes. Instructors generally were told not to raise certain sensitive topics in class, such as the 1989 Tiananmen massacre. The General Administration of Press and Publications, the State Administration of Radio, Film, and Television, and the Central Propaganda Department were active in issuing restrictive regulations and decisions that constrained the flow of ideas and people.

Authorities on a few occasions blocked entry into the country of speakers deemed politically sensitive and declined to issue passports to individuals selected for international exchange programs who were seen as politically unreliable, in particular individuals from minority nationality areas.

Information outreach, educational exchanges, and other cultural and public diplomacy programs organized by foreign governments occasionally were subject to government interference. Foreign experts invited to participate in foreign government-sponsored programs on certain topics were denied visas.

A foreign media expert who was on a speaking tour in the country, in which she had already spoken in Beijing, Shanghai, and Guangzhou, was denied reentry to the mainland from Hong Kong.

A minority student from the XUAR who was selected for a foreign government-sponsored academic exchange program was unable to participate because authorities from his university in Xinjiang refused to recommend granting him a passport.

A number of other foreign government-sponsored exchange selectees, particularly those from minority provinces, encountered difficulties gaining approval to travel to participate in their programs.

In April the Chinese Embassy in Moscow declined to issue a visa to a Russian filmmaker invited to participate in a foreign government-sponsored film festival in Beijing.

The Chinese Academy of Social Sciences (CASS) restricted access to its computer networks and library databases for foreign scholars for a period of several months. CASS officials stated that the problem was a technical network security issue; affected scholars claimed there was political motivation.

The Government used political attitudes and affiliations as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students. The Government and the party controlled the appointment of high-level officials at universities. While party membership was not always a requirement to obtain a tenured faculty position, scholars without party affiliation often had fewer chances for promotion.

Researchers residing abroad also were subject to sanctions, including denial of visas, from the authorities when their work did not meet with official approval.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. The law stipulates that such activities may not challenge “party leadership” or infringe upon the “interests of the state.” Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views.

Citizens continued to gather publicly to protest evictions, relocations, and compensation in locations throughout the county, often resulting in conflict with authorities or other charges (see section 1.f.).

On April 29, approximately 500 villagers from Changchunling, Heilongjiang Province, blocked railroad tracks to protest an announced land requisition. More than 2,000 police, firefighters, and paramilitary troops reportedly responded to the protest. The ensuing riot resulted in injuries to both police officers and villagers. According to some reports, following the riots, police surrounded the village and shut-down communications networks including cell phones.

In mid-July citizens held a mass protest in Suzhou’s Tong’an Township, surrounding government offices and clashing with riot police. The demonstrators were protesting relocation compensation rates.

On October 11, clashes between thousands of construction workers and police began in Dujiangyan, after a confrontation between laborers and management over unpaid wages left at least one worker dead. After company staff allegedly beat and killed one of their ranks, hundreds of workers blockaded a local road and subsequently clashed with police sent to restore order.

On consecutive Sundays in late July and early August, more than 2,000 persons gathered in Guangzhou to protest a Guangdong Chinese People's Political Consultative Conference proposal to scale down Cantonese-language programming on Guangzhou television channels. Police dispersed the crowd without incident on the first Sunday, but clashed with demonstrators and detained journalists on the second Sunday. Online comments and news coverage of the rallies, except for a government press conference claiming there was no intention to eliminate Cantonese and promote Mandarin, were removed from the Internet.

All concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from public security authorities. Although peaceful protests are legal, in practice police rarely granted approval. Despite restrictions, there were many demonstrations, but those with political or social themes were broken up quickly, sometimes with excessive force. The number of "mass incidents" or violent protests against local government increased during the year. As in past years, the vast majority of demonstrations concerned land disputes; housing issues; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns. Others were provoked by accidents or related to personal petition, administrative litigation, and other legal processes.

The ability of an individual to petition the Government is protected by law; however, persons petitioning the Government continued to face restrictions on their rights to assemble and raise grievances. Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial "letters and visits" offices. According to press accounts on April 12, more than 1,000 petitioners from villages in Zhuanghe knelt before the municipal government headquarters while waiting to have their petitions heard. They accused village leaders of corruption, embezzlement, and negligence related to local land development schemes. Zhuanghe's Mayor, Sun Ming, was forced to resign in the wake of the incident.

Although regulations banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred before and after the enactment of the new regulations and often went unrecorded. In August 2009 the General Office of the State Council issued new guidelines for handling petitioners. The rules mandate sending officials from Beijing to the provinces to resolve petition issues locally, thereby reducing the number of petitioners entering Beijing. Other new rules include a mandated 60-day response time for petitions and a regulation instituting a single appeal in each case.

In July according to domestic media reports, police in Hubei severely beat Chen Yulian, the wife of a provincial law enforcement officer, mistaking her for a petitioner. Six public security officers beat Chen when she tried to enter her husband's office building, which houses the Hubei provincial party headquarters. The Communist Party chief of the district bureau stated that the incident was a "total misunderstanding," as "police officers never realized that they were beating the wife of a senior leader."

*Freedom of Association.*—The law provides for freedom of association, but the Government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority.

The Government maintained tight controls over civil society organizations. Legal and surveillance efforts aimed at controlling them increased. On March 1, new regulations issued by the State Administration for Foreign Exchange (SAFE) on foreign exchange donations to or by domestic institutions came into effect. According to the regulations, foreign exchange donations must "comply with the laws and regulations, and shall not go against social morality or damage public interests and the legitimate rights and interests of other citizens." For donations between a domestic organization and a foreign NGO, the regulations required all parties and the banks to approve additional measures prior to a transaction being processed.

To register, an NGO must find a government agency to serve as its organizational sponsor, have a registered office, and hold a minimum amount of funds. Some organizations with social or educational purposes that previously registered as private or for-profit businesses reportedly were requested to find a government sponsor and

re-register as NGOs during the year. Although registered organizations all came under some degree of government control, some NGOs were able to operate with a degree of independence.

The number of NGOs continued to grow, despite tight restrictions and regulations. According to the Ministry of Civil Affairs (MCA), as of the end of 2009, the country had 431,000 legally registered social organizations including social groups (238,000), civil nonbusiness units (190,000), and foundations (1,843). During the year an MCA official wrote, “in 2007, China started to use the term “social organization” instead of “civil organization” because “civil” contrasts with “official” and reflected the opposing roles of civil society and government in the traditional political order. The Sixteenth and Seventeenth CCP Congresses changed the name to “social organization.” NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP, known as “government NGOs” or GONGOs.

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts, hiring workers, and renting office space. NGOs that opted not to partner with government agencies could register as commercial consulting companies, which allowed them to obtain legal recognition at the cost of forgoing tax-free status. Security authorities routinely warned domestic NGOs, regardless of their registration status, not to accept donations from the U.S. government-funded National Endowment for Democracy and other international organizations deemed sensitive by the Government. Authorities supported the growth of some NGOs that focused on social problems, such as poverty alleviation and disaster relief, but remained concerned that these organizations might emerge as a source of political opposition. Many NGOs working in the Tibet Autonomous Region (TAR) were forced to leave because their project agreements were not renewed by their local partners following unrest in Lhasa and other Tibetan communities in 2008.

No laws or regulations specifically govern the formation of political parties. However, the CDP remained banned, and the Government continued to monitor, detain, and imprison current and former CDP members.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government generally did not respect these rights in practice. The Government sometimes cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Authorities heightened restrictions on freedom of movement periodically, particularly to curtail the movement of individuals deemed politically sensitive before key anniversaries and visits of foreign dignitaries, and to forestall demonstrations. Freedom of movement continued to be extremely limited in the TAR and other Tibetan areas. Police maintained checkpoints in most counties and on roads leading into many towns, as well as within major cities such as Lhasa.

Although the Government maintained restrictions on the freedom to change one’s workplace or residence, the national household registration system (*hukou*) continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was more than four times the rural per capita income, but many could not officially change their residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more economically developed urban areas.

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. The National Bureau of Statistics reported that there were 225 million migrant workers at the end of 2008. These economic migrants lacked official residence status in cities, and it was difficult for them to gain full access to social services, including education and health care, despite laws, regulations, and programs meant to address their needs. Migrant workers had little recourse when subject to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it was difficult to obtain for these benefits in practice.

Under the “staying at prison employment” system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home, but they were not permitted freedom of movement.

The Government permitted legal emigration and foreign travel for most citizens. There were reports that some academics and activists continued to face travel restrictions around sensitive anniversaries. In the fall, most notably in the time period between the Nobel Peace Prize announcement on October 8 and the December 10 Nobel ceremony, a large number of activists, lawyers, artists, authors, or other dissidents were prevented from leaving the country on the grounds that their doing so would damage the country’s national security. Some were stopped at the airport, others were explicitly told prior to travel that they would be prevented from leaving the country (see section 1.e.).

Most citizens could obtain passports, although those whom the Government deemed threats, including religious leaders, political dissidents, and ethnic minorities, were refused passports or otherwise prevented from traveling overseas. Uighur residents of the XUAR reported difficulties at the local level in getting a passport application approved. Some residents of the XUAR and other citizens have reportedly had valid passports seized. In Tibetan regions of Qinghai, Gansu, and Sichuan provinces, in addition to the TAR, ethnic Tibetans experienced great difficulty applying for passports. The unwillingness of the PSB in Tibetan areas to issue or renew passports for ethnic Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han residents of Tibetan areas, however, did not experience the same difficulties.

The law neither provides for a citizen’s right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or “troublemakers.” Although some dissidents living abroad were allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad were imprisoned upon their return to the country.

In December 2009 the Royal Government of Cambodia, at the request of PRC authorities, forcibly returned a group of 20 Uighur asylum seekers to the country. At year’s end their whereabouts and welfare remained unknown.

The Government continued to try to prevent many Tibetans from leaving and detained many who were apprehended in flight (see Tibet Addendum). By year’s end 874 Tibetans had arrived at the UNHCR reception center in Kathmandu. Flows to Nepal increased slightly during the year but were lower than the levels prior to the 2008 Lhasa crackdown. For the first time since 2003, there was a confirmed forcible return of three Tibetans from Nepal in June.

In January videographer and Sun Yat-sen University professor Ai Xiaoming received the Prix Simone de Beauvoir (international human rights prize for women’s freedom), but authorities did not allow her to travel abroad to attend the award ceremony.

*Protection of Refugees.*—Although the country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the law does not provide for the granting of refugee or asylum status, and the Government has not established a system for providing protection to refugees. The Government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos residing in the country. During the year the Government and the UNHCR continued discussions concerning the granting of citizenship to these residents.

While the Government officially acknowledged that 37,000 residents of Kokang, in northeastern Burma, fled across the border into Yunnan during the Burmese army crackdown in August 2009, they were not officially designated as refugees. The Government did not respond to a UNHCR request for access to the border areas.

The Government continued to consider all North Koreans “economic migrants” rather than refugees or asylum seekers, and the UNHCR continued to have limited access to North Korean refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Even refugees under UNCHR care were subjected to harassment and restrictions by authorities. The Government continued to deny the UNHCR permission to operate along its northeastern border with North Korea.

In practice the Government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Some North Koreans were permitted to travel to third countries

after they entered diplomatic compounds in the country. The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. The undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly did not have access to health care, public education, or other social services. The Government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports, some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned to North Korea. There were also reports that North Korean agents operated clandestinely within the country to forcibly repatriate North Korean citizens.

Although the Government does not grant refugee or asylum status, it allowed the UNHCR more latitude in assisting non-North Korean refugees. At the end of 2009 UNHCR Beijing had processed refugee claims for approximately 100 non-North Korean refugees in China (from Pakistan, Iraq, Somalia, and Eritrea). However, because these individuals were not officially recognized refugees, they remained in the country as illegal immigrants unable to work, with no access to education, and deportable by the host government at anytime.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution states that “all power in the People’s Republic of China belongs to the people” and that the organs through which the people exercise state power are the NPC and the people’s congresses at provincial, district, and local levels. However, the law does not provide citizens with the right to change their government peacefully, and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power.

*Elections and Political Participation.*—According to the law, the NPC is the highest organ of state power. Formally, the NPC, composed of 2,987 deputies, elects the president and vice president, the premier and vice premiers, and the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 175 members, oversaw these elections and determined the agenda and procedure for the NPC.

The NPC Standing Committee remained under the direct authority of the party, and most legislative decisions require the concurrence of the CCP’s nine-member Politburo Standing Committee. Despite its broad authority under the state constitution, the NPC does not set policy independently or remove political leaders without the party’s approval.

According to statistics from the MCA, almost all of the country’s more than 600,000 villages had implemented direct elections for members of local sub-government organizations known as village committees. The direct election of officials by ordinary citizens remained narrow in scope and strictly confined to the local level. The Government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township-level and party officials continued to be problems. The law permits each voter to cast proxy votes for up to three other voters.

The election law governs legislative bodies at all levels. Under this law citizens have the opportunity to vote for local people’s congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was controlled by higher-level government officials or CCP cadres. At higher levels, legislators selected people’s congress delegates from among their ranks. For example, provincial-level people’s congresses selected delegates to the NPC. Local CCP secretaries generally served concurrently as the head of the local people’s congress, thus strengthening party control over legislatures.

On October 28, the NPC Standing Committee passed revisions to the law on deputies to the NPC and to lower-level people’s congresses. Among other provisions the revisions stipulate that deputies may not serve as professional legislators but must have separate full-time jobs, and deputies may not maintain individual constituent liaison offices.

Official statements asserted that “the political party system [that] China has adopted is multiparty cooperation and political consultation under” the CCP leadership. However, the CCP retained a monopoly on political power, and the Government forbade the creation of new political parties. The Government officially recognized nine parties founded prior to 1949, and 30 percent of NPC seats were held by parties other than the CCP. The establishment of new parties is functionally pro-

hibited, and activists attempting to support unofficial parties have been arrested, detained, or confined.

In September 2009 in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned China Democratic Party, was sentenced to 13 years in prison. Guo Quan remained imprisoned following his October 2009 sentence to 10 years in prison and three years' deprivation of political rights for "subversion of state power." Guo, a former Nanjing University professor and founder of the China New Democracy Party, published articles criticizing the country's one-party system. At year's end more than 30 current or former CDP members remained in prison or held in RTL camps, for their connection to a 2002 open letter calling for political reform and a reappraisal of the 1989 Tiananmen uprising, including Chen Shuqing, Sang Jiancheng, Yang Tianshui, and Jiang Lijun. In January 2009 CDP member Wang Rongqing was sentenced to six years' imprisonment for "subversion against the state" after publishing articles critical of the political system.

The Government placed no special restrictions on the participation of women or minority groups in the political process. However, women held few positions of significant influence in the CCP or government structure. Among the 2,987 delegates of the 11th NPC (term 2008-13), 637 are women (21.3 percent of the total). There was one female member of the CCP's 25-member Politburo, who also concurrently served as one of five state councilors. There are three women ministers within the 28 organs of the State Council: Minister of Supervision Ma Wen, Minister of Justice Wu Aiyang, and Head of the National Population and Family Planning Commission Li Bin. According to government-provided information there were more than 230 female provincial and ministerial officials, more than 670 female mayors—twice the number in 1995—and more than 15 million female CCP cadres (approximately one-fifth of the total party membership).

The Government encouraged women to exercise their right to vote in village committee elections and to run in those elections, although only a small fraction of elected members were women. In many locations a seat on the village committee was reserved for a woman, usually given responsibility for family planning.

A total of 411 delegates from 55 ethnic minorities were members of 11th NPC, accounting for 13.76 percent of the total number of delegates. All of the country's officially recognized minority groups were represented. The 17th Communist Party Congress elected 40 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post held by an ethnic minority member was in the State Ethnic Affairs Commission, headed by Yang Jing, an ethnic Mongol from Inner Mongolia. In addition, there was one ethnic minority member, Vice Premier Hui Liangyu, of the Hui ethnic group, on the Politburo. Minorities held few senior party or government positions of significant influence.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas that were heavily regulated by the Government and therefore susceptible to fraud, bribery, and kickbacks, such as land usage rights, real estate, and infrastructure development. On December 29, the Information Office of the State Council released its first white paper on Efforts to Combat Corruption and Build Clean Government.

Court judgments often could not be enforced against powerful special entities including government departments, state-owned enterprises, military personnel, and some members of the CCP. The Supreme Court during 2008-09 stated that there was a backlog of 330,000 cases, with a total of RMB 343 billion (\$50 billion) at stake.

In its 2009 annual work report, the Supreme People's Procuracy reported that procuratorates nationwide had investigated 32,439 corruption, dereliction of duty, and infringement of human rights cases, a decrease of 3.3 percent from the previous year, involving 41,531 suspects, an increase of 0.9 percent. Among them, 2,670 suspects of embezzlement or bribery were officials at or above county- and director-level, including 204 at director general- or deputy director general-level and eight at the minister- (governor) or deputy minister- (vice governor) level; 9,355 were suspected of dereliction of duty or infringement of human rights. The SPP also investigated 10,218 cases of commercial bribery involving state functionaries. Within the SPP itself, 247 prosecutors were disciplined and 25 of them were charged criminally, though how many of these cases were corruption related was not specified.

The party's Central Commission for Discipline Inspection (CCDI), its lead body for countering corruption among members, reported that 106,000 members had been found guilty of corruption in 2009, an increase of 2.5 percent over 2008. Of these,

85,353 received “party discipline” punishment and 29,718 received “administrative punishment.”

In an August 28 speech to government officials, Premier Wen Jiabao described corruption as “the greatest danger for a ruling party.” In July the Government and party issued a regulation requiring officials in government agencies or state-owned enterprises at the county-level or above to report their ownership of property, including property in their spouses’ or children’s names, as well as their family’s investment in financial assets and in enterprises. Also in July the Government and party announced it would introduce a new collective decision-making procedure into state-owned enterprises, requiring all important decisions, including allocations of capital, arrangements for major projects, and personnel decisions, to be jointly decided by collective leadership. In the wake of the trial and conviction for corruption of former SPC Vice President Huang Songyou in January, the SPC reported that it had strengthened internal supervision by appointing anticorruption monitors, sending inspection task forces to local courts, and promulgating more discipline. The SPC reported that in 2009, 795 staff members in the court system were disciplined, and 137 of them were transferred to judicial organs as criminal suspects, but how many of these cases were corruption related was not specified.

There were numerous cases of public officials and leaders of state-owned enterprises, who generally also hold high party rank, investigated for corruption during the year.

In May Huang Guangyu, the founder of Gome Electrical Appliance Holding, who was detained in November 2009 on unspecified charges of “economic crimes,” was convicted of illegal business operation, insider trading, and bribery, sentenced to 14 years in prison, fined RMB 600 million (approximately \$90 million), and had RMB 200 million (approximately \$30 million) in personal assets confiscated. Former Guangdong provincial police chief and chairman of the Guangdong provincial committee of the CPPCC, Chen Shaoji, who was detained along with Huang Guangyu in November 2009, was sentenced to death with a two-year suspension after being found guilty of accepting bribes.

Among the eight minister- or deputy minister-rank officials investigated for corruption in 2009 were former SPC Vice President Huang Songyou, sentenced to life imprisonment for taking bribes and embezzlement; Wang Yi, former vice president of state-owned China Development Bank, who received a suspended death sentence for taking bribes; and Wang Huayuan, former secretary of the Guangdong and Zhejiang provincial party commissions for discipline inspection, who was sentenced to death, suspended for two years. Also Zhang Chunjiang, the party chief at China Mobile, the world’s largest mobile phone operator by subscribers, was removed from his post and expelled from the CCP after a CCDI inspection found him culpable of taking bribes in September. In 2009 35 senior executives of China’s large SOEs, such as former Sinopec chairman Chen Tonghai, faced corruption charges.

As part of efforts to increase transparency in the hiring process for party and government officials, Jilin Province instituted an “open selection” system for 800 positions in June. The online system allowed any qualified member of the public to apply—a departure from similar programs that required applicants be nominated by their work unit.

The Ministry of Supervision and the CCDI are responsible for combating government corruption.

In September People’s University in Beijing inaugurated its first semester of “anticorruption” postgraduate courses taught by the CCP’s leading antigraft officials. He Jiahong, deputy director of the university’s criminal law research center, said that courses would be taught on advanced investigation techniques, such as “how to obtain testimony from witnesses,” “the observation of facial expressions,” and “lie-detection techniques.” Leading prosecutors of the SPP including Chen Lianfu, director of the SPP’s Bureau of Anti-Embezzlement and Bribery, and seven other antigraft prosecutors were brought to teach their techniques and give guidance. The course had 30 students and “plays a positive role in social anticorruption,” according to professor Lin Zhe at the CCP Party School. All students selected for the program “met strict criteria and were tested for aptitude,” the official *Global Times* reported.

Since 2008 the country has had freedom of information regulations in effect, which allow citizens to request information from the Government. While limited in comparison to freedom of information regulations in many other countries, the regulations did require government authorities to create formal channels for information requests and include an appeal process if requests were rejected or not answered. Publicly released provincial- and national-level statistics for freedom of information requests showed wide disparities in numbers of requests filed and in official documents released in response.

The November 2009 report of the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) presented information indicating that Huaying Trading Company (HTC), a Chinese-run mineral exporting company based in eastern DRC, sources minerals that originated in eastern DRC under the control of the Democratic Liberation Forces of Rwanda (FDLR). The FDLR, whose leaders continued to include architects of the 1994 Rwandan genocide, has committed numerous, serious human rights abuses in eastern DRC and Rwanda.

In December 2010 an international NGO, Global Witness, published a report that stated that the export records of the DRC government's Division of Mines showed that two Chinese companies and one Hong Kong company purchased 100 percent of the 41.4 tons of columbite-tantalite (or "coltan") that originated in the conflict-affected North Kivu Province in May 2010. According to Global Witness, the three companies were Fogang Jiata Metals, Star 2000 Services, and Hong Kong-based Unilink Trading Hong Kong. The UNGOE interim report of May 2010 stated that "in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group."

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it has called the "westernization" of the country. The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; in addition, domestic NGOs were harassed. The Government tended to be suspicious of independent organizations and increased scrutiny of NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and all official NGOs had to be sponsored by government agencies. Some grassroots NGOs registered as companies to avoid regulations requiring NGOs to have a sponsoring government agency.

An informal network of activists around the country continued to serve as a credible source of information about human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy, the foreign-based Human Rights in China Chinese Human Rights Defenders, and via the Internet.

The Government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them.

The Government did not have a human rights ombudsman or commission. The Government-established China Society for Human Rights is an NGO whose mandate is to defend the Government's human rights record. The Government maintained that each country's economic, social, cultural, and historical conditions influence its approach to human rights.

The ICRC operated an office in Beijing, but the Government did not authorize the ICRC to visit prisons. The Government continued unofficial discussions on human rights and prisoner issues with a foreign-based human rights group, although the Government's cooperation with the group was not as extensive as in previous years.

The Government continued to participate in official diplomatic human-rights dialogues with foreign governments.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

There were laws designed to protect women, children, persons with disabilities, and minorities. However, some discrimination based on ethnicity, sex, and disability persisted.

*Women.*—Rape is illegal, and some persons convicted of rape were executed. The law does not recognize expressly or exclude spousal rape. The Government has not made available official statistics on rape or sexual assault, leaving the scale of sexual violence difficult to determine. Migrant female workers were particularly vulnerable to sexual violence.

Violence against women remained a significant problem. According to a 2008 survey by the All-China Women's Federation (ACWF), domestic violence affected one-third of China's 267 million families. The Government supported shelters for victims of domestic violence, and some courts were beginning to provide protections to victims. However, official assistance did not always reach victims, and public security forces often ignored situations of domestic violence. According to reports, 30 to 37 percent of families suffered from domestic violence, and more than 90 percent of the

victims were women. The ACWF reported that it alone received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported; an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. While domestic violence tended to be more prevalent in rural areas, it also took place among the highly educated urban population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence.

The number of victims' shelters grew. According to ACWF statistics, in 2008 there were 27,000 legal-aid service centers, 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming to be injured by domestic violence nationwide. Most shelters were operated by the Government, some with NGO participation. During the year the Government provided 680,000 office spaces in government buildings for women's resource centers.

Both the Marriage Law and the Law on the Protection of Women's Rights and Interests have stipulations that directly prohibit domestic violence; however, some experts complained that the stipulations are too general, fail to define domestic violence, and are difficult to implement. Because of the judicial standard of ruling out "all unreasonable doubt," even if a judge was certain that domestic violence was occurring, he or she could not rule against the abuser without the abuser's confession. Only 10 percent of accused abusers confessed to violent behavior in the family, according to 2009 data from the Institute of Applied Laws, a think tank associated with the court system. Collecting evidence in domestic violence cases remained difficult: the institute reported that 40 to 60 percent of marriage and family cases involved domestic violence; however, less than 30 percent were able to supply indirect evidence, including photographs, hospital records, police records, or children's testimony. Witnesses seldom testified in court.

In April 2009 the Hunan High People's Court reportedly issued the first provincial-level guiding opinion concerning domestic violence cases, which was aimed at strengthening protections for female victims during judicial proceedings related to such abuse. In June 2009 a district court in Zhejiang Province granted the province's first anti-domestic violence court order to a female victim. Following similar 2008 orders in Jiangsu and Hunan, the order prohibits the abuser from intimidating or beating the spouse and opens the way for security forces to intervene to protect the victim's safety.

After the Law on the Protection of Women's Rights was amended in 2005 to include a ban on sexual harassment, the number of sexual harassment complaints increased significantly.

The Government restricted the rights of parents to choose the number of children they have. The national family-planning authorities shifted their emphasis from lowering fertility rates to maintaining low fertility rates and emphasized quality of care in family-planning practices. In May a representative of the National Population and Family Planning Commission reported that 85 percent of women of child-bearing age used some form of contraception. Of those, 70 percent used a reversible method. However, the country's birth limitation policies retained harshly coercive elements, in law and practice. The financial and administrative penalties for unauthorized births were strict.

From February to April, Xuzhou, Jiangsu Province was the site of a high-profile court proceeding in which a 30-year-old female plaintiff sued the local family-planning bureau, claiming that she had been barred from a civil service position in the county government for giving birth to a child before marriage. Although she married the father soon after the child's birth, the court ruled that the family-planning bureau's original decree citing the birth as out of wedlock held, which did make her ineligible for the Government position.

Although the Government announced adjustments would be implemented to address the problem of unequal birth sex ratios, it also affirmed the orientation of its family-planning policy at the highest levels, including maintaining the policy as part of the 12th Five-Year Plan that will be in effect 2011-15. In September Vice Premier Li Keqiang emphasized, however, that the policy would be "better coordinated" to take into account long-term economic and social developments.

In 2007 China Daily reported, "although sex selection is banned by the Population and Family Planning Law and the Law on Maternal and Infant Health, there are currently no provisions on the applicable punishment for such acts."

The NPFPC has been trying for many years to criminalize illegal sex identification and sex-selective abortion (commonly referred to as the "Two Nons"), which currently are prohibited only under administrative law. Members of the NPFPC have been working on the issue of legal reform related to sex-selective abortion since its

inception and have proposed amendments to the Criminal Code to the National People's Congress (NPC) dealing with sex-selective abortion each year since 2006.

The use of ultrasounds to determine the sex of fetuses was prohibited. This ban, which carried administrative fines and penalties for healthcare workers found to have violated it, has been in place since 1995. Another similar ban on sex selective abortions was imposed by the NPFPC in 2004, although neither carried specific criminal penalties.

The 2002 National Population and Family-planning Law standardized the implementation of the Government's birth limitation policies; however, enforcement varied significantly. The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions are permitted to have a second child (e.g., if each of the would-be parents are themselves an only child). In most rural areas, the policy was more relaxed, with couples permitted to have a second child in cases where the first child was a girl. Ethnic minorities are subject to less stringent rules. Countrywide, 35 percent of families fell under the one-child restrictions, and more than 60 percent of families were eligible to have a second child, either outright or if they met certain criteria. The remaining 5 percent were eligible to have more than two children. According to government statistics, the average fertility rate for women nationwide was 1.8 (representing the number of children each woman of child-bearing age has); in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8.

While all provinces eliminated the birth-approval process for a first child, thus allowing parents to choose when to start having children, some provinces continued to regulate the period of time required between births. This adjustment signaled an end to the former family-planning quota system, in which some couples previously had to delay pregnancies if the allotted birth quota for that locality had already been exceeded.

The law requires each person in a couple that has an unapproved child to pay a "social compensation fee," which can reach 10 times a person's annual disposable income. The law grants preferential treatment to couples who abide by the birth limits.

Social compensation fees were set and assessed at the local level. The law requires family-planning officials to obtain court approval before taking "forcible" action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed, and national authorities remained ineffective at reducing abuses by local officials.

The population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures. Those who violated the child limit policy by having an unapproved child or helping another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the party (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations. The law states that family-planning bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fined women who did not undergo periodic pregnancy tests.

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals. An administrative reform process initiated pilot programs in some localities that sought to remove this linkage for evaluating officials' performance.

Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined. By law citizens may sue officials who exceed their authority in implementing birth-planning policy. However, there exist few protections for whistleblowers against retaliation from local officials. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

During the year Puning City, Guangdong Province conducted two campaigns of "sterilization of married couples that have two children" during the year. According

to the Puning government, the city conducted 8,916 sterilization procedures in April and more than 3,000 in September. Meanwhile, a report by the Southern Rural News, a paper belonging to the Nanfang Daily Group, indicated that if two-child couples identified for sterilization did not cooperate with family-planning officials or fled the area, authorities confiscated the couples' property or detained their family members. Detained family members were forced to take family-planning policy-learning sessions—officials forced at least 1,300 persons related to two-child couples to attend the learning sessions in April.

Government regulations implemented in 2008 make family-planning services, including reproductive health information and services, contraception devices, and family-planning technical services, available and free to migrants in their temporary residences. Previously, migrants were often forced to return to the place of their legal household registrations to receive services.

According to 2008 UN statistics, the maternal mortality ratio was an estimated 38 per 100,000 live births. Regional differences indicated that the maternal mortality ratio in rural areas was much higher than in urban areas and also higher in poorer than in developed regions.

According to a 2008 UN Development Fund (UNDP) report, China established specific objectives for infant and maternal mortality rates as well as for immunization coverage in the 11th National Development Plan (2006-2010). In 2003 the country implemented a health plan called the New Cooperative Medical Scheme (NCMS) meant to cover the entire rural population by 2010. Medical financial aid to fund and subsidize participation in NCMS by the poor was also introduced. Public funding for NCMS reportedly covered 85.7 percent of counties and had 730 million subscribers. Still, rural, poor, migrant, and ethnic minority women continued to suffer the greatest mortality rates due to a lack of access to quality health services. There were reportedly more than 3,000 mother-child health centers nationwide, employing 500,000 staff in a three-tiered network of county-, township-, and village-level services providing mother and child health care.

The constitution states that “women enjoy equal rights with men in all spheres of life.” The Law on the Protection of Women’s Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. The ACWF was the leading implementer of women’s policy for the Government, and the State Council’s National Working Committee on Children and Women coordinated women’s policy. Nonetheless, many activists and observers were concerned that the progress made by women over the past 50 years was eroding. They asserted that the Government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability. Women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems.

Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages, so very few cases were brought to court. Some observers noted that the agencies tasked with protecting women’s rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women’s rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. In principle, rural contract law and laws protecting women’s rights stipulate that women enjoy equal rights in cases of land management, but experts argued that in practice this was rarely the case, due to the complexity of the law and difficulties in its implementation.

Many employers preferred to hire men to avoid the expense of maternity leave and child care, and some lowered the effective retirement age for female workers to 50 (the official retirement age for men was 60 and for women 55, with the exception of men and women involved in physically demanding jobs, for which the retirement age was 55 and 45, respectively). In addition, work units were allowed to impose an earlier mandatory retirement age for women than for men. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

Women earned less than men, despite government policies mandating non-discrimination in employment and occupation. The Ministry of Human Resources and Social Security and the local labor bureaus were responsible for ensuring that enterprises complied with the labor law and the employment promotion law, each of which contains antidiscrimination provisions.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately 500 fe-

male suicides per day in 2009. The Beijing Suicide Research and Prevention Center reported in 2009 that the suicide rate for females was three times higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable. Government research indicating that 58 percent of all suicides involved the use of pesticide led to the implementation of a trial program in Hunan and Zhejiang provinces to control its sale and storage to attempt to reduce suicide attempts.

The UN Economic and Social Council reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2008 official government statistics, women comprised more than 70 percent of all illiterate persons above the age of 15. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

While the gap in the education levels of men and women narrowed, differences in educational attainment remained a problem. Men continued to be overrepresented among the relatively small number of persons who received a university-level education. According to Ministry of Education statistics, in 2008 women accounted for 50 percent of undergraduate and college students, 46 percent of postgraduate students, and nearly 35 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market-driven.

*Children.*—Citizenship is derived from the parents. Parents must register their children in compliance with the national household registration system within one month of birth. Children not registered cannot access public services. No data was available on the number of unregistered births.

The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas, many children did not attend school for the required period and some never attended at all. Public schools were not allowed to charge tuition; however, faced with insufficient local and central government funding, many schools continued to charge miscellaneous fees. Such fees and other school-related expenses made it difficult for poorer families and some migrant workers to send their children to school.

According to a 2008 UNDP report, the urban-rural gap in literacy rates of young persons had narrowed, from 6 percent in 1990 to 1.6 percent in 2005. The proportion of girls attending school in rural and minority areas was reportedly smaller than in cities; in rural areas 61 percent of boys and 43 percent of girls completed education higher than lower middle school. The Government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Most children of migrant workers who attended school did so at schools that were unlicensed and poorly equipped.

Female babies suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys and that neglect was one factor in their lower survival rate.

The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family-planning Commission, a handful of doctors have been charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy.

Kidnapping and buying and selling children for adoption increased over the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children kidnapped; however, according to media reports, as many as 20,000 children were kidnapped every year for illegal adoption. Most children kidnapped internally were sold to couples unable to have children, particularly sons. Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children rescued were boys, but increased demand for children reportedly drove traffickers to focus on girls as well. In 2009 the Ministry of Public Security started a DNA database of parents of missing children and children recovered in law enforcement operations in an effort to reunite families.

By law those who force young girls (under age 14) into prostitution may be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property. If the case is especially serious, they are to be given a life sentence or sentenced to death, in addition to confiscation of property. Those inducing young girls (under age 14) into prostitution are to be sentenced to five years or more in prison in addition to a fine. Those who visit young female prostitutes

(under age 14) are to be sentenced to five years or more in prison in addition to paying a fine.

According to the law, the minimum age of consensual sex is 14.

Pornography of any kind is illegal, including child pornography. Under the criminal code, those producing, reproducing, publishing, selling, or disseminating obscene materials with the purpose of making a profit may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to from three to 10 years in prison, in addition to paying a fine. If the case is especially serious, they are to be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property. Persons found disseminating obscene books, magazines, films, audio or video products, pictures, or other kinds of obscene materials, if the case is serious, may be sentenced up to two years in prison or put under criminal detention or surveillance. Persons organizing the broadcast of obscene motion pictures or other audio or video products may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to three to 10 years in prison in addition to paying a fine.

Those broadcasting or showing obscene materials to minors less than 18 years of age are to be severely punished.

There were more than 150,000 urban street children, according to state-run media and the Ministry of Civil Affairs. This number was even higher if the children of migrant workers who spend the day on the streets were included. In 2008 state media reported that the number of children in rural areas left behind by their migrant-worker parents totaled 58 million.

The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were girls, many of whom were abandoned. Boys in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned infant girls were sometimes barred from having additional children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts during the year. The Government does not recognize Judaism as an ethnicity or religion. According to information from the Jewish Virtual Library the country's Jewish population was 1,500 in 2006.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Person's Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities access to programs designed to assist them.

The MCA and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. In September 2009 government officials confirmed that there were 83 million persons with disabilities living in the country. According to government statistics, in 2008 there were 3,731 vocational education and training facilities, which provided training and job-placement services for 774,000 persons with disabilities. More than 4.5 million persons with disabilities were employed in cities and towns; 17.2 million were employed in rural areas. Government statistics stated that 7.4 million persons with disabilities enjoyed the minimum life guarantee; nearly three million had social insurance.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. In 2007 the Ministry of Education reported that nationwide there were 1,618 schools for children with disabilities. According to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to special education that could meet their needs. In 2008 there were 419,000 children with disabilities in schools. NGOs claimed that while the overall school enrollment rate was 99 percent, only 75 percent of children with disabilities were enrolled in school. Nationwide, 243,000

school-age children with disabilities did not attend school. Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The Government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society.

The physical abuse of children can be grounds for criminal prosecution. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty.

Unemployment among adults with disabilities remained a serious problem. Under the Employment Promotion Law, local governments were required to offer incentives to enterprises that hired persons with disabilities. Regulations in some parts of the country also required employers to pay into a national fund for the disabled when the employees with disabilities did not make up the statutory minimum percentage of the total workforce.

Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; however, compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births.

*National/Racial/Ethnic Minorities.*—Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. However, the substance and implementation of ethnic minority policies remained poor, and discrimination against minorities remained widespread.

Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a "harmonious society," the Government downplayed racism and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, Inner Mongolia Autonomous Region, and Tibetan areas. In September 2009 the State Council issued a white paper on ethnic policy, common prosperity, and development of all ethnic groups. The report stated that the country's ethnic policy ensured equality among all ethnic groups.

According to 2007 government statistics, 36.3 percent of Guangxi Province's cadres were ethnic minorities. In 2008 all five of the country's ethnic minority autonomous regions had governors from minority groups for the first time in history. However, the Communist Party secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful party and government positions in minority autonomous regions, particularly the XUAR.

The Government's policy to encourage Han Chinese migration into minority areas significantly increased the population of Han in the XUAR. In recent decades the Han-Uighur ratio in the capital of Urumqi has shifted from 20 to 80 to 80 to 20 and continued to be a source of Uighur resentment. Discriminatory hiring practices gave preference to Han and discouraged job prospects for ethnic minorities. According to 2005 statistics published by XUAR officials, eight million of the XUAR's 20 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities constituted approximately 12 million XUAR residents. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." While the Government continued to promote Han migration into the XUAR and fill local jobs with migrant labor, overseas human rights organizations reported that local officials under direction from higher levels of government deceived and pressured young Uighur women to participate in a government-sponsored labor transfer program.

The XUAR government took measures to dilute expressions of Uighur identity, including reduction of education in ethnic minority languages in XUAR schools and

the institution of language requirements that disadvantaged ethnic minority teachers. The Government continued to apply policies that prioritized standard Chinese for instruction in school, thereby reducing or eliminating ethnic-language instruction. Graduates of minority language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage.

During the year authorities continued to implement repressive policies in the XUAR and targeted the region's ethnic Uighur population. Officials in the XUAR continued to implement a pledge to crack down on the Government-designated "three forces" of religious extremism, splittism, and terrorism and outlined efforts to launch a concentrated antiseparatist reeducation campaign.

It was sometimes difficult to determine whether raids, detentions, and judicial punishments directed at individuals or organizations suspected of promoting the three forces were actually used to target those peacefully seeking to express their political or religious views. The Government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action.

Uighurs continued to be sentenced to long prison terms, and in some cases executed, on charges of separatism and endangering state security. The Government reportedly sought the repatriation of Uighurs outside the country, who faced the risk of persecution if repatriated.

Freedom of assembly was severely limited during the year in the XUAR.

In September 2009 the Government announced it would demolish three buildings owned by the family of exiled Uighur leader Rebiya Kadeer, president of the World Uighur Conference. The Government blamed Kadeer, a Uighur businesswoman in exile, for orchestrating the July 2009 riots in Urumqi. At year's end the buildings had not been demolished.

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. Uighurs who remained in prison at year's end for their peaceful expression of ideas the Government found objectionable included Mehbube Ablesh, Abdulla Jamal, Adduhelil Zunun, Abdulghani Memetemin, and Nurmuhemmet Yasin.

During the year XUAR and national-level officials defended the campaign against the three forces of religious extremism, splittism, and terrorism and other emergency measures taken as necessary to maintain public order. Officials continued to use the threat of violence as justification for extreme security measures directed at the local population, journalists, and visiting foreigners.

In September 2009 state media reported that XUAR authorities approved the Information Promotion Bill, making it a criminal offense to discuss separatism on the Internet and prohibiting use of the Internet in any way that undermines national unity. The bill further bans inciting ethnic separatism or harming social stability. The bill requires Internet service providers and network operators to set up monitoring systems or strengthen existing ones and report transgressions of the law.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies continued to allot economic investment in, and brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits.

(For specific information on Tibet, please see the Tibet addendum.)

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—No laws criminalize private homosexual activity between consenting adults. Homosexuality was decriminalized in 1997 and removed from the official list of mental disorders in 2001. Due to societal discrimination and pressure to conform to family expectations, most gay individuals refrained from publicly discussing their sexual orientation. Individual activists and organizations working on HIV/AIDs and lesbian, gay, bisexual, and transgender (LGBT) issues continued to report discrimination and harassment from the authorities. In May HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO Aizhixing, left the country, reportedly in response to increased pressure by authorities on himself and his organization.

In January police blocked an event to choose a delegate to the Worldwide Mr. Gay pageant, shutting down the first-ever Mr. Gay China pageant just before the event. Police cited a lack of permits.

In March, Li Yinhe, an activist and sexologist for the third time presented a proposal to the NPC and CPPCC advocating the legalization of same-sex marriage. Li had previously presented the proposal in 2003 and 2006. To date, no NPC debate has been held on the proposal.

On May 17, a small number of events were held across the country in universities to mark the International Day against Homophobia. The events were covered in English-language domestic media, but Chinese-language coverage was subdued.

In September police raided a park frequented by gays in Beijing, allegedly as part of a security sweep ahead of the October National Day holiday. Reports suggested approximately 80 men were taken to a local police station, most were released without charge.

In March and April 2009, approximately 50 gays were reportedly detained in Renmin Park in Guangzhou and questioned by police. In August 2009 police in Guangzhou tried again to remove a group of gays from Renmin Park. The men refused, and after a nonviolent standoff, the police desisted.

In June 2009 the first gay pride festival took place in Shanghai. Also in June 2009 the Beijing Queer Film Festival was held. Police had blocked previous attempts to hold the festival.

LGBT plotlines and scenes are not allowed on broadcast television. However, in May a play with a lesbian theme was staged in a mainstream Beijing theatre.

Although there is no legal prohibition against the registration of LGBT student groups, none were allowed to register at any university.

In July 2009 a group of lesbians organized an online petition calling on the Government to rescind a 1998 law banning gays and lesbians from donating blood.

*Other Societal Violence or Discrimination.*—The Employment Promotion Law, which went into effect in 2008, improves protection against discrimination in employment, and local governments began modifying their regulations to reflect the new law. Under the law and adopted regulations, employment discrimination against persons carrying an infectious disease is prohibited, and provisions allow such persons to work as civil servants. While the law improves protection against discrimination in employment, it does not address some common types of discrimination in employment, including discrimination based on height, physical appearance, or place of origin.

In April the country eliminated a 20-year travel ban that barred individuals with HIV/AIDS from entering the country. The State Council posted a statement on its Web site announcing that the Government had passed amendments on April 19, revising the Border Quarantine Law, as well as the Law on Control of the Entry and Exit of Aliens; the changes were effective immediately.

Despite provisions in the Employment Promotion Law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas. Persons with HIV/AIDS suffered discrimination, and local governments sometimes tried to suppress their activities. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local governments, particularly in Henan Province. Henan authorities provided free treatment to persons with HIV/AIDS, but foreign and local observers noted that local governments were reluctant or even hostile toward coordinating efforts with NGOs and preferred to work independently.

On February 10, a nationwide rule banning mandatory hepatitis B virus tests in job and school admissions applications was promulgated.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law does not provide for freedom of association, as workers were not free to organize or join unions of their own choosing. Independent unions are illegal, and the right to strike is not protected in law.

The All-China Federation of Trade Unions (ACFTU), which is controlled by the CCP and chaired by a member of the Politburo, is the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions and requires the ACFTU to "uphold the leadership of the Communist Party." ACFTU constituent unions were generally ineffective in protecting the rights and interests of members. The ACFTU was active in advocating for government policies to better protect rights and interests of workers. Following widespread criticism of the ACFTU's response to several high-profile labor disputes that occurred primarily at automotive parts suppliers in Guangzhou, the union has advocated for reform of laws to better equip the union to protect workers' rights and interests.

The ACFTU and its provincial and local branches continued to aggressively organize new unions and add new members. According to the latest available official ACFTU data, as of the end of 2009 there were 1.8 million trade unions with 226 million registered ACFTU members, and about 84 million of the estimated 230 million migrant workers in the country had joined trade unions. Further, the ACFTU claimed that 79 percent of foreign-invested companies, 78.5 percent of private companies, and 87 percent of the “Fortune 500” companies’ China headquarters had established trade unions by the end of 2009.

One of the 12 Taiwan employees who became a member of the Xiamen General Labor Union in 2009 (the first time a mainland ACFTU-affiliated labor union accepted Taiwan members) was invited to attend the 12th Fujian Provincial Trade Union Conference in May. He was the only Taiwan worker representative at this ACFTU conference. During the year the Xiamen government awarded “May 1st Labor” medals to six Taiwan workers. The medals, which usually are awarded to mainland workers, were for the first time awarded to workers from Taiwan in 2009.

Although the law states that trade union officers at each level should be elected, most factory-level officers were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or Communist Party. In enterprises where direct election of union officers took place, regional ACFTU offices and local party authorities retained control over the selection and approval of candidates.

The inability to directly elect their representatives was a key issue raised by workers in several labor disputes in Guangzhou. In July striking workers at three Honda auto components factories in the Pearl River Delta region not only demanded and obtained a large wage increase, they also succeeded in obtaining a promise of democratic union elections in which workers directly elect union leaders at the enterprise level. The Guangdong Federation of Trade Union indicated Honda’s Nanhai plant will be a pilot site for remodeling the ACFTU and allowing union members to elect their own union chair. A senior ACFTU official was quoted by official media as saying the ACFTU hopes to end the practice of companies appointing union leaders or assigning someone from their human resources department to act as union leader.

Following the heightened restrictions and surveillance reported by labor NGOs in 2009 surrounding politically sensitive anniversaries, several labor rights NGOs reported fewer restrictions during the year and in some cases said they were able to engage directly with high-level government officials. However, authorities in the south increased restrictions on some labor NGOs in the aftermath of the large number of high-profile strikes in Guangdong factories.

Despite more relaxed rules on NGO registration that Shenzhen implemented in 2008, labor NGOs still reported that they were unable to register as civil organizations and had little alternative but to register as businesses and be subject to taxation.

According to local press accounts, Luo Xi, a former primary school teacher from Hunan Province who was previously sentenced to a lengthy RTL term following his participation in the 1989 Tiananmen incident, was arrested on January 8, for participating in and instigating a teachers’ strike in Hunan in December 2008 to demand the same wages and benefits as civil servants. Luo was sentenced to two years’ reeducation through labor in late January for “disrupting social order.” According to an NGO, on February 10, Xue Mingkai, a 20-year-old factory worker, was sentenced to one and a half years’ imprisonment for subversion of state power by the Shenzhen Intermediate Court. Authorities claimed he had joined the China Democracy Party in 2009 and had recruited others to join. They also alleged he planned to organize a “Democratic Workers’ Party.”

Labor activists detained in previous years reportedly remained in detention at year’s end, including Wang Sen, Hu Mingjun, Li Wangyang, Kong Youping, Ning Xianhua, Li Jianfeng, Lin Shun’an, Chen Wei, She Wanbao, Zhu Fangming, Zhao Dongming, Ren Fengyu, Liu Jian, Wang Miaogen, Feng Xinchun, Huang Zhuyu, Xu Haiyan, Wang Jun, Huang Yunmin, Li Xintao, Liu Jian, Liu Jianjun, Yang Chunlin, Yu Changwu, Xu Zexin, Yuan Xianchen, You Jingyou, Zhang Qizhong, and Zhao Wuhu.

While work stoppages are not expressly prohibited in law, article 53 of the constitution has been interpreted as a ban on labor strikes by obligating all citizens to “observe labor discipline and public order.” Local government interpretations of the law varied, with some jurisdictions showing some tolerance for strikes while others continue to treat worker protests as illegal demonstrations. Without a clearly

defined right to strike, workers had only a limited capacity to influence the negotiation process.

As in past years, in spite of the unclear legal status of worker strikes, there were hundreds of reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Most of the complaints were economic in nature, with demands for pay increases and better benefits being the most common. In many instances, workers successfully won concessions from companies and saw significant wage increases.

Figures released by the Guangdong Province Human Resource and Social Security Department indicate 36 strikes involving more than 600 workers demanding higher pay occurred over 48 days (May 25-July 12). These strikes were mainly in car parts factories and electronics plants of the Pearl River Delta. Labor Department officials at the provincial and municipal levels in Guangdong identified 142 more enterprises with unstable labor relations (120 in Guangzhou, 14 in Shenzhen, and eight in Zhuhai). While official media continued to aggressively publicize worker protests, the strikes in Guangdong Province led the Government to institute a media ban on all reports of strikes in the area.

Several small labor protests in Jiangsu Province in May and June heightened anxiety in the Yangtze River Delta region. On June 8, workers at a Taiwan-owned machinery factory in Kunshan clashed with police. The 2,000-plus workers had walked off the assembly line to demand better pay and improved working conditions. Approximately 50 protesters reportedly were injured. Prior to the incident in Kunshan, there had been reports in mid-May that 44 employees of the Taiwan-based company, Wintek Corporation, planned to sue the company for poisoning them after a Suzhou factory manager made them use n-hexane to clean iPhone screens ordered by Apple Corporation. Workers at Nikon Imaging company in nearby Wuxi also protested because of their dissatisfaction with the handling of a poisonous gas incident at the plant.

The 2008 Labor Contract Law and the global financial crisis both contributed to the growth in labor disputes in the court system. According to the Supreme People's Court, courts nationwide handled 295,500 labor dispute cases in 2008, a one-year increase of 95.3 percent. The number of labor dispute cases increased another 7.8 percent in 2009, to 318,600. From January to August, courts recorded 207,400 new labor dispute cases.

*b. The Right to Organize and Bargain Collectively.*—The labor law permits collective bargaining for workers in all types of enterprises; however, in practice collective bargaining fell short of international standards. Under labor and trade union laws, collective contracts are to be developed through collaboration between the labor union and management and should specify such matters as working conditions, wage scales, and hours of work.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so. A key article of the 2008 labor contract law requires employers to consult with labor unions or employee representatives on matters that have a direct bearing on the immediate interests of their workers.

Despite the collective bargaining article in the 2008 Labor Contract Law, many employers prefer to deal with individual employees directly, allowing for widespread employer abuse of labor contracts. Common cases of noncompliance with the Labor Contract Law during the year included forcing employees to sign blank contracts and not providing workers a copy of their contract. Lack of government resources also undermined effective implementation and enforcement of the Labor Contract Law.

In July the Guangdong provincial government issued guidelines on enterprise collective wage bargaining, which included requiring employers to give employee representatives information regarding a company's operations, including employee pay and benefits, to be used in wage bargaining. The guidelines also gave employees and employers the right to request the labor bureau to act as a mediator to help determine wage increase distribution among employees.

In August the Beijing ACFTU instructed lower-level Beijing trade unions to initiate collective wage bargaining with companies that pay low average monthly wages. According to the Beijing Municipal Federation of Trade Unions, enterprises in Beijing with an average wage of less than RMB 1,100 per month (approximately \$165) will be required to conduct collective negotiations.

The ACFTU reported that 1.4 million collective contracts were signed by the end of September, covering 2.43 million enterprises and 185 million workers.

The 2008 Labor Dispute Mediation and Arbitration Law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. The 2008 law improved workers' access to and streamlined this three-stage process. The number of labor disputes nationwide continued to rise as workers' awareness of the laws increased.

The Trade Union Law provides specific legal remedies against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor and contains provisions relevant to forced labor and trafficking for labor purposes. However, there were reports that such practices occurred. Punishment for forced labor offenses under the criminal code ranged from an administrative fine to a maximum of three years' imprisonment, which was deemed "insufficiently dissuasive" by the International Labor Organization's Committee of Experts on the Application of Standards.

There were reports that employers withheld wages, or required unskilled workers to deposit several months' wages as security against the workers departing early from their labor contracts. These practices often prevented workers from exercising their right to leave their employment and made them vulnerable to forced labor. Implementation of new labor laws, along with workers' increased knowledge of their rights under these new laws, continued to reduce these practices.

On September 13, the Supreme People's Court issued an interpretation intended to help workers substantiate claims of not being paid for overtime work. Among the key issues addressed, the ruling provided that for overtime claims, while employees have the initial burden of proving that overtime work was performed, the burden shifts to the employer if the employee can demonstrate that the employer had control over the evidence proving that the work was performed.

Examples of continued reports of forced labor included: The freeing by police in May of 34 migrant workers who had been forced to work in slave-like conditions in a brick kiln in Hebei Province. A total of 11 suspects including the kiln's owner were arrested. The discovery by local Xinjiang reporters in December of 12 mentally ill workers forced to work in slave labor-like conditions at a Chemical Factory in Tuokexun. The factory owner and his son were arrested, along with a labor trafficker from Sichuan's Qu County who allegedly sold the workers to the factory. The workers were rescued and placed in care, and the trafficker's "Beggars Adoption Agency" was closed down.

Forced labor remained a serious problem in penal institutions according to the International Trade Union Confederation (ITUC). Many prisoners and detainees in RTL facilities were required to work, often with no remuneration. In addition, there were credible allegations that prisoners were forced to work for private production facilities associated with prisons. These facilities often operated under two different names: a prison name and a commercial enterprise name. There was no effective mechanism to prevent the export of goods made under such conditions.

The Ministry of Justice discussed allegations of exported prison labor goods with foreign government officials, but information about prisons, including associated labor camps and factories, was tightly controlled.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16, but child labor remained a problem. The Government does not publish statistics on the extent of child labor.

The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors, and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. However, a significant gap remained between legislation and implementation. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including in mines.

Social compliance auditors working for foreign buyers continued to report some use of child labor in factories producing for export. There continued to be some reports that schools supplied factories with illegal child labor under the pretext of vocational training. There are reports that spot labor shortages, rising wage levels, and more demands made by adult workers compounded by continued fierce competi-

tion, induced some small enterprises to run the risk of hiring child labor, and some local authorities to ignore this practice to protect against employers moving to other areas.

ITUC alleged that there was substantial employment of children under the age of 16 as a result of poor conditions in the rural education system that caused parents to send their children to work because their education was unaffordable. Additionally, work-study programs allow schools in poor areas to set up income generating schemes in agriculture and manufacturing, employing children to earn money for their school fees. Many of these programs resulted in abuses such as child labor that is forced and in dangerous and labor-intensive industries such as agriculture, construction, and factories in which the employed children worked long hours under harsh conditions.

An April National Labor Committee report on KYE Systems Corporation, a consumer electronics factory in Dongguan City, Guangdong Province, (also known as Dongguan Kunying Computer Products Company Ltd.), claimed that dozens of work-study students employed at the factory over the past three years, purportedly 16 and 17 years old, actually were 14 and 15 years of age and worked 15-hour shifts, six and seven days a week. The report also alleged that the factory prohibited bathroom breaks during working hours, restricted the off-compound movement of workers, provided inadequate bathroom and dormitory facilities (a bucket and sponge were provided for showering and 14 workers shared each dorm room), and forced workers who made mistakes to clean the bathrooms.

In April local media reported a 15-year-old in Panjin city, Liaoning Province, was severely injured by a gas explosion in a restaurant where he was working. In May a local journalist in Hebei Province discovered that a 14-year-old child laborer was hired to work seven days a week as a welder by a local factory. In July a popular newspaper in Guangzhou reported that a 13-year-old child laborer drowned while he was trying to escape from the local police in Guangzhou who were cracking down on an illegal workshop where he was employed to produce cigarettes.

According to an official Xinhua news article, local labor inspection teams in Hainan Province found five girls, between ages 13 and 15, employed as waitresses in a hotel in Zhanzhou City.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—There was no national minimum wage, but the labor law requires local and provincial governments to set their own minimum wage according to standards promulgated by the Ministry of Human Resources and Social Security (MOHRSS). The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the relevant labor bureaus deal with the case.

Due to changing economic and demographic conditions, almost all local and provincial governments raised minimum wage levels significantly during the year. Additionally, increased economic activity, spot shortages of skilled labor, increased inland investment, and successful strikes led to generally increased wage levels for workers in all parts of the country.

While minimum wage laws apply to all workers, wage arrears remained a common problem. Governments at various levels continued their efforts to prevent arrears and recover payment of missing wages and insurance contributions. Many of the estimated 230 million migrant workers and their families faced numerous other obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education or social insurance, in the cities where they lived and worked because they were not legally registered urban residents.

The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, in practice compliance with the law was weak, and standards were regularly violated.

While many labor laws and regulations on worker safety are fully compatible with international standards, implementation and enforcement were generally poor due to a lack of adequate resources. For example, MOHRSS reported that in 2008 there were only 23,000 fulltime professional inspectors, and indicated that there were areas in which a single labor inspector would be responsible for more than 50,000 workers.

Inadequately enforced occupational health and safety laws and regulations continued to put workers' health and safety at risk. The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. The

work safety law states that employees have the right, after finding an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action. In practice such protective provisions were poorly enforced at the local level.

The State Council issued an order requiring local governments and companies to strengthen standards by improving corporate safety management, providing technical support and enhancing supervision in an effort to prevent accidents in high-risk industries, such as mines and chemical factories. The 32-item order requires, among other items, that at least one senior manager accompany miners underground at all times and that workers in high-risk industries receive professional training and possess valid certification. If any unqualified and untrained workers are found employed in such workplaces, the company may be shut down. Factories or mines that have an accident that kills more than three persons or two fatal accidents in a year will be blacklisted. This information will then be released to departments related to land resources, construction, finance, investment, and banks to use as an important reference in future loan agreement negotiations. Also, seven national mine emergency teams will be established across the country to provide timely rescue work in the event of a serious accident.

The State Council's Work Safety Committee orchestrated a nationwide campaign to improve work safety. In a July 20 report, the committee acknowledged that there were problems in the nationwide workplace-safety check system and in resolving work safety problems. During the year inspectors reportedly uncovered 9.34 million unreported "work safety dangers" while inspecting 6.42 million work units (danwei), including 2.12 million industrial and mining facilities. Reportedly, 3,327 of the serious hidden dangers were not adequately resolved by year's end.

The coal industry continued to have a high incidence of accidents and fatalities, but the Government continued efforts to consolidate the industry into larger, better-regulated mining companies, including the campaign jointly carried out by the National Development and Reform Commission, the State Energy Administration, SAWS, and the State Administration of Coal Mine Safety to target small mines with an annual production capacity of less than 300,000 tons. According to statistics from the National Energy Administration (NEA), 620 small coalmines were shut down from January to May, eliminating production of 75.4 million tons of coal.

Also according to the NEA, the death rate per million tons of mined coal for the first half of the year was 0.788, a decrease of almost 15 percent from the previous year. It reported 71 accidents in total, killing 602 persons. Many of these accidents were attributed to production by illegal small mines and by overproduction of large mines. Independent labor groups stated the actual casualty figures could be much higher, since many accidents were covered up.

The head of the SAWS said that illegal production, operations, and construction caused 502 major work-related accidents during the first half of the year, an increase of 75 accidents over the same period last year. According to official statistics, a total of 2,652 persons were reported injured, killed or missing in these 502 accidents, an increase of 576 victims over the first half of 2009. From January to June, large production accidents rose 36.4 percent from last year to reach 45, resulting in 764 individuals killed or listed as missing, up 53.4 percent from the same period in 2009.

As an example of the many reported coal mine accidents, in one weekend in July five separate mining incidents killed more than 40 miners and left 13 trapped. Twenty-eight miners were killed at a privately owned mine in Hancheng City, Shaanxi Province, while a fire at a mine in Henan Province killed eight workers. The following day, two miners were killed following a gas explosion at a coal mine in Hunan Province, 13 workers were trapped in a flooded colliery in Gansu Province, and four miners died at a mine explosion at state-owned Nanpiao Coal and Electricity Co.'s Dayaogou Mine in Huludao City, Liaoning Province. Media later in the week reported the dismissal of Hancheng's mayor and the city government's action to halt production at 33 coalmines until safety concerns were addressed.

In March 153 miners were trapped underground after an accident at the Wangjialing Coal Mine in Shanxi Province. After eight days, 115 of them were rescued.

According to the Ministry of Health, more than 14,000 workers were diagnosed with pneumoconiosis, or black lung disease, in 2009, accounting for 80 percent of new occupational disease cases during the year. Many of these miners had difficulty obtaining compensation as many of the mines were privately operated, and had closed. When the mines closed, many workers had no certificate to prove they once worked in the mine, and without the certificate a hospital cannot make an occupational disease assessment report, without which there can be no compensation.

## TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China (PRC). The Tibetan population within the TAR was approximately 2.7 million and outside the TAR was an estimated 2.9 million. The Government strictly controlled information about, and access to, the TAR and Tibetan areas outside the TAR, making it difficult to determine accurately the scope of human rights abuses.

There was severe repression of freedoms of speech, religion, association, and movement. The intensified controls applied following the March 2008 riots and unrest in Tibetan areas eased somewhat after the second anniversary of the unrest and its suppression. Authorities continued to commit serious human rights abuses, including extrajudicial killings, torture, arbitrary arrests, extrajudicial detention, and house arrest. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage remained a concern.

The fallout from the March 2008 protests continued to affect the human rights situation in Tibetan regions of the PRC. A number of Tibetans, especially monks, remained incarcerated for their role in the 2008 protests and riots. People's Armed Police (PAP) presence remained at historically high levels in many communities across the Tibetan Plateau. In March all major monasteries in Lhasa were guarded by security forces. On March 14, many shops in the city closed to mark the anniversary of the demonstrations and the police crackdown. Students in many areas protested; in southern Gansu Province, students reportedly protested for freedom, human rights, and in support of the Dalai Lama.

*Deprivation of Life.*—There were numerous reports that the Government or its agents committed arbitrary or unlawful killings; however, it was not possible to verify independently these reports. There were no reports that officials investigated or punished those responsible for the killings.

In August police shot and killed a Tibetan during a mining protest in Phayul County in Ganzi (Kardze) Prefecture. State media claimed the Tibetan was shot accidentally when police fired warning shots at protesters.

In December 2009 33-year-old Tibetan nun Yangkyi Dolma died of unknown causes in a Chengdu hospital after eight months in police custody. She was severely beaten by police and arrested in March 2009 after she joined a protest in Ganzi County, Ganzi Prefecture, Sichuan Province calling for human rights and the swift return of the Dalai Lama.

No further information was available regarding the January 2009 death of Pema Tsepag following his beating by authorities; the March 2009 killing of Phuntsok Rabten by public security agents; the March 2009 killing of Panchou Lede in a clash between soldiers and farmers; and the August 2009 death of Kalden following his torture in a Lhasa prison.

Following the outbreak of protests in March 2008, the Government reported that 22 persons were killed in the Lhasa violence, including 18 civilians, one police officer, and three rioters. However, outside observers, including Tibetan exile groups and nongovernmental organizations (NGOs), variously placed the number of persons killed in Tibetan areas due to official suppression that began March 10 at between 100 and 218.

There were reports of persons tried, found guilty, and executed for their activities during the 2008 protests. Trials and executions were not transparent, and requests by foreign observers to attend trials were denied. There was not enough information available to determine whether they were afforded due process.

*Disappearance.*—Following the 2008 riots in Lhasa, authorities arbitrarily detained Tibetans, including monks and nuns, many of whom remained missing. Official statistics for the number detained were incomplete and covered only limited areas. In February 2009 official media reported that 953 persons were detained or had surrendered to police in Lhasa following the riots. The report stated that 76 persons were sentenced to prison in connection with the unrest, and an additional 116 were awaiting trial. Official sources have not reported the fates of these 116 persons. On December 21, an NGO reported that Jampel Wangchuk, 55, the disciplinarian at Drepung's Loseling College, had been sentenced to life in prison; Konchok Nyima, 43, the scripture teacher at Drepung's Gomang College, had been sentenced to 20 years; and 38-year-old Ngawang Choenyi, the scripture teacher at Drepung's Ngakpa College, was believed to be serving a sentence of 15 years.

There was no information on the whereabouts of five monks, including Sonam Rabgyal, Damdul, and Rabgyal, who disappeared following a 2008 midnight raid on the Ramoche Temple in Lhasa. The whereabouts of Paljor Norbu, a Tibetan traditional painter sentenced to seven years in prison after a secret trial in 2008, re-

mained unknown at year's end. No new information was available on the whereabouts of Phuntsok Gyaltzen, the deputy head of Phurbu Township, Palgon County, who was detained in 2007.

The whereabouts of the Panchen Lama, Gendun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, and his family remained unknown. In October 2009 government officials in Tibet told a visiting foreign delegation that Gendun Choekyi Nyima was "growing up very well, loves Chinese culture and is enjoying his life." The officials asserted that his identification as the 11th Panchen Lama was "illegal."

*Torture and Other Cruel and Degrading Treatment.*—The security regime employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly suffered torture, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Prisoners were subjected routinely to "political investigation" sessions and were punished if deemed insufficiently loyal to the state.

In March 2009 police severely beat 21-year-old Tibetan nun Lobsang Khandro from the Gema Dra-wok Nunnery for carrying out an individual protest in Ganzi Prefecture. She allegedly carried pamphlets and prayer flags and shouted calls for freedom and support for the Dalai Lama as she walked to the Ganzi Prefecture government headquarters.

On June 22, well-known businessman and environmentalist Karma Samdrup, on trial for alleged grave robbing and theft of cultural artifacts, accused his jailers of beatings, sleep deprivation, administration of drugs that made his ears bleed, and other mistreatment. On June 24, he was sentenced to 15 years in prison.

Late in the year four monks from Lutsang Monastery were released from confinement in Qinghai Province. The four were arrested and sentenced to reeducation through labor (RTL) following a February 2009 protest by Lutsang monks outside a government office.

In May 2009 according to an NGO report, police injured six persons in Tawu County of Ganzi Prefecture while breaking up a protest against a hydroelectric project.

According to numerous sources, many of those detained after the rioting in 2008 were subjected to extrajudicial punishments such as severe beatings and deprivation of food, water, and sleep for long periods. In some cases detainees suffered broken bones and other serious injuries at the hands of PAP and Public Security Bureau (PSB) officers. According to eyewitnesses, the bodies of persons killed during the unrest or subsequent interrogation were disposed of secretly rather than returned to their families.

Phurbu Tsering Rinpoche, head of Pangri and Yatseg nunneries in Ganzi, told of police abuse during his April 2009 trial. He claimed that after his arrest in 2008, police handcuffed him with arms outstretched to an iron pillar and forced him to stand while they interrogated him continuously for four days and four nights. They told Phurbu Tsering Rinpoche that if he did not confess his wife and son would be detained. His trial was later postponed indefinitely. Foreign diplomats asked to observe the trial but received no reply. In late December 2009 a court sentenced Phurbu Tsering Rinpoche to eight-and-a-half years in prison for illegal possession of weapons and ammunition (see Denial of Fair Public Trial section).

In May 2009 Tibetan monk Jigme Guri from Labrang Monastery was released from prison. He alleged that prison authorities beat him repeatedly during two months of detention beginning in 2008. According to Jigme, the beatings left him unconscious for six days, and he required two hospitalizations.

*Prison Conditions.*—In December 2009 the deputy director of the TAR Justice Bureau told a foreign diplomat that there were 3,000 prisoners in the five TAR prisons, which are separate from the RTL system.

The mass detentions connected with the March 2008 unrest amplified already crowded and harsh prison conditions. Some prisons, including those in the RTL system, used forced labor to which prisoners may be assigned for three years (with the possibility of a one-year extension) without court review. The law states that prisoners may be required to work up to 12 hours per day, with one rest day every two weeks, but sometimes these regulations were not enforced; conditions varied from prison to prison.

According to numerous sources, political prisoners in Tibetan areas endured unsanitary conditions and often had little opportunity to wash or bathe. Many prisoners slept on the floor without blankets and sheets. Prisoners reported being confined side by side with 20 to 30 cellmates for many days.

Former detainees reported that prisoners were not provided with enough food. According to sources, prisoners rarely received medical care unless they had a serious

illness. Prisoners also complained that they often failed to receive money, food, clothing, and books sent by their families because such items were routinely confiscated by prison guards.

*Arbitrary Arrest and Detention.*—During the year arbitrary arrest and detention continued in Tibetan areas. With a detention warrant, police legally may detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainees. In practice police frequently violated these requirements.

Official state media reported the detentions of 4,434 persons in Tibetan areas (1,315 in Lhasa) between March and April 2008. In 2008 official media reported that approximately 1,317 persons were arrested in the March-April time frame, 1,115 of whom were released afterwards. Overseas organizations placed the total number detained at more than 5,600.

Many prisoners were subject to the RTL system or other forms of detention not subject to judicial review.

*Denial of Fair Public Trial.*—Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. According to a TAR Bureau of Justice official, all seven cities and prefectures had established legal assistance centers that offered services in the Tibetan language. Prisoners may request a meeting with a government-appointed attorney, but in practice many defendants did not have access to legal representation.

According to the Tibet Daily, the TAR was strengthening the Communist Party's leadership over lawyers in the region in order to ensure that the work of lawyers "goes in the correct direction." Of the 18 law firms in the TAR, 11 had their own Communist Party committee and six shared a Communist Party committee with the Justice Bureau in their prefecture. A party development leader was assigned to the law firm that had no party organization.

Ethnic Han lawyers who volunteered to represent detainees involved in the 2008 protests received warnings from authorities not to take on such cases. Authorities threatened some with punishment or placed them under police surveillance. In cases that authorities claimed involve state security, trials often were cursory and closed. Authorities denied multiple requests from foreign diplomats to observe the trials of those charged with crimes related to the 2008 unrest. By law maximum prison sentences for crimes such as "endangering state security" and "splitting the country" are 15 years for each count, not to exceed 20 years in total. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether their activities involved violence.

*Political Prisoners and Detainees.*—Due to the lack of independent access to prisoners and prisons, it was impossible to ascertain the number of Tibetan political prisoners. A number of the Tibetans arrested or detained in the days and weeks following the spring 2008 protests were sentenced throughout 2010. Many prisoners were held in the extrajudicial RTL prisons operated by the Ministry of Public Security and never appeared in public court.

Based on information available from the U.S. Congressional Executive Commission on China's political prisoner database, as of September 3, there were 824 Tibetan political prisoners imprisoned in Tibetan areas. Of these, 765 were Tibetans detained on or after March 10, 2008, and 59 were Tibetans detained prior to March 10, 2008. Of the 765 Tibetan political prisoners who were detained on or after March 10, 2008, 443 (approximately 58 percent) were Tibetan Buddhist "religious professionals" (monks, nuns, and trulkus, or high-ranking reincarnated lamas). Sentencing information was available for 152 of the 824 Tibetans. Of the 152 Tibetan political prisoners for whom sentencing information is available, 116 were detained on or after March 10, 2008. According to an NGO report, as of December 30, there were 831 known political prisoners in Tibet, of whom 360 were known to have been convicted by courts; 12 Tibetans were serving life sentences. The actual number of Tibetan political prisoners and detainees was believed to be much higher. An unknown number of prisoners continued to be held under the RTL system.

In January authorities sentenced singer Tashi Dhondrup to 15 months' hard labor for writing, recording, and distributing songs with lyrics such as: "The occupation and denial of freedom of Tibetans/This is torture without trace."

On April 6, at Northwest Nationalities University in Lanzhou, authorities detained Tashi Rabten, editor of the banned literary magazine *Eastern Snow Mountain*, which discussed the 2008 protests.

On April 23, authorities detained the Tibetan writer Tagyal (pen name Shogdung) in Xining. Shogdung is the author of the banned book *Opening of Earth and Sky*, which severely criticized PRC government policies in Tibetan areas and praised the

2008 protests against the Government. Authorities considered the book subversive for its criticism of the PRC government: On October 14, Tagyal was released on bail, and at year's end was awaiting trial.

On May 20, authorities arrested writer Doku Tsultrim apparently because of material he was preparing to publish on Tibetan youth after the April 14 Yushu earthquake.

On May 25, the Lhasa Intermediate Court sentenced Sonam Tsering to death with two years reprieve to consider his post-sentencing behavior for inciting and participating in the Lhasa riot; five others were sentenced to between three and seven years in prison.

On June 26, authorities sentenced businessman Dorje Tashi, owner of the Yak Hotel in Lhasa, to life in prison. Although the authorities kept the charges against him secret, they reportedly involved helping exile groups.

In February 2009 authorities handed down sentences of 18 months to three years in prison to six Tibetans in Ganzi Prefecture for participating in protests.

In May 2009 according to an NGO report, authorities sentenced Tsultrim Gyatso, a monk of Labrang Monastery in southern Gansu Province, to life imprisonment for "endangering state security."

According to the Agence France Presse, early in 2009 authorities handed down sentences ranging from three years to life in prison to a total of 76 persons involved in the March 2008 riots.

An NGO reported that in July 2009 the Lithang County, Ganzi Prefecture Intermediate People's Court sentenced Tibetan monk Jamyang Tenzin of Yonru Geyden Rabgayling Monastery, Lithang County, to three years' imprisonment for opposing a work team sent to conduct a "patriotic education campaign" at his monastery.

In August 2009 an NGO reported that eight Tibetans in Machen County were sentenced to one to seven years in prison following protests related to the suicide of Tashi Sangpo, which was reportedly triggered by his inhumane treatment at the hands of the police.

In December 2009 authorities sentenced filmmaker Dhondup Wangchen to six years in prison for "splittism" for his film *Leaving Fear Behind*, which documented the lives of Tibetans in China and their views on the Dalai Lama.

In 2009 in Barkham County, Aba (Ngaba) Prefecture, four students were imprisoned for working on a student newspaper at their Tibetan high school. One of the students was sent to an RTL camp in Mianyang. Charges were not brought against the other three. Three teachers at the high school were fired in connection with this case.

Wangdu (Wangdui), a former employee of an HIV/AIDS prevention project run by a foreign NGO, who in 2008 was sentenced to life imprisonment for engaging in "espionage" on behalf of the "Dalai clique," remained in prison. Migmar Dhondup, another former employee of a foreign NGO, also remained in prison on the same charge.

Prominent Buddhist figure Tenzin Delek Rinpoche was serving a life sentence in a Sichuan prison on separatism, firearms, and explosives charges. According to Tibetan sources, the firearms were left at his temple by a group who had renounced hunting.

Dozens of monks and nuns who resisted "patriotic education" campaigns before the 2008 protests continued serving prison terms.

According to an NGO, the PSB arrested Kunga Tsangyang, a monk from the Labrang Monastery, during a late-night raid in March 2009. The reported arrest was part of a continuing sweep of Tibetan Internet writers that began after the 2008 unrest. In November 2009 he was sentenced to five years in prison on charges of disclosing state secrets in a closed-door trial by the Gannan Intermediate People's Court in Gansu Province.

In December 2009 Phurbu Tsering Rinpoche, a senior religious leader who allegedly had been tortured to extract a false confession, was sentenced to seven years for misappropriation of public assets and one-and-a-half years for illegal possession of ammunition after dozens of nuns at a nunnery he headed staged a peaceful protest in May 2008. Prosecutors maintained that a pistol and ammunition were found during a police raid, but Phurbu Tsering Rinpoche maintained that he had been framed. The monk's lawyer stated he had given a false confession after police deprived him of sleep for four days (see Torture section).

Late in 2008 the Ganzi Tibetan Autonomous Prefecture Intermediate People's Court sentenced Dorje Kangzhu, a 34-year-old nun, to seven years in prison for "inciting secession." She was arrested for distributing Tibetan independence leaflets and shouting pro-Tibet slogans in 2008.

The following political prisoners remained incarcerated: Rongye Adrak, Adak Lupoe, Lama Jigme Tenzin (Jinmei Danzeng) aka Bangri Chogtrul, Jarib Lothog,

monk Lodroe, Khenpo Jinpa, art teacher and musician Kunkhyen, Buchung; Penpa, Bangri Chogtrul Rinpoche, monk Choeying Khedrub (Quyín Kezhu), Dawa (also called Gyaltzen Namdak), monk Lobsang Palden, teacher Dolma Kyab, Sherab Yonten, Sonam Gyelpo, retired physician Yeshe Choedron (Yixi Quzhen), monk Tenzin Bucheng (Danzeng Puqiong), monk Lobsang Ngodrub, and monk Tsering Dhondup.

*Freedom of Speech and Press.*—Tibetans who spoke to foreign reporters, attempted to relay information to foreigners outside the country, or passed information regarding the 2008 protests were subject to harassment or detention. During 2009, 59 individuals were convicted for “creating and spreading rumors” after the 2008 unrest.

The Government severely restricted travel by foreign journalists to Tibetan areas. In the TAR, foreign journalists can gain access to the region only by participating in highly structured government organized tours, where the constant presence of government minders makes independent reporting difficult. Outside the TAR, foreign journalists frequently were expelled from Tibetan areas despite government rules, adopted in 2008, stating that foreign journalists do not need the permission of local authorities to conduct reporting. In June the Foreign Correspondents Club of China (FCCC) called on China to apply its own reporting regulations and open the TAR to foreign journalists. An FCCC survey found that 86 percent of respondents said that it was not possible to report accurately and comprehensively about Tibet. Respondents submitted 35 applications for travel to the TAR over the past two years; only four were approved. Some foreign media were able to report from Yushu immediately after the earthquake without serious government interference.

In March 2009 the FCCC urged the Government to halt detentions of journalists and open Tibetan areas for news coverage. Reporters from at least six different news organizations were detained or had their property confiscated when they attempted to visit Tibetan areas of Gansu, Sichuan, and Qinghai provinces ahead of the first anniversary of social unrest in Tibet.

Tibetans noted that the authorities had ordered that coverage of the Yushu relief efforts should focus on the army’s efforts and should downplay the work of Tibetan monks.

On April 6, two Tibetan writers, Tashi Rabten and Druklo, were taken into custody by police during a raid at their hostel at the Northwest University for Nationalities in Lanzhou, Gansu Province. Tashi Rabten was one of four Tibetan writers whose arrest the NGO Reporters Without Borders reported in August 2009. The other three were Zhuori Cicheng, the monk Gang Ni, and Kang Gongque. Kang Gongque was sentenced to two years in a Sichuan Province prison.

On December 30, the Aba Intermediate Court found three Tibetan writers, Jangtse Dhonko, Bhudha and Kalsang Jinpa, guilty of splittism. Jangtse and Bhuda were each sentenced to four year’ imprisonment; Kalsang Jinpa was given a three-year sentence.

The Government continued to jam radio broadcasts of Voice of America’s (VOA) and Radio Free Asia’s (RFA) Tibetan- and Chinese-language services and the foreign-based Voice of Tibet. Some Tibetans reported that at times they were able to receive such radio broadcasts despite frequent jamming. One monk in Sichuan observed that he might be able to hear VOA/RFA broadcasts “if he bought a better radio”; however, “if he were caught with a better radio he would be punished.” In Tibetan areas of southern Gansu Province and the Ganzi Tibetan Autonomous Prefecture in Sichuan Province police confiscated or destroyed satellite dishes suspected of receiving VOA Tibetan-language television as well as VOA and RFA audio satellite channels. The dishes have been replaced with government-controlled cable television systems. Some Tibetans were able to listen to overseas Tibetan-language radio and television on the Internet.

Domestic journalists did not report on repression in Tibetan areas; bloggers who did so faced punishment.

*Internet Freedom.*—In August the Internet magazine Tibetan Review reported that Internet cafes across Tibet had been ordered to finish installing a “state-of-the-art” surveillance system by the end of the month. The system would not only restrict content that could be viewed but would also monitor users’ Internet activities. Identity cards belonging to the person using the Internet must be swiped to allow online access, and viewed content could then be traced back to that identity. The order reportedly has been implemented.

During major religious, cultural, and political festivals in Tibetan areas, many Web sites were shut down and Internet cafes were closely monitored.

The Internet blog of well-known Tibetan poet and journalist, Tsering Woenser, remained inaccessible to Internet users inside China due to official Internet filtering.

Authorities continued to refuse to issue Woesser a passport. Most foreign Tibet-related Web sites critical of official policy in Tibetan areas were blocked to users in China throughout the year.

Official censorship greatly hampered the development of Tibetan-language Internet sites. Although the Government funded projects designed to improve Tibetan-language computer interfaces, security agencies responsible for monitoring the Internet often lacked the language skills necessary to monitor Tibetan content. As a result, Tibetan-language blogs and Web sites were subject to indiscriminate censorship, with entire sites closed down even when the content did not appear to touch on sensitive topics.

In March authorities cut off both Internet and cell phone text messaging in various parts of Ganzi and Aba prefectures in Sichuan Province and in the TAR. In June when the two sons of the leader of the Sakya school of Tibetan Buddhism made a short visit to the Sakya Monastery in the TAR, cell phone connections and the Internet in Sakya County were completely shut down.

In February 2009 police in Machu County, Gannan Tibetan Autonomous Prefecture, arrested Kunchok Tsephel Gopey Tsang, owner of the Tibetan cultural and literary Web site *The Lamp*, which was taken off the Internet for several months. In November 2009 he was sentenced to 15 years in prison on charges of disclosing state secrets.

In 2009 according to an NGO, Gonpo Tserang was sentenced in Dechen, TAR, to three years in prison for “inciting separatism” by sending e-mail and text messages about the March 2008 protests. The verdict from the trial stated that “Gonpo Tserang used the Internet to deliberately fabricate rumors, distorting the true situation to incite separatism.”

Tibet activists inside and outside of China have been harassed by well-organized computer-hacking attacks originating from within China according to a foreign-based study group.

Cell phone and Internet service in the TAR and the Tibetan areas of Sichuan, Qinghai, and Gansu provinces were curtailed at times during the March period of sensitive anniversaries and the new “Serf Liberation Day” (see *Academic Freedom and Protection of Cultural Heritage*).

*Academic Freedom and Protection of Cultural Heritage.*—Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions in an effort to prevent separatist political and religious activities on campus. Ethnic Tibetan academics were frequently encouraged to participate in government propaganda efforts, such as by making public speeches supporting government policies or accepting interviews by official media. Academics who failed to cooperate with such efforts faced diminished prospects for promotion. Academics in China who publicly criticized the Chinese Communist Party’s (CCP) policies on Tibetan affairs faced official reprisal. The Government controlled curricula, texts, and other course materials as well as the publication of historically or politically sensitive academic books. Authorities frequently denied permission to Tibetan academics to travel overseas for conferences and academic/cultural exchanges.

Planned urban economic growth, rapid infrastructure development, the growing non-Tibetan population, the expanding tourism industry, the forced resettlement of nomads and farmers, the weakening of Tibetan-language education at the middle and high school levels, and the introduction of more modern cultural influences continued to disrupt traditional living patterns and customs and marginalized the local population.

In March the authorities in Lhasa launched another in a series of “Strike Hard” campaigns. According to official reports, in the early days of the campaign, they raided 4,115 rented accommodations; checked 60 crime-prone areas; carried out comprehensive checks on 7,347 nonpermanent residents of the city; raided more than 70 guest houses, Internet cafes, entertainment centers, and bars; and detained 435 persons. Although ostensibly an anticrime operation, police searched private homes, guest houses, hotels, bars, and Internet cafes for photographs of the Dalai Lama and other politically forbidden items. Police examined the cell phones of Lhasa residents to search for “reactionary music” from India and photographs of the Dalai Lama. Human rights groups believed the motive behind the “strike hard” campaign was to harass human rights activists and supporters of Tibetan independence.

On March 28, the TAR marked its second annual observance of “Serf Emancipation Day,” the day in 1959 that China’s rulers formally abolished the Dalai Lama’s regional government. During the official celebration, Tibetan officials denounced the Dalai Lama.

The Dalai Lama and other observers expressed concern that development projects and other central government policies disproportionately benefited non-Tibetans and

continued to promote a considerable influx of Han, Hui, and other ethnic groups into the TAR.

Residents lacked the right to play a role in protecting their cultural heritage, including their environment. In 2007 the TAR government revised the TAR Cultural Relics Protection Regulations, asserting ownership over religious relics and monasteries.

Tibetans protested against mining or other industrial activities that harm the environment. In September Radio Free Asia reported that Tibetan demonstrators in Driru County, TAR protested construction of a dam. In August police shot and killed 47-year-old protester Babo at a mine in a Tibetan area of Sichuan. Local Tibetans said that three Tibetans were shot in the incident. On May 25, police opened fire on Tibetans at a cement factory in Xiahe (Labrang) County in Gansu Province; 15 Tibetans sustained gunshot wounds or injuries from police beatings according to an exile source in contact with Tibetans in the area.

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, although not all, public and commercial signs. In most cases, Chinese signage was in large characters, with Tibetan in small letters, sometimes misspelled, and often there was no Tibetan at all. Inside official buildings and businesses, including banks, post offices, and hospitals, very little signage in Tibetan could be found and in many instances, forms and documents for use by citizens or customers were available only in Mandarin. Mandarin was widely spoken and was used for most official communications. The illiteracy rate among Tibetans was more than five times higher (47.6 percent) than the national average (9.1 percent), according to 2000 census data. In many rural and nomadic areas, children received only one to three years of Tibetan-language education before continuing their education in a Mandarin-language school. According to official figures, the illiteracy rate among youth and working-age adults fell from 30.9 percent in 2003 to 2.4 percent in 2008.

According to a 2006 report by the Xinhua News Agency, a looser definition of literacy was used for Tibetan speakers than for Mandarin speakers in rural Tibet. Tibetan-speaking peasants and nomads were considered literate by PRC government standards if they could read and write the 30 basic letters of the Tibetan alphabet and read and write simple notes. However, Tibetan writing commonly stacks letters on top of one another creating an additional 89 letters beyond the basic 30. Tibetans regard persons who only recognize the 30 letters as semiliterate. Mandarin-speaking nomads and herders were considered literate if they could recognize 1,500 Chinese characters.

The Primary/Middle School Tibetan-language Curriculum Committee of the Five Provinces (TAR, Sichuan, Qinghai, Gansu, and Yunnan) established a national Tibetan-language curriculum for primary and middle schools in Tibetan areas that was predominantly translated directly from a standard Chinese curriculum, offering Tibetan students very little insight into their own culture, history, and values. Few elementary schools in Tibetan areas used Tibetan as the primary language of instruction. In Kangding (Dartsedo), capital of Ganzi Prefecture, there were no elementary schools where Tibetan children could study in Tibetan. Tibetan students were required to study Mandarin, which generally was used to teach most subjects. In middle and high schools—even some officially designated as Tibetan schools—teachers nearly always used Tibetan only to teach classes in Tibetan language, literature, and culture, and taught all other classes in Mandarin. Of more than 15 middle and high schools in Aba Prefecture of Sichuan Province, in only three was the curriculum taught primarily in Tibetan.

On October 19, a provincial government decision to replace Tibetan with Mandarin as the main medium of instruction in Tibetan schools in Qinghai Province set off protests by several thousand Tibetan students in Tongren (Rebkong), Huangnan (Malho) Tibetan Autonomous Prefecture in Qinghai. The protesters held banners in both Mandarin and Tibetan calling for “Equality for Nationalities” and “Expand the Use of the Tibetan Language” and “Freedom for the Nationalities.”

As a practical matter, proficiency in Mandarin was essential to qualify for higher education. China’s most prestigious universities provided no instruction in Tibetan or other ethnic minority languages. Lower-ranked universities established to serve ethnic minority students only offered Tibetan-language instruction in courses focused on the study of the Tibetan language or culture. At the minority universities, Tibetans and other ethnic minority students typically achieved high proficiency in Mandarin, as it was the medium for much of the curriculum, such as computer and business courses.

Leading universities generally required English-language proficiency for matriculation. Most graduates of Tibetan schools, however, learned only Mandarin and Tibetan and were thus unable to attend the better universities. This resulted in a

shortage of Tibetans trained in science and engineering and, consequently, a near-total reliance on imported technical specialists from outside Tibetan areas to work on development projects.

On April 3, Tibetan students of the Machu Tibetan Middle School protested the firing of the school's headmaster Kyabchen Dedrol and two Tibetan assistants Do Re and Choekyong Tseten. Chinese authorities fired them following a student-led protest. In China, school authorities were held strictly accountable for the political activities of their students.

*Freedom of Religion.*—For a complete discussion of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*Freedom of Movement.*—The law provides for the freedom to travel; however, in practice the Government strictly regulated travel and freedom of movement of Tibetans.

Freedom of movement, particularly for monks and nuns, was limited severely within Lhasa and throughout the TAR, and in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. It was less of a problem in Yunnan, where there were many fewer monasteries and nunneries than other Tibetan areas. The PAP and local PSBs set up multiple roadblocks and checkpoints on major roads, in cities, and on the outskirts of monasteries. Tibetans traveling in religious attire were subject to extra scrutiny by police at roadside checkpoints. Several Tibetan monks reported that it remained difficult to travel outside their home monasteries, with officials frequently denying permission for outside monks to stay temporarily at a particular monastery for religious education. After the Yushu earthquake, many monks from neighboring counties and provinces were forced to leave, although local Tibetans needed their help to conduct funeral ceremonies for the many earthquake victims.

Many Tibetans, particularly prominent religious figures, scholars, and dissidents, as well as those from rural areas, continued to report difficulties obtaining passports. It has been more difficult for Tibetans to obtain new or renew existing passports following the 2008 protests. In some cases, in order to obtain passports Tibetans had to promise not to travel to India. In other cases, Tibetan students with scholarships to foreign universities could not study abroad because authorities refused to issue them passports. Some Tibetans were able to obtain passports only after paying substantial bribes to government officials.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. Ethnic Tibetan government and CCP cadres in the TAR and Ganzi Prefecture were not allowed to send their children to study abroad. In addition to passport restrictions, reinforcement of border posts made travel, such as pilgrimages via Nepal to India to see the Dalai Lama, more difficult.

The Government restricted the movement of Tibetans during sensitive anniversaries and events, and increased controls over border areas at these times. There were reports of arbitrary detentions of persons, particularly monks and nuns, returning from India and Nepal. Detentions generally lasted for several months, although in most cases authorities did not bring formal charges against prisoners.

Tight border controls sharply limited the number of persons crossing the border into Nepal and India. The Tibetan Reception Center in Kathmandu received 874 new Tibetan arrivals. In 2009 there were 838 arrivals, in 2008 there were 596, and in 2007 there were 2,156.

The Dalai Lama, the Karmapa, Sakya Trizin, Kyabje Trulshuk Rinpoche, and Gyalwa Menri Trizin—leaders of all the schools of Tibetan Buddhism—remained in exile. The whereabouts of the Panchen Lama, Gedhun Choekyi Nyima, remained unknown.

Many non-Tibetan Chinese citizens worked in Tibetan regions. Buddhist monks, particularly Han, were allowed only temporary visits to Tibetan Buddhist monasteries. Local religious affairs authorities often forbid Han or foreign Buddhists from staying in monasteries for long-term study.

The Government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors were required to obtain an official confirmation letter issued by the Government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies.

Authorities halted nearly all foreign travel to Lhasa for several months following the 2008 demonstrations. Foreign tourists were again banned from the TAR in March 2009 during the 50th anniversary of the 1959 Tibetan uprising. After March the number of foreign tourists traveling to the TAR increased, but authorities enforced more tightly than before existing rules that foreign visitors must remain with tour groups.

Foreign nationals who were granted official permission to travel to Lhasa had their movements restricted within the city and surrounding areas. Officials continued to restrict severely the access of diplomats and journalists to Tibet. Foreign officials and reporters were able to travel to the region only on closely chaperoned trips arranged by the Tibet Foreign Affairs Office. Foreign diplomats must obtain permission from the TAR's Foreign Affairs Office for each visit to the TAR; permission was difficult to obtain. During the year three-quarters of the U.S. requests for official travel to the TAR were denied. In September authorities approved a visit to Lhasa by the U.S. Ambassador.

Official visits to the TAR were supervised closely, and delegation members were afforded very few opportunities to meet local residents not previously approved by the authorities. For those diplomatic trips that were approved, the TAR Foreign Affairs Office required some high-level delegations to stay at the Government-affiliated Lhasa Hotel, in the western, predominantly ethnic Han portion of Lhasa, rather than hotels in the Tibetan quarter.

With the exception of a few highly controlled trips, authorities repeatedly denied requests for international observers to visit Tibetan areas.

*National Minorities.*—Although TAR census figures showed that Tibetans made up 92 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents. Chinese social scientists estimated the number of this floating population, including tourists and visitors on short-term business trips, for Lhasa alone was more than 200,000 (nearly half the population of Lhasa and more than 10 percent of the TAR's population) during the May to November high season for tourism and migrant workers. According to a Lhasa city official, 260,000 of the 450,000 individuals living in downtown Lhasa during the year belonged to the floating population.

Migrants to the TAR overwhelmingly were concentrated in urban areas, where government economic policies disproportionately benefited ethnic Han Chinese. Small businesses, mostly restaurants and retail shops, run by ethnic Han and Hui migrants predominated in cities throughout Tibetan areas. Tibetans continued to make up nearly 98 percent of the rural population, according to official census figures.

The Government continued its campaign to resettle Tibetan nomads into urban areas across the TAR and other Tibetan areas. Officials offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities. However, there were reports of compulsory resettlement where promised compensation was either inadequate or not paid at all.

According to a December 2009, China News Net report, 230,000 households in the TAR, including 1.2 million farmers and herders, had been resettled into permanent housing—80 percent of the target population.

Improving housing conditions and education for Tibet's poorest were among the goals of resettlement, yet a requirement that villagers build houses according to strict official specifications within two or three years often forced resettled families into debt to cover construction costs.

Although a state media report during the year noted that Tibetans and other minority ethnic groups made up 70 percent of government employees at the provincial level in the TAR, ethnic Han continued to hold the top CCP positions in nearly all counties and prefectures, including that of TAR party secretary. Within the TAR, ethnic Han continued to hold all the top security, military, financial, economic, legal, judicial and educational positions. Tibetans holding government and party positions were often prohibited from openly worshipping at monasteries or practicing their religion.

The economic and social exclusion of Tibetans was a major reason why such a varied cross section of Tibetans, including business operators, workers, students, university graduates, farmers, and nomads participated in the 2008 protests. Some Tibetans reported that they experienced discrimination in employment, and some job advertisements in the TAR noted that Tibetans need not apply. Some claimed that ethnic Han Chinese were hired preferentially for many jobs and received greater pay for the same work. Some Tibetans reported that it was more difficult for ethnic Tibetans than Han to obtain permits and loans to open businesses. Continued discriminatory treatment of Tibetans' applications for passports is another source of dissatisfaction. The use of Mandarin was widespread in urban areas, and many businesses limited employment opportunities for Tibetans who did not speak Mandarin. Restrictions on international NGOs that provide assistance to Tibetan communities resulted in the elimination of many NGO programs and the expulsion of many foreign NGO workers from the TAR.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials stated that all tour guides working in the TAR were required to seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The Government's stated intent was to ensure that all tour guides provided visitors with the Government's position opposing Tibetan independence and the activities of the Dalai Lama. Some ethnic Tibetan tour guides in the TAR complained of unfair competition from government-sponsored "Help Tibet" tour guides brought in from outside the TAR and put to work after receiving a crash course on Tibet.

*Women and Children*—There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefecture levels of government. According to an official Web site, female cadres in the TAR accounted for more than 30 percent of the TAR's total cadres.

There was no information on the incidence of rape or domestic violence. In a Tibetan area of Sichuan Province, a resident said that sex-based violence, including rape, was common among Tibetan herders and often went unreported.

The TAR Health Bureau reported 102 cases of HIV/AIDS in the TAR between 1993 and 2009. Lack of knowledge about HIV transmission and economic pressures on women and girls engaged in prostitution led them to engage in unprotected sex. Diagnosis and treatment of sexually transmitted diseases, including HIV/AIDS, appeared to be nondiscriminatory.

Family-planning policies permitted Tibetans and members of other relatively small minority groups to have more children than ethnic Han. Some urban Tibetans who have permanent employment, as well as CCP members and government officials, and some ethnic Han living in Tibetan areas, generally were limited to two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

According to official policy, primary education was compulsory, free, and universal. According to official TAR statistics, 96.5 percent of children between the ages of six and 13 attended school, and 90 percent of the TAR's 520,000 primary school students completed lower middle school, for a total of nine years of education. In 2003 the UN special rapporteur on the right to education reported that official PRC education statistics did not accurately reflect attendance and were not independently verified.

The TAR is one of the few areas of the PRC that does not have a skewed sex ratio resulting from sex-selective abortion and inadequate health care for female infants.

#### HONG KONG

Hong Kong, with a population of approximately seven million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's charter, the Basic Law of the SAR (the Basic Law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. The Fourth Term Legislative Council (LegCo) was elected from a combination of geographic and functional constituencies in 2008 elections that were generally free and fair. Security forces reported to civilian authorities.

There were few reports of serious human rights abuses, but the following human rights problems were reported: limited ability of citizens to participate in and change their government, press self-censorship, limited power of the legislature to introduce or amend legislation and inability to approve executive appointments, disproportionate political influence of certain sectors of society in LegCo, and societal prejudice against certain ethnic minorities.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings.

On May 25, a jury ruled that the death of ethnic Nepali Dil Bahadur Limbu was a lawful killing. In March 2009 a police constable shot and killed Limbu during an altercation in which he violently resisted a police constable's request to examine his identity documents. Limbu's family and activists expressed concern at what they believed was improper limitation of the scope of the inquest, unwillingness by the coroner to admit relevant evidence, and a decision not to include recommendations to the police regarding handling cases involving ethnic minorities (a key point of con-

tention in the case was that the constable's warnings prior to shooting were given in Cantonese, which Limbu did not speak). The High Court (Court of First Instance) granted Limbu's family a judicial review of the inquest finding in September; the hearing was pending at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Basic Law prohibits torture and other forms of abuse, and the Government generally observed the prohibition in practice. In the first half of the year, the police force's Complaints Against Police Office (CAPO) received 168 allegations of assault by police officers on persons in detention. Eleven cases were found "not pursuable," 39 were withdrawn, and 118 were pending investigation and endorsement by the Independent Police Complaints Council (IPCC). There were 48 allegations of assault by police officers on persons not in custody. Seven were found "not pursuable," nine were withdrawn, and 32 were pending investigation as of June.

CAPO, monitored by the IPCC, continued to investigate an August 2009 incident in which narcotics officers reportedly entered a house without presenting identification or search warrant until the search had already been underway for an hour. Officers reportedly handcuffed and beat two residents in the course of a search for narcotics, reportedly leaving one resident with a ruptured right eardrum. As of year's end, neither body had made public the results of its investigation.

Police continued following a revised policy and guidelines regarding strip searches implemented in 2009. Some legislators and activists contended that police should only conduct such searches based on a "reasonable suspicion," but police officials defended searches on safety and security grounds. Some activists reported complaints from prostitutes that they were routinely subjected to full strip searches, which they contended was meant to humiliate them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. The Government permitted monitoring visits by independent human rights observers. No human rights organizations requested such visits during the year.

According to government statistics, as of June the total adult (over age 21) population in prison, rehabilitation, or pretrial detention was 7,232—4,884 male and 2,348 female inmates. As of June a total of 66 juveniles under age 16 were serving sentences in penal, retraining, or rehabilitation facilities.

Through June the average prison occupancy rate was 91 percent. Overcrowding occurred in some prisons, particularly in maximum-security prisons, pretrial detention facilities, and institutions for female inmates.

There were five reported deaths of persons in custody of the Correctional Services Department; abuse did not appear to be a factor. Inquest results had not been reported by year's end.

Prisoners and detainees were able to send out and receive an unrestricted number of letters, receive regular visits, manifest their religious beliefs or practices in public, and attend available religious services. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

The Correctional Services Department arranged a visit by the media to a penal institution as part of the department's annual press conference. Separately, justices of the peace (JPs) are permitted to make unannounced visits to penal institutions, and 247 such visits took place between January 1 and June 30. JPs may make suggestions and comments on matters such as physical environment facilities, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates.

The 1,400-place Lo Wu Correctional Institution opened in July, bringing the average occupancy of female detention facilities down 23 percent to an average of 92 percent. Police also commenced renovations to station holding cells following complaints by NGOs about conditions.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest or detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police, and the Government had generally effective mechanisms to investigate and punish abuse and corruption.

There were no reports of impunity involving the security forces during the year. The IPCC, which oversees CAPO, observes, monitors, and reviews complaints and actions taken in connection with such complaints. It may identify any fault or defi-

ciency in police practices or procedures and make recommendations in respect to such practices or procedures. The IPCC can require the police to investigate or re-investigate complaints and provide other information as it deems necessary. The IPCC also advises or makes recommendations to the commissioner of police or the SAR chief executive (CE) as appropriate. IPCC members and observers are also empowered to attend any interview conducted by the police concerning a complaint and observe the collection of evidence by the police in the investigation of a complaint at any time and without prior appointment.

Human rights activists and some legislators expressed concern that all IPCC members are appointed by the CE and that the IPCC's lack of power to conduct independent investigations limits its oversight capacity. The IPCC cannot compel officers to participate in its investigations, and the media reported cases of police officers declining to do so. In response, IPCC chair Jat Sew-tong told the media he was confident that, if needed, he could approach the police commissioner and the officer would be ordered to participate.

On April 1, in response to a number of serious offenses committed by police officers in 2008-09, the police force began conducting psychometric screening of applicants for the posts of probationary inspectors and recruit police constables.

*Arrest Procedures and Treatment While in Detention.*—Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Suspects must be charged within 48 hours or released, and the Government respected this right in practice. Interviews of suspects are required to be videotaped. The law provides accused persons with the right to a prompt judicial determination, and authorities respected this right effectively in practice. Detainees were promptly informed of charges against them. There was a functioning bail system, and detainees were allowed prompt access to a lawyer and family members.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice. The judiciary provided citizens with a fair and efficient judicial process. The courts may interpret those provisions of the Basic Law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the Basic Law that touch on central government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress (NPC/SC). The Basic Law requires that courts follow the NPC/SC's interpretations, although judgments previously rendered are not affected. As the final interpreter of the Basic Law, the NPC/SC also has the power to initiate interpretations of the Basic Law.

The NPC/SC's mechanism for interpretation is its Committee for the Basic Law, composed of six Mainland and six Hong Kong members. The CE, LegCo president, and chief justice nominate the Hong Kong members. Human rights and lawyers' organizations expressed concern that this process, which can supersede the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the court's authority.

*Trial Procedures.*—The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. The judiciary was an active participant in the international community of common law jurisprudence. A roster of 15 nonpermanent judges from other common law jurisdictions served the Court of Final Appeal, providing a fifth judge to join panels with four permanent justices to hear cases and participate in the drafting of decisions. Legal precedents from other common law jurisdictions were routinely cited in the courts, while Hong Kong precedents were cited in other common law jurisdictions.

Trials are by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants enjoy a presumption of innocence except in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintained a standard of living above that commensurate with his official income, or who controls monies or property disproportionate to his official income, is guilty of an offense unless he can satisfactorily explain the discrepancy. In practice the courts upheld this ordinance. Court proceedings are conducted in either Chinese or English, the SAR's two official languages.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters and access to a court to bring lawsuits seeking damages for, or the cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

The Personal Data (Privacy) Ordinance provides that no personal data may be used for a purpose other than that stated at the time of its collection without the data subject's prescribed consent. Specific exemptions allow SAR authorities to transfer personal data to allow prevention, detention, or prosecution of a crime when certain conditions are met. Data may be transferred to a body outside of the SAR for purposes of safeguarding the security, defense, or international relations of the SAR or for the prevention, detection, or prosecution of a crime, provided conditions set out in the ordinance are met. The Office of the Privacy Commissioner for Personal Data (PCPD) worked to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner.

The appointment of former postmaster Allan Chiang Yam-wang to replace Roderrick Woo Bun as privacy commissioner for personal data drew criticism from activists and legislators after the media reported Chiang had been involved in improper surveillance and data transfers while serving as postmaster general. The Government declined to reconsider his appointment, and he took office on August 4.

In May the private company Octopus, provider of transport and stored-value cards, admitted that customer data was improperly shared without consent of its customers, provoking widespread criticism from legislators and the public. The PCPD conducted an investigation but declined to issue an enforcement notice on grounds that Octopus was unlikely to reoffend. In his October 13 policy address, the CE pledged both that the PCPD would issue new guidance and that his administration would legislate more-specific personal data protections through amendments to the Personal Data (Privacy) Ordinance.

The use of covert surveillance and the interception of telecommunications and postal communications can be granted only to prevent or detect "serious crime" or protect "public security." The law establishes a two-tiered system for granting approval for surveillance activities, under which surveillance of a more intrusive nature requires the approval of a judge, and surveillance of a less intrusive nature requires the approval of a senior law-enforcement official. Applications to intercept telecommunications must involve crimes with a penalty of at least seven years' imprisonment, while applications for covert surveillance must involve crimes with a penalty of at least three years' imprisonment or a fine of at least HK\$1 million (approximately \$128,000). In 2009 a total of 1,781 interceptions and 208 surveillances were authorized, leading to 366 arrests. There were 12 reported instances of non-compliance or irregularities in executing interceptions or surveillances. There were five reports that interceptions or surveillances might contain information subject to legal professional privilege (LPP) and two that might contain journalistic material (JM). Upon review by the commissioner, no cases involving LPP were confirmed, and only one case of interception of JM was confirmed. However, the commissioner noted he could not yet review the actual interceptions and recommended that he be permitted to do so, both in reported cases of possible violations and to conduct random reviews. Overall, his conclusion was that, when violations occurred, they were due either to technical problems, inadvertent or careless mistakes, or unfamiliarity with regulations and procedures, rather than deliberate disregard for law or regulation.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The independent media were active and expressed a wide variety of views without official restriction. International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards.

The code of ethics of the Hong Kong Journalists Association (HKJA) states that "a journalist shall not lend himself/herself to the distortion or suppression of the truth because of advertising or other considerations." However, reports of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the Mainland, which led to claims that they were vulnerable to self-censorship, with editors deferring to the perceived concerns of publishers regarding their Mainland business interests. In its 2010 report, Freedom House again rated the press as "partly free."

In July the HKJA publicly criticized what it saw as an increasing reliance by government officials and agencies on "off-the-record" or background briefings, at which

no photos or recordings were permitted and officials could not be quoted by name. While the organization recognized the role of background briefings to allow more junior officials to speak on highly technical subjects, it called on senior officials to brief on the record concerning new government policies to allow journalists to perform their duty to inform the public. In response, the director of government information services, Michael Wong Wai-lun, stated, "It has been our practice to hold press conferences to announce major policies and measures and update the community on significant incidents." The HKJA questioned this assertion, noting that the more frequent press "stand-ups" did not offer the same opportunities to ask questions as a formal press conference. The HKJA reported an increase in the number of press conferences following its complaint.

The HKJA also singled out the police force as failing to meet earlier commitments to provide timely notification of incidents. When the police switched to encrypted digital radio in 2004 (effectively ending journalists' ability to monitor police activity through scanners), the police reportedly undertook to release an average of 100 reports per day. An HKJA study of reports issued between July and December 2009 indicated an average of only 2.7 reports were being issued per day and were often not timely or were watered down. The HKJA also accused police of withholding news involving prominent persons. In response, the police stated that "in deciding what information should be disseminated, police will take into consideration the public's right to know, the requirement of the code on access to information, and the principles that the information would not involve personal privacy and affect judicial procedures."

On August 13, the Government promulgated the revised charter of government-owned broadcaster Radio Television Hong Kong (RTHK), which stated that RTHK "would provide an open forum for the exchange of views without fear or favor." Section 6.C. of the charter specifies that "RTHK is editorially independent." While editorial authority lies with the program director (a government appointee), a new "Board of Advisers," appointed at the time as the revised charter was promulgated, is empowered to advise the director "on all matters relating to editorial principles." In announcing the revised charter and appointment of the board, the Commerce and Economic Development Bureau (the parent government agency for RTHK) stated that "the Government attaches great importance to safeguarding RTHK's editorial independence, which is enshrined in the charter." Activists and RTHK staff, however, expressed concern that, as a body appointed by the Government, the board can exert influence on the broadcaster's editorial independence. RTHK staff also complained they did not have a seat on the board.

In December the Office of the Telecommunications Authority (OFTA) again ordered unlicensed station Citizens' Radio to cease broadcasting, reporting that the station's transmissions had interfered with Civil Aviation Department transmissions. Citizens' Radio, whose equipment had been repeatedly seized and whose staff had frequently faced charges for unlicensed broadcasting, believed they were denied a fair chance to receive a proper license. After a 2008 court decision found the previous system was inconsistent with the Basic Law, amendments to the Telecommunications Ordinance passed in January laid out the specific criteria by which license applications will be considered. However, sole authority to grant or refuse the license remains with the Chief Executive (in consultation with the Executive Council), and there is no legal obligation to explain the ground for a refusal.

*Internet Freedom.*—There were no government restrictions on access to the Internet; there was some monitoring of the Internet to combat sexual exploitation of children (see section 6, Children). Commercial Internet service was widely available, including a number of government-supplied wireless (WiFi) "hot spots" and public and commercial venues in which WiFi or other access was provided at no charge to visitors and customers. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to Nielsen/NetRatings statistics for the year, approximately 69 percent of the SAR's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were generally no restrictions on academic freedom and cultural events.

Some scholars suggested Hong Kong-based academics practiced some self-censorship in their China-related work to preserve good relations and research and lecturing opportunities in the Mainland.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. The Government routinely issued the required "Letter of No Objection" for public meetings and demonstrations, and the overwhelming majority of protests occurred without serious incident. Government statis-

tics indicate that between July 1997 (Hong Kong's return to China) and June 2010, an average of seven to eight "public events" occurred every day. However, activists and pandemocratic legislators expressed concern that the Government took a more restrictive view of protests happening at the Central Government Liaison Office (CGLO), which saw several clashes with protesters end in arrests. Activists alleged the police were acting under instructions from Beijing, which police denied.

In March police arrested six activists from the Alliance in Support of the Patriotic Democratic Movement in China on charges of "unlawful assembly" stemming from a December 2009 protest outside the CGLO in support of Liu Xiaobo. Twenty activists entered the grounds, at which point there was a scuffle with police and CGLO security guards. On December 20, a magistrate acquitted the six, but the Government announced it would appeal the verdict. Police charged activists under section 18 of the Public Order Ordinance, a vaguely worded law that allows authorities to declare any gathering of more than three persons an "unlawful assembly" should they act in a "disorderly, intimidating, insulting, or provocative manner."

Regarding assault charges, activists and some lawmakers expressed concern about the lack of clear guidelines about whether an alleged offender would be charged under the Police Force Ordinance (PFO) or the Offences Against the Person Ordinance (OAPO). Both criminalize assault on a police officer on duty, but while the PFO carries a maximum penalty of six months' imprisonment and a HK\$5,000 (\$643) fine, the OAPO carries a maximum penalty of two years' imprisonment. Some activists also alleged that police faced no penalty for making arrests that ultimately were not prosecuted or that resulted in cases dismissed by the courts, allowing them to use arrest as a means of intimidation and to discredit protesters.

In December the media reported that the police force was completing work on a new Public Order Manual, which would guide police in handling public demonstrations. The media quoted a prominent human rights NGO and a member of the Independent Police Complaints Council as expressing concern that the contents of the manual would not be made public.

Well over 100,000 persons joined the annual vigil commemorating the June 4 Tiananmen massacre, the highest turnout in many years. Approximately 30,000 persons joined the annual July 1 democracy march. Both events were conducted peacefully.

Immediately prior to the June 4 commemorative events, Food and Environmental Health Bureau officials ordered the seizure of statues used by activists. The officials declared that the statues, which had been used by activists for years without incident, constituted a "public entertainment" requiring insurance that the activists had not obtained. Pandemocratic legislators and activists, as well as editorial opinion, condemned the move. Ultimately, the police (who were in physical possession of the statues) returned them to activists prior to June 4.

In September SAR authorities twice prevented members of the Action Committee for Defending the Diaoyu Islands (Senkaku Islands in Japanese) from leaving Hong Kong waters in a fishing vessel to protest Japanese detention of a Chinese fishing crew in the disputed Senkaku Islands. Unlike earlier voyages, which the Government halted on grounds that fishing boats are not rated to carry passengers, the group traveling in September was made up solely of persons qualified in some respect as sailors. An earlier judicial appeal, which challenged the Government's action in halting a vessel in May 2009 as a violation of the Basic Law's guarantee of freedom of movement, failed in a lower court in February. However, in December the High Court (Court of First Instance) reversed the decision, ruling that the evidence cited by the Government as grounds to stop the vessel was "very weak."

In December 2009 activists staged a protest on behalf of Mainland activist Liu Xiaobo at the Lo Wu border crossing. During an ensuing scuffle between the SAR and the Mainland, activists alleged that Mainland law enforcement officers dragged activists across the border. Six activists ended up in Mainland custody, although they were released that same evening. SAR authorities requested Mainland assistance in determining whether officers had indeed crossed the border. As of year's end, no response from the Mainland had been received.

*Freedom of Association.*—The law provides for this right, and the Government generally respected it in practice. In the first half of the year, 1,375 societies were registered or exempted from registration under the Societies Ordinance. No applications were rejected by the police.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*Societal Abuses and Discrimination.*—There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Se-

mitic acts against the small Jewish community, during the year. Please see [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the SAR, and the Government generally respected these rights in practice, with some prominent exceptions.

Under the “one country, two systems” framework, the SAR continued to administer its own immigration and entry policies and made determinations regarding claims under the Convention Against Torture (CAT) independently.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing temporary permission to enter the SAR and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

There continued to be cases in which persons traveling to the SAR for reasons that did not appear to contravene the law were refused entry by the Immigration Department. The Immigration Department, as a matter of policy, declined to comment on individual cases. Activists, some legislators, and others contended the refusals, usually of persons holding critical views of the Mainland, were made at the behest of the PRC authorities. The Security Bureau countered that, while the Immigration Department exchanges information with other immigration authorities, including the Mainland, it makes its decisions independently.

In January authorities denied visas to six technicians of a music and dance troupe contracted by the Epoch Group (a media organization with ties to Falun Gong) to present several performances in Hong Kong. The Immigration Department stated that the visas were refused in accordance with laws protecting the employment of local workers and that the troupe could hire competent staff locally. The Epoch Group cancelled the show and requested a judicial review of the refusals. The review was granted, and the case was scheduled to be heard in January 2011.

On June 1, foreign citizen Chen Weiming, the sculptor who designed the Goddess of Democracy statue used by activists to commemorate June 4, was denied entry to the SAR. Chen’s lawyer, Democratic Party legislator James To Kun-sun, told the media he was unable to file a legal challenge before Chen was put on a departing flight on June 2. Secretary for Security Ambrose Lee Siu-kwong repeated the Government’s long-standing denial that it maintains an immigration “blacklist,” stating that it was “totally unrelated to so-called political suppression.”

Most residents easily obtained travel documents from the SAR government. However, the PRC authorities did not permit some Hong Kong human rights activists and most prodemocracy legislators to visit the Mainland. Eleven incumbent legislators were denied “Home Return Permits” to visit the Mainland.

Forty-two legislators, including four pan-democrats without home return permits, visited the Mainland on May 8-10, principally to visit the Shanghai Expo.

Government policy was to repatriate undocumented migrants who arrive from the Mainland, and authorities did not consider them for refugee status. As of July 31, 3,752 immigration offenders and illegal immigrants were repatriated to the Mainland. The Government does not recognize the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms exist for Taiwan passport holders to visit Hong Kong.

The law does not provide for forced exile, and the Government did not use it.

*Protection of Refugees.*—The SAR is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol and has no temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis but only in cases of exceptional humanitarian or compassionate need. The Immigration Ordinance does not provide foreigners the right to have asylum claims recognized. In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government’s practice was to refer refugee and asylum claimants to a lawyer or the UNHCR.

The Government does not recognize a legal obligation to grant protection under Article 3 of the CAT, leaving this to the discretion of the Director of Immigration, but in practice has generally reviewed claims made under CAT. As of August there were 6,600 such claims pending determination by the Immigration Department. In December 2009 the department established new screening procedures, and by August 60 claims had been reviewed; none were granted. The SAR has granted protection under CAT to only one applicant, in 2008.

After a 2008 court decision found that the Immigration Department's process was not sufficiently "certain and accessible," a new review mechanism for CAT claims was put into effect in December 2009. Claimants have access to legal counsel from the Duty Lawyer Service, whose lawyers have received training in refugee and torture claims from the Hong Kong Academy of Law. There is also a system to appeal Immigration Department decisions, with the reviews conducted by experienced magistrates. Several observers, including the bar association and the law society, suggested processing refugee and CAT claims at the same time to avoid duplicate filings.

The Government, in collaboration with nongovernmental organizations (NGOs) and on a case-by-case basis, offered in-kind assistance, including accommodation, food, clothing, and other basic necessities, as well as appropriate transport allowance and counseling and medical services, to asylum seekers and torture claimants who were deprived of basic needs while their claims were being processed. As of June 30, approximately 5,400 persons were receiving assistance.

Those whose claims are pending have no legal right to work, and those granted either refugee status by the UNHCR or relief from removal under CAT are permitted to work only if specifically permitted by the director of immigration. They are also ineligible for training by either the Employees Retraining Board or Vocational Training Council. Applications to attend school or university are considered on a case-by-case basis, at the discretion of the director of immigration. In November local lawyers assisting the SAR's only CAT protection recipient and four applicants recognized as refugees by the UNHCR challenged the restriction in court; the court reserved judgment, and no verdict had been announced by year's end.

A May 30 High Court (Court of Appeal) decision upheld a March 2009 decision by the High Court (Court of First Instance) that the Government could not charge asylum or CAT claimants found to be working with "overstaying"; the decision was based on grounds that their release on recognizance constituted authority from the director of immigration to remain in the SAR. The Government indicated it would study the judgment before determining whether to appeal. LegCo had previously passed legal amendments in November 2009 making it illegal for claimants—who are otherwise regarded as illegal immigrants by the Government—to work or establish a business.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The right of residents to change their government peacefully is limited by the Basic Law. Reforms passed in June expanded from 800 to 1,200 the number of members in the committee that selects the CE. A second reform added five seats to the 30 elected directly from the five geographic constituencies. An additional five seats were also added to the functional constituency (FC) representing the district councils. These new seats are to be nominated by elected district councilors and then elected by all voters who do not have a vote in another FC. Specific implementing legislation on both reforms was pending at year's end.

The remaining 30 LegCo seats are elected by 28 FCs, which represent key economic and social sectors. These 30 seats are elected by fewer voters than the electorate in a single geographic constituency. The vast majority of FC voters are represented by the three largest FCs, while the four smallest have fewer than 200 voters. Some of these latter organizations allow "corporate voting," meaning the chief executive officer of a corporation or organization votes on behalf of the entire entity. Persons with interests in more than one sector represented by an FC may be able to cast three votes (one in their geographic constituency, one in an FC as an individual voter, and one as the authorized representative of a corporate elector). In addition, such electors may be able to control or influence the votes of other authorized representatives of corporate electors in other FCs in which they have interests.

The Government repeatedly stated that the current method of selecting legislators for these seats does not conform to principles of universal suffrage, but it took no steps to reform the "traditional" FCs. The High Court (Court of First Instance) struck down a legal challenge to corporate voting in December 2009, ruling that the election systems did not contravene the Basic Law.

District councils are responsible for advising the Government on matters affecting the well-being of district residents, the provision and use of public facilities, and the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the CE authority to appoint 102 of the 529 district councilors, and he exercised this power. Pan-democrats contended that the CE uses appointments to dilute their influence on the councils and repeatedly called for the abolition of the appointed seats.

The SAR sends 36 deputies to the NPC and has 126 delegates in the Chinese People's Political Consultative Conference.

The approval of the CE, two-thirds of LegCo, and two-thirds of the SAR's delegates to the Mainland's NPC are required to place an amendment of the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

*Elections and Political Participation.*—In 2007 the CE Election Committee selected incumbent Donald Tsang Yam-kuen, and the PRC's State Council formally appointed him. In 2008 voters in five geographic constituencies elected 30 legislators, half of the total LegCo, in elections that were generally free and fair. A record number of candidates, both party affiliated and independent, contested the elections. Of the 30 FC seats, 14 incumbents returned uncontested.

In March five legislators resigned to force a by-election they declared to be a "referendum" on political reform, particularly on achieving universal suffrage. While the Government stated that neither the Basic Law nor local law establishes a legal process by which to conduct a referendum, on May 16, the Government held the by-election. Supporters of the by-election criticized the Government for not making the traditional efforts to encourage citizens to vote in the by-election. They also criticized the publicly announced decision of the CE and senior officials not to cast ballots in the election. The by-election itself, which saw a turnout of approximately 17 percent, was generally free and fair, and the five "incumbents" were reelected.

The Basic Law prohibits LegCo from putting forward bills that affect public expenditure, political structure, or government policy. Bills that affect government policy cannot be introduced without the CE's written consent. The Government has adopted a very broad definition of "government policy" to block private member bills. On occasion, and on advice of LegCo's legal advisors, the LegCo president has challenged the administration's assertion that a motion was out of order and allowed it to come to vote. When private member bills are considered, passage requires separate majorities among members of both the geographical constituencies and the FCs.

Seven of the 30 executive councilors (cabinet ministers and "nonofficial" councilors) were women. Seven of the 30 directly elected LegCo members were women, and women held four of the 30 FC seats. Women made up between 17 and 23 percent of the membership in the major political parties. Two political parties represented in LegCo were headed by women, and several women were party vice chairs. Four of the 22 most senior government officials were women.

There is no legal restriction against non-Chinese running for electoral office or participating in the civil service, although most elected or senior appointed positions require that the office holder have legal right of abode only in the SAR. There were no members of ethnic minorities in LegCo. The Government regards ethnic origin as irrelevant to civil service appointment and does not collect data on the number of nonethnic Chinese serving in the civil service, a practice that some observers criticized as preventing the Government from monitoring hiring and promotion rates for nonethnic Chinese.

#### *Section 4. Official Corruption and Government Transparency*

There were isolated reports of government corruption, and the Government sought to combat official corruption through the Prevention of Bribery Ordinance and the Independent Commission against Corruption (ICAC).

From the beginning of the year through September, ICAC received 787 reports of corruption involving government institutions or personnel. As of June, 311 were under investigation (including one that was being prosecuted, 168 were deemed nonpursuable, and 43 were found to be unsubstantiated. Eighteen cases of election-related corruption were reported in the first half of the year, with 13 under investigation, four deemed nonpursuable, and one found to be unsubstantiated.

There are no legal protections for whistleblowers. In an April 2009 submission to LegCo, the Government argued that existing procedures protected staff from being penalized for making complaints or suggestions "in good faith" and that those reporting crime or corruption also were protected under the law.

The SAR requires the 27 most senior civil service officials to declare their financial investments annually and the approximately 3,100 senior working-level officials to do so biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest.

There is no freedom of information legislation. An administrative code on Access to Information serves as the framework for the provision of information by government bureaus and departments and the ICAC. However, they may refuse to disclose information if disclosure would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which are reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks

to individuals; damage to the environment; result in improper gain or advantage; management of the economy; management and operation of the public service; internal discussion and advice; public employment and public appointments; research, statistics and analysis; third-party information; business affairs; premature requests; and information on which legal restrictions apply. Political inconvenience or the potential for embarrassment are not a justifiable basis for withholding information.

In a January report, Effectiveness of Administration of Code on Access to Information, the ombudsman cited “deficiencies among certain departments, displaying considerable misunderstanding of the provisions and unfamiliarity with the procedural requirements of the code after well over a decade of implementation. Some have refused requests for information without giving any reason or with reasons not specified in the code; others have misused the reasons specified in the code.” In the first half of the year, the Office of the Ombudsman reported receiving 16 code-related complaints. In response, the Constitutional and Mainland Affairs Bureau cited the ombudsman’s statistics that, of the 25,125 requests made under the code between March 1995 and September 2009, 23,986 (95.5 percent) had been met in full, 563 (2.2 percent) had been met in part, and only 576 (2.3 percent) were refused under reasons set out in the code. In its annual report, the HKJA again called on the Government to pass a formal freedom of information law.

Company registry documentation and the November 2009 report by the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) indicated that Huaying Trading Company (HTC), a Chinese-run mineral exporting company based in eastern DRC, maintained a presence in Hong Kong. According to UNGOE reporting, HTC purchased minerals from mines controlled by the Democratic Liberation Forces of Rwanda (FDLR), which controlled several mines in the eastern DRC provinces of North and South Kivu. The FDLR, whose leaders continued to include architects of the 1994 Rwandan genocide, has committed numerous, serious human rights abuses in eastern DRC and Rwanda. The UNGOE report also presented information indicating that Refractory Metals Mining Company Ltd. (RMMC), also based in Hong Kong, financed trading activities of Africa Ventures Ltd., which bought minerals from suppliers that purchased such material from FDLR mines.

In addition, according to UNGOE’s May interim report, “in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group.” In December the international NGO Global Witness reported that the export records of the DRC government’s Division of Mines showed that a Hong Kong-based company, Unilink Trading Hong Kong, was one of three companies that purchased columbite-tantalite (or “coltan”) exported from conflict-affected North Kivu Province in May.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Prominent human rights activists critical of the central government also operated freely and maintained permanent resident status in the SAR.

During the year the Government prepared independent submissions and responses to queries from UN bodies and foreign consulates resident in the SAR.

There is an Office of the Ombudsman and an Equal Opportunity Commission (EOC), both appointed by the Government but independent in their operations. Both organizations operated without interference from the Government and published critical findings in their areas of responsibility. In a change welcomed by activists, the new EOC commissioner, Lam Woon-kwong, was a vocal public advocate on minority rights, access to public and commercial buildings for persons with disabilities, and other issues within the EOC’s responsibility.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides that all residents are equal, and the Government enforced this in practice. The EOC is responsible for implementing the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance, the Family Status Discrimination Ordinance, and the Race Discrimination Ordinance.

*Women.*—Rape, including spousal rape, is criminalized under the law, and police enforced the law effectively. From January to June, 54 rape cases and 775 indecent assault cases were reported to the police. Of these, 52 rape cases and 546 indecent assault cases were detected, leading to 63 and 515 arrests, respectively.

The Government regarded domestic violence against women as a serious concern and took measures to prevent and prosecute offenses. It effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators. Be-

tween January and June, there were 1,105 cases of domestic violence involving heterosexual partners reported to, and investigated by, the police. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The Government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

The 2008 Domestic Violence (Amendment) Ordinance expands the scope of previous law to cover molestation between married couples and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. The revised law provides better protection for victims under age 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against molestation by their parents, siblings, and specified immediate and extended family members. The 2008 law also empowers the court to require the abuser to attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an authorization of arrest to an existing injunction, and both injunctions and authorizations for arrest can be extended to two years.

The Government maintained programs that provide intervention and counseling to batterers. There were eight integrated family service centers and family and child protective services units, which offered services to domestic violence victims and batterers. The Government also continued its public information campaign to strengthen families and combat violence and increased public education on the prevention of domestic violence. In March the director of social welfare announced that the Government would increase spending on services to victims of domestic violence with a HK\$5 million (\$643,000) grant to the social service NGO Po Leung Kuk to provide support to victims.

The SDO prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both males and females. The SDO also provides for the establishment of the EOC to work towards the elimination of discrimination and harassment as well as to promote equal opportunity between men and women. As of September 30, the EOC had received 230 new complaints and handled 351 complaints (including complaints carried forward from the previous year) under the SDO.

In March EOC commissioner Lam Woon-kwong declared to the media that he was concerned about instances of pregnant women being unfairly dismissed from their jobs. He indicated there were approximately 150 such cases a year reported under the SDO, with 170 cases reported in 2009.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, skilled attendance at delivery, and prenatal and postpartum care were widely available. According to the SAR Department of Health, the maternal mortality rate in 2009 was 2.4 deaths per 100,000 births. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

As of March 31, women filled 32 to 35 percent of the civil service at all ranks. Women made up 66 percent of the LegCo Secretariat workforce and 54 percent of the senior "directoriate" ranks. Twenty-two percent of the judges and judicial officers were women, although none sat on the bench of the Court of Final Appeal.

In June the Government raised its gender benchmark for participation by women in advisory and statutory bodies from 25 to 30 percent. However, activists and legislators complained that women remained underrepresented, with 40 such bodies having no government-appointed female members at all.

While the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, in practice women faced discrimination in employment, salary, welfare, inheritance, and promotion. Women reportedly formed the majority of the working poor and those who fall outside the protection of labor laws.

There was a Women's Commission that served as an advisory body for policy making, and a number of NGOs were active in raising problems of societal attitudes and discrimination against women.

*Children.*—All Chinese nationals born in Hong Kong or abroad to parents, of whom at least one is a PRC national Hong Kong permanent resident, acquire both PRC citizenship and Hong Kong permanent residence, the latter of which allows right of abode in the SAR. Children born in Hong Kong to non-Chinese parents, at least one of whom is a permanent resident, acquire permanent residence and qualify to apply for naturalization as PRC citizens. Registration of all such statuses was routine.

From January to June, there were 832 cases of crimes against children reported to police: 325 involved physical abuse (referring to victims younger than 14 years of age), and 507 involved sexual abuse (referring to victims younger than 17 years of age). The Domestic Violence Ordinance mandates protection for victims of acts of child abuse such as battery, assault, neglect, abandonment, and sexual exploitation, and the Government enforced the law. Section 153P of the Crimes Ordinance allows for prosecution of certain sexual offenses, included those against minors that are committed outside the territory of the SAR.

The Government provided parent education programs, including instruction on child abuse prevention, in all 50 of the Department of Health's maternal and child health centers. It also provided public education programs to raise awareness of child abuse and alert children about how to protect themselves. The Social Welfare Department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The police maintained a child abuse investigation unit and a child witness support program. A law on child-care centers helped prevent unsuitable persons from providing child-care services.

The media reported on a growing number of boys engaged in "compensated dating," which was already a concern among minor girls. The majority of cases involved teenage girls, both above and below the age of consent, who advertised escort services that might include sex, either to support themselves or for extra pocket money. Some women and girls involved in the trade reported being beaten or abused by clients. In response to this trend, police continued monitoring Internet chat rooms and Web sites used by both individuals and syndicates to advertise services, with officers assigned to gather evidence against the operations and determine the techniques used by syndicates to recruit the girls.

In September police arrested 19 adults and minors involved in luring teens and others into the sex trade through the Internet, in some cases forcing the victims into prostitution.

The legal age of consent for heterosexuals is 16. Under the Crimes Ordinance, a person having "unlawful sexual intercourse" with a victim under 16 is subject to five years' imprisonment, while having unlawful sexual intercourse with a victim under 13 results in imprisonment for life.

The Prevention of Child Pornography Ordinance makes it an imprisonable offense to possess, produce, copy, import, or export pornography involving a child under 18 years of age, or to publish or cause to be published any advertisement that conveys or is likely to be understood as conveying the message that any person has published, publishes, or intends to publish any child pornography. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts against the small Jewish community during the year.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, access to health care, or the provision of other state services, and the Government effectively enforced these provisions. The Government effectively implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications.

The Social Welfare Department, directly or in coordination with NGOs and employers, provided a range of services and training to assist persons with disabilities in finding work commensurate with their abilities. As of March a total of 15,158 persons were participating in these various programs.

As of March the Government employed 3,316 civil servants with disabilities, including 17 at the senior directorate grade, in a total workforce of 156,573. Persons with disabilities filled 2 percent of LegCo Secretariat positions, 1 percent of judicial positions, and 2 percent of nonjudicial positions in the judiciary.

Instances of discrimination against persons with disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. As of September 30, the EOC had received 396 complaints under the

ordinance and handled 560 cases (including cases carried over from the previous year).

Despite inspections and the occasional closure of noncompliant businesses under the Buildings Ordinance, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

On September 9, EOC commissioner Lam Woon-kwong called on the Government to lead the way in addressing access for people with disabilities. He cited an EOC study of 60 government buildings that he contended “were doing a far from satisfactory job” in providing barrier-free facilities. He specifically cited the lack of access for persons with disabilities at 15 percent of polling stations used in the LegCo by-election. He also criticized one of Hong Kong’s largest owners of shopping centers and carparks for failing to address access issues.

The media, legislators, and activists championed the cause of injured worker Lee Shing-leung, who lost his leg in an industrial accident in 2007. Because the Government ruled he was only “60 percent disabled,” Lee did not qualify for a disability allowance. On September 20, the High Court ruled against Lee in a judicial review, but the judge expressed sympathy for his case and urged greater flexibility in the welfare system.

*National/Racial/Ethnic Minorities.*—Although 95 percent ethnic Chinese, the SAR is a multiethnic society with persons from a number of ethnic groups recognized as permanent residents with full rights under the law. Discrimination based on race is prohibited by law, and the EOC oversees implementation and enforcement of the 2008 Race Discrimination Ordinance. The Race Relations Unit, which is subordinate to the Constitutional and Mainland Affairs Bureau, served as secretariat to the Committee on the Promotion of Racial Harmony and implemented the committee’s programs. The unit also maintained a hotline for inquiries and complaints concerning racial discrimination.

The Race Discrimination Ordinance and various implementing regulations entered into force in July 2009, when the EOC was empowered to handle complaints. The code of practice (along with selected other EOC materials) was available in Hindi, Thai, Urdu, Nepali, Indonesian, and Tagalog in addition to Chinese and English. Between July 2009 (when the ordinance entered into force) and September 30, the EOC received 63 complaints and handled 73 cases.

The Constitutional and Mainland Affairs Bureau sponsored a cross-cultural learning program for non-Chinese speaking youth through grants to NGOs.

The Government had a policy to integrate non-Chinese students into the regular education system. The Government also provided a special grant for designated schools with a critical mass of non-Chinese students to develop their own programs and to share best practices with other schools, as well as to develop supplementary curriculum materials and to set up the Chinese-language support centers to provide after-school programs. However, activists expressed concern that there was no formal government-provided course to prepare students for the General Certificate for Secondary Education exam in Chinese, a passing grade from which is required for most civil service employment.

Beginning in 2009 the Government provided HK\$8 million (\$1 million) to sponsor NGOs to set up four support service centers that teach ethnic minority groups special skills, including English and Cantonese, and HK\$16 million (\$2 million) per year to fund their annual operating costs.

In January the media reported cases of ethnic Pakistanis with Hong Kong residency attempting to open personal accounts but faced difficulties or refusals from banks on grounds that they were from a “third world” or “terrorist” country. The Hong Kong Monetary Authority deputy chief executive declared that the entity had advised all banks to review their existing policies and procedures to ensure compliance with the Race Discrimination Ordinance.

In May the media reported that an ethnic minority applicant to the police force who, in addition to being able to speak English and three South Asian languages, had a A\* grade in Chinese in the officially recognized British General Certificate of Secondary Education, was rejected for inadequate ability in Chinese. In August the media reported that parents of an ethnic South Asian student with straight A grades in preschool was denied a place at a school after being given zero marks in a Chinese assessment. The student, who had been instructed in spoken and written Chinese in preschool and scored 85 percent on a comparable test, was reportedly not asked any Chinese-related questions at his entry assessment. The family reported that the Education Bureau failed to take action on their complaint and took the case to the EOC.

In June the respected minority-rights advocacy NGO Unison reported racist statements and threats of physical violence posted on line and in e-mail messages following Unison’s support of the family of Dil Bahadur Limbu, who was killed during

an altercation with police in 2009 (see section 1.a.). The EOC responded by warning bloggers and Internet service providers that they might incur liability under the Race Discrimination Ordinance if they allowed the posting of such comments. The EOC also requested the names of individuals posting such comments or sending hate e-mails. The posts were removed, and the overall case was moved to the police for investigation as “vilification” under the race discrimination ordinance. No conclusion to the investigation had been announced by year’s end.

In June the media reported that approximately 30 students and their parents filed a complaint with the EOC over restrictions by schools regarding varying official uniforms to suit cultural or religious customs. Only 17 primary schools that were designated as having a majority student population of ethnic minorities routinely allowed such variations.

Activists reported that citizens of South Asian descent faced discriminatory treatment and racial profiling from police on patrol, including repeated checks of identity documents and the use of disparaging terms for South Asians. South Asians carrying large amounts of money were on some occasions treated as suspicious and asked to explain the source of the money.

Activists and the Government disputed whether new immigrants from the Mainland should be considered as a population of concern under antidiscrimination legislation. While concerns have been raised that new immigrants do not qualify to receive social welfare benefits until they have resided in the SAR for seven years, the courts have upheld this legal standard. Such immigrants can apply on a case-specific basis for assistance.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing same-sex relationships. In 2005 the High Court (Court of First Instance) ruled that maintaining an age of consent for male-male relations at 21 rather than 16 violated the Bill of Rights Ordinance. The Law Reform Commission continued a review of sexual offenses in common and statute law. In the interim, enforcement of the law was in accordance with the 2005 decision. There are no specific laws governing age of consent for female-female relations.

The SAR does not register or recognize same-sex marriages. In October the High Court (Court of First Instance) ruled against a transsexual woman who sued the Government to be allowed to marry. The woman completed gender-reassignment surgery and changed her identity documents to “female.” However, since the law does not allow her to change her birth certificate, she cannot legally marry her male partner. The court ruled that there was insufficient evidence “to demonstrate a shifted societal consensus...regarding marriage to encompass a postoperative transsexual...the court must not rush to substitute its own judgment in place of that of...the Government or legislature of Hong Kong.”

There were no reports of societal violence or official discrimination based on sexual orientation. Laws on domestic violence apply to same-sex cohabitant relationships.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements. The law was effectively applied. Trade unions must register under the Trade Unions Ordinance and must have a minimum membership of seven persons for registration. At the end of 2009, there were 812 registered trade unions, consisting of 768 employee unions, 18 employers’ associations, and 26 mixed organizations of employees and employers. During the first half of the year, 10 new unions were registered and four unions were deregistered upon request.

Government statistics indicated that, at the end of 2009, there were 730,519 salaried employees and wage earners (totaling 22.5 percent of the workforce) claiming affiliation with a union.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance prohibits the use of union funds for political purposes, requires the CE’s approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal. In addi-

tion, there is no legal entitlement to reinstatement in the case of unfair dismissal. One strike, involving 35 workers, took place during the first half of the year.

*b. The Right to Organize and Bargain Collectively.*—The law does not guarantee the right to collective bargaining. According to an International Trade Union Congress report issued during the year, although almost 25 percent of the workforce was unionized, unions were not strong enough to force management to engage in collective bargaining. Thus, less than 1 percent of workers were covered by collective agreements, and those that existed were not legally binding. The Government did not engage in collective bargaining with civil servants' unions, although it consulted relevant employee organizations on compensation matters. A 2009 motion supported by union activists in LegCo that called on the Government to promote collective bargaining and legislate on the right to collective bargaining failed due to opposition by the Government and business representatives.

The Workplace Consultation Promotion Unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department.

Antiunion discrimination did not occur in practice. However, there is no provision guaranteeing reinstatement of workers dismissed because of their trade union membership.

There are no export processing zones in the SAR.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. There were concerns that some migrant workers were lured to the SAR with false promises of employment but then forced into prostitution. There were also concerns that some migrant workers faced high levels of indebtedness assumed as part of the terms of employment, creating a risk they could fall victim to debt bondage. Some Hong Kong-licensed employment agencies are suspected of colluding with Indonesian agencies to profit from the debt scheme. Some Hong Kong agencies illegally confiscated passports, employment contracts, and ATM cards of domestic workers and withheld them until their debt had been repaid.

The SAR's Employment Ordinance mandates one 24-hour period of rest within each seven-day period, but there were reports some employers compelled domestic workers to work seven days a week. There also were reports that some employers illegally forbade domestic workers to leave the residence of work for nonwork-related reasons, effectively preventing them from reporting exploitation to authorities. SAR authorities actively pursued reports of such violations.

For more information, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace, and the Government effectively enforced these laws. The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit overtime in industrial establishments with employment in dangerous trades for persons less than 18 years of age.

Children 13 and 14 years of age may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of nine years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. In contrast with 2009, no employers were convicted of offenses involving employment of children 13 to 14 years of age without written parental consent and valid school attendance certificates.

*e. Acceptable Conditions of Work.*—LegCo passed legislation establishing a statutory minimum wage in July, and the initial hourly rate was set at HK\$28 (\$3.60), to be implemented in May 2011. Domestic workers of foreign origin have a minimum wage set under separate legislation. In April amendments to the Employment Ordinance made it a criminal offense, punishable by a maximum fine of HK\$350,000 (\$45,000) and three years' imprisonment, to willfully default on Labor Tribunal and Minor Employments Claims Adjudication Board awards. Some employers provided workers with various kinds of allowances, meals, medical treatment, and subsidized transport. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. Workweeks of up to 60 hours and more were not uncommon. In his policy address during the year, the CE stated that, having established a minimum wage, the Government would begin consultations on maximum working hours. As of year's end, the consultations had not begun.

Unionists alleged that workers were tricked by employers into signing contracts that changed their terms of employment to “self-employed,” and thus they were not entitled to employer-provided benefits such as paid leave, sick leave, medical insurance, workers’ compensation, or Mandatory Provident Fund payments.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation. The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department’s Occupational Safety and Health Branch conducted 64,044 workplace inspections. There were 709 convicted summonses, resulting in fines totaling HK\$5.3 million (\$687,000). In addition to prosecuting offenses under the safety legislation, the Labor Department also issued improvement notices requiring employers to remedy contraventions of safety laws within a specified period and suspension notices directing removal of imminent risks to life and limb in workplaces. During the first half of the year, 703 improvement notices and 66 suspension notices were served.

Although worker safety and health continued to improve, serious problems remained, particularly in the construction industry. In the first quarter of the year, the Labor Department reported 9,327 occupational injuries, including 2,972 classified as industrial accidents. In the same period, there were seven fatal industrial accidents. Employers are required under the Employee’s Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

There are no laws restricting work during typhoon or rainstorm warning signals except for a Labor Department recommendation that employers have only essential staff come to work during certain categories of typhoon or rainstorm warnings. Both pro-Beijing and pan-democratic unions called for a review of protections for workers during inclement weather, including legal protections.

The minimum wage for foreign domestic workers was HK\$3,580 per month (\$460). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker’s compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers can be deported if dismissed. After leaving one employer, workers have two weeks to secure new employment before they must leave the SAR. Activists contended this restriction left workers vulnerable to a range of abuses from employers. Workers who pursue complaints through legal channels may be granted leave to remain; however, they are not able to work, leaving them either to live from savings or to depend on charitable assistance.

Domestic workers were required to live with their employers (who do not always provide separate accommodation for the worker), which made it difficult to enforce maximum working hours per day or overtime.

The Government contended that the “two-week rule” was necessary to maintain effective immigration control and prevent migrant workers from overstaying and taking up unauthorized work. Regarding maximum hours and rest periods, the Government stated that the Employment Ordinance rules on these issues cover local and migrant workers. However, in its explanation of why live-in domestic helpers (both local and foreign) would not be covered by the statutory minimum wage, the Government explained that “the distinctive working pattern—round-the-clock presence, provision of service-on-demand, and the multifarious domestic duties expected of live-in domestic workers—makes it impossible to ascertain the actual hours worked so as to determine the wages to be paid.”

During the first six months of the year, four employers were convicted for labor law mistreatment violations under the Employment Ordinance relating to the employment of foreign domestic workers. During the first seven months of the year, 97 foreign domestic workers filed criminal suits, 42 of which were against employers, for maltreatment including rape (one), indecent assault (10), and injury and serious assault (31).

---

#### MACAU

Macau, with a population of approximately 544,600, is a Special Administrative Region (SAR) of the People’s Republic of China (PRC) and enjoys a high degree of autonomy, except in defense and foreign affairs, under the SAR’s constitution (the

Basic Law). Chief Executive Fernando Chui Sai-on, who took office in December 2009, headed the Government after being elected in July 2009 by a 300-member commission. Security forces reported to civilian authorities.

The following human rights problems were reported: limits on citizens' ability to change their government and lack of progress in prosecuting cases of trafficking in persons. National security legislation, passed in 2009 in accordance with article 23 of the Basic Law, remained a source of concern, but by year's end no cases had been brought under the law.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these rights.

During the first six months of the year, there were 20 complaints of police mistreatment; three were referred as criminal cases, two resulted in disciplinary proceedings, six were pending investigation, and nine were dismissed for lack of evidence or not pursued.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers. No such visits were made during the year. Judges and prosecutors made monthly visits to prisons to hear complaints from the prisoners.

The SAR has a maximum prison capacity of 1,323 persons; the occupancy rate was approximately 71 percent during the year. The age of criminal responsibility is 16. The total prison population for persons of this age and above for the first half of the year was 136 female and 784 male inmates. Offenders between the ages of 12 and 16 were subject to an "education regime" under the Institute of Minors (IM), which could include incarceration depending on the offense. Between January 2009 and June 2010, there were 29 boys and six girls in IM programs, of whom 28 boys and six girls were incarcerated. IM programs involved educational and vocational training programs, for which the youths received normal educational reports (i.e., their participation in an IM program was not part of their academic record).

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the Public Security Police (general law enforcement) and Judiciary Police (criminal investigations), and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the Government. Detainees also were allowed prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The law provides that cases must come to trial within six months of an indictment. The criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the charges and progress of the judicial system. Judges often refused bail in cases where sentences could exceed three years.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice. The courts may rule on matters that are "the responsibility of the PRC government or concern the relationship between the central authorities and the SAR," but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of relevant provisions from the National People's Congress (NPC) Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee."

Both Portuguese and Chinese are official languages. The need to translate laws and judgments into Chinese and Portuguese and a shortage of local bilingual lawyers and magistrates hampered the development of the legal system. There also was a severe shortage of judges.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence and have access to government-held evidence relevant to their cases and a right to appeal. Trials are public and are by jury except at the magistrate-court level. Defendants have the right to be present at their trials and to confront witnesses. They also have the right to consult with an attorney in a timely manner; public attorneys are provided for those who are financially incapable of engaging lawyers or paying expenses of proceedings. The law extends these rights to all residents.

The judiciary provides citizens with a fair and efficient judicial process; however, due to an overloaded court system, a period of up to a year often passed between filing a civil case and its scheduled hearing.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Activists and a local prodemocracy political party complained in the media that they were subjected to heightened surveillance during the November visit of PRC premier Wen Jiabao, including the police warning some activists not to attend certain events. The Public Security Police denied the allegations.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The Law on Safeguarding National Security, which entered into force in February 2009, criminalizes both committing and “acts in preparation” to commit, treason, secession, subversion of the PRC government, and theft of state secrets. The crimes of treason, secession, and subversion specify the use of violence, and the Government stated that the law would not infringe on peaceful political activism or media freedom.

Activists and some legislators expressed concern about the vagueness of the term “acts in preparation,” which they saw as possibly criminalizing a broad range of activities. Activists and some legislators also were concerned about the use of “prying into” to define one type of illegally acquiring state secrets and the lack of an explicit “public interest defense” for journalists publishing classified information. In addition, there was concern that the PRC’s broad definitions of state secrets, as well as its ability retroactively to declare formerly unclassified material to be secret, would affect enforcement of the law. As of year’s end, no one had been charged with a crime under the law.

The independent media were active and expressed a wide variety of views without restriction, and international media operated freely. Major newspapers were heavily subsidized by the Government and tended to closely follow the PRC government’s policy on sensitive political issues, such as Taiwan; however, they reported freely on the SAR government, including reports critical of the Government.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the World Internet Project statistics for 2009, approximately 70 percent of the SAR’s inhabitants used the Internet. The SAR reportedly also offered affordable access to broadband Internet.

The Strike against Computer Crime Law, passed in June 2009, criminalizes a range of cybercrimes and empowers the police, with a court warrant, to order Internet service providers to save and then provide a range of data. Some legislators expressed concern that the law grants police the authority to take these actions without a court order under some circumstances.

The media reported that several Web sites, among them Facebook, YouTube, and Skype, which are blocked on the PRC mainland, were blocked on government-provided free WiFi service. The Government denied any intention to restrict access, stating that the main problem was available bandwidth and pointing out that the

“mobile” version of Facebook was available. Twitter, which is banned on the mainland, also was available on the service.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. The law requires prior notification, but not approval, of demonstrations. In cases in which authorities tried to restrict access to public venues for demonstrations or other public events, the courts generally ruled on the side of the applicants. Police may redirect march routes, and organizers had the right to challenge such decisions in court.

On May 1, protesters representing a range of labor and other problems clashed violently with police. Activists ascribed the clash to a police ruling that the protesters could not use one of the main thoroughfares, claiming the prohibition was made too late for the groups to be able to challenge it in court. Marchers chose to use their original route, resulting in the conflict. Police used water cannons, pepper spray, and batons to disperse the marchers; some protesters resisted by using bamboo scaffolding and other materials to attack police. A total of 41 persons were reported injured, including 32 police officers and two journalists.

Activists reported that more than 500 participants took part in the annual candlelight vigil commemorating June 4 (the date of the 1989 Tiananmen Square massacre), the largest turnout since the 1999 handover and an increase over the 300 who attended the 20th anniversary in 2009. However, activists were denied access to all but one of the eight locations where they had displayed banners regarding the incident in previous years. The Civil and Municipal Affairs Bureau declared that it sent a letter to event organizers, the Union for the Democratic Development of Macau, declaring that four of the venues were “not suitable for banners” and three had been reserved for other purposes; organizers told the media they had not received the letter.

In September there were media reports that an internal document circulating within the Security Bureau proposed limiting protests on public order grounds. The topic was widely covered and criticized in the media, leading the Security Bureau to issue a statement claiming the document was an examination of the existing legal regime (as opposed to proposals for new laws) and that the Government respected the rights of assembly and demonstration.

Labor protesters marching on October 1 (PRC National Day) generally accepted a police recommendation to alter their routes from one of the main thoroughfares, although the marches concluded at Government House as originally planned. The marches, involving a total of a few hundred participants, occurred without incident.

*Freedom of Association.*—The Basic Law and the civil code provide for freedom of association. No authorization is required to form an association, and the only restriction is that the organization not promote violence, crime, or disruption of public order.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. Persons denied entry into the SAR have the right to contact their consulate or other representative of their country, to have assistance with language interpretation, and to consult a lawyer. The Immigration Department cooperated with the Office of the UN High Commissioner for Refugees in handling refugees.

The law prohibits forced exile, and the Government generally respected the law in practice.

The Internal Security Law grants police the authority to prevent entry and to deport nonresidents who are regarded under the law as unwelcome, deemed to constitute a threat to internal security and stability, or are suspected of transnational crimes. Legislators and activists alleged that police used this law to prevent Hong Kong democracy and rights activists from entering the SAR, including when the purpose of travel was merely tourism or personal business. Police declined to discuss the circumstances of individual cases.

In August Leung Li, a Hong Kong Democratic Party (DPHK) district councilor, was stopped at the border for three hours as officials investigated “problems with his ID card.” Leung voluntarily returned to Hong Kong but told the media he believed the problem was his DPHK membership. He noted that he had traveled across the land border between Hong Kong and Guangdong several times using the

same card without incident. Government officials indicated at the time that their investigation was continuing but denied that Leung's party affiliation was the problem.

The media reported that on October 1, Nano Yeung Pui-yan, a Hong Kong social worker traveling to Macau with her family, was denied entry. Officials reportedly questioned her about her political party affiliation (none) and told her she had chosen "the wrong time to visit." Yeung was instructed to sign a paper indicating she had been refused entry under the Internal Security Law.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Persons granted status enjoyed the same rights as other SAR residents, while persons with pending applications were eligible to receive government support, including basic needs, medical care, and education for children.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law limits citizens' ability to change their government. Only a small fraction of citizens play a role in the selection of the chief executive (CE). The head of government is chosen by a 300-member Election Committee, consisting of 254 members elected from four broad societal sectors (which have a limited franchise) and 46 members chosen from among the SAR's legislators and representatives to the NPC and Chinese People's Political Consultative Congress.

*Elections and Political Participation.*—In June 2009, following discussions within the sectors and their subordinate units responsible for selecting the Election Committee, exactly 254 candidates were nominated, thus constituting the committee without an election. By virtue of securing 286 of the 300 nominating votes, and thus precluding any other candidate from winning the 50 nominations required to stand for election, former secretary for social affairs and culture Fernando Chui Sai-on ran unopposed for CE. In July 2009 he received 282 votes from the Election Committee; he took office in December 2009.

In September 2009 the SAR also elected parts of its 29-member Legislative Assembly. Sixteen electoral "slates" representing 123 candidates (the SAR does not have formal political parties for elections, and candidates form ad hoc rosters to contest elections) competed for the 12 directly elected seats. The election, open to all registered SAR residents, was considered generally free and fair. Ten indirectly elected legislators were returned uncontested after internal consultation among the four broad sectors that elect these seats. Seven seats were filled by CE appointment.

There are limits on the types of legislation that legislators may introduce. The law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Proposed legislation related to government policies must receive the CE's written approval before it is submitted. The legislature also has no power of confirmation over executive or judicial appointments.

A 10-member Executive Council functions as an unofficial cabinet, approving draft legislation before it is presented in the Legislative Assembly. The Basic Law stipulates that the CE appoint members of the SAR Executive Council from among the principal officials of the executive authorities, members of the legislature, and public figures.

There were no registered political parties; politically active groups registered as societies or companies. These groups were active in promoting their political agendas, and those critical of the Government did not face restrictions. Such groups participated in protests over government policies or proposed legislation without restriction.

There were four women in the 29-member Legislative Assembly. Women also held a number of senior positions throughout the Government, including the Secretary for justice and administration, the second-highest official in the SAR government. Fourteen of the SAR's 29 judges were women. Women made up more than 41 percent of the senior-level executive, 48 percent of the judicial, and 100 percent of the senior legislative staff (i.e., not including legislators) work forces. There were three members of ethnic minorities in the Legislative Assembly. One Executive Council member was from an ethnic minority, as was the police commissioner.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, there were instances of officials engaging in corruption.

The Commission against Corruption (CCAC) investigated the public and private sectors and had the power to arrest and detain suspects. Initially chartered only to handle public-sector corruption, in March the CACC gained competence over private-sector corruption under the Prevention and Suppression of Bribery in the Private Sector Law of 2009. The Ombudsman Bureau within the CCAC reviewed complaints of maladministration or abuse by the CCAC. There was also an independent committee outside the CCAC, called the Monitoring Committee on Discipline of CCAC Personnel, which accepted and reviewed complaints about CCAC personnel.

By law the CE, his cabinet, judges, members of the Legislative Assembly and Executive Council, and executive agency directors are required to disclose their financial interests upon appointment, promotion, and retirement, and at five-year intervals while in the same position.

The law does not provide for public access to government information. However, the executive branch published online, in both Portuguese and Chinese, extensive information on laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The Government also issued a daily press release on topics of public concern. The information provided by the legislature was less extensive.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international groups monitoring human rights generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The Government sent delegations to join the PRC delegation at UN human rights fora throughout the year. The Government also cooperated with diplomatic missions in researching human rights matters.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law stipulates that residents shall be free from discrimination based on race, gender, disability, language, or social status, and many laws carry specific prohibitions against discrimination; the Government effectively enforced the law.

*Women.*—The law criminalizes rape, including spousal rape, and the Government effectively enforced the law. In the first half of the year, there were 12 rape investigations opened by prosecutors, four of which had gone to indictment by midyear. The police and courts acted promptly on rape cases.

Although there is not a specific law on domestic violence, laws that criminalize the relevant behaviors, including “ill-treatment of minors or spouses,” were used by the Government effectively to prosecute domestic violence. However, various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. In the case of spousal abuse or violence against minors, the penalty is two to eight years’ imprisonment; if the abuse leads to the death of the victim, the penalty is five to 15 years. In the first half of the year, 189 cases of crimes related to domestic violence were reported to police.

The Government made referrals for victims to receive medical treatment, and medical social workers counseled victims and informed them of social welfare services. The Government funded NGOs to provide victim support services, including housing, until their complaints were resolved. The Government also supported two 24-hour hotlines, one for counseling and the other for reporting domestic violence cases.

NGOs and religious groups sponsored programs for victims of domestic violence, and the Government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and advice regarding legal actions against perpetrators. A range of counseling services was available to persons who requested them at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

There is no law specifically addressing sexual harassment, excepting the use of a position of authority to coerce performance of physical acts. Harassment in general is prohibited under laws governing equal opportunity, employment and labor rights,

and labor relations. Between January and June, one complaint of gender discrimination was filed with the Labor Affairs Bureau but was later withdrawn.

Couples and individuals had the right to decide the number, spacing, and timing of their children and had the information and means to do so free from discrimination or coercion. Access to contraception, prenatal care, and skilled attendance at delivery and in postpartum care were widely available. According to the World Health Organization, in 2009 the maternal mortality rate was zero. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Equal opportunity legislation mandates that women receive equal pay for equal work; however, observers estimated that there was a significant difference in salary between men and women, particularly in unskilled jobs. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. Discrimination in hiring practices based on gender or physical ability is prohibited by law, and penalties exist for employers who violate these guidelines.

*Children.*—In accordance with the Basic Law, children of Chinese national residents of Macau born in or outside the SAR and children born to non-Chinese national permanent residents inside the SAR are regarded as permanent residents. There is no differentiation between these categories in terms of access to registration of birth. The Government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens.

The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors. The criminal code sets 14 as the age of sexual consent and 16 as the age for participation in the legal sex trade. Child pornography is prohibited by law.

The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance with the convention at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish population was extremely small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services, and the Government generally enforced these provisions in practice. The law mandates access to buildings, information, and communications for persons with disabilities. The Government enforced the law effectively. The Social Welfare Institute was primarily responsible for coordinating and funding public assistance programs to persons with disabilities. There was a governmental commission to rehabilitate persons with disabilities, with part of the commission's scope of work addressing employment.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing any sexual orientation, and no prohibition against lesbian, gay, bisexual, or transgender persons forming organizations or associations. There were no reports of violence against persons based on their sexual orientation.

*Other Societal Violence or Discrimination.*—The law prohibits discrimination against persons with HIV/AIDS and limits the number of required disclosures of an individual's HIV status. Employees outside medical fields are not required to declare their status to employers. There were anecdotal reports that persons whose status became known, as well as organizations supporting them, faced some forms of discrimination. There were no reported incidents of violence against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law, including article 27 of the Basic Law, provides for the right of workers to form and join unions or "labor associations" of their choice without previous authorization or excessive requirements, and the Government generally respected this right in practice. There is no law specifically defining the status and function of labor unions, nor are employers compelled to negotiate with them. While there are no legal restrictions preventing companies from refusing

to hire union workers, union membership is not a legitimate basis for dismissal under the Law on Labor Relations.

Workers in certain professions, such as the security forces, are forbidden to form unions, take part in protests, or strike. Such groups had organizations that provided welfare and other services to members and that could speak to the Government on behalf of their members.

Under article 27 of the Basic Law, workers have the right to strike, but there is no specific protection in the law from retribution if workers exercised this right. The Government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have “justified cause” to dismiss an employee. In contrast with 2009, there were no reports that the Government failed to enforce these provisions during the year. Strikes, rallies, and demonstrations were not permitted in the vicinity of the CE’s office, the Legislative Assembly, and other key government buildings, although in practice some protests occurred near government headquarters.

Workers who believed they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the Office of the High Commissioner against Corruption and Administrative Illegality, which also functions as ombudsman. However, migrant workers have no right to such recourse.

*b. The Right to Organize and Bargain Collectively.*—The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining. In practice companies often negotiated with unions, although the Government often acted as an intermediary. Pro-PRC unions traditionally have not attempted to engage in collective bargaining. Migrant workers and public servants do not have the right to bargain collectively.

The law prohibits antiunion discrimination and employer interference in union functions, and the law was enforced in practice. However, the Union for Democracy Development Macau expressed concern that the law contains no explicit provisions that bar discrimination against unions.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an “exceptional basis.” Some children reportedly worked in family-operated or small businesses. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted.

*e. Acceptable Conditions of Work.*—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There is no mandatory minimum wage, except for government-outsourced security guards and cleaners. Average wages provided a decent standard of living for a worker and family. The law also sets maximum hours, rest days, statutory holidays, and premium pay rules. Article 70 of the 2008 Labor Relations Law allows employers to dismiss staff “without just cause” provided that economic compensation, indexed to the employee’s length of service, is paid.

Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant workers, who were issued short-term contracts. Labor groups reported that employers increasingly used temporary contracts to circumvent obligations to pay for workers’ benefits, such as pensions, sick leave, and paid holidays. The short-term nature of the contracts also made it easier to dismiss workers by means of nonrenewal.

Labor legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period each week, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers upon request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees’ right to continued employment if they refused to work under dangerous conditions.

Local migrant worker associations and the International Labor Organization expressed concern about the Law on the Employment of Nonresident Workers, which requires foreign workers who left their jobs for any cause not held to be “just,” to depart the SAR for six months. Labor officials stated that the law, meant to deter “job hopping” by migrant workers, was implemented only if the worker could not demonstrate just cause for wishing to terminate the contract himself (such as abuse, nonpayment of wages, and contract violation) or if the employer dismissed the worker after three days’ unauthorized absence (in accordance with the labor law). However, the lack of coordination between the Labor Affairs Bureau, which handled complaints, and the Immigration Department, which granted or withdrew permission for migrant workers to remain in the SAR, meant that workers filing complaints could be dismissed from their positions, lose their immigration status, and be forced to depart prior to the resolution of their complaints. While the Government noted that workers under such circumstances could apply for special extensions to remain, Labor Affairs Bureau director Shun Ka Hung was quoted in the media as stating that dissatisfied workers “can always go back to their homeland to find another job.”

---

## FIJI

Fiji, with a population of approximately 837,000, is a republic under a 1997 constitution that provided for a ceremonial president selected by the Great Council of Chiefs and an elected prime minister and Parliament. However, in April 2009 the interim government headed by armed forces commander Commodore Josaia Voreqe (Frank) Bainimarama abrogated the constitution, imposed a state of emergency, and continued its rule by decree, a situation that remained at year’s end. The abrogation followed a bloodless coup d’etat in late 2006 in which Bainimarama overthrew the elected government and dissolved Parliament. In 2007 the interim military government was replaced by a nominally civilian interim government headed by Bainimarama as prime minister. Public Emergency Regulations (PER) promulgated in April 2009 remained in effect at year’s end. Security forces did not report to civilian authorities.

The Government denied citizens the right to change their government peacefully. The Government dismissed the entire judiciary in 2009 and replaced it with its own appointees. In July the Government implemented a media decree that continued censorship and intimidation of the media. Other continuing human rights problems included police and military impunity, poor prison conditions, restrictions on freedom of speech and peaceful assembly, prosecution and deportation of regime critics and human rights activists, attacks against religious facilities, the dismissal of constitutionally appointed government officials, government corruption, deep ethnic division, violence and discrimination against women, and sexual exploitation of children.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

By year’s end there had been no investigation of the 2008 death in custody of Josefa Baleiloa.

In February the Court of Appeal upheld a previous High Court decision that ordered the military to pay F\$45,000 (approximately \$22,500) in general damages for pain and suffering and F\$18,000 (approximately \$9,000) in “exemplary damages” to the family of convicted criminal Taito Navualaba, who died from a beating by security forces in 2000. The court held that since Navualaba had voluntarily surrendered to police and soldiers, their assault on him could not be justified under emergency powers then in effect, as the Government had asserted. However, the military did not pay the damages because in April the Government issued a decree extending immunity to the military and the national police against criminal charges or civil liability suits relating to their role in the 2000 and 2006 coups and the 2009 abrogation of the constitution (see section 1.d.). The effect of the decree was to nullify the legal basis for the lawsuit.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the abrogated constitution prohibits such practices, the security forces did not

always respect this prohibition in practice. The PER authorize the Government to use whatever force is deemed necessary to enforce PER provisions.

Throughout the year various persons detained by police accused police of beating them to obtain confessions. Lawyers reported to the courts cases in which their accused clients allegedly had been beaten by police during questioning. For example, in January defense counsel for five persons arrested on murder charges earlier that month told the High Court that two of their clients were assaulted by police officers while in custody.

By year's end there had been no investigation into allegations that security forces beat politician Iliesa Duvuloco and several other men detained in April 2009 for distributing political pamphlets critical of the Government.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards. The national prison system was seriously underfunded and overcrowded, with deteriorating infrastructure and complaints about delivery of essential services. The system had insufficient beds, inadequate sanitation, and a shortage of basic necessities. The pretrial detention facility at Suva's prison remained closed due to its substandard condition.

There were approximately 1,100 inmates in the country's 14 prisons. The number of pretrial detainees continued to rise, in part because, unlike in previous years, during the year the courts generally refused to grant bail. Numbers of pretrial detainees held at various prison facilities exceeded capacity. A June 14 report in the Fiji Sun newspaper stated that there were 273 pretrial detainees in custody around the country, while there was capacity for only 73 in the system. According to the report, 83 of the detainees were held in Lautoka Prison, which had capacity for only 18; seven in Ba Prison, which had capacity for eight; 17 in Labasa Prison, which had capacity for 12; 159 in Suva's Korovou Prison, which had capacity for 30; and seven in the women's prison in Suva, which had capacity for five. During the year authorities began to hold pretrial detainees in Naboro Prison as well due to the lack of adequate capacity at Korovou Prison.

In some cases pretrial detainees and convicted prisoners were held together.

Prisoners and detainees were permitted reasonable access to visitors, including family members, and religious observance. The Prisons Act allows prisoners to submit complaints to judicial authorities, but the Government reviews all prisoner letters and has the authority to seize them. Authorities did not investigate or document in a publicly accessible manner credible allegations of inhumane conditions.

The Government permitted prison monitoring visits by independent human rights observers. During the year the International Committee of the Red Cross (ICRC) visited official detention facilities and interviewed inmates; such visits were permitted without third parties present.

Although the Ombudsman Act authorizes the ombudsman to investigate maladministration in government departments, decreases in the staffing and budget levels for the Ombudsman's Office since the 2009 coup greatly reduced its capacity to carry out its statutory duties, which in previous years included investigating allegations of prisoner abuse or neglect, overcrowding, and recordkeeping problems.

Some prison improvements were made during the year. The Prison Service began installing new cameras in prisons to improve security. In July the prisons commissioner, Brigadier General Iowane Naivalurua, carried out an audit of the standard operating procedures of the Prison Service to align them with the provisions of the 2006 Prisons and Corrections Act, which incorporates international minimum standards for prison conditions as the minimum standards for the country's prisons.

Programs to build skills and generate income for prison inmates were augmented during the year. The commissioner established a commercial arm of the Prison Service, which ran various farms that sold at commercial prices to the public and paid inmates for their labor. Male prisoners participated in farming and bakery operations, while the one women's prison in Suva had a program for producing handicrafts and clothing. As part of rehabilitation efforts, the commissioner established a trial creative arts program, including an exhibition of prisoners' artwork in November. The commissioner also reached an agreement with the Fire Authority for the training of prisoners as firefighters as they prepared for release back into society, and introduced a so-called "yellow ribbon" program, which encouraged the public to ease the return of convicted prisoners back into the community after their release.

In January the Government closed Lakeba Prison in Lau Province, citing successful efforts to reduce recidivism in Lau as eliminating the continued need for that particular facility.

*d. Arbitrary Arrest or Detention.*—The abrogated constitution prohibits arbitrary arrest and detention, but the Government did not always respect this prohibition

in practice. The PER authorize security forces to detain a person for up to seven days before bringing charges and producing the accused in court. Various persons accused of breaching the PER and the Public Order Act during the year were held up to six days without charge and in some cases were not charged at all.

*Role of the Police and Security Apparatus.*—The Ministry of Home Affairs, headed by the minister for defense, oversees the Fiji Police Force, which is responsible for law enforcement and the maintenance of internal security. Historically responsible for external security, the Republic of Fiji Military Force (RFMF) has maintained since 2005 that it has a broad constitutional responsibility for national security that also extends to domestic affairs. Many constitutional scholars in the country rejected that assertion. Under the PER soldiers are authorized to perform the duties and functions of police and prison officers.

In September Brigadier General Iowane Naivalurua was appointed police commissioner, while also remaining prisons commissioner. Police maintained a network of stations and posts throughout the country. Policing of more remote and smaller islands was done through regularly scheduled visits. However, during the year 10 police posts were closed due to budget constraints. There was a joint military and police command center based at the Suva Central Police Station. Military personnel were assigned to accompany police patrols and jointly staff police checkpoints.

The police Professional Standards Unit is responsible for investigating complaints of police misconduct. The Fiji Independent Commission against Corruption (FICAC) also continued to investigate public agencies and officials, including some members of the police and military forces. However, impunity and corruption remained problems. The PER provide immunity from prosecution for members of the security forces for any deaths or injuries arising from the use of force deemed necessary to enforce PER provisions.

On April 1, the Government promulgated the Limitation of Legal Liability Decree for prescribed political events—the third immunity decree issued since the 2006 coup. The decree extends immunity to the military and the national police against criminal charges or civil liability lawsuits relating to their roles in the 2000 and 2006 seizures of power and the 2009 abrogation of the constitution. The decree grants absolute, unconditional, and irrevocable immunity to Bainimarama, former president Ratu Josefa Iloilo, former caretaker prime minister Jona Senilagakali, and members of the military and police forces (excluding, however, the anti-Bainimarama armed forces mutineers who supported the 2000 storming of Parliament). The decree nullifies the grounds for lawsuits against the regime by victims of security force violence and by the families of persons allegedly beaten—in some cases to death—while in military custody.

*Arrest Procedures and Treatment While in Detention.*—By law police officers may arrest persons without a warrant for violations of the 2010 Crimes Decree, promulgated in February, which replaced the preexisting Penal Code. Police also arrest persons in response to warrants issued by magistrates and judges. Under the constitution arrested persons must be brought before a court without “undue delay,” normally interpreted to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds for their arrest. However, these rights were not always observed by the police and military after the constitution was abrogated. The PER permit the Government to detain for up to seven days without charge persons suspected of violating PER provisions.

The Bail Act gives accused persons the right to bail, unless it is not in the interests of justice that bail be granted. There is a presumption in favor of granting bail; however, this may be rebutted by the prosecution if it objects to bail, and in cases where the accused has been convicted and is appealing or has previously breached bail conditions. Both police and the courts can grant bail; however, during the year police refused to grant bail to persons charged with drunk driving. During the year the courts made it more difficult for accused persons to apply for bail, requiring this to be by motion and affidavit that required the services of a lawyer. During the year the number of prisoners remanded approximately doubled compared with 2009 because of a pattern of refusal of bail by the courts. Detainees generally were allowed prompt access to counsel and family members, but some journalists and others detained for short periods after criticizing the Government were denied prompt access to a lawyer.

On March 8, High Court Judge Priyantha Fernando issued a second court order to police to allow Saimoni Rokotunidau access to his lawyer. Rokotunidau was recruited into the police force in 2008; at the time he was a pastor of the New Methodist Church who preached to police and their families during the former police commissioner’s “Jesus Crusade.” However, he subsequently used a police vehicle to carry out a bank robbery and was dismissed from the police in March when he was

arrested for the offense. In April he was convicted of robbery with violence and sentenced to 12 years' imprisonment. Police had ignored an earlier court order for Rokotunidau to access his lawyer in private. Justice Fernando also ordered the prosecution to ascertain why Rokotunidau's family was not allowed to visit him in detention.

The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. However, there were delays in the provision of legal aid to some accused persons who requested assistance, due to lack of adequate legal aid staff and resources.

On June 22, businessman Viliame Gavoka and Pastor Laione Lutunacevamaca were charged with one count each of malicious acts allegedly causing public alarm by spreading rumors of a tsunami prophecy. It was alleged that between March 8 and June 16 in Nadi, Lutunacevamaca sent out an e-mail stating that the country would be struck by a disaster on June 23. Gavoka was charged for circulating the e-mail. On December 13, defense lawyers applied for the charges to be reconsidered, and the court adjourned the case for a further hearing in February 2011.

The courts had a significant backlog of cases, worsened by the Government's April 2009 dismissal of the existing judiciary. Processing was slowed by, among other things, a shortage of prosecutors and judges. As a result some defendants faced lengthy pretrial detention.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, but during the year the Government interfered with judicial independence in practice.

The Administration of Justice Decree of April 2009, which reestablished the courts, prohibits all tiers of the judiciary from considering cases relating to the 2006 coup; all acts of the interim government between December 4, 2006 and April 9, 2009; the abrogation of the constitution on April 10, 2009; and all government decrees since December 2006. The military-appointed chief registrar issued termination certificates for all such pending cases. Women's nongovernmental organizations (NGOs) asserted that some new magistrates made inappropriate comments and exercised poor judgment in domestic violence and sexual assault cases and that, because of media censorship under the PER, the public was not informed about this conduct.

After the constitution was abrogated, the chief registrar also assumed responsibility for prosecuting lawyers for disciplinary breaches before a government-appointed judge. Civil-society organizations criticized these additional duties as infringing on the independence of the judiciary.

A February amendment to the Administration of Justice Decree removed the courts' jurisdiction to hear challenges to decisions by the Government on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments were included in various decrees issued throughout the year.

The Government continued to prohibit an International Bar Association delegation from visiting the country to evaluate the independence of the judiciary. The Government also reiterated its refusal to allow the UN special rapporteur on the independence of judges to visit the country for the same purpose.

*Trial Procedures.*—Procedures enabling a fair trial are enumerated in the Criminal Procedure Decree, the prosecuting manual of the Prosecutor's Office, the High Court Act, and the Magistrates' Court Act, and were implemented by the courts in accordance with legal precedent. The Government's judicial appointments included judges from other British Commonwealth countries familiar with Commonwealth legal traditions. In most cases defendants have the right to a public trial, and the court system generally enforced this right in practice during the year; however, the PER permit trials for violations of PER provisions to be held in camera.

The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. Most cases were heard in the magistrates' courts. The Crimes Decree defines which offenses may be tried in the magistrate' courts and which must be tried in the High Court. Serious offenses, including murder, rape, trafficking in persons, bribery, treason, sedition, and mutiny, can only be heard in the High Court. Trials in the High Court provide for the presence of assessors, typically three, who are similar to jurors but only advise the presiding judge. Defendants enjoy a presumption of innocence and may question witnesses, present evidence on their own behalf, and access government-held evidence relevant to their cases. The right of appeal exists but often was hampered by delays in the process. The law extends these rights to all citizens.

The military court system provides for the same basic rights as the civilian court system, although bail is granted less frequently in the military system and courts martial are seldom public.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or long-term political detainees. Police detained for short periods and questioned a number of journalists and others critical of the Government.

*Civil Judicial Procedures and Remedies.*—Although the law provides for an independent and impartial judiciary in civil matters, the judiciary is prohibited by decree from considering lawsuits relating to the 2006 coup, subsequent actions by the interim government, the abrogation of the constitution, and subsequent military decrees. In the event of a human rights violation, under the constitution an individual also could complain to the Fiji Human Rights Commission (FHRC). Although the Government decreed that the FHRC could continue to exist following the constitution's abrogation, under a May 2009 decree it is prohibited from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the constitution.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The abrogated constitution prohibits such actions, but the Government frequently ignored these prohibitions in practice. The PER permit military personnel to search persons and premises without a warrant from a court, and to take photographs, fingerprints, and measurements of any person. Police and military officers also may enter private premises to break up any meeting considered unlawful.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The abrogated constitution provides for freedom of speech and of the press, but the Government generally did not respect these rights in practice. The PER give the Government the power to detain persons on suspicion of “endangering public safety or the preservation of the peace”; the Government has used this provision to intimidate and in some cases detain persons who criticized the Government. In addition, the PER and a media decree issued in June provide for government censorship of the media.

In January the Government issued a decree stopping government pension payments to persons who criticized the 2006 coup and the Government. Among those whose pensions were cancelled were former cabinet members in the Government of former prime minister Laisenia Qarase, former prime minister and former coup leader Sitiveni Rabuka, and senior civil servants. (Qarase's pension has been withheld since December 2006.) In May the Government reversed itself and announced it was repealing the decree. It resumed pension payments to all those affected except Qarase, but it did not provide retroactive payments for the January-May period.

The new Crimes Decree promulgated in February includes criticism of the Government in its definition of the crime of sedition. This includes statements made in other countries by any person, who can be prosecuted on return to Fiji.

Using the PER, police detained and arrested individuals during the year for comments deemed a threat to national security. On March 5, security forces detained former politician Peceli Rinakama for comments he reportedly made to a passing bystander relating to the conviction of eight persons charged with conspiring to assassinate Bainimarama. Rinakama was released on March 11. He was charged under the Public Order Act with uttering words calculated to bring death or physical injury to a person or injury to the lawful authority of the Government. At year's end the case had not yet come to trial.

The Government published fortnightly supplements called *New Dawn* and *Fiji in Focus* in the *Fiji Sun* newspaper, and all its advertising was printed exclusively in the *Fiji Sun* until October, when the *Fiji Times* newspaper—disfavored by the Government—was sold and purchased by a local company that changed its editorial policy. The Government retained a shareholding of less than 20 percent in the *Daily Post* newspaper until the paper ceased to publish in 2009 due to poor sales. The country's television news program production was owned and operated by *Fiji One*, one of two national noncable television stations. A company whose board is appointed by the Ministry of Indigenous Affairs on behalf of the provincial councils owned 51 percent of *Fiji One*; the remainder was privately held. The Government owned the *Fiji Broadcasting Corporation*, which operated six radio stations. The Government guaranteed a loan for the *Fiji Broadcasting Corporation* to set up a television station. The Ministry of Information's *Fiji Today* program was broadcast twice daily on the private television station *MaiTV*.

During the year the Government harassed, intimidated, and in some cases detained for questioning a number of journalists in response to reporting critical of

the Government. Television journalist Rachna Nath, who reported the October arrest of former prime minister Mahendra Chaudhry (see section 2.b.), was questioned by police for allegedly inciting public anger in violation of the PER.

The PER authorize the Ministry of Information, military media cell officers, and police to vet all news stories before publication, resulting in the removal of all stories the Government deemed “negative” and “inciteful,” and therefore, according to the Government, a threat to national security. All radio stations were required to submit their news scripts to the permanent secretary for information, a military appointee, before each news bulletin was broadcast, and the print and television media were censored on a daily basis by Ministry of Information and military media cell officers, accompanied by police officers, who were placed in media newsrooms.

In March police announced an investigation of the Viti FM radio station after the station broadcast a talkback show on same-sex marriages following the promulgation of the new Crimes Decree. Also in March, two senior news editors at Fiji TV were transferred to other departments after the Government alleged antigovernment bias on their part.

On June 25, the Government promulgated a new media decree, which penalizes the media for “irresponsible reporting.” The decree, which supersedes previous laws regarding the media, defines media organizations as excluding Internet and telecommunications service providers and production houses engaged in production of advertisements or other audiovisual materials. The decree requires that the directors and 90 percent of the shareholders of locally based media be citizens of, and permanently residing in, the country and obliges foreign-owned media to sell their shares in media organizations operating in the country. Under the decree, reporting may not include information that threatens public order or the national interest, creates communal discord, or offends public decency. The decree establishes a new Fiji Media Industry Development Authority to enforce these provisions. The authority has the power to investigate journalists and media outlets for alleged violations of the decree, including powers of search and seizure of equipment.

The decree also establishes a media tribunal to decide complaints referred by the authority, with the power to impose jail terms of up to two years and fines of up to F\$ 1000 (approximately \$ 500) for journalists, F\$ 25,000 (\$12,500) for publishers and editors, and F\$ 100,000 (\$ 50,000) for media organizations. The tribunal is not bound by formal rules of evidence.

The decree strips the judiciary of power to challenge the decree itself or any proceedings or findings of the Media Authority, the proposed tribunal, or the information minister.

Although in April the Government indicated that it would continue to renew the PER only until the media decree was promulgated, at year’s end the PER had not been repealed and remained in force.

In September, as a result of the local ownership requirements of the Media Decree, Australian company News Limited was forced to sell the Fiji Times, the country’s oldest newspaper and traditionally a government critic. As a result of a change in the Times’s editorial policy following the sale, the editor and his deputy were obliged to resign.

The Media Council, a voluntary private watchdog group of media and academic figures, receives and seeks to resolve complaints of bias and malfeasance within the media. However, the continuous extension of the PER and the promulgation of the Media Decree ensured government control over media content through censors.

In November 2009 the Government revoked all broadcasting licenses, ostensibly to allow a review of signal bands. Television and radio stations were issued temporary licenses pending completion of the review, which was still in progress at year’s end.

*Internet Freedom.*—There were no government restrictions on general public access to the Internet, but evidence suggested that the Government monitored private e-mails of citizens.

The International Telecommunication Union reported that approximately 12 percent of the country’s inhabitants used the Internet in 2009. The Internet was widely available and used in and around urban centers, and the majority of the population lived in areas with Internet coverage. However, low-income persons generally could not afford individual service, and other public access was very limited. Access outside urban areas was minimal or nonexistent.

The Government monitored Internet traffic in an attempt to control antigovernment reports by anonymous bloggers. In January the Prime Minister’s Office directed the Suva City Council to suspend 20 employees accused of antigovernment blogging activities. In February the council terminated the contracts of 12 of the suspended employees for alleged antigovernment activity. Although the Government did not cite a specific legal authority for the directive, it has the power

under the Local Government Act to give directions to municipal councils under certain circumstances.

From July 1-2, police detained and questioned Richard Naidu, news editor of the online news Web site FijiLive, after the site reported that then police commissioner Esala Teleni had been suspended from his position. The Web site also was closed down for several hours. Naidu was not charged, nor was he compensated for the detention. (Teleni resigned his position in September.)

In July the Government promulgated a decree requiring all telephone users to register their personal details with telephone and Internet providers, including their name, birth date, home address, and photographic identification. The decree imposes fines of up to F\$100,000 (approximately \$50,000) on providers who continue to provide services to unregistered users and up to F\$10,000 (approximately \$5,000) on users who do not update their registration information as required under the decree. Vodafone, one of two mobile telephone providers, went beyond the decree requirements and required users to register their nationality, postal address, employment details, and both thumbprints.

*Academic Freedom and Cultural Events.*—Academic freedom was generally respected; however, government work-permit stipulations prohibit foreigners from participating in domestic politics. University of the South Pacific contract regulations effectively restrict most university employees from running for or holding public office or holding an official position with any political party.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The abrogated constitution provides for freedom of assembly, but since the 2006 coup, the Government has interfered with this right in practice. The PER allow the Government to refuse applications for permits for marches and meetings sought by antigovernment political parties and NGOs, and to regulate—including by use of such force as deemed necessary—the use of any public place by three or more persons. Under the PER police and military officers also may enter any public or private premises to break up any meeting or assembly deemed unlawful. Although some civic organizations were granted permits to assemble, permits for all political demonstrations and marches were denied. The Government also refused a permit for the Methodist Church, which historically has been associated with ethnic Fijian nationalism, to hold its annual three-day conference during the year and for its 52 divisions to hold their quarterly meetings. In December the Government notified the church that its divisions could resume holding quarterly meetings and that it would be permitted to hold an annual conference in 2011, but restricted to one day in length.

On January 17, police halted a stress management meeting of the Fiji Human Resources Institute for being held without a valid permit. On May 5, police halted the general meeting of the Van and Carrier Association on the same grounds; its executives were questioned but were released without charge.

On October 1, police detained former prime minister Mahendra Chaudhry and five associates for allegedly holding a “political meeting” without a permit in breach of the PER. On October 4, a magistrate granted them release on bail. Chaudhry applied for the recusal of the judge appointed to hear the case and for the appointment of a foreign-national judge; in November the High Court refused both requests. At year’s end Chaudhry and his associates remained free on bail and their case was scheduled to be heard in 2011.

On December 9, one day before a scheduled Human Rights Day march by the Fiji NGO Coalition for Human Rights, the Government canceled the march permit, citing concern that the demonstrators could become unruly.

*Freedom of Association.*—The abrogated constitution provided for freedom of association. Since the constitution’s abrogation, no decree provides for this right. During the year the Government did not restrict persons from joining NGOs, professional associations, or other private organizations, but some were not permitted to hold meetings with their members. In July members of the civil service were prohibited from joining a training program run by Leadership Fiji, a prominent NGO, and from giving a talk to any training program run by Leadership Fiji, ostensibly because a former judge whose appointment was terminated by the Government following the abrogation of the constitution was invited by the NGO to speak at the training program.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The abrogated constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the Government

frequently restricted or denied these rights in practice. The PER authorize the Government to prohibit, restrict, or regulate movement of persons.

The Government maintained a list of persons banned from leaving the country, including human rights activists and lawyers. Names on the list were not made public; would-be travelers discovered their inclusion when they were turned back by airport immigration authorities.

The Government continued to limit the travel of government critics and deport noncitizen critics. Former prime minister Laisenia Qarase, who was charged in 2008 with abuse of office, continued to be subject to strict bail conditions prohibiting him from traveling out of the country, on the grounds that such travel would pose a “threat to national security.” At year’s end the case remained pending.

Until September the ability of lawyer and regime critic Imrana Jalal to travel out of the country was limited after she was charged on January 1 with offenses relating to a business operated by her husband. In September the travel restrictions were lifted after a High Court judge stayed all charges against her (see section 4). Jalal subsequently left the country.

In January Fijian-born foreign citizen Padma Lal, wife of Fijian-born foreign citizen and regime critic Brij Lal, who was deported in November 2009, was refused entry into Fiji and deported.

The Government provided nominal cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it during the year.

*Protection of Refugees.*—In 2008 the Government published a notice authorizing the entry into force of refugee-related provisions of the 2003 Immigration Act. However, by year’s end the Government had not established a system for providing protection to refugees. The Government does not have an established procedure for providing protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, but no such cases were known to have arisen during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Although the abrogated constitution provides citizens the right to change their government peacefully, citizens did not have this right in practice. The country continued to be ruled by a military-dominated government following the 2006 military overthrow of the popularly elected government, and at year’s end Parliament, the 12 elected municipal councils, and the Great Council of Chiefs remained suspended. The office of the vice president, vacant since August 2009, remained unfilled.

*Elections and Political Participation.*—The most recent elections, held in 2006, were judged generally free and fair. Party politics was largely race based, although this did not limit participation in the political process. The governing Soqosoqo Duavata ni Lewenivanua (SDL) party was primarily ethnic Fijian, and the Fiji Labour Party (FLP), the second-largest party, was primarily Indo-Fijian, although both had membership across racial lines. After the elections the SDL established a multiparty cabinet with the FLP as required by the constitution. This government was removed by the RFMF under Bainimarama’s leadership during the 2006 coup.

In April 2009, when the Court of Appeal ruled that the coup and the appointment of Bainimarama’s government were unlawful, Bainimarama resigned the position of prime minister; the president reappointed him the next day after abrogating the constitution. At year’s end the PER continued in force, and the Government continued to rule by decree. Bainimarama has declared that political reforms are necessary before elections can resume and repeatedly postponed national elections. The Government had stated that elections (previously promised for 2009) would be held in 2014. In July, however, Bainimarama announced that elections could be delayed beyond 2014 because of continued opposition to his government’s reform program. He stated that persons around the country had implored him to cancel the elections.

There was one woman in the 11-member cabinet. Women played important roles in the traditional system of chiefs and some were chiefs in their own right. The Government’s suspension of the Great Council of Chiefs removed one forum where women exercised political influence.

At year’s end there were two Indo-Fijian ministers in the cabinet and no other minority ministers. Indo-Fijians, who accounted for 37 percent of the population, continued to be underrepresented at senior levels of the civil service and greatly so in the military. Indo-Fijians comprised approximately 35 percent of the civil service

overall. The “disciplined services”—the military, police, and prison services—were predominantly ethnic Fijian.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, corruption, including within the civil service, has been a significant problem for post-independence governments, and officials frequently engaged in corrupt practices with impunity.

Despite measures by the Government during the year to combat corruption within the bureaucracy, systemic corruption continued. In the absence of parliamentary oversight and other checks and balances, much government decision making was not transparent. The media published articles on the reports and conclusions of the Government-appointed Public Accounts Committee and reports of FICAC investigations on abuse of office, but the Government censored independent media reporting on some government corruption. In 2008 the auditor general announced that in the absence of a sitting Parliament, audit reports would be submitted to the cabinet and would not be made public. This practice continued during the year. The cabinet referred such reports to the Public Accounts Committee for review.

Public officials are not subject to financial disclosure laws. FICAC is the primary body responsible for combating government corruption.

In December 2009 FICAC charged Ratu Sakiusa Tuisolia, a critic of the Government and the husband of human rights lawyer Imrana Jalal, with offenses related to operation of a restaurant without a business license, normally a misdemeanor adjudicated by municipal authorities with a F\$20 (approximately \$10) fine. Jalal was charged with the same offenses on January 1. Tuisolia and Jalal maintained that businesses in Suva typically operated while waiting for license issuance, and that the FICAC charges were politically motivated. In July the High Court issued a stay order on all seven charges against Jalal; a prosecution appeal of the order was pending at year's end. On October 6, Tuisolia was tried on charges relating to alleged abuse of the company credit card of Airports Fiji, of which he was chief executive officer from 2003-06. He was acquitted on those charges. The charges relating to his business license were still pending at year's end.

The corruption case of former prime minister Qarase remained pending at year's end, and Qarase remained free under strict bail conditions.

Although the abrogated constitution instructed Parliament to enact a freedom of information law as soon as practicable, no such law has been enacted. The Government was frequently unresponsive to public requests for government information. A 2008 amendment to the FICAC decree allows FICAC to prosecute the offense of “misconduct in public office.” The amendment gives FICAC authority to prosecute civil servants who divulge confidential government information to others without authorization.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government continued to scrutinize the operations of local and international NGOs, engendering a climate of uncertainty within the NGO community. Most NGOs practiced varying degrees of self-censorship. Government officials were only cooperative and responsive to the views of NGOs that avoided criticizing the 2006 coup and the Government.

There were several NGOs that concentrated on a variety of local human rights causes, such as the Citizens' Constitutional Forum, the Fiji Women's Rights Movement, and the Fiji Women's Crisis Center.

On January 4, the military's land force commander issued a warning to NGOs and critics to cooperate with the Government. In February the military commander and prime minister warned two prominent NGO activists, Virisila Buadromo of the Fiji Women's Rights Movement and Reverend Akuila Yabaki of the Citizens Constitutional Forum, against making statements on the independence of the judiciary. The two had reported on the subject to the UN universal periodic review of the country's human rights situation.

NGOs were constrained in their operations by the February Crimes Decree, which includes in the definition of sedition criticism of the Government, and the June Media Decree, which requires all publications to be vetted by the Ministry of Information (see section 2.a.). NGOs may apply to the attorney general for exemptions to this requirement, but prominent NGOs confirmed that processing of their applications for such exemptions remained pending at year's end. Although the FHRC was reestablished by decree after the abrogation of the constitution, it was not authorized to investigate complaints against the abrogation, other actions of the Government, or the 2006 coup.

The ICRC continued to operate in the country. A number of UN organizations concerned with human rights had regional offices in the country and sought to work with the Government on various human rights issues.

The country remained suspended from the Commonwealth of Nations and the major regional organization Pacific Islands Forum (PIF), in response to Bainimarama's failure to address expectations "to return Fiji to democratic governance in an acceptable time-frame," in addition to other concerns, including human rights violations, expressed in statements by the PIF and the Commonwealth.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, sex, place of origin, ethnicity, sexual orientation, color, primary language, economic status, age, or disability. The Government generally enforced these provisions effectively, although there were problems in some areas. After the constitution's abrogation, only the 2007 Employment Relations Promulgation (ERP), which came into force in 2008, had similar provisions, but these are limited to workers and industrial relations matters.

*Women.*—Rape, domestic abuse, incest, and indecent assault were significant problems. The Crimes Decree provides for a maximum punishment of life imprisonment for rape; however, prior to the promulgation of the Crimes Decree in February, most rapes were prosecuted in the magistrates' courts, which have a sentencing limit of 10 years. There were inconsistencies in the sentences imposed for rape by different magistrates; sentences generally ranged from one to six years' imprisonment. The Domestic Violence Decree, which also came into force in February, recognizes spousal rape as a specific offense. The NGOs Fiji Women's Rights Movement and Fiji Women's Crisis Center pressed for more consistent and severe punishments for rape.

The Domestic Violence Decree created a specific domestic violence offense. Police claimed to practice a "no-drop" policy, under which they pursued investigations of domestic violence cases even if a victim later withdrew her accusation. However, women's organizations reported that police were not always consistent in their observance of this policy. Courts dismissed some cases of domestic abuse and incest or gave the perpetrators light sentences. Incest was widely believed to be under-reported. Traditional and religious practices of reconciliation between aggrieved parties in both ethnic Fijian and Indo-Fijian communities were sometimes taken into account to mitigate sentences in domestic violence cases, and in many cases offenders were released without a conviction on the condition they maintain good behavior, rather than jailed. An active women's rights movement sought to raise public awareness of domestic violence.

Four women's crisis centers funded by foreign governments operated in the country. The centers offered counseling and assistance to women in cases of domestic violence, rape, and other problems, such as lack of child support.

Sex tourism is prohibited by law but reportedly occurred, particularly in tourist centers such as Nadi and Savusavu, including cases involving children. Taxi drivers, hoteliers, bar workers, and others reportedly acted as middlemen, facilitating the commercial sexual exploitation of children.

The Human Rights Commission Act specifically prohibits sexual harassment, and criminal laws against "indecent assaults on females" prohibit offending the modesty of women and have been used to prosecute sexual harassment cases. Under the ERP sexual harassment in the workplace is a specific ground of complaint that can be filed by workers. The Ministry of Labor reported that one sexual harassment complaint filed with the Employment Relations Tribunal (ERT) under the ERP in a prior year was withdrawn during the year. Two other sexual harassment complaints were filed during the year and were pending before the ERT at year's end.

In response to various complaints in 2009 from some indigenous village provincial councils about a purported breakdown of order in villages, during the year the Ministry of Indigenous Affairs drafted a model village by-law addressing issues raised by the councils, including women's dress. The draft model by-law included a prohibition on wearing of shorts, T-shirts, and long hair by women. The ministry distributed the draft to villages around the country for further discussion. However, some of the 1,170 registered indigenous village communities used the draft as an ostensibly legal basis for enforcing a customary dress code on women, including in some villages a requirement that women and girls wear ankle-length skirts. In some villages this resulted in cases of assaults by village headmen of young girls found wearing shorts.

Couples and individuals generally have the right to decide freely the number, spacing, and timing of their children. The Government provided family planning services, and women had access to contraceptives free of charge at public hospitals

and clinics, and for a nominal charge if prescribed by a private physician. According to indicators published by the Population Research Bureau (PRB), an estimated 40 percent of married women ages 15-49 used modern contraceptive methods. Unmarried and young women generally were discouraged from undergoing tubal ligation for birth control, and public hospitals, especially in rural areas, often refused to perform the operation on unmarried women who requested it. Nurses and doctors often required the husband's consent before carrying out the operation on a married woman, although there is no legal requirement for such consent. Most women gave birth in hospitals, where skilled attendance at birth and essential prenatal, obstetric, and postpartum care were available. According to PRB indicators, skilled health personnel attended an estimated 99 percent of births. According to a UN report entitled *Trends in Maternal Mortality: 1990 to 2008*, the estimated maternal mortality ratio was 26 deaths per 100,000 live births. Women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have full rights of property ownership and inheritance rights, but in practice often were excluded from the decision-making process on disposition of communal land, which constituted more than 80 percent of all land. Many women were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. The ERP prohibits discrimination on the basis of sex. In practice, however, women generally were paid less than men for similar work. According to the Asian Development Bank, approximately 30 percent of the economically active female population was engaged in the formal economy, and a large proportion of these women worked in semisubsistence employment or were self-employed.

The Ministry for Women worked to promote women's legal rights.

*Children.*—Citizenship is derived both by birth within the country and through one's parents.

School is mandatory until age 15, but the inability of some families to pay for uniforms, school fees, and bus fares limited attendance for some children.

Corporal punishment was common both in homes and in schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended family-based structures led to an increasing incidence of child abuse and appeared to be factors that increased a child's chance of being exploited for commercial sex.

The Court of Appeal has ruled that 10 years is the minimum appropriate sentence in child rape cases; however, in such cases police often charged defendants with "defilement" rather than rape, because defilement is easier to prove in court. Defilement or unlawful carnal knowledge of a child under 13 years of age has a maximum penalty of life imprisonment, while the maximum penalty for defilement of a child between 13 and 15 years or of an intellectually impaired person is 10 years' imprisonment. Women's NGOs have complained that magistrates imposed shorter sentences, from two to eight years, in child defilement cases.

The legal age for marriage is 18, although children between 16 and 18 years of age can marry with parental consent. Some NGOs reported that child marriage was a problem, especially in rural areas, where girls often married at age 16, preventing them from completing their secondary school education. In indigenous villages girls under age 16 who became pregnant could begin to live as common-law wives with their child's father after the men presented traditional apologies to the girls' families, thereby avoiding the filing of a complaint to police by the families. The girls frequently married the fathers as soon as legally permissible, at age 16.

Child prostitution was reported among high school students and homeless and jobless youth. Commercial sexual exploitation of children continued to occur during the year. Under the Crimes Decree, commercial sexual exploitation of children is an indictable offense that must be tried in the High Court. The decree makes it an offense for any person to buy or hire a child under 18 years of age for sex, prostitution, or other unlawful purpose, punishable by imprisonment for up to 12 years. It is also an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises, but there were no prosecutions or convictions for these offenses during the year.

The minimum age for consensual sex is 16. The maximum penalty is life imprisonment in the case of a person who has sexual relations with a child under age 13, and 10 years' imprisonment in the case of a person who has sexual relations with a child between age 13 and age 15. In the latter case it is considered a sufficient defense to establish that the perpetrator had "reasonable cause" to believe the child was age 16 or older. Despite the maximum penalties provided for, magistrates have sometimes imposed sentences as low as two years' imprisonment in such cases.

Child pornography is illegal under the Juveniles Act. The maximum penalty for violators is 14 years' imprisonment and/or a maximum fine of F\$25,000 (approx-

mately \$12,500) for a first offense and life imprisonment and/or a fine of up to F\$50,000 (approximately \$25,000) for a repeat offense, and the confiscation of any equipment used in the commission of the offense. A child welfare decree promulgated in August requires mandatory reporting to police by teachers and health and social welfare workers of any incident of child abuse.

Increasing poverty led to more children working as casual laborers, often with no safeguards against abuse or injury.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—There was no known Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*Persons With Disabilities.*—Under the constitution abrogated in 2009, all persons are considered equal under the law, and discrimination against persons with disabilities in employment, education, provision of housing and land, or provision of other state services is illegal. Since the constitution's abrogation, no new decree has addressed specifically the rights of persons with disabilities; however, existing statutes provide for the right of access to places and all modes of transport generally open to the public. Public health regulations provide penalties for noncompliance; however, there was very little enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting them.

Building regulations require new public buildings to be accessible to persons with disabilities, but only a few existing buildings met this requirement. Under the Health and Safety at Work Act, all new office spaces must be accessible to persons with disabilities. There were only a small number of disabled-accessible vehicles in the country. The Fiji Disabled People's Association, an NGO, reported that most persons with disabilities were unemployed due to lack of sufficient education and training and negative attitudes of employers. There were no programs to improve access to information and communications for persons with disabilities, and persons with disabilities, in particular persons with hearing or vision impairments, had difficulty accessing public information. There were a number of community organizations to assist those with disabilities, particularly children.

Most persons with mental and intellectual disabilities were separated from society and typically were supported at home by their families. The September Mental Health Decree stipulates that treatment should be provided for persons with mental and intellectual disabilities in the community, public health, and general health systems. Institutionalization of persons with severe mental disabilities was in a single underfunded public facility in Suva. There were a number of special schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Opportunities for a secondary school education for those with disabilities were very limited.

The Fiji National Council for Disabled Persons, a government-funded statutory body, worked to protect the rights of persons with disabilities. Several NGOs also promoted attention to the needs of persons with various disabilities.

*National/Racial/Ethnic Minorities.*—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. Indigenous Fijians make up 57 percent of the population, Indo-Fijians comprise 37 percent, and the remaining 6 percent is composed of Europeans, Chinese, and Rotuman and other Pacific Islander communities. The abrogated constitution notes that "the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population," but a nonjusticiable compact in the constitution also cites the "paramountcy" of Fijian interests as a guiding principle. The compact also provides for affirmative action and "social justice" programs to "secure effective equality" for ethnic Fijians and Rotumans, "as well as for other communities." The compact chiefly benefited the indigenous Fijian majority. Indigenous Fijians dominated the civil service, including senior positions.

The Government publicly stated its opposition to such policies, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another; however, as of year's end, most remained in place. The Government's reform priorities, including reform of discriminatory laws and practices, were part of a political dialogue process with political parties that stalled and was not reconvened after the abrogation of the constitution.

In an effort to address the sensitive question of ethnic and national identity, in April the Government decreed that the country's citizens would henceforth be

known as “Fijians,” a term that previously was understood to refer only to the ethnic indigenous population. Ethnic Fiji Islanders would become known as “I Taukei” (literally, “owners” in the Fijian language). The decree requires that anywhere the word “indigenous” appears in the law and in government publications and communications, it is to be replaced by the term “I Taukei.” Some commentators, writing in blogs or overseas publications, observed that the lack of prior consultations with the indigenous community about the change and its promulgation by decree could complicate its implementation, given the historical opposition by indigenous Fijians to making “Fijian” the common name for all citizens. (The 1997 constitution used the term “Fiji Islander” to refer to all citizens.)

Prior to the 2006 coup, most postindependence governments pursued a policy of political predominance for ethnic Fijians. Land tenure remained a highly sensitive and politicized issue. Ethnic Fijians communally held approximately 87 percent of all land, the Government held approximately 4 percent, and the remainder was freehold land, which private individuals or companies may hold.

Ethnic Fijians’ traditional beliefs, cultural values, and self-identity are closely linked to the land. Most cash-crop farmers were Indo-Fijians, the majority of whom are descendants of indentured laborers who came to the country during the British colonial era. Virtually all Indo-Fijian farmers were obliged to lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their very limited ability to own land and their consequent dependency on leased land from indigenous Fijians constituted de facto discrimination against them. A pattern of refusals by ethnic Fijian landowners to renew expiring leases continued to result in evictions of Indo-Fijians from their farms and their displacement to squatter settlements. Many indigenous Fijian landowners in turn believed that the rental formulas prescribed in the national land tenure legislation discriminated against them as the resource owners. This situation contributed significantly to communal tensions.

On June 30, the Government promulgated the Land Use Decree to improve access to land. The decree establishes a “land bank” in the Ministry of Lands for the purpose of leasing land from indigenous landowning units through the Native Land Trust Board, which has the legal ownership of indigenous lands, and subleasing the land to individual tenants for lease periods of up to 99 years. The stated aim of the decree was to provide both equitable returns to landowners and greater security of land tenure for tenants compared to the previous legal framework contained in the Agricultural Landlord and Tenant Act (ALTA), under which leases could only run for 30 years. ALTA leases began expiring in 1997, leading to the eviction of many Indo-Fijian sugar cane farmers.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The abrogated constitution prohibits discrimination on the basis of sexual orientation. The preexisting Penal Code criminalized homosexual acts between males, but the judiciary held these provisions to be unconstitutional. The new Crimes Decree that came into force in February does not criminalize homosexual acts between consenting adults, and for the first time recognizes male-on-male rape as a crime. The ERP prohibits discrimination in employment based on sexual orientation.

There was some societal discrimination against persons based on sexual orientation, although there was no systemic discrimination. There were no known cases of violence based on sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There was some societal discrimination against persons with HIV/AIDS, although it was not systemic. There were no known cases of violence targeting persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law protect the rights of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, but the authorities did not always respect all of these rights in practice. After the constitution was abrogated, and freedom of expression and assembly subsequently were restricted under the PER, unions reported considerable government interference with, and denial of, their right to organize.

An estimated 31 percent of the wage-earning work force was unionized. The majority of unionized workers were employed in traditional key sectors of the economy, including the sugar industry, tourism, manufacturing, and the public sector. While some unions were ethnically based, most were not, and both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

The ERP allows restrictions on the right of association if necessary in the public interest or to protect national security, and police, military, and prison personnel are prohibited from forming or joining a union.

All unions must register with the Government, which has discretionary power to refuse to register any union with an "undesirable" name, as well as to cancel registration of existing unions in cases provided for by law. The ERP gives unions the right to appeal to the ERT against an adverse decision by the trade union registrar. Major trade unions reported instances of the Government using the ERT in a biased fashion to shut down negotiations and appeals.

In February the Fiji Sugar Corporation ceased the so-called check-off facility (direct deduction of union dues) for two registered unions: the national farmers' union (Kisan Sangh) and the Fiji Cane Growers' Association. As of year's end, this check-off facility had not been reinstated.

On February 17, military personnel detained Attar Singh, a prominent unionist and official of the National Federation Party (NFP). He was questioned and instructed to stop holding informal meetings at the NFP office.

In October soldiers were deployed at three sugar mills; the Government cited suspected union sabotage, claimed by the Government to have affected the efficiency of the mills.

The law provides for the limited right to strike, except that police, military, and prison personnel may not strike. Unions can conduct secret strike ballots, but must give the registrar 21 days' notice. More than 50 percent of all paid-up union members—not only paid-up members who actually cast ballots in the election—must vote in favor of a strike in order for the strike to be legal; the International Trade Union Confederation criticized this provision as too restrictive. The Ministry of Labor also must be notified and receive a list of all striking employees and the starting date and location of the strike. This requirement is intended to give organizers, unions, employers, and the ministry time to resolve the dispute prior to a strike. To carry out a legal strike, organizers of strikes in certain "essential services"—including emergency, health, fire, sanitary, electrical, water, and meteorological services; telecommunications; air traffic control; and fuel supply and distribution—must give an employer an additional 28 days' notice.

The ERP also permits the minister of labor to declare a strike unlawful and refer the dispute to the ERT; in these circumstances workers and strike leaders can face criminal charges if they persist in strike action after the referral.

In January unionist Pramod Rae was visited at home by military officers and warned against organizing a strike during negotiations with the Bank of Baroda. There were no strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively. However, wage negotiations generally were conducted at the level of individual companies rather than industry wide.

Under the ERP any trade union with six or more members may enter into collective bargaining with an employer. The ERP allows individual employees, including nonunionized workers, as well as unions to bring a dispute with employers before the permanent secretary for labor for mediation. Individuals, employers, and unions on behalf of their members may submit employment disputes and grievances alleging discrimination, unfair dismissal, sexual harassment, or certain other unfair labor practices to the Ministry of Labor. If mediation fails, the authorities may refer the dispute to the ERT; the ERT's decision can be appealed to the Employment Court (a division of the High Court) and from there to the Court of Appeal.

Since the constitution was abrogated, unions reported that the Government used the mediation process to punish unions deemed insufficiently cooperative with government policies, interrupting the collective bargaining process, interfering with mediation, and denying appeals for unrelated political reasons.

While not promoted by the ERP, individual contracts were common. Employers tended to offer advantageous packages to new employees, particularly skilled labor, to promote individual contracts, which according to labor groups reduced the possibilities for collective bargaining and weakened unions. Under the former Compulsory Recognition Act, only unions with 30 percent workforce membership could negotiate with an employer. However, the ERP allows any six individual employees to form a union and start negotiating with an employer—another provision seen by existing unions as weakening worker unity and hence bargaining power.

Under the ERP it is an offense for an employer to victimize any worker or make it a condition of employment for a worker not to belong to a union, but union organizers were occasionally vulnerable to dismissal or to other interference by employers, particularly when operating on company premises.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. Labor groups reported continuing difficulties organizing workers in the

EPZs, however, due to fear of employer reprisals. With the decline of the garment industry in the country, the number of workers employed in the EPZs also declined significantly.

*c. Prohibition of Forced or Compulsory Labor.*—The ERP prohibits forced or compulsory labor, but there were reports that such practices occurred. The Labor Inspectorate is responsible for enforcing the law, but did not have sufficient inspectors for full enforcement.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Enforcement of existing child labor regulations was inadequate and failed to protect children fully from workplace exploitation. Under the law children under age 12 may not be employed except in a family-owned business or agricultural enterprise; any such employment must not interfere with school attendance and is to be of limited duration. Although the law provides that education is compulsory up to age 15, children between ages 12 and 15 may be employed on a daily wage basis in nonindustrial "light" work not involving machinery, provided they return to their parents or guardian every night. Persons between ages 15 and 17 may be employed in certain occupations not involving heavy machinery, hazardous materials, mines, or heavy physical labor; however, they must be given specified hours and rest breaks.

The Ministry of Labor deployed inspectors nationwide to enforce compliance with labor laws, including those covering child labor. However, there was no comprehensive government policy to eliminate the worst forms of child labor. During the year migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and prostitutes. Children as young as age 11 worked as full-time laborers in the sugar cane industry. Children also worked in the production of other agricultural products, including coconuts and root vegetables.

*e. Acceptable Conditions of Work.*—There was no single, national minimum wage, although the Wages Councils, comprising representatives of both workers and employers, set minimum wages for certain sectors. On July 1, minimum wage increases went into effect in nine industrial sectors; however, minimum wage levels did not provide a decent standard of living for a worker and family. Entry-level wages in unregulated sectors, especially service industries, provided a sparse standard of living for a worker and family. The Labor Ministry enforced minimum wages through its Labor Inspectorate; however, the inspectorate did not have sufficient inspectors to fully enforce the law. The ERT and the Employment Court adjudicate cases of employers charged by the Labor Inspectorate with violating minimum wage orders.

There is no single national limitation on maximum working hours for adults; however, there are restrictions and overtime provisions in certain sectors. Workers in some industries, notably transportation and shipping, worked excessive hours.

There are workplace safety laws and regulations, and a worker's compensation act. The Occupational Health and Safety Inspectorate in the Ministry of Labor monitors workplaces and equipment and investigates complaints from workers. Safety standards apply equally to citizens and foreign workers; however, government enforcement suffered from a lack of trained personnel and delays in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and not all were monitored by the Ministry of Labor for compliance. The law accords employees the right to remove themselves from a hazardous worksite without jeopardizing their employment, but most feared the loss of their jobs if they did so. Although mines are excluded from the Health and Safety at Work Act, the Mining Act empowers the director of mines and his inspectors to enter and inspect all mines with a view to the health, safety and welfare of the employees.

---

## INDONESIA

Indonesia is a multiparty democracy with a population of approximately 237 million. In July 2009 Susilo Bambang Yudhoyono was reelected president in free and fair elections. Domestic and international observers judged the April 2009 legislative elections generally free and fair as well. Security forces reported to civilian authorities, although the fact the Indonesian Armed Forces (TNI) continued to be partly self-financed had the potential to weaken this control.

Human rights problems during the year included: occasional incidents, primarily in Papua and West Papua Provinces, of arbitrary and unlawful killings by security

forces; vigilantism; sometimes harsh prison conditions; impunity for some officials; official corruption, including in the judicial system; some narrow and specific limitations on freedom of expression; societal abuse against religious groups and interference with freedom of religion sometimes with the complicity of local officials; trafficking in persons; child labor; and failure to enforce labor standards and worker rights.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security force personnel killed a number of alleged criminals and terrorists in the course of apprehending them.

On August 30, Kasmir Timumun died in police custody in Buol, Central Sulawesi, following his arrest for illegally racing a motorcycle. Police reported that Timumun committed suicide, but credible nongovernmental organization (NGO) sources reported that his body bore evidence of abuse. On August 31, a crowd of as many as 3,000 persons attacked the police station with rocks and Molotov cocktails. Police killed eight of the protesters. Nineteen police were injured during the riot. At the end of the year, police had named three officers as suspects in the death of Timumun. Results of an autopsy of Timumun were not publicly available at the end of the year.

The police continued vigorous action against accused terrorists. As of September 28, security forces shot and killed at least 17 terrorist suspects in exchanges of gunfire. Approximately 120 suspects were detained. Eleven police were shot and killed and 12 were injured in these exchanges.

On September 22, 12 heavily armed men on motorcycles attacked a subdistrict police station in Hamparan Perak, North Sumatra, and killed three police officers. The attack was believed to be retaliation for police antiterrorist actions.

Violence affected the provinces of Papua and West Papua during the year. Due to the remoteness of the area it was difficult to confirm reports villages were burned and scores of civilians killed. Much of this violence was connected to the Free Papua Movement (OPM) and security force operations against OPM. For example, on February 15, unidentified gunmen shot and killed Police Mobile Brigade (Brimob) member Sahrul Mahulau. On April 13, gunmen reportedly affiliated with OPM killed three construction workers in the Mewulok District of Puncak Jaya.

The confusion around events in the provinces of Papua and West Papua was illustrated in the apparent killing in Puncak Jaya Regency of Pastor Kindeman Gire. In October a commissioner of the National Human Rights Commission (Komnas HAM) said that the commission was opening an investigation into Kindeman's death. Other sources have alleged Kindeman was shot and killed in March. At year's end it was agreed that Kindeman was killed, but the manner and perpetrators were uncertain.

On May 17, security forces shot and killed OPM leader Werius Telenggen and OPM member Yarton Enumbi in Yambi village, Puncak Jaya, Papua.

A group of gunmen in Puncak Jaya shot and killed Brimob member Agus Suhendra on June 14. On August 4, unidentified gunmen shot and killed Atril Wahidin, a former driver for the head of Mewulok District.

On September 14, members of Brimob in Manokwari, West Papua, shot and killed Naftali Kwan and Septinus Kwan during a riot sparked by a traffic accident. On September 24, 11 Brimob officers were sanctioned in connection with the shooting. Four received 21 days in custody, the other seven received 14 days.

On November 28, five persons shot and killed one civilian and wounded six others in Nafri, Jayapura District. All of the victims were non-Papuan Indonesians.

In addition to killings by security forces and OPM, there were a number of violent incidents, including some killings by unknown parties in Papua and West Papua.

On April 14, three members of the Jakarta Public Order Agency were killed in rioting near the Jakarta port, Tanjung Priok. The mob reportedly believed it was protecting the tomb of an 18th century religious leader.

In April 2009 the North Jakarta police beat and shot Bayu Putra Perdana while he was in custody. According to a hospital autopsy, Bayu died as a result of torture. In response to Bayu's death, an ethics and administrative police committee sentenced two police personnel to 14 days detention, demotion, and an official reprimand.

In August 2009 members of Brimob killed tribal leader and former political prisoner Yawan Wayeni at his house in Mantembu village, Yapen Island, Papua. In May video footage of Wayeni's death appeared on the Internet. The video showed

the police taunting and providing no assistance to Wayeni as he was dying, but does not show events leading up to his death. Police sources claimed Wayeni was armed with a home-made weapon, while Papuan activists claimed that he was unarmed.

No further information was available regarding the 2009 deaths of Mika Boma, Abet Nego Keiya, Melkia Agape, Fauzi Bin Syarifuddin, or Kelly Kwalik.

In 2008 the South Jakarta District Court acquitted retired army general Muchdi Purwoprandjono on charges of planning the 2004 murder of human rights activist Munir Said Thalib. In July 2009 the Supreme Court upheld the acquittal and remanded the case to the district court. In 2009 the Attorney General's Office (AGO) stated it intended to file a motion requesting the Supreme Court to "review" the ruling but had not done so by year's end. Under the law the AGO must present new evidence or identify judicial inconsistencies in the original ruling for the review to be granted. The case was also under review by the Judicial Commission, a judicial oversight body.

In January 2009 an appeals court overturned a lower-court acquittal of Rohainil Aini as an accomplice in Munir's murder and sentenced her to one year in prison. However, at year's end Aini had not started serving her sentence.

*b. Disappearance.*—The Government reported little progress in accounting for persons who disappeared in previous years or in prosecuting those responsible for such disappearances. The criminal code does not specifically criminalize disappearance.

In September 2009 the House of Representatives (DPR) approved the formation of an ad hoc court to pursue investigations of and possible prosecutions for the 1998 abductions of prodemocracy activists. By year's end the Government had not established this ad hoc court.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution states that every person shall have the right to be free from torture, inhuman, and degrading treatment. The law criminalizes the use of violence or force by officials to elicit a confession, punishable by up to four years in prison, but the criminal code does not specifically criminalize torture. In previous years law enforcement officials widely ignored and were rarely tried under this statute. The Government made some efforts to hold members of the security forces responsible for acts of torture. In 2007 the UN special rapporteur on torture reported evidence of torture in many police detention facilities in Java. The special rapporteur reported that torture was common in certain jails and used to obtain confessions, punish suspects, and seek information that incriminated others in criminal activity. Torture typically occurred soon after detention. There were reports detainees were beaten with fists, sticks, cables, iron bars, and hammers. Some detainees reportedly were shot in the legs at close range, subjected to electric shock, burned, or had heavy implements placed on their feet.

From January to September, Komnas HAM received 708 complaints of human rights violations against the National Police.

Abuse of detainees in Papua came under heightened scrutiny when, on October 16, a graphic video was posted on YouTube that showed several TNI personnel threatening one detainee, Telangga Gire, with a knife to the throat and applying a smoldering stick to the genitals of another detainee, Tunaliwor Kiwo. This was believed to have taken place on May 30 during a military operation in the Puncak Jaya region of Papua. Subsequently, this video was conflated with another incident in March, also captured on video, in which four TNI personnel beat and kicked several Papuan detainees. The four TNI personnel implicated in this latter incident, Second Lieutenant Cosmos, Private First Class Sahminan Lubis, Private Joko Sulistiono, and Private Dwi Purwanto, were court-martialed and sentenced to five to seven months' imprisonment for disobeying orders, exceeding orders, and encouraging others to do so. At year's end an investigation into the May 30 video apparently was underway.

Human rights activists and relatives of the detainees reported at least some of the 22 Republic of South Maluku (RMS) activists detained in early August were beaten (see section 2.a.).

On September 23, three military personnel from the 742nd Infantry Battalion/Satya Wira Yudha-Mataram allegedly assaulted a priest, Beatus Ninu, in Kupang Regency, after the priest asked the soldiers to quiet down. After an investigation, the case was passed to a military court for prosecution.

In December 2009 four Depok police officers detained J.J. Rizal for possible drug use and accused him of being a pickpocket. The officers abused Rizal, who suffered a cut lip, two contusions on his head, a bruised jaw, and ringing in the ears. On March 3, the officers were convicted and each sentenced to three months' imprisonment.

In December 2009 a civilian, accompanied by police officers from the Criminal Investigations Division of the Maluku Regional Police, reportedly beat Aan (one name only) while interrogating him in Jakarta. No information was available regarding action by the police Internal Disciplinary Unit.

There were numerous reports of alleged police abuse of prisoners throughout the year.

No further information was available regarding the cases of Carmadi, Monika Zonggonau, or Kiten Tabuni.

Between January and October in Aceh, 39 persons were caned publicly for violating Sharia laws dealing with gambling, adultery, consuming alcohol, and for selling food during the fasting month of Ramadan. Unlike in previous years, there were no reported cases of caning for being alone with persons of the opposite sex.

On July 15, the Langsa District Court in East Aceh District sentenced Muhammad Nazir and Feri Agus, Sharia Police members, to eight years in prison for the rape and torture of a 20-year-old female student while she was in custody.

On October 1, authorities in Jantho, Aceh Besar, publicly caned Murni binti Amris and Rukiah binti Abdullah for selling cooked rice during the day during the month of Ramadan.

On August 27, Muchtar bin Ibrahim was indicted under the antiterror law for the November 2009 shooting of a German Red Cross official in Aceh.

Mobs carried out vigilante justice, but reliable statistics on such actions were not available. There were instances in which police failed to respond to such violence, which was often triggered by thefts or perceived thefts.

*Prison and Detention Center Conditions.*—Conditions at the country's 642 prisons and detention centers were sometimes harsh. Overcrowding was widespread. In Jakarta, occupancy frequently was two to three times more than recommended capacity. According to the Government, the Pondok Bambu Detention Facility in Jakarta, designed for 500 prisoners, held 1,172. The facility has two types of cells, small and large. A small cell is approximately nine square yards and designed for one to two prisoners. According to NGOs, three to five prisoners were assigned to small cells. Authorities routinely assigned 20 to 30 prisoners to large cells designed to hold a maximum of 10 prisoners.

According to a team of international visitors that visited a number of prisons in August, all facilities had abundant outdoor and multi-use space that appeared to be underused. Prisoners were provided with food, potable water, and basic medical care. Conditions of confinement and treatment of prisoners in the facilities visited appeared to comply with the Standard Minimum Rules for the Treatment of Prisoners.

NGOs noted authorities sometimes did not provide prisoners adequate medical care. According to Ministry of Justice and Human Rights officials, the medical budget for some prisons is as low as 14,500 rupiah (\$1.65) per prisoner. Filep Karma, a prisoner in Abepura prison, received needed medical care in Jakarta on July 19, after waiting since August 2009. Advocates for Ferdinand Pakage, another prisoner in Papua, continued to raise funds so that he could receive needed eye treatment. Yusuf Sipakoly, a prisoner associated with the RMS separatist movement, died in custody on September 14, in Ambon, Maluku. Sipakoly reportedly did not receive sufficient care for a kidney condition.

Guards regularly extorted money from and mistreated inmates. There were widespread reports the Government did not supply sufficient food to inmates, and family members often brought food to supplement their relatives' diets. Family members reported prison officials often sought bribes to allow relatives to visit inmates. Officials held unruly detainees in solitary confinement for up to six days on a rice-and-water diet. According to government figures, 842 prisoners died during the year, compared with 778 in 2009.

In November 2009 detained Papuan activist Buchtar Tabuni was beaten at Abepura Class II Penitentiary, sparking riots involving protesters both inside and outside the prison the next day. The authorities implicated and detained three TNI personnel and a police officer for allegedly beating Buchtar. In a separate case, Buchtar was moved from Abepura Penitentiary to a police detention center on December 3 and charged with fomenting a prison riot.

According to The International Centre for Prison Studies, prison capacity was designed for 76,550 inmates; however, there were more than 140,000 prisoners, including approximately 2,500 juveniles and 11,000 women. There are six women-only prisons in the country, including five in Java and one in North Sumatra. According to the Directorate General for Corrections, as of March there were 2,609 juvenile detainees and 2,589 juvenile prisoners.

Lack of prison capacity, limited number of personnel, and poor prison conditions were found throughout the East Java prison system. Total provincial prison capacity

was designed for 10,000 inmates; there were more than 16,000 inmates. In Medaeng Prison in Surabaya, there were more than 1,600 inmates, although the prison's designed capacity is for 500 inmates.

By law children convicted of serious crimes should serve their sentences in juvenile prisons. However, according to a 2007 statement by the UN special rapporteur on torture, children were incarcerated with adults in both pretrial detention centers and in prisons. By law prisons held those convicted by courts, while detention centers held those awaiting trial; in practice pretrial detainees at times were held with convicted prisoners.

Prisoners were permitted religious observance. Prisoners and detainees had reasonable access to visitors, although this access reportedly was limited in some cases. The Government actively monitors prison and detention center conditions.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegation of inhumane conditions.

Since February 2009 the Government has denied the International Committee of the Red Cross (ICRC) access to monitor prison conditions and treatment of prisoners nationwide. In addition, the Government requested the ICRC to close field offices in Aceh and Papua Provinces. Negotiations continued throughout the year to restore ICRC access to Papua.

The national ombudsman can serve on behalf of prisoners and detainees on a variety of issues, including monitoring conditions and treatment of prisoners; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. In the past, the ombudsman has investigated prison issues and communicated his findings to the minister of law and human rights and the Supreme Court. The Ombudsman's Office and the Directorate General for Correctional Facilities have signed a Memorandum of Understanding on Supervision of Public Service for detainees and prisoners.

*d. Arbitrary Arrest or Detention.*—The law contains provisions that protect against arbitrary arrest and detention but lacks adequate enforcement mechanisms, and some authorities violated these provisions.

*Role of the Police and Security Apparatus.*—The president appoints the national police chief, subject to confirmation by the DPR. The police chief reports to the president but is not a full member of the cabinet. The Indonesian National Police (INP) has 374,526 personnel deployed in 31 regional commands in 33 provinces. The police maintain a centralized hierarchy; local police units formally report to the national headquarters. The military is responsible for external defense but also has a residual obligation to support the police with its domestic security responsibilities. On July 16, a presidential decree formally established a new Counterterrorism Agency (BNPT). The BNPT is to coordinate the Government's counterterrorism policy and activities. In Aceh the Sharia Police, a provincial body, is responsible for enforcing Sharia.

The Internal Affairs Division and the National Police Commission within the INP investigates complaints against individual police officers. Additionally, Komnas HAM and NGOs conducted external investigations with the knowledge and cooperation of the police. During the year, 682 officers were charged criminally and 5,437 received disciplinary infractions.

In January 2009 the Ministry of Law and Human Rights approved the Use of Force Police Action Policy, which among other things requires that whenever force is used or whenever a citizen or police officer is injured as a result of use of force a Use of Force Resistance Control Form must be completed. Implementation of this policy and training continued throughout the year.

From January to September, Komnas HAM received 708 complaints of human rights violations against the National Police. In December Komnas HAM announced at a press conference that during the year there were 30 cases of abuse committed during interrogations.

In June 2009 the INP implemented regulations that standardized human rights regulations in the normal course of police duties. However, impunity and corruption remained problems in some provinces.

*Arrest Procedures and Treatment While in Detention.*—The law provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest. Exceptions are allowed if, for example, a suspect is caught in the act of committing a crime. The law allows investigators to issue warrants; however, at times authorities made arrests without warrants. A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained; however, defendants rarely won pre-

trial hearings and almost never received compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention.

The law limits periods of pretrial detention. Police are permitted an initial 20-day detention, which can be extended to 60 days by the prosecutors while the investigation is being completed; prosecutors may detain a suspect for a further 30 days during the prosecution phase and may seek a 20-day extension from the courts. The district and high courts may detain a defendant up to 90 days during trial or appeal, while the Supreme Court may detain a defendant 110 days while considering an appeal. Additionally, the court may extend detention periods up to another 60 days at each level if a defendant faces a possible prison sentence of nine years or longer or if the individual is certified to be mentally disturbed. During the year authorities generally respected these limits in practice. The antiterrorism law allows investigators to detain for up to four months before charges must be filed any person who, based on adequate preliminary evidence, is strongly suspected of committing or planning to commit any act of terrorism.

During his 2007 visit, the UN special rapporteur on torture found that in many instances the authorities did not grant bail, frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations. Court officials sometimes accepted bribes in exchange for granting bail.

By law suspects or defendants have the right to legal counsel of their choice at every stage of an investigation. Court officials will provide free legal counsel to persons charged with offenses that carry a death penalty or imprisonment of 15 years or more, or to destitute defendants facing charges that carry a penalty of five years or more. Suspects have the right to bail and to be notified of the charges against them.

*e. Denial of Fair Public Trial.*—The law provides for judicial independence; however, in practice the judiciary remained susceptible to influence from outside parties, including business interests, politicians, and the security forces. Low salaries continued to encourage acceptance of bribes, and judges were subject to pressure from government authorities, which appeared to influence the outcome of cases.

Widespread corruption throughout the legal system continued (see section 4), which specialized task forces in the AGO effectively prosecuted.

During the year hundreds of low-level and sometimes mid-level soldiers were tried in military courts, including for offenses that involved civilians or occurred when soldiers were not on duty. If a soldier was suspected of committing a crime, military police investigated and then passed their findings to military prosecutors, who decided whether to prepare a case. Under the law, military prosecutors are accountable to the Supreme Court; however, military prosecutors were responsible to the TNI for the application of laws.

A three-person panel of military judges heard trials, while the High Military Court, the Primary Military Court, and the Supreme Court heard appeals. Some civilians criticized the short length of prison sentences imposed by military courts.

NGO sources stated some military court proceedings all the way to the Supreme Court were not public; however, the November court-martial of four soldiers for beating a Papuan detainee was public (see section 1.c.).

Four district courts located in Surabaya, Makassar, Jakarta, and Medan are authorized to adjudicate cases of gross human rights violations. At year's end only the Makassar and Jakarta courts had adjudicated such cases. The law provides for each court to have five members, including three noncareer human rights judges, who are appointed to five-year terms. Verdicts can be appealed to the standing appellate court and the Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights.

Under the Sharia court system in Aceh, 19 district religious courts and one court of appeals heard cases. The courts heard only cases involving Muslims and used decrees formulated by the local government rather than the penal code. Critics argued that Sharia regulations were procedurally ambiguous. For example, defendants had a right to legal aid, but this right was inconsistently implemented. Although Sharia cases were supposed to be tried in closed hearings, during the year there were numerous problems with trial proceedings going forward in open court.

*Trial Procedures.*—The law presumes defendants are innocent until proven guilty. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases sworn affidavits may be introduced. However, the courts allowed forced confessions and limited the presentation

of defense evidence. Defendants have the right to avoid self-incrimination. In each of the country's 804 courts, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and imposing punishment. Both the defense and prosecution can appeal.

The law gives defendants the right to an attorney from the time of arrest and at every stage of examination and requires that defendants in cases involving capital punishment or a prison sentence of 15 years or more be represented by counsel. In cases involving potential sentences of five years or more, the law requires an attorney be appointed if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, and NGO lawyer associations provided free legal representation to indigent defendants. The law extends these rights to all citizens. In some cases procedural protections, including those against forced confessions, were inadequate to ensure a fair trial. With the noted exceptions of Sharia and military trials, trials are public.

*Political Prisoners and Detainees.*—In early August the authorities arrested a number of RMS activists in Ambon for allegedly planning to fly banned RMS flags during an August 3 visit by President Yudhoyono. Among those arrested were Benny Sinay, Izak Sapulete, Andy Marunaya, Edwin Muranay, Ongen Krikof, Marven Bremer, Steven Siahaya, Ony Siahaya, and Jacob Sinay. The arrests apparently were meant to forestall a repetition of the 2007 incident when 22 traditional war (cakalele) dancers, including Johan Teterisa, displayed a banned separatist flag during President Yudhono's visit to Ambon. The 22 were serving sentences—ranging from seven to 20 years—in penitentiaries in Java and Ambon. On appeal, the court reduced Teterisa's sentence from life to 15 years.

A number of Papuan independence activists, including Filep Karma, were in detention for raising a banned separatist flag. In July Karma received medical treatment at a Jakarta hospital and was later returned to Abepura prison in Papua. Another activist imprisoned for a flag raising, Yusak Pakage, received a pardon on July 8.

In November 2009 Samuel Yaru and Luther Wrait raised a banned separatist flag in front of the Papua People's Council. On August 12, they were sentenced to one year in prison, less time already served.

According to international NGOs Human Rights Watch and Amnesty International, there were more than 83 persons in prisons throughout the country for flag raising or other nonviolent political offenses.

*Civil Judicial Procedures and Remedies.*—The civil court system can be used to seek damages for victims of human rights violations; however, corruption and political influence limited victims' access to this remedy.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. The law also provides for searches without warrants when circumstances are "urgent and compelling."

Security officials occasionally broke into homes and offices. Authorities occasionally conducted warrantless surveillance on individuals and their residences and monitored telephone calls.

In some parts of the country, particularly in Kalimantan and Papua, residents believed government-sponsored transmigration programs, which move households from more densely populated areas to less-populated regions, interfered with their traditional ways of life, land usage, and economic opportunities. Although the number of new persons in transmigration was significantly less than in previous years, the Government continued to support financially approximately 8,800 households moved in 2009 from overpopulated areas to isolated and less-developed areas in 26 provinces.

The Government used its authority, and at times intimidation, to expropriate land for development projects, often without fair compensation. In other cases state-owned companies were accused of endangering resources upon which citizens' livelihood depended. A presidential decree on land acquisition for public use allows the Government to acquire land for private development projects even if landowners have not agreed on the amount of compensation. A number of NGOs argued the decree served the interests of wealthy developers at the expense of the poor.

During the year security forces allegedly used excessive force while evicting individuals involved in land disputes. During the year evictions of squatters living on government land and of street vendors continued to decrease. Jakarta Legal Aid (LBH Jakarta) reported that during the year there were 55 cases reported related to land-rights violations in Jakarta, including evictions and land disputes. According to city officials, the Jakarta administration carried out evictions during the year, forcing persons out of their homes.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and freedom of the press; however, the Government at times restricted these rights in practice. Politicians and powerful businessmen filed criminal or civil complaints against journalists whose articles they found insulting or offensive; some journalists faced threats of violence. Nonetheless, a vigorous, independent media operated in the country and expressed a wide variety of views, generally without restriction. In 2007 the Constitutional Court annulled or ruled unconstitutional various provisions of the criminal code that provided special protections to the president, the vice president, and the Government.

On April 19, the Constitutional Court rejected a motion to strike down the 1965 Blasphemy Law. Under the law, “spreading religious hatred, heresy and blasphemy” is punishable by up to five years in prison.

On October 5, the Supreme Court restored the broadcast license of Chinese-language, Falun Gong-affiliated Radio Era Baru, and the station resumed broadcasting. It was forced to stop broadcasting following a court decision in March and had been battling the Government over its license since 2007.

The Indonesian Press Legal Aid (LBH Pers) reported that during the year, there were at least 37 physical and 29 nonphysical cases of media intimidation.

During the year a number of journalists died under suspicious circumstances. On July 30, police in Merauke, Papua, found the body of freelance journalist Ardiansyah Matra’is. Matra’is reportedly received threatening messages in the preceding days from unknown individuals. On August 21, television reporter Ridwan Salamun was stabbed and killed while filming a fight between two villages in Southeast Maluku. The International Federation of Journalists claimed local police knew who killed Salamun but made no effort to arrest the perpetrators. The body of Alfrets Mirulewan, chief editor of the *Pelangi Weekly*, was found on Kisar, Maluku, on December 17, sparking widespread condemnation. Photographs of Mirulewan allegedly show bruises on his face and scratch wounds on his knees. NGO sources reported Mirulewan was investigating the illegal sale of gasoline on Kisar and the possible involvement of police officers. At year’s end authorities were still investigating, and results of an autopsy were not publicly available.

On February 15, the Bali State Court sentenced Nyoman Susrama, Komang Gede, and Ida Bagus Narbawa to a life sentence, 20 years in jail, and five years in jail, respectively, for their involvement in the February 2009 murder of Radar Bali journalist Anak Agung Prabangsa.

Reporters also faced violence and harassment during the year. On May 19, Ahmadi, a journalist with *Harian Aceh*, wrote a news story on a logging business run by the local Alapan Military Sub-District Command. Although officials from the district command requested he not publish information on the business, *Harian Aceh* published the article on May 21. That same day, Kardiar, a military officer from the Simeleu Military District Command, assaulted Ahmadi. At year’s end no charges had been filed.

On July 6, two unknown individuals on motorcycles attempted to firebomb the offices of the *Tempo* weekly magazine. No injuries were reported. The attack came one week after *Tempo* had run a feature on suspiciously large police bank accounts. *Tempo* also faced a lawsuit from the police.

On July 13, police beat and kicked three journalists reporting on police brutality in handling demonstrations in Dobo City of Aru Island Regency in Southeast Maluku. Police also took the journalists’ cameras and deleted all the pictures.

On September 1, in Karanganyar, Central Java, Lieutenant Colonel Lilik Sutikna assaulted Triyono, a *Solo Pos* journalist, after Triyono reported on allegations of corruption that implicated Lilik. The regional military commander relieved Lilik of command pending an internal investigation.

During the year a trend of persons accused of corruption or involved in civil disputes filing criminal and civil defamation complaints with police continued.

On September 7, Tommy Suharto, a son of the former president, sued the national airline, Garuda Indonesia, and its in-flight magazine over an article that referred to him as a “convicted murderer.”

In July 2009 Kho Seng Seng and Winny Kwee were convicted of defamation and given six-month suspended sentences and one year of probation each. Both had submitted letters to editors of different newspapers complaining about a property developer. At year’s end their cases still were pending appeal at the Supreme Court.

In September 2009 the Jakarta police identified human rights activist Usman Hamid as a suspect for alleged defamation and slander against former State Intelligence Agency deputy chief Muchdi Purwopranjono. At year’s end the case was still pending.

In January 2009 Illian Deta Arta Sari and Emerson Yuntho, staff members of the NGO Indonesia Corruption Watch, were identified as suspects in a criminal defamation case after criticizing the AGO's record of asset recovery, citing an official audit document. They received a notice of complaint in October 2009. At year's end the case was still pending.

Although the Papua Special Autonomy Law permits flying a flag symbolizing Papua's cultural identity, a government regulation prohibits the display of the Morning Star flag in Papua, the RMS flag in Maluku, and the Crescent Moon flag in Aceh.

Between August 2 and 9, police arrested 21 activists who planned to display a banned separatist flag during President Yudhoyono's visit to Ambon on August 3 (see section 1.e.). Police seized 14 flags and 133 pamphlets carrying a statement requesting the release of Maluku and Papua separatists. No RMS flags were displayed and no protests occurred during President Yudhoyono's visit in August.

In April 2009 Musa Tabuni, Serafin Diaz, and Yance Mote were arrested and charged with subversion and separatism following a West Papua National Committee Customary Council meeting in Jayapura. As of the end of September, they were released pending appeal of their cases to the Supreme Court.

The Government continued to restrict foreign media, NGO, and government personnel from traveling to the provinces of Papua and West Papua by requiring them to request permission to travel through the Foreign Ministry or an Indonesian embassy. The Government approved some requests and denied others. Some journalists traveled to Papua without permission. There were no reports of restrictions on journalists traveling to previous areas of conflict in Aceh, Maluku, North Maluku, and Sulawesi.

*Internet Freedom.*—According to International Telecommunication Union statistics for 2009, approximately 12 percent of the country's inhabitants used the Internet.

The 2008 Information and Electronic Transaction Law, meant to combat online crime, pornography, gambling, blackmail, lies, threats, and racism, prohibits citizens from distributing in electronic format any information that is defamatory, and punishes transgressors with a maximum of six years in prison or a fine of one billion rupiah (\$110,000) or both. The Information and Communication Ministry Web site offered free software to block Web sites with adult content.

The minister of information requested Internet service providers to block access to pornographic Web sites starting on August 11, the first day of the month of Ramadan. On September 27, the minister requested citizens report pornographic Web sites to the Government, in order to block them.

Internet cafes are required to provide the identities of Internet users to a government agency on a monthly basis.

*Academic Freedom and Cultural Events.*—In 2008 the DPR passed an antipornography bill. Critics considered its definition of pornography too broad and feared it could be used to justify attacks on artistic, religious, and cultural freedom. The bill includes provisions that allow citizens to "supervise" adherence to the law. In February 2009 the Constitutional Court began consideration of a complaint the law violates freedom of religion and expression tenets of the constitution. On March 25, the Constitutional Court held that the antipornography bill did not violate the constitution.

During the year the Government-supervised Film Censorship Institute continued to censor domestic and imported movies for content deemed pornographic or religiously offensive. As recently as December 2009, politically sensitive films also were censored; however, no films were banned during the year.

On October 14, the Constitutional Court struck down a long-standing law that gave the AGO the authority to ban written material, deeming it unconstitutional. In its decision, the Constitutional Court stated the AGO still maintains the authority to monitor written material and to request a court order to ban written material.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right. The law generally does not require permits for social, cultural, or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy requires police notification, and demonstrations require a permit. In general these permits were granted routinely.

During the year police arrested participants in peaceful demonstrations that included the display of illegal separatist symbols (see section 2.a.).

During the year there were a number of large demonstrations throughout Papua. Demonstrators complained of police overreaction and undue use of force; police said demonstrators initiated the violence by throwing rocks and employing traditional weapons such as arrows and spears. Police broke up a demonstration in Manokwari,

West Papua, on April 22, claiming demonstrators had not obtained proper permits. On August 2, police broke up another demonstration in Manokwari due to permit issues.

On September 27, police arrested 30 activists peacefully protesting the Government's failure to implement an ad-hoc tribunal to investigate cases of disappearances as recommended by parliament in 2009 (see section 1.b.). Police held the activists for several hours at a police station before releasing them.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected it in practice. The People's Consultative Assembly banned the Indonesia Communist Party (PKI) in 1966. In previous years persons accused of being affiliated with the PKI were barred from the civil service and given special numbers on their national identity cards.

Members of Ahmadiyya have not held any national conferences since 2008, when the Bali police refused to issue them a permit.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution allows the Government to prevent persons from entering or leaving the country. The Law on Overcoming Dangerous Situations gives military forces broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; however, the Government did not use these powers. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Citizens enjoyed freedom of movement within the country and, with few exceptions, were able to travel outside the country. During the year the Government continued to restrict freedom of movement for foreigners to Papua through a system of "travel letters," but enforcement was inconsistent.

The Government prevented at least 356 persons from leaving and 528 from entering the country during the year. The immigration office prevented these departures at the request of the police, the AGO, the Anticorruption Commission (KPK), and the Department of Finance. Some of those barred from leaving were delinquent taxpayers, convicted or indicted persons, individuals implicated in corruption cases, and persons otherwise involved in legal disputes.

The constitution prohibits forced exile, and the Government did not use it. In May the Government restored the citizenship of OPM founder Nicholas Jouwe who returned to the country after 40 years of self-imposed exile.

*Internally Displaced Persons (IDPs).*—In March 2009 the Internal Displacement Monitoring Center reported there were between 70,000 and 120,000 IDPs in the country. Many were displaced due to natural disasters, but there were also persons in Papua and West Papua displaced by clashes between the security forces and OPM. According to the Aceh Recovery Body, only 1,500 IDPs remained in Aceh. According to the International Organization for Migration (IOM), IDPs from the September 2009 West Sumatra earthquake have largely returned to their homes. In the aftermath of the 2008 mudflow in Porong, all mudflow refugees left the Porong Market Camp and were staying in temporary houses or rented houses while awaiting full compensation payments. In July Porong Market started to operate as a market again. The Government permitted domestic and international humanitarian organizations to access IDP-hosting areas and to assist IDPs. The Government did not attack or target IDPs or forcibly return or resettle IDPs under dangerous conditions. IDPs generally struggled with poor housing, food insecurity, poor access to land, and limited access to education and other basic services, according to the Internal Displacement Monitoring Center.

*Protection of Refugees.*—The country's law does not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were varying estimates of the number of refugees and asylum seekers in the country. Through the end of September, the UNHCR recognized 557 refugees and 2,882 asylum seekers. The IOM estimated 1,404 refugees or asylum seekers. The Government reported 1,642 refugees or asylum seekers. Some were applicants, and others were dependents. Most were from Sri Lanka, Iraq, Afghanistan, or Burma.

The Government prohibited refugees from working and accessing public elementary education.

During the year the Government reportedly agreed to release nearly 200 UNHCR-registered refugees in detention centers into the care of IOM.

Approximately 75,000 ex-East Timorese refugees resided in West Timor. During 2005-09, the Government provided 11,000 houses for 55,000 former refugees in Kupang, Timor Tengah Selatan, Timor Tengah Utara, and Belu regencies. Approximately 500 families remained in a shelter in Kupang. Conflicts, mostly involving land disputes, between local people and former refugees sometimes occurred.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

The constitution provides for national elections every five years. DPR members automatically are members of the People's Consultative Assembly, a fully elected body consisting of the 550 DPR members and 128 members of the House of Regional Representatives (DPD).

*Elections and Political Participation.*—In July 2009 President Yudhoyono was re-elected overwhelmingly in generally free and fair elections.

In April 2009 the country conducted its third democratic legislative elections. These were a complex affair with voters receiving ballots for the DPR, the DPD, provincial parliaments, and regency and city councils. Thirty-eight national parties competed in the elections, with an additional six parties in Aceh Province only. Irregularities occurred, requiring 245 reruns in 10 provinces. Observers concluded the vast majority of irregularities involved logistical difficulties (primarily due to faulty voter list data) rather than malfeasance. Some violence and intimidation also marred the legislative election campaign in Aceh, Papua, and West Papua. In general, domestic and foreign observers found the elections free and fair.

Parties were required to win a minimum of 2.5 percent of the national vote to qualify for a seat in the DPR. Nine parties met this threshold and won seats in parliament. There was a delay in final legislative seat allocations, because the Constitutional Court, the Supreme Court, and the National Election Commission had different allocation systems; the Constitutional Court's ruling prevailed. The top three vote getters were secular, nationalist parties, followed by the four largest Islamic-oriented parties. President Yudhoyono's Democrat Party won a plurality of seats, while then-Vice President Kalla's Golkar Party finished in second place. The major opposition party, the Indonesia Democratic Party-Struggle, led by Megawati Sukarnoputri, finished in third place.

All adult citizens, age 17 or older, are eligible to vote except active members of the military and the police, convicts serving a sentence of five years or more, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Married juveniles are legally adults and allowed to vote.

In 2007 the Constitutional Court ruled independent candidates could run for local office and that a political party's nomination was not required.

During the year there were 244 regional elections scheduled; there were also elections for seven governors and 237 mayors/regents. In August, of 57 candidates not identified with a political party, only one was victorious, in the district of Sidoarjo, East Java.

During the year the Constitutional Court received 230 requests to adjudicate election disputes. Of these, 224 were decided, with 26 rulings in favor of complainants. As a result of the decisions, there were election reruns in Surabaya, Manado, and Merauke. In addition, the court called for election reruns in Mandailing Natal and in South Tangerang City. At year's end six cases were pending.

In a few isolated cases, local elections led to civil disturbances. For example, on May 21, supporters of a candidate disqualified because he had not passed a required medical examination rioted in Mojokerto, East Java. The rioters attacked official buildings and burned dozens of official cars. Thirteen persons were injured. Despite this incident, the June 7 election went smoothly.

In other cases, on June 1, supporters of a disqualified candidate for regent burned ballots and ballot boxes in seven district offices in Toli-Toli, Central Sulawesi. On June 8, approximately 400 supporters of a losing candidate clashed with police personnel and threw stones at the election commission office in Bima, West Nusa Tenggara. The crowd also destroyed a political party's office and burned a car. Clashes broke out again on June 14, injuring dozens of persons.

In South Sulawesi, on June 23, thousands of persons threw stones and destroyed the election commission office in Tana Toraja, claiming the election commission was not neutral. They also burned ballot papers, burned cars, and destroyed four district offices, the speaker of the local parliament's residence, the election monitoring board's office, and the Golkar office. On June 26, thousands of supporters of six losing candidates rioted in Soppeng. They burned the election commission's office, burned dozens of ballot boxes, and destroyed four district offices. Also on June 26, an unidentified group of people threw Molotov cocktails at the Tanralili district office in Maros following local elections in this regency. A clash also broke out on the same day between supporters of two candidates in Gowa. No casualties were reported in this clash.

There are no legal restrictions on the role of women in politics. A law on political parties mandated that women make up 30 percent of the founding members of a new political party. An election law, which included a nonbinding clause for parties to select women for at least 30 percent of the candidate slots on their party lists, ensured parties put forward more women candidates. The Constitutional Court invalidated this clause when it struck down the law and ruled voters for the first time could directly elect their representatives, regardless of their position on party lists. The number of women in parliament increased significantly, from 11 percent to 18 percent of the DPR seats in the April 2009 elections. During the year women held five of 37 cabinet-level positions.

At the provincial level, there was one female governor and one vice governor. Women held disproportionately few leadership positions in local government in some provinces; for example, in Aceh the highest position held by a woman was that of deputy mayor, in the city of Banda Aceh.

Women played an increasingly important political role in East Java. The number of female members of the Surabaya city parliament increased from four in the previous parliament to 15, or 30 percent of the total. In the East Java provincial parliament, the female members of parliament increased from 16 percent to 19 percent of the total. More women also became regents and mayors in East Java, such as the regent of Tuban, the regent of Banyuwangi, and the Surabaya mayor.

With the exception of Aceh Province, where non-Muslims were effectively blocked from political office by a requirement that all candidates must demonstrate their ability to read the Qur'an in Arabic, there were no legal restrictions on the role of minorities in politics. There were no official statistics on the ethnic backgrounds of legislators in the DPR. President Yudhoyono's cabinet consisted of a plurality of Javanese, with others being of Sundanese, Bugis, Batak, Acehnese, Papuan, Balinese, and Chinese heritage.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. Despite the arrest and conviction of many high-profile and high-powered officials, there was a widespread domestic and international perception that corruption was a part of daily life. Both the KPK and the AGO under the deputy attorney general for special crimes have jurisdiction over investigation and prosecution of corruption cases. During the year the KPK conducted 62 inquiries, 55 investigations, and 55 prosecutions. As a result of the KPK's prevention and prosecutorial activities, it recovered a total of approximately 170 billion rupiah (approximately \$18.8 million) in state assets. In addition, it prevented the loss of more than 500 billion rupiah (\$55.5 million) in state assets, according to the KPK's annual report. Between January and November, the AGO reported recovering 354.6 billion rupiah (\$34.9 million).

Widespread corruption throughout the legal system continued. Bribes and extortion influenced prosecution, conviction, and sentencing in civil and criminal cases. During the year the National Ombudsman Commission reported receiving 160 complaints of judicial corruption involving judges, clerks, and lawyers. Key individuals in the justice system were accused of accepting bribes and of turning a blind eye to other government offices suspected of corruption. Legal aid organizations reported cases often moved very slowly unless a bribe was paid.

As a result of an independent fact-finding team's investigation, President Yudhoyono formed a Task Force to Eradicate Judicial Mafia to investigate the network of case brokers and influence peddlers who act as intermediaries in judicial cases. As of December 9, the task force had received 3,483 complaints, with 667 cases related to land rights issues; 397 cases related to corruption, collusion, and nepotism; 262 cases of fraud and embezzlement; and 135 cases of extortion, bribery, abuse of authority, and document forgery.

Police commonly extracted bribes ranging from minor payoffs in traffic cases to large bribes in criminal investigations. Corrupt officials sometimes subjected mi-

grants returning from abroad, particularly women, to arbitrary strip searches, theft, and extortion.

On September 1, the KPK named 25 suspects, primarily former and current members of parliament, as suspects in a bribery case related to vote buying during the 2004 selection of the Bank of Indonesia's senior deputy governor. At the end of the year, however, they had not questioned Nunun Nurbaeti, who allegedly distributed billions of rupiah in traveler's checks to buy votes to help elect Miranda Goeltom.

On March 31, Gayus Tambunan, a tax directorate official, was arrested in Singapore on corruption charges. Gayus allegedly bribed police, prosecutors, and a judge during an investigation of his case in tax court. Following his arrest, police investigated and arrested several persons in the police Criminal Investigations Division (CID). Following this arrest, Gayus allegedly bribed prison officials to obtain temporary release from prison on a number of occasions and reportedly led an active social life including international travel.

On May 10, police arrested Susno Duadji, former head of the CID, on suspicion of involvement in several corruption cases.

On August 4, the Supreme Court found As'ad Syam, regent of Muarojambi during the 1999-2004 period, guilty of corruption in the misuse of the regional government budget and sentenced him to four years' imprisonment.

Anticorruption reform appeared to have become a tool in a political power struggle with legislators and others criticizing members of President Yudhoyono's administration over the 2008 bailout of Bank Century. At year's end neither the KPK nor other investigators had found any evidence of fraud on the part of the Government in the bailout. KPK leadership continued to come under attack during the year, in particular deputy commissioners Bibit Samad Rianto and Chandra M. Hamzah.

By law, senior government officials, as well as other officials working in certain agencies, are required to file financial disclosure reports.

On April 30, the 2008 Freedom of Information Act, which grants citizens access to governmental information and provides mechanisms through which citizens can obtain such information, came into effect. The law allows for a protected class of "secret" information, including information on: state defense and security; law enforcement investigation and activities; public officials; and business interests of state-owned enterprises. At year's end many government entities were unprepared to implement the law.

The Alliance of Independent Journalists reported no problems for the media in obtaining unclassified public documents from the Government.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic human rights organizations operated throughout the country and actively advocated for improvements to the Government's human rights performance; the Government met with local NGOs, responded to their inquiries, and took some actions in response to NGO concerns. However, some government officials, particularly in Papua, subjected the organizations to monitoring, harassment, and interference as well as threats and intimidation. Activists said intelligence officers took their pictures surreptitiously and sometimes questioned their friends and family members regarding their whereabouts and activities.

On July 8, unidentified persons assaulted Tama Langkun, an activist with Indonesia Corruption Watch who was investigating a police corruption case. At year's end, police had made no arrests related to this case.

Other human rights and anticorruption activists reported threatening messages and other intimidation.

The Government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard with suspicion foreign human rights organizations, particularly those operating in conflict areas. Government monitoring of foreigners occurred in conflict areas. Some domestic human rights organizations expressed concern about the possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights problems, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, the National Commission on Violence Against Women (Komnas Perempuan), and Komnas HAM. In 2008 the AGO rejected Komnas HAM's recommendations to file charges in four incidents dating from 1998 to 2004 including Wamena-Wasior, Trisakti, Semanggi I and II, and forced disappearances.

In September 2009 the DPR approved the formation of an ad hoc tribunal that could investigate and prosecute the disappearance of human rights activists. Twenty-four human rights activists and students disappeared between 1997 and 1998; 10

later resurfaced, accusing the military of kidnapping and torture. One body was found, and 13 activists remained missing. However, parliament failed to approve action regarding other cases of human rights violations that occurred before 2000. By year's end the Government had not established this tribunal.

Although the 2006 Law on the Government of Aceh states a human rights court would be established in Aceh, it was not established by year's end.

In 2008 the Commission on Truth and Friendship (CTF), established by the Governments of Indonesia and Timor-Leste in 2005 to address human rights violations committed in Timor-Leste in 1999, delivered its final report to the two governments' presidents. The report recognized gross violations of human rights occurred prior to and immediately after the popular consultation in East Timor in 1999. The report's recommendations for Indonesia included a human rights training program emphasizing that the military remain neutral in political controversies and elections and enhanced authority for institutions charged with investigation and prosecution for human rights violations. The Government disseminated the CTF recommendations within the Government, and a variety of ministries began carrying out the recommendations.

The Indonesian judicial processes either acquitted or eventually overturned all convictions of Indonesian defendants—two Indonesians of Timorese descent served some jail time for crimes in 1999—despite overwhelming evidence that Indonesian civilians and security forces committed gross human rights violations. An estimated 300 Indonesians indicted by the UN-Timor-Leste Serious Crimes Unit remained in Indonesia.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution does not explicitly prohibit discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. However, in practice the Government sometimes failed to defend these rights.

*Women.*—Reliable nationwide statistics on the incidence of rape continued to be unavailable. The legal definition of rape is narrow and excludes marital rape. Light sentences continued to be a problem. Rape is punishable by four to 14 years in prison, and the Government imprisoned perpetrators for rape and attempted rape; however, many convicted rapists were given the minimum sentence.

The law prohibits domestic abuse and other forms of violence against women. However, domestic violence was a problem. Violence against women remained poorly documented by the Government. Nationwide figures were unavailable. Officials from the Ministry of Women Empowerment stated that 11,469 cases of violence against women were reported from 20 provinces during the year. Most NGOs working on women and children's issues believed the real figure was far higher, noting the tendency of many victims to keep silent. Komnas Perempuan reported domestic violence was the most common form of violence against women.

Social pressure forced many women not to report spousal abuse. Through the month of October, the Women's Legal Aid Foundation received 722 complaints of spousal abuse, including rape and sexual harassment. Two types of crisis centers were available for abused women: government-run centers in hospitals and NGO centers in the community.

Nationwide the police operated "special crisis rooms" or "women's desks" where female officers received criminal reports from female and child victims of sexual assault and trafficking and where victims found temporary shelter.

According to NGOs, some female genital mutilation (FGM) of women over the age of 18 occurred. A Ministry of Health decree forbids medical personnel from performing such procedures; however, this did not affect traditional circumcisers and birth attendants, who did most female circumcisions.

International sex tourism and child sex tourism continued, especially on the islands of Batam and Karimun and in major urban centers across the country.

Although not explicitly mentioned, sexual harassment is against the law and is actionable under the criminal code.

The Government recognizes the right of individuals and couples to choose the number, spacing, and timing of children. Although the Government subsidized and provided access to contraception throughout the country, women were sometimes denied the opportunity to select the contraceptive methods best suited to their needs or preferences, according to a November Amnesty International report. The report indicated that unmarried women in particular were not provided adequate access to contraceptives. According to NGOs, 55 percent of married women used contraception. According to the 2007 Demographic and Health Survey, 93 percent of women received medical prenatal care. The maternal mortality ratio according to 2008 UN statistics was 240 per 100,000 live births. Informed sources believed that 79 percent

of women had skilled birth attendants at delivery and 32 percent received prenatal or postnatal obstetric care. Government policy provides that women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law states that women have the same rights, obligations, and opportunities as men; however, it also states that women's participation in the development process must not conflict with their role in improving family welfare and educating the younger generation. The marriage law designates the man as the head of the family. Women in many regions of the country, particularly in Papua, complained about differential treatment based on gender.

Divorce is available to both men and women. Many divorcees received no alimony, since there was no system to enforce such payments. If there is no prenuptial agreement, joint property is divided equally. The law requires a divorced woman to wait 40 days before remarrying; a man can remarry immediately. The Government continued to implement Sharia in Aceh. The impact of this implementation varied across the province but, continuing the pattern of the last few years, in general appeared to be less intrusive due to improved government oversight of the Sharia police. The most visible impact on women's rights appeared to be the enforcement of dress codes. It was not uncommon for Sharia police to briefly stop and lecture women whose dress did not conform to local Sharia requirements on appropriate attire.

Local governments and groups in areas outside Aceh also undertook campaigns to promote conformity by women with the precepts of Sharia. Local regulations in some areas mandated the wearing of Islamic dress by government employees. Vigilance in enforcing separation of sexes, fasting, and dress codes increased during Ramadan.

Women faced discrimination in the workplace, both in hiring and in gaining fair compensation; however, there has been progress in that area. According to International Labor Organization (ILO) reports, women's hourly wages as a percentage of men's wages increased from 78 percent in 2004 to 83 percent in 2008. Women in administrative and managerial jobs reportedly earned more than their male counterparts in 2008. However, women were still underrepresented at the managerial level. According to the Government, women constituted 43 percent of all civil servants but less than 7 percent of senior officials. Some activists said that in manufacturing, employers relegated women to lower-paying, lower-level jobs. Like their male counterparts, many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. By law, if both members of a couple worked for a government agency, the couple's head-of-household allowance was given to the husband.

Jobs traditionally associated with women continued to be significantly undervalued and unregulated. For example, domestic labor receives little legal protection. Under the labor law, domestic workers are not provided with a minimum wage, health insurance, freedom of association, an eight-hour work day, a weekly day of rest, vacation time, or safe work conditions. Consequently, as reported by NGOs, abusive treatment and discriminatory behaviour continued to be rampant.

*Children.*—Citizenship is acquired primarily through one's parents; however, it can be acquired through birth in national territory. Although the law provides for free birth registration, it was not enforced, and approximately 30 percent of citizen births were not registered. Without birth registration, families may face difficulties in accessing government-sponsored insurance benefits and enrolling children in schools. It was often impossible to be certain of a child's age, and ages were falsified on identity cards, sometimes with the cooperation of government officials.

Although the law provides for free education, in practice most schools were not free of charge, and poverty put education out of the reach of many children. By law children are required to attend six years of elementary school and three years of junior high school; however, in practice the Government did not enforce these requirements. Although girls and boys received equal educational opportunities, boys were more likely to finish school.

Some provinces and districts, such as South Sumatra Province and Serdang Bedagai District in North Sumatra Province, have local policies for compulsory education for 12 years or up to senior secondary.

The national government provided educational assistance to 2.2 million of the 26 million elementary school students, 10 percent of whom were from poor families. The Government categorized as poor a person earning 250,000 rupiah (\$28) or less per month.

Child labor and sexual abuse were serious problems. According to the National Commission for Child Protection (Komnas Perlindungan Anak) estimates, between

70,000 and 90,000 children were victims of sexual abuse during the year. The Child Protection Act addresses economic and sexual exploitation of children as well as adoption, guardianship, and other issues; however, some provincial governments did not enforce its provisions. Child abuse is prohibited by law, but government efforts to combat it generally continued to be slow and ineffective. NGOs reported excessively long waits to bring a child rape case to court and unclear mechanisms for reporting and dealing with child abuse.

FGM was practiced in many parts of the country, and there are no laws specifically banning the practice. Complications from the FGM surgical procedures reportedly were minimal. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic. In 2007 the minister of women's empowerment called for a complete ban of the practice. In 2006 the Ministry of Health banned FGM by doctors and nurses. However, symbolic female circumcisions that did not involve physical damaging of the child could be carried out, and violators of the ban did not face prosecution. According to NGOs, the practice remains prevalent in the country. NGO activists said that female circumcision was seen as a religious duty.

The legal distinction between a woman and a girl was not clear. The law sets the minimum marriageable age at 16 for a woman (19 for a man), but the Child Protection Law states persons under age 18 are children. A girl who marries has adult legal status. Girls frequently married before reaching the age of 16, particularly in rural and impoverished areas.

According to ILO data from 2007, there were 21,000 child prostitutes in Java. Nationally, the ILO estimated 40,000 to 70,000 children were the victims of sexual exploitation. Many teenage girls were forced into prostitution, often through debt bondage. NGOs and government officials believe the number is rising.

Although government policy was not to detain or imprison victims of child sexual exploitation, some victims reportedly were treated as criminals and penalized for prostitution activities. Corrupt civil servants issued falsified identity cards to underage girls, facilitating entry into the sex trade. There also were reports of sexual exploitation of boys. The country was a destination for child sex tourism. During the year NGOs reported that pedophile rings continued to operate in Bali. NGO observers said many girls were forced into prostitution after failed marriages entered into when they were 10 to 14 years of age. There was no obvious violation of the law because their paperwork identified them as adults due to the fact that they were once married.

Wahana Visi, an NGO in Surabaya, found that most of the 300 children living in the Dolly prostitution area in Surabaya experienced abuse and violence. The East Java Integrated Service Center recorded 253 cases of violence against children in 2009 and 149 cases between January and June.

Komnas Perlindungan Anak reported that during the year, it received 2,335 complaints regarding cases of violence against children.

In a February survey of 736 street children in Jakarta and Depok by the Ministry of Social Affairs, 14 children admitted they have been victims of sexual abuse, 31 had been raped, and 175 suffered physical abuse. The ministry estimated there were 230,000 street children, and, at least in some areas, the percentage of girls among street children seemed to be growing.

According to Komnas Perlindungan Anak, 6.5 million children under the age of 18 were working because of poverty.

There is no statutory rape law or an established age for consensual sex. The 2008 Pornography Law prohibits child pornography and establishes penalties.

Substantial numbers of street children were apparent in Jakarta and the provinces of East Java, West Java, North Sumatra, and South Sulawesi. At the end of the year, officials from the Ministry of Social Affairs reported that there were at least 8,000 street children living in Jakarta. East Java was home to more than 8,200 street children, many reportedly susceptible to sexual abuse and violence. Approximately 40 shelters in the province provided services to such children. According to the Ministry of Social Affairs, at the end of the year there were 1,030 children under the supervision of various rehabilitation centers in Jakarta. The Government continued to fund other shelters administered by local NGOs and paid for the education of some street children.

A UN report found that juvenile detainees in prisons across Java were subjected to harsh conditions. The report noted both police and other inmates subjected children as young as 10 to severe physical abuse. Although children were detained in juvenile detention centers, due to the high number of detainees children frequently were mixed with the general population in both jails and prisons, increasing the potential for abuse.

During the year the Directorate General of Corrections reported that there were 2,054 children in the prison and detention center population. NGOs reported that the Government paid little attention to the rights of juvenile offenders. Juveniles were held in the same detention facilities as adults during pretrial and trial phases of detention and frequently experienced abuse while in detention. According to the Government, 5,760 children received jail sentences during the year.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish population was extremely small. On June 6, demonstrators gathered outside the Beth Hashem synagogue in Surabaya, East Java, to protest Israeli government actions related to the Gaza relief flotilla incident. Protesters burned the Israeli flag and tried unsuccessfully to enter the synagogue. There were no injuries or damage to the synagogue. Although the Government promoted tolerance education in primary schools, there was no specific curriculum devoted exclusively to anti-Semitism education.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The Government classifies persons with disabilities into three categories: physically disabled, intellectually disabled, and physically and intellectually disabled. These categories are further divided for schooling. The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. The law also mandates accessibility to public facilities for persons with disabilities; however, the Government did not enforce this provision. The Government estimated that approximately 3.7 percent of the population had a disability. However, one NGO found 16.8 percent of the population in West Java had a significant hearing deficiency.

The Government restricts the rights of persons to vote or participate in civil affairs by not enforcing accessibility laws.

Few buildings and virtually no public transportation facilities were accessible to persons with disabilities. The law requires companies that employ more than 100 workers to set aside 1 percent of positions for persons with disabilities. However, the Government did not enforce the law, and persons with disabilities faced considerable discrimination.

In urban areas only a few city buses offered wheelchair access, and many of those had their hydraulic lifts vandalized, rendering them unusable. Few companies provided facilities for persons with disabilities, and fewer companies employed such persons. Surabaya's airport opened in 2006 and was not accessible for persons with disabilities. Lack of funds was generally cited as the primary reason for not improving accessibility.

Access to information and communications technology for persons with disabilities is limited. The Government taxes hearing aids as electronics, rather than medical equipment, making them prohibitively expensive.

On September 15, Garuda Indonesia Airlines blocked Irwan Subena, a blind passenger, from boarding his return flight from Makassar to Denpasar.

In 2003 the Government stated the country was home to 1.3 million children with disabilities; the actual number was believed to be much higher. The law provides children with disabilities with the right to an education and rehabilitative treatment. A government official alleged many parents chose to keep children with disabilities at home; however, many schools refused to accommodate such children, stating they lacked the resources to do so. According to 2008-09 government statistics, there were 1,686 schools dedicated to educating children with disabilities, 1,274 of them run privately. According to NGOs, more than 90 percent of blind children were illiterate. Some young persons with disabilities resorted to begging for a living. Children with disabilities were sent to separate schools, and mainstream education was extremely rare. The country's universities did not offer a degree in special education.

During the year NGOs reported that people with disabilities were housed in care facilities in unsafe, dirty conditions throughout Riau Province. The Government has taken no action.

The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities. To date, they have taken no actions to improve respect for the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Government officially promotes racial and ethnic tolerance. Ethnic Chinese accounted for approximately 3 percent of the

population, played a major role in the economy, and increasingly participated in politics. However, some ethnic Chinese noted that, despite recent reforms, public servants still discriminated against them when issuing marriage licenses and in other services and often demanded bribes for a citizenship certificate, although such certificates were no longer legally required. A number of articles of law, regulation, or decree discriminated against ethnic Chinese citizens. NGOs such as the Indonesia Antidiscrimination Movement urged the Government to revoke the remaining discriminatory articles. Discussions of corruption on local blogs at times degenerated into racial diatribes.

*Indigenous People.*—The Government viewed all citizens as “indigenous”; however, it recognized the existence of several “isolated communities” and their right to participate fully in political and social life. These communities include the myriad Dayak tribes of Kalimantan, families living as sea nomads, and the 312 officially recognized indigenous groups in Papua. During the year indigenous persons, most notably in Papua, remained subject to widespread discrimination, and there was little improvement in respect for their traditional land rights. Mining and logging activities, many of them illegal, posed significant social, economic, and logistical problems to indigenous communities. The Government failed to prevent companies, often in collusion with the local military and police, from encroaching on indigenous peoples’ land. In Papua tensions continued between indigenous Papuans and migrants from other provinces, between residents of coastal and inland communities, and among indigenous tribes.

Human rights activists asserted the Government-sponsored transmigration program transplanting poor families from overcrowded Java and Madura to less populated islands violated the rights of indigenous people, bred social resentment, and encouraged the exploitation and degradation of natural resources on which many indigenous persons relied. In some areas, such as parts of Sulawesi, the Maluku, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were poor.

In Tarakan, East Kalimantan, tensions between migrant Bugis and indigenous people turned violent; between September 26 and September 30, five persons died in communal fighting sparked by the death of an indigenous person, reportedly at the hands of migrant Bugis.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The 2008 Pornography Law bans gay and lesbian sex. In addition, local regulations across the country criminalize gay and lesbian sex. According to NGOs, many persons characterized lesbian, gay, transgender, and bisexual (LGBT) issues as socially taboo. The Government took almost no action to prevent discrimination against LGBT persons, and in some cases failed to protect LGBT individuals from societal abuse. Police corruption, bias, and violence caused LGBT individuals to avoid interaction with police. Sharia police in Aceh reportedly harassed transgender individuals. NGOs reported LGBT individuals were sometimes ostracized by religious groups, family members, and the general public.

LGBT organizations and NGOs operated openly. However, certain religious groups sporadically disrupted LGBT gatherings, and individuals were sometimes victims of police abuse.

On March 26-28, hundreds of activists from a number of hard-line Muslim groups, including the Islamic Defenders Front (FPI), disrupted an international LGBT conference in Surabaya, forcing their way into the hotel hosting the conference. Local police refused to issue a permit to the conference organizers in the face of hard-line opposition. The hard-line groups then forced the cancellation of the conference by forcing entry and occupying the hotel where the conference was being held.

On April 30, members of FPI disrupted training for transgender activists conducted by the National Human Rights Commission (Komnas HAM).

Throughout May and June, LGBT organizations across the country commemorated the International Day Against Homophobia. Organizers held public discussion groups, marched, and engaged in other activities raising awareness of LGBT issues. However, local officials and groups forced the cancellation of at least one event. After threats from FPI, organizers in Yogyakarta cancelled an open-air concert scheduled for May 22. Organizers in Surabaya opted not to hold a parade in the wake of a disrupted conference in March.

Protesters from FPI and local universities disrupted an internationally supported LGBT film festival in Jakarta in September. Mainstream Islamic organizations, including the head of the Indonesian Council of Ulema, also condemned the festival.

NGOs documented instances of government officials not issuing identity cards to LGBT individuals.

*Other Societal Violence or Discrimination.*—Stigma and discrimination against persons with HIV/AIDS were pervasive. However, government policy encouraged tolerance, took steps to prevent new infections, and provided free antiretroviral drugs, although with numerous administrative barriers. The Government position of tolerance was adhered to unevenly at all levels of society; for example, prevention efforts often were not aggressive for fear of antagonizing religious conservatives, and in addition to barriers to access to free antiretroviral drugs, potential recipients had to pay medical fees that put the cost beyond the reach of many.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides broad rights of association for workers in the private sector but places restrictions on organizing among public sector workers. Workers in the private sector formed and joined unions of their choice without previous authorization or excessive requirements. The law stipulates that 10 or more workers have the right to form a union, with membership open to all workers, regardless of political affiliation, religion, ethnicity, or gender. To form a collective bargaining unit, a union must receive the support of at least 50 percent of employees in an establishment. The Ministry of Manpower and Transmigration records, rather than approves, the formation of a union, federation, or confederation and provides it with a registration number. In recent years some unions reported local ministry offices prejudicially recommended denial of registration.

To remain registered, unions must keep the Government informed about changes in their governing bodies. The law allows the Government to petition the courts to dissolve a union if it conflicts with the state ideology (Pancasila) or the constitution. A union also may be dissolved if its leaders or members, in the name of the union, commit crimes against the security of the state and are sentenced to at least five years in prison. Once a union is dissolved, its leaders and members may not form another union for at least three years. There were no reports that the Government dissolved any unions during the year.

Although the law recognizes civil servants' freedom of association and right to organize, employees of several ministries may only form employee associations, with more limited rights. In particular they do not have the right to strike. Union organizations sought to organize government employees, as well as state-owned enterprise (SOE) employees, although they encountered resistance from enterprise management, and the legal basis for registering unions in SOEs remained unclear.

During the year, according to labor sources, 10 percent of workers in the formal sector were trade union members, and more than 35 percent of workers in the service sector belonged to unions. According to the National Statistics Bureau, as of August the total workforce was 116.5 million workers, of whom 108.2 million were employed. Most union members were permanent rather than contract workers. As of February the National Statistics Bureau estimated that 65.6 percent of workers were in the informal sector.

The right to strike is recognized but substantially restricted under the law. Under the Manpower Development and Protection Act (the Manpower Act), workers must give written notification to the authorities and to the employer seven days in advance for a strike to be legal, specifying the starting and ending time of the strike, venue for the action, reasons for the strike, and including signatures of the chairperson and secretary of the striking union. A ministerial regulation declares illegal all strikes at "enterprises that cater to the interests of the general public or at enterprises whose activities would endanger the safety of human life if discontinued." Types of enterprises included in this classification are not specified, leaving it to the Government's discretion. The same regulation also classifies strikes as illegal if they are "not as a result of failed negotiations" and gives employers' additional leeway to obstruct a union's move to strike.

Before workers can strike, they must engage in lengthy mediation with the employer and proceed to mediation facilitated by a government mediator or risk having the strike declared illegal. Due in part to cumbersome restrictions, strikes tended to be unsanctioned or "wildcat" strikes that broke out after a failure to settle long-term grievances or when an employer refused to recognize a union. In the case of an illegal strike, an entrepreneur may make two written appeals within a period of seven days for workers to return. Workers who do not respond to those appeals are considered to have resigned. Employers commonly used such appeals as intimidation tactics against strikers.

The primary reasons for strikes during the year were 1) demand for an increase in salary, 2) suspension of overtime payment and/or regular salary, 3) unjust dismissal of workers, and 4) the illegal use of contract workers. One notable "wildcat" strike occurred over the disparity between the salaries of citizens versus foreign "expat" salaries. During the year workers staged protests in major cities demanding

companies pay into the national social security system, put an end to corrupt business practices, and that the Government pass the social-safety-net bill, which is under discussion in the parliament.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and allows workers' organizations that register with the Government to conclude legally binding collective labor agreements (CLAs) with employers and to exercise other trade union functions. The law includes some restrictions on collective bargaining, including a requirement that a union or unions represent more than 50 percent of the company workforce to negotiate a CLA. The Manpower Act, which regulates collective bargaining, the right to strike, and general employment conditions, does not apply to SOEs. At year's end the Government continued to fail to issue implementing regulations on the right to organize and bargain collectively.

According to the Manpower Ministry, approximately 25 percent of companies with more than 10 employees had CLAs. Although most of these agreements went beyond the legal minimum provisions set by the Government, more than a third of employers reportedly violated the terms of the CLA with relative impunity.

The law prohibits employment discrimination against union organizers and members and provides penalties for violations; however, in many cases the Government did not effectively enforce the law. Employer retribution against union organizers, including dismissals and violence, were not prevented effectively or remedied in practice. Some employers threatened employees who made contact with union organizers. Management singled out strike leaders for layoffs when companies downsized. Legal requirements existed for employers to reinstate workers fired for union activity, but, in many cases, the Government did not enforce this effectively.

Legal procedures were lengthy, with antiunion discrimination cases sometimes taking up to six years. Bribery and judicial corruption in workers' disputes continued, and decisions often were not in workers' favor. While dismissed workers may be compensated, they were rarely reinstated. Companies sometimes transferred union leaders to jobs where they could not continue their union activities. Managers in some locations reportedly employed thugs to intimidate and assault trade union members who attempted to organize legal strike actions, and at times, the police intervened inappropriately and with force in labor matters, usually to protect employers' interests.

Employees at the Surabaya Zoo established a labor union in June. However, the zoo management attempted to stop the union from operating. Police and forest rangers threatened the labor union members and tore down the labor union's signboards. Labor activists received threats if they continued to assist with unionization. One employee was fired for her role in the establishment of the union. Only 70 out of Surabaya Zoo's 200 employees have joined the labor union. Management reduced the salary and benefits of those who joined the union.

In recent years employers have repeatedly filed criminal complaints against union officers following failed collective bargaining negotiations or lawful strikes. In a number of cases, union officers were prosecuted and even served prison time for destruction of property and interference with profits as a result of complaints brought by employers. Some provisions in criminal law have aided these tactics, such as a crime of "unpleasant acts," which creates criminal liability for a broad range of conduct. There were credible reports of the police investigating or interrogating union organizers.

In August hundreds of workers from the Indonesian Metal Labor Union Federation (FSPMI) from Mojokerto, Sidoarjo, and Pasuruan held a demonstration in front of the Pasuruan Police office demanding police drop a criminal case filed against FSPMI board members Pujianto and Jazuli. In 2008 PT. Sri Rejeki in Pasuruan reported Pujianto and Jazuli to the police for defamation. On September 8 and September 21, the Bangil State Court in Pasuruan began Pujianto and Jazuli's trial.

The increasing trend of using contract labor directly affected unions' right to organize and bargain collectively. Under the Manpower Act, contract labor is to be used only for work that is "temporary in nature." However, according to an International Trade Union Confederation report, many employers violated these provisions, sometimes with the assistance of local offices of the Manpower Ministry. In these cases, companies declared bankruptcy in order to avoid severance payments provided for under law, closed the factory for several days, and then rehired workers as contract labor at a lower cost. Union leaders and activists usually were not rehired. Labor courts have ruled in favor of workers who filed either for compensation or to be rehired. In most cases, however, the company has appealed to the Supreme Court where the labor court's decisions have been overturned.

Labor activists claimed companies orchestrate the formation of multiple unions, including "yellow" unions, to weaken legitimate unions. During the year 16 percent

of companies with unions had more than one union. In these companies, 42 percent of the employees reported that the employer did not treat all of the unions with equal respect and that the employer gave better treatment to workers who were members of a union controlled by the company (38 percent).

There are no special laws or exemptions from regular labor laws in special economic zones (SEZs). However, reportedly there were stronger antiunion sentiments and actions by employers in SEZs. For example, employers in the Batam SEZ tended to hire labor on two-year contracts and favored workers under 24 years of age, in part to inhibit union formation.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were credible reports that such practices occurred, including forced and compulsory labor by children (see section 7.d.). Forms of forced exploitation included domestic servitude, commercial sexual exploitation, and forced labor in the mining, fishing, and agricultural sectors.

At year's end the Government was still renegotiating the 2006 memorandum of understanding (MOU) with the Government of Malaysia about Indonesian workers' conditions in Malaysia. The MOU ceded some basic worker rights to employers, particularly the right of workers to hold their own passports and the guarantee of a minimum wage.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Manpower Act establishes 15 as the minimum age for work and prohibits children under the age of 18 from working in hazardous sectors. Children 13 to 15 years of age may work no more than three hours per day and only under a number of other conditions, such as parental consent, no work during school hours, and payment of legal wages. A strong legal framework and National Action Plans address economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade, and provide severe criminal penalties and jail terms for persons who violate children's rights. However, the Government did not enforce these laws effectively.

An estimated six to eight million children exceeded the legal three-hour-daily work limit, working in agriculture, street vending, mining, clothing manufacture, prostitution, and other areas.

Children worked in agriculture primarily on palm oil, tobacco, rubber, tea, and marijuana plantations. Children also worked in fisheries, manufacturing (such as cottage factory footwear production, textiles, cigarette production), logging, toy making, food processing (e.g., bird-nest gathering), and in the small-scale mining sector. Other children work in the informal sector selling newspapers, shining shoes, street vending, scavenging, and working with their parents in family businesses or cottage industries.

A domestic worker advocacy group estimated that there were four million domestic workers in the country, of whom at least 1.3 million were under age 18. Many domestic workers were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

The law and regulations prohibit forced labor by children; however, the Government was not effective in eliminating the practice, which remained a problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic service, and other exploitive situations, including a small number on fishing platforms. For information on forced child labor, also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Despite legislative and regulatory measures, most children who worked, including as domestics, did so in unregulated environments. Anecdotal evidence suggested that local labor officials did not investigate the workplaces of child domestic workers and carried out few child labor investigations in factories.

At the end of 2008, the International Labor Organization-International Program for the Elimination of Child Labor Jakarta, in collaboration with various local universities/research institutes, conducted baseline surveys in a number of localities in North Sumatra, Lampung, and East Java. The surveys identified 3,396 children ages seven to 17 years who were engaged in plantation work (palm oil, rubber, tobacco, coffee, coconut), of whom 28 percent were age 12 years and below and 52 percent were not in school.

*e. Acceptable Conditions of Work.*—The minimum wage levels set by most local governments did not provide a worker and family with a decent standard of living. Most province-level minimum wage rates fell below the Government's own calculation of basic minimum needs. During the year Papua offered the highest minimum

wage at 1.1 million rupiah (approximately \$120) per month, while the Manpower Ministry reported official minimum wages as low as 500,000 rupiah (\$60) per month in East Java.

Local manpower officials were responsible for enforcing minimum wage regulations. Enforcement remained inadequate, particularly at smaller companies. There is no enforcement of the minimum wage in the informal sector. Labor law and ministerial regulations provide workers with a variety of benefits, but it was estimated that, aside from government officials, only 10 percent of workers received social security benefits. Persons who worked at foreign-owned companies often received health benefits, meal privileges, and transportation. The law also requires employers to register workers with and pay contributions to the state-owned insurance agency, which was rarely done.

The law establishes a 40-hour workweek, with one 30-minute rest period for every four hours of work. Companies often required a five-and-a-half- or six-day workweek. The law also requires at least one day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and twice the hourly rate for additional overtime, with a maximum of three hours of overtime per day and no more than 14 hours per week. Unions complained that companies relied upon excessive overtime in some garment and electronics assembly plants, to the detriment of workers' health and safety. Observance of laws regulating benefits and labor standards varied by sectors and regions. Employer violations of legal requirements were fairly common, sometimes resulting in strikes and protests. The American Center for International Labor Solidarity reported workers in the garment industry worked extremely long hours, but because their pay slips did not specify the amount of overtime paid, they could not be certain they were fully compensated for overtime. The Manpower Ministry continued to urge employers to comply with the law; however, government enforcement and supervision of labor standards continued to be weak.

Both the law and regulations provide for minimum standards of industrial health and safety. In practice the country's worker safety record was poor. The state-owned insurance agency reported 86,692 workplace accidents between January and November, an average of 237 incidents per day. Local officials have responsibility for enforcing health and safety standards. In larger companies the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Workers are obligated to report hazardous working conditions, and employers are forbidden by law from retaliating against those who do report hazardous working conditions; however, the law was not enforced effectively. By law workers have the right to remove themselves from hazardous conditions without jeopardizing employment; in practice it was not clear they could avail themselves of this right.

## JAPAN

Japan is a parliamentary democracy with a population of approximately 127.4 million. In August 2009 the Democratic Party of Japan (DPJ) won parliamentary elections and ended the Liberal Democratic Party's half-century of dominance. In June, Naoto Kan succeeded Yukio Hatoyama as prime minister. In July elections for the parliament's upper house, the ruling coalition led by the DPJ lost its majority in that chamber but retained control of the more powerful lower house. The elections were considered free and fair. Security forces reported to civilian authorities.

Human rights nongovernmental organizations (NGOs) reported problems with the country's detention facilities and legal system. There were several reports of corruption during the year. Sexual harassment and employment discrimination continued to be reported. Discrimination against children born out of wedlock, minority groups, and foreigners were problems. The exploitation of foreign trainees remained a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice.

On March 22, a Ghanaian man being deported from the country died aboard an airplane prior to take-off while in handcuffs. Although an official judicial autopsy could not determine the cause of death and noted no sign of physical harm, his widow said she saw bruises when identifying the man's body, and immigration officials testified in the Diet (parliament) that he was gagged by a towel and forced into his seat by 10 officers. In December a police investigation into whether the 10 officers used excessive force was sent to Chiba prosecutors to decide if indictments are warranted.

NGOs and foreign diplomats reported instances of alleged physical abuse in some prisons. Four instructors at Hiroshima Juvenile Training School, a reform facility for juvenile offenders, were convicted during the year for physically abusing approximately 50 students in 2009. Following this incident, the Ministry of Justice conducted a questionnaire at the country's other 51 juvenile training schools. Seventy-one persons, slightly more than 2.1 percent of the total population of juveniles in protective custody, responded that they had been abused by their instructors.

The Government continued to deny death-row inmates and their families information about the date of execution. Families of condemned prisoners were notified of the execution after the fact. The Government stated this policy was to spare the prisoners the anguish of knowing when they were going to die. Condemned prisoners, although held in solitary confinement for an average of almost eight years until their execution, were allowed visits by their families, lawyers, and other persons. An NGO reported that prisoners facing the death penalty were sometimes kept in solitary confinement for decades and concluded that a number of these prisoners had become mentally ill as a result but that requests for mental health records of death-row inmates were summarily denied.

NGOs continued to report that prison management regularly abused the rules on solitary confinement. Punitive solitary confinement may be imposed for a maximum of 60 days, but procedures allow wardens to keep prisoners in "isolation" solitary confinement indefinitely. A prisoner released from Fuchu Prison during the year was kept in isolation for the final four years of his sentence. Prison officials stated that solitary confinement was an important tool to maintain order in prisons that were at or above capacity.

Hazing, bullying, and sexual harassment were reported as problems in the Japanese Self Defense Forces.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. However, several facilities were overcrowded and lacked sufficient heating in the winter or air conditioning in the summer. Extreme summer heat in the prisons caused the deaths of a male prisoner in Osaka Prison in July and a female prisoner in Kochi Prison in August. In both cases, the prisoners were moved to protection cells (normally used for inmates on suicide watch) shortly before collapsing and dying. The Kochi Prison inmate had been diagnosed with heatstroke four days earlier and moved briefly to a hospital but was subsequently returned to the prison.

Prisoner rights advocates also alleged that inmates may have frozen to death in the winter. In some institutions, clothing and blankets were insufficient to protect inmates against cold weather. Most prison facilities did not provide heating during nighttime hours in winter despite freezing temperatures, exposing inmates to a range of preventable ailments and medical conditions. Foreign prisoners in the Tokyo area presented to visiting diplomatic officials chilblains-affected fingers and toes, the direct result of long-term exposure to deleteriously cold and at times freezing conditions.

NGOs and foreign diplomatic officials also reported that some facilities provided inadequate food and medical care. Foreign diplomatic officials confirmed numerous cases in which the prison diet was inadequate to prevent significant weight loss, including muscle mass. Cases of slow and inadequate medical treatment were documented, including in detainees and prisoners with preexisting medical conditions. Police and prison authorities were particularly slow providing treatment of mental illness and had no protocol for offering psychiatric therapy. The Fukuoka Bar Association also raised concerns that prison doctors repeatedly forced an inmate to use a catheter even though he rejected the treatment. The inmate subsequently developed a catheter-associated urinary tract infection. NGOs, lawyers, and doctors also criticized medical care in police-operated preindictment detention centers and immigration detention centers. Poor sanitary and health conditions in immigration detention facilities resulted in complaints of common fungal infections among detainees.

At the end of 2009, there were 75,250 prisoners, a slight decrease from 2008. This figure, which counts detained defendants and suspects as well as sentenced prisoners and convicts, included 5,212 female prisoners and 38 minors. Men and women prisoners were held in separate facilities in prisons and detention centers. Minors

were held separately from adults in prisons and regular detention centers, but regulations do not require that minors be held separately in immigration detention centers.

NGOs and foreign diplomatic officials reported that pretrial detainees routinely were held incommunicado for up to 23 days before being allowed access to persons other than their attorneys or, in the case of foreign arrestees, consular personnel. Prisoners' access to visitors was often limited to immediate family members. The law allows for broad religious observances within prisons, as long as these activities do not interfere with prison management. Prisons are also required to allow for consultations with prison chaplains, but the frequency of visits and the range of religions represented varied widely at different prisons. As a result, routine access to religious observances was not guaranteed, and foreign diplomatic officials said that prison officials repeatedly rejected some prisoners' requests to join religious meetings citing limits on the size of the groups.

While prisoners and detainees were permitted to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, the results of such investigations were provided to the prisoners in a letter offering little detail beyond the investigation's final determination.

Although there were no ombudsmen serving on behalf of prisoners and detainees, prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice and police-operated detention facilities. The committees included physicians, lawyers, local municipal officials, representatives of local communities, and other local citizens. In the March 2009-April 2010 fiscal year, these committees visited a total of 194 prisons and detention facilities (not including pretrial detention facilities) and conducted 756 interviews with detainees without the presence of prison officials. The committees made 603 recommendations to prison or detention facility superintendents, of which 356 were implemented or were in the process of being implemented. In addition, the committees found 130 recommendations required either further discussion or follow-up inspections, and 117 were referred to the Ministry of Justice.

A 2009 amendment to the Immigration Control and Refugee Recognition Law established a similar independent inspection process for immigration detention facilities. There is no inspection procedure in place for observing the country's 52 juvenile reform facilities.

During the year the International Committee of the Red Cross did not request any prison visits.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but NGOs and journalists alleged that police in large cities employed racial profiling to harass and sometimes arrest “foreign-looking” persons, particularly dark-skinned Asians and persons of African descent, without cause. While many of these instances were limited to police officers' legal requests for immigration papers, anecdotes included one man who was dragged to the police station and stripped by force and a few instances reported in the press where foreigners were required to provide urine samples to police.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the National Police Agency (NPA) and local police forces, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. However, some NGOs criticized local public safety commissions as lacking independence from or sufficient authority over police agencies.

*Arrest Procedures and Treatment While in Detention.*—Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary. NGOs claimed that warrants were granted at high rates, and that detention sometimes occurred even though the evidentiary grounds were weak.

The law provides detainees the right to a prompt judicial determination of the legality of the detention and requires authorities to inform detainees immediately of the charges against them. Authorities usually held suspects in police-operated detention centers for an initial 72 hours. After interviewing a suspect, a judge may extend preindictment custody by up to two consecutive 10-day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five-day extension in exceptional crimes such as insurrection, foreign aggression, and disturbance. NGOs pointed out that routine granting of extensions undermined the intent of the law—prompt judicial determination of the legality of the detention.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. However, bail is not

available during preindictment to persons detained in either police or Ministry of Justice detention facilities. Because judges customarily granted prosecutors' requests for extensions, the system of pretrial detention, known as daiyou kangoku (substitute prison), usually continued for 23 days. Suspects in pretrial detention are legally required to face interrogation, although NPA guidelines limit interrogations to a maximum of eight hours and prohibit overnight interrogations. Preindictment detainees had access to counsel, including at least one consultation with a court-appointed attorney. Prisoner advocates said that in practice this access continued to improve in terms of duration and frequency. However, counsel may not be present during interrogations. Family members usually were allowed to meet with detainees, but only in the presence of a detention officer. Article 81 of the code of criminal conduct allows police to prohibit detainees from having interviews with persons other than their counsel if there is probable cause that the suspect may flee or may conceal or destroy evidence. Many detainees, including most of those charged with drug offenses, were held incommunicado until indictment and were allowed only consular and legal access. Prosecutors at their discretion may partially record suspects' confessions, but NGOs pointed out that partial and discretionary recording could be misleading. While internal police supervisors increasingly are present during interrogations, there is no independent oversight of the interrogations.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice. In 2009 the country began a lay-judge (jury) system for serious criminal cases. NGOs noted that the lay-judge system improved the procedure for disclosure of evidence, but they remained skeptical that prosecutors will respect acquittal verdicts decided by lay judge panels. The first two full acquittals in the lay-judge system were appealed and at year's end were awaiting trials before professional judges.

*Trial Procedures.*—The law provides the right to a fair trial for all citizens and each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right to cross-examine witnesses. A defendant is presumed innocent until proven guilty in a court of law, and defendants cannot be compelled to testify against themselves.

The UN Committee Against Torture (CAT), NGOs, and lawyers questioned whether defendants were presumed innocent in practice. According to NGOs, the majority of indicted detainees confessed while in police custody. Safeguards exist so that suspects cannot be compelled to confess to a crime or be convicted when a confession is the only evidence. In 2009 the National Public Safety Commission issued regulations prohibiting police from touching suspects (unless unavoidable), exerting force, threatening them, keeping them in fixed postures for long periods, verbally abusing them, or offering them favors in return for a confession. Defense counsel is not allowed to be present during interrogations.

NGOs asserted that the new rules were not adequately enforced and that prisoners continued to be subjected to interrogation sessions of eight to 12 hours in length, during which detainees were handcuffed to a chair for the entire period and aggressive questioning techniques were used. NGOs also stated that, although the practice is illegal, interrogators sometimes offered bail in exchange for a detained person proffering a confession. From April 2009 to March, the Federation of Bar Associations counted 29 press reports of violations of interrogation guidelines. In December an Osaka police officer was indicted on charges of illegal intimidation after a man in his custody surreptitiously made a recording of his interrogation in September and subsequently filed a complaint with prosecutors.

The use of police-operated detention centers was criticized because it puts suspects in the custody of their interrogators. The Government stated that article 16 of the Act on Penal Detention Facilities and Treatment of Inmates and Detainees separates the function of investigation from the function of detention. The vast majority of arrested suspects were sent to police detention facilities, with a much smaller proportion sent to Ministry of Justice-operated preindictment detention centers. In 2009 more than 99 percent of cases that reached trial resulted in conviction. Independent legal scholars alleged that the judiciary gives too much weight to confessions; the Government disputed the assertion.

There were media reports of persons convicted on the basis of police-obtained confessions who were later proved innocent. In July a retrial began for two Fukawa men who confessed to and were convicted of murder in 1967. Although they were paroled in 1996, they have insisted the confessions were coerced and sought exoneration; new evidence, including revelations that police tampered with the interrogation tapes, led the Supreme Court to allow a new trial. The trial ended on December 10 and a judgment was scheduled to be rendered in March 2011.

According to some independent legal scholars, trial procedures favor the prosecution, although the Government disputed the claim. The law provides for access to counsel; nevertheless, a significant number of defendants reported that this access was insufficient. The law does not require full disclosure by prosecutors unless the defending attorney is able to satisfy disclosure procedure conditions. In practice this sometimes resulted in the suppression of material that the prosecution did not use in court. As a result, the legal representatives of some defendants claimed that they did not receive access to relevant material in the police record. In appeal attempts in some cases, defense attorneys were not granted access to possible exculpatory DNA evidence. The police's response in those cases was that all evidence was destroyed after the initial trial. The Government's official position regarding the disclosure of evidence to defense attorneys is that any evidence, including DNA, can be disclosed through the disclosure procedure in accordance with the code of criminal procedure "if the conditions are met." In September and October, a senior prosecutor and the chief and deputy chief of the Osaka District Public Prosecutor's Office were arrested on charges of falsifying evidence and then concealing the criminal act in the case of a public servant on trial for alleged postal fraud. In December the country's top prosecutor resigned over the scandal.

The language barrier was a serious problem for foreign defendants. No guidelines exist to ensure effective communication between judges, lawyers, and non-Japanese-speaking defendants. Several foreign detainees claimed that police urged them to sign statements in Japanese that they could not understand and that were not translated adequately. No standard licensing or qualification system existed for court interpreters, and trials proceeded even if no translation or interpretation was provided, despite the Government's claims that trials cannot proceed unless translation or interpreting is provided. According to the 2010 Police White Paper, prefectural police stations made available police officers or other employees with foreign language skills to serve as interpreters during interrogations.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Persons have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are both administrative and judicial remedies for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Approximately 78 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events. The Ministry of Education's approval process for history textbooks continued to be a subject of controversy, particularly regarding the treatment of certain subjects pertaining to the 20th century. Some textbook authors accused the Ministry of Education of editing their writing in ways that distorted the intended meaning. The national anthem and national flag continued to be controversial symbols. From April 2008 to March 2009, 69 teachers were disciplined for refusing to sing the national anthem in front of the flag.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in pro-

viding protection and assistance to refugees, asylum seekers, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The Government also began a small-scale third country resettlement program involving 27 Burmese refugees from a refugee camp in Thailand.

In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government also provided temporary protection to individuals who may not qualify as refugees and provided it to 501 persons in 2009.

Refugee and asylum applicants could ask lawyers to participate in their appeal hearings before the system of refugee examiners; however, in practice refugee and asylum seekers had limited access to legal representatives due to the limited amount of legal aid available and the small number of lawyers working on asylum matters. Although there was a free counseling service for foreigners, including asylum seekers and refugees, at the Japan Legal Support Center established by the Ministry of Justice, there was no public financial assistance to pay legal costs for asylum seekers outside of this center. Lawyers working for asylum seekers who lacked financial means could apply for financial assistance from the Federation of Bar Associations.

The UN CAT, NGOs, and lawyers criticized the indefinite and often long period of detention between the rejection of an application for asylum and deportation. The UN special rapporteur on the human rights of migrants expressed concern about the policy of detaining asylum seekers and other irregular migrants for prolonged periods, in some cases for as long as three years. NGOs believed that inadequate explanation of the cause for rejecting an asylum application made appealing the decision difficult. During the year there were a series of suicides, attempted suicides, and hunger strikes by detained asylum seekers unable to obtain temporary release. The Ministry of Justice implemented a program during the year to streamline the asylum petition process and reduce time spent in detention. The program stipulates that the cases of all detained asylum seekers must be reviewed quarterly and that first instance decisions must be completed within six months of application. The program led to a reduction in the number of detained asylum seekers to the lowest level in recent years.

The UN Committee on the Elimination of Racial Discrimination (CERD) reported that asylum seekers from certain countries received preferential consideration while those from other countries were sometimes forcibly returned to situations of risk.

Applicants for refugee status normally were not allowed to work unless they meet certain conditions. To obtain the right to work, persons applying for refugee status must be in need and completely dependent on government shelters or NGO support. In the interim the Refugee Assistance Headquarters, a government-funded foundation, provided small stipends. However, budget shortfalls caused by an increase in applications led to stricter criteria and eliminated this aid to many applicants.

Refugees faced the same patterns of discrimination that other foreigners did: reduced access to housing, education, and employment. Except for those who met the conditions stated above, persons whose refugee status was pending or on appeal did not have the legal right to work or receive social welfare, rendering them completely dependent on overcrowded government shelters, illegal employment not subject to labor law oversight, or NGO assistance.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In July the country held elections for the upper house of the Diet, which brought an end to the ruling DPJ-led coalition's bicameral majority. The elections were considered free and fair. Political parties operated without restriction or outside interference.

Women held 52 of 480 seats in the lower house of the Diet and 44 of 242 seats in the upper house. At year's end there were three female governors and two women in the 18-member cabinet. Because some ethnic minorities are of mixed heritage and do not self-identify, it was difficult to determine the number of minorities that served in the Diet. Three Diet members acknowledged being naturalized Japanese citizens.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. Independent academic experts stated that ties between politicians, bureaucrats, and businessmen were close and that corruption remained a concern. During the first half of the year, the NPA reported arrests in 20 cases of bribery and four cases of bid rigging. There were regular media reports of investigations into financial and accounting irregularities involving high-profile politicians and government officials, including a decision by a civilian panel requiring that prosecutors indict former DPJ secretary general Ichiro Ozawa. In September lower house member Muneo Suzuki's conviction for accepting bribes was upheld, and he began a two-year prison sentence. An investigation into the campaign fundraising of then prime minister Yukio Hatoyama that began in 2009 resulted in the conviction of a Hatoyama aide in April; prosecutors did not file charges against the former prime minister.

Although laws requiring financial disclosure for public officials exist, they were laxly enforced.

The public has the legal right to access government information. There were no reports that the Government denied legal requests for information or required information seekers to pay prohibitive fees to gain access.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without governmental restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The Government cooperated with intergovernmental organizations and permitted visits by UN representatives and representatives of other intergovernmental organizations, including the International Organization for Migration and International Labor Organization.

Human rights groups pointed out that the country had not established an independent national human rights institution and that the national Human Rights Commission reports to the Ministry of Justice. There were no ombudsman offices at the national level. While there were no official human rights committees in the Diet, there were unofficial groups that covered human rights-related matters such as abolishing the death penalty.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, gender, disability, language, and social status. Although the Government generally enforced these provisions, discrimination against women, ethnic minority groups, and foreigners remained problems.

*Women.*—The law criminalizes all forms of rape against women, including spousal rape, and the Government generally enforced the law effectively. According to NPA statistics, 1,402 rapes against women and girls were reported in 2009 and 571 were reported during the first half of 2010. Prosecutors brought charges in 662 rape cases in 2009. Many police stations had female officers to provide confidential assistance to female victims.

Although prohibited by law, domestic violence against women remained a problem. Ministry of Justice statistics showed that 70 perpetrators were prosecuted in 2009 under the antisposal violence law. District courts may impose six-month restraining orders on perpetrators of domestic violence to protect threatened or abused spouses and their children under the age of 20 years and may also impose sentences of up to one year in prison or fines of up to one million yen (approximately \$12,150). In 2009 courts granted 2,411 of 3,087 petitions for protection orders, with 526 withdrawals and 150 dismissals. The law, which covers common-law marriages and divorced individuals, includes protection for relatives of victims and persons threatened with violence. According to NPA statistics, in 2009 there were 28,158 reported cases of domestic violence, with women constituting more than 98 percent of the victims. Spousal violence consultation assistance centers reported 72,792 consultation cases in 2009, with women the victims in more than 99 percent of the cases.

Sexual harassment in the workplace remained widespread. During the 12-month period ending in March, the Ministry of Health, Labor, and Welfare (MHLW) received 11,898 consultations, over 60 percent of which were from female workers. The law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than publicizing the names of offending companies. The Government established hotlines in prefectural labor bureau equal employment departments and charged them with the

duty of handling consultations concerning sexual harassment and mediating disputes when possible.

Despite apologies by successive Japanese political leaders, a number of NGOs continued to criticize the country's apologies to and compensation for "comfort women" (the victims of forced prostitution during World War II) as inadequate. The Government provided compensation payments through a government-initiated private fund, expressed remorse, and extended apologies to the victims.

Couples and individuals could decide freely and responsibly the number, spacing, and timing of their children, and they had the information and means to do so free from discrimination, coercion, and violence. Women had access to contraception and maternal health services, including skilled attendance during childbirth and essential obstetric and postpartum care. Maternal mortality was 6.8 deaths per 100,000 live births in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law prohibits sexual discrimination and generally provides women the same rights as men. The Gender Equality Bureau, a cabinet office in the Ministry of Consumer Affairs and Food Safety, Social Affairs, and Gender Equality, continued to examine policies and monitor progress on gender equality. Its White Paper on Gender Equality 2010 concluded that, more than 10 years since the passage of the Basic Law for a Gender-Equal Society, the participation of women in society remained inadequate and called for increased gender-equality awareness focused on reaching men and housewives in addition to working women.

Inequality in employment remained a problem in society. Women composed 41.9 percent of the labor force, unchanged from 2009, and their average monthly wage was 226,100 yen (approximately \$2,750), about two-thirds of the monthly wage earned by men (333,700 yen, or \$4,050). Women held just 10.7 percent of managerial positions, and 70 percent of employed women resigned after the birth of their first child.

In August 2009 the UN Committee on the Elimination of Discrimination against Women termed the country's efforts to implement antidiscrimination measures as insufficient. The committee pointed to discriminatory provisions in the civil code, unequal treatment of women in the labor market, and low representation of women in high-level elected bodies. The committee urged the country to abolish a six-month waiting period stipulated in the civil code for women but not men before remarriage, to adopt a system allowing for the choice of surnames for married couples, and to repeal civil code and family-registration law provisions that discriminate against children born out of wedlock. The Government pointed to changes in its nationality law and civil code that address some of these concerns, including a resolution of the surnames matter, the establishment of women's rights to their husbands' pensions, and improved legal protection for women in child custody issues.

*Children.*—The nationality law grants citizenship at birth to the child of: a Japanese father who is either married to the child's mother or recognizes paternity of the child; a Japanese mother; or, a child born in the country to parents who are both unknown or do not have nationality.

Reports of child abuse continued to increase. From April 2009 through March 2010, there were 44,210 possible cases of child abuse by parents or guardians reported to the Child Guidance Center, an increase of more than 1,500 from the preceding year. According to the NPA, in 2009 a total of 335 child abuse cases resulted in arrest and 28 children were killed as a result of abuse by parents or guardians. To better ensure children's safety, municipal governments require that suspected abusive parents or guardians be interviewed by child welfare officials and provided with assistance as required. When necessary, suspected homes must also be inspected with the police in a supporting role. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and mandates that anyone aware of suspicious circumstances must report the information to a local child counseling center or municipal welfare center.

Child prostitution is illegal, with a penalty of imprisonment with labor for up to three years or a fine of up to one million yen (\$12,150) for offenders, including the intermediary and the person involved in solicitation. However, the practice of *enjokosai* (compensated dating) and easy facilitation by means of online dating, social networking, and delivery health (call girl or escort service) sites made *de facto* domestic child-sex tourism a problem. There are statutory rape laws. The minimum age for consensual sex varies with jurisdiction and ranges from 13 to 18. The penalty for statutory rape is no less than two years' imprisonment with forced labor.

The country continued to be an international hub for the production and trafficking of child pornography. The distribution of child pornography is illegal; the penalty is imprisonment with labor for not more than three years or a fine not ex-

ceeding three million yen (\$36,460). Although the distribution of child pornography is illegal, the law does not criminalize the simple possession of child pornography, which often depicts the brutal sexual abuse of small children. While this continues to hamper police efforts to effectively enforce existing child pornography laws and fully participate in international law enforcement in this area, child pornography investigations increased 40 percent in 2009 to 935 cases. New measures announced in July included instructing Internet service providers to voluntarily block Internet access to child pornography, increased cooperation with foreign law enforcement agencies, and boosting resources for investigations; they were designed to combat child pornography without changing current laws. But children's advocates criticized the measure to block access, noting that it does not require Internet service and cellular data providers to block the images and, in fact, the law prohibits providers from censoring any user access.

The new measures also do not address the unfettered availability of sexually explicit cartoons, comics, and video games. While the NPA maintained that no link has been established between these animated images and child victimization, other experts suggested the situation harms children by creating a culture that appears to accept sexual abuse of children.

The country is not a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish population is approximately 2,000 persons. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the Government generally enforced these provisions; however, the Federation of Bar Associations complained that discrimination is undefined and thus not enforceable through judicial remedies. In December 2009 the Government established an advisory committee to help develop domestic laws to enable the country to ratify the UN Convention on the Rights of Persons with Disabilities.

Persons with disabilities generally were not subject to overt discrimination in employment, education, or provision of other state services; however, in practice they faced limited access to these services.

The law mandates that the Government and private companies hire minimum proportions of persons with disabilities (including mental disabilities). Companies with more than 300 employees that do not comply must pay a fine of 50,000 yen (approximately \$600) per vacant position per month. Public employment of persons with disabilities exceeded the minimum. According to MHLW statistics, the private sector lagged, despite increases over previous years. In a 2009 survey of private companies with more than 56 workers, 1.6 percent of their employees had disabilities.

Accessibility laws mandate that new construction projects for public use must include provisions for persons with disabilities. In addition, the Government grants low-interest loans and tax benefits to operators of hospitals, theaters, hotels, and other public-use facilities if they upgrade or install features to accommodate persons with disabilities.

According to NGOs there were an estimated 20,000 homeless persons who could not receive old-age pensions, disability pensions, and livelihood protection allowances because they were considered to be without residence. NGOs reported that, due to inadequate protection by the social safety net and the social stigma against homelessness, a significant number of elderly citizens and homeless individuals committed petty crimes to obtain the food and shelter provided by life in prison. Surveys showed that persons with mental disabilities may have accounted for up to 60 percent of the repeat-offender population in some prisons. Surveys also showed a significant percentage of repeat offenders were homeless persons who were not receiving social services. Police and prison authorities were particularly slow providing treatment of mental illness and had no protocol for offering psychiatric therapy.

According to NGOs and physicians, persons with mental illnesses also faced stigmatization and both educational and occupational barriers. Mental health professionals stated that insufficient efforts were being made to reduce the stigma of mental illness and to inform the public that depression and other mental illnesses were treatable, biologically based illnesses.

*National/Racial/Ethnic Minorities.*—Ethnic minorities experienced varying degrees of societal discrimination. The approximately three million Buraku (descendants of feudal-era “outcasts”), although not subject to governmental discrimination, were frequently victims of entrenched societal discrimination. The UN CERD and Buraku advocacy groups reported that, despite the socioeconomic improvements achieved by many Buraku, widespread discrimination persisted in employment, marriage, housing, and property value assessments. While the Buraku label is no longer officially used to identify people, the family registry system can be used to identify Buraku and facilitate discriminatory practices. Buraku advocates expressed concern that employers, including many government agencies that require family registry information from job applicants for background checks, may use this information to identify and discriminate against Buraku applicants.

Despite legal safeguards against discrimination, the country’s large populations of Korean, Chinese, Brazilian, and Filipino permanent residents—many of whom were born, raised, and educated in Japan—were subject to various forms of deeply entrenched societal discrimination, including restricted access to housing, education, health care, and employment opportunities. Other foreign nationals resident in the country as well as “foreign-looking” Japanese citizens reported similar discrimination and also said they were prohibited entry, sometimes by signs reading “Japanese only,” to privately owned facilities serving the general public, including hotels and hot springs. Noting that the discrimination is usually open and direct, NGOs complained of government inaction in prohibiting it.

An enforcement directive published by the Japanese Social Insurance Agency explicitly made it easier for employers to avoid paying pension and insurance contributions on behalf of their foreign employees teaching languages as compared to Japanese employees in the same position. A labor union representing the teachers said the directive provides impunity to employers who illegally fail to enroll foreign teachers in the system.

Many foreign university professors, especially women, complained that they were hired on short-term contracts without possibility of tenure.

There was a widespread perception among citizens that “foreigners,” often members of Japan-born ethnic minorities, were responsible for most of the crimes committed in the country. The media fostered this perception by disproportionately reporting crimes committed by non-Japanese citizens, although Ministry of Justice statistics showed that the crime rate for foreigners, excepting immigration violations, was lower than the crime rate for citizens. Long-term foreign residents, including naturalized citizens, reported being targeted, particularly by the police.

Many immigrants struggled to overcome obstacles to naturalization, including the broad discretion available to adjudicating officers and the great emphasis on Japanese language ability. Aliens with five years of continuous residence are eligible for naturalization and citizenship rights. Naturalization procedures also require an extensive background check, which includes inquiries into the applicant’s economic status and assimilation into society. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

Approximately 600,000 ethnic Koreans were permanent residents or citizens. In general their acceptance by society was steadily improving. In 2009, 7,639 ethnic Koreans applied for citizenship, a slight increase from the prior year. The vast majority of applications were approved. Ethnic Koreans who chose not to naturalize faced difficulties in terms of civil and political rights.

Representatives of some ethnic schools continued to press the Government to have their schools recognized as educational foundations and to accept the graduates of their high schools as qualified to take university and vocational school entrance exams. The Ministry of Education stated that the graduates of ethnic schools certified by international school associations as being equivalent to a 12-year program could take the entrance exam.

During the year nativist groups became increasingly aggressive in harassing foreigners and Japan-born ethnic minorities. In August, four antiforeigner group members were arrested after a demonstration against the Kyoto Number 1 Korean Elementary School that involved verbal harassment of the schoolchildren.

*Indigenous People.*—Although the Ainu enjoyed the same rights as all other citizens, when clearly identifiable as Ainu they faced discrimination. The Ainu law, enacted in 1997, emphasizes preservation of Ainu culture, but it lacks some provisions that a few Ainu groups have demanded, such as land claims, reserved seat(s) for Ainu in the Diet and local assemblies, and a government apology to the Ainu people.

The UN Human Rights Committee submitted a report to the Government in 2008 advising it to designate both the Ainu and the Ryukyu (a term that includes residents of Okinawa and portions of Kagoshima Prefecture) as indigenous peoples and give assistance to protect and promote their culture and traditions. The Government

replied that, while it does not recognize “Ryukyu” as an indigenous people, it acknowledges their unique culture and history and has made efforts to preserve and show respect for these traditions.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—While there is no national law that protects against discrimination on the basis of sexual orientation, some local governments have enacted laws prohibiting employment discrimination based on sexual orientation. NGOs that advocate for gay, lesbian, bisexual, and transgender persons reported some instances of bullying, harassment, and violence.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and the Government effectively enforced the law. Unions were free of government control and influence; however, public service employees’ basic union rights, governed by a separate law, are restricted in ways that effectively require prior authorization to form unions. In 2009 just over 10 million persons, or 18.5 percent of the total workforce, were members of unions. Among workers in the agriculture, forestry, and fisheries sectors, 15,000—or 2.7 percent of the total workers in these sectors—belonged to unions.

Except for public sector workers and employees of state-owned enterprises, the law allows unions to conduct their activities without interference, and the Government protected this right. The continued increased use of short-term contracts, often in violation of the Labor Standards Law, not only undermined regular employment but also frustrated organizing efforts.

Unions in the private sector have the right to strike, and workers exercised this right in practice. Workers in sectors providing essential services, including electric power generation and transmission, transportation and railways, telecommunications, medical care and public health, and postal service, however, must give 10 days’ advance notice to the authorities. Public sector employees do not have the right to strike, but such employees are able to participate in public employee organizations, which can negotiate collectively with their public employers on wages, hours, and other conditions of employment. They are not able to enter into collective bargaining agreements.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law and was freely practiced. However, the 276,345 public employees and 2,515,728 employees involved in providing essential services (approximately 4.5 percent of the total workforce of 62.7 million) are not afforded this right. Approximately one-third of workers were part-time or nonregular workers, who found it difficult to organize for collective bargaining purposes. Moreover, an increasing number of businesses were choosing to change their form of incorporation and moving to a holding company structure. Investment fund “companies,” which are not legally considered employers, also appeared to be playing a larger role. In addition to changes in corporate structure, there were labor market changes affecting corporate activities. As a result a significant proportion of the workforce was unable to participate in collective bargaining units.

There were no reports of antiunion discrimination or other forms of employer interference in union functions.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Workers who entered the country illegally or who overstayed their visas were at risk for these practices, including nonpayment or underpayment of wages. Some companies illegally forced foreign laborers in the Industrial Trainee and Technical Internship Program to work overtime, refused to pay them allowances, restricted their movement, communications, and travel documents, and forced them to deposit paychecks into company-controlled accounts. The law and Ministry of Justice guidelines prohibit these practices, and the Labor Standard Inspection Bodies monitored workplace compliance with the labor laws. Its normal response was to issue warnings and advisories; legal recourses normally were not pursued except in the most serious cases.

Also see the Department of State’s annual Trafficking in Persons Report at <https://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the exploitation of children in the workplace, and the MHLW effectively im-

plemented the law. By law children between the ages of 15 and 18 may perform any job that is not designated as dangerous or harmful. Children between the ages of 13 and 15 may perform “light labor” only, and children under 13 may work only in the entertainment industry. Other than victims of human trafficking and child pornography, child labor was not a problem.

Also see the Department of State’s annual Trafficking in Persons Report at <https://www.state.gov/g/tip>.

*e. Acceptable Conditions of Work.*—A revision to the law increased minimum wage rates effective October 24. They ranged from 643 yen (\$7.81) to 821 yen (\$9.98) per hour, depending on prefecture. The revised law also increased to 500,000 yen (\$6,080) the fine for employers that fail to pay the minimum wage. The minimum daily wage provided a decent standard of living for a worker and family.

The law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked in excess of 40 per week or eight per day. However, it was widely accepted that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the Government for failing to enforce maximum working-hour regulations. From April 2009 to March 2010, surviving family members filed 768 applications with the MHLW seeking recognition of a deceased as a *karoshi* (death from overwork) victim. The ministry officially recognized 293 *karoshi* victims during the year. Worker rights NGOs claimed the number was much higher, and that overwork and other employment conditions contributed to many of the 31,560 suicides during the year.

According to the Organization for Economic Cooperation and Development, Japanese employers hired part-time, short-term contract or nonregular workers rather than permanent employees to circumvent protection by labor law. Such workers made up one-third of the labor force and worked for lower wages and often with less job security and fewer benefits or in more precarious working conditions than career workers. Many of these workers lost their jobs during the year due to private-sector cuts and some sought damages from their employers, alleging that the repeated renewal of their short-term contracts obligated their employers to convert them to career employees. Other groups argued that the labor system had been too rigid before regulations changed to allow this type of work. One of the stated goals of the 2008 Revised Part-Time Work Law was to provide equality for part-time workers, the majority of whom are women, in terms of wages and training. To qualify, however, part-time workers must have parity with full-time workers in terms of tasks, overtime, and transfers. In practice only 4 to 5 percent of part-time workers qualified under these terms.

Advocacy groups reported that employers exploited illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. By law, students are allowed to work only 28 hours per week. However, foreign students, particularly self-sponsored students, the majority of whom were Chinese, often held two or three low-wage jobs and as a result were moderately to severely sleep deprived, with the concomitant greater risk of injury and illness.

The UN special rapporteur on the human rights of migrants and NGOs reported that the Foreign Trainee and Technical Intern Program, despite its declared intent as a vehicle of international assistance, is designed in a way that facilitates the exploitation of foreign workers. The majority of the trainees are Chinese nationals who pay fees of more than \$1,400 to Chinese brokers to apply for the program and then must offer deposits of up to \$4,000 and sometimes a lien on their home prior to leaving for Japan. According to worker advocates, if they report mistreatment or exit the program early, the brokers seize these assets. During the year a government ordinance prohibited the practices of requiring deposits from applicants to the program and imposing fines on the participants. While the law governing the trainee program has been amended to address employer violations and the Government increased enforcement in 2010, the system of punishing victims for speaking out continued to allow many companies to use the program for cheap, unregulated labor.

In some companies, trainees reportedly were forced to work unpaid overtime and received less than the minimum wage. Moreover, their wages were automatically deposited in company-controlled accounts, despite the fact that “forced deposits” are illegal. According to NGOs, trainees sometimes had their travel documents taken from them and their movement controlled to “prevent escape or unauthorized communication with others.” In 2009 the Ministry of Justice confirmed that 360 companies and other organizations that accepted foreign trainees were involved in wrongful practices, of which an estimated 80 percent involved violations of labor-related laws, failure to pay wages, unpaid overtime, and contracting out the trainees as laborers to other companies. Out of 444 cases recognized as wrongful practices, 123 cases were found to represent violations of labor-related laws and regulations. NGOs and labor unions working with foreign workers noted no noticeable improvement in

companies' treatment of foreign workers. A survey conducted by the Japan International Training Cooperation Organization found that 27 trainees died from April 2009 to March, nine of them from brain and heart diseases often associated with working long hours. Three of the trainees committed suicide. On November 19, the Japanese Labor Standards Office officially certified a trainee's 2008 death as *karoshi*. Although the company where the 31-year-old Chinese trainee worked reported only minimal overtime on his timecards, the Standards Office determined he had worked, on average, over 80 hours a week for the 12 months preceding his death. The company was under criminal investigation.

In January the Kumamoto District Court ordered an agent for foreign trainees and a training company to pay four Chinese interns 4.4 million yen (approximately \$53,480) in damages in addition to ordering the company, a sewing firm, to pay 12.8 million yen (approximately \$155,560) in unpaid wages. Several similar lawsuits were awaiting judgment.

The Government sets occupational health and safety standards, and the Ministry of Labor effectively administered the various laws and regulations governing occupational health and safety. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment. In 2009 labor inspectors responded to 48,448 complaints, inspected 146,860 workplaces, and ordered 4,553 places of business to suspend operations and correct occupational health and safety problems. They also referred 1,110 cases to prosecutors.

---

## KIRIBATI

Kiribati is a constitutional multiparty republic with a population of approximately 100,000. The president exercises executive authority and is popularly elected for a four-year term. The legislative assembly nominates at least three, and no more than four, presidential candidates from among its members. Parliamentary and presidential elections held in 2007 were considered generally free and fair. Anote Tong of the Boutokaan Te Koaua party was reelected president. Security forces reported to civilian authorities.

Violence and discrimination against women, child abuse, and commercial sexual exploitation of children were the main human rights problems during the year.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports government officials employed them. Traditional village practice permits corporal punishment for criminal acts and other transgressions.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by family members, church representatives, and diplomats. The Government also permitted monitoring visits by independent human rights observers, but there were no such visits during the year.

As of August the prison system held 102 inmates (98 men and four women). There were 96 convicted prisoners, of whom 91 were male and five were female, and six pretrial detainees, all male. There were no juveniles (defined as those under age 18). There was no separate facility for juvenile offenders, but children under age 16 usually were not incarcerated. Juveniles ages 16 to 17 generally may be detained no longer than one month in the adult facility; however, for more serious offenses, such as murder, juveniles over age 16 can be held in custody for more than a month and can be sentenced to longer terms. Pretrial detainees accused of serious offenses who did not meet bail were held with convicted prisoners. Persons charged with minor offenses normally were released on their own recognizance pending trial.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Although authorities permit complaints by inmates about inhumane conditions, the complaints are subject to censorship. There were no such complaints received, nor investigations undertaken, during the year. The Government

monitors prison conditions. The country does not have any ombudsman who can serve on behalf of prisoners and detainees.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police force, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—In some cases magistrates issued warrants before an arrest was made. Persons taken into custody without a warrant must be brought before a magistrate within 24 hours or within a reasonable amount of time when arrested in remote locations. These requirements generally were respected in practice. Many individuals were released on their own recognizance pending trial, and bail was granted routinely for many offenses. The law requires that arrested individuals be informed of their rights, which include the right to legal counsel during questioning and the right not to incriminate oneself. Two police officers must be present at all times during questioning of detainees, who also are provided the option of writing and reviewing statements given to police. Detainees were allowed prompt access to legal counsel. Public defenders, known as “people’s lawyers,” were available free of charge for arrested persons and others who needed legal advice.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There is no trial by jury. An accused person must be informed of the charges and be provided adequate time and facilities to prepare a defense. The law also provides for the rights to confront witnesses, present evidence, and appeal convictions. Defendants facing serious criminal charges are entitled to free legal representation. Procedural safeguards are based on British common law and include the presumption of innocence until proven guilty. The law extends these rights to all citizens.

Extrajudicial traditional communal justice, in which village elders decide cases and mete out punishment, remained a part of village life, especially on remote outer islands. Nonetheless, the incidence of communal justice was declining under pressure from the codified national law.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, as well as access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Although there were no government restrictions, there were some concerns about the lack of local independent media.

The Government Broadcasting and Publications Authority (BPA) operated Radio Kiribati, the dominant news source in the country, and published a twice-weekly newspaper. A board of directors appointed by the Government oversees BPA operations. A media company owned by a member of Parliament affiliated with the governing party operated the country’s other radio station and published a weekly newspaper.

International media were allowed to operate freely. The law requires newspapers to register with the Government, but there were no reports the Government denied registration to any publication.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. While generally available and accessible on South Tarawa, public access to the Internet elsewhere in the country was limited by lack of infrastructure. The International Telecommunication Union reported that approximately 2 percent of the country’s inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. Although the law prohibits government restrictions on citizens' freedom of movement, it does not restrict such actions by traditional village councils.

The need did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law provides for the forced expulsion from the country of a convicted person if "in the interests of" defense, public safety, order, morality, health, or environmental conservation. The Government did not use forced exile. On rare occasions traditional village councils and the courts have banished persons from a specific island within the country, usually for a fixed period of time, but there were no reports of such banishments during the year.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. During the year there were no applications for refugee resettlement, asylum, or protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The legislature has 45 members: 43 are elected by universal adult suffrage, the Rabi Island Council of I-Kiribati (persons of Kiribati ancestry) in Fiji selects one, and the attorney general is an ex officio member. The most recent parliamentary elections were held in August 2007. In October 2007 the legislature elected Anote Tong of the Boutokaan Te Koaua party to a second term as president. The elections were considered generally free and fair. There were no government restrictions on political opponents, and political parties could operate without restriction or outside interference. Elected village councils run local governments in consultation with traditional village elders.

There were three women in the 45-member legislature. Several permanent secretaries were women.

The president and several members of the legislature were of mixed descent.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, but the Government did not always implement the law effectively. Government officials have sometimes engaged in corrupt practices with impunity, but there were no specific reports of government corruption during the year.

Nepotism, based on tribal, church, and family ties, was prevalent. Public officials were not subject to financial disclosure laws. The auditor general is responsible for oversight of government expenditures. In reality the auditor general lacked sufficient resources, and findings of misappropriations and unaccounted for funds were generally ignored, or the investigations were inconclusive.

Since 2009, together with Nauru and Tuvalu, the country has participated in a subregional audit support program, an initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling public accounts to be audited to uniformly high standards in a timely manner.

No law specifically provides for citizen or media access to government information. In practice the Government was fairly responsive to individual requests for information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated without government restriction. Government officials were cooperative and responsive to their views.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination on the basis of race, national origin, or color, and the Government observed these prohibitions in practice; however, only native I-Kiribati may own land.

*Women.*—Spousal abuse and other forms of violence against women were significant problems. Alcohol abuse frequently was a factor in attacks on women. Rape, including spousal rape, is a crime, with a maximum penalty of life imprisonment, but sentences were typically much shorter.

According to a Kiribati Family Health and Safety Study prepared in 2009 by the Secretariat of the Pacific Community, approximately 75 percent of the women surveyed had been victims of domestic violence at some time in their lives. The law does not address domestic violence specifically, but general common law and criminal law make assault in all forms illegal. The law provides for penalties of up to six months' imprisonment for common assault and up to five years' imprisonment for assault involving bodily harm. Prosecutions for rape and domestic assault were infrequent, largely due to cultural taboos on reporting such crimes and police attitudes encouraging reconciliation over prosecution.

The law does not specifically prohibit sex tourism. There were reports of foreign fishermen engaging in commercial sexual acts with minors (see section 6, Children). Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment. Information presented in workshops conducted during the year in connection with efforts to develop a national policy on gender equality indicated that sexual harassment was more widespread than previously regarded.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Access to contraception, as well as prenatal, obstetric, and postnatal care, was available from public health hospitals and centers. According to the World Health Organization, approximately 90 percent of births were attended by skilled health personnel, and the maternal mortality was estimated to be 158 deaths per 100,000 live births based on data from the 2005 census. According to indicators published by the Population Reference Bureau, an estimated 36 percent of married women ages 15-49 used some form of contraception, and an estimated 31 percent used modern contraceptive methods. Women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law does not prohibit discrimination on the basis of gender, and the traditional culture, in which men are dominant, impeded a more active role for women in the economy. Women filled many government office and teaching positions. According to the most recent census in 2005, 56 percent of professionals were women (primarily teachers and nurses). Statistics generally were not well collected in the country, and data on the participation of women in the work force and on comparative wages were unavailable. Women have rights of ownership and inheritance of property as well as full and equal access to education. However, land inheritance laws are patrilineal, and sons are entitled to more land than are daughters.

The Citizenship Act contains some discriminatory provisions. For example, the foreign wife of a male citizen acquires citizenship automatically through the marriage; however, the foreign husband of a female citizen does not. A man who applies for citizenship through naturalization may include his wife and children in his application; however, a woman may not include her husband and children in her application.

*Children.*—Citizenship is derived by birth in the country, unless the child acquires the citizenship of another country at birth through a noncitizen parent. Citizenship is also derived through one's father.

Chronic alcohol abuse leading to child abuse (physical and occasionally sexual) and neglect continued to be a serious problem. There is a police unit specifically focused on child and family violence.

Crewmembers of foreign fishing vessels that stopped in the country engaged in commercial sexual exploitation of women, some of whom were underage. The Police Domestic Violence and Sexual Offenses Unit reported that they had boarded foreign shipping vessels and found young women engaged in such prostitution, but there were no statistics on the number of girls under age 18 involved in such activity.

Some girls worked as prostitutes in bars frequented by crewmembers. Local I-Kiribati, sometimes including family members, acted as facilitators, delivering girls to the boats. The girls generally received cash, food, or goods in exchange for sexual services. The lack of a legal ban on prostitution, and the fact that the legal age of consent is 15, hindered police efforts to stem the practice.

The minimum age for consensual sex is 15. Sexual relations with a girl under age 13 carries a maximum penalty of life imprisonment, and sexual relations with a girl aged 13-14 carries a maximum penalty of five years' imprisonment. The victim's consent is not a permissible defense under either provision; however, in the latter case, reasonable belief the victim was 15 or older is a permissible defense.

The penal code has no specific provision concerning child pornography.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The country's Jewish community was limited to a few foreign nationals, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities; however, there were no formal complaints of discrimination in employment, education, or the provision of other state services for persons with physical, sensory, intellectual, or mental disabilities. Accessibility of buildings, communications, and information for persons with disabilities is not mandated, and there were no special accommodations for persons with disabilities. There were two main nongovernmental organizations that supported and advocated for persons with disabilities: Te Toa Matoi (Disabled Persons' Organization) and the School for the Disabled. The school offered special elementary education classes and programs for children with disabilities from age six to age 14 years. The central hospital on Tarawa had a wing for persons with mental disabilities, and there was a psychiatrist working on Tarawa. Physiotherapy services also were offered at the hospital for persons with physical disabilities.

There was no government agency specifically responsible for protecting the rights of persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy and acts of "gross indecency between males" are illegal, with maximum penalties of seven and five years' imprisonment, respectively, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under these provisions. There were no reports of societal discrimination or violence based on sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There were no reports of societal discrimination or violence against persons with HIV/AIDS. A government-run HIV/AIDS taskforce coordinated outreach and educational activities concerning HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for freedom of association, and workers are free to join and organize unions; workers exercised these rights in practice. The Government did not control or restrict union activities; however, unions must register with the Government.

According to the 2005 census, the labor participation rate was approximately 64 percent, with 37 percent of the adult workforce occupied in subsistence farming or fishing. An estimated 10 percent of wage-earning workers were union members. Employers and workers were represented through the Kiribati Chamber of Commerce and the Kiribati Trade Unions Council, respectively. There were no official public-sector trade unions, but nurses and teachers belonged to voluntary employee associations similar to unions and constituted approximately 30 to 40 percent of total union and association membership.

The law provides for the right to strike, but no strikes have taken place since 1980. There were no instances reported during the year in which the right to strike was denied.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer unions and provides for collective bargaining. The Government's Public Service Office sets wages in the large public sector (53 percent of workers in the cash economy, according to the 2005 census). In a few statutory bodies and government-owned compa-

nies, however, employees could negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no collective bargaining agreements during the year. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under age 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Officers from the Ministry of Labor and Human Resources Development generally enforced these laws effectively. Children rarely were employed outside the traditional economy.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The wage-earning workforce consisted of approximately 13,100 persons, mostly employed on the main atoll of Tarawa, the political and commercial capital. The remainder of the working population worked within a subsistence economy. There is no official minimum wage, but the Labor Ministry estimated the "non-legislated" minimum to be between A\$1.60 and A\$1.70 (approximately \$1.60 and \$1.70) per hour. There is provision for a minimum wage at the discretion of the Labor Ministry, but it has never been implemented. The standard wage income provided a marginally decent standard of living for a worker and family.

There is no legislatively prescribed workweek. Workers in the public sector worked 36.25 hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace, which the Labor Ministry is responsible for enforcing. Employers are liable for the expenses of workers injured on the job, but a lack of qualified personnel hampered the Government's ability to enforce employment laws, and no workplace inspections were conducted during the year. Workers do not have the right to remove themselves from hazardous work sites without risking loss of employment.

---

## KOREA, DEMOCRATIC PEOPLE'S REPUBLIC OF

The Democratic People's Republic of Korea (DPRK or North Korea)<sup>1</sup> is a dictatorship under the absolute rule of Kim Jong-il, general secretary of the Korean Workers' Party (KWP) and chairman of the National Defense Commission (NDC), the "highest office of state." The country has an estimated population of 23.5 million. Kim's father, the late Kim Il-sung, remains "eternal president." National elections held in March 2009 were not free or fair. Security forces did not report to civilian authorities.

Citizens did not have the right to change their government. The Government subjected citizens to rigid controls over many aspects of their lives. There continued to be reports of extrajudicial killings, disappearances, arbitrary detention, arrests of political prisoners, harsh and life-threatening prison conditions, and torture. There continued to be reports that pregnant female prisoners underwent forced abortions in some cases, and in other cases babies were killed upon birth in prisons. The judiciary was not independent and did not provide fair trials. Citizens were denied freedom of speech, press, assembly, and association, and the Government attempted to control all information. The Government restricted freedom of religion, citizens' movement, and worker rights. There continued to be reports of severe punishment of some repatriated refugees and their family members. There were widespread reports of trafficking in women and girls among refugees and workers crossing the border into China.

---

<sup>1</sup>*Note on Sourcing:* The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to assess fully human rights conditions or confirm reported abuses. When referenced, refugee testimony can be dated because of the time lapse between refugee departure from North Korea and contact with NGOs or officials able to document human rights conditions.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were numerous reports that the Government committed arbitrary and unlawful killings. Defector and refugee reports indicated that in some instances the Government executed political prisoners, opponents of the regime, repatriated defectors, and others accused of crimes with no judicial process. The law prescribes the death penalty for the most “serious” or “grave” cases of “antistate” or “antination” crimes, including: participation in a coup or plotting to overthrow the state; acts of terrorism for an antistate purpose; treason, which includes defection or handing over state secrets; suppressing the people’s movement for national liberation; cutting electric power lines or communication lines; and illegal drug transactions. According to nongovernmental organizations (NGOs) and think tanks in the Republic of Korea (ROK or South Korea), a 2007 addendum to the penal code extended executions to include less serious crimes such as theft or destruction of military facilities or national assets, fraud, kidnapping, smuggling, and trafficking.

Border guards reportedly had orders to shoot to kill potential defectors, and prison guards were under orders to shoot to kill those attempting to escape from political prison camps, but it was not possible to determine if this practice continued during the year. During the year the Government reportedly announced that attempting to cross the border or aiding others in such an attempt was punishable by execution. Religious and human rights groups outside the country alleged that some North Koreans who had contact with foreigners across the Chinese border were imprisoned or killed.

During the year South Korean officials and NGOs reported that public executions continued, but no official statistics were available.

In January an NGO reported that authorities executed three citizens who attempted to defect and sent the attempted defectors’ families either to political prison camps or rural provinces (see section 1.f.). This incident was reportedly part of the “50-Day Battle” security crackdown to prevent defections (see section 2.d.).

South Korean press reported in March that authorities executed a man by firing squad for making an unauthorized phone call to contacts outside of North Korea. He was allegedly describing rice prices and living conditions in North Korea.

In March after the 2009 currency revaluation, international press reported a man was shot and killed for treason for burning his money, which bore a picture of Kim Il-sung, instead of giving it to the Government.

Press and NGOs reported the execution of officials, including Park Nam-ki, director of planning and finance, reportedly for initiating the November 2009 currency reform policy (see section 2.e.). This report has not been confirmed.

It was unknown whether the Government prosecuted or otherwise disciplined members of the security forces for killings that occurred in 2008 and 2009.

In July press reported that, according to his brother, Son Jong-nam was executed in December 2008. Son Jong-nam was sentenced to death in 2006 for maintaining contacts with organizations outside the country.

*b. Disappearance.*—NGO, think tank, and press reports indicated that the Government was responsible for disappearances. In recent years defectors claimed that state security officers often apprehended individuals suspected of political crimes and sent them, without trial, to political prison camps. There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado. The penal code states that a prosecutor’s approval is required to detain a suspect; however, the Government ignored this law in practice.

In June international press reported the disappearance of Ri Je Gang, a first deputy director of the Workers Party’s Organization and Guidance Department. North Korea’s news media reported that Ri died in a car accident; international press reported speculation that Ri’s death was possibly the result of an internal power struggle.

In February foreign media reported that female prisoners in prison camps who were impregnated by guards disappeared shortly after the pregnancy was discovered.

In February an NGO reported a woman in Chungjin, North Hamgyong Province, disappeared after making a statement about the difficulty of market activities following the currency revaluation. The female merchant was not seen after authorities allegedly called her to the security department on February 3.

Japan continued to seek further information about the cases of 12 Japanese nationals whom the Japanese government designated as having been abducted by DPRK government entities. The DPRK did not announce any progress or results of

an investigation it agreed to reopen after discussions with the Japanese government in 2008. Japan also hoped to gain answers regarding other cases of suspected abductions of Japanese nationals.

ROK government and media reports indicated that the DPRK government also kidnapped other nationals from locations abroad in the 1970s and 1980s. However, the DPRK government continued to deny its involvement in the kidnappings. The ROK government estimated that approximately 496 of its civilians, abducted or detained by DPRK authorities since the end of the Korean War, remained in the DPRK. The ROK government also estimated 560 South Korean prisoners of war and soldiers missing in action also remained alive in North Korea.

In 2008 the media reported South Korean missionary Kim Dong-shik had most likely died within a year of his 2000 disappearance near the China-DPRK border.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The penal code prohibits torture or inhuman treatment; however, many sources continued to report these practices. Methods of torture and other abuse reportedly included severe beatings, electric shock, prolonged periods of exposure to the elements, humiliations such as public nakedness, confinement for up to several weeks in small “punishment cells” in which prisoners were unable to stand upright or lie down, being forced to kneel or sit immobilized for long periods, being hung by the wrists or forced to stand up and sit down to the point of collapse, and forcing mothers recently repatriated involuntarily from China to watch the infanticide of their newborn infants. Defectors continued to report that many prisoners died from torture, disease, starvation, exposure to the elements, or a combination of these causes.

During the year a Human Rights Watch release provided an account of torture experienced by Shin Dong-hyuk, a defector born and confined in a political prison camp in Kaechon in South Pyongan Province for 22 years. In previous testimonies, Shin had stated that beatings and torture were common within the camp. The 2010 *Witness to Transformation: Refugee Insights into North Korea* study (Witness to Transformation), published by the Peterson Institute of International Economics, noted that 90 percent of refugee respondents who had been incarcerated in North Korea witnessed forced starvation, 60 percent witnessed death due to beating or torture, and 27 percent witnessed executions.

The North Korean Human Rights Database Center’s 2010 White Paper on North Korean Human Rights indicated that officials have in some cases prohibited live births in prison and ordered forced abortions, particularly in detention centers holding women repatriated from China, according to first-hand refugee testimony. In some cases of live birth, the white paper reported that prison guards killed the infant or left it for dead. Guards also sexually abused female prisoners according to the white paper.

Defectors reported that reeducation through labor, primarily through sentences at forced labor camps, was a common punishment and consisted of difficult physical labor such as logging, mining, or tending crops under harsh conditions. Reeducation involved memorizing speeches by Kim Il-sung and Kim Jong-il.

*Prison and Detention Center Conditions.*—NGO, refugee, and press reports indicated that there were several types of prisons, detention centers, and camps, including forced labor camps and separate camps for political prisoners. Witness to Transformation described four main types of prison and detention facilities: kwan-li-so, political penal-labor camps; kyo-hwa-so, correctional or reeducation centers; jip-kyul-so, collection centers for low-level criminals; and ro-dong-dan-ryeon-dae, labor-training centers. One kwan-li-so camp, Camp 22, is estimated to be 31 miles long and 25 miles wide and to hold 50,000 inmates. Defectors claimed the kwan-li-so camps contained unmarked graves, barracks, worksites, and other prison facilities. The Washington Post reported in July 2009 that numerous prison camps can be seen in satellite images and that the camps have been consolidated from 14 locations to five. An NGO reported six major prison camp complexes across the country. Kwan-li-so penal-labor camps are administered by the National Security Agency (NSA); kyo-hwa-so reeducation centers are administered by the People’s Safety Agency (PSA). An NGO reported six kwan-li-so facilities: Kaechon (No.14) and Bukchang (No.18) in South Pyongan Province, Yoduk (No.15) in South Hamkyung Province, and Hwasung (No.16), Chongjin (No.25), and Hoiryeong (No.22) in North Hamkyung Province as North Korea’s six remaining political prison camps.

Reports indicated that those sentenced to prison for nonpolitical crimes were typically sent to reeducation prisons where prisoners were subjected to intense forced labor. They stated that those who were considered hostile to the regime or who committed political crimes were sent to political prison camps indefinitely. Many prisoners in political prison camps were not expected to survive. The Government continued to deny the existence of political prison camps.

Reports indicated that conditions in the political prison camps were harsh and that systematic and severe human rights abuses occurred throughout the prison and detention system. Detainees and prisoners consistently reported violence and torture. Press reported defector accounts of public executions in political prison camps. According to refugees, in some places of detention, prisoners received little or no food and were denied medical care. Sanitation was poor, and former labor camp inmates reported they had no changes of clothing during their incarceration and were rarely able to bathe or wash their clothing. An NGO reported that one reeducation center was so crowded that prisoners were forced to sleep on top of each other or sitting up. The same NGO reported that guards at a labor camp stole food brought for inmates by their family members. An NGO reported in January unsanitary conditions, crowding of inmates, and high death rates caused by epidemics in a reeducation center.

South Korean and international press reported that kyo-hwa-so, or reeducation centers, hold populations of up to 10,000 political prisoners, economic criminals, and ordinary criminals.

During the year the South Korean National Human Rights Commission reported that defectors indicated that North Korean authorities selected prison inmates to spy on others and to torture other prisoners. The commission also reported that attempts to escape led to execution by firing squad or hanging.

South Korean press reported an increase in the number of inmates at a labor camp under the Ministry of People's Armed Forces in North Hamkyung Province.

Estimates of the total number of prisoners and detained in the kwan-li-so political penal-labor camps range between 150,000-200,000. The Washington Post and Donga Ilbo estimated 154,000 prisoners. Information on the number of women and juvenile prisoners was not available. No additional information was available on whether men and women were held together or if conditions varied for women. One NGO reported that political prisoners sent to punishment facilities were subject to torture without consideration of their gender.

Under the Criminal Procedure Law, a criminal case is dismissed in case of a crime committed by a person under 14 years of age and under article 62 public education is applied in case of a crime committed by a person above 14 and under 17 years of age. One NGO reported in a survey of 20 defector youth that five reported experiencing torture while incarcerated between 1998 and 2003. There was no way to confirm whether changes to the criminal law in 2004 and 2005 resulted in less severe treatment for juveniles.

One NGO reported that women make up the majority of prisoners in ro-dong-dan-ryeon-dae, or labor-training centers; the majority of prisoners in these facilities were repatriated from China.

There was no information available on whether prisoners and detainees had reasonable access to visitors. In past years defectors reported that Christians were subjected to harsh punishments if their faith was made public. No information was available on whether prisoners or detainees could submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhumane conditions. It is also not known whether results of investigations were made public. There was no information on whether the Government investigated or monitored prison and detention conditions. Neither the UN Special Rapporteur on the human rights situation in the DPRK nor the UN Special Rapporteur on Torture have been allowed to independently assess conditions inside the country.

The Government did not permit inspection of prisons or detention camps by human rights monitors. There was no information on whether ombudsmen can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, but reports indicated that the Government did not observe these prohibitions in practice.

Witness to Transformation reported that authorities had a high level of discretion in detaining, arresting, prosecuting, and releasing people.

Following the currency revaluation, an NGO reported in January the arrest of 40 individuals for dumping or burning the old currency. The Provincial Police Department deemed destroying old currency as treason because the currency had pictures of Kim Il-song.

*Role of the Police and Security Apparatus.*—The internal security apparatus includes the Ministry of Public Security (MPS) and the State Security Department

(SSD). The security forces do not have adequate mechanisms to investigate possible security force abuses.

The formal public security structure was augmented by a pervasive system of informers throughout the society. Surveillance of citizens, both physical and electronic, was routine.

The MPS, responsible for internal security, social control, and basic police functions, is one of the most powerful organizations in the country and controlled an estimated 144,000 public security personnel. MPS maintains law and order; investigates common criminal cases; manages the prison system; controls traffic; monitors citizens' political attitudes; conducts background investigations, census, and civil registrations; controls individual travel; manages the Government's classified documents; protects government and party officials; and patrols government buildings and some government and party construction activities. Border Guards are the paramilitary force of the MPS and are primarily concerned with monitoring the border and with internal security.

NGOs reported a "50-Day Battle" initiated by the Government in January to increase surveillance and the role of the public security forces to prevent defections (see section 2.d.).

*Arrest Procedures and Treatment While in Detention.*—Revisions to the Criminal Code and the Criminal Procedure Code in 2004 and 2005 added shortened periods of detention during prosecution and trial, arrest by warrant, and prohibition of collecting evidence by forced confessions. There was no confirmation of whether these changes were incorporated in practice, or if the Government increased the amount of resources to eliminate inhumane conditions.

Members of the security forces arrested and reportedly transported citizens suspected of committing political crimes to prison camps without trial. According to one South Korean NGO, beginning in 2008 the PSA was authorized to handle directly criminal cases without approval of prosecutors. Previously, once police officers arrested suspects, the preadjudication department examined facts and evidence of the case and passed the case to prosecutors. The court made an official decision on the case only after completion of the prosecutors' investigation. The change was made reportedly because of corruption among prosecutors. One NGO reported that investigators could detain an individual for the purpose of investigation up to two months.

There were no restrictions on the Government's ability to detain and imprison persons at will or to hold them incommunicado. Family members and other concerned persons found it virtually impossible to obtain information on charges against detained persons or the lengths of their sentences. Judicial review of detentions did not exist in law or in practice.

*e. Denial of Fair Public Trial.*—The constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist. The constitution mandates that the central court is accountable to the Supreme People's Assembly, and the criminal code subjects judges to criminal liability for handing down "unjust judgments." Witness to Transformation reported that only 13 percent of the 102 respondents who were incarcerated in the country received a trial.

*Trial Procedures.*—The MPS dispensed with trials in political cases and referred prisoners to the SSD for punishment. Little information was available on formal criminal justice procedures and practices, and outside access to the legal system was limited to trials for traffic violations and other minor offenses.

The constitution contains elaborate procedural protections, providing that cases should be heard in public, except under circumstances stipulated by law. The constitution also states that the accused has the right to a defense, and when trials were held, the Government reportedly assigned lawyers. Some reports noted a distinction between those accused of political, as opposed to nonpolitical, crimes and claimed that the Government offered trials and lawyers only to the latter. There was no indication that independent, nongovernmental defense lawyers existed. According to a Washington Post report and the South Korean National Human Rights Commission report, most inmates at prison camps were sent there without a trial and without knowing the charges against them.

*Political Prisoners and Detainees.*—While the total number of political prisoners and detainees remained unknown, a 2003 report by the U.S. Committee for Human Rights in North Korea, *The Hidden Gulag*, reported an estimated 150,000 to 200,000 persons were believed to be held in kwan-li-so political penal-labor camps. The Washington Post and Donga Ilbo estimated 154,000 political prisoners were being held in labor camps. The Government considered critics of the regime to be political criminals. Political offenses reported during the year included burning old

currency or criticizing the Government's currency revaluation. Reports from past years described political offenses as including sitting on newspapers bearing Kim Il-sung's or Kim Jong-il's picture, mentioning Kim Il-sung's limited formal education, or defacing photographs of the Kims.

*Civil Judicial Procedures and Remedies.*—According to article 69 of the constitution, “[c]itizens are entitled to submit complaints and petitions. The state shall fairly investigate and deal with complaints and petitions as fixed by law.” Under the Law on Complaint and Petition, citizens are entitled to submit complaints to stop encroachment upon their rights and interests or seek compensation for the encroached rights and interests. Reports indicated this right was not respected in practice.

During the year the currency revaluation of November 2009 was reversed following reports of food shortages and public discontent and unrest. The November 2009 currency revaluation decreed that families could only trade 100,000 won (approximately \$30), for new won. (Note: following the Government currency revaluation in November 2009, the exchange rate has fluctuated. Approximations in this report are based on the rate as of December 2010.) No other property restitution was granted.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the Government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The Government relied upon a massive, multilevel system of informants to identify critics and potential troublemakers. Entire communities sometimes were subjected to security checks. Possessing “antistate” material and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishments, including up to five years of labor reeducation.

The Government monitored correspondence and telephone conversations. Private telephone lines operated on a system that precluded making or receiving international calls; international phone lines were available only under restricted circumstances. Foreign diplomats in Pyongyang stated that the local network was divided so telephone use remained a privilege.

During the year press reports estimated access to an internal mobile phone network increased to an estimated 300,000 users. The system was segregated from systems used by foreigners and could not be used for international calls. In the border regions adjacent to China, unauthorized Chinese mobile phones were reported to be used in making international calls. Those caught using such cell phones illegally were reportedly arrested and required to pay a fine or face charges of espionage, or harsher punishments.

On February 1, the MPS issued a decree to limit communication and access to information from South Korea, and to increase surveillance of the border to prevent defections. The South Korean press reported that jamming devices were installed to obstruct cell phone communications. The press reported detentions of up to 10 years were common for accessing outside media. The press also reported increased punishment, including fines between 500,000 and one million won (\$278-\$556), for calling people in China and possible punishment for the political offense of communicating with South Korea. NGOs reported increased monitoring of Chinese cell phones by government agents and arrests for using cell phones to call relatives outside the country.

In September the Washington Post reported that the city of Hoeryong employed 14 men to monitor the region's phone conversations; typically they can tap a call within two or three minutes of its being initiated.

The Government divided citizens into strict loyalty-based classes known as songbun, which determined access to employment, higher education, place of residence, medical facilities, certain stores, and marriage prospects.

Collective punishment was practiced. Entire families, including children, have been imprisoned when one member of the family was accused of a crime. Collective punishment reportedly can extend to up to three generations.

The Agence France-Presse reported harsher punishments, including collective punishment for families of defectors. An NGO reported that the MPS decree issued during the year stipulated individuals caught using an unauthorized cell phone and their family members would be sent to a political prison camp.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government prohibited the exercise of these rights in practice. There were numerous instances of persons being interrogated or ar-

rested for saying anything that could be construed as negative towards the Government.

The constitution provides for the right to petition. However, the Government did not respect this right. For example, when anonymous petitions or complaints about state administration were submitted, the SSD and MPS sought to identify the authors, who could be subjected to investigation and punishment.

During the year Reporters without Borders reported that two journalists died, resulting from harsh conditions at the Yoduk political prisoner camp in 2001. Both reporters reportedly were detained at the camp for criticizing the leadership of Kim Jong-il. Information regarding the deaths could not be confirmed.

The Government sought to control virtually all information. There were no independent media. The Government carefully managed visits by foreigners, especially journalists.

During visits by foreign leaders, groups of foreign journalists were permitted to accompany official delegations and file reports. In all cases journalists were monitored strictly. Journalists generally were not allowed to talk to officials or to persons on the street. For all foreign visitors, including journalists, cell or satellite phones were held at the airport for the duration of the stay.

Domestic media censorship continued to be strictly enforced, and no deviation from the official government line was tolerated. The Government prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets, unless altered, are set to receive only domestic programming; radios obtained from abroad had to be altered to operate in a similar manner. Elites and facilities for foreigners, such as hotels, could be granted permission to receive international television broadcasts via satellite. The Government continued to attempt to jam all foreign radio broadcasts. The postal service is limited. The New York Times has reported that the phone book is considered classified.

*Internet Freedom.*—Internet access for citizens was limited to high-ranking officials and other designated elites, including select university students. This access was granted via international telephone lines through a provider in China, as well as a local connection that was linked with a German server. An “intranet” was reportedly available to a slightly larger group of users, including an elite grade school, select research institutions, universities, and factories, and a few individuals. The Korea Computer Center acted as the gatekeeper, downloading only acceptable information for access through the intranet. Reporters Without Borders reported that some e-mail access existed through this internal network. According to a 2009 press report, an increasing number of citizens had e-mail addresses on their business cards, although they were usually e-mail addresses shared among all the employees of an organization. In 2009 Reporters Without Borders named the country an “Internet Enemy” due to its strict Internet restrictions.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom and controlled artistic works. A primary function of plays, movies, operas, children’s performances, and books was to buttress the cult of personality surrounding Kim Il-sung and Kim Jong-il.

According to North Korean media, Kim Jong-il frequently told officials that ideological education must take precedence over academic education in the nation’s schools. Indoctrination was carried out systematically through the mass media, schools, and worker and neighborhood associations. Indoctrination continued to involve mass marches, rallies, and staged performances, sometimes including hundreds of thousands of persons.

An NGO reported in January that following the currency revaluation, local officials lectured at education projects to silence complaints about the Government’s policies. Police launched a “50-Day Battle” to increase security on unauthorized economic activity.

The Government continued its attempt to limit foreign influences on its citizens. Listening to foreign radio and watching foreign films is illegal; however, numerous NGOs reported that Chinese and South Korean DVDs, VCDs, CDs, and videotapes continued to be smuggled into the country. The Government intensified its focus on preventing the smuggling of imports of South Korean popular culture, especially television dramas. According to media and NGO reports, in an attempt to enforce the restriction against foreign films, police routinely cut electricity to apartment blocks and then raided every apartment to see what types of DVDs and videos were stuck in the players.

There were numerous examples of the Government’s crackdown on foreign DVDs. In February the South Korean media reported that house searches to combat the spread of South Korean videos were common following the currency revaluation.

During the year, the New York Times reported that a 35-year-old man spent six months in a labor camp in 2009 after being caught watching “Twin Dragons,” a foreign film with Jackie Chan.

An NGO reported that in June local officials in North Hamkyung Province cracked down on illegal movies from the ROK. Officials entered homes without warning, examined electric devices to see if VCR and DVD players had South Korean programs, confirmed televisions and radios had fixed channels, and checked if households had other electronic equipment such as MP3 players. Recording machines and computers were confiscated and nine families were reportedly arrested for possessing South Korean DVDs.

According to an NGO, security guards of Chungjin, North Hamkyung Province arrested three art students for watching and circulating South Korean movies with 30 other people. However, the students were underage and of high-status families, therefore making it difficult to impose harsh punishment.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government did not respect this provision in practice and continued to prohibit public meetings not previously authorized.

The New York Times reported that widespread hardship, popular anger over the currency revaluation, and growing political uncertainty did not harden into noticeable resistance against the Government (see section 1.e.).

*Freedom of Association.*—The constitution provides for freedom of association; however, the Government failed to respect this provision in practice. There were no known organizations other than those created by the Government. Professional associations existed primarily to facilitate government monitoring and control over organization members.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for the “freedom to reside in or travel to any place”; however, the Government did not respect this right in practice. During the year, the Government continued to carefully control internal travel. The Government did not cooperate with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons.

The Government continued to restrict the freedom to move within the country. Only members of a very small elite class and those with access to remittances from overseas had access to personal vehicles, and movement was hampered by the absence of an effective transport network and by military and police checkpoints on main roads at the entry to and exit from every town. Use of personal vehicles at night and on Sundays was restricted.

The Government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country. Foreign officials visiting the country observed checkpoints on the highway leading into Pyongyang from the countryside.

The Government also restricted foreign travel. The Government limited issuance of exit visas for foreign travel to officials and trusted businessmen, artists, athletes, and academics. Short-term exit papers were available for some residents on the Chinese border to enable visits with relatives or to engage in small-scale trade.

It was not known whether the laws prohibit forced exile; the Government reportedly forced the internal exile of some citizens. In the past the Government engaged in forced internal resettlement of tens of thousands of persons from Pyongyang to the countryside. Sometimes this occurred as punishment for offenses, although there were reports that social engineering was also involved. For example, although disabled veterans were treated well, other persons with physical and mental disabilities, as well as those judged to be politically unreliable, were sent out of Pyongyang into internal exile.

The Government did not allow emigration, and beginning in 2008 it tightened security on the border, which dramatically reduced the flow of persons crossing into China without required permits. NGOs reported strict patrols and surveillance of residents of border areas and a crackdown on border guards who may have been aiding border crossers in return for bribes.

Substantial numbers of citizens have crossed the border into China over the years, and NGO estimates of those who lived there ranged from thousands to hundreds of thousands. During the year reports suggested that the number of North Koreans in northeastern China declined. Some settled semipermanently in north-

eastern China, others traveled back and forth across the border, and others sought asylum and permanent resettlement in third countries. A few thousand citizens were settled in third countries during the year.

A February 1 decree by the MPS made special stipulations against defectors, increasing the charge to a "crime of treachery against the nation," possibly punishable by execution. This decree coincided with NGOs' reports of a "50-Day Battle" to wipe out potentially hostile forces of unrest, increasing scrutiny of and punishments for possessing Chinese cell phones and South Korean videos, and preventing defections. Security increased along border areas, and the South Korean press reported increased house searches.

South Korean press reported that the Government issued orders for guards to shoot to kill attempted border crossers. South Korean press reported that five North Koreans were shot dead on the Chinese side of the border and two others wounded by North Korean border guards after they crossed the Apnok River on December 14.

The law criminalizes defection and attempted defection, including the attempt to gain entry to a foreign diplomatic facility for the purpose of seeking political asylum. Individuals who cross the border with the purpose of defecting or seeking asylum in a third country are subject to a minimum of five years of "labor correction." In "serious" cases defectors or asylum seekers are subject to indefinite terms of imprisonment and forced labor, confiscation of property, or death. Many would-be refugees who were returned involuntarily were imprisoned under harsh conditions. Some sources indicated that the harshest treatment was reserved for those who had extensive contact with foreigners.

In the past, reports from defectors indicated that the Government differentiated between persons who crossed the border in search of food (who might be sentenced only to a few months of forced labor or in some cases merely issued a warning) and persons who crossed repeatedly or for political purposes (who were sometimes sentenced to heavy punishments, including death). The law stipulates a sentence of up to two years of "labor correction" for the crime of illegally crossing the border.

During the year the Government reportedly continued to enforce the policy that all border crossers be sent to prison or reeducation centers.

Witness to Transform reported that approximately one-quarter of defectors who had successfully escaped North Korea surveyed in 2004 reported having been arrested in China and repatriated to North Korea at least once before their successful departure.

On June 13, a South Korean NGO reported that 13 North Korean defectors were caught in Dandong, China, and 10 were repatriated back to North Korea. The group consisted of two men and eight women. Three children of age five and six were released.

On May 31, Asahi Shinbun of Japan reported that the North Korean authorities were investigating every household for defectors and missing persons. If a family member on the family registration was not occupying the household, thorough interrogation took place. More than 1,000 of those who could not answer questions properly and clearly were taken away for punishment. Moreover, the Government was issuing new identification cards for every person older than 17 years of age, in order to investigate the number of missing citizens.

On July 26, a South Korean NGO reported that three repatriated North Korean defectors were executed. Two brokers who had aided their departure were reportedly sentenced to life in prison.

*Protection of Refugees.*—The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, nor has the Government established a system for providing protection for refugees. The Government did not grant refugee status or asylum. The Government had no known policy or provision for refugees or asylees and did not participate in international refugee fora.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens do not have the right to change their government peacefully. The KWP and the Korean People's Army, with Kim Jong-il in control, dominated the political system. Little reliable information was available on intraregime politics. The legislature, the Supreme People's Assembly (SPA), meets only a few days per year to rubber-stamp resolutions and legislation presented by the party leadership.

In September international press reported that Kim Jong-eun, son of Kim Jong-il, was promoted to senior military and party positions that established him as heir-apparent to his father and the de facto second in the leadership structure.

The Government demanded near deification of both Kim Jong-il and Kim Il-sung. All citizens remained subject to intensive political and ideological indoctrination, which was intended to ensure loyalty to the leadership and conformity to the state's ideology and authority.

*Elections and Political Participation.*—Elections of delegates to the SPA were held in March 2009. The elections were neither free nor fair, and the outcome was virtually identical to prior elections. The Government openly monitored voting, resulting in nearly 100 percent participation and 100 percent approval.

The Government has created several “minority parties.” Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. The Government regularly criticized the concept of free elections and competition among political parties as an “artifact” of “capitalist decay.”

Following the 2003 elections, women made up 20 percent of the membership of the SPA. Women constituted approximately 4.5 percent of the membership of the Central Committee of the KWP but held few key KWP leadership positions. During the year Kim Kyoung-hui, minister of light industry and Kim Jong-il's sister, was promoted to be a member of the politburo and given general officer rank.

The country is racially and ethnically homogenous. Officially there are no minorities, and there was no information on minority representation in the Government.

#### *Section 4. Official Corruption and Government Transparency*

It is not known whether the law provides criminal penalties for official corruption, whether the Government implemented any such laws effectively, or how often officials engaged in corrupt practices with impunity. Corruption was reportedly widespread in all parts of the economy and society. Corruption in the security forces was endemic.

Reports of diversion of food to the military and government officials and bribery were indicative of corruption in the Government and security forces. The Government continued to deny any diversion of food, although it hinted that it was combating internal corruption.

In June the New York Times reported that in the wake of the currency revaluation, individuals with political connections avoided having their savings confiscated while market traders were severely limited in the amount of money they were permitted to exchange into new won. One woman from Hamhung said the local bank director allowed her relatives to exchange three million won (\$1,667), 30 times the official limit.

In December a South Korean NGO reported that the NSA promised to guarantee smugglers impunity to continue their smuggling activities if they reported river crossers to the NSA.

These examples were illustrative, not exhaustive, and the extent of corruption was unknown.

Foreign media reported that the Government launched a formal corruption investigation in 2008 specifically targeting the National Economic Cooperation Federation and the North Korean People's Council for National Reconciliation. The federation reportedly accepted bribes to label Chinese-made goods as “Made in North Korea,” allowing them to be exported to South Korea duty free. There were no new developments in this case during the year.

It was not known whether public officials are subject to financial disclosure laws and whether a government agency is responsible for combating corruption. There are no known laws that provide for public access to government information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no independent domestic organizations to monitor human rights conditions or to comment on the status of such rights. The Government's North Korean Human Rights Committee denied the existence of any human rights violations in the country.

The Government ignored requests for visits from international human rights experts and NGOs. The NGO community and numerous international experts continued to testify to the grave human rights situation in the country during the year. The Government decried international statements about human rights abuses in the country as politically motivated and as interference in internal affairs. The Government asserted that criticism of its human rights record was an attempt by some countries to cover up their own abuses and that such hypocrisy undermined human rights principles.

The Government emphasized that it had ratified a number of UN human rights instruments but continued to refuse cooperation with UN representatives. The Government prevented the newly appointed UN special rapporteur on the situation of

human rights in the DPRK, Marzuki Darusman, from visiting the country to carry out his mandate. The Government continued to refuse to recognize the special rapporteur's mandate and rejected the offer of the Office of the High Commissioner on Human Rights to work with the Government on human rights treaty implementation.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution grants equal rights to all citizens. However, the Government has reportedly never granted its citizens most fundamental human rights in practice, and it continued pervasive discrimination on the basis of social status.

*Women.*—The Government appeared to criminalize rape, but no information was available on details of the law and how effectively the law was enforced. Women in prison camps reportedly were subject to rape by prison guards and forced abortions.

Violence against women has been reported as a significant problem both inside and outside the home.

Women who have left the country reported that although “sexual violation” was understood, “sexual harassment” is not defined in the DPRK. Despite the 1946 Law on Equality of the Sexes, defectors reported that sexual harassment of women was generally accepted due to patriarchal traditions. Defectors reported that there was little recourse for women who have been harassed.

It was difficult to obtain accurate information regarding reproductive rights in the country. According to the country's initial report to the Convention on the Elimination of All Forms of Discrimination Against Women submitted in 2002, “family planning is mapped out by individual families in view of their actual circumstances and in compliance with laws, regulations, morality, and customs. Women have the decision of the spacing of children in view of their own wish, health condition, and the like. But usually the spacing of children is determined by the discussion between the wife and the husband.” The UN Population Fund estimated that the maternal mortality ratio in 2008 was 250 per 100,000 live births. In 2000 the country reported in the UN Children's Fund's (UNICEF) multiple-indicator cluster survey that a doctor, nurse, or skilled midwife delivered 96.7 percent of births.

The constitution states that “women hold equal social status and rights with men”; however, few women reached high levels of the party or the Government, although they were represented proportionally in the labor force.

Press and think tanks have reported that, while women were less likely than men to be assigned full-time jobs, they had more opportunity to work outside the socialist economy.

*Children.*—Citizenship is derived from one's parents and in some cases birth within the country's territory.

The state provides 11 years of free compulsory education for all children. However, reports indicated some children were denied educational opportunities and subjected to punishments and disadvantages as a result of the loyalty classification system and the principle of “collective retribution” for the transgressions of family members. NGO reports also indicated children were unable to attend school regularly because of hidden fees or insufficient food.

Foreign visitors and academic sources reported that from fifth grade children were subjected to several hours a week of mandatory military training and that all children had indoctrination in school.

The UN Committee on the Rights of the Child repeatedly has expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state to ensure these children had effective access to health, education, and social services.

It was not known whether boys and girls had equal access to state-provided medical care; access to health care was largely dependent upon loyalty to the Government.

Information about societal or familial abuse of children remained unavailable. There were reports of trafficking in young girls among persons who had crossed into China.

Article 153 of the criminal law states that a man who has sexual intercourse with a girl under the age of 15 shall be “punished gravely.”

In March one South Korean media source reported that the inadequacy of sex education in schools contributed to sexual harassment and violence against young girls in and out of schools.

In February a South Korean NGO reported an increase in the number of street children (known as *kkotjebi*) in markets of North Hamkyung Province following the currency revaluation.

An NGO reported that in August street children at the Shinsungchun station attempted to rob an individual, which led to the individual's death. It was reported that the authorities subsequently beat, arrested, and then killed the children.

According to NGO reports, there was a large population of street children, many of them orphans, who were denied entrance to public schools.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There was no known Jewish population, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—A 2003 law mandates equal access for persons with disabilities to public services; however, implementing legislation has not been passed. Traditional social norms condone discrimination against persons with physical disabilities. Although veterans with disabilities were treated well, other persons with physical and mental disabilities have been reportedly sent out of Pyongyang into internal exile, quarantined within camps, and forcibly sterilized. According to a report released in 2006 by the World Association of Milal, an international disability NGO, persons with disabilities constituted approximately 3.4 percent of the population, more than 64 percent of whom lived in urban areas. A domestic organization known as the Korean Federation for the Protection of the Disabled (KFDP) has endorsed this number. A foreign NGO reported that the KFDP allowed them to operate in North Korea. The NGO was allowed to provide support and training at an orthopedic hospital, a school for hearing-impaired children, a coal mine hospital, and a home for elderly persons with disabilities. It was not known whether the Government restricted the right of persons with disabilities to vote or participate in civic affairs.

The KFDP was founded in 1999 to coordinate the work with disabled population countrywide. In 2008 KFDP formed a partnership with the World Federation for the Deaf (WFD). According to WFD, North Korea reported that it had eight schools for the deaf, founded following Kim Il-Sung's instruction to build several schools for deaf children in 1959.

UNICEF has noted that very high levels of malnutrition indicate serious problems for both the physical growth and psychosocial development of young children. The UN Food and Agriculture Organization (FAO) estimated that 7.8 million, or 33 percent of the population was undernourished. FAO estimated 37 percent of children suffered from stunting.

*Social Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws against homosexuality; however, no information was available on discrimination based on sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—No information was available regarding discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for freedom of association; however, this provision was not respected in practice. There were no known labor organizations other than those created by the Government. The KWP purportedly represents the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea. Operating under this umbrella, unions functioned on a classic Stalinist model, with responsibility for mobilizing workers to support production goals and for providing health, education, cultural, and welfare facilities.

Unions do not have the right to strike. According to North Korean law, unlawful assembly can result in five years of correctional labor.

*b. The Right to Organize and Bargain Collectively.*—Workers do not have the right to organize or to bargain collectively. The Government controls all employment aspects, ranging from assigning jobs to determining wages. Joint ventures and foreign-owned companies are required to hire their employees from government-vetted lists of workers. Factory and farm workers were organized into councils, which had an impact on management decisions. Although the law stipulates that employees working for foreign companies can form trade unions and that foreign enterprises must guarantee conditions for union activities, the law does not protect workers who might attempt to engage in union activities from employer retaliation, nor does it impose penalties for employers who interfere in union activities.

There was one special economic zone (SEZ) in the Rajin-Sonbong area. The same labor laws that apply in the rest of the country apply in the Rajin-Sonbong SEZ, and workers in the SEZ were selected by the Government.

Under a special law that created the Kaesong Industrial Complex (KIC), located close to the demilitarized zone between South Korea and North Korea, special regulations covering labor issues negotiated with South Korea were in effect for the management of labor in the area. Those regulations did not contain provisions that guarantee freedom of association or the right to bargain collectively.

According to South Korea's Ministry of Unification, a total of 122 South Korean firms were operational at the KIC as of December, and approximately 46,000 North Korean workers were employed at KIC as of December. South Korea's Ministry of Unification reported that the DPRK's Central Special Zone Development Guidance Bureau provided candidates for selection by South Korean companies. Under an inter-Korean agreement, North Korean workers at the KIC reportedly earned a monthly basic minimum wage of \$60.77 after social welfare deductions (according to the KIC Labor Law, wages are set in U.S. dollars). Employing firms reported, however, that with overtime the average worker earned approximately \$88 per month before deductions. Due to a lack of transparency, it was difficult to determine what proportion of their earned wages workers ultimately took home. Although the special laws governing the KIC require direct payment in cash to the workers, the wages were in fact deposited into accounts controlled by the North Korean government, which withheld a portion for social insurance and other benefits and then remitted the balance (reportedly about 70 percent) to the workers in an unknown combination of "commodity supply cards," which could be exchanged for staple goods, and North Korean won, converted at the official exchange rate. Workers at the KIC do not have the right to choose employers.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. However, the Government mobilized the population for construction and other labor projects, including on Sundays, the one day off per week. The penal code criminalizes forced child labor; however, there were reports that such practices occurred (see section 7.d.). The Government also frequently gathered large groups together for mass demonstrations and performances. "Reformatory labor" and "re-education through labor," including of children, have traditionally been common punishments for political offenses. Forced and compulsory labor, such as logging, mining, tending crops, and manufacturing, continued to be the common fate of political prisoners. The NGO Human Rights Watch reported that one defector was forced to work 16 hours a day in a mine.

The penal code requires that all citizens of working age must work and "strictly observe labor discipline and working hours." There were numerous reports that farms and factories did not pay wages or provide food to their workers. According to reports from one NGO, during the implementation of short-term economic plans, factories and farms increased workers' hours and asked workers for contributions of grain and money to purchase supplies for renovations and repairs. According to the penal code, failure to meet economic plan goals can result in two years of "labor correction."

From April to September 2009, numerous reports indicated that the Government initiated a "150-day battle" labor-mobilization campaign to boost the economy by increasing work hours and production goals. The 150-day battle campaign exhorted workers to work harder to resolve food shortages and to rebuild infrastructure. The labor drive was part of the country's larger goal of building a "great, prosperous, and powerful" nation by 2012, the birth centennial of Kim Il Sung. Immediately after the 150-day battle the country engaged in a second labor-mobilization campaign, the "100-Day battle," to further increase output.

A June New York Times report stated that each family connected to Chongjin state construction company was required to deliver 17 bags of pebbles each month to the local party committee to contribute to resurfacing Chongjin's only paved road in preparation for the 2012 centennial of Kim Il-Sung's birth.

Forced labor continued to take place in brick making, cement manufacturing, coal mining, gold mining, iron production, and textile industries.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—According to the law, the state prohibits work by children under the age of 16 years.

School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects, such as snow removal on major roads, or in meeting production goals. Children were forced also to participate in cultural activities and, according to academic reports, were subjected to harsh condi-

tions during mandatory training sessions. Thousands of children were reportedly held and forced to work in labor camps alongside their parents.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—No reliable data were available on the minimum wage in state-owned industries. However, anecdotal reports indicated that the average daily wage was not sufficient to provide a decent standard of living for a worker and family. Since the 2002 economic reforms, compensation underwent significant change, as citizens sought to earn hard currency to support themselves and their families. Workers often had to pay for services, such as housing rental and transportation, that previously had been provided either free or at highly subsidized rates by the state. Foreign observers who visited the country reported that many factory workers regularly failed to go to work, paying a bribe to managers to list them as present, so they could engage in various trading and entrepreneurial activities instead. The same source stated that many government factories were not operating, primarily due to electricity shortages.

Class background and family connections could be as important as professional competence in deciding who received particular jobs, and foreign companies that have established joint ventures continued to report that all their employees must be hired from registers screened by the Government.

The constitution stipulates an eight-hour workday; however, some sources reported that laborers worked longer hours, perhaps including additional time for mandatory study of the writings of Kim Il-sung and Kim Jong-il. The constitution provides all citizens with a "right to rest," including paid leave, holidays, and access to sanitariums and rest homes funded at public expense; however, the state's willingness and ability to provide these services was unknown. Foreign diplomats reported that workers had 15 days of paid leave plus paid national holidays. Some persons were required to take part in mass events on holidays, which sometimes required advance practice during work time. Workers were often required to "celebrate" at least some part of public holidays with their work units and were able to spend a whole day with their families only if the holiday lasted two days.

Many worksites were hazardous, and the industrial accident rate was high. The law recognizes the state's responsibility for providing modern and hygienic working conditions. The penal code criminalizes the failure to heed "labor safety orders" pertaining to worker safety and workplace conditions only if it results in the loss of lives or other "grave loss." In addition workers do not have an enumerated right to remove themselves from hazardous working conditions.

Citizens labored under harsh conditions while working abroad for North Korean firms and under arrangements between the Government and foreign firms. Contract laborers worked in Africa; Central and Eastern Europe (most notably in Russia); Central, East, and Southeast Asia; and the Middle East. In most cases employing firms paid salaries to the North Korean government, and it was not known how much of that salary the workers received. Workers were typically watched closely by government officials while overseas and reportedly did not have freedom of movement outside their living and working quarters.

Wages of some of the several thousand North Koreans employed in Russia reportedly were withheld until the laborers returned home, making them vulnerable to deception by North Korean authorities, who promised relatively high payments.

## KOREA, REPUBLIC OF

The Republic of Korea (Korea or ROK) is a constitutional democracy governed by President Lee Myung-bak and a unicameral legislature. The country has a population of approximately 48 million. In 2008 the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Security forces reported to civilian authorities.

The following human rights problems were reported: hazing of military personnel, imprisonment of conscientious objectors, the Government's interpretation of laws regulating the Internet and telecommunications, and sexual and domestic violence.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

During the first six months of the year, there were 35 suicides among military personnel, 13 of which were cited as being caused by hazing, mistreatment, or an inability to adjust to military life. The Ministry of National Defense conducted independent investigations of these incidents and made no arrests. The ministry maintained a suicide prevention program.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

During the year the Ministry of National Defense reported 22 hazing incidents resulting in physical injuries. Nine persons were indicted in these incidents. The ministry maintained a hazing prevention program.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers.

The Ministry of Justice reported the total of number of prisoners at year's end was 45,681, of whom 2,375 were women and 430 were juveniles. Pretrial detainees generally are held at detention centers; when held at prisons, they are separated from the prisoners and are subject to looser restrictions on access to visitors and telephone use.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

Prisoners can petition the Ministry of Justice's Human Rights Violations Center or the National Human Rights Commission (NHRC) to make prison abuse claims. During the year 300 petitions were submitted to the justice minister, of which 64 were under investigation. Of the 67 filed with the Human Rights Violations Center, five resulted in findings of relief for the petitioners. The International Committee of the Red Cross, which maintains an office in Seoul, did not request prison visits during the year.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. However, the National Security Law grants authorities the power to detain, arrest, and imprison persons who commit acts that the Government views as intended to endanger the "security of the state." Nongovernmental organizations (NGOs) continued to call for reform or repeal of the law, contending that its provisions do not define prohibited activity clearly. The Ministry of Justice maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application.

During the year 32 persons were detained for violating the National Security Law; 26 were indicted, one had indictment delayed, one was dismissed, and four others were under investigation. Of those who were indicted, 14 were convicted and 12 were in trial proceedings.

In August authorities arrested a pastor for violating the National Security Law by travelling to the Democratic People's Republic of Korea (DPRK or North Korea) without prior permission from the Government. In December the pastor was sentenced to 10 years in prison.

A secondary school teacher indicted in 2008 for violating the National Security Law by distributing banned material remained free on bail. The court heard oral arguments and indicated it would rule on the case in February 2011.

Four NGO members detained and charged in September 2008 with illegal contact with North Korean agents and distribution of North Korean press material for the purpose of exalting DPRK leader Kim Jong-il were convicted during the year. Two of the members were serving prison sentences, and the two others received suspended sentences and probation. All four appealed the sentences and filed a defamation claim against the Government. In November a district court judge dismissed the defamation claim and stated that prosecutors did not release false information. The four appealed, and at year's end the case was pending before the Supreme Court.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the Korean National Police Agency, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and authorities believe that a suspect may destroy evidence or escape capture if not arrested quickly. In such cases a public prosecutor or police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Police may not interrogate for more than six hours a person who voluntarily submits to questioning at police stations. Authorities must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances.

There is a bail system. Human rights lawyers stated that authorities generally did not grant bail for detainees who were charged with committing serious offenses, might attempt to flee or harm a victim, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. There are no restrictions on access to a lawyer, but authorities can limit a lawyer's participation in an interrogation if the lawyer obstructs the interrogation or divulges information that impedes an investigation. The courts respected a defendant's right to a lawyer. During the trial stage and, under certain circumstances, during the pretrial stage, an indigent detainee may request that the Government provide a lawyer.

Access to family members during detention varied according to the severity of the crime under investigation. There were no reports of access to legal counsel being denied.

*Amnesty.*—The Ministry of Justice reported that special amnesty was given to 2,735 persons during the year; 5,685 others who violated only administrative laws also received amnesty.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, the right to a speedy trial, the right of appeal, and freedom from retroactive laws and double jeopardy. Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a public jury system, but jury verdicts are not legally binding. Court-appointed lawyers are provided by the Government (at government expense) in cases where defendants cannot afford to provide their own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for the examination of witnesses by both the prosecution and the defense. Defendants have the right to be present and to consult with an attorney. They can confront or question witnesses against them, and they can present witnesses and evidence on their behalf. Defendants have access to relevant government-held evidence. The constitution provides for the right to a fair trial for all citizens, and an independent judiciary generally enforced this right.

In August the Ministry of Justice added grand jury review to its criminal procedure and installed citizen prosecution commissions at all prosecutors' offices.

*Political Prisoners and Detainees.*—The Ministry of Justice stated that no persons were incarcerated solely because of their political beliefs.

The law requires military service for all male citizens; it does not allow for conscientious objectors, who can receive a maximum three-year prison sentence. The Ministry of Justice noted that the law does not distinguish conscientious objectors from others who do not report for mandatory military service. The ministry reported that during the year there were 6,863 cases of Military Service Act violations, with 1,358 cases referred for trial and 5,505 cases settled out of court.

Watchtower International, a Jehovah's Witnesses organization, reported that in November there were 933 Jehovah's Witnesses members, along with approximately 30 others, serving an average of 18 months in prison for conscientious objection to military service. This number was more than double that of January 2009. Watchtower attributed the rise to the number of conscientious objectors who had delayed beginning prison terms, expecting the Ministry of National Defense to introduce an alternative service system for conscientious objectors. However, in 2009 the ministry reversed its earlier position and announced it would not pursue the introduction of an alternative service for conscientious objectors.

In November Watchtower declared it was monitoring 141 cases on appeal in the Supreme Court and nine cases before the Constitutional Court, two of which involved reservists. Constitutional Court rulings on the matter in 2002 and 2004 upheld the constitutionality of the law.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are administrative and judicial remedies available for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. The law establishes conditions under which the Government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. According to a National Assembly audit, the number of court-approved wiretappings decreased from 799 in the first half of 2009 to 589 in the first half of 2010.

In September the Ministry of Justice indicted seven working-level officials from the Prime Minister's Office on charges of illegal civilian surveillance. The investigation found that the Public Official Ethics Unit within the Prime Minister's Office conducted surveillance on the former head of Kookmin Bank and known supporter of the previous administration, as well as on a National Assembly member and his wife. The ministry was widely criticized in the local media and by local NGOs for the passive manner in which the investigation was conducted. The investigation failed to reveal reasons for initiating the surveillance, additional records of surveillance, and involvement of any high-ranking officials in ordering the surveillance. In November the court convicted all seven officials and sentenced them to prison.

The Government continued to require some released prisoners to report regularly to the police in accordance with the Security Surveillance Act.

The National Security Law forbids citizens from listening to DPRK radio programs in their homes or reading books published in the DPRK if the Government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and viewing DPRK satellite telecasts in private homes is legal.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views generally without restriction. Under the National Security Law the Government may limit the expression of ideas that praise or incite the activities of antistate individuals or groups.

In December the appeals court affirmed a district court's verdict of not guilty in the case of four producers and one writer from the Munwha Broadcasting Corporation's PD Notebook program. The five had been charged with spreading false rumors about the alleged health risks of eating U.S. beef. The prosecution appealed the decision to the Supreme Court.

*Internet Freedom.*—There were some government restrictions on access to the Internet and reports that the Government monitored e-mail and Internet chat rooms.

According to 2008 Organization for Economic Cooperation and Development data, 95 percent of households had access to the Internet through broadband connections. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

The Government blocked violent, sexually explicit, and gambling-oriented Web sites and required site operators to rate their site as harmful or not to youth, based on telecommunications laws that ban Internet service providers from offering information considered harmful to youth. The Government also continued to block DPRK Web sites and direct access to the DPRK's YouTube channel and Twitter account. While viewing Web sites praising the DPRK regime remained lawful, disseminating information about the Web sites, including posting links to the sites, is unlawful under the National Security Law.

In December the Constitutional Court struck down clause 1, article 47, of the Framework Act on Telecommunications as unconstitutional, ruling that the term "public interest" was too broad to meet the constitutional requirement of a clear definition. The article, which prohibited individuals from making false communication over the Internet with the intent to harm "public interest," had been used to indict individuals who posted allegedly misleading information about the prospects of financial markets, candlelight protests in 2008, and North Korea's attacks on a South Korean warship and Yeonpyeong Island during the year. Observers expected the case against 47 bloggers, including the blogger Minerva, who wrote more than 200

online postings criticizing the Government's economic policies, to be dismissed as a result of this ruling.

In January 2009 the Government expanded the Network Act, which requires identity verification in order to post messages on Web sites, to apply to all Web sites operating a domestic server with more than 100,000 visitors (previously set at 300,000) per day, thereby increasing the number of applicable sites from 37 to 167. A civic organization challenged the constitutionality of this act for infringing on freedom of expression. In July the Constitutional Court heard oral arguments but at year's end had not rendered a decision.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. The law prohibits assemblies that are considered likely to undermine public order and requires police to be notified in advance of demonstrations of all types, including political rallies. Police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations. The police reportedly banned some protests by groups that had not properly registered or that were responsible for violent protests in the past.

A law passed in September 2009 by the National Assembly prohibiting public gatherings between sunset and sunrise became invalid when the National Assembly failed to revise it by June, as instructed by the Constitutional Court.

The Ministry of Justice confirmed that none of the 24 riot police officers accused of excessive violence during the 2008 beef protests were arrested. In May three were fined, two were assessed fines of one million won (approximately \$885) each, and one was assessed a fine of a half-million won (\$440).

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those seeking to overthrow the Government.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—Citizens could generally move freely throughout the country; however, government officials restricted the movement of certain DPRK defectors by denying them passports. In many cases travelers going to the DPRK must receive a briefing from the Ministry of Unification prior to departure. They must also demonstrate that their trip does not have a political purpose and is not undertaken to praise the DPRK or criticize the ROK government.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not include provisions for forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government did not routinely grant refugee status or asylum. Government guidelines provide for offering temporary refugee status in the case of a mass influx of asylum seekers and an alternative form of protection—a renewable, short-term permit—to those who meet a broader definition of "refugee." In May 2009 the Ministry of Justice increased its staff reviewing refugee applications. The average processing time for refugee applications decreased from 42 months in March 2008 to 12 months in January 2010. In November the refugee adjudication authority moved from the ministry's headquarters to the Seoul Immigration Office, streamlining the bureaucratic procedures and providing better access to translators available at the Seoul office. During the year the Government approved 47 applications for refugee status and rejected 168 applicants.

Those granted refugee status are given resident status with employment authorization. They are provided with basic living expenses and medical expenses if their income falls below the poverty line. In May the NHRC provided consultation service to refugees. In March, for the first time, a non-DPRK refugee became a Korean cit-

izen. The Government also provided temporary humanitarian protection to 43 persons who may not qualify as refugees.

The Government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to citizenship in the ROK. The Government resettled 1,407 DPRK refugees in the first six months of the year. In July the Ministry of Unification signed a memorandum of understanding with the Korean Bar Association to provide legal assistance to the refugees. In September the ministry opened the DPRK Refugee Support Foundation to help defectors adjust to life in the ROK.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 19 years of age or older.

*Elections and Political Participation.*—National Assembly elections held in April 2008 were free and fair.

Both the majority and the various minority political parties operated without restriction or outside interference.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women, and 30 percent of each party's geographical candidates are recommended to be women. At year's end there were 45 women in the 299-seat National Assembly, with one of 18 National Assembly committees chaired by a woman. One of 13 Supreme Court justices and two of 15 cabinet ministers were women.

There were no members of minority groups in the National Assembly.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government implemented the law effectively. There were reports of officials receiving bribes and violating election laws. According to the Ministry of Justice, as of November 481 government officials had been prosecuted for abuse of authority, bribery, embezzlement or misappropriation, and falsification of official documents. In the National Assembly, as of November one member was in detention and another was on trial for misappropriation and other criminal charges.

By law public servants above a certain rank must register their assets, including how they were accumulated, thereby making their holdings public. Several government agencies are responsible for combating government corruption, including the Board of Audit and Inspection, which monitors government expenditures, and the Public Service Ethics Committee, which monitors civil servant financial disclosures and financial activities. The Anti-Corruption and Civil Rights Commission manages public complaints and administrative appeals on corrupt government practices. In the first half of the year, the commission logged more than 1,500 corrupt government practice claims. The commission also evaluates "good governance and cleanliness" of public organizations and expanded the number of organizations under its purview to 712, compared with 478 in 2009.

The country has a Freedom of Information Act, and in practice the Government granted access for citizens and noncitizens alike, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Government also was cooperative with international organizations. UN High Commissioner for Human Rights Navanethem Pillay and UN Special Rapporteur for Freedom of Opinion and Expression Frank La Rue visited in May.

The NHRC is an independent government body established to protect and promote human rights; it has no enforcement powers, and its decisions are not binding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns.

In December the Truth and Reconciliation Commission of Korea disbanded after five years of examining more than 10,000 petitions alleging wrongful civilian deaths caused by military and law enforcement authorities from the time of Japanese colonial rule in the early 1900s, the Korean War, and democracy movement crackdowns from the late 1950s to the 1980s. In its final report, the commission presented its findings on 86 percent of the incidents and deemed the others unverifiable. In many cases the commission refrained from assigning culpability because of difficulty in judging incomplete accounts of past incidents using present-day standards.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law forbids discrimination on the basis of gender, religion, disability, social status, and race, and the Government effectively enforced it.

*Women.*—The law criminalizes rape. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by convicting spouses in such cases. The penalty for rape is at least three years in prison; if a weapon is used or two or more persons commit the rape, punishment ranges from a minimum of five years' to life imprisonment. During the year the minimum prison sentence for rape or sexual assault increased from five years to seven and from three years to five, respectively, when the perpetrator is a relative of the victim.

The Ministry of Justice stated that there were 18,985 reports of rape or sexual violence during the year, resulting in the indictment of 8,385 suspects. In 2009 there were 8,746 reports and 3,858 prosecutions.

The law defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders can be sentenced to a maximum of five years in prison and fined up to seven million won (\$6,190). Offenders also may be placed on probation or ordered to see court-designated counselors. The law requires police to respond immediately to reports of domestic violence, and they were generally responsive. During the year the Justice Ministry registered 4,363 cases of domestic violence, resulting in 551 indictments.

The law obligates companies and organizations to take preventive measures against sexual harassment, and the Government enforced the law effectively. Civil remedies are generally available for sexual harassment claims. At public institutions, administrative remedies are also available. The Ministry of Gender Equality and Family (MOGEF) conducts an annual survey on sexual violence, and its study during the year found that approximately 2.4 percent of women said they were victims of sexual harassment. The ministry provides sexual harassment prevention training to approximately 15,000 public institutions and reports to the National Assembly annually. In September an assembly member was expelled from his party for making remarks that could be interpreted as sexual harassment to a group of female university students.

The law allows couples and individuals to decide freely the number, spacing, and timing of their children and to have the information and means to do so free from discrimination. Access to contraception and maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care, were widely available. According to the MOGEF, the estimated maternal mortality rate in the year was 10.8 deaths per 100,000 live births. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Women enjoy the same legal rights under the constitution as men. The law permits a woman to head a household, recognizes a wife's right to a portion of a couple's property, and allows a woman to maintain contact with her children after a divorce. The law also allows a remarried woman to change her children's family name to her new husband's name.

The Ministry of Employment and Labor (MOEL) reported that labor participation of women between the ages of 15 and 64 in 2008 was at 54.7 percent. To increase participation of women, the ministry maintained employment-training centers for women at 72 locations to provide job assistance to women, especially those with gaps in their employment history. The ministry also maintained an affirmative action program for public institutions with 50 or more employees and private institutions with 500 or more employees; the program requires institutions that fail to maintain a female workforce that is at least 60 percent that of the average of relevant occupations to comply with a hiring plan devised by the ministry. The ministry reported that the size of the workforce composed of women had increased. It also noted that as of July women filled approximately 42 percent of newly created jobs and made up more than 45 percent of the newly hired workforce.

The number of women in entry-level civil service positions and new diplomatic positions continued to increase. However, women continued to experience a pay gap, since a higher percentage of working women tended to fill lower-paying, low-skilled contract jobs. An MOEL study published in December found that women earned 66 percent as much as men in hourly wages and 62.5 percent when job benefits were included. A September MOGEF study revealed that only 25 percent of working mothers in their 20s and 30s had used extended maternity leave. The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination can be fined up to approximately five million won (\$4,420).

*Children.*—Citizenship is based on parentage, which requires that either the mother or the father be a citizen of the country at the time of birth. Citizenship is also given in circumstances where parentage is unclear if a person is stateless. The Government allows all persons to benefit from public services, regardless of birth registration, if they are legal residents. There were no reports of a denial of public services due to a lack of proper birth registration.

As of September a total of 6,910 child abuse cases were reported to the Ministry for Health and Welfare. The ministry's Child Protection Center intervened in 4,017 of the cases, 91 of which involved abuses in orphanages and childcare facilities. The ministry maintained shelters that provided protection, counseling, and treatment services to the victims of child abuse.

In June high-profile cases of sex offenses against minors prompted the Government to raise the minimum prison sentence from seven to 10 years for rape and five to seven years for other sexual assaults involving a minor 13 years of age or younger. Other changes to the law included extending the statute of limitations for another 10 years in cases with DNA or other scientific evidence and expanding the information disclosed on a sexual offender's registry. The MOGEF maintained 10 centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There is a small Jewish population consisting almost entirely of expatriates. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas, and the Government effectively enforced the law. The Government effectively implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications. The law establishes penalties for deliberate discrimination of up to three years in prison and 30 million won (\$26,535). The Government, through the Ministry of Health and Welfare, continued to implement a comprehensive set of policies that included encouraging public and private buildings and facilities to provide barrier-free access, providing part-time employment, and employing a task force to introduce a long-term care system. The Government operated a national rehabilitation research center to increase opportunities and access for persons with disabilities.

Firms with more than 50 employees are required by law to hire persons with disabilities, and firms with more than 100 employees are required to contribute to funds used to promote the employment of persons with disabilities if they fail to hire persons with disabilities up to a certain percentage of their workforce. In July the Government began providing financial assistance to low-income persons with severe disabilities. In 2009 the Government raised the target percentage of the workforce at relevant public institutions from 2 to 3 percent and at relevant private companies from 2 to 2.3 percent. At the end of 2009, the percentage of the workforce composed of persons with disabilities was at 1.86 percent at firms with more than 50 employees, compared with 1.35 percent in 2006.

*National/Racial/Ethnic Minorities.*—The country has long prided itself on its racial homogeneity, but its growing ethnic minority population passed the 1.2 million mark in midyear. To meet the projected growth in ethnic minorities due to the increasing number of migrant workers and foreign brides, the MOGEF and MOEL initiated various programs to increase public awareness of cultural diversity and to assist foreign workers, wives, and multicultural families to adjust to life in the country.

The local media reported some violence against foreigners, including a man with a mental disability killing his foreign bride, leading to a swift government crackdown on illegal matchmaking agencies. Other incidents appeared to be isolated in nature. Local NGOs and the media also reported that North Korean refugees, although supported through government-funded resettlement programming, faced discrimination.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law that installed the NHRC prohibits discrimination on

the basis of sexual orientation and gives the NHRC the authority to review cases of discrimination based on sexual orientation. During the year the NHRC received six cases of alleged discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons but did not find merit in any of the cases. There are no specific laws punishing or providing remedy to victims of discrimination or violence against LGBT persons. The Ministry of Justice reported the equality principles under article 11 of the constitution apply to LGBT persons. The Government punished perpetrators of violence against LGBT persons according to the law.

Societal discrimination against LGBT persons persisted. In June the Constitutional Court heard oral arguments on the constitutionality of the military code of conduct prohibiting consensual homosexual relationship between military personnel. At year's end the court had not issued a ruling.

*Other Societal Violence or Discrimination.*—Some observers claimed that persons with HIV/AIDS suffered from societal discrimination and social stigma. The law protects the confidentiality of persons with HIV/AIDS and protects them from discrimination.

The NHRC reported there were 577 employment discrimination cases filed during the year. A total of 104 complaints alleged age discrimination, and the NHRC recommended remedy in three of the cases.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to associate freely and allows public servants to organize unions. In January the labor law was amended to authorize union pluralism starting in July 2011. The new law is intended to allow multiple unions to form at a single enterprise but permit only a single negotiation channel with management. Amid competition among labor unions to gain bargaining rights, workers would have more options for selecting a labor union, resulting in overall improvement of union services.

The ratio of organized labor in the entire population of wage earners in 2009 was approximately 10 percent. There are two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 4,689 labor unions. The KCTU and the FKTU were affiliated with the International Trade Union Confederation (ITUC). Most of the FKTU's constituent unions maintained affiliations with international union federations. The MOEL reported that approximately 1.6 million of the country's 16.6 million workers were union members.

The Government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and government research institutes. Labor federations not formally recognized by the MOEL generally operated without government interference.

The law bans education workers from engaging in certain political activities, such as joining a political party or openly endorsing a political party or candidate. Offenders can serve up to one year in jail and be fined a maximum of 3.6 million won (\$3,185). In June and July 2009, the Korean Teachers and Education Workers Union (KTEWU) launched two rounds of antigovernment petitions. The Seoul District Prosecution Service indicted 159 KTEWU members for violating the Educational Workers Labor Union Act banning certain political activities. Cases were heard at multiple district courts depending on the domiciles of the indicted teachers. The courts made conflicting rulings, and at year's end all cases were pending before various appellate courts. Meanwhile, the superintendent of the Gyeonggi provincial education office who postponed punishing the teachers per the order from Ministry of Education, Science, and Technology was acquitted by both the district and appellate courts in a breach of duty indictment brought against him by the Suwon District Prosecution Service.

The right to strike is provided for in law but limited in certain circumstances. By law unions must submit a request for mediation to the Labor Relations Commission before a strike; otherwise, the strike is illegal. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Strikes initiated following this period without majority support from union membership are illegal. Striking also is prohibited in cases in which a dispute has been referred to binding arbitration. The law includes a list of essential sectors prohibited from striking that goes beyond international standards. Among the workers employed at major defense corporations subject to the Defense Industry Act, those working in the areas of electricity generation, water supply, or production of defense products are not allowed to strike. In addition, if striking employees resort to violence, unlawful occupation of premises, or damaging of facilities, their actions are deemed illegal. Strikes not specifically pertaining to labor conditions, including

wages, benefits, and working hours, are also illegal. The constitution and the Labor Relations Act provide workers the right to strike and exempt them from legal responsibility in the case of a legal strike; however, workers who use violence or participate in illegal activities can be prosecuted under the criminal code on charges of “obstruction of business.” The ITUC reported that this charge was used to detain hundreds of trade unionists and criminalize basic union activities. Striking workers can be removed by police from the premises, and, along with union leaders, prosecuted and sentenced. The law prohibits retribution against workers who conduct a legal strike and allows workers to file complaints of unfair labor practices against employers. The MOEL reported that in the first eight months there were 55 strikes, in which 30,623 workers participated.

In May the appeals court affirmed a lower court’s conviction of then-KCTU president Lee Suk-haeng related to his role in organizing a general strike in 2008 and increased his sentence from two to four years in prison.

The law prohibits retribution against workers who conduct a legal strike and allows workers to file complaints of unfair labor practices against employers.

Strikes are prohibited for central and local government officials.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to collective bargaining, and workers exercised this right in practice. The law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. The National Labor Relations Commission can require employers found guilty of unfair practices to reinstate workers fired for union activities.

The law permits public servants to organize trade unions and bargain collectively, although it restricts the public service unions from collective bargaining on topics such as budgetary and policy-making matters.

Workers in export processing zones (EPZs) have the rights enjoyed by workers in other sectors, and labor organizations are permitted in the EPZs. However, foreign companies operating in the EPZs are exempt from some labor regulations, including provisions that mandate paid leave, obligate companies with more than 50 persons to recruit persons with disabilities for at least 2 percent of their workforce, encourage companies to reserve 3 percent of their workforce for workers over 55 years of age, and restrict large companies from participating in certain business categories.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides protections to children from exploitation in the workplace, and the Government effectively enforced this law through regular inspections. Child labor was not considered a problem.

The Labor Standards Act prohibits the employment of persons under age 15 without an authorization certificate from the MOEL. Because education is compulsory through middle school (approximately age 15), few such certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers must limit minors’ overtime hours and are prohibited from employing minors at night without special permission from the MOEL.

*e. Acceptable Conditions of Work.*—The minimum wage is reviewed annually. Although the employment and labor minister has the authority to set the minimum wage, the proposed minimum wage is reviewed and approved by the Minimum Wage Council formed by representatives from labor, business, and government. During the year the minimum wage was set at 4,110 won (\$3.64) per hour, which was a 2.75 percent increase over 2009 and equal to the increase in the minimum cost of living.

Persons working in the financial/insurance industry, publicly invested companies, state corporations, and companies with more than 20 employees are required to receive premium pay for work in excess of 40 hours per week. The labor law requires employers to allow 30 minutes’ rest in a four-hour work period and one hour’s rest in an eight-hour work period, to be taken within the work period. It also allows a flexible work hours system under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime so long as average weekly work hours for any given two-week period do not exceed 40 hours (and 52 hours during certain weeks without paying overtime so long as average weekly work hours for any given three-month period do not exceed 40 hours). If mutually agreed, management may ask employees to work up to 56 regular hours in a given week. Workers may work more than 12 hours per day in overtime during a workweek if both

the employer and the employee agree. The Labor Standards Act also provides for a 50 percent higher wage for overtime.

The Government sets health and safety standards, and the Korea Occupational Safety and Health Agency (KOSHA) is responsible for monitoring industry adherence to these standards. KOSHA conducts inspections both proactively according to regulations and reactively in response to complaints. It also provides technical assistance to resolve deficiencies discovered during inspections. KOSHA reports on its Web site descriptions of and statistics on work-related injuries and fatalities on a quarterly basis. In the first six months of the year, there were 48,066 work-related accidents and 1,028 fatalities, which were a 6.3 percent increase and 2.9 percent decrease, respectively, from the same period in 2009. KOSHA provided training and subsidies to improve work safety and reduce work-related accidents. Its services were extended to the migrant workers, since its training modules and materials were available in 10 languages and disseminated to various worksites.

Contract and other “nonregular” workers accounted for a substantial portion of the workforce. The MOEL reported that as of August there were approximately 5.7 million nonregular workers, composing approximately 33.3 percent of the total workforce. The MOEL reported that in 2009 nonregular workers performed work similar to regular workers but received approximately 84 percent of the wages of regular workers.

The law on nonregular workers allows companies with more than 300 workers to use temporary worker contracts valid for a maximum of two years.

There were 513,621 foreign workers (465,302 legal and 48,319 illegal) residing in the country at year’s end, 220,319 of whom were admitted under the Employment Permit System (EPS). The Government implemented a variety of social services and legal precedents to address complaints about the working conditions of foreigners. During the year the MOEL provided training on the EPS to employers hiring foreign workers. The ministry continued programs implemented in 2009 for foreign workers to ease the difficulties of living and working in the country, including free legal advice programs, free translation services, health checkups in their native language, and the establishment of several “human rights protection centers for foreigners.”

The Government continued to use the EPS to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Through the EPS, permit holders may work only in certain industries and have limited job mobility, but they generally enjoy the same rights and privileges as citizens. Foreign workers are limited in their freedom to change jobs. In 2009 the EPS law was amended to provide better protection to foreign workers. The amendments allow more flexibility in the length of contracts, ensure that job changes that are not the fault of the worker are excluded from their three allowable job changes, and permit the worker to change employers if the working conditions are deemed different from the contract terms. Unless the Ministry of Justice grants an extension on humanitarian grounds, workers lose their legal status if they lose their job and do not find a new employer within three months.

NGOs and local media reported that irregular workers were at a greater risk for discrimination because of their status and that foreign laborers sometimes faced physical abuse and exploitation from employers. The NGO Korea Migrant Center received reports of abuse of female entertainment visa holders.

The MOEL reported that foreign workers filed 4,646 complaints related to unpaid wages during the year.

---

## LAOS

The Lao People’s Democratic Republic is an authoritarian one-party state ruled by the Lao People’s Revolutionary Party (LPRP). The most recent National Assembly (NA) election was held in 2006. The constitution legitimizes only a single party, the LPRP, and almost all candidates in the 2006 election were LPRP members vetted by the party. Security forces reported to civilian authorities.

The central government continued to deny citizens the right to change their government. Prison conditions were harsh and at times life threatening. Corruption in the police and judiciary persisted. The Government infringed on citizens’ right to privacy and did not respect the rights to freedom of speech, the press, assembly, or association. Local officials at times restricted religious freedom and freedom of movement. Trafficking in persons remained a problem. Workers’ rights were restricted.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings. Unlike past years, there were no credible reports of military action against insurgent groups.

There were no developments in the cases of persons allegedly killed by the military or police in previous years.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits the beating or torture of an arrested person. In practice, members of the police and security forces sometimes abused prisoners.

Detainees occasionally were subjected to beatings and long-term solitary confinement in completely darkened rooms, and in many cases they were detained in leg chains or wooden stocks for long periods. Former inmates reported that degrading treatment, the chaining and manacling of prisoners, and solitary confinement in small unlit rooms were standard punishments in larger prisons, while smaller provincial or district prisons employed manacles and chains to prevent prisoners from escaping.

*Prison and Detention Center Conditions.*—Prison conditions varied widely but in general were harsh and occasionally life threatening. Prisons were overcrowded with poor ventilation, minimal sanitation facilities, inadequate food and potable water, and substandard medical care. Prisoners in larger, state-operated facilities in Vientiane generally fared better than those in provincial prisons. Food rations were minimal, and most prisoners relied on their families for subsistence. Most of the larger facilities allowed prisoners to grow supplemental food in small vegetable gardens, although there were periodic reports that prison guards took food from prisoners' gardens. Prison wardens set prison visitation policies. Consequently, in some facilities families could make frequent visits, but in others visits were severely restricted.

There were credible reports from international organizations that authorities treated ethnic minority prisoners particularly harshly. Former prisoners reported that incommunicado detention was used as an interrogation technique and against perceived problem prisoners; however, there were no reports of its use during the year. Although most prisons had some form of clinic, usually with a doctor or nurse on staff, medical facilities were extremely poor and medical treatment for serious ailments was unavailable. In some facilities prisoners could arrange treatment in outside hospitals if they could pay for the treatment and the expense of police escorts.

Male and female prisoners were held in the same prisons but were placed in separate cells. In some prisons juveniles were held with adult prisoners, although there were no official or reliable statistics available. Most juveniles were in detention for narcotics offenses or petty crimes.

Family members generally could access prisoners and detainees, although sometimes the family did not live close to the jail. Prisoners and detainees could follow some religious observances, but no facilities were provided.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions; however, family members rarely make such requests for fear of exacerbating poor detention conditions. There were no investigations of credible allegations of inhumane conditions. There were no records of government investigation or monitoring of prison and detention center conditions.

The Government did not permit regular independent monitoring of prison conditions. The Government continued to deny the request of the International Committee of the Red Cross (ICRC) to establish an official presence in the country to monitor prison conditions. The Government at times provided foreign diplomatic personnel access to some prisons, but such access was strictly limited. There were no ombudsmen to serve on behalf of prisoners and detainees.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, in practice, the Government did not respect these provisions and arbitrary arrest and detention persisted.

*Role of the Police and Security Apparatus.*—The Ministry of Public Security (MoPS) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with the LPRP and the LPRP's popular front organizations. The MoPS includes local police, traffic police, immigration police, security police (including border police), and other armed police units. Commu-

nication police are responsible for monitoring telephone and electronic communications. The armed forces have domestic security responsibilities that include counterterrorism and counterinsurgency as well as control of an extensive system of village militias.

Impunity remained a problem, as did police corruption. The MoPS Inspection Department maintained complaint boxes throughout most of the country for citizens to deposit written complaints.

The Government cooperated with international organizations to implement a national strategy to strengthen law enforcement and deal with increased drug trafficking and abuse as well as related crime and police corruption.

*Arrest Procedures and Treatment While in Detention.*—Police and military forces have powers of arrest, although normally only police carried them out. Police agents exercised wide latitude in making arrests, relying on exceptions to the requirement that warrants are necessary except to apprehend persons in the act of committing crimes or in urgent cases. Police reportedly sometimes used arrest as a means to intimidate persons or extract bribes. Unlike in previous years, there were no reports that military forces detained persons suspected of insurgent activities.

There is a one-year statutory limit for detention without trial. The length of detention without a pretrial hearing or formal charges is also limited to one year. The Office of the Prosecutor General (OPG) reportedly made efforts to ensure that all prisoners were brought to trial within the one-year limit, but the limit occasionally was ignored. The OPG must authorize police to hold a suspect pending investigation. Authorization is given in three-month increments, and a suspect must be released after a maximum of one year if police do not have sufficient evidence to bring charges. There is a bail system, but its implementation was arbitrary. Prisoner access to family members and a lawyer was not assured, and incommunicado detention remained a problem.

Authorities at times continued to detain prisoners after they completed their sentences, particularly in cases where prisoners were unable to pay court fines. In other cases prisoners were released contingent upon their agreement to pay fines at a later date.

*e. Denial of Fair Public Trial.*—The law provides for the independence of the judiciary. The judiciary was weak, but there were no cases reported during the year of senior government or party officials influencing the courts. Impunity and corruption were problems; reportedly, some judges could be bribed. The NA may remove judges from office for “impropriety,” although no judges were removed during the year.

*Trial Procedures.*—By law, defendants enjoy a presumption of innocence; however, in practice judges usually decided guilt or innocence in advance, basing their decisions on the result of police or prosecutorial investigation reports. Most trials, including criminal trials, were little more than pro forma examinations of the accused and review of the evidence. Juries are not used. Trials that involve certain criminal laws relating to national security, state secrets, children under the age of 16, or certain types of family law are closed. The law provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other persons. Defense attorneys are provided at government expense only in cases involving children, cases with the possibility of life imprisonment or the death penalty, and cases considered particularly complicated, such as those involving foreigners. The law requires that authorities inform persons of their rights and states that defendants may have anyone assist them in preparing written cases and accompany them at trial; however, only the defendant may present oral arguments at a criminal trial. Defendants are permitted to question witnesses and can present witnesses and evidence on their own behalf. Defendants have the right of appeal.

Court litigants may select members of the Lao Bar Association to represent them at trial. The association is nominally independent but receives some direction from the Ministry of Justice (MoJ). For several reasons, including the general perception that attorneys cannot affect court decisions, most defendants did not choose to have attorneys or trained representatives. The association’s two satellite offices in the provinces of Champasak and Oudomsay provided legal services to citizens in need.

All of the country’s judges were LPRP members. Most had only basic legal training, and some zonal courts had few or no reference materials available for guidance. The NA’s Legal Affairs Committee occasionally reviewed the Supreme People’s Court (SPC) decisions for “accuracy” and returned cases to it or the OPG for review when the committee believed decisions were reached improperly.

*Political Prisoners and Detainees.*—There were three well-known political prisoners. Colonel Sing Chanthakoumane, an official of the pre-1975 government, was serving a life sentence after a 1990 trial that was not conducted according to international standards. The Government continued to prevent access to him and ignored

requests to release him on humanitarian grounds. At least two persons, Thongpaseuth Keuakoun and Seng-aloun Phengboun, arrested in 1999 for attempting to organize a prodemocracy demonstration, continued to serve 15-year sentences for antigovernment activities. Authorities allowed families to visit them, but no humanitarian organization had regular access to them. The Government declared the prisoners would not be released despite an international call for their release. The Government also denied having any information about nine individuals allegedly detained in November 2009 while traveling to the capital for a protest.

According to some Internet reports, authorities continued to detain a small but unknown number of persons, particularly members of the Hmong ethnic group suspected of insurgent activities, for allegedly violating criminal laws concerning national security. There were no credible reports during the year of persons arrested, tried, and convicted under laws relating to national security that prevent public court trials.

*Civil Judicial Procedures and Remedies.*—The law provides for independence of the judiciary in civil matters; however, enforcement of court orders remained a problem. If civil or political rights are violated, one may seek judicial remedy in a criminal court or pursue an administrative remedy from the NA under the law. In regard to social and cultural rights, one may seek remedy in a civil court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law generally protects privacy, including that of mail, telephone, and electronic correspondence, but the Government reportedly violated these legal protections when there was a perceived security threat.

The law prohibits unlawful searches and seizures. By law police must obtain search authorization from a prosecutor or a panel of judges, but in practice police did not always obtain prior approval, especially in rural areas. Security laws allow the Government to monitor individuals' movements and private communications, including via cell phones and e-mail.

The MoPS regularly monitored citizen activities through a surveillance network that included a secret police element. A militia in urban and rural areas, operating under the aegis of the armed forces, shared responsibility for maintaining public order and reported "undesirable elements" to police. Members of the LPRP's front organizations, including the Lao Women's Union (LWU), the Youth Union, and the Lao Front for National Construction (LFNC), also played a role in monitoring citizens at all societal levels.

The Government relocated some villagers for land concessions given to development projects and continued to relocate highland farmers, most of whom belonged to ethnic minority groups, to lowland areas under its plan to end opium production and slash-and-burn agriculture. In some areas, officials persuaded villagers to move; in others, villagers relocated spontaneously to be closer to roads, markets, and government services. While there were no reports of the Government forcibly relocating villagers, there were reports of individuals displaced by government projects. Although the resettlement plan called for compensating farmers for lost land and providing resettlement assistance, this assistance was not available in many cases or was insufficient to give relocated farmers the means to adjust. Moreover, in some areas farmland allotted to relocated villagers was poor and unsuited for intensive rice farming, resulting in some relocated villagers experiencing increased poverty, hunger, malnourishment, and disease. The Government relied on assistance from nongovernmental organizations (NGOs), bilateral donors, and international organizations to cover the needs of those recently resettled, but such aid was not available in all areas.

The law allows citizens to marry foreigners only with prior government approval; marriages without it may be annulled, with both parties subject to arrest and fines. Premarital cohabitation with foreigners is illegal. The Government routinely granted permission to marry, but the process was lengthy and burdensome, offering officials the opportunity to solicit bribes.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, in practice the Government severely restricted political speech and writing and prohibited most public criticism that it deemed harmful to its reputation. The law forbids slandering the state, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the state.

Authorities prohibited the dissemination of materials deemed by the Ministry of Information and Culture to be indecent, subversive of "national culture," or politically sensitive. Any person found guilty of importing a publication considered offensive to the national culture faced a fine or imprisonment up to one year.

The state owned and controlled most domestic print and electronic media. Local news in all media reflected government policy. Although domestic television and radio broadcasts were closely controlled, the Government did not interfere with broadcasts from abroad. Many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts from international news sources. Citizens had 24-hour access to international stations via satellite and cable television. The Government required registration of receiving satellite dishes and payment of a one-time licensing fee, largely as a revenue-generating measure, but otherwise made no effort to restrict use.

The Government permitted the publication of several privately owned periodicals of a nonpolitical nature, including those specializing in business, society, and trade. While officials did not review in advance all articles in these periodicals, they reviewed them after publication and could penalize periodicals whose articles did not meet government approval. A few foreign newspapers and magazines were available through private outlets that had government permission to sell them.

The Government required foreign journalists to apply for special visas and restricted their activities. Authorities did not allow journalists free access to information sources, but often allowed them to travel without official escorts. When escorts were required, they reportedly were at journalists' expense.

*Internet Freedom.*—The Government controlled all domestic Internet servers and retained the ability to block access to Internet sites it deemed pornographic or critical of government institutions and policies. The Lao National Internet Committee under the Prime Minister's Office administered the Internet system.

The Government sporadically monitored Internet usage.

The Prime Minister's Office required all Internet service providers to submit quarterly reports and link their gateways to facilitate monitoring, but the Government's enforcement ability appeared limited. The Government did not block major foreign news sources, nor did it have the capability to monitor blogging or the establishment of new Web sites. There were no reports of government prosecution of persons for the expression of political, religious, or dissenting views via the Internet. There were no reports of government attempts to collect personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief.

Many citizens used the services of a growing number of Internet cafes for private correspondence rather than personal computers. Very few homes had Internet access; most non-business users depended on Internet cafes located chiefly in the larger urban areas. The International Telecommunication Union reported that Internet users numbered approximately 5 percent of the country's inhabitants in 2009.

*Academic Freedom and Cultural Events.*—The law provides for academic freedom, but in practice the Government imposed restrictions. The Ministry of Education tightly controlled curricula in schools, including private schools and colleges.

Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel, access to information, and publication. Although the Government exercised control via requirements for exit stamps and other mechanisms over the ability of state-employed academic professionals to travel for research or obtain study grants, the Government actively sought such opportunities worldwide and approved virtually all such proposals.

The Government required films and music recordings produced in government studios to be submitted for official censorship; however, uncensored foreign films and music were available in video and compact disc formats. The Ministry of Information and Culture attempted to limit the influence of Thai culture in Lao music and entertainment, but these attempts had little effect.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. The law prohibits participation in demonstrations, protest marches, or other acts that cause "turmoil or social instability." Participation in such acts is punishable by prison terms of one to five years (see section 1.e.).

*Freedom of Association.*—The law provides citizens the right to organize and join associations, but the Government restricted this right in practice. For example, political groups other than popular-front organizations approved by the LPRP are forbidden. A new decree that the Government began implementing in 2009 allows the registration of nonprofit civil society organizations—including economic, social-welfare, professional, technical, and creative associations—at the district, provincial, or national level, depending on the scope of work and membership. Only one organization completed the application process by year's end.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but in practice the Government imposed some restrictions. The Government cooperated in some cases with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Citizens who travel across provincial borders are not required to report to authorities; however, in designated security zones, officials occasionally set up roadblocks and checked identity cards. Citizens seeking to travel to contiguous areas of neighboring countries generally obtained permits easily from district offices. Those wishing to travel farther abroad were required to apply for passports.

The Government did not use forced exile; however, it denied the right of return to persons who fled the country during the 1975 change in government and were tried in absentia for antigovernment activities. There were no cases during the reporting period of any individuals being denied entry to Laos based on past activities.

*Protection of Refugees.*—The country is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, but the law provides for asylum and the protection of stateless persons. In practice the Government did provide some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government did not routinely grant refugee or asylum status; however, it showed some flexibility in dealing pragmatically with individual asylum cases.

The Government continued to refuse the UNHCR's request to reestablish an in-country presence, which it had in the 1990s, to monitor the reintegration of Hmong returnees from Thailand. The Government stated that the UNHCR's mandate expired in 2001 and that all former refugees had successfully reintegrated. During the year foreign diplomats, representatives from international organizations (including the UNHCR), and the press visited Phonekham and Phalak villages, where some of the Lao Hmong returned from Thailand were resettled, including the Lao Hmong involuntarily returned from Thailand in December 2009.

The Government's policy both for Hmong surrendering internally and for those returned from Thailand was to return them to communities of origin whenever possible. However, most of the December 2009 returnees resettled in Phonekham village, Borikhamxay Province, where the Government provided land, housing, clean water, and electricity plus one year's supply of food. Several hundred persons without strong community links who returned between 2007 and 2009 were relocated in government settlements such as Phalak village, Vientiane Province.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Citizens do not have the right to change their government. Although the constitution outlines a system composed of executive, legislative, and judicial branches, the LPRP controlled governance and the leadership at all levels through its constitutionally designated "leading role."

*Elections and Political Participation.*—The law provides for a representative national assembly, elected every five years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage. However, the constitution legitimizes only the LPRP; all other political parties are outlawed. Election committees, appointed by the NA, must approve all candidates for local and national elections. Candidates do not need to be LPRP members, but in practice almost all were. The most recent NA election, held in 2006, was conducted under this system.

The NA chooses members of the Standing Committee, generally based on the previous Standing Committee's recommendations. Upon such recommendations, the NA elects or removes the president and vice president. The Standing Committee has the mandate to supervise all administrative and judicial organizations and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections, including approval of candidates. Activities of the Standing Committee were not fully transparent.

The NA, upon the president's recommendation, formally elects the prime minister and other government ministers.

There were 29 women in the 115-seat NA, including two on the nine-member Standing Committee, and three women were members of the 13-member Supreme Court. The 55-seat LPRP Central Committee included four women, one of whom was also a member of the 11-member Politburo and president of the National As-

sembly. Of 12 ministers in the Prime Minister's Office, two were women. The minister of labor and social welfare also was a woman.

While 80 percent of the population lived in rural areas and the village chief and village council handled most everyday matters, fewer than 1 percent of the village chiefs were women. The LWU—the LPRP mass organization focused on women's issues with a presence in every village and at every government level—is the only organization that has representation in every village; however, only one member of the LWU represented women in each village council.

There were seven members of ethnic minorities in the LPRP Central Committee, including two in the Politburo. The NA included 23 members of ethnic minorities, while three of the 28 cabinet ministers were members of ethnic minority groups. The new president of the National Assembly was also a member of an ethnic minority. One SPC justice was a member of an ethnic minority.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively and officials often engaged in corrupt practices with impunity. Wages of all government officials were extremely low; and many officials, such as police, had broad powers that they could easily abuse.

Many police officers used their authority to extract bribes from citizens. Corrupt officials reportedly were seldom punished. Police were trained at the National Police Academy, but the extent to which the academy's curriculum covered corruption was unknown.

In theory the Government's National Audit Committee has responsibility for uncovering corruption in all government ministries, including the MoPS, but in practice its investigative activities were minimal. Authorities arrested and administratively punished lower-level officials on occasion for corruption. There were no reports of criminal cases being brought to trial. The Government-controlled press rarely reported cases of official corruption.

Central and provincial inspection organizations responsible for enforcing laws against corruption lacked defined roles and sufficient powers as well as adequate funding, equipment, and legal support from the Government.

Prior to taking their designated positions, senior officials were required by party policy to disclose their personal assets to the LPRP's Party Inspection Committee. The committee inspects the officials' assets before and after the officials have been in their positions. However, the LPRP used its control of government authorities and media to block public censure of corrupt officials who were party members.

There are no laws providing for public access to government information, and in general the Government closely guarded the release of any information pertaining to its internal activities, deeming such secrecy necessary for "national security."

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights NGOs.

The Government only sporadically responded in writing to requests for information on the human rights situation from international human rights organizations. However, the Government maintained human rights dialogues with several foreign governments and continued to receive training in UN human rights conventions from several international donors.

The Government maintained contacts and cooperated with the ICRC in various activities for the implementation of international humanitarian law.

A human rights division in the Ministry of Foreign Affairs has responsibility for investigating allegations of human rights violations. However, in practice the division apparently had no authority to perform or order other ministries to undertake investigations. The ministry on occasion responded to inquiries from the UN regarding the human rights situation in the country.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. The Government at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, although the legal mechanism whereby citizens may bring charges of discrimination against individuals or organizations was neither well developed nor widely understood among the general population.

*Women.*—Rape was reportedly rare, although, like most crime, it was likely underreported. The country does not have a central database of crime, nor does it provide statistics on crime. The law criminalizes rape, with punishment set at three to five years' imprisonment. Sentences are significantly longer and may include cap-

ital punishment if the victim is under age 18 or is seriously injured or killed. In rape cases that were tried in court, defendants generally were convicted with sentences ranging from three years' imprisonment to execution.

Domestic violence is illegal; however, there is no law against marital rape, and domestic violence often went unreported due to social stigma. Penalties for domestic violence, including battery, torture, and detaining persons against their will, may include both fines and imprisonment. The criminal law granted exemption from penal liabilities in cases of physical violence without serious injury or physical damage. LWU centers and the Ministry of Labor and Social Welfare (MLSW), in cooperation with NGOs, assisted victims of domestic violence. Statistics were unavailable on the number of abusers prosecuted, convicted, or punished.

Sexual harassment was rarely reported and its extent was difficult to assess. Although sexual harassment was not illegal, "indecent sexual behavior" toward another person is illegal and punishable by six months to three years in prison.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception was generally available; however, contraception was not widely available in rural areas and was often financially out of reach. The UN Population Fund estimated the maternal mortality ratio to be 660 deaths per 100,000 live births. Deaths related to pregnancy and childbirth were the number one cause of death for women of reproductive age. Very few women had access to skilled birth attendants and very few medical centers were equipped to deal with complicated births, especially in small, nomadic, and ethnic villages. Antenatal care remained low.

Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Traditional attitudes and gender role stereotyping kept women and girls in a subordinate position, preventing them from equally accessing education and business opportunities, and there was little government effort to redress this. Women continued to be disproportionately affected by poverty, especially in rural and ethnic minority communities. While rural women carried out more than half of total agricultural production in every field, the additional workloads of housework and child rearing also fell primarily on women.

The law provides for equal rights for women, and the LWU operated nationally to promote the position of women in society. The law prohibits legal discrimination in marriage and inheritance; however, varying degrees of culturally based discrimination against women persisted, with greater discrimination practiced by some hill tribes. The LWU conducted several programs to strengthen the role of women. The programs were most effective in the urban areas. Many women occupied decision-making positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

*Children.*—Regardless of where they are born, children acquire citizenship if both parents are citizens. Children born of one citizen parent acquire citizenship if born in the country or, when born outside the country's territory, if one parent has a permanent in-country address. Not all births were immediately registered.

Education is compulsory, free, and universal through the fifth grade; however, high fees for books and supplies and a general shortage of teachers in rural areas prevented many children from attending school. There were significant differences among the various ethnic groups in the educational opportunities offered to boys and girls. Although the Government's policy is to inform ethnic groups on the benefits of education for all children, some ethnic groups did not consider education for girls either necessary or beneficial. While figures were not reliable, reported literacy rates for girls were approximately 10 percent lower than for boys in general. Although school enrollment rates for girls remained lower than for boys, gender parity has been increasing.

The law prohibits violence against children, and violators were subject to stiff punishments. Reports of the physical abuse of children were rare.

The law allowed marriage under the age of 18 in "special and necessary cases," often cases of underage pregnancy, and a considerable percentage of women married before reaching the age of 18.

The law does not contain penalties specifically for child prostitution, but the penalty for sex with a child (defined as under 15 years of age, the age of consent) is one to five years' imprisonment and a fine of 500,000 to three million kip (approximately \$60 to \$360). The law does not include statutory rape as a crime distinct from sex with a child or rape of any person. Child pornography is not treated differently from pornography in general, for which the penalty is three months' to one year's imprisonment and a fine of 50,000 to 200,000 kip (\$6 to \$24).

A general increase in tourism in the country and a concomitant rise in child sex tourism in Southeast Asia in recent years attracted the attention of authorities, who sought to prevent child sex tourism from taking root. The Government continued efforts to reduce demand for commercial sex through periodic raids and training workshops. The Government and NGOs hosted seminars to train tourism-sector employees, including taxi drivers and tourism police. Many major international hotels in Vientiane and Luang Prabang displayed posters created by international NGOs warning against child sex tourism. In 2009 the Government introduced a hotline for reporting child sex tourism and placed ads in many tourist locations throughout the country to encourage people to report suspected cases of child sex tourism.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*Persons With Disabilities.*—The constitution provides citizens protection against discrimination but does not specify that these protections apply to persons with disabilities. The Ministry of Health has primary responsibility for protecting the rights of persons with disabilities. Because of the large number of disabilities resulting from unexploded ordnance accidents, the ministry works extensively on this issue, especially in coordination with the international NGO COPE. Regulations promulgated by the MLSW and the Lao National Commission for the Disabled protect such persons against discrimination; however, the regulations lack the force of law. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the MLSW has established regulations regarding building access and built some sidewalk ramps in Vientiane. While there was some progress on accessibility, lack of resources for infrastructure slowed the retrofitting of most buildings. There were no reports of discrimination in the workplace.

The Lao Disabled People's Association operated a care center for children with cerebral palsy; the cost was covered by foreign assistance. The Ministry of Health in conjunction with international NGOs operated the Cooperative Orthotic and Prosthetic Enterprise to supply prosthetic limbs, correct club feet, and provide education to deaf and blind persons.

*National/Racial/Ethnic Minorities.*—The law provides for equal rights for all minority citizens, and there is no legal discrimination against them; however, some societal discrimination persisted. Moreover, some critics charged that the Government's resettlement program for ending slash-and-burn agriculture and opium production adversely affected many ethnic minority groups, particularly in the North. The program requires that resettled persons adopt paddy rice farming and live in large communities, ignoring the traditional livelihoods and community structures of these minority groups. International observers questioned whether the benefits promoted by the Government—access to markets, schools, and medical care for resettled persons—outweighed the negative impact on traditional cultural practices. Some minority groups not involved in resettlement, especially those in remote locations, faced difficulties, believing they had little voice in government decisions affecting their lands and the allocation of natural resources from their areas.

Of the 49 official ethnic groups in the country, the Hmong are one of the largest and most prominent. There were a number of Hmong officials in the senior ranks of the Government and the LPRP, including one Politburo member and five members of the LPRP Central Committee. However, some Hmong believed their ethnic group could not coexist with ethnic Lao. This belief fanned separatist or irredentist beliefs among some Hmong. The Government focused limited assistance projects in Hmong areas to address regional and ethnic disparities in income, which helped ameliorate conditions in the poorest districts.

Although there were no reports of attacks by the few remaining Hmong insurgent groups during the year, the Government leadership maintained its suspicion of Hmong political objectives. Although residual, small, scattered pockets of insurgents and their families remained in remote jungle areas, the Government reduced efforts from previous years to actively combat the insurgents.

The Government continued to offer "amnesty" to insurgents who surrender, but it continued to deny international observers permission to visit the estimated more than 2,000 insurgents who have surrendered since 2005—other than a few families

in Phalak village. Because of their past activities, amnestied insurgents continued to be the focus of official suspicion and scrutiny.

The Government generally refused international community offers to assist surrendered insurgents directly but allowed some aid from the UN and international agencies as part of larger assistance programs.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was no law prohibiting discrimination on the basis of sexual orientation. Within lowland Lao society, despite wide and growing tolerance of homosexual practices, societal discrimination in employment and housing persisted, and there were no governmental efforts to address it. Reports indicated that lesbians faced greater stigma and discrimination than gay men.

*Other Societal Violence or Discrimination.*—There was no societal violence and no official discrimination against persons with HIV/AIDS, but societal discrimination existed. The Government actively promoted tolerance of those with HIV/AIDS, and it conducted public-awareness campaigns to promote understanding toward such persons.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law does not allow workers to form and join independent unions of their choice; they may form unions without previous authorization only if they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. In addition the law does not permit unions to conduct their activities without government interference and prohibits union membership for foreign workers. Strikes are not prohibited by law, but the Government's ban on subversive activities or destabilizing demonstrations and its failure to provide means to call a strike made strikes extremely unlikely, and none were reported during the year.

According to the FLTU, there were 3,910 trade unions nationwide, including in most government offices. These included 16 provincial trade unions, one municipal trade union, 36 ministerial trade unions, and 2,772 permanent trade unions. Total FLTU membership was 155,000, approximately 5 percent of the total workforce. Most FLTU members worked in the public sector.

The Government employed the majority of salaried workers. Subsistence farmers made up an estimated 80 percent of the work force.

*b. The Right to Organize and Bargain Collectively.*—There is no right to organize and bargain collectively. The law stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the MLSW. The ministry generally did not enforce the law, especially in dealings with joint ventures in the private sector. Labor disputes reportedly were infrequent. According to labor activists, the FLTU needed government permission to enter factories and had to provide advance notice of such visits, rendering it powerless to protect workers who filed complaints.

The Government set wages and salaries for government employees; management set wages and salaries for private business employees.

The law stipulates that employers may not fire employees for conducting trade union activities, lodging complaints against employers about law implementation, or cooperating with officials on law implementation and labor disputes, and there were no reports of such cases. Workplace committees were used for resolving complaints, but there was no information on how effective these committees were in practice.

There are no special laws or exemptions from regular labor laws in the country's export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor except in time of war or national disaster. However, some NGOs reported that Lao girls were subjected to conditions of forced labor within the country.

Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tipls/tiprptindex.htm>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—By law children under age 15 may not be recruited for employment except to work for their families, provided such work is not dangerous or difficult. The MoPS and the MoJ are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources. Many children helped on family farms or in shops and other family businesses, but child labor was rare in industrial enterprises. Some garment factories reportedly employed a very small number of under-age girls.

*e. Acceptable Conditions of Work.*—The MLSW sets the minimum wage but has no regular schedule or transparent process for doing so. In 2009 the MLSW, in consultation with the FLTU and Lao Chamber of Commerce and Industry, set the daily minimum wage for the more than 120,000 private-sector workers at 13,385 kip (approximately \$1.60); the monthly minimum wage was 348,000 kip (\$41). Additionally, employers were required to pay a 8,500 kip (\$1) meal allowance per day. These wages were insufficient to provide a decent standard of living for a worker and family. The NA, in consultation with the Ministry of Finance, increased the minimum wage for civil servants and state enterprise employees to 405,000 kip (\$47.80) per month in 2008. In addition to their minimum wage, civil servants often received housing subsidies and other government benefits. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The law provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities) and at least one day of rest per week. Overtime may not exceed 30 hours per month, and each period of overtime may not exceed three hours. The overtime pay rate varies from 150 to 300 percent of normal pay. The overtime law was not effectively enforced.

The law provides for safe working conditions and higher compensation for dangerous work. In case of death or injury on the job, employers are responsible for compensating a worker or the worker's family. Employers generally fulfilled this requirement in the formal economic sector. The law also mandates extensive employer responsibility for those disabled at work, and this provision appeared effectively enforced. The MLSW is responsible for workplace inspections. Officials undertake unannounced inspections when notified of a violation of safe working standards. However, the MLSW lacked the personnel and budgetary resources to enforce the law effectively. The law has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam, China, and Burma, and they were vulnerable to exploitation by employers. These immigrants primarily worked in construction, plantations, casinos, and service industries.

---

## MALAYSIA

Malaysia is a federal constitutional monarchy with a population of approximately 28.3 million. It has a parliamentary system of government headed by a prime minister selected through periodic, multiparty elections. The United Malays National Organization (UMNO), together with a coalition of political parties known as the National Front (BN), has held power since independence in 1957. The most recent national elections, in March 2008, were conducted in a generally transparent manner and witnessed significant opposition gains. In April 2009 Najib Razak was sworn in as prime minister. Security forces reported to civilian authorities.

Some obstacles prevented opposition parties from competing on equal terms with the ruling coalition. Other human rights problems included: some deaths occurred during police apprehensions and while in police custody; police abuse of detainees; overcrowded immigration detention centers (IDCs); arbitrary arrest and detention using the Internal Security Act (ISA) and three other statutes that allow detention without trial; and persistent questions about the impartiality and independence of the judiciary. The Government continued to pursue the prosecution of a prominent opposition leader on sodomy charges. The criminal and Sharia courts utilized caning as a form of punishment. The Government continued to restrict freedom of press, association, assembly, speech, and religion. Trafficking in persons remained a problem. Longstanding government policies gave preferences to ethnic Malays in many areas. Some employers exploited migrant workers and ethnic-Indian citizens through forced labor. Some child labor occurred in plantations.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no known politically motivated killings by the Government or its agents; however, during the year local media reported that police killed 35 persons while apprehending them, down from 108 such killings in 2009. State-influenced print media used a consistent narrative to describe these encounters—suspects stopped by police, tried to attack police; police killed suspect in self-defense; evidence of criminal activity found on suspect's

body. Local human rights groups suggested this pattern was used to justify deaths, usually of ethnic minorities, in police custody.

On April 9, police shot and killed two ethnic Indian brothers, R. Logeswaran and R. Satchithanathan. Police reportedly saw them engaging in suspicious activity and tried to stop their car. The police reported that the brothers attempted to hit police personnel with their car and then opened fire, forcing the police to return fire in self-defense. Police claimed to have found numerous weapons in the vehicle and that the brothers were responsible for several armed robberies. Indian rights groups were critical of the shootings as an example of police “shoot-to-kill” policies. There was no known investigation into the matter.

On April 26, police shot and killed Aminulrasyid Amzah, a 15-year-old ethnic Malay boy they were attempting to stop and question for engaging in suspicious activity. Police alleged that after a high-speed chase, he placed his car into reverse and was attempting to run over the officers when they drew their weapons and fired the deadly shots. Condemnation of the shooting came from all parts of society. Senior government officials, including the prime minister, called for full police cooperation into the investigation. The killing reportedly led to a review of the police standard operating procedures relating to use of deadly force. On May 4, the Government created a special eight-member panel to oversee the police investigation. On May 10, police Corporal Jenain Subi was charged for culpable homicide not amounting to murder for the fatal shooting. On September 3, the special panel found that the investigation was fair and transparent. The trial commenced on October 12 and was ongoing at year’s end.

On November 13, police shot and killed Muhammad Hanafi Omar, 22, Mohd Shamil Hafiz Shafie, 16, and Mohd Khairul Nizam Tuah, 20, after the three allegedly robbed a gas station in Selangor. According to police, the three were part of a criminal gang that had robbed three gas stations in the days leading up to the shootings. The police reportedly shot and killed them in self-defense after they tried to attack police with machetes. On November 17, local human rights nongovernmental organization (NGO) SUARAM (Voice of the Malaysian People) publicly questioned the police justification. On November 21, the families of the youths lodged a complaint against the police claiming that the shootings were tantamount to executions. There were no known further developments during the year.

The trial of police constable Navindran Vivekanandan for causing grievous hurt in the January 2009 death of Kugan Ananthan, an ethnic Indian in police detention, continued at year’s end. On August 14, Kugan’s mother, N. Indra, petitioned the king to intervene in the criminal case, claiming that the evidence implicated additional individuals, although the Government only charged one officer.

The inquest into the July 2009 death of Teoh Beng Hock, a political aide to a Selangor State legislative assemblyman, continued at year’s end. On August 11, the Attorney General’s Chambers (AGC) attempted to introduce a purported suicide note. Critics raised concerns as to the reason for the delayed disclosure and questioned the note’s authenticity. Teoh’s family asserted that the note contained multiple discrepancies and did not match Teoh’s handwriting.

On October 25, the inquest into the July 2009 death in police custody of R. Gunasegaran concluded. The coroner found that the cause of death in Gunasegaran’s case could not be conclusively proven.

There were no known developments in the November 2009 police shooting of five ethnic Indian youths ages 17 to 24.

The RM100 million (approximately \$32 million) civil suit instituted by the father of 2006 murder victim, Altantuya Shaaribu, against the Government, political analyst Razak Baginda, and the two police officers convicted for the killing continued at year’s end.

On June 30, the Kuala Lumpur High Court ordered the Government and police to pay RM1.4 million (\$451,600) to Suzana Mohamad Aris, whose husband, Mohamad Anuar Sharip, allegedly was beaten to death while in police custody in 1999. Judge Lee Swee Seng said, “Let the message go forth from this place that any more deaths in police custody is one too many. The basic human right of a detainee to seek medical treatment should be immediately attended to. There should be no more loss of life in police custody as every life is precious.”

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No law specifically prohibits torture; however, laws that prohibit “committing grievous hurt” encompass torture. Although there were some allegations of beatings and mistreatment by the nonprofessional People’s Volunteer Corps (RELA) and immigration officials in IDCs, the number of such allegations was greatly reduced. IDCs con-

tinued to be administered by the Immigration Department and supplemented by RELA.

In January the Government charged N. Tharmendran, a former Royal Malaysian Air Force (RMAF) sergeant, for the theft of two fighter-jet engines from the RMAF. On June 17, N. Nagarajah filed a police report on behalf of his son, N. Tharmendran, alleging that he was tortured into confessing to the crime while in military detention. Tharmendran claimed military intelligence officials detained and tortured him for three weeks. He further alleged that army officers forced him to wear a helmet while they used golf clubs and cricket bats to hit his head; that he was stripped to his underwear and forced to stand on a block of ice; threatened with death; and deprived of sleep. Tharmendran filed a petition to cross-examine his alleged attackers during his criminal case. Both the criminal case against Tharmendran and follow-up to his police report continued at year's end.

There were no developments in the January 2009 case alleging that seven police officers committed "criminal intimidation" and "voluntarily caused hurt to extort confession" against B. Prabakar.

On March 12, SUARAM issued a press statement saying four youths ages 15 to 20, detained for being in possession of a stolen bicycle, were "tortured physically and mentally by police during the entire duration of their detention."

There were no known developments during the year concerning the 2008 beating of a Pakistani detainee by immigration officials at Lenggeng IDC.

In the past, persons detained under the ISA commonly suffered beatings, physical and mental abuse, and other mistreatment. For example according to Amnesty International, Sanjeev Kumar, detained under the ISA in 2007, at the time of his release in 2008 was paralyzed and mentally unstable as a result of beatings. However, local NGOs report that treatment of detainees under the ISA has improved in recent years, and there were no reports of mistreatment during the year.

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes, such as narcotics possession, criminal breach of trust, and alien smuggling. The law prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely included caning in sentences of those convicted of such crimes as kidnapping, rape, and robbery. The caning was carried out with a half-inch-thick wooden cane that could cause welts and scarring. The law exempts men older than 50 and all women from caning. Male children 10 years of age and older may be given up to 10 strokes of a "light cane."

Some states' Sharia laws also prescribe caning. Although federal law exempts all women from caning, there are no exemptions for women under Sharia law and the national courts have not resolved issues involving conflicts between the constitution, the penal code, and Sharia law. In Sharia caning, a smaller cane is used, and the caning official cannot lift the cane above the shoulder, thus reducing the impact. Additionally, the subject is fully covered with a robe so that the cane will not touch any part of the flesh. Local Islamic officials claimed that the idea is not to injure but to make offenders ashamed of their sin so that they will repent and not repeat the offense.

On February 17, the Home Ministry announced that three Muslim women and four Muslim men found guilty of illicit sex under Sharia law had been caned on February 9. The canings of the women took place in a female prison in Selangor and were administered by government officials. These were the first reported cases of women being caned in the country. Local NGOs condemned the punishments. The Malaysian Bar Council in a press release observed that it was shocking that the Government made the announcement only after the punishment had been carried out since the constitution forbids corporal punishment of women. In an earlier case in July 2009, the Kuantan Sharia High Court (Pahang State) sentenced Kartika Sari Dewi Shukarno to a RM5,000 (approximately \$1,400) fine and six strokes of a cane for consuming alcohol at a hotel in Pahang State in 2008. Kartika was the first Muslim woman sentenced to caning, but on April 1, the Sultan of Pahang commuted her caning sentence and reduced the penalty to 20 days of community service at a child daycare center.

During the year Sharia courts sentenced at least five persons to caning for alcohol offenses. In 2009 Sharia courts sentenced persons to caning for alcohol offenses and for khalwat (close proximity by unmarried persons of the opposite sex).

*Prison and Detention Center Conditions.*—Prison overcrowding, particularly in facilities near major cities, remained a serious problem. In December 2009 the Home Ministry reported that the country's 31 prisons held 32,130 prisoners in locations designed to hold 32,600. According to the International Centre for Prison Studies, in mid 2008, women made up 8.3 percent of the total prison population. Local and

international NGOs estimated most of the country's 16 IDCs were at or beyond capacity, with some detainees held for a year or more.

NGOs and international organizations involved with migrant workers and refugees made credible allegations of overcrowding, inadequate food, lack of regular access to clean water, poor medical care, poor sanitation, and lack of bedding in IDCs. An NGO with access to the IDCs claimed that overcrowding, deficient sanitation, and lack of medical screening and treatment facilitated the spread of disease. During the year the Government allowed local NGOs with mobile medical clinics into the IDCs. On August 24, the Ministry of Home Affairs' secretary general publicly acknowledged that security measures and living conditions at all the IDCs were seriously deficient and that none met international standards. He added that a five-agency committee had been set up to tackle the problem at IDCs and to upgrade IDC standard operating procedures.

In 2008 the Malaysian Human Rights Commission (SUHAKAM) identified poor medical care as the principal reason why 1,300 detainees had died over the previous six years in IDCs, prisons, and jails. In October 2009, a SUHAKAM commissioner noted that most of the deaths reportedly were due to communicable diseases that thrive in unsanitary and overcrowded detention facilities. The commissioner also recommended that the IDCs observe better health standards to prevent the spread of disease.

Prisoners and detainees are allowed visitors during specified visiting hours, and, provided the religious practices were not derived from one of the 56 sects of Islam the Government considers "deviant" and a threat to national security, there were no issues with religious observance. The Prisons Act does not provide a process for prisoners to submit complaints to judicial authorities. It does allow judges to visit prisons to examine conditions and ask prisoners and prison officials about prison conditions. According to local NGOs, because prison authorities reportedly monitor all incoming and outgoing materials, complaints normally would not be sent through prison authorities. When a lawyer is appointed to investigate a claim such documents could be treated as private and confidential under attorney-client privilege.

The authorities generally did not permit NGOs and the media to monitor prison conditions. The Government approved visits by the International Committee of the Red Cross and SUHAKAM officials on a case-by-case basis. SUHAKAM serves as the Government's de facto ombudsman, investigating human rights abuses, including those alleged to have taken place within the prison system.

The UN High Commission for Refugees (UNHCR) had access to registered refugees and asylum seekers detained in IDCs and prisons. Historically, prison and IDC officials denied the UNHCR access to unregistered asylum seekers in detention; however, since April 2009, IDCs scheduled UNHCR visits to interview unregistered potential refugees. Through these interviews, the UNHCR secured the release of 2,885 refugees from IDCs during the year.

*d. Arbitrary Arrest or Detention.*—The constitution stipulates that no person may be incarcerated unless in accordance with the law. However, the law allows investigative detention to prevent a criminal suspect from fleeing or destroying evidence while police conduct an investigation. Four laws, most notably the ISA, also permit preventive detention to incarcerate an individual suspected of criminal activity or to prevent a person from committing a future crime. Such laws severely restrict, and in some cases eliminate, access to timely legal representation and a fair public trial.

*Role of the Police and Security Apparatus.*—The approximately 102,000-member Royal Malaysia Police (RMP) force is under the command of the inspector general of police (IGP), who reports to the home affairs minister. The IGP is responsible for organizing and administering the police force. The Department of Islamic Development Malaysia (JAKIM) enforces Sharia law. JAKIM sometimes receives assistance from the RMP when conducting religious raids. The Government has some mechanisms to investigate and punish abuse and corruption. There were NGO and media reports that security forces acted with impunity during the year.

Police officers are subject to trial by the civil courts. Police representatives reported that there were disciplinary actions against police officers during the year. Punishments included suspension, dismissal, and demotion.

The Government continued to focus police reform efforts on improving salaries, quarters, and general living conditions of police officers. However, the status of other reforms, including the formation of an independent police complaints and misconduct commission, remained pending at year's end. NGOs complained that the Government's reform efforts lacked transparency.

The police training center continued to include human rights awareness training in its courses. SUHAKAM conducted human rights training for police once during the year.

Unlike in previous years, security forces acted to prevent or respond to some incidents of societal violence. Specifically, when places of worship were attacked in January, in response to a high court's ruling that non-Muslims could use the word "Allah" to describe God in Malay-language publications, government security forces reacted quickly to maintain control over the situation and prevent it from escalating.

On September 28, 50 protesters from the Malay rights group Perkasa gathered outside the Kuala Lumpur and Selangor Chinese Assembly Hall to protest against controversial rapper Wee Meng Chee (also known as Namewee) as he prepared to speak at a youth summit. The crowd burned enlarged photos of Namewee and attempted to enter the hall but were stopped by antiriot police.

In recent years, the Home Ministry relied primarily upon RELA to conduct raids and detain suspected illegal migrants. However, in 2009 the Government reduced RELA involvement and authority in immigration matters and by August 2009, had removed all RELA personnel from the IDCs. In 2009 the Government announced that RELA members would assist the police in combating crime. However, after the August 1 escape of 20 Afghan nationals from an IDC near Kuala Lumpur International Airport, Deputy Home Minister Lee Chee Leong announced that security for the IDCs would be transferred from immigration authorities to the Prison Department, with RELA providing perimeter security. NGOs and organizations dealing with refugee affairs reported that RELA continued to enforce immigration laws.

In December RELA membership reached 2,042,215, having almost doubled since 2009. The Government took steps to increase RELA's overall role, specifically in assisting police with criminal matters. NGOs remained concerned that inadequate training left RELA members ill equipped to perform their duties. On December 29, Koh Tsu Koon, minister in the Prime Minister's Department, said that due to the impossibility of stationing police officers on every corner, thousands of RELA members were deployed to assist police in the patrolling of high-crime areas. Reported abuses by RELA members included extortion, theft, pilfering items from homes, and pillaging refugee settlements. However, such reports were fewer than in previous years.

The Government did not release information on how it investigated complaints against RELA members or how it administered disciplinary action. The Public Protection Authorities Act of 1948 and a 2005 Amendment to Essential Regulations give RELA members legal immunity for official acts committed in good faith.

*Arrest Procedures and Treatment While in Detention.*—The law permits police to arrest individuals for some offenses without a warrant and hold suspects for 24 hours without charge. A magistrate may extend this initial detention period for up to two weeks. Although police generally observed these provisions, a 2005 police commission report noted that police sometimes released suspects and then quickly rearrested them and held them in investigative custody. Local NGOs asserted that this practice continued. The law gives an arrested individual the right to be informed of the grounds for his arrest by the police officer making the arrest. Police must inform detainees that they are allowed to contact family members and consult a lawyer of their choice.

Police often denied detainees access to legal counsel and questioned suspects without giving them access to counsel. Police justified this practice as necessary to prevent interference in ongoing investigations, and judicial decisions generally upheld the practice. The 2005 police commission report stated that an "arrest first, investigate later" mentality pervaded some elements of the police force and recommended that detention procedures be reviewed to prevent abuse. On some occasions law enforcement agencies did not promptly allow access to family members.

The law allows the detention of a person whose testimony as a material witness is necessary in a criminal case if that person is likely to flee. Bail is usually available for those accused of crimes not punishable by life imprisonment or death. The amount and availability of bail is determined at the judge's discretion. When bail is granted, accused persons usually must surrender their passports to the court.

Crowded and understaffed courts often resulted in lengthy pretrial detention, sometimes lasting several years. In December 2009 Chief Justice Zaki Azmi stated there were 900,000 cases pending in the lower courts and 91,000 in the higher courts. On September 25, the chief justice of the federal court announced the establishment of two additional civil high courts to ease the backlog in commercial and civil high court cases. In October Zaki announced there were 43,403 pending civil cases at the high court, a 53.5 per cent reduction compared with 93,523 cases in 2008. There are 3,459 pending criminal cases at the High Court, a 23.8 per cent reduction compared with 4,544 cases in 2008. On December 14, Zaki announced that the Government would allow plea bargaining as a means of reducing case backlogs.

Four preventive detention laws permit the Government to detain suspects without normal judicial review or filing formal charges: the ISA, the Emergency (Public Order and Prevention of Crime) Ordinance, the Dangerous Drugs (Special Preventive Measures) Act, and the Restricted Residence Act.

The ISA empowers police to arrest without a warrant and hold for up to 60 days any person who acts “in a manner prejudicial to the national security or economic life of Malaysia.” During the initial 60 day detention period in special detention centers, the ISA allows for the denial of legal representation and does not require that the case be brought before a court. The home minister may authorize further detention for up to two years, with an unlimited number of two-year extensions to follow. In practice, the Government infrequently authorized ISA detention beyond two two-year terms. Some of those released before the end of their detention period were subject to “imposed restricted conditions.” These conditions limit freedom of speech, association, and travel inside and outside the country.

Even when there are no formal charges, the ISA requires that authorities inform detainees of the accusations against them and permit them to appeal to a non-judicial advisory board for review every six months. However, advisory board decisions and recommendations are not binding on the home minister, not made public, and often not shown to the detainee.

The Bar Council and several human rights NGOs have called for the repeal of the ISA, which does not allow judicial review of ISA decisions in any court, except for issues of compliance with procedural requirements. The UN Human Rights Council’s Working Group on Arbitrary Detention visited the country June 7-18 and at the conclusion of its visit recommended that the ISA (and the other preventive detention laws) be repealed or, if amended, brought into conformity with the Universal Declaration of Human Rights.

In April 2009, on his first day in office, Prime Minister Najib announced that his office would conduct a comprehensive review of the ISA. Since the announcement, the Home Affairs Ministry has held closed meetings with numerous groups, including political parties and NGOs, to review the act. Little information has been made publicly available regarding these meetings.

In 2009 the Government released 31 ISA detainees, including five detained Hindu Rights Action Force leaders and five alleged Jemaah Islamiya (JI) terrorist organization members.

On January 27, the Home Minister confirmed that on January 21, authorities detained 10 persons—nine foreigners and one citizen—under the ISA for alleged links with international terrorist organizations. The nine foreign-born arrestees from Yemen, Nigeria, Jordan, and Syria reportedly were deported in March. The Government placed the one Malaysian citizen, Azzahari Murad, under the provisions of the Restrictive Residence Act on March 11.

On July 15, authorities detained Mohamad Fadzullah Abdul Razak for allegedly recruiting undergraduate students to join JI. At year’s end he remained in custody under the ISA.

On August 11, authorities detained three persons, citizens Sheikh Abdullah Sheikh Junaid, and Samsul Hamidi, and Indonesian MustawanAhhbab, for alleged terrorist links. The Government released Sheikh Abdullah Sheikh Junaid and Samsul Hamidi within 60 days of their arrest.

On September 2, the Home Ministry released Shamsuddin Sulaiman, an alleged member of JI, after eight years in detention. On September 24, the Home Ministry deported and turned over to Singaporean authorities Mas Selamat Kastari, alleged leader of the Singapore JI network.

According to local NGOs, during the year authorities detained 25 persons under the ISA and released 15 persons. At year’s end there were 25 persons reportedly in detention under the ISA, including those who had been detained in previous years. Reasons for the detentions were links to terror organizations, document forgery, and involvement in human smuggling syndicates.

On March 25, the Court of Appeals overturned the Kuala Lumpur High Court’s 2007 award of RM2.5 million (approximately \$715,000) to former ISA detainee Abdul Malek Hussin for his arrest and alleged torture under the ISA in 1998. The Court of Appeals ruled that his detention under the ISA was legal and that he was not entitled to the monetary award. On August 12, the Federal Court upheld the ruling.

Under the Emergency Ordinance (EO), the home minister may issue a detention order for up to two years against a person if he deems it necessary for the protection of public order, “the suppression of violence, or the prevention of crimes involving violence.” A local NGO reported that in 2009, the Government detained 548 persons under the EO. According to statistics the Home Ministry presented to Parliament in January, 3,701 individuals were detained under the EO and other preventative

measures between 2000 and 2009. The authorities used the EO on suspected organized-crime figures.

In December 2009 authorities reportedly arrested four youths between the ages of 15 and 20—S. Gunaseelan, M. Puspanathan, P.S. Jagendran, and V. Rajkumar—for being in possession of a stolen bicycle. The four were reportedly detained for 60 days under the EO. On March 11, the home minister ordered the detention of the four under the Restricted Residence Act. On March 12, SUARAM issued a press statement saying the four were “tortured physically and mentally by police during the entire duration of their detention” under the EO. On December 20, the Government allowed Jagandran to return to his hometown, but his movement is restricted until March 2012, under the provisions of the EO.

Provisions of the Dangerous Drugs Act give the Government specific power to detain suspected drug traffickers without trial for up to 39 days before the home affairs minister must issue a detention order. Once the Home Affairs Ministry issues the detention order, the detainee is entitled to a hearing before a court, which has the authority to order the detainee’s release. Authorities may hold suspects without charge for successive two-year intervals with periodic review by an advisory board, whose opinion is binding on the minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. Police frequently detained suspected narcotics traffickers under this act after courts acquitted them of formal charges. According to the National Antidrug Agency, the Government detained 1,176 persons under the preventive detention provisions of the act during the first 11 months of 2009, compared with 1,115 persons during all of 2008.

The Restricted Residence Act allows the home affairs minister to place individuals under restricted residence away from their homes. These persons may not leave the residential district assigned to them, and they must present themselves to police on a daily basis. As under the ISA, authorities may renew the term of restricted residence every two years. The minister is authorized to issue the restricted residence orders without any judicial or administrative hearings. The Government continued to justify the act as a necessary tool to remove suspects from the area where undesirable activities were being conducted.

*e. Denial of Fair Public Trial.*—Three constitutional articles provide the basis for an independent judiciary; however, other constitutional provisions, legislation restricting judicial review, and additional factors limited judicial independence and strengthened executive influence over the judiciary.

Members of the bar, NGO representatives, and other observers expressed serious concern about significant limitations on judicial independence, citing a number of high-profile instances of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers.

In 2008 a royal commission, which had been formed to investigate the 2002 videotape of a purported conversation in which a senior lawyer, V.K. Lingam, and a senior judge, Ahmad Fairuz Abdul Halim, discussed arrangements for assigning cases to “friendly” judges, released its findings and determined that former prime minister Mahathir, UMNO Secretary General Tengku Adnan, and former chief justice Eusoff Chin among others were involved in manipulating judicial appointments and improperly influenced the promotion of judges. In June 2009 in a written reply to opposition Democratic Action Party (DAP) parliamentarian Karpal Singh’s question on why there was no follow-up on the commission’s findings, a minister in the Prime Minister’s Department explained that the cases were closed for lack of evidence. On August 23, Lingam, along with Eusoff Chin and Ahmad Fairuz appealed the high court’s 2008 decision denying them permission to appeal the findings of the royal commission. On August 24, the Court of Appeal granted permission for the three to challenge the findings of the royal commission and directed the high court to hear the case. On September 23, the AGC appealed the Court of Appeal’s decision to the Federal Court. On September 30, the high court announced that it would hear the case on May 16, 2011.

In 2008 authorities arrested parliamentary opposition leader Anwar Ibrahim for alleged consensual sodomy with a former aide. Prosecutors charged Anwar in court under the penal code for “consensual carnal intercourse against the order of nature,” which carries a potential sentence of 20 years in jail. The court released Anwar on bail.

In August 2009 Anwar filed an application for judicial review to disqualify the Government’s prosecution team on grounds of alleged bias, conflict of interest, and prosecutorial misconduct. After months of delay while the trial court ruled on motions ranging from requests for evidence to outright dismissal, Anwar’s trial began on February 2, with his former aide and alleged victim, Saiful Bukhari, taking the stand as the prosecution’s first witness. Since the beginning of the trial, there have

been six administrative delays due to appeals. The trial was scheduled to resume January 21, 2011. Prosecution for consensual sodomy between two adults is extremely rare in Malaysian jurisprudence.

*Trial Procedures.*—English common law is the basis for the secular legal system. The constitution states that all persons are equal before the law and entitled to equal protection of the law. Trials are public, although judges may order restrictions on press coverage. Juries are not used. Defendants have the right to counsel at public expense if requested by an accused individual facing serious criminal charges. Strict rules of evidence apply in court. Defendants may make statements for the record to an investigative agency prior to trial. Limited pretrial discovery in criminal cases impeded defendants' ability to defend themselves. Defendants confronted witnesses against them and presented witnesses and evidence on their behalf, although judges sometimes disallowed witness testimony. Government-held evidence was not consistently made available. Attorneys are required to apply for a court order to obtain documents covered under the Official Secrets Act. Defendants are presumed innocent until proven guilty and may appeal court decisions to higher courts. The law limits a defendant's right to appeal in some circumstances. The Government stated that the limits expedite the hearing of cases in the upper courts, but the Bar Council declared that they impose excessive restrictions on appeals.

In firearm and certain national security cases, a lower standard for accepting self-incriminating statements by defendants as evidence is in effect. Regulations also allow the authorities to hold an accused for an unspecified time before making formal charges.

In criminal cases, police sometimes used tactics that impaired a defendant's due process rights. For example, police used raids and document seizures to harass defendants.

Sharia courts do not give equal weight to the testimony of women. Many NGOs complained that women did not receive fair treatment from Sharia courts, especially in matters of divorce and child custody.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The structure of the civil judiciary mirrors that of the criminal courts. A large case backlog often resulted in delayed provision of court-ordered relief for civil plaintiffs. The courts have encouraged the use of mediation and arbitration to speed settlements. According to judicial sources, mediation was used in 60 percent of road accident cases and approximately 40 percent of other civil cases. The Government and government officials can be sued in court for alleged violations of human rights.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—Various laws prohibit arbitrary interference with privacy rights; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these provisions. Police used this legal authority to search homes and offices; seize computers, books, and papers; monitor conversations; and take persons into custody without a warrant. The Government monitored e mails sent to Internet blog sites and threatened to detain anyone sending content over the Internet that the Government deemed threatening to public order or security.

JAKIM guidelines authorize JAKIM officials to enter private premises without a warrant if they deem swift action necessary to conduct raids on premises where they suspect Muslims are engaged in offenses such as gambling, consumption of alcohol, and sexual relations outside marriage.

On January 4, local news outlets reported that the Selangor Islamic Religious Department (JAIS) conducted raids at budget hotels in Selangor in conjunction with the New Year's Eve celebration and arrested 52 unmarried couples in hotels for violating khalwat. On April 25, local newspapers reported that a 21-year-old college student fell to his death from the fifth floor of an apartment building when he reportedly tried to escape a raid by JAIS agents searching for khalwat violators.

In corruption investigations, after a senior police official involved in the investigation submits a written application, the law empowers a deputy public prosecutor to authorize interception of any messages sent or received by a suspect. Information obtained in this way is admissible as evidence in a corruption trial. Security forces have broad authority to install surreptitiously surveillance devices on private property. In addition, public prosecutors may authorize police to intercept postal and telecommunications messages if a prosecutor judges these likely to contain information regarding a terrorist offense. Intercepted communications from such efforts are admissible in court.

The law permits the Home Ministry to place criminal suspects under restricted residence in remote districts away from their homes for two years.

The Government bans membership in unregistered political parties and organizations.

Certain religious issues posed significant obstacles to marriage between Muslims and adherents of other religions. The Government does not recognize marriages between Muslims and non-Muslims.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, in practice the Government restricted freedom of expression and intimidated journalists into practicing self-censorship. According to officials of the Home and Information Ministries, they imposed restrictions on the media to protect national security, public order, and friendly relations with other countries.

The law provides that legislation “in the interest of security (or) public order” may restrict freedom of speech. For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. The Government used the ISA, the Sedition Act, the Official Secrets Act, the Printing Presses and Publications Act, criminal defamation laws, and other laws to restrict or intimidate political speech. Nevertheless, individuals frequently criticized the Government publicly or privately. However, on some occasions the Government retaliated against those who criticized it.

The election law makes it an offense for a candidate to “promote feelings of ill will, discontent, or hostility.” Violators could be disqualified from running for office.

On August 18, popular Chinese-language radio station 98.8 terminated the employment of a Chinese-speaking ethnic-Malay announcer, Jamaluddin Ibrahim, reportedly in response to a letter from the Malaysian Communications and Multimedia Commission (MCMC) stating that Jamaluddin’s comments on race relations negatively influenced the security of the country and were unacceptable.

On June 12, the High Court acquitted opposition DAP parliamentarian Karpal Singh of charges under the Sedition Act for comments at a February 2009 media conference that the sultan of Perak could be sued for his role in the removal of a state’s chief minister.

On July 1, the Home Ministry failed to renew the annual publishing permit of People’s Justice Party of Malaysia (PKR) newspaper *Suara Keadilan* after it expired on June 30. Anwar Ibrahim was the de facto leader of PKR. Also in July the Home Ministry refused to renew the permits of two other opposition political party newspapers—the Islamic Party of Malaysia’s (PAS) *Harakah*, which expired on July 7, and the DAP’s *Rocket*, which expired on June 30. Both parties appealed the Home Ministry’s decision. On July 15, the Home Ministry approved *Harakah*’s permit with conditions that the newspaper be sold only to members and at the party’s headquarters and offices. On August 18, the Home Ministry renewed the permit of the *Rocket* and imposed the same conditions.

Parties in the ruling coalition owned or controlled a majority of shares in two of the three major English and all Malay daily newspapers. Businesspersons well connected to the Government and ruling parties owned the third major English-language newspaper and all four major Chinese-language newspapers.

Journalists were subject to harassment and intimidation due to their reporting. On February 19, a journalist for the Government-influenced daily, *The Star*, P. Gunasegaran, wrote an article titled “Persuasion, not Compulsion” in which he questioned whether the detention and caning of three Muslim women for having illicit sex was an appropriate punishment. On February 22, the conservative Muslim NGO *Rakyat Islam Prihatin* and several others including the pro-Malay-rights group *Perkasa* lodged police reports demanding that the Government revoke *The Star*’s printing permit to protest the article. The NGOs claimed the article insulted Islam and demanded both an apology and that Gunasegaran be fired. On February 23, the Home Ministry issued a show-cause letter against the publication. On February 24, *The Star* issued an apology in response.

On September 22, police questioned member of parliament and daughter of opposition leader Anwar Ibrahim, Nurul Izzah, for sedition, following the two-part article she authored, entitled “Malaysia or Malaysaja” (Malaysia or Malay Only) for the Web site *Malaysian Insider* on August 31. In the article Nurul argued that the constitution refers to the “special position” of the Malays and other bumiputera (Malays and other indigenous persons, literally “sons of the soil”), but not to any inalienable rights. Nurul also invited Ibrahim Ali, president of the Malay rights NGO *Perkasa*, to debate. On September 2, Ibrahim Ali lodged a police report against Nurul over the article, accusing her of questioning the constitution. On September 22, the police questioned Nurul Izzah. There were no further developments during the year.

On September 29, DAP member of Parliament Tony Pua was questioned by police for sedition for suggesting the abolishment of discounts for luxury residential properties for bumiputera and channeling those benefits to the poor instead. His suggestion was published in the local daily *Utusan Malaysia* on July 27, which resulted in numerous police reports filed against Pua for questioning the rights of ethnic Malays. No further information regarding the case was available.

Unlike in past years, there were no instances of journalists being subject to arrest.

Criminal defamation is punishable by a maximum of two years in jail, a fine, or both. This, along with the Government power over annual license renewal and other policies, inhibited independent or investigative journalism and resulted in extensive self-censorship. Nonetheless, the English-, Malay-, and Chinese-language press sometimes provided alternative views on sensitive issues, as did online media and bloggers.

The Government continued to censor the media by controlling news content, requiring the annual renewal of publishing permits, and limiting circulation to an organization's members only. Printers often were reluctant to print publications that were critical of the Government for fear of reprisal. However, publications of opposition parties, social action groups, unions, Internet news sites, and other private groups actively covered opposition parties and frequently printed views critical of government policies.

The Government directly and indirectly censored the media by using the Printing Presses and Publications Act, which requires domestic and foreign publications to apply annually to the Government for a permit, making publication of "malicious news" a punishable offense and empowering the home affairs minister to ban or restrict publications believed to threaten public order, morality, or national security. It also prohibits court challenges to suspension or revocation of publication permits. According to the Government, these provisions ensured that the media did not disseminate "distorted news" and were necessary to preserve harmony and promote peaceful coexistence in a multiracial country. During the year the ministry continued to review, censor, and confiscate many foreign publications.

During the year the Home Ministry banned at least 25 books that could "jeopardize public order" or were obscene. The books banned include a Tamil-language book, *Sex Exercise* by Tamilvanan, and a Malay book, *Between Love and Sin* by Fahmi Ismail. Home Ministry officials added that individuals involved in the printing, importing, publishing, selling, and distributing of these banned titles could be charged under the Printing, Presses, and Publishing Act of 1984, which carries a jail term of up to three years and a fine up to RM20,000 (approximately \$5,700).

In June the Government banned the book *Perak Darul Kartun* (Perak Land of Cartoons) and a magazine of political cartoons, *Issues in Cartoons*. Home Ministry Secretary General Mahmood Adam said the Government banned the publications because their contents could influence people to revolt against the leaders and government policies.

On June 24, the Home Ministry also banned a book, *1Funny Malaysia*, by cartoonist Zulkifly Anwar Ulhaque (also known as Zunar) and published by Kini Books, which is owned by Internet news portal *Malaysiakini*. Mahmood Adam said the book's contents were deemed unsuitable and detrimental to public order. On September 24, police officials arrested Zunar for sedition just hours before the launch of his book, *Cartoon-o-phobia*. The Government confiscated 66 copies of the book. Zunar was released on bail September 25 and was ordered to report to police on October 7. On October 8, the high court allowed Zunar to file a challenge to the book ban. A hearing was scheduled for March 10, 2011.

On August 19, Home Ministry enforcement officers seized copies of political books, *Body 2 Body* and *The March to Putrajaya*, from Kinokuniya, an international bookstore in Kuala Lumpur. The officers left a seizure notice with the store's employees. On September 30, the Home Ministry banned the books for containing "baseless accusations against national leaders and inciting public hatred and anger against the federal constitution." On October 4, Kim Quek, the author of *March to Putrajaya*, made the book available on the Internet free of charge. On December 10, Kim Quek filed a lawsuit against the home minister, the police, and the Government alleging unlawful seizure of the books. The high court judge scheduled a hearing for January 10, 2011.

On January 25, the High Court of Kuala Lumpur lifted as unconstitutional the ban imposed in 2008 against the book *Muslim Women and the Challenge of Islamic Extremism*, by Norani Othman, cofounder of the NGO *Sisters in Islam* (SIS).

On March 8 and 11, the Home Ministry banned 13 Malay-language, three Tamil-language, and five Chinese-language books claiming the books were immoral and unsuitable for public reading.

Radio and television stations were as restricted as the print media and were predominantly supportive of the Government. News of the opposition was tightly restricted and reported in a biased fashion. During the 13 by-elections held since the March 2008 national elections, the mainstream media provided minimal coverage of opposition candidates, intensely negative reporting about their parties' senior figures, and extensive reporting on the ruling party candidates.

On April 20, Joshua Wong Ngee Chong, producer of NTV7's Chinese-language talk show "Editor's Time," resigned to protest self-censorship by the private television channel in the face of alleged pressure from the prime minister's wife, Rosmah Mansor. According to Wong, Rosmah forwarded text messages to NTV7 senior management calling episodes of some of its talk shows racist. The episodes in question featured debates between politicians from the ruling coalition Barisan Nasional and the opposition coalition Pakatan Rakyat (PR) as well as independent commentators. NTV7 subsequently did not report on the April 25 Hulu Selangor parliamentary by-election or political issues in general; nor did it invite opposition politicians as guests. NTV7 subsequently refused to air a documentary on the Hulu Selangor by-election.

On April 28, the director general of state-owned Radio Television Malaysia, Ibrahim Yahya, allegedly ordered a Chinese-language documentary series Galeri Mandarin Nasional taken off the air after only two episodes. The 10-episode series depicted the plight of more than 10,000 natives of Belaga, Sarawak, after their forced relocation to Sungai Asap and Sungai Koyan in 1998 due to the construction of Bakun Dam. The documentary producer reportedly said that his superior claimed that some "sensitive elements" in the documentary could be harmful to the Sibuan parliamentary by-election that was to be held on May 16 and the upcoming Sarawak State election.

Television stations censored programming in line with government guidelines. The Government banned some foreign newspapers and magazines and occasionally censored foreign magazines or newspapers, most often for sexual content. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or broadcast on radio.

The Government generally restricted remarks or publications, including books, that it judged might incite racial or religious disharmony.

*Internet Freedom.*—Internet access was widely available, except in East Malaysia, where the Internet was often not available beyond urban centers. According to International Telecommunication Union statistics for 2009, approximately 65 percent of the country's inhabitants used the Internet.

On March 1, Information, Communication and Culture Minister Rais Yatim said the Government would not impose any restrictions on the Internet, noting that the Government would not resort to measures such as censoring software to monitor all personal computers. However, on September 4, the Home Ministry deputy secretary general for security, Abdul Rahim Mohamad Radzi, announced the establishment of a taskforce to monitor the Internet for blog postings deemed harmful to national unity and to take action against those trying to stoke racial tensions. The taskforce involved police, Internet regulators, the Ministry of Information, and the Attorney General's Chambers. The Government monitored e-mails sent to Internet blog sites and threatened to detain anyone sending content over the Internet that the Government deemed threatening to public order or security. On September 13, Rais Yatim mentioned the formation of a special taskforce to investigate complaints about possible threats to national security and unity. On September 15, the MCMC warned Internet operators to avoid offensive, indecent, or sensitive matters such as religion and race.

Criminal defamation and preventive detention laws generated some self-censorship from local Internet content sources such as bloggers, Internet news providers, and NGO activists.

On September 2, the Petaling Jaya Sessions court charged blogger Irwan Abdul Rahman under the Communication and Multimedia Act for "creating and spreading lies with the malicious intent to hurt others." Irwan posted a satire stating that the National Electric Company (Tenaga Nasional Berhad) would sue the World Wildlife Federation for organizing the "Earth Hour Campaign" encouraging consumers not to use electricity for an hour because such an event would cost the national corporation millions in unrealized revenue. If convicted, Irwan could face a year's imprisonment and a fine of as much as RM50,000 (approximately \$16,000). A hearing was scheduled for January 26, 2011.

On December 6, UMNO Supreme Council member Dr. Shahidan Kassim called for the blocking of the Facebook social networking Web site if its contents pose a threat to national security. He made his comments after a Malaysian Facebook account holder allegedly insulted Islam and leaders of Malaysia on the Web site. He accom-

panied the Perlis Facebook Association committee members as they lodged a police complaint regarding the matter. The group reportedly also lodged a report at the State Islamic Religious Department.

In March 2009 the Sessions Court Kuala Lumpur charged six persons under the Communications and Multimedia Act for insulting the Sultan of Perak on blogs or other Internet postings. The blogs related to the Perak political crisis following the takeover by the BN in February 2009. One blogger pled guilty and was fined RM10,000 (approximately \$2,850). The remaining five pled not guilty. On June 22, the Sessions court acquitted Muslim Ahmad on the grounds that the prosecution failed to establish a prima facie case against him. At year's end the trials against the remaining four remained pending.

The Communications and Multimedia Act requires certain Internet and other network service providers to obtain a license. Previously the Government stated that it did not intend to impose controls on Internet use but that it would punish the "misuse" of information technology. The act permits punishment of the owner of a Web site or blog for allowing content of a racial, religious, or political nature that a court deems offensive.

*Academic Freedom and Cultural Events.*—The Government placed some restrictions on academic freedom, particularly the expression of unapproved political views, and enforced restrictions on teachers and students who expressed dissenting views. The Government continued to require that all civil servants, university faculty, and students sign a pledge of loyalty to the king and the Government. Opposition leaders and human rights activists claimed that the Government used the loyalty pledge to restrain political activity among civil servants, academics, and students.

Although faculty members sometimes were publicly critical of the Government, there was clear self-censorship among public-university academics whose career advancement and funding depended on the Government. Private institution academics practiced self-censorship as well, fearing that the Government might revoke the licenses of their institutions. The law also imposes limitations on student associations and on student and faculty political activity.

During the year Deputy Prime Minister Muhyiddin Yassin told the press he wanted tighter screening for university lecturers to keep extremist ideology out of the university system. The administrations of several universities agreed to cooperate closely with police in identifying both faculty and students with possible extremist links.

The Government has long stated that students should be apolitical, and it used that assertion as a basis for denying political parties access to student forums. According to student leaders, academic authorities sometimes expelled or fined students who signed antigovernment petitions. School authorities did not restrain propagation of government views on controversial issues on school campuses.

On August 11, Minister of Higher Education Khaled Nordin announced the cabinet's reaffirmation of a 1974 decision that college and university students not join political parties after a Ministry of Education official had suggested lifting the ban. However, during an August 27 National Front Youth town-hall meeting, Prime Minister Najib said that he was keeping an open mind about university students getting politically involved.

In the past the Government has censored and banned films for profanity, nudity, sex, violence, and certain political and religious content. There were no such actions during the year; however, on September 27, the Chairman of the Film Censorship Board called for a ban on the import and distribution of Japanese anime, on grounds that it contained negative elements, which could corrupt the minds of children. Although the Government allowed art-house foreign films at local film festivals, sexual content was censored by blocking the screen until the concerned scene was over.

The youth wing of PAS protested against singers and groups it considered obscene and not in accordance with Islamic values. The Government responded by canceling or placing conditions on performances by some international performers. The PAS-led Kedah State government continued its policy of issuing entertainment licenses to female artists only for concerts for female audiences. The state government also maintained a blanket ban on rock, reggae, pop, and dangdut (an Indonesian style of music) concerts, which it claimed could have a "negative impact" on youth.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution states that all citizens have "the right to assemble peaceably and without arms"; however, the Government placed significant restrictions on this right through use of the Public Order Ordinance and the Police Act. The ordinance restricts public assemblies that could damage security and public order, while the act

requires police permits for all public assemblies except for workers on picket lines. The act defines a public assembly as a gathering of five or more persons.

The decision to grant a permit rests with the district police chief; however, senior police officials and political leaders influenced the granting or denial of some permits. Police granted permits routinely to government and ruling coalition supporters but used a more restrictive approach with government critics, opposition parties, NGOs, and human rights activists.

Unlike in previous years, there were no reports that the Government used tear gas and chemically laced water cannons to break up rallies. On August 1, police arrested 25 people at a candlelight vigil in protest of the 50th anniversary of the Internal Security Act. Among those arrested were anti-ISA movement President Syed Ibrahim Syed Noh and PKR Supreme Council Member Badrul Hisham.

On July 27, a sessions court sentenced two of the six Muslim protesters, who in August 2009 had desecrated a cow's head to protest the relocation of a Hindu temple to their area, to pay a RM3,000 (\$967) fine or face three months' imprisonment after they plead guilty to sedition. One of the two men was also sentenced to an additional week in jail. The court granted a discharge not amounting to an acquittal to the four others. These six and six others had previously pled guilty to the charge of participating in an illegal assembly with the intention of causing public unrest and were ordered to pay a RM1,000 (\$322) fine or face a month in jail.

At year's end the cases of the nine persons arrested for participating in an assembly marking International Human Rights Day 2007 were still pending.

On November 20, the sessions court acquitted the 17 members of the Coalition for Clean and Fair Elections who were arrested in 2007 on the grounds that the prosecution failed to establish a prima facie case against them.

*Freedom of Association.*—The constitution provides for the right of association; however, the Government placed significant restrictions on this right, and certain statutes limit it. Under the Societies Act, only registered organizations of seven or more persons may function as societies. The Government sometimes refused to register organizations or imposed conditions when allowing a society to register. The Government prohibited the Communist Party and its affiliated organizations from registering because they allegedly posed a national security threat. The Government has the power to revoke the registration of an existing society for violations of the act. Unlike in prior years, the Government did not use this power against political opposition groups.

Some human rights and civic society organizations had difficulty obtaining government recognition as NGOs; as a result some NGOs were registered as companies, which presented legal and bureaucratic obstacles to raising money to support their activities. Some NGOs also reported that the Government monitored their activities.

The Universities and University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations and faculty members from engaging in political activity (see section 2.a.). Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government maintained that the act still was necessary. In 2008 Parliament amended the act to allow students to be members of organizations outside the university.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice, although there were some restrictions. The eastern states of Sabah and Sarawak controlled immigration and required citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. The Government provided some cooperation to the UNHCR and generally did not impede other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

By law anyone entering the country without appropriate documentation is considered illegal and faces mandatory imprisonment for a maximum of five years, a fine not to exceed RM10,000 (approximately \$3,200), or both, and mandatory caning not to exceed six strokes. In June 2009 the Government stated that it had sentenced 47,914 migrants to be caned for immigration offenses since amendments to its Immigration Act came into force in 2002, and at least 34,923 migrants had been caned between 2002 and 2008, according to the country's prison department records. In its 2010 publication, *A Blow to Humanity—Torture by Caning in Malaysia*, Amnesty

International (AI) estimated that the Government canes as many as 10,000 prisoners a year.

The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of criminal activities.

Citizens must apply for government permission to travel to Israel.

The constitution provides that no citizen may be banished or excluded from the country. In 2008, however, Chin Peng, the former leader of the communist insurgency, lost his bid to return to Malaysia when the Court of Appeal upheld an earlier ruling compelling him to show identification papers proving his citizenship, forcing him to continue to live in exile in Thailand. In April 2009 the Federal Court upheld the Court of Appeal's decision.

Dissident blogger Raja Petra Kamarudin was in self-exile in London; he has said he would return to the country to face sedition charges when he was assured he would not be detained under the ISA.

*Protection of Refugees.*—The country is not a party to the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, and its laws do not provide for the granting of asylum or refugee status. The Government has not established a system for providing protection to refugees. The Government did not grant refugee status or asylum. The Government did not provide legal protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. At the same time, the Government generally cooperated with UNHCR and did not deport individuals registered as refugees by the UNHCR and being processed for resettlement to third countries.

The Government generally did not distinguish between asylum seekers and illegal immigrants and detained them in the same immigration detention centers. Beginning in April 2009 the Government provided preferential treatment to those individuals carrying a UNHCR card. Reports of government deportation of some refugees and asylum seekers with UNHCR refugee cards effectively stopped as of July 2009.

According to government officials, there were an estimated four million foreign nationals in the country, of whom nearly two million were illegal and undocumented. Of this latter group, the majority were from Indonesia. Additionally, 61,000 Filipino Muslims who fled the Moro insurgency in the 1970s were reportedly living in the country. Although they were not legally authorized to work, the Government typically did not enforce laws prohibiting registered refugees from working. On November 18, Home Ministry Secretary General Mahmood Adam said the Cabinet would decide in December if the Government would allow refugees to work in the country; however, no further developments were reported during the year.

During the year the UNHCR registered 91,985 persons of concern in the country 18,378 of whom were children. The majority of illegal migrants worked in construction, restaurants, plantations, and garment factories, as well as in the sex industry.

The Government provided access to health care for refugees with UNHCR cards at a discounted foreigner's rate; however, the costs generally were beyond their means. Mobile clinics run by NGOs existed, but access was limited.

Refugees had no access to formal education, and although there were schools run by NGOs and ethnic communities, opportunities for schooling were limited by a lack of resources and qualified teachers.

In previous years there were many allegations from NGOs, international organizations, and civil society groups that immigration officials were involved in the trafficking of Burmese refugees from IDCs to Thailand, where some refugees were sold into slavery. There were no such reports of trafficking during the year. NGOs and international organizations reported that since April 2009, allegations of abuse of power by RELA decreased. However, RELA continued to conduct raids targeting illegal migrant communities and detained refugees and asylum seekers along with allegedly illegal migrants. According to local NGOs and international organizations, IDCs allowed those with the UNHCR documents access to the UNHCR while in detention. Refugees with UNHCR cards occasionally were arrested during the raids but were released after the authorities were satisfied with the documents. Since April 2009 the authorities also provided UNHCR access to potential refugees without UNHCR registration cards as well as to all Burmese detainees in the IDCs to verify whether they were asylum seekers.

Because the UNHCR did not maintain a presence at the country's border, most asylum seekers traveled to Kuala Lumpur for determinations; in 2009 and the early part of the year UNHCR conducted mobile registrations in areas with high concentrations of refugees. During the year the UNHCR listed 91,985 persons as asylum seekers and refugees, approximately 92 percent of whom were Burmese citizens with Chin and Rohingya being most numerous, and sizeable groups of Kachin,

Karen, and Mon. UNHCR registered 9,539 refugees through its mobile registration from January to March.

During the year the UNHCR submitted 12,648 refugees to third countries for resettlement consideration. Third countries accepted and resettled 7,955 refugees during the year.

During the year UNHCR staff members conducted numerous visits to various prisons and IDCs located throughout the country to provide counseling and support to its persons of concern and ensure legal representation.

NGOs reported that detention facilities were overcrowded, unsanitary, and lacked adequate medical facilities (see section 1.c.).

*Stateless Persons.*—Citizenship is derived from one's parents. NGO estimates of the number of stateless persons ranged from several thousand to as many as 30,000. A foreign government estimated that approximately 10 to 20 percent of the 60,000 illegal immigrants and persons of concern living in Sabah were stateless children born in Sabah. Government officials denied stateless persons access to education, health care, and the right to own property.

Some persons were stateless because the Government refused to register their birth due to inadequate proof of their parents' marriage. Interfaith marriages not recognized by the Government sometimes resulted in undocumented, de facto stateless children.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens formally exercised this right in practice through periodic elections based on universal suffrage; however, while votes generally were recorded accurately, there were some irregularities that affected the fairness of elections, and this right was abridged in practice.

*Elections and Political Participation.*—Opposition parties were unable to compete on equal terms with the governing BN coalition, led by the ethnic-Malay UMNO party, which has held power at the national level since independence in 1957, because of restrictions on campaigning, freedom of assembly and association, and access to the media. Nevertheless, opposition candidates campaigned actively, and in the most recent national elections, held in 2008, the opposition parties captured 82 of 222 parliamentary seats and 198 of 505 state assembly seats, winning control of five out of 13 state governments, and capturing 49 percent of the popular vote nationwide. For the first time since 1969, the opposition's electoral success denied the ruling coalition a two-thirds majority in Parliament, blocking the Government's ability to amend the constitution at will. The opposition parties won eight of the 11 local by-elections since the March 2008 general election.

On December 16, Anwar Ibrahim and three other opposition parliamentarians were suspended from Parliament for six months. The cause given for Anwar's suspension was making misleading statements to Parliament when he linked the prime minister's 1Malaysia slogan to a One Israel concept. The three other parliamentarians were suspended for contempt occasioned by their opposition to Anwar's suspension.

On April 25, BN candidate P. Kamalanathan defeated PKR candidate Zaid Ibrahim in the Hulu Selangor by-election. On May 24, Zaid Ibrahim petitioned the high court to invalidate the results. On August 5, the court dismissed the petition.

On May 16, DAP candidate Wong Ho Leng defeated the BN candidate in the Sibu by-election in the East Malaysian State of Sarawak. In the pre-election period, DAP leaders filed official reports with the Election Commission claiming that the prime minister and other BN leaders had violated election laws by promising millions of dollars in development funds to the constituency. On May 20, the Election Commission dismissed the reports claiming it had no powers to investigate the allegation as the election laws only apply to allegations against the candidate or their agents. The Commission stated that the DAP should refer their reports to the Malaysian Anticorruption Commission (MACC).

On February 9, a five-member panel of the Federal Court upheld the Court of Appeals' reversal of a high court decision and ruled that the sultan of Perak was empowered to dismiss the chief minister of the state. This concluded the contretemps begun in February 2009 in which the BN coalition regained control of Perak, one of the five states won by the opposition PR coalition, when three PR state legislative assembly members declared support for the BN and the sultan dismissed the opposition-controlled state government and appointed a BN state government.

Political parties could not operate without restriction or outside interference. The lack of equal access to the media was one of the most serious problems for the opposition in the 2008 national elections and in the subsequent by-elections. Opposition

leaders also claimed that the Election Commission was under government control and lacked the independence needed to carry out its duties impartially. There were numerous opposition complaints of irregularities by election officials during the campaign; however, most observers concluded that they did not substantially alter the results. NGOs and opposition party leaders lodged allegations of illegally registered “phantom” voters, reportedly brought in from other districts to vote in tightly contested districts; inflated voter rolls; nonregistered voters using fictitious names or the names of dead voters still listed on the voter rolls; and noncitizens registered to vote.

The constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters; however, in practice the numbers varied significantly. For example, the Putra Jaya constituency had 6,606 voters, while in Kuala Lumpur the Seputih constituency had 76,891 voters. In Perak, Gopeng had 74,344 voters compared with Lenggong, with only 23,223 voters. Each of these constituencies had one member of Parliament (MP).

Over the years power increasingly has been concentrated in the prime minister, and Parliament’s function as a deliberative body has deteriorated. Parliament rarely amended or rejected government-proposed legislation and did not give legislation proposed by the opposition serious consideration. Parliamentary procedures allow the speaker of parliament to suspend members, establish restrictions on tabling questions, edit written copies of members’ speeches before delivery, and severely restrict members’ opportunities to question and debate government policies. With the increased number of opposition MPs since 2008, government officials often faced sharp questioning in Parliament, and the press reported in greater detail than in the past.

Under the Local Government Act, elections of public officials were confined to state assemblies and the federal Parliament. The central government has appointed all local and city officials since the 1969 race riots. Some politicians and NGO activists advocated the reintroduction of local government elections. Some ruling-party municipal officials noted that local bodies were simply “rubber stamps” for the Government.

Women faced no legal limits on participation in government and politics. At year’s end two of the 32 cabinet ministers were women. Women held 23 of the 222 seats in the lower house and 17 of the 68 Senate seats.

In practice the political dominance of the Malay majority meant that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 11 of the 29 ministerial posts and 23 of the 42 deputy minister positions.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The media reported numerous cases of alleged official corruption, and there was a broadly held perception of widespread corruption and cronyism within the governing coalition and in government institutions. The MACC is responsible for investigating and persecuting corruption by both private and public bodies.

On July 8, the newspaper *The Star* reported that the MACC had arrested 194 people from January to May 31 involved in attempting to bribe public officials. MACC reportedly also arrested 140 public servants for accepting bribes.

On December 15, the Whistleblower Protection Act 2010 came into effect. The act is designed to protect individuals who disclose information on corrupt practices in both the public and private sectors.

Surveys by international NGOs identified the police as among the country’s most corrupt government organizations. A 2009 Home Affairs Ministry survey noted that 70 percent of respondents had bribed police officers under duress. Reported police offenses included accepting bribes and theft.

In May 2009 the Government declassified an independent audit on the Port Klang Free Zone (PKFZ) project that revealed that the construction cost had escalated from RM1.1 billion (approximately \$314 million) in 2001 to an estimated RM12.5 billion (\$3.57 billion). Credible observers alleged that a revolving door of individuals in politics, government, and the private sector led to a lack of appropriate checks and balances and a general misuse of funds. In October 2009 the Government announced a special task force to determine misconduct or criminal behavior on the part of individuals or entities involved in the project and to recommend actions against them. In December 2009 government authorities arrested and charged the former general manager of the Port Klang Authority, Phang Oi Choo; the chief operating officer, Stephen Abok; and the architect, Bernard Tan Seng Swee. In December 2009 a fourth individual, Law Jenn Dong, an engineer, was also arrested and

charged. On July 29, the Kajang Sessions Court charged the former transport minister and former Malaysian Chinese Association (a component party of the ruling BN) president, Ling Liong Sik, over his involvement in the PKFZ project. The case remained pending at year's end.

Civil servants who refused or failed to declare their assets faced disciplinary actions and were ineligible for promotion.

The Official Secrets Act prohibits the dissemination of classified information. The act encompassed documents concerning national security, defense, and international relations. However, critics accused the Government of using the act to prevent dissemination of materials and stifle dissent.

There is no law designed to facilitate citizens' requests for government statistics or other information collected and compiled by the Government. Individual MPs were allowed to request and obtain such information on an ad hoc basis, some of which was then made available to the public.

The November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) reported that the Malaysian Smelting Corporation, based in Malaysia, purchased natural resources, the proceeds of which may have directly or indirectly funded perpetrators of human rights abuses in the eastern DRC.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases government officials were somewhat cooperative and responsive to their views.

In 2009 the Islamic women's NGO SIS criticized the sentencing of Kartika Shukarno—later pardoned—to caning for drinking alcohol in public (see section 1.c.). A number of conservative Islamic groups filed police reports against SIS for allegedly having insulted the Sharia system. Police took statements from SIS employees as part of an investigation into alleged violation of the penal code for causing disharmony, disunity, feelings of enmity, hatred, or ill will, or prejudicing the maintenance of harmony or unity, on grounds of religion. There were no further developments during the year (see section 6, Women).

On June 16, AI released the report *Abused and Abandoned: Refugees Denied Rights in Malaysia*. Although the report was generally critical of the country's efforts to provide protections to refugees, it recognized the cooperation of the Government. The AI report noted that in July 2009, "Amnesty International was given unprecedented and unfettered access to three immigration detention center facilities in and around the capital, Kuala Lumpur." Similarly, UNHCR and members of the diplomatic corps noted willingness by the Government to allow visits to IDCs and trafficking shelters.

The Government cooperated with some international organizations during the year and provided increased cooperation to the UNHCR to resettle refugees in third countries.

SUHAKAM was generally considered a credible monitor of some aspects of the human rights situation. However, SUHAKAM is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject of a court case.

On June 7, the prime minister announced the appointment of Hasmy Agam as chairman of SUHAKAM, and he also appointed six new commissioners. On September 23, Agam announced that the Commission had proposed that the Government grant it powers to litigate human rights cases.

SUHAKAM commissioners traveled throughout the country to educate community leaders, including police officials, on the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. They repeatedly noted the slow government response to their reports that touched on fundamental liberties.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for equal protection under the law and prohibits discrimination against citizens based on sex, religion, race, descent, or place of birth. However, the constitution also provides for the "special position" of ethnic Malays and the indigenous groups of the eastern states of Sabah and Sarawak (collectively, bumiputera), and discrimination based on this provision persisted.

*Women.*—The penal code states that rape is punishable by a prison term of up to 30 years, caning, and a fine. The Government enforced the law effectively. A 2007 amendment to the Penal Code criminalized marital rape. In August 2009 a sessions court in Pahang State sentenced a man to the maximum five years in jail, in what

was believed to be the first successful prosecution of marital rape under the amended law.

The courts may decide the minimum jail term for a man convicted of statutory rape of a girl age 15 years or less. The law also prohibits a person in authority from using his position to intimidate a subordinate into having sexual relations.

Violence against women remained a problem. Reports of rape and spousal abuse drew considerable government, NGO, and press attention. Under the Domestic Violence Act, anyone who willfully contravenes a protection order by using violence against a protected person may be punished by imprisonment of up to one year and a maximum fine of RM2,000 (\$633). In extreme cases involving "grievous hurt" inflicted using a deadly weapon, the maximum imprisonment increases to 20 years. Women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view the act failed to protect women in immediate danger because it requires that separate reports of abuse be filed with both the Social Welfare Department and the police, causing delay in the issuance of a restraining order. Cases also require visible evidence of physical injury, despite its interpretation to include sexual and psychological abuse. On April 20, The Star reported the following rape statistics released by the home minister: In 2008 there were 3,409 police reports lodged by rape victims and 3,626 in 2009. Of the cases reported in 2008, police arrested 2,261 suspects and 184 of them were charged. Of the 3,626 cases reported in 2009, 2,301 suspects were arrested and 162 of them were charged. According to a December report by the Home Ministry, 2,426 rape cases were reported from January to August, and 119 persons were charged.

Many government hospitals had crisis centers where victims of rape and domestic abuse could make reports without going to a police station. NGOs and political parties also cooperated to provide counseling for rape victims, but cultural attitudes and a perceived lack of sympathy from the largely male police force resulted in many victims not reporting rapes. According to the Ministry of Women, Family, and Community Development (MWFCD) and a leading women's NGO, only 10 percent of rape cases were reported to police. Women's groups noted that courts were inconsistent in punishing rapists.

Although the Government, NGOs, and political parties maintained shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. There was a sexual investigations unit at each police headquarters to help victims of sexual crimes and abuse. Women's rights activists claimed that police needed additional training in handling domestic abuse and rape cases.

Some Sharia experts urged Muslim women to become more aware of the provisions of Sharia that prohibit spousal abuse and provide for divorce on grounds of physical cruelty. Provisions in state Sharia laws, however, generally prohibit wives from disobeying the "lawful orders" of their husbands and presented an obstacle to women pursuing claims against their husbands in Sharia courts. Muslim women were able to file complaints in civil courts.

A government voluntary code of conduct provides a detailed definition of sexual harassment, which is meant to raise public awareness of the problem, but women's groups advocated passage of a separate law on sexual harassment. The Malaysian Employers Federation opposed any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations. In December 2009 the Human Resources Ministry announced that there had been 276 reported cases of sexual harassment since 1999, of which 271 had been resolved. According to a December report by the Home Ministry, 1,441 sexual harassment cases were reported from January to August, with 73 brought to court.

In an effort to reduce sexual harassment during travel, the Government introduced all-female public transportation services. In April Malaysian Railway established women-only cars on its trains, and in December the city of Kuala Lumpur launched a women-only bus service.

Couples and individuals had the right to decide the number, spacing, and timing of their children. Contraceptives such as the birth-control pill and condoms were permitted and were locally available, although an expert from one domestic NGO estimated that only 50 percent of women use contraceptives of any type. The great majority of births were attended by skilled medical personnel, and women generally had access to postpartum care. According to 2008 UN statistics, the maternal mortality rate was 31 per 100,000 live births. Women and men generally had equal access to diagnostic and treatment services for sexually transmitted infections, including HIV.

Women's rights advocates asserted that women faced discriminatory treatment in Sharia courts due to prejudicial interpretations of Islamic family law.

In August 2009 the NGO coalition Joint Action Group for Gender Equality (JAG) issued a press statement stating that the conviction of Kartika Shukarno for drinking alcohol illustrated discrimination against Muslim women in the country (see section 1.c.). SIS, a member group of JAG, faced apparent retaliation from conservative Islamic NGOs. In September 2009 JAG issued a press release condemning Kartika's sentence noting that it "undermined the Government's efforts to project an image as a moderate Islamic country." In February it criticized the caning of three women for illicit sex. SIS urged the Government to review caning as a form of punishment under the Sharia Criminal Offences Act. It argued that certain Sharia laws contravene the provisions of the federal constitution that forbid discrimination based on gender. Conservative Islamic NGOs including the Selangor Islamic Council (MAIS) filed more than 50 police reports against SIS, accusing it of insulting the Sharia system, the king, and the constitution. A member of parliament called on the National Fatwa Council to investigate SIS. On March 12, the Friday mosque sermons issued by MAIS called on the public to take action against SIS and its officers. Police took statements from SIS employees as part of an investigation into alleged violation of the penal code for causing disharmony, disunity, feelings of enmity, hatred, or ill will, or prejudicing the maintenance of harmony or unity, on grounds of religion. There were no further developments during the year.

The law allows polygyny, which a few Muslim men practiced. Islamic inheritance law generally favors male offspring and relatives. A small but steadily increasing number of women obtained divorces under the provisions of Sharia that allow for divorce without the husband's consent.

Non-Muslim women are subject to civil law. The Guardianship of Women and Infants Act gives mothers equal parental rights. Four states extend the provisions of the act to Muslim mothers, and women's groups continued to urge the other states to do the same.

The Government undertook a number of initiatives to promote equality for women and the full and equal participation of women in education and the work force. For example, the Women's Ministry developed programs and workshops to encourage women to enter the business community and operate small- and medium-sized enterprises. In August the Women's Ministry launched a Symposium on Women Entrepreneurship in 2010, which included a grant of RM4.7 million (\$1.52 million) for 946 women entrepreneurs in the country.

Women experienced some economic discrimination in access to employment. In December 2009 the human resource minister announced that there were 3.8 million women compared with 7.2 million men in the labor force. In May SUHAKAM reported that women continued to be discriminated against in the workplace in terms of promotion and salary. Only 20 percent of officials at the decision-making level in government were women, a lower percentage than in the private sector. Women were routinely asked their marital status during job interviews. In 2008 the Kedah State government announced that women entertainers could perform only in front of all-female crowds. The JAG condemned the state government for infringing gender-equality rights protected by the constitution.

*Children.*—Citizenship is derived from one's parents (see section 2.d.). Parents must register a child within 14 days of birth. The authorities require citizens to provide their marriage certificate and both parents' Malaysian Government Multipurpose Card. Noncitizens must provide passport or travel documents. Parents applying for late registration must prove the child was born in the country. The authorities do not enter the father's information for a child born out of wedlock unless there is a joint application by the mother and the person claiming to be the father. The authorities do not register children born to illegal immigrants or asylum seekers. Asylum seekers who register a birth risk arrest as illegal immigrants. The UNHCR registered children born to refugees. Marriages between Muslims and non Muslims were officially void. Couples in such marriages had difficulty registering births that recognize the father due to the invalidity of the marriage. Children without birth certificates are stateless and denied entry into both public and private schools. Stateless children (like noncitizens) were required to pay higher medical fees, which caused hardship in many cases.

Although primary education is compulsory, there was no enforcement mechanism governing school attendance.

The Government recognized that sexual exploitation of children and, particularly in rural areas, incest were problems. The law provides for six to 20 years' imprisonment and caning for individuals convicted of incest. The testimony of children is accepted only if there is corroborating evidence. This posed special problems for molestation cases in which the child victim was the only witness.

Female circumcision is reportedly a routine practice among Muslim Malays. In November 2009 local online news portal Malaysiakini reported that "in Malaysia,

female circumcision refers to the act of making a small scratch or using a sharp penknife to nick the prepuce of the vagina. It is usually performed on infants within a few months of birth, by medical doctors or midwives.”

On December 4, 14-year-old Siti Maryam Mahmood married 23-year-old Abdul Manan Othman at a Kuala Lumpur mosque as part of a 250-couple mass wedding. The couple reportedly first married in July after permission by a Sharia court. On December 6, Women’s Minister Shahrizat Abdul Jalil said the Government does not condone child marriages and vowed to look into the matter. However, on December 8, Law Minister Nazri Aziz said that Islam permits underage marriage and the Government had no plan to ban it or review the laws. Minister in Charge of Islamic Affairs Jamil Khir Baharom reportedly welcomed the marriage. The minimum age of marriage for males is 18; Muslim girls below the age of 16 may marry with the approval of a Sharia court, but such marriages were uncommon. Reportedly two girls, ages 10 and 11, were married to older men in Kelantan State during the year.

Statutory rape occurred and was prosecuted. According to the MWFC, most victims were below 15 years of age. However, Islamic law provisions that consider a Muslim girl an adult after her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with *khalwat*, an offense under Sharia, even if she is under the age of 18 and her partner is an adult. Sharia courts sometimes were more lenient with males charged with *khalwat*, although in many cases Muslim men were charged and punished for statutory rape under civil law.

Child prostitution existed, but child prostitutes often were treated as delinquents or illegal immigrants rather than victims.

Sabah had a problem of street children. Estimates ranged from a few hundred to 15,000 children born in the country to illegal immigrant parents, some of whom were deported. These children lacked citizenship and access to government-provided support and often resorted to menial labor, criminal activities, and prostitution to survive. Child trafficking remained a problem.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—No reliable estimate of the country’s Jewish population was available, and there were no locally based Jewish communities or synagogues. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Neither the constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the Government promoted public acceptance and integration of persons with disabilities.

The Government did not discriminate against persons with disabilities in employment, education, access to health care, or in the provision of other state services. A public sector regulation reserves 1 percent of all public-sector jobs for persons with disabilities. The Government did not mandate accessibility to transportation for persons with disabilities, and few older public facilities were adapted for such persons. New government buildings were generally outfitted with a full range of facilities for persons with disabilities.

A code of practice serves as a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs.

Special education schools existed but were not sufficient to meet the needs of the population with disabilities.

The Government undertook initiatives to promote public acceptance of persons with disabilities, make public facilities more accessible to such persons, and increase budgetary allotments for programs aimed at aiding them. Recognizing that public transportation was not “disabled-friendly,” the Government maintained its 50 percent reduction of the excise duty on locally made cars and motorcycles adapted for persons with disabilities. The Ministry of Human Resources was responsible for safeguarding the rights of the disabled.

The 2008 Persons with Disabilities Act recognizes the rights of persons with disabilities to enjoy the benefits of public transport, housing, education, employment, and health care. However, there is no penalty for those who do not comply with its provisions. For example, there are by-laws to compel new buildings to provide access for persons with disabilities but also loopholes that allow local authorities to exempt compliance. Critics called the act a “toothless tiger.”

*National/Racial/Ethnic Minorities.*—The law and government policy provide for extensive preferential programs designed to boost the economic position of ethnic

Malays or bumiputera, who constitute a majority of the population. Such programs limited opportunities for non-bumiputera in higher education, government employment, business permits and licenses, and ownership of land. Businesses were subject to race-based requirements that limited employment and other economic opportunities for non-bumiputera citizens. According to the Government, these programs were necessary to ensure ethnic harmony and political stability.

Despite the Government's stated goal of poverty alleviation, these race-based policies were not subject to upper income limitations and appeared to contribute to the widening economic disparity within the bumiputera community. Ethnic Indian citizens, who did not receive such privileges, remained among the country's poorest groups. Another goal of this policy is for bumiputera to hold 30 percent of the nation's wealth. According to several studies, the program reached or exceeded this target; however, official government figures placed bumiputera equity at 18.9 percent. The Government did not respond to public requests to make its methodology available.

On March 30, the prime minister unveiled a New Economic Model, an economic policy reform agenda that called for, among other things, the restructuring of the country's system of bumiputera ethnic preferences to reduce unequal treatment of different ethnicities by the Government. The prime minister cited the reforms as a means to better target subsidies and preferences to the poorest citizens, regardless of ethnicity. Conservative bumiputera-rights groups raised strong objections to any changes that could threaten ethnic preference programs.

In April 2009 Prime Minister Najib announced that the Government had lifted the 30 percent bumiputera equity requirement for 27 service subsectors including health, social, tourism, business, and computer services. Given the narrow scope of these subsectors, observers considered the announcement a minor adjustment to the entrenched pro-Malay economic policies.

During the year the PAS, a part of the opposition coalition, endorsed the establishment of a PAS Supporters Congress, made up of non-Muslims, as an official wing of the party. The PAS constitution stipulates that only Muslims can become members; however, representatives of the Supporters Congress will be allowed to sit in the party's supreme council.

*Indigenous People.*—Indigenous people (the descendants of the original inhabitants of the peninsular region of the country and the Borneo states, such as the Penan) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region, known as the Orang Asli, vested considerable authority in the non-Orang Asli minister for rural development to protect, control, and otherwise decide issues concerning this group. As a result indigenous people in peninsular Malaysia had very little ability to participate in decisions that affected them. The Government did not effectively protect indigenous persons' civil and political rights.

The Orang Asli, who numbered approximately 150,000, constituted the poorest group in the country. According to the 10th Economic Plan covering the years 2010-15, 50 percent of the 29,990 Orang Asli households were living below the poverty line. Of these, about 5,700 households (19 percent) were considered to be "hardcore poor." A local NGO that focused on Orang Asli rights estimated that these numbers underreported the numbers living in poverty because it considered only Orang Asli living in established villages—not those living deep in the rainforest. A government-sponsored national advisory council monitored the development of Orang Asli, but only five of the council's 17 members were Orang Asli. In addition, only one Orang Asli held a management position in the Government's Department of Orang Asli Affairs. Under its ninth economic plan covering the years 2006-10, the Government allocated slightly more than RM377 million (approximately \$108 million) for development projects for the Orang Asli. These focused on improving health, preschool education, infrastructure, and economic activities. The plan included an additional RM100 million (\$28.6 million) for development of lands inhabited by the Orang Asli and another RM20 million (\$5.7 million) to curb inflationary pressures. The Department of Orang Asli Affairs reported that the dropout rate among primary school children had improved from 30 percent to 20 percent since 2008. Moreover, the number of students who drop out between primary and secondary school declined from 50 percent to 30 percent during the same timeframe. In 2008 approximately 600 Orang Asli students went on to college or university.

Under the Aboriginal People's Act, Orang Asli were permitted to live on designated land as tenants at-will, but they did not possess land rights. Observers reported that over the years, the total area of land reserved for Orang Asli had decreased, and some land previously set aside as Orang Asli reserve was rezoned for development. Although the Orang Asli were given the authority to reside on the land, these rights were often undocumented. This led to confrontations between the

Orang Asli and logging companies. While the Government continued development in these areas, the Orang Asli struggled for their land rights. In 2008 the Government announced it would grant land ownership rights of 125,000 acres of rural land currently belonging to state governments to 20,000 Orang Asli households.

The uncertainty surrounding Orang Asli land ownership made them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli as well as indigenous groups in the Borneo states. Indigenous people in Sabah and Sarawak continued to protest encroachment by state and private logging and plantation companies onto land that they considered theirs under native customary rights.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers, to which indigenous persons may have no access. In past years this deprived some indigenous persons of their traditional lands with little or no legal recourse. In recent years court decisions recognizing native customary title in land have resulted in greater protections of the Orang Asli land rights. In 2007 the Federal Court, the country's highest court, found that native customary titles are recognized in common law.

The 2007 petition filed by the Semalai, an Orang Asli group, to the high court to review a Pahang State government-ordered eviction from an area the Semalai claimed as their traditional land remained pending at year's end. In 2007 a suit was filed against authorities who allegedly tore down an Orang Asli church in Gua Musang. In July 2009 the high court declared that the Orang Asli had the right to their land and to practice the religion of their choice under the Federal Constitution. The Government appealed the judgment, and the case remained pending at year's end.

On March 17, an Orang Asli group staged a peaceful demonstration in Putrajaya to protest against a proposed amendment to the National Land Act. The Network of Orang Asli Villages founder, Tijah Yok Chopin, and the Persatuan Orang Asli Malaysia president, Majid Suhut, handed over a memorandum signed by 12,000 Orang Asli to Regional Development Minister Shafie Apdal, claiming that the amendment ignored the fundamental rights of the indigenous people. They also demanded that the Government recognize their rights to ancestral lands.

In May members of the Temuan tribe won a 15-year court battle and were awarded RM6.5 million (\$2.1 million) in a landmark settlement with highway authorities for forcibly taking their ancestral land for development. The Temuan community filed a suit after authorities forcibly acquired 38.5 acres of land in Selangor in 1995 to construct a highway to Kuala Lumpur International Airport without paying compensation. In 2002 the high court ruled that the Orang Asli enjoyed native title rights and should be compensated. The Selangor State government appealed the decision in 2005. In May the state government withdrew the appeal after the opposition coalition took over Selangor.

On April 4, Minister of Rural and Regional Development Mohd Shafie Apdal announced the allocation of RM570 million (approximately \$182 million) for Orang Asli development and stated the Government never neglected the Orang Asli community in implementing infrastructure and economic development projects. Shafie said that 61 percent of the Orang Asli settlements (534 villages) had basic amenities such as 24-hour electricity supply, clean water supply, and land development projects that enabled them to earn regular income.

On September 22, the Kuala Lumpur High Court awarded damages to the Orang Asli tribes in Johor, ruling that government authorities had trespassed on their land, unlawfully demolished their Christian chapel, and failed to honor a 2001 pledge to list the site as customary native land. Authorities had torn down the church in 2005 alleging that it was built on state land.

The Penan, an indigenous community of Sarawak, used native customary rights to establish land ownership and stewardship. Each group of Penan maintained its own foraging area, which was passed down from one generation to another. Customary native lands were not always well demarcated. Indigenous rights groups alleged that Abdul Taib Mahmud, the chief minister of Sarawak, leased Penan and other indigenous groups' customary land to logging companies and land developers in exchange for political favors and money. Local observers claimed that logging companies harassed and sometimes threatened vocal Penan leaders and land-rights activists. The Sarawak Penan Association continued urging the state government to delineate the Penan's native customary land boundaries, revoke timber licenses that overlapped their land, stop issuing provisional leases for plantations, and halt all logging and plantation development activities on their land. The Penan tribe was among the poorest groups in the country and lived below the poverty line.

In August 2009 hundreds of Penan armed with spears and blowpipes set up blockades in the Borneo interior to protest against logging and plantations on their an-

cestral land. In September 2009 the police tore down the blockades and subsequently denied using any force in the removal of the blockades. The Sarawak state government agreed to several of the Penan's demands in an effort to end the protests and blockades against logging operations. The state government recognized the economic grievances of the Penan and pledged to provide farming land, water, electricity, schools and medical facilities to those Penan who had settled into villages, and to build houses for nomadic Penan who wished to settle. The state also agreed to provide training, financial and technical aid for Penan who wished to engage in rubber or orchard farming, and to accelerate the birth certificate and identity-card issuance rate for Penan.

A credible international NGO reported that workers from two logging companies, including one owned by the chief minister's family, regularly sexually abused Penan women and girls, resulting in several pregnancies. In September 2009 Minister of Women, Family, and Community Development Shahrizat Jalil confirmed that Penan girls had been raped and molested by timber company workers. The minister announced that the timber company was identified and police would take further action. Subsequently, Deputy Commissioner of Police for Sarawak Hamza Taib said no further action would be taken on three of the cases due to lack of evidence, while the fourth was still pending as police had yet to identify the victim or witnesses. On July 13, the women's minister visited the Penan community and urged the police to take these cases seriously.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Although there are no laws that prohibit homosexual conduct, laws against sodomy and “carnal intercourse against the order of nature” exist and were enforced sporadically. Religious and cultural taboos against homosexual conduct were widespread. For example, during the year a Health Ministry official stated that homosexual activity and masturbation helped to spread the H1N1 infection.

On December 21, a 32-year-old Muslim man acknowledged being gay in a video posted on the YouTube Web site. In the video, entitled “I’m Gay, I’m OK,” the individual encouraged other gay persons to be confident in themselves. In six days, the video was viewed more than 140,000 times. The man received online death threats as a result of the video and stated that he feared for his life. Perak Mufti Harussani Zakaria condemned the video and said that the individual had “derided his own dignity and Islam in general.”

*Other Societal Violence or Discrimination.*—The Government's response to HIV/AIDS was generally nondiscriminatory, although stigmatization of AIDS sufferers was common. In 2008 the deputy prime minister announced that the premarital courses required for Muslims by the Federal Religious Council would include mandatory HIV screening. Non-Muslims were encouraged to participate but it was not compulsory. He attributed the need for this screening to the rising rate of HIV infection among women. According to the health minister, there were approximately 3,100 new cases during the year.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—By law most workers have the right to form and join trade unions, but the Trade Unions Act (TUA) and the Industrial Relations Act (IRA) restrict this right. Other laws also may restrict freedom of association. For example, the penal code requires police permission for public gatherings of more than five persons. Trade unions represented 8.9 percent of the labor force with a total membership of 803,405 as of October, a decrease from 805,654 in 2009. In December the Department of Statistics reported the working-age population of individuals ages 15 to 64 years old was 11,569,400. As of October there were 693 trade union organizations: 319 unions represented the services industry; 57 represented the agriculture, forestry and fishery industries; and 170 represented production industries.

Those restricted by law from joining a union include public sector workers categorized as “confidential, managerial, and executive,” as well as defense and police officials. However, the 2007 amendments to the IRA made it more difficult for workers to form unions because the director general of trade unions and the minister of human resources also have absolute authority to determine designations of workers' status as “confidential,” “managerial,” or “executive,” leading to possible systemic abuse by employers. In theory foreign workers can join a trade union; however, the Immigration Department barred foreign workers from holding trade union offices, and most foreign workers' contracts banned them from joining a trade union.

The TUA prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or participation in lawful trade union activities. However, the act restricts a union to representing workers in a “particular es-

tablishment, trade, occupation, or industry or within any similar trades, occupations, or industries.” In addition the director general of trade unions has broad discretion to refuse to register a trade union and to withdraw the registration of an existing trade union based on provisions outlined in the act without being subject to judicial review. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association; there were no reports of any such actions during the year.

Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the IRA requires that an employer respond to a union’s request for recognition within 21 days of application, it was common for such applications to be refused and unions to go unrecognized for one to four years. If an employer does not respond to the union application within 21 days, the union must submit a written appeal to the director general of trade unions within 14 days. If the union fails to submit the appeal within the stipulated period, the union automatically is not recognized. The act denies the right of unions and individuals to hold strikes protesting the lack of recognition of their union.

Trade unions from different industries, except for those in the electronics sector, may join in national congresses, but such congresses must register separately as societies under the Societies Act.

In the past, government policy inhibited the formation of national unions in the electronics sector, the country’s largest industry, because it has “pioneer status,” which affords certain investment incentives. The Government’s rationale was that establishment of national unions in the electronics sector would impede foreign direct investment and negatively affect the country’s international competitiveness in the sector; government leaders stated that enterprise-level unions were more appropriate for the electronics industry. However, in May 2009, the Cabinet approved formation of regional industrial unions for the electronics industry in peninsular Malaysia.

Unions maintained independence from both the Government and political parties, but individual union members may belong to political parties. Although by law union officers may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions were free to associate with national labor congresses, which exercised many of the responsibilities of national labor unions, although they cannot bargain on behalf of local unions.

Trade unions were permitted to affiliate with international trade union organizations, such as global union federations and the International Trade Union Confederation, subject to the approval of the director general of trade unions.

Although private-sector strikes are legal, the right to strike is severely restricted. Strikes or lockouts are prohibited while a dispute is before the industrial court. The law contains a list of “essential services” in which unions must give advance notice of any industrial action. The IRA lists various types of employment under essential services, including: banking services; electricity services; fire services; port, dock, harbor, and airport services; postal services; prison services; production, refining, storage, supply, and distribution of fuel and lubricants; public health services, radio communication services; telegraph, telephone, and telecommunication services; transport services; water services; any service provided by any of the following departments of government—chemistry, civil aviation, customs and excise, immigration, marine, meteorology, and printing; and services that are connected with, or related to, or which assist towards the maintenance and functioning of the armed forces and the RMP. The list includes sectors not normally deemed essential under International Labor Organization definitions. MTUC officials said that requirements imposed by the authorities were so stringent that it was almost impossible to strike. According to MTUC officials, there were no strikes during the year.

The IRA requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action may be taken. The ministry’s Industrial Relations Department may then become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the minister has the power to refer the dispute to the industrial court. The IRA prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. However, in many cases, these provisions were not effectively enforced. The IRA limits worker compensation for wrongful termination to a maximum of two years from the time the employee was laid off.

*b. The Right to Organize and Bargain Collectively.*—Workers, in the private sector, have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Employees in the public sector, however, do not enjoy such a right.

There are two national labor organizations. The MTUC is a society of trade unions in both the private and government sectors and is registered under the Societies Act. As such, the MTUC does not have collective bargaining or industrial action rights but provides technical support for affiliated members. The other national organization is the Congress of Unions of Employees in the Public and Civil Services (CUEPACS), a federation of public employee unions registered under the TUA.

CUEPACS included 127 distinct civil servant unions with approximately 300,000 members out of one million civil servants, represented by an estimated 160 unions. Teacher unions accounted for 140,000 of CUEPACS' 300,000 members. CUEPACS held talks with the Government through three national joint councils (NJs) that represent three types of workers: managerial and professional, scientific and technological, and general (all other types of workers, such as clerical and support staff). The Government established the NJC system to have NJCs serve as aggregating, intermediary negotiating bodies between the Government and the various unions served by CUEPACS. NJC members are elected from constituent unions. While an individual civil-service union may approach the Government directly on narrow issues that affect only that particular union or its members, broader issues that affect the entire civil service flow up to CUEPACS and then to one of the NJCs, depending on the type of civil servants involved.

CUEPACS sought a minimum wage for civil servants; however, by year's end, despite government assertions that it was considering establishing a minimum wage, there was no minimum wage for public or private sector workers.

The Government limited collective bargaining agreements in companies designated as having pioneer status. The MTUC continued to object to legal restrictions on collective bargaining in pioneer industries.

Charges of discrimination against employees engaged in organizing union activities may be filed with the Ministry of Human Resources or the industrial court. The industrial court was slow to adjudicate worker complaints when conciliation efforts by the Ministry of Human Resources failed.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining.

There are no special laws or exemptions from regular labor laws in export processing zones. Although the electronics sector's pioneer status inhibits organizing, many companies had "in-house unions" seen as a preferable alternative by management, which did not allow workers in this sector to affiliate with national union umbrella bodies.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor; however, there were reports that such practices occurred. Although the Malaysian Passport Act criminalizes possession of someone else's passport "without legal authority," the existence of memorandums of understanding (MOUs) that allow for employer retention of employee passports appear to provide sufficient legal authority to satisfy this exception in the passport law. The law therefore does not effectively prevent employers from holding employees' passports, and it was common practice for employers to do so thereby making employees more vulnerable to human trafficking and forced labor. This practice effectively made some foreign workers captives of the hiring company. Recruiting agents required fees that sometimes made foreign workers vulnerable to debt bondage. Some companies used debt bondage to force some foreign workers to accept harsh working conditions, threatening imprisonment and deportation. Indebted to their employers due to excessively high recruitment fees and without their passports, workers were effectively forced to work long hours, accept lower wages than promised, allow wage deductions, and live in poor housing. Forced labor conditions reportedly occurred in some palm oil and rubber plantations, factories manufacturing computer components, garment production, restaurants, and in domestic households.

Labor activists and human rights NGOs reported that debt bondage was practiced in some plantations, where whole families of ethnic Indians and migrant workers were placed into forced labor conditions.

Some of the estimated 300,000 foreign women employed as household workers were subjected to physical abuse and forced to work under harsh conditions, and some child household employees worked in conditions amounting to forced labor. A number of domestic workers were not paid or were paid below the agreed salary. Several of the abused women reported their employers beat them, forced them to sleep on kitchen floors, and fed them only the scraps from a meal.

Although Malaysia and Indonesia concluded a MOU in 2006 that, among other things, called for domestic workers to be paid directly, receive compensation for personal injury, and be given time off in lieu of overtime, it remained a common practice for employers to deposit wages with recruiting agencies as repayment for debts.

In 2009 the two countries began negotiating a new MOU that would address minimum salaries, provide domestic workers with one day off per week, and remove language allowing employers to confiscate worker passports. On May 18, the countries recommitted to the process by signing a letter of intent to amend the MOU, but at year's end, a new agreement was not reached due to disagreements over which country would be responsible for costs associated with travel, agents, and other related fees.

On September 19, police arrested a couple in Penang for allegedly abusing their Indonesian maid. Win Faidda, a 26-year-old woman from East Java, claimed she was raped by her employer and beaten by her employer's wife if she refused the husband's sexual advances. She claimed the couple beat her with a belt, splashed her with hot water, and burnt her with an iron. On September 22, local news service Bernama reported that Indonesia's Labor and Transmigration Minister Muhaimin Iskandar announced that prospective maids from Indonesia would be banned from leaving for Malaysia until the Indonesian government could ensure their safety; however, many continued to arrive unofficially.

In June 2009 a court charged Hau Yuan Tyung with three counts of abusing her Indonesian maid, Siti Hajar. Tyung allegedly scalded Siti Hajar with boiling water as well as tortured and starved her. On May 20, a sessions court in Kuala Lumpur found Hau guilty and sentenced her to eight years in jail for causing grievous harm to Siti Hajar. The judge also ordered Hau to pay RM5,000 (\$1,600) in compensation to Siti Hajar. Tyung appealed her conviction. The Kuala Lumpur High Court scheduled January 25, 2011 to deliver its decision.

In September 2009 the Indonesian ambassador announced that the embassy would only renew passports of domestic workers if employers agree to pay a minimum monthly salary of RM500 (\$145).

In October 2009 Mantik Hani, 26, an Indonesian woman working as a maid in Selangor died from injuries sustained allegedly at the hands of her employer, A. Murugan. Police found Hani in a locked bathroom in Murugan's house. Her arms and legs were bound, she had bruises all over her body, a broken back and wrist, and a serious wound to her right leg that exposed bone. She appeared to have been locked in the bathroom for two days without food. Police arrested and charged Murugan with murder. In November 2009 he pled not guilty to the charges. On July 20, the high court in Kuala Lumpur convicted him of murder and sentenced him to death by hanging. Murugan's appeal of his conviction remained pending at year's end.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children younger than age 14 but permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may a child work more than six hours per day, more than six days per week, or at night.

Most child laborers worked informally in palm-oil plantations and the agricultural sector, helping their parents in the field; however, only adult members of the family received a wage. Child labor in urban areas often was found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses but maintained that foreign workers had largely replaced child labor and that child labor provisions were vigorously enforced.

*e. Acceptable Conditions of Work.*—No national minimum wage provision was in effect. Prevailing market wages generally provided a decent standard of living for citizens, although not for all migrant workers. Wage councils, established by a 1947 act to provide a recommended minimum wage for sectors in which the market wage was deemed insufficient, had little impact on wages in any sector. According to MTUC officials, the wage councils had not met since 1996, and their recommended wages have long been obsolete.

Plantation workers generally received production-related payments or daily wages. Under a 2003 agreement, plantation workers received a minimum wage of RM350 (approximately \$115) per month. Proponents of the agreement said that productivity incentives and bonuses raised the prevailing wage to RM700 (\$229).

Under the Employment Act, working hours may not exceed eight hours per day or 48 hours per workweek of six days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of

Human Resources is responsible for enforcing the standards, but a shortage of inspectors precluded strict enforcement.

Foreign migrant laborers, legal and illegal, often worked under difficult conditions, performed hazardous duties, had their pay withheld by employers, and had no meaningful access to legal counsel in cases of contract violations and abuse. The following was typical example of exploitation and abuses of foreign migrant workers: a labor-outsourcing company recruited foreign workers to work at a foreign-owned electronics plants in the country. Each worker paid approximately RM5,000 (approximately \$1,600) and signed a contract guaranteeing work for an extensive period of time (typically over 24 months) at a salary of RM800 (\$255) per month. Their passports were confiscated and they were taken to a dormitory near the plant. They worked at a plant for about one-third of the contractual period, earning the agreed upon salary. However, when work at the plant slowed, several workers were returned to the outsourcing company, which then sent them to work elsewhere, e.g. in restaurants, a glove factory, a poultry farm, a frozen fruit plant—all in contradiction to their contracts. During this time the employers withheld their pay.

Foreign workers, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. However, the Government investigated complaints of abuses, attempted to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the law. According to the results of a survey conducted during the year by the Federation of Malaysian Manufacturers, the average monthly wage of foreign workers engaged in the manufacturing sector was RM581 (approximately \$185). Migrant workers may bring employment disputes to industrial court. However, this mechanism was seldom used. It is time consuming and, once their work visa terminated, migrants require "special passes" to stay in the country. These passes are valid for one month and cost RM100 (\$32) to renew. Renewal is subject to the discretion of the director general of immigration. Migrants holding special passes were not allowed to work.

The Workmen's Compensation Act covers both local and foreign workers but provides no protection for foreign household workers. According to the Government, foreign household workers are protected under the Employment Act with regard to wages and contract termination. However, these workers are excluded from provisions of the act that would otherwise ensure that they received one rest day per week, an eight-hour workday, and a 48-hour workweek.

Employers sometimes failed to honor the terms of employment and abused their household workers. Household workers must be ages 25 to 45 for admission into the country, according to Immigration Department officials. They were not allowed to bring family members into the country while employed. The terms of the contract for Indonesian domestic workers, who made up approximately 90 percent of all foreign household workers, were often vague and open to abuse. The typical contract provided for a monthly salary of RM450 to 600 (\$143 to 191) but did not specify the number of working hours per day. NGOs reported that many Indonesian household workers were required to work 14 to 18 hours a day, seven days a week. The contract for Filipina household workers included more comprehensive protections, but both groups suffered from a lack of education concerning their legal rights.

Some workers alleged that their employers subjected them to inhuman living conditions, withheld their salaries, confiscated their travel documents, and physically assaulted them.

Workers have the right to take legal action against abusive employers. According to NGOs the courts generally sided with employees and ruled that employers must pay all back salary and compensate plaintiffs for injuries, but long delays in court proceedings and rulings often precluded aggrieved foreign workers from seeking redress through the court system.

Mechanisms for monitoring workplace conditions were inadequate. Private, for-profit labor agencies, themselves often guilty of abuses, were often responsible for the resolution of abuse cases. Bilateral labor agreements with Indonesia do not provide adequate protections for household workers.

The Occupational Safety and Health Act covers all sectors of the economy except the maritime sector and the armed forces. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and cooperate with employers to create a safe, healthy workplace. Employers or employees who violate the act are subject to substantial fines or imprisonment for up to five years, although the MTUC com-

plained that some employers flouted the rules with impunity. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

On March 22, six Filipino workers died after inhaling carbon monoxide gas while cleaning a tank at a water treatment plant in Kota Kinabalu, Sabah. The incident occurred when two of the workers entered the filtering tank and switched on a pump to remove the remaining water inside. When they failed to emerge four hours later, four of their colleagues went to check on them and discovered them unconscious inside the tank. The four workers then went one-by-one into the tank to rescue them but were overcome by the gas and died.

On August 16, Karna Bahabar Gharti Magar, a Nepalese worker, died inside JCY SDB BHD Company, a producer of computer parts in Johor Baru. It was alleged that he fell ill and requested treatment that was initially denied by company. In response to his death, 5,000 foreign workers protested for three days until employers and outsourcing companies agreed to provide compensation of RM10,000 (\$3,225) to Gharti's family. The company also agreed to provide a minimum salary of RM546 (\$175) per month along with an ambulance service for emergency cases and prompt treatment for all workers at a clinic on the factory premises. The Ministry of Human Resources was reportedly investigating the circumstances of Gharti's death.

---

## MARSHALL ISLANDS

The Republic of the Marshall Islands is a constitutional republic with a population of approximately 52,000. In 2007 voters elected the Nitijela (parliament) in generally free and fair multiparty elections. In October 2009 a vote of no confidence in the Nitijela removed Litokwa Tomeing from presidential power, and the Nitijela elected its speaker, Jurelang Zedkaia, as president. Security forces reported to civilian authorities.

Human rights problems during the year included poor prison conditions, government corruption, violence against women, child abuse, and lack of worker protections.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, in August, after a police officer was injured during a fight among prisoners at the Majuro prison, police chained four prisoners to the outdoor staircase of the firehouse next to the police station for five days. The prisoners were forced to wear clothing normally worn by firefighters. They were obliged to sleep on the stairs and were released only to use the bathroom facilities. Police released the prisoners from the staircase after the attorney general ordered them to do so. At year's end no disciplinary action had been taken against the officers involved.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards. Lighting, ventilation, and sanitation were inadequate, and there was no program to ensure regular access to outside activity. Security was poor.

During the year police authorities on Ebeye Island concluded their investigation into the 2007 death of a prisoner at a temporary holding facility on the island. The authorities concluded that police were not at fault in the death. However, the case continued to be controversial, as some citizens expressed concern that the investigation was allegedly carried out by the same officers involved in the original arrest of the deceased for public drunkenness.

According to a Ministry of Justice official, as of December the country's only national prison, on Majuro Atoll, held 43 inmates—all male adults. Of these, 39 were convicted prisoners, and four were awaiting trial.

There were no specialized prison facilities for female prisoners, including juveniles; they generally were held under house arrest, although some female offenders were held temporarily in a separate police substation until released to house arrest. Some male juveniles were held temporarily with the general prison population until

released to their parents. Pretrial detainees were not separated from the general prison population.

Prisoners had reasonable access to visitors and were permitted religious observance. They were permitted to submit complaints about their treatment without censorship and request investigation of credible allegations of inhumane conditions. The Office of the Attorney General investigated the only reported case of abuse during the year and an official response was published in the only national newspaper.

The Government permits prison visits by independent human rights observers, but there were no requests for such visits during the year.

The country does not have an ombudsman; however, the public defender has authority to serve on behalf of prisoners and detainees and advocates for their appropriate and timely release. Due to the small size of the country and the small prison population, inmates generally were known to the courts, and judges regularly reviewed pending cases.

During the year work began on renovations to the Majuro prison. In 2009 prisoners had destroyed newly renovated space at the facility. Improvements during the year increased the security of the ceiling and strengthened the walls of the prison but did not improve the sanitary facilities.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police force, and the Government has effective mechanisms to investigate and punish abuse and corruption. There was one report of impunity involving police during the year concerning a deliberate delay in the response to a domestic violence case, which ended with the woman being stabbed to death allegedly by her husband. No disciplinary action was taken against the officers involved.

*Arrest Procedures and Treatment While in Detention.*—Under the constitution a warrant issued by a court is required for an arrest if there is adequate time to obtain one. The courts have interpreted this to exempt situations such as a breach of the peace or a felony in progress. The law provides detainees the right to a prompt judicial determination regarding the legality of the detention. Authorities generally respected this right and informed detainees promptly of the charges against them. There was a functioning system of bail, and detainees may request bond immediately upon arrest for minor offenses. Most serious offenses require the detainee to remain in jail until a hearing can be arranged, normally the morning after arrest. Detainees were allowed access to a lawyer of their choice and, if indigent, to one provided by the state. Families had access to detainees.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice, although there were reports of government officials using their positions to protect family members from prosecution for alleged wrongdoing. Two senior government officials convicted of drunk driving and hitting pedestrians with their cars received only home detention for 60 days, rather than the prison sentences normally imposed for such offenses. Multiple reports alleged that many crimes reported to police were not investigated or prosecuted.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants may choose either a bench trial or a four-member jury trial. Defendants normally opted for jury trials, which had a higher rate of acquittals. Defendants enjoy a presumption of innocence and have the right to counsel. An attorney is provided at public expense for indigent defendants facing serious criminal charges. Defendants may question witnesses, examine government-held evidence, and appeal convictions. The constitution extends these rights to all citizens. Noncitizen defendants also enjoy these rights, except that the services of the public defender are provided only to citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no separate judiciary in civil matters, but there are administrative remedies for alleged wrongs, including human rights abuses, as well as judicial remedies within the general court system.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. For most citizens, however, Internet access was limited by small bandwidth, slow connections, and high prices. The International Telecommunication Union reported that approximately 3 percent of the country's inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The need did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not prohibit forced exile, but the Government did not employ it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. In practice the country has almost no history of refugees or asylum seekers, and there were no requests during the year for protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—Executive power is centralized in the president and his cabinet. The legislature consists of the Nitijela and a council of chiefs (Iroj), the latter of which serves a largely consultative function dealing with custom and traditional practices.

In October 2009 the legislature elected Jurelang Zedkaia as president after a no-confidence vote removed President Litokwa Tomeing from power.

The most recent elections for the Nitijela were held in 2007. Some ballot boxes were recounted on the initiative of the chief electoral officer, which caused accusations of impropriety and assertions that the boxes should have been reopened only with a court order. A team of independent election observers from the Pacific Islands Forum stated in its initial report that the election, while poorly managed, was conducted in a democratic manner, enabling voters to exercise their will freely. A February 2008 report by a government-appointed independent commission of inquiry placed the blame for the marred election on interference in civil service hiring procedures by the then minister of internal affairs, which led to unqualified individuals managing the election process. By year's end the National Electoral Commission completed the registration process for the scheduled 2011 national election, under which all persons desiring to vote in the election were required to register by district and atoll. This national registration was conducted to resolve some of the reported problems in the previous election.

Individuals and parties can freely declare their candidacy and stand for election. There are no restrictions on the formation of political parties, although many candidates preferred to run independently or loosely aligned with informal coalitions.

There are no legal impediments to women's participation in government and politics; however, traditional attitudes of male dominance, women's cultural responsibilities and traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. There was one woman in the 33-member Nitijela, who served as minister of health, and four women in the 12-seat House of Iroij. Since the country's founding there has always been a woman in the Nitijela, but never more than one. There were a number of women in prominent appointed government positions, including those of secretary of education, minister and secretary of health, secretary of foreign affairs, director of the Social Security Administration, banking commissioner, and director of the Environmental Protection Agency.

There were no members of minorities in the legislature.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. In October independent auditors reported that they had identified 11 problem areas in the country's 2009 financial statements, an increase from the eight areas identified in 2008. The auditors gave a qualified opinion on internal controls and compliance, noting deficiencies and material weaknesses in fiscal controls.

Public officials are not subject to financial disclosure laws. The Attorney General's Office is responsible for investigating cases of alleged corruption. In December the attorney general filed criminal cases alleging corruption regarding government procurement practices at the Ministry of Finance and Ministry of Health, respectively; the cases were pending at year's end.

No high-level elected official has ever been indicted for corruption. Voters tend to look to representatives for financial assistance, which pressured elected officials to use government authority to provide patronage to extended family members and supporters. In October Nitijela Speaker Alvin Jacklick asked his colleagues to eliminate the total of \$16,000 (the U.S. dollar is the national currency) members receive annually as a "representational allowance." The members rejected this proposal and, instead, raised the allowance to \$20,000. There were also frequent allegations of nepotism in government hiring, especially for teachers, where studies found serious discrepancies between teacher pay and qualifications. Officials also have used their positions to protect family members from prosecution for alleged wrongdoing.

The law does not provide specifically for public access to government information. Although there is no specific statutory basis for denying such information, the Government held that the burden for overcoming a denial of access rests with the public. In most cases, in order to receive the information, a document must be filed with the court showing the reason the information is required.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Human rights groups generally operated without government restriction, but few local groups existed. The Government was not always responsive to the concerns of nongovernmental organizations (NGOs).

There were no international human rights NGOs represented in the country. The Government permitted visits by UN representatives and other international organizations, but there were none during the year.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination on the basis of sex, race, color, language, national or social origin, place of birth, and family status or descent, and the Government generally observed these provisions.

*Women.*—The law criminalizes rape, including spousal rape, and the Government generally enforced the law when incidents were reported to officials. The law establishes penalties of up to 25 years' imprisonment for first-degree sexual assault. However, most observers believed that few sexual offenses were prosecuted, since cultural constraints discouraged victims from reporting such crimes to the police. The courts have promulgated rules designed to protect women filing rape charges during court testimony. According to the Public Defender's Office, one rape case from Arno Atoll was pending at year's end; the alleged offender was held in the Majuro prison awaiting trial.

The law prohibits domestic violence, and the Government generally enforced the law when incidents were reported to officials. The law establishes penalties for domestic abuse in the same category as assault and battery. Spousal abuse was common; most assaults occurred while the assailant was under the influence of alcohol.

According to a government survey published in the Marshall Islands Journal in October 2009, more than 70 percent of female spouses had been abused during an unspecified time period. Violence against women outside the family also occurred, and women in urban centers risked assault if they went out alone after dark.

Police generally responded to reports of rape and domestic assault, and the Government's health office provided counseling in reported spousal and child abuse cases.

Women's groups under the NGO Women United Together in the Marshall Islands (WUTMI) continued to publicize women's issues and promote greater awareness of women's rights. On August 25, following the August 14 killing of a college teacher allegedly by her husband, WUTMI led a march to the courthouse in Majuro to protest domestic violence and ask the Government to strengthen legal penalties for domestic violence offenses. Police charged the deceased's husband in her death; he remained in detention awaiting trial as of year's end. An off-duty police officer was outside the teacher's house when the killing occurred and reported to his on-duty colleagues that he heard screams; however, he called them off when the screaming stopped. Following this incident the Government began training for police on how to respond properly to reports of domestic violence.

Sexual harassment is not prohibited by law but did not appear to be a widespread problem.

Couples and individuals have the right to decide the number, spacing, and timing of children and the information and means to do so free from discrimination. Access to information on contraception, and to prenatal care, skilled attendance at delivery, and postpartum care were widely available on Majuro and Kwajalein Atolls; however, on remote atolls, often only small infirmaries with minimally trained attendants were available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV. The Ministry of Health provided free contraceptives, with particular emphasis on reducing the high rate of teenage pregnancy. According to indicators published by the Population Research Bureau, an estimated 45 percent of married women ages 15-49 used some form of contraception. Maternal mortality was approximately 0.1 to 0.2 percent (one reported maternal death in 2009 and two in 2010, with approximately 1,200 births per year in the country), although maternal deaths in the outer islands may have been underreported. A large number of premature babies were born to young teenage mothers, with a resulting high number of babies born with physical and mental deficiencies.

Women generally enjoy the same rights as men under family law and in the judicial system. Only women may own land. The inheritance of property and traditional rank is matrilineal, with women occupying important positions in the traditional system, although control of property often was delegated to male family members on behalf of female landowners. Tribal chiefs are the traditional authorities in the country; customarily, a chief is the husband or eldest son of the female landowner. The traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands. While female workers were prevalent in the private sector, many were in low-paying jobs with little prospect for advancement. Men and women had pay equity for all government positions involving similar work.

*Children.*—Citizenship is derived through one's parents. Children born within the country to foreign parents do not acquire citizenship at birth, but may apply for citizenship upon turning 18 years old.

Education was universal and compulsory to age 18, and the national government did not charge tuition fees, but it was estimated that up to 20 percent of children did not attend elementary school on a regular basis. In many cases this was because they lived too far away from a school or their families could not afford the annual registration fee, which varied by school but averaged approximately \$10, or incidental expenses. The lack of school lunch programs in public schools was cited as another factor that contributed to absenteeism and poor performance.

Child abuse and neglect are criminal offenses, but public awareness of children's rights remained low, and child abuse and neglect were considered increasingly common. Convictions for violations are punishable by up to 25 years in prison, depending on the degree of the offense. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. Nonetheless, there were no reports or prosecutions during the year.

The minimum age for consensual sex is 16. The country's statutory rape law provides penalties of up to 25 years' imprisonment for violators. No laws address child pornography.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There were few Jewish persons in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The constitution states that no person may be treated in a discriminatory manner under law or by public officials, but it does not include disability in its listing of specific prohibited grounds of discrimination. In practice persons with physical, sensory, intellectual, and mental disabilities faced difficulties in obtaining employment and accessing health care and other state services. There were no laws or policies designed to ensure access for individuals with disabilities to buildings, public transport, education, communications, or information. There were no building codes, and in practice most buildings were not accessible to persons with disabilities. Hospitals and two major grocery stores had ramps for persons with disabilities.

The Government provided minimal support for persons with mental disabilities.

There were no psychiatric facilities in the country. Persons whom the police deemed as exhibiting psychotic behavior were held with the general prison population and visited by a doctor. When prison officials protested the disruptions caused by this practice, other arrangements, such as house arrest, were made.

There is no government agency specifically charged with protecting the rights of persons with disabilities in general. The Ministry of Health is charged with treating mental and physical disabilities, and the Ministry of Education is responsible for supporting special education for children with disabilities. In practice there were no special education classes for children with disabilities, except for a small foreign-funded class providing three months of instruction for the hearing impaired at Ebeye on Kwajalein Atoll. The attorney general is responsible for handling court cases involving complaints of discrimination against persons with disabilities, but no such cases were brought during the year. Authorities declared November 21-27 as “Disability Week,” and a large event was held on a field across from the capitol to spread awareness of the rights and concerns of persons with disabilities.

*National/Racial/Ethnic Minorities.*—As in some previous years, the authorities appeared to enforce selectively immigration laws against migrants from the People’s Republic of China. In December a Chinese national was arrested on arrival at the airport allegedly for outbursts made against immigration officials. The individual was charged with obstructing an immigration officer in the execution of his duty. No other persons were arrested or prosecuted on similar charges.

Some ethnic Chinese reported being threatened or attacked based on their race and receiving regular racial slurs. The local press reported that attacks on Chinese sailors by youth gangs were common. In July 2009 a gang of local men assaulted a Chinese ship captain in Majuro, but by year’s end the perpetrators had not been identified, and no arrests were made. Other ethnic Chinese stated that taxi drivers commonly refused to stop for Chinese passengers, although most taxis were owned by Chinese businessmen.

A law requires that employers who hire foreign workers make monetary contributions into a fund that provides job training for citizens. While many considered the law discriminatory against foreign workers, employers were willing to pay the fee in order to hire technically skilled labor, which was not widely available in the country.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There is no law criminalizing homosexual conduct, and there were no reports of societal violence based on sexual orientation or gender identity. There were no reports of official or societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care.

*Other Societal Violence or Discrimination.*—There were no accounts of societal violence based on HIV/AIDS infection. There was some cultural stigma attached to HIV infection, and NGOs and the Government conducted campaigns to provide HIV/AIDS education and encourage testing for the disease.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of free association in general, and the Government interpreted this right as allowing the existence of labor unions. With a small number of major employers, there were few opportunities for workers to unionize, and the country has a limited history and culture of organized labor. Of the total workforce of approximately 18,500 persons, an estimated

57 percent worked in the public sector, 21.5 percent in subsistence agriculture, and only 21.5 percent in private industry. In January 2009 public school teachers formed the country's first labor union. Approximately 10 percent of the country's teachers were union members; however, the unwillingness of some teachers to pay union dues reduced the union's membership during the year. The approximately 110-member union did not engage in negotiation or collective bargaining during the year, but there were no reports of government restrictions on its activities.

The law does not provide for the right to strike, and the Government has not addressed this issue.

*b. The Right to Organize and Bargain Collectively.*—There is no legislation concerning collective bargaining or trade union organization. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits involuntary servitude, and there were no reports of its practice among citizens. Officials suspected that some forced or compulsory labor existed among the irregular immigrant Chinese population. The law does not specifically prohibit forced and compulsory labor by children; however, there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There is no law or regulation setting a minimum age for employment of children. Children typically were not employed in the wage economy, but it was common for children to assist their families in fishing, agriculture, retailing, and other small-scale enterprises. This was particularly true in the subsistence economies of the more remote atolls.

*e. Acceptable Conditions of Work.*—The law establishes a minimum wage of \$2.00 per hour for both government and private-sector employees. The national minimum wage did not provide a decent standard of living for a worker and family. However, in the subsistence economy, extended families were expected to help less fortunate members, and there often were several wage earners to support each family. The Ministry of Resources and Development adequately enforced the minimum wage regulations. Foreign employees and local trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce. Most foreign workers—who constituted approximately 30 percent of the workforce (excluding agroforestry) and most of the professional and technical classes in the country—earned considerably more than the minimum wage; their earnings were estimated to be at least 50 percent higher on average than those of local workers.

The Office of the Chief of Labor within the Ministry of Foreign Affairs has the authority to make recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards. However, there have been no such actions by the Office of Chief of Labor during the past four years, and the minimum wage has remained the same for over a decade. There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions. The law applies to foreign workers in the same manner as citizens. The Office of the Chief of Labor did not conduct any inspections of workplace health and safety conditions during the year.

---

## MICRONESIA, FEDERATED STATES OF

The Federated States of Micronesia is a constitutional republic composed of four states: Chuuk, Kosrae, Pohnpei, and Yap. Its population was approximately 103,000. Individual states enjoyed significant autonomy and traditional leaders retained considerable influence in Pohnpei and Yap. The elected unicameral Congress selects the president from among its four at-large members. In 2007 Congress chose Emanuel Mori as president. There were no formal political parties. The most recent elections for Congress, held in March 2009, were considered generally free and fair, despite technical problems and some allegations of fraud in Chuuk. Security forces reported to civilian authorities.

Reported human rights problems included judicial delays, government corruption, discrimination against women, domestic violence, and child neglect.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and unlike in the previous year, there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards.

The Government permits prison visits by independent human rights observers, but none occurred during the year.

At year's end the country's four states had approximately 100 inmates held in facilities with a total capacity of 150 prisoners. Pohnpei held 18 persons, including one woman and one pretrial detainee; Yap held 19 persons, including one woman, five pretrial detainees, and five prisoners on work-release programs; Kosrae held 16 persons (all male), including one pretrial detainee and one mentally ill person; and Chuuk held 47 persons. No further information was available on those held in Chuuk. Pretrial detainees usually were held together with convicted prisoners.

There were no designated juvenile detention facilities, so the states seldom incarcerated juvenile offenders. Such crimes were usually resolved in the traditional, mediation-based manner between the families of the perpetrator and the victim. No juveniles were incarcerated as of year's end.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, but authorities rarely investigated such allegations. The Government has the obligation to investigate and monitor prison and detention center conditions, but no information was publicly available as to whether it did so during the year. There is no ombudsman to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate any overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national, state, and local police forces, and the Government has effective mechanisms to investigate and punish abuse and corruption. Law enforcement agencies in Chuuk remained staffed with friends and relatives of powerful individuals, and the public defenders in Chuuk and Yap States relayed some anecdotal reports of police abuse, but no cases were investigated or charged during the year.

*Arrest Procedures and Treatment While in Detention.*—Warrants are required for arrests, and detainees were promptly advised of the charges against them. Detainees must be brought before a judge for a hearing within 24 hours of arrest, and this requirement was generally observed in practice. Most arrested persons were released on bail. Detainees had prompt access to family members and lawyers. However, the Public Defender's Office was underfunded, and not all detainees who requested its assistance received adequate legal assistance in practice.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

The formal legal system coexists with traditional, mediation-based mechanisms for resolving disputes and dealing with offenders at the local level. As a result, few cases reach the trial stage. Except in major criminal cases such as murder or rape, if a perpetrator apologizes, the families involved can determine an appropriate punishment.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, although juveniles are allowed closed hearings. Judges conduct trials and render verdicts; there are no juries. Defendants enjoy a presumption of innocence and have the right to counsel, to question witnesses, to access government-held evidence, and to appeal convictions. The law extends these rights to all citizens. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order al-

lowed some persons to act with impunity. Serious cases of sexual and other assault and even murder did not go to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

There is a national public defender system with an office in each state. However, the system was underfunded, and not all defendants received adequate legal assistance in practice. The national public defender reported no case backlog during the year, but the state public defender's offices had a backlog of cases not only because of the lack of staff, but also, in Chuuk, because of a lack of sufficient judges to hear the cases. The National Court also lacked sufficient funding and staffing to adequately uphold standards. One member of the bar was a convicted felon who represented persons in court. The National Bar Association lacked a standard procedure for disbarment.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. The Supreme Court is responsible for hearing lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of expression but does not refer specifically to speech or the press; however, the Government generally respected these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal. The number of independent media outlets remained small, however, and there was a lack of consistently reliable access to broadcast media.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Cost and lack of infrastructure limited public Internet access on the outlying islands in each state. On the four principal islands, infrastructure was adequate, but cost still limited access. However, each state telecommunications office had Internet work stations available to the public 24 hours a day for reasonable hourly fees. The International Telecommunication Union reported that approximately 16 percent of the country's inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country. Foreign travel, emigration, and repatriation are addressed in other areas of the law. In practice none of these rights were restricted. The need did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not explicitly prohibit forced exile; however, statutes that prescribe punishments for crimes do not provide for the imposition of exile, and the Government did not employ it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees, and the Government has not established a system for providing protection to refugees. There were no formal requests for refugee status or asylum during the year, and there were no reports of expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The 14-member Congress comprises 10 members elected by district and four at-large members, one from each state. The last national congressional elections, held in March 2009, were generally free and fair. In statewide elections in Chuuk in March 2009, there were allegations of polling fraud. International election monitoring and review concluded that Chuuk experienced some procedural irregularities, but the outcome was not significantly altered.

State governors, state legislators, and municipal governments are elected by direct popular vote. There are no restrictions on the formation of political groups; however, there were no significant efforts to form organized political parties, and none existed. Candidates generally sought political support from family and allied clan groupings, religious groups, and expatriate citizen communities.

Cultural factors in the male-dominated society limited women's representation in government and politics. Women were well represented in the middle and lower ranks of government at both the federal and state level but were scarcer in the upper ranks. A woman held the cabinet-level position of secretary of health services, and there was one female justice on the Pohnpei State Supreme Court. No women ran for national office in the 2009 elections. There was one elected woman serving in a governing body, a member of the Pohnpei State legislature. There were no women in the other state legislatures or in the national legislature.

The country is a multicultural federation, and both the legislature and the Government included persons from various cultural backgrounds.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government sometimes implemented these laws effectively; however, officials sometimes engaged in corrupt practices with impunity. Government corruption was a serious problem, particularly in Chuuk State.

Public officials were not subject to financial disclosure laws. The Office of the Attorney General has primary responsibility for combating government corruption. However, the national attorney general, appointed in 2007, remained suspended from practice before the bar due to allegations of improper practices prior to assuming the position of attorney general. (His suspension dated from 1999.)

There is no national law providing for public access to government information. The speaker of Congress can declare any congressional documents confidential. State laws and practices varied. Legislative hearings and deliberations generally were open to the public. In Pohnpei the state legislature's proceedings were televised, and in Yap they were broadcast on FM radio. Information from other branches of government also was accessible; however, retrieval sometimes was delayed by the loss or mishandling of records and the need for lower level administrative personnel to verify that release was permissible. There were no reported cases of government denial of access to media, but there were only a small number of media outlets, and their reporting resources were limited.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Although there are no official restrictions, no local groups concerned themselves exclusively with human rights. Several groups addressed problems concerning the rights of women and children, and the Government cooperated with these groups.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law provide explicit protection against discrimination based on race, sex, or language, but societal discrimination against women remained a problem.

*Women.*—Sexual assault, including rape, is a crime. There is no specific law against spousal rape. Sexual assault involving a dangerous weapon or serious physical or psychological harm to the victim is punishable by up to nine years' imprisonment in Chuuk and 10 years' imprisonment in the other three states, and/or a fine of up to \$20,000 (the U.S. dollar is the national currency) in Kosrae and \$10,000 in the other states. If neither a dangerous weapon nor serious harm is involved, the assault is punishable in all states by up to five years' imprisonment or a fine. Such crimes were underreported, however, due to social stigma, and few cases were prosecuted. The curriculum at the police academy included programs to train police offi-

cers to recognize the problem. According to police and women's groups, there were a number of reports of physical and sexual assaults against women, both citizens and foreigners, outside the family context.

Reports of spousal abuse, often severe, continued during the year. Although assault is a crime, there were no specific laws against domestic abuse. Effective prosecution of offenses was rare. In many cases victims decided against initiating legal charges against a family member because of family pressure, fear of further assault, or belief that the police would not involve themselves actively in what is seen as a private family problem. Within the traditional extended family unit, violence, abuse, and neglect directed against spouses or children were deemed offenses against the family, not just the individual victims, and were addressed by a complex system of familial sanctions. However, traditional methods of coping with family discord were breaking down with increasing urbanization, monetization of the economy, and greater emphasis on the nuclear family. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

There were no governmental or private facilities to shelter and support women in abusive situations. However, Pohnpei State began a program of domestic violence education that included a hotline. The Pohnpei Department of Public Safety also began training its officers to handle domestic violence situations. In June the Chuuk State Attorney General's Office sponsored a three-day workshop on domestic violence conducted by representatives of a foreign attorneys general association. Attendees included members of state government, the religious community, and women's and other interested community groups. As a result of the workshop, the Chuuk Women's Advisory Council, a nongovernmental organization (NGO), received a foreign government grant to build a multipurpose center to be used initially as an office and eventually also as a shelter for victims of domestic violence.

In July the national government held a National Women's Conference that addressed various gender-based issues, including women's health, women in decision making, self employment of women, improving women's education, problems of women with disabilities, and domestic violence. The conference adopted three resolutions: asking all states to pass mandatory maternity leave for state employees, as the national and Kosrae State governments already had done; urging state governments to pass necessary laws to address domestic violence and other forms of violence against women; and endorsing a pending congressional bill to provide reserved seats for women in Congress.

The law does not prohibit sexual harassment, and anecdotal reports suggested that it was pervasive.

Couples and individuals have the right to decide the number, spacing, and timing of children, and the information and means to do so free from discrimination. Access to information on contraception, prenatal care, skilled attendance at delivery, and postpartum care were widely available through private and public medical facilities. The maternal death rate could not be calculated due to underreporting or missing data; however, the maternal mortality ratio was estimated to be very low. According to indicators published by the Population Reference Bureau, skilled health personnel attended an estimated 88 percent of births, and an estimated 70 percent of married women ages 15-49 used modern contraceptive methods. The Government conducted public information campaigns on reproductive health matters through posters and billboards; other types of local media were not readily available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Women have equal rights under the law, including the right to own property, and there were no institutional barriers to education or employment. The largest employers were the national and state governments, and women received equal pay for equal work. The public sector comprises fully half of the country's 15,500 jobs, with nearly 5,000 in state government positions and approximately 2,500 in national and municipal government or public enterprises or agencies. Societal discrimination against women continued, however, and cultural mores encouraged differential treatment for women. For example, in Yap State women were prohibited from entering a meeting hall during men's meetings. In Chuuk State women must bow in the presence of men during formal meetings. Nonetheless, women were active and increasingly successful in private business. There was a national women's working group made up of female national government employees, including the Secretary of health and social services, that advised the Government. Additionally, several small NGOs were interested in women's issues, particularly those associated with family violence and abuse. The Women's Interest Section of the Department of Health and Social Services worked to protect and promote women's rights.

*Children.*—A child acquires citizenship if one or both parents were citizens. Individual states maintain birth records.

Although a compulsory education law requires all children to begin school at age six, not all did so, and the law was not enforced. A shortage of qualified teachers and lack of textbooks hampered progress. The law permits children to leave school when they reach the age of 14 or after completing the eighth grade.

Child abuse is illegal, although the constitution provides for a right of parental discipline. Crime statistics indicated no complaints of, or arrests for, child abuse during the year, but cultural attitudes regarding parental discipline limited the reporting of abuse. There were some anecdotal reports of child abuse and neglect.

The states' statutory rape laws apply to children age 13 and below in Chuuk, Yap, and Kosrae and age 15 and below in Pohnpei. The maximum penalties vary according to state—Chuuk: five years' imprisonment, \$5,000 fine; Kosrae: 10 years, \$20,000 fine; Yap: 10 years, \$10,000 fine; and Pohnpei: five years, \$5,000 fine. Only Pohnpei has a statute prohibiting child pornography. Both Chuuk and Pohnpei have provisions against exhibiting "adult films" in general; Yap and Kosrae have no such provisions. Both Chuuk and Pohnpei impose a penalty of six months' imprisonment for violations.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination in public service employment against persons with physical disabilities. There were no reports of discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, access to health care, or provision of other state services; however, persons with disabilities usually did not seek employment outside the home. Children with disabilities, including learning disabilities, were provided with special education, including instruction at home if necessary; however, such classes were dependent on foreign funding. Neither laws nor regulations mandate accessibility to public buildings or services for persons with disabilities. In practice many buildings had ramps and/or were only one story. There was one elevator in the two-story Pohnpei State government building—the only elevator in the country. There were no policies or programs to ensure access to information and communications for persons with disabilities.

Due to a lack of facilities for treating mentally ill persons, some persons with mental illnesses but no criminal background were housed in jails. The authorities provided separate rooms in jails for persons suffering from mental illness, and state health departments provided medication as part of their programs to provide free treatment to all mentally ill residents.

The national Health Services Department is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Each of the country's four states has a different language and culture. Traditionally the state of Yap had a caste-like social system with high-status villages, each of which had an affiliated low-status village. In the past those who came from low-status villages worked without pay for those with higher status. In exchange those with higher status offered care and protection to those subservient to them. The traditional hierarchical social system has been gradually breaking down, and capable people from low-status villages could rise to senior positions in society. Nonetheless, the traditional system continued to affect contemporary life. Persons from low-status backgrounds tended to be less assertive in advocating for their communities' needs with the Government. As a result, low-status communities sometimes continued to be underserved.

The national and state constitutions prohibit noncitizens from purchasing land, and a 2002 law continued to limit the occupations that noncitizens could fill. The national Congress granted citizenship to non-Micronesians only in rare cases. There is no permanent residency status. For the most part, however, noncitizens shared fully in the social and cultural life of the country.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing homosexual conduct. There were no reports of violence, official or societal discrimination, or workplace discrimination against lesbian, gay, bisexual, or transgender persons.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—Although the law does not specifically provide for the right of workers to join a union, under the constitution citizens have the right to form or join associations, and national government employees by law can form associations to “present their views” to the Government without being subject to coercion, discrimination, or reprisals. No workers, including foreign workers, were prohibited from joining unions, but for a variety of reasons—including the fact that most private-sector employment was in small-scale, family-owned businesses and citizens were not accustomed to collective bargaining—there were no unions. The national and state governments employed more than half of the country’s wage-earning workers. The majority of the remaining working-age population was engaged in subsistence farming and fishing.

There is no specific right to strike, but no law prohibits strikes. There were no employment-related disputes or demonstrations during the year.

*b. The Right to Organize and Bargain Collectively.*—No law deals specifically with trade unions or with the right to collective bargaining. Since there were no unions, there were no reports of collective bargaining agreements during the year. Individual employers, the largest of which were the national and state governments, set wages.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor. There were reports of a few men and women from other Pacific nations being subjected to forced labor.

Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—National and state laws do not establish a minimum age for employment of children. In practice there was no employment of children for wages, but children often assisted their families in subsistence farming and in family-owned shops.

*e. Acceptable Conditions of Work.*—The minimum hourly wage for employment with the national government was \$2.65. All states had a minimum hourly wage for government workers: \$2.00 in Pohnpei, \$1.25 in Chuuk, \$1.42 in Kosrae, and \$1.60 in Yap. Only Pohnpei had a minimum wage for private sector workers: \$1.35 per hour. These minimum wage structures apply to skilled and unskilled workers and were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek was standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace, but the Department of Health had no enforcement capability, and working conditions varied in practice. There is no law for either the public or private sector that permits workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Foreign workers were not subjected to abuse or deported without cause. They have the right to a hearing if facing deportation.

Working conditions aboard some Chinese-owned fishing vessels operating in the country’s waters continued to be very poor. Crewmen reported a high incidence of injuries, beatings by officers, and nonpayment of salary.

---

## MONGOLIA

Mongolia, with a population of three million, is a multiparty, parliamentary democracy. The most recent presidential election, held in May 2009 and considered largely free and fair, was won by former prime minister Tsakhia Elbegdorj of the Democratic Party. Prime Minister Sukhbaatar Batbold and his majority Mongolian People’s Revolutionary Party (MPRP) continued to dominate the parliament but governed under a unity government with the Democratic Party. Security forces reported to civilian authorities.

While the law provides for protection of basic human rights, the following human rights problems were noted: police abuse of prisoners and detainees; uneven enforcement of the law and official impunity; poor conditions in detention centers; arbitrary

arrest, lengthy pretrial detention, and corruption within the judicial system; government interference in the media; continued refusal by some provincial governments to register Christian churches; secrecy laws and a lack of transparency in government affairs; inadequate measures to counter domestic violence against women; and trafficking in persons.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

In February, after investigating the circumstances of the 2008 protest resulting in the deaths of five persons, the State Prosecutor General's Office (SPO) dropped all charges against the 10 police officers suspected of firing upon civilians and the four senior police officials suspected of giving the order to open fire. However, in November the SPO reopened the case.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, sources reported that police, especially in rural areas, occasionally beat prisoners and detainees. The use of unnecessary force, particularly to obtain confessions, in the arrest process reportedly was common.

Nongovernmental organizations (NGOs) claimed that guards or police sometimes meted out cruel punishment to inmates at police stations and detention centers. The NGOs stated that some inmates were burned with cigarettes, beaten with batons, or kicked in the shins with steel-toed boots.

According to the National Human Rights Commission (NHRC), during the year the SPO's Special Investigative Unit (SIU) received 210 complaints from citizens, including 10 complaints against police and prison officers suspected of torture, of which three were dismissed, five led to convictions, and two were sent to the SPO. The NHRC stated that some incidents of alleged torture occurred during investigations but not during imprisonment. The NHRC received five complaints against police and law enforcement officers concerning beatings, abuse, and confessions through torture. The five complaints were transferred to the SIU; one had resulted in compensation and arrests or charges by year's end.

Amnesty International reported that hazing was common within the military, primarily including beatings by higher-ranking personnel of their subordinates.

*Prison and Detention Center Conditions.*—According to Amnesty International, conditions in prisons were poor but improved during the year. The low quality of medical care available to prisoners remained a concern. The General Executive Agency of Court Decision (GEACD) reported that there were 7,265 prisoners, of whom 452 were women and 75 were juveniles. UN officials reported that children and adults often were not separated in police detention facilities. The GEACD reported 20 deaths during the year in prisons and prison clinics under its control. The National Police and GEACD reported two deaths in detention facilities. Amnesty International declared that this number was understated due to the practice of correctional officials releasing terminally ill patients from their ward shortly before their impending death.

Amnesty International reported that conditions at holding cells in police stations and pretrial detention facilities remained poor. Sources reported incidents of detainee abuse and forced confessions and cited the conflict of interest inherent in the National Police's continued oversight of administrative predetention facilities, due to their concurrent responsibility to interrogate detainees. Overcrowding and low-quality medical care threatened the health of detainees. There were approximately 900 detainees in the sole pretrial criminal detention facility serving Ulaanbaatar in Gants-khudag, a dark building with poor ventilation and a capacity according to the GEACD of 640. At times cells held eight persons in spaces intended for two or three. Detainees were granted only one hour of time outside their cell per week.

Within the Denjin Myanga administrative detention facility in Ulaanbaatar, sources reported that detainees found guilty of administrative offenses lived in squalid conditions due to overcrowding and poor ventilation. Although the section holding them was built to hold 120, there often were more than 200 detainees. Officials reported that conditions were worst in the winter, when arrests increase and the severe cold weather precludes outside activities.

Inebriated individuals were detained in overcrowded police-operated detoxification centers for up to 24 hours. Officials reported that they lacked the resources to provide adequate water, food, hygienic standards, adequate bedding, ventilation, and

bathing facilities. Detainees were stripped to their underclothing and kept in stone-floored, overcrowded cells with only a blanket to keep warm for the duration of their detention. Children were detained alongside adults, and detainees were kept together regardless of whether their crime was violent or not. Diseases were common among inmates and guards alike.

Many inmates entered prison and detention centers infected with tuberculosis or contracted it in prison. The Government quarantined and treated victims at its tuberculosis hospital.

NGOs and the Government offered vocational, educational, outdoor, and religious activities. NGOs provided clothing, food, books, English-language instruction, and vocational training in prisons and detention centers.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and request investigations, but Amnesty International stated that in many cases this process was significantly flawed and failed to address legitimate complaints. The Prosecutor's Office and State Special Inspection Agency monitored prison and detention center conditions. In November the results of monitoring by the Capital City Prosecutor's Office and Capital City Special Inspection Office were released publicly. Their report disclosed problems of hygiene, including failure to clean rooms and bedding, failure of cafeteria staff to abide by standards, contamination of the drinking water with bacteria, and inadequacies in the dimensions and conditions of the cells.

The NHRC monitored conditions at several prisons and detention centers. Monitors from the diplomatic and human rights community were granted unaccompanied meetings with prisoners during the year. The GEACD reported that ombudsmen are not able to serve on behalf of prisoners and detainees.

At year's end the GEACD reported that the Government had invested 19.9 billion tugrik (\$16 million) in prison renovation since 2006, resulting in improvements in 35 facilities.

*d. Arbitrary Arrest or Detention.*—The law provides that no person shall be arrested, detained, or deprived of liberty except by specified procedures; however, arbitrary arrest and detention occurred. General public awareness of basic rights and judicial procedures, including rights with regard to arrest and detention, was limited, especially in rural areas.

*Role of the Police and Security Apparatus.*—Security forces are under the jurisdiction of the Ministry of Defense, the Ministry of Justice and Home Affairs, and the General Intelligence Agency. The Defense Ministry oversees national defense and assists in providing domestic emergency assistance and disaster relief, in support of internal security forces. The national police and the Border Force operate under the Ministry of Justice and Home Affairs. The intelligence agency is responsible for both internal security and foreign intelligence collection and operations. The agency's civilian head reports directly to the prime minister. The SPO supervises undercover activities of the police and intelligence agencies.

Mechanisms to investigate police abuses remained inadequate, since investigatory units lacked the resources to pursue all allegations. The SIU investigates allegations of misconduct by law enforcement personnel, prosecutors, and members of the judiciary. According to the SIU, police frequently blocked or impeded the work of its investigators, particularly when the targets of investigation were high-ranking police officials. During the year the SIU received 721 complaints against law enforcement officials, opened cases on 132 of these complaints, refused to open cases on 283 complaints, and transferred 297 complaints to other agencies. At year's end nine cases were under investigation. The SIU investigated a total of 329 persons: 155 police officers, 135 civilians, 29 investigators, five intelligence agency officers, three judges, and two prosecutors.

There were no major government actions, including training, to reform the security forces.

There were multiple reports from members of minority groups that ultranationalist groups enjoyed impunity, due to police complacency and unwillingness to apprehend the offenders. Ultranationalists targeted lesbian, gay, bisexual, and transgender (LGBT) persons, Chinese, and Koreans with threats, violence, and the extraction of protection money.

*Arrest Procedures and Treatment While in Detention.*—A judge-issued warrant is required prior to the arrest of a suspect. A "pressing circumstances" exception allows police to arrest suspects without obtaining a warrant. The UN reported that two-thirds of those accused with criminal offenses in Ulaanbaatar were arrested without court authorization.

By law police must request a court order to continue holding suspects after 24 hours. If permission is obtained, police may hold suspects for up to 72 hours before a decision is made to prosecute or release them. If a court order is not granted within 72 hours, police must release suspects.

Detainees generally were informed promptly of the charges against them. The maximum pretrial detention with a court order is 24 months; an additional six months are allowed for particularly serious crimes such as murder. Detainees are allowed prompt access to family members. Detainees may be released on bail with the approval of a prosecutor.

A detainee has the right to a defense attorney during pretrial detention and all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the Government must appoint an attorney. Despite this legal provision, many detainees were unaware of their right to a government-appointed attorney and did not assert it. There was a shortage of public-funded and pro bono attorneys for low-income defendants, particularly outside Ulaanbaatar. To address the shortage, the Government, working with the UN Development Program, placed an attorney in each of the provincial capitals and the districts of Ulaanbaatar to provide free legal advice. Nonetheless, some detainees refused to use state-funded attorneys for fear that such attorneys would not fairly represent them. Furthermore, many defense attorneys' law licenses remained suspended for providing services to the victims of police violence from the July 2008 riots.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice; however, corruption and outside influence were increasingly problematic, particularly at the level of the Supreme Court. Bribery could contribute to the dismissal of a case or reduction of a recommended sentence.

There were three cases involving judges pending at year's end.

*Trial Procedures.*—The law provides for the right to a fair public trial by a judge, but this was undermined by frequent cases of bribery and a large number of cases per judge. The law provides that defendants are innocent until proven guilty, and this was respected in practice. Juries are not used. Closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases as provided by law. Defendants may question witnesses, present evidence, and appeal decisions. The law extends these rights to all citizens.

Despite these provisions, trial procedures were often plagued by legal inconsistencies. There was a shortage of state-provided defense lawyers, and many defendants lacked adequate legal representation. Judges often relied on confessions, many of which were coerced by police, in convicting defendants.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Administrative and judicial remedies are available for alleged wrongs. Corruption, outside influence, and enforcement of court orders were problems in the civil judicial system. Although by law victims of police abuse can sue for damages, in practice few were able to claim compensation.

In February 2009 Ulaanbaatar police detained for four hours a lawyer who represented religious workers facing deportation. No charges were issued, but the lawyer said that police fined him. The lawyer appealed the fine, and in March 2009 the Supreme Court ruled in his favor. However, the plaintiff stated that police disregarded the Supreme Court's judgment and refused to repay him.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The criminal code and constitution prohibit such actions; however, there were reports of government surveillance, wiretapping, and e-mail account intrusions against journalists and NGOs critical of the Government.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Nevertheless, government interference with licensing and indirect intimidation of the press, particularly broadcast media, was evident.

A variety of newspapers and other publications represented both major political parties and independent viewpoints. The Ministry of Justice and Home Affairs licensed newspapers, television and radio broadcasters, and magazines. The media law bans censorship of public information and any legislation that would limit the freedom to publish and broadcast; however, perceived self-censorship continued to be a problem. A December 2009 poll of journalists by Globe International, a domestic media rights NGO, found that half of them reported self-censoring their work because of threats or the fear of prosecution or job loss. The Government monitored

all media for compliance with antiviolence, antipornography, antialcohol, and tax laws.

In September 2009 the Media Office of the General Policy Authority sent a “cooperation agreement” valid for one year to all Ulaanbaatar-based television stations. In exchange for providing “safety for television stations that signed the agreement and for their journalists working at flashpoints,” the police required “balanced” and “true and objective information” and forbade the dissemination of “incorrect information and propaganda that encourages mass disorder during public demonstrations” or “information compromising public or organizational privacy and state secrecy.” The agreement also required that “when reporting, media outlets shall regularly contact central headquarters for information on the current situation.” In addition it stated that “if a public demonstration becomes mass disorder, the media shall cooperate with the police and broadcast propaganda to defuse and resolve the situation.” All but two television stations reportedly signed the agreement, leaving in question whether the police would extend protection to those that did not. There were no reports the two stations that did not sign the agreement experienced public safety problems.

In December 2009 the investigative newspaper Niigmiin Toli was fined for defamation by the Ulaanbaatar Metropolitan Court following a letter it published from an anonymous citizen in the province of Bayan-Olgii criticizing local Governor Khaval and his staff. On August 27, following the newspaper’s rejection of the court order to apologize and pay a fine of two million tugrik (\$1,610) to the “defamed” officials, the GEACD raided the office and seized a computer with a database of confidential sources. Although authorities reportedly claimed that the property was seized in lieu of the fine, the editor in chief stated that, unlike newer computers in the office, the value of the antiquated computer was less than the amount of the fine, leading the newspaper to allege the specific computer was seized by authorities to uncover confidential sources.

Press representatives alleged indirect censorship in the form of government and political party harassment, such as frequent libel complaints and tax audits. The law places the burden of proof on the defendant in libel and slander cases. Both libel and “insult” were criminal charges. Globe International reported that in advance of the protests of late March and early April, the nominally independent Communications Regulatory Commission demanded that one television station not cover the demonstrations. Due to the commission’s role in licensing, observers interpreted this as tantamount to a threat, and by extension, censorship.

Observers stated that many newspapers were either affiliated with political parties or owned (fully or partly) by individuals affiliated with political parties and that such affiliation strongly influenced the published reports. The observers also noted that underpaid reporters frequently demanded payment to cover or fabricate a story.

Broadcast media similarly were not free of political interference. A lack of transparency during the tendering process and lack of a fully independent licensing authority inhibited fair competition for broadcast frequency licenses and benefited those with political connections. At the provincial level, local government control of the licensing process similarly inhibited the development of independent television stations.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, there were reports that the Government monitored some e-mail accounts. According to the Information and Communication Technology Agency, there were 56 Internet service providers with 106,000 subscribers in the country, and all provinces had Internet connectivity. Internet access continued to expand during the year to remote areas as a result of government and private-sector efforts. According to a 2009 survey by the technology agency, 73 percent of Ulaanbaatar residents had used the Internet at least once. According to the same agency, 6 percent of families in Ulaanbaatar had Internet connections in their homes.

A representative of the LGBT Centre alleged government monitoring of their personal e-mail accounts, stating that recent activity logs frequently listed unknown Internet protocol addresses within the country.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Foreign residents must obtain exit visas to leave the country. Public and private entities increasingly used the visa requirement to pressure foreign investors to settle commercial disputes, effectively detaining them until they settled or underwent a full investigatory process, which could be lengthy. However, even after a dispute is settled, a claim can be refiled in the same venue, if local police and prosecutors are willing, or in a different venue.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. However, the constitution provides for the right to asylum, and in practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Citizenship is inherited from parents. Refugees are considered illegal migrants and as such do not have access to basic services such as health care and education, nor are they allowed to work. The UNHCR reported that “stateless persons are unable to enjoy their most fundamental rights such as the right education, health care, and an adequate standard of living.” According to statistics provided by the Ministry of Justice and Home Affairs and the Immigration Agency, in December there were 29 individuals who were stateless and under consideration for naturalization. Most had renounced their original citizenship in the process of applying for Mongolian citizenship. By law the procedure to acquire and/or reacquire Mongolian nationality should take no more than six months, but in reality it often took considerably longer.

The Immigration Agency does not consider ethnic Kazakhs to be stateless without verification with Kazakh authorities that they are not Kazakh citizens. The UNHCR reported that many thousands of ethnic Kazakh Mongolians renounced their Mongolian nationality upon moving to Kazakhstan in the early 1990s, but many who were unable to gain Kazakh citizenship returned to Mongolia, where they became stateless. The UNHCR reported that the process of reacquiring Mongolian nationality was long and complicated and recommended improving the implementation of relevant laws. In addition observers cited the lack of awareness regarding the relevant legal framework as a reason for statelessness. Furthermore, the process of verification with the Kazakh government was protracted.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections based on universal suffrage. The law limits the president to two four-year terms. Parliamentary and local elections are held separately, also for four-year terms.

The law provides that the majority party in the parliament, in consultation with the president, shall appoint the prime minister. Members of the parliament may serve as cabinet ministers. There is no requirement that the prime minister or other ministers be a member of the parliament.

*Elections and Political Participation.*—In the most recent presidential election, held in May 2009, the former prime minister and candidate of the opposition Democratic Party, Tsakhia Elbegdorj, defeated MPRP incumbent Nambaryn Enkhbayar. Independent observers described the election as largely free and fair.

The potential for bias within the General Election Commission was a concern, particularly for smaller political parties. Four of the nine commissioners belonged to the MPRP and three to the Democratic Party prior to becoming commissioners and cancelling their memberships, as required by law.

Political parties could operate without restriction or outside interference. There were 17 political parties registered with the Supreme Court.

There were no legal impediments to the participation of women or minorities in government and politics, but their numbers remained small. There were three women in the 76-member parliament. One of the 15 cabinet ministers was a woman, as were seven of the 17 Supreme Court justices. Women and women’s organizations were vocal in local and national politics and actively sought greater female representation in government policymaking.

There were three ethnic Kazakhs serving in the parliament. There were two members of minority groups serving in the cabinet or Supreme Court.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption was perceived to be a serious and continuing problem at all levels of government, particularly within the judiciary and customs service. Varying degrees of corruption at most levels of government resulted in a blurring of the lines between the public and private sectors. Conflicts of interest were frequent. The problem was compounded by ineffective governmental oversight bodies and media that frequently failed to expose corruption.

Corruption in law enforcement agencies was endemic. The Government's Independent Agency Against Corruption investigated some police officers but did not make public the results of any such investigations.

The criminal code proscribes the acceptance of bribes by officials and provides for fines or imprisonment of up to five years. It also outlaws offering bribes to government officials. Members of the parliament are immune from prosecution during their tenure, preventing a number of allegations of corruption from going to trial. Corruption-related arrests and convictions were rare but increasing.

The anticorruption agency, which is responsible for investigating corruption cases, declared that nearly all of the most senior officials complied with the requirement to declare their assets and income (and those of relatives, including spouses, parents, children, and live-in siblings). The agency also is required to review the asset declarations of public servants, including police officers and members of the military, and this was carried out in practice. The agency received 427 reports of improprieties during the year, of which it referred more than 46 for criminal investigation.

Government and parliamentary decision making was not transparent, and public legislative hearings were rare. Meetings of the parliament's standing committees were not open to the press or the public. Nevertheless, in May the Parliamentary Standing Committee on Legal Affairs held a hearing in which parliamentarians questioned officials who allegedly violated anticorruption statutes. General sessions of the parliament were largely open to the public, although not in all cases.

There was no law providing for public access to government information. The far-reaching State Secrets Law inhibited freedom of information and government transparency while at the same time undermining accountability. The law also hindered citizen participation in policy discussions and government oversight.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

With assistance from the UN Development Program, a local representative in each provincial assembly monitored human rights conditions.

The NHRC is responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs; it reports directly to the parliament. The NHRC consists of three senior civil servants nominated by the president, Supreme Court, and parliament for terms of six years.

The Government allowed midlevel civil servants to receive human rights training through seminars, conferences, and lectures.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law states that "no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status," and that "men and women shall be equal in political, economic, social, cultural fields, and family." The Government generally enforced these provisions in practice.

*Women.*—Rape and domestic abuse are illegal; however, no law specifically prohibits spousal rape, and rape remained a problem. During the year 254 persons were convicted of rape, according to the research center of the Supreme Court. However, NGOs alleged that many rapes were not reported and claimed that police and judicial procedures were stressful to victims and tended to discourage reporting of the crime. Social stigma also lowered the number of cases reported.

According to NGOs, police referred only a small number of rape cases for prosecution, largely claiming that there was insufficient evidence. Postrape medical examinations were available, and results were occasionally used as evidence; however,

such exams were not always available in remote areas. NGOs stated that negative attitudes among some police resulted in certain cases not being referred to prosecutors.

The criminal code outlaws sexual intercourse through physical violence (or threat of violence) and provides for sentences of up to five years. If the victim is injured or is a minor, the penalty can reach 10 years. Such a crime resulting in death, victimizing a child less than 14 years of age, or committed by a recidivist may result in 15 to 25 years' imprisonment or the death penalty. Gang rape is punishable by death.

Domestic violence remained a serious problem, particularly against women of low-income rural families. The law requires police to accept and file complaints, visit the site of incidents, interrogate offenders and witnesses, impose administrative criminal penalties, and bring victims to refuge. It also provides for sanctions against offenders, including expulsion from the home, prohibitions on the use of joint property, prohibitions on meeting victims and on access to minors, and compulsory training aimed at behavior modification. However, this level of service was rarely provided because the police lacked sufficient funding and, according to NGOs, often were reluctant to intervene in what was viewed as an internal family matter.

Between 2007 and June 2009, the Mongolian Women's Legal Association documented more than 240 criminal proceedings involving domestic violence. During the same period, the association reported that officers invoked the hooliganism article of the administrative code in cases of domestic violence 4,800 times. Of these interventions, 7 percent resulted in detentions of the assailant for up to 30 days and the remainder in fines payable to the state. At year's end 20 victims had received services, and 15 cases had been processed. The Government maintained a care facility for domestic violence and rape victims in the National Center for Trauma Treatment.

There were no reliable statistics regarding the extent of domestic abuse; however, the National Center Against Violence (NCAV) estimated that approximately one in three women was subject to some form of domestic violence and one in 10 women was battered. A total of 484 persons were convicted of domestic violence and given restraining orders during the year. However, the law fails to assign responsibility to particular agencies in the execution of restraining orders. As a result the women's legal association reported that restraining orders were poorly monitored and enforced. The law instructs that restraining orders be in effect only as long as the victims are in shelter, thus exposing them to danger upon their release.

The NCAV stated that it provided temporary shelter to 437 persons at its six locations and provided psychological counseling to hundreds. The NCAV launched domestic violence prevention campaigns without governmental support. State and local governments financially supported the NCAV in providing services to domestic violence victims. The Ministry of Social Welfare and Labor (MSWL) provided approximately eight million tugrik (\$6,440) to the NCAV for its shelter in Ulaanbaatar, and the Government welfare agencies provided an additional 16 million tugrik (\$12,880) to two shelter houses in Ulaanbaatar. The province of Selenge provided 2.3 million tugrik (\$1,850) to the local shelter house.

According to women's NGOs, sex tourism from South Korea and Japan remained a problem.

There are no laws against sexual harassment. NGOs alleged there was a lack of awareness within society on what constituted inappropriate behavior, making it difficult to gauge the actual extent of the problem. An NHRC survey found that one of every two employed women under the age of 35 identified herself as a victim of workplace sexual harassment.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and have the information and means to do so free from discrimination. The Ministry of Health reported that 83 percent of pregnant women had access to childbirth services, prenatal care, essential obstetric care, and postpartum care in 2009. However, observers stated that public reproductive health-care facilities had long waiting times, a lack of confidentiality, and unprofessional treatment by medical personnel. According to data gathered by the UN, the 2008 estimated maternal mortality ratio was 65 deaths per 100,000 live births. The UN Population Division estimated that 66 percent of women or their partners used contraceptive methods. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides men and women with equal rights in all areas, including equal pay for equal work and equal access to education. In most cases these rights were enjoyed in practice. The Gender Center for Sustainable Development reported that from 2000 to 2008, men who worked in managerial positions earned 22.8 percent

more than women equivalent in rank, and men who worked as engineers had 45.4 percent higher salaries than their female counterparts.

Women represented approximately half of the workforce, and a significant number were the primary wage earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health, and the Government effectively enforced these provisions. Many women occupied midlevel positions in government and business or were involved in the creation and management of new trading and manufacturing businesses. The mandatory retirement age of 55 for women is five years lower than for men.

Divorced women secured alimony payments under the family law, which details the rights and responsibilities regarding alimony and parenting. The former husband and wife evenly divided property and assets acquired during their marriage. In a majority of cases, the divorced wife retained custody of any children, but Monfemnet reported that divorced husbands often failed to pay child support without state penalty. Women's activists said that because businesses were usually registered under the husband's name, ownership was increasingly transferred automatically to the former husband.

There was no separate government agency to oversee women's rights; however, there was the National Gender Center under the Prime Minister's Office, a national council to coordinate policy and women's interests among ministries and NGOs, and a division for women and youth concerns within the MSWL. In the parliament there was a Standing Committee on Social Policy, Education, and Science that focused on gender matters.

*Children.*—Citizenship is derived from one's parents.

Child abuse was a significant problem, principally in the forms of violence and sexual abuse. According to the Governmental National Center for Children, both problems were most likely to occur within families.

Although against the law, the commercial sexual exploitation of children—involving those under 18 years of age—was a problem. According to NGOs there were instances wherein teenage girls were kidnapped, coerced, deceived, and forced to work as prostitutes. The minimum age for consensual sex is 16. Violators of the statutory rape law are subject to a penalty of up to three years in prison. The law prohibits the production, sale, or display of all pornography and carries a penalty of up to three months in prison. The country was not believed to be a destination for child sex tourism.

Police raids freed some teenage victims of commercial sexual exploitation; however, NGOs claimed other police officers worked with procurers and brothel keepers. Teenage victims of sexual exploitation were often detained and punished for the crime of prostitution.

Although society has a long tradition of raising children in a communal manner, societal and familial changes orphaned many children. Child abandonment was a problem; other children were orphaned or ran away from home as a result of parental abuse, much of it committed under the influence of alcohol. An MSWL official stated there were no effective legal deterrents for child abandonment.

According to the MSWL, there were 41 temporary shelters and orphanages, seven fewer than in 2009 after inspections found them to be noncompliant with the standards adopted in 2008. The MSWL reported that there were six government-funded shelters, classifying the Address Identification Center (AIC) as a shelter. Of these, officials stated that facilities run by the AIC, National Center for Children, and Ulaanbaatar city government failed to meet the Government's standards for shelters. Approximately 1,500 children lived in shelters countrywide. In the winter an estimated 60 children, and in the summer hundreds of children, were estimated to be living on the street.

Minors who ran away from or were lost or abandoned by their parents are brought to the police-run AIC in Ulaanbaatar for the purpose of reconnecting children with their families. With a capacity of 45, it was often overcrowded with as many as 70. Police officials stated that children of abusive parents were sent to shelters rather than back home, but some observers suggested that many youths were sent back to abusive parents. The AIC was unable to provide adequate medical attention to the children, many of whom could not access public health services for lack of an identification card. Officials stated that the state allocated 24,000 tugrik (\$20) a month for all medical expenses despite officials' estimates that 80 percent of the entering children were sick, in many cases severely so. Since many of the children lacked their identification cards, public hospitals refused to provide those children even rudimentary treatment. The Law on the Provisional Detention of Homeless Children states that children should be kept in the AIC for no longer than

seven days, yet in practice they were kept for up to 180 days. Children residing at the AIC for such long durations were not integrated into regular schools.

The Government began implementation of a "Road Home Program" to provide educational and recreational activities for 35 children who were regular entrants to the AIC. All funding for this program came from outside donors.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—The Jewish population was very small, and there were no reports of anti-Semitic acts during the year.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The labor law prohibits discrimination in employment and education against persons with disabilities. At year's end the NHRC was investigating whether laws discriminate against persons with disabilities in health care or in the provision of other state services. The law defines the types of disabilities as including those concerning physical, sensory, and mental but not intellectual attributes. The Law on Social Protection of the Disabled gives provincial governors and the Ulaanbaatar governor the responsibility to implement measures to protect the rights of persons with disabilities. However, the Government did little to execute such measures, and in practice most persons with disabilities faced significant barriers to employment, education, and participation in public life.

According to the Mongolian National Federation of Disabled Persons' Organizations (MNFDPPO), there were an estimated 81,500 persons with disabilities over the age of 16 in the country, of whom 20 percent were employed. The Government provided tax benefits to enterprises that hired persons with disabilities. The law requires workplaces to hire one person with disabilities for every 25 employees or pay a fine. However, the law requires that disabled persons may work a maximum of 36 hours a week before overtime, thus creating a disincentive for companies to employ them. Companies often chose to pay the small fine rather than fill the legal quota for disabled individuals. Furthermore, the Government itself failed to employ disabled individuals in the ratio required of employers.

Persons injured in industrial accidents have the right to reemployment when ready to resume work, and the Government offered free retraining at a central technical school. The reemployment right was generally enforced in practice.

In February a new law took effect mandating standards of physical access for persons with disabilities to newly constructed public buildings; however, by year's end the law had not been applied. One school newly constructed in Songino-Khairkhan District failed to meet the new regulations. Government buildings remained largely inaccessible to persons with disabilities. Public transportation was also largely inaccessible to such persons. Despite a new law introducing standards for road construction under which some textured sidewalks meant to aid visually impaired pedestrians were installed, the persistence of open manholes, protruding obstacles, and unheeded crosswalks prevented many persons with disabilities from moving freely.

There were several specialized schools for youth with disabilities, but these students could also attend regular schools. However, in practice children with disabilities had limited access to education. The MNFDPO estimated that of 33,000 children with disabilities, 60 percent failed to complete secondary education. Schools for individuals with disabilities could accommodate only 2,200 children.

The law requires the Government to provide benefits according to the nature and severity of the disability. Although the Government generally provided benefits, the amount of financial assistance was low, and it did not reach all persons with disabilities. The MNFDPO stated that benefits were provided in an ad hoc manner, often failing to meet the actual demands of the recipients. According to the MNFDPO, of the 97,000 government-registered persons with disabilities, during the year approximately 42,000 received an allowance from the Government's Social Welfare Fund, and 46,000 persons received allowances from the Social Insurance Fund. The MNFDPO alleged that the employment support fund, a program targeted at persons with disabilities through local governments, was often misappropriated at the provincial level.

Persons with disabilities could not fully participate in the political process. Little accommodation was made for such persons at polling stations, and there were no such representatives in the parliament. The MNFDPO estimated that in the 2009 presidential election, only 34 percent of the electorate with disabilities cast a ballot. Persons with sight and hearing disabilities had difficulty remaining informed about public affairs due to a lack of accessible broadcast media. The MNFDPO stated that less than 15 percent of broadcasting on the state-owned television channel had simultaneous sign language.

The MNFDPO worked with the Government to encourage vocational education centers to work with children with disabilities so that they could eventually be capable of running small businesses. The Ulaanbaatar city government sponsored one factory staffed with approximately 70 blind individuals.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual conduct is not specifically proscribed by law. However, Amnesty International and the International Lesbian and Gay Association criticized a section of the penal code that refers to “immoral gratification of sexual desires,” arguing that it could be used against persons engaging in homosexual conduct. Such persons reported harassment and surveillance by police. Police took little or no action to apprehend ultranationalists who threatened, abducted, and committed acts of violence against members of the LGBT community.

There were reports that individuals were assaulted in public and at home, denied service from stores and nightclubs, and discriminated against in the workplace based on their sexual orientation. There also were reports of abuse of persons held in police detention centers based on their sexual orientation.

Some media outlets described gays and lesbians with derogatory terms and associated homosexual conduct with HIV/AIDS, pedophilia, and the corruption of youth.

*Other Societal Violence or Discrimination.*—There was no official discrimination against those with HIV/AIDS; however, some societal discrimination existed. The public continued largely to associate HIV/AIDS with homosexual conduct, burdening victims with the attendant social stigma.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law entitles workers to form or join independent unions and professional organizations of their choosing without previous authorization or excessive requirements, and the Government respected this right in practice. However, some legal provisions restrict these rights for groups such as foreign workers, public servants, and workers without employment contracts.

Union officials estimated union membership of salaried individuals remained constant. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

The law provides for the right to strike. The Confederation of Mongolian Trade Unions (CMTU) reported that university administrators used pressure and threats to prevent the formation of unions among lecturers. The Federation of Mongolian Education and Science Unions also reported police harassment during an April 1 protest before Government House. Furthermore, a union leader for teachers in School 75 of Khan-Uul District was fired for leading a one-day strike in April.

The Government prohibits third parties from organizing a strike. Persons employed in essential services, which the Government defines as occupations critical for national defense and safety and including police, utility, and transportation, do not have the right to strike. The list of essential services appeared to comply with International Labor Organization guidelines.

*b. The Right to Organize and Bargain Collectively.*—Laws protect collective bargaining, and these were effectively enforced. The law regulates relations among employers, employees, trade unions, and the Government. The Government’s role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The tripartite Labor Dispute Settlement Committee resolves disputes between workers and management. The Government does not allow intervention in collective bargaining by third parties.

The law protects the right of workers to participate in trade union activities without discrimination, and the Government protected this right in general. Nevertheless, the administration failed to enforce a 2009 court order requiring the compensation and rehiring of striking Aero Mongolia mechanics. After the Supreme Court ruled against it, Aero-Mongolia filed a new case during the year claiming the union to be illegal. The case remained on appeal at year’s end. The fired mechanics reported being blacklisted as a result of their union activities.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law specifically prohibits forced or compulsory labor, including by children; however, there were isolated reports that such practices occurred.

The NHRC stated that military officials reportedly subjected subordinates to forced labor, such as cutting firewood, digging ditches, or working at construction sites owned by the superiors’ friends or relatives.

An estimated 524 North Korean laborers were employed in the fields of mining, factory work, utilities, transportation, construction, customer service, and health. There was concern that some North Korean workers were not free to leave their employment or complain about unacceptable work conditions.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under age 18 may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. However, involuntary child labor occurred in the construction and mining (coal, gold, and fluorspar mineral) sectors, although largely if not exclusively in the informal, artisanal mining sector. Labor inspectors assigned to regional and local offices were responsible for enforcement of these prohibitions and all other labor regulations. Inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited, due to the small number of labor inspectors and the growing number of independent enterprises.

Children worked informally in petty trade and unauthorized small-scale mining as well as scavenging in dumpsites and herding animals. Widespread alcoholism and parental abandonment made it necessary for many children to support themselves. The National Center for Children estimated the number of children in the labor force as high as 77,000, although up to 90 percent of these children were involved in traditional animal husbandry, while only 1 percent were estimated to be involved in mining.

International organizations continued to voice concern over child jockeys in horseracing. According to NHRC reports, more than 30,000 child jockeys competed in horse races each year. Children commonly learn to ride horses at age four or five, and young children traditionally serve as jockeys during the national Naadam festival, where races range from two to nearly 20 miles. The state bans racing with child jockeys during the coldest period (October 18 through February 13), and there are regulations requiring adequate headwear. With increased NGO monitoring during horseracing events, there reportedly was greater adherence to these regulations.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The legal minimum wage was 108,000 tugrik (\$87) per month. This minimum wage, which applied to both public- and private-sector workers and was enforced by the Labor Ministry, did not provide a decent standard of living for a worker and family. Some workers received less than the minimum wage, particularly at smaller companies in rural areas. The minimum wage is reset annually by the MSWL in consultation with trade union representatives and employers.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. For persons 14 and 15 years of age, the workweek is 30 hours; for individuals with disabilities and those 16 and 17 years of age, it is 36 hours. By law overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited from working overtime by law. These laws generally were enforced in practice.

There is no law mandating sick leave for workers. According to the Government, employers set their own rules in this regard.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards; however, enforcement of the standards was inadequate. The MSWL had an insufficient number of inspectors, according to the CMTU. Inspections were conducted both proactively and in response to complaints filed. A CMTU representative stated that fines imposed against companies not complying with labor standards were insufficient to induce management to resolve problems cited by inspectors. The near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the construction, mining, and power sectors. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities enforced this right.

Foreign workers, the majority of whom were Chinese mining and construction workers, reportedly worked in conditions that did not meet government regulations. The MSWL did not monitor the working or living conditions of Chinese or North

Korean laborers. Observers stated that North Korean laborers likely failed to receive the minimum wage.

---

## NAURU

Nauru is a constitutional republic with a population of approximately 9,200. The most recent parliamentary elections, held in November, were generally free and fair. There were no formal political parties. The 18-member unicameral parliament re-elected March Stephen as president. Security forces reported to civilian authorities. Few human rights problems were reported.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—During the year a new prison compound was made operational, although minor completions remained ongoing at year's end. The only other prison in the country was damaged by fire in 2008 and closed when the new prison became operational. Prison conditions generally met international standards. The new facility could hold up to 60 prisoners at full capacity. The new facility houses a juvenile center, a women's prison, and a main prison. During the year there were 20 prisoners in detention, including one woman and no juveniles. There were also five pretrial detainees held in the same facility. Unlike in previous years, short-term detainees (those held for no more than 24 hours, generally for drunk and disorderly behavior), including juveniles, were accommodated in the low-risk area of the prison, instead of in cells made from converted shipping containers.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities through their families, lawyers, or directly with the officer in charge. All complaints were addressed by the officer in charge. If necessary, the police assist in the investigation. Government representatives made weekly visits to the correction center.

The Government affirmed it would permit monitoring visits by independent human rights observers, but none were reported. Prison visits by church groups and family members were permitted.

There was no ombudsman who could serve on behalf of prisoners and detainees. Prison authorities provided daily reports to the correction center management on the behavior of each prisoner. These reports were submitted to the Quarterly Remission Program, which could reduce a prisoner's sentence by a quarter of their total term based on good behavior. The recommendations were made by corrections center management to the Secretary for Justice, who issued final decisions. The program was also used to ensure prison terms were accurately monitored.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Arrests are made openly, based either on warrants issued by authorized officials or for proximate cause by a police officer witnessing a crime. Police may hold a person for no more than 24 hours without a hearing before a magistrate. There was a functioning bail system. The law provides for accused persons to have access to legal assistance, but in practice qualified assistance was not always readily available. Detainees were allowed prompt access to family members.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on English common law. They include the presumption of innocence; the right to

be informed promptly of charges; the right to adequate time and facilities to prepare a defense; the right to confront witnesses, present evidence, and appeal convictions; the right to trial by jury; and a prohibition on double jeopardy and forced self-incrimination. Trials are public, defendants have the right to legal counsel, and a representative for the defense is appointed at public expense when required "in the interest of justice." Bail and traditional reconciliation mechanisms rather than the formal legal process were used in many cases, usually by choice but sometimes under communal pressure. These rights were extended to all citizens without exception.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of expression, and the Government generally respected freedom of speech and of the press in practice.

Although there were no government restrictions, there were few local independent media.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Internet facilities were available for public use for an affordable fee.

According to the International Telecommunication Union, in 2009 approximately 2.1 percent of the population had access to the Internet. However, the communal culture of the country allowed for ready sharing of such access, and the country gained broadband access in October.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—Neither the constitution nor the law specifically provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Neither the constitution nor law prohibits forced exile; however, the Government did not use it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Its laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. There were no requests during the year for protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—On March 20, with parliament in a stalemate of nine members for the Government and nine members in the opposition, President Marcus Stephen called a general election two years into the three-year

parliamentary term. The parliament indirectly elects the president, but the two factions have not been able to form a majority in the parliament.

On April 24, the same 18 members were reelected, and the stalemate continued. The 19th Parliament was unable to form a new government, and on June 11, President Marcus Stephen declared a state of emergency and dissolved parliament. The state of emergency is an administrative measure enabling the Government in place to operate without a new parliamentary mandate, and it does not restrict individual or political freedoms. Another round of elections took place on June 19, which resulted in another hung parliament.

On November 1, a third parliamentary election took place. The state of emergency was lifted after President Marcus Stephen was reelected, defeating opposition member Milton Dube, in free and fair elections. The stalemate was broken with a deal that made opposition leader and former president Ludwig Scotty speaker of the house.

Political parties could operate without restriction or outside interference, but there were no formal parties.

There are no legal impediments to participation in politics by women. However, women have traditionally been less prominent in politics than men. No women stood as candidates in the parliamentary elections. The country's dually accredited permanent representative to the UN and ambassador to the United States was a woman. Women held some senior civil service positions, including the head of the civil service and the presidential counsel.

There were no members of minorities in the parliament or the cabinet. The country has a small and almost entirely homogenous Micronesian population.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, but there are no financial disclosure laws or specific government agencies responsible for combating government corruption. During the year there were some allegations of corruption surrounding the election campaign.

There are no legal provisions for public access to government information, and the Government did not freely provide such access.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not restrict establishment of local human rights organizations, but no such groups existed.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination on the basis of race, place of origin, color, creed, or sex, and the Government generally observed these provisions.

*Women.*—Rape is a crime punishable by up to life imprisonment. However, there was no information regarding the extent of rape or domestic violence. Police investigated all reports of rape thoroughly, and cases were vigorously prosecuted by the courts. Spousal rape is not specifically identified as a crime, but police investigated and filed charges when allegations of rape were made against a spouse.

The Government kept no statistics on the incidence of physical or domestic abuse of women. However, credible reports from women's organizations indicated that sporadic abuse occurred, often aggravated by alcohol use. Families normally sought to reconcile such problems informally and, if necessary, communally. The police and judiciary treated major incidents and unresolved family disputes seriously.

Some forms of sexual harassment are crimes, but sexual harassment was not a serious problem.

Couples and individuals have the right to decide the number, spacing, and timing of their children. The Government-run medical system provided access to contraception and prenatal, obstetric, and postpartum care free of charge. A Department of Health survey on contraceptive use reported that 36 percent of surveyed married women used some form of contraception. There were no figures available regarding maternal mortality rates. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law grants women the same freedoms and protections as men. The Government officially provides equal opportunities in education and employment, and women may own property and pursue private interests. In practice, however, societal pressures and the impoverished economic circumstances often limited opportunities for women to exercise these rights fully. The Women's Affairs Office was responsible for promoting professional opportunities for women.

*Children.*—Citizenship is derived from one's parents. The constitution also provides for acquisition of citizenship by birth in the country in cases in which the person would otherwise be stateless.

Government resources for education and health care for children were severely constrained by the economic crisis.

Child abuse statistics were not compiled, but anecdotal evidence indicated that abuse occurred.

The minimum age for consensual sex is 17 years. The penalty for unlawful carnal knowledge or attempted carnal knowledge of a girl under age 17 is six years' imprisonment. "Indecent treatment" of a girl under age 17 is a misdemeanor punishable by two years' imprisonment.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>

*Anti-Semitism.*—There was no known Jewish community and no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with disabilities. Nonetheless, there was no reported discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services. No legislation mandates services for persons with disabilities or access to public buildings. Department of Education teachers provided rudimentary classes for a small group of students with disabilities, which were held at a teacher's home, as no classroom was available.

There is no government agency with specific responsibility for protecting the rights of persons with disabilities. There are no formal mechanisms to protect persons with mental disabilities.

*National/Racial/Ethnic Minorities.*—Ethnic Chinese composed approximately 5 percent of the population. A pattern of petty theft, property damage, and assault directed at the ethnic Chinese community continued during the year. Police attributed most attacks on ethnic Chinese to economic motivations and noted a general trend of theft-related attacks on a few private businesses.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy is illegal, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons. There were no reports of violence or discrimination against persons on the basis of sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There were no reports of violence or discrimination against persons based on HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country lacks labor laws and formal trade unions. Historically, the transient nature of the mostly foreign workforce hampered efforts to organize trade unions. Several small associations, such as the Nauru Fishermen's Association, People's Movement Association, and Buada Lagoon Owners' Association, offer information on fisheries vocational skills and regulations.

The right to strike is not protected, prohibited, or limited by law. There were no strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—Although there are no legal impediments, collective bargaining did not take place. A tiny private sector, mostly family-run stores and restaurants, employed approximately 1 percent of salaried workers. Salaries, working hours, vacation periods, and other employment matters for government workers are governed by public service regulations.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets the minimum age of employment at 17. The Department of Human Resources and Labor is responsible for enforcing the law, which was respected by the only two significant employers: the Government and the phosphate industry. Some children under 17 worked in small family-owned businesses.

*e. Acceptable Conditions of Work.*—The Government has a graduated salary system for public service officers and employees. At lower ranges the salaries did not provide a decent standard of living for a worker and family. There was no minimum wage for private-sector workers.

By regulation the workweek in both the public and private sectors was 35 hours for office workers and 40 hours for manual laborers. Neither the law nor regulations stipulate a weekly rest period; however, most workers observed Saturdays and Sundays as holidays. There were provisions for premium overtime pay only for public-sector workers.

The Government sets some health and safety standards, which the Department of Human Resources and Labor is responsible for enforcing. The phosphate industry had a history of workplace health and safety requirements and compliance, but with the decline of the industry, enforcement of these regulations was lax. A gradual revival of the industry, which continued during the year, was accompanied by accusations that unfiltered dust discharge from the phosphate plant exposed workers and the surrounding communities to a significant health hazard. The Government did not act to eliminate the problem, citing high costs. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment.

---

## NEW ZEALAND

New Zealand is a parliamentary democracy with a population of approximately 4.3 million. Citizens choose their representatives in free and fair multiparty elections, most recently held in 2008 when the National Party won 58 parliamentary seats and formed a minority coalition government with John Key as the prime minister. Security forces reported to civilian authorities.

There were reports that indigenous persons disproportionately experienced societal problems and that ethnic minority individuals experienced societal discrimination.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers.

On March 1, fellow inmates allegedly killed a prisoner at Auckland Prison. Authorities charged three men with murder and a fourth as an accessory and scheduled all four for a jury trial in Auckland in May 2011. The family complained that supervision at the prison was inadequate.

At year's end the prison population was 8,423. Of these, 525 were female, 524 were between the ages of 15 and 19, and 4,240 (approximately half) were prisoners of Maori descent. Male and female prisoners were held in separate prison facilities under equivalent conditions.

Persons accused of a crime who are 17 years of age or older are tried as adults and, if convicted, sent to adult prisons. Juvenile correctional facilities hold prisoners who are younger than 17.

Authorities allow prisoners at least one personal visit each week for a minimum of 30 minutes, permit religious observance, and allow them to make uncensored complaints to statutory inspectors or to the ombudsmen. The Ombudsmen Office reports to Parliament annually on its findings. The law provides for specified rights of inspection, including those by members of Parliament (MPs) and justices of the peace, and information was publicly available on complaints and investigations, subject to the provisions of privacy legislation.

The law requires prison facilities to be inspected to ensure that they meet minimum standards, and improvements were made when deficiencies were identified.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—A court-issued warrant is usually necessary to make an arrest, but police may arrest a suspect without a warrant if there is reasonable cause. Police officers may enter premises without a warrant to arrest a person if they reasonably suspect the person of committing a crime on the premises or have found the person committing an offense and are in pursuit. Police must inform arrested persons immediately of their legal rights and the grounds for their arrest.

After arresting and charging a suspect, police may release the person on bail until the first court appearance. Court bail is granted after the first court appearance, unless there is a significant risk that the suspect would flee, tamper with witnesses or evidence, or commit a crime while on bail. Police do not normally grant bail for more serious offenses such as assault or burglary. Authorities granted family members prompt access to detainees and allowed detainees prompt access to a lawyer of their choice and, if indigent, to a lawyer provided by the Government.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy the rights found in other common-law jurisdictions, including a presumption of innocence, a right to a jury trial, a right of appeal, and the rights to counsel, to question witnesses, and to access government-held evidence. The law extends these rights to all citizens. A lawyer is provided at public expense if the defendant cannot afford counsel.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, which includes access to the Human Rights Review Tribunal and other courts to bring lawsuits seeking damages and other remedies for alleged human rights abuses. There are also administrative remedies for alleged wrongs through the Human Rights Commission (HRC) and the Office of Human Rights Proceedings.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available, with usage listed by the International Telecommunication Union as 84 individuals per 100 inhabitants in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

There is no statutory authority for imposing a sentence of exile, and the Government did not practice forced exile.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government also provided temporary protection to individuals who may not qualify under the definition of the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol until their status was determined and action taken.

During the year the country handled five stateless persons' cases, in all of which the individuals claimed refugee status. In the case of a Kuwaiti pending at the end of 2009, authorities granted the individual refugee status. Authorities also opened four new cases involving three Kuwaitis and one Palestinian. The Government granted refugee status to the Palestinian and two of the Kuwaitis; the third Kuwaiti's case remained pending at year's end.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In the most recent general elections, held in 2008, the National Party won 58 of 122 parliamentary seats and formed a minority government in coalition with the ACT Party and the United Future Party. The National-led government also had a cooperation agreement with the Maori Party; under the terms of the cooperation agreement, the National Party abandoned its opposition to Maori-designated parliamentary seats. A good working relationship existed between the Maori Party and the National Party government. Three other parties were represented in Parliament: Labour, Green, and Progressive.

Women participated fully in political life. There were 41 women among the 122 MPs and eight women on the executive council, which is composed of 28 ministers (20 within the cabinet and eight outside). The chief justice of the Supreme Court was a woman. There was one woman in the 24-seat parliament of the Associated State of the Cook Islands following national elections on November 17 and four women in the 20-seat parliament of the Associated State of Niue.

Seven seats in Parliament are reserved for persons of Maori ancestry. The number of Maori seats is adjusted every five years, based on the number of persons who register to vote on the Maori electoral roll. Persons of Maori ancestry can also become MPs by election or appointment to non-Maori conventional seats.

There were 20 Maori members, six members of Pacific Island descent, and six members of Asian descent in Parliament. The cabinet included at least three members of Maori ancestry.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of government corruption during the year. Efforts to combat corruption and prosecution of corruption cases are handled through the Ministry of Justice and the independent Serious Fraud Office.

The law requires MPs, including all ministers, to submit an annual report of financial interests, which is then disclosed publicly. Career civil servants are not subject to this requirement but are subject to ethics standards established by the State Services Commission.

The law provides for public access to government information, including access for noncitizens and foreign media, to be provided within 20 working days of a request, and the Government generally adhered to the law in practice. Information must be made available unless a good reason, such as concern for national security, exists for not doing so; the Government did not abuse this provision. The requester must be given an estimate of any fees before the information is provided.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Ministry of Justice funds the active HRC, which operated as an independent agency without government interference. The commission had a staff of 60 and ade-

quate resources to perform its mission. It submitted more than 60 legal and policy interventions during the year ending June 30, and the Government responded to its recommendations, which led to several law changes. The HRC was considered effective, and public confidence in it was high.

The Office of the Ombudsmen, an organization responsible to Parliament but independent of the Government, is charged with investigating complaints about the administrative acts, decisions, recommendations, and omissions of national- and local-government agencies; inspecting prisons; and following up on prisoner complaints. The office enjoyed government cooperation, operated without government or party interference, was adequately resourced, and was considered effective and trusted by the public. The office produced a wide variety of reports for the Government that were available on its Web site [www.ombudsmen.parliament.nz](http://www.ombudsmen.parliament.nz).

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, sex, disability, age, and national or ethnic origin, and the Government actively enforced these prohibitions.

*Women.*—Violence against women affected all socioeconomic groups. The law criminalizes rape, including spousal rape. The maximum penalty is 20 years' imprisonment; however, indefinite detention may occur in cases where the parole board during its annual review believes that the prisoner continues to pose a continuing threat to society. (The Ministry of Justice reported no such cases during the July 2009 through June 2010 period.) During the July 2009-June 2010 period, police recorded 2,961 "sexual attacks" that resulted in 1,362 prosecutions, an increase compared with 2,364 sexual attacks and 1,127 prosecutions during the previous comparable period. In 2009 police recorded 21 offenses of spousal rape with 19 convictions and 77 charges of unlawful sexual connection with a spouse with 73 convictions.

The Government's Task Force for Action on Violence Within Families continued to coordinate a variety of government initiatives to eliminate family violence, including its Te Rito program, a national strategy to address all forms and degrees of domestic violence.

Police were responsive when domestic violence was reported. The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

The law prohibits sex tourism. The Government prosecuted in New Zealand sexual offenses committed abroad, based upon evidence collected, including photographs confiscated from the accused upon reentry into the country.

The law prohibits sexual harassment and provides civil penalties. However, sexual contact induced by certain threats may also fall under the criminal code, with a maximum 14-year prison sentence. The HRC published fact sheets on sexual harassment and made sexual harassment prevention training available to schools, businesses, and government departments on a regular basis.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and granted access to information on reproductive health free from discrimination, coercion, or violence. The Government does not limit access to male contraception, and female contraception is available without parental consent to women 16 years and older. According to UN Population Fund data and the Population Reference Bureau, the country's estimated maternal mortality ratio in 2008 was 14 deaths per 100,000 live births with a woman's lifetime risk of maternal death of one in 3,800. The UN estimated contraceptive use among married women ages 15-49 at 75 percent. Skilled healthcare for women was widely available. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV.

The Ministry of Women's Affairs addresses problems of discrimination and gender equality, and there is a minister of women's affairs in the cabinet. The HRC has an equal opportunity employment team that focuses on workplace gender problems. This team regularly surveys pay scales, conducts a census of women in leadership roles, and actively engages public and private employers to promote compensation equality.

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap persisted in practice. According to June 2009 Department of Labor (DoL) survey statistics, women earned more than 89 percent of the average hourly earnings for men.

*Children.*—Children born in the country attain citizenship if either parent is a citizen or legal permanent resident of the country. Children born outside of the country attain citizenship if either parent is a citizen born in the country.

Cases of child abuse and neglect increased over previous years, but according to the Ministry of Justice, it remained unclear whether this trend identified in 2008

reflected higher levels of abuse and neglect, or whether lower community tolerance stimulated increased reporting. The Government promoted information sharing between the courts and health and child-protection agencies to identify children at risk of abuse. The Office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

Commercial sexual exploitation of children remained a problem. A 2007 nationwide study found that 1.3 percent of 772 surveyed sex workers were underage. When discovered, law enforcement authorities arrested and prosecuted the violators. Citizens who commit child sex offenses overseas may be prosecuted in New Zealand courts. The law makes it an offense punishable by seven years' imprisonment to assist a person under 18 years of age in providing commercial sexual services; to receive earnings from commercial sexual services provided by a person younger than 18; or to contract for commercial sexual services from, or be a client of, a person under 18. The law also makes it an offense to deal in individuals younger than 18 for sexual exploitation or engagement in enforced labor. The penalty for a person who sells, buys, transfers, barter, rents, hires, or in any other way enters into a dealing or takes an action involving a person under 18 for the purposes of sexual exploitation or enforced labor is 14 years' imprisonment.

On August 18, a court found a New Plymouth brothel owner guilty of charges from 2008 of employing a 15-year-old girl as a prostitute in 2005 and scheduled sentencing in January 2011.

A 2007 prosecution in Christchurch relating to underage prostitution resulted in a conviction on December 10 and a sentence of six months' home detention and 200 hours' of community work.

The Government developed in concert with NGOs a national plan of action against the commercial exploitation of children and operated programs to reintegrate children out of prostitution through vocational training and educational opportunities.

The law provides that any person who has a sexual connection with a person younger than 16 years of age is liable to imprisonment for a term not exceeding 10 years. However, no person may be convicted of such a charge if he or she was married to the young person concerned at the time.

The law prohibits child pornography and provides for a NZ\$10,000 (approximately \$7,500) fine of an individual, and NZ\$30,000 (\$22,500) of a body corporate, if a person makes, imports, supplies, distributes, possesses for supply, displays, or exhibits an objectionable publication. The law also provides a penalty of 10 years' imprisonment or a NZ\$200,000 (\$150,000) fine of a body corporate if a person commits such an act knowing that the publication is objectionable. Possession of objectionable material is also an offense punishable by a NZ\$2,000 fine (\$1,500) for an individual and NZ\$5,000 (\$3,750) for a body corporate. A person possessing objectionable material and knowing it is objectionable is liable to a penalty of 5 years' imprisonment or a NZ\$50,000 (\$37,500) fine for an individual or a NZ\$100,000 (\$75,000) fine for a body corporate. It constitutes an aggravating factor to be taken into account in sentencing if the publication promotes or supports exploitation of children or young persons for sexual purposes, deals with sexual conduct with or by children or young persons, or exploits nudity of children or young persons.

The Department of Internal Affairs Censorship Compliance Unit actively policed images of child sex abuse on the Internet and prosecuted offenders. The Government maintains extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish community numbered approximately 7,000. Anti-Semitic incidents were rare.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment; education; access to places and facilities; and the provision of goods, services, housing, and accommodation. During the year the HRC received 357 disability-related complaints which represented 27 percent of the total complaints received. Compliance with access laws varied. The Government is prohibited from discriminating on the basis of physical, sensory, intellectual, or mental disability, unless such discrimination can be "demonstrably justified."

The Government supported equal access for persons with disabilities to polling facilities.

The Government's Office for Disability Issues worked to protect and promote the rights of persons with disabilities. In addition, during the year both the HRC and the Mental Health Commission continued to address mental health problems in their antidiscrimination efforts.

In its December report, the HRC identified areas in which the Government made progress in implementing the Convention on the Rights of Persons with Disabilities. One highlighted area receiving complaints was public land transport; an HRC inquiry found it to be "significantly less available, less accessible, less affordable, and less acceptable" to persons with disabilities than to others. During the year the Government undertook initiatives to improve accessibility to public land transport, although the Government stated that gaps remained.

*National/Racial/Ethnic Minorities.*—Pacific Islanders, who made up 7 percent of the population, experienced societal discrimination. The Ministries of Justice and Pacific Island Affairs had a program to identify gaps in delivery of government services to Pacific Islanders.

Asians, who made up 10 percent of the population, also reported some societal discrimination. The Government mandates a Race Relations Commissioner who developed a Diversity Action Program aimed at the Maori, Pacific Island, and Asian communities. The program includes an annual Diversity Forum to eliminate race-based discrimination that was widely attended and considered effective.

*Indigenous People.*—Approximately 15 percent of the population claimed at least one ancestor from the country's indigenous Maori minority. The law prohibits discrimination against the indigenous population. However, there was a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

Maori constituted approximately half of the prison population and 42 percent of persons serving community-based sentences. The Government, along with community partners, implemented several programs and services to reduce Maori recidivism and overrepresentation in the criminal justice system.

Government policy recognized a special role for indigenous persons and their traditional values and customs, including cultural and environmental problems that affected commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous persons.

A 2004 law regulates ownership of the foreshore (the land between high and low tide) and the seabed. The law grants ownership of the foreshore and seabed to the state; provides for universal public access; and establishes a mechanism to accommodate customary indigenous rights of land use, including preservation of existing fishing rights. The law continued to be the focus of protests by Maori groups asserting customary title to the land and by non-Maori groups opposing such claims. In addition various Maori leaders expressed differing views. After a leader of the Maori Party, which cooperated with the National Party-led government, introduced a bill repealing the law on September 15, a parliamentary select committee undertook to consult publicly and report in early 2011.

During the year the Government settled two Maori claims related to the 1840 Treaty of Waitangi, the country's founding document. By year's end six additional groups signed deeds of settlement and were awaiting legislation to make their deeds unconditional, and 36 other groups were in various stages of negotiations with the Government. The Government Web site found at <http://www.ots.govt.nz> continued to enable the public to monitor treaty-settlement progress.

The Land and Water Forum (also known as the Land and Water Trust) met in October and November to identify shared outcomes and goals for freshwater and related land management. Maori Iwi (tribes) and trust organizations actively participated in forum meetings, although indigenous Maori rights and interests in freshwater resources are also covered elsewhere.

Seventeen of the cases involving individuals investigated in 2005 and arrested in 2007, some of whom were Maori, remained pending at year's end with trials on various weapons charges expected in 2011.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits abuse, discrimination, and acts of violence based upon sexual orientation and gender identity, and the Government generally enforced the law. During the year the HRC received 187 discrimination complaints relating to gender or sexual orientation (14 percent of all complaints). The Ministry of Justice received no reports of societal violence or discrimination based on sexual orientation.

On December 10, a court sentenced two men to nine and one-half years and 10 years in prison, respectively, for the manslaughter of a transsexual in 2009. One prison term was longer, because the court determined the offense to be a hate crime.

*Other Societal Violence or Discrimination.*—The law prohibits violence or discrimination against persons with HIV/AIDS, and there were no such cases reported.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers in public and private sectors the right to form and join organizations of their choice without previous authorization or excessive requirements, and the law was applied. Nearly all unionized workers were members of unions affiliated with the Council of Trade Unions, a federation that included unions representing various trades and locations. A few small, nonaffiliated labor unions also existed. According to DoL statistics published in March 2009, unions represented 17 percent of all wage earners.

The law allows unions to conduct their activities without government interference, including the right to strike, and this right was exercised in practice. Labor organization in the territory of Tokelau (population approximately 1,470) was limited and based on communal decision making and activity. In Niue, a self-governing country in free association with New Zealand (population 1,625), the dominant public sector (422 positions) had an active public-service association. In the Cook Islands, also a self-governing country in free association with New Zealand (official population 21,000; resident population 13,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of New Zealand's national legislation.

The law prohibits sworn police officers (which includes all uniformed and plain-clothes police but excludes clerical and support staff) from striking or taking any form of industrial action. Disputes that cannot be settled by negotiation between the police association and management are subject to compulsory, final-offer arbitration. Strikes by providers of "key services" are subject to certain procedural requirements, including mandatory notice of three to 14 days, depending on the service involved. Key services include: production, processing, and supply of petroleum products; production and supply of electricity, water, and sewer services; emergency fire brigade and police services; ambulance and hospital services; manufacturing of certain pharmaceuticals and dialysis solutions; operation of residential welfare or penal institutions; airport and seaport operations; and dairy production operations. The listing of some of these sectors is based on broader criteria than the International Labor Organization's definition of "essential services."

In response to potential industrial unrest, an October amendment to labor law, according to the DoL, clarified and confirmed the employment status of film-production workers to reflect that working relationships in that industry are predominantly (but not exclusively) contract based. While the legislation defines workers in the film industry who are not employees as independent contractors but does not prevent film-production-company employees from joining unions and bargaining collectively, it does take away the court's ability to determine the type of work arrangement in the screen film industry (regardless of the actual work arrangement). Unions joined screen actors in protest of the result.

A labor law amendment during the year extends the ability of employers and employees to agree to trial periods of 90 days or less for all employers, during which employees are not permitted to raise a personal grievance for unjustified dismissal (a provision that drew union criticism). However, employees may raise a personal grievance on the grounds of sexual or racial harassment, discrimination, or unjustified disadvantage. If an employment relationship problem arises during the trial period, the employee and the employer may access mediation services. Designed to improve labor-market flexibility and encourage employment of new staff members, particularly from groups that faced higher levels of labor-market disadvantage, the amendment was scheduled to become effective in 2011.

The Employment Court has full and exclusive jurisdiction in matters related to strikes or lockouts and may issue an injunction to prevent a strike or lockout. The DoL also offers mediation in such cases.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and contract collectively through unions, and workers exercised this right in practice. The law governs industrial relations and promotes collective bargaining. To bargain collectively, unions must be registered, be governed by democratic rules, be independent, and have at least 15 members. Unions may not bargain collectively on social or political issues.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. However, police have freedom of association and the right to organize and bargain collectively.

There were no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government generally enforced these provisions effectively. There were no reports of forced labor during the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—DoL inspectors effectively enforced a ban on the employment of children under the age of 15 in hazardous industries such as manufacturing, mining, and forestry. Children under age 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

*e. Acceptable Conditions of Work.*—On April 1, the Government increased the minimum hourly wage to NZ\$12.75 (approximately \$9.55). Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage generally was adequate to provide a decent standard of living for a worker and family. In addition, the new entrants' wage for 16- to 17-year-old workers was increased to NZ\$10.20 (approximately \$7.65) for nonsupervisory workers with less than three months or 200 hours of employment. A majority of the work force earned more than the minimum wage.

A 40-hour workweek is traditional. There are legal limits regarding hours worked and premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it is the norm. The law provides for a minimum four-week annual paid vacation and 11 paid public holidays. Employees who work on a paid holiday are entitled to time and a half for that day and a day off with pay on another date. The armed forces are exempted from this benefit.

Employees are accorded by law one paid 10-minute rest break during a two- to four-hour work period, one paid 10-minute rest break and one unpaid 30-minute meal break during a four- to six-hour work period, and two paid 10-minute rest breaks and one unpaid 30-minute meal break during a six- to eight-hour shift.

The law allows companies with 19 or fewer employees to hire new workers for a trial period of up to 90 calendar days. Employers are permitted to dismiss such new employees during this period without cause as long as the decision is not based upon illegal discrimination.

The DoL is responsible for enforcing laws governing work conditions. During the year the DoL received 9,246 health- or safety-related employment complaints and 2,404 miscellaneous employment complaints, and by year's end it completed 4,654 and 2,107 investigations of those complaints, respectively.

The Government mandates employers to provide health insurance for their seasonal workers.

Extensive laws and regulations govern health and safety issues. Employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others.

Workers have the legal right to strike over health and safety issues, as well as the right to withdraw from a dangerous work situation without jeopardy to continued employment. DoL inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The DoL normally investigated reports of unsafe or unhealthy working conditions within 24 hours of notification.

---

## PALAU

Palau is a constitutional republic with a population of approximately 20,800. The president, vice president, and members of the legislature (the Olbiil Era Kelulau) are elected for four-year terms. There are no political parties. In the generally free and fair elections held in November 2008, Johnson Toribiong was elected president. Security forces reported to civilian authorities.

Problems were reported in the following areas: government corruption, domestic violence, trafficking in persons, and discrimination and abuse of foreign workers.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Conditions in the country's sole prison, although primitive, generally met international standards. Overcrowding remained a problem. There were 79 prisoners, including four women.

The few female prisoners were held in separate cells but were permitted to mingle with male inmates during daylight hours.

Prisoners had access to visitors and held religious observance. They were permitted to file complaints, and authorities investigated allegations of mistreatment. Authorities also monitored prison conditions.

No visits by independent human rights observers were requested or made during the year. The Government does not have an ombudsman; however, officials took measures to alleviate overcrowding through a work-release program and other programs allowing prisoners to take academic courses at a local community college; provided separate confinement for juveniles; and had established procedures for recordkeeping. Prisoners and detainees could raise problems through private attorneys or court appointed attorneys.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The civilian authorities maintained effective control over the national police and marine police in Koror and Peleliu states. The Government has effective mechanisms to investigate and punish abuse and corruption. Corruption and impunity were not major problems.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants for arrests. Warrants are prepared by the Office of the Attorney General and signed by a judge. The law provides for a prompt judicial determination of the legality of detention, and this was observed in practice. Detainees were informed promptly of the charges against them and had prompt access to family members and lawyers. If a detainee could not afford a lawyer, the public defender or a court-appointed lawyer was available. There was a functioning system of bail.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Government has an independent public defender system.

Trials are public and are conducted by judges; there are no juries. A 2008 amendment to the constitution changed the law to provide for trial by jury, but the amendment had not been instituted due to lack of funding. Defendants enjoy a presumption of innocence and a right of appeal. They can question witnesses, present evidence on their own behalf, and access government-held evidence in their cases. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters for lawsuits involving allegations of human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Inter-

net, including by e-mail. Over 60 percent of the population had access to the Internet. Costs of personal computers limited Internet access in homes. Internet infrastructure is in place for general public access. Internet access was available at schools, government offices, private businesses, Internet cafes, and hotels.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government was willing to cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government did not grant refugee status or asylum; however, the Government provided temporary protection to individuals who may not qualify as refugees to 17 persons during the year.

In 2008, 11 Burmese refugees arrived from the Philippines seeking asylum, and the Government permitted them to remain temporarily. A UNHCR official interviewed the Burmese and granted them refugee status. They received financial assistance from UNHCR while waiting for a third country to accept them as refugees. Nine refugees had been resettled in third countries by the end of the year.

In November 2009, six Uighurs arrived for temporary resettlement.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In November 2008 voters elected a new congress, Johnson Toribiong as president, and Kerai Mariur as vice president. The president, vice president, and congress serve four-year terms. The Council of Chiefs, consisting of the highest traditional chiefs from each state, advises the president on traditional laws and customs. Although there have been political parties in the past, there were none during the year.

There are no legal impediments to women's participation in government and politics. Two women were elected to the Senate in the November 2008 general elections. Women constituted 16 percent of state legislators. Three women served as state governors during the year. Three female associate justices served in the Supreme Court, and five of the country's nine judges were women. A woman was appointed to serve as the attorney general.

There were two members of minorities in the House of Delegates.

### *Section 4. Official Corruption and Government Transparency*

Government corruption was a problem, which the Government took some steps to address. The law provides criminal penalties for official corruption, and public officials are required to file annual financial disclosure statements with the Ethics Commission. The Office of the Special Prosecutor and the Office of the Public Auditor are responsible for combating government corruption. The Office of the Special Prosecutor has been vacant since March.

In July 2009 Senator and former president Tommy Remengesau, Jr. was charged with 19 counts of violation of the code of ethics. Elected officials are required annually to submit a list of assets and sources of income to the Ethics Commission. Senator Remengesau did not disclose all properties he owned in his 2000-03 annual eth-

ics disclosure statements. On November 9, the court found him guilty on 12 counts, acquitted him on two counts, and dismissed five counts at the request of the prosecution. In December he was ordered to pay \$156,000 (the U.S. dollar is the national currency) in fines, an equivalent to the value of properties he did not disclose.

In February a state governor entered a plea agreement for one count of misuse of public funds and one of misconduct in public office in exchange for dismissal of money laundering charges. The governor was charged previously in 2008 with 302 counts of embezzling state funds, but the court dismissed the case without prejudice when the former special prosecutor resigned. In March the governor was sentenced to five years in jail and fined \$10,000. The jail sentence was suspended for six months. A state employee also was charged with embezzlement in the same case. The governor and the state employee reportedly withdrew more than \$190,000 from the state bank account between 2002 and 2005 for their personal use.

The law provides for the right of citizens and noncitizens including foreign media to examine government documents and observe official deliberations of any government agency, and the Government generally respected this provision in practice.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international groups concerned with human rights generally operated without government restriction. Government officials were cooperative and responsive to their views.

There were no visits by UN representatives or other international governmental organization. There were no reports by international groups on human rights violations.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally observed these provisions.

*Women.*—Rape, including spousal rape, is a crime punishable by a maximum of 25 years of imprisonment. During the year there was no reported case of rape.

There are no laws on domestic violence. Cases that would be characterized as domestic violence are prosecuted as assault and battery. Alcohol and drug abuse contributed to violence and crime against women and children. According to the Office of the Attorney General, the Ministry of Health, and women's groups, reported cases of women and children as victims of crimes represented a relatively small percentage of cases of actual abuse. Assault is a criminal offense, punishable by up to six months in jail or a fine of up to \$100, and the police responded when such cases were reported; women, however, were reluctant to press charges against their spouses. There were no shelters for victims. The Government conducted public education efforts to combat abuse against women and children.

Sexual harassment is illegal and did not appear to be a major problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception, and skilled attendance at delivery and in postpartum care, were widely available at the Government's Belau National Hospital. People have access to contraceptive products available from Belau National Hospital, private clinics, and department stores. According to the Government, the maternal mortality rate was reported to be at zero in 2007. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men and enjoy those rights. There is no special government office to promote the legal rights of women. The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. There were no reported instances of unequal pay for equal work or gender-related job discrimination. There are laws protecting women from job discrimination and providing equal pay for equal work. The Bureau of Aging and Gender, under the Ministry of Community and Cultural Affairs, promotes gender workplace equality.

A local women's group held an annual conference on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the president, vice president, ministers, and traditional chiefs, participated.

*Children.*—Citizenship of a child is derived from the parents. A child born to foreign national parents is registered as a citizen of those countries.

There were no reports of child marriage.

There were no reports of children under the age of 18 years engaging in prostitution. Commercial sexual exploitation of children is not a problem, and there were no reported cases. There are no laws on commercial sexual exploitation of children.

The age of consensual sex is 16 years, and penalties for statutory rape is not more than five years jail term. The law does not specifically address child pornography.

Children's rights generally were respected, although there were isolated reports of child neglect. Law enforcement officers including the Office of Victims of Crime aggressively investigated and prosecuted cases of violence against children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical or mental disabilities. The Disabled Persons' Antidiscrimination Act and the Programs and Services for Handicapped Children Act cover both persons with mental disabilities and persons with physical disabilities, and the Government enforced the provisions of these acts. No discrimination was reported against persons with disabilities in employment, education, access to health care, or the provision of other state services. The Government provides a monthly stipend of \$50 for persons with disabilities. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. The public schools had special education programs to address problems encountered by persons with disabilities.

The Government agency *Ngak Mak Tang* (Everyone Matters) is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The law prohibits noncitizens from purchasing land or obtaining citizenship. Foreign workers constituted approximately 55 percent of the workforce. A majority of citizens viewed the recent rapid increase in foreign workers negatively. Foreign workers and their dependents, both documented and undocumented, accounted for nearly a third of the population. Foreign residents were subject to discrimination and were targets of petty and sometimes violent crimes, as well as other harmful acts against the persons and property. Foreign residents made credible complaints that the authorities did not pursue or prosecute crimes committed against noncitizens with the same vigor as crimes against citizens.

In addition some foreign nationals experienced discrimination in employment, pay, housing, education, and access to social services, although the law prohibits such discrimination.

The Division of Labor handles cases of workplace discrimination against foreign workers.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There is no law criminalizing sexual orientation. There were no reports of cases of violence or discrimination based on sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of cases of violence or discrimination against person with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all persons to assemble peacefully and to associate with others for any lawful purpose, including the right to join and organize labor unions. However, there were no active labor unions or other employee organizations; the majority of businesses were small-scale, family-run enterprises employing relatives and friends.

The law does not provide for the right to strike, and the Government has not addressed this issue. There were no workers' strikes or protests during the year.

*b. The Right to Organize and Bargain Collectively.*—There is no law concerning trade union organization or collective bargaining. Market forces determine wages in the cash economy.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. There were also reports of foreign workers, particularly domestic helpers and unskilled laborers, forced to accept jobs different from those for which they were recruited. Employers sometimes verbally threatened or withheld passports and return tickets of foreign workers desiring to leave unfavorable work situations. The Division of Labor works with employers and employees to address these problems.

There were no reports of forced or compulsory labor by children.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law states that the Government shall protect children from exploitation. The Division of Labor is responsible for enforcing laws and regulations relating to child labor. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and small-scale family enterprises.

By regulation no foreigner under age 21 may be admitted into the country for employment purposes, and the Government generally enforced this regulation effectively.

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—A 1999 law sets the minimum wage at \$2.50 per hour, but foreign workers are not included under the minimum wage law. It generally was assumed that legislators specifically exempted foreign contract workers from the minimum wage law to ensure a continued supply of low-cost labor in industries that the legislators often controlled. The national minimum wage provided a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers (usually foreigners) for commercial firms were paid only \$1.50 to \$2.00 per hour; wages for domestic helpers employed in private households were lower still. In addition to their wages, foreign workers usually were provided basic accommodations and food gratis or at nominal cost. The country continued to attract foreign workers from the Philippines, China, and Bangladesh. During the year there were more than 6,000 foreign nationals with work permits in the country; of these, roughly 60 percent were from the Philippines, 15 percent from China, and 10 percent from Bangladesh.

There is no legislation concerning maximum hours of work. The Division of Labor has established some regulations regarding conditions of employment for non-resident workers. The division may inspect the conditions of the workplace and employer-provided housing on the specific complaint of the employees, but enforcement was sporadic. Working conditions varied in practice.

Although there are occupational and safety standards, the law does not specifically provide workers the right to remove themselves from situations that endanger their health or safety without jeopardizing their continued employment, and no law protects workers who file complaints about such conditions. Anecdotal evidence suggested that noncitizens would likely lose their employment if they removed themselves from situations that endangered health or safety. Since foreign workers generally are not permitted to change employers and must depart the country if their contract ends for any reason, such workers were reticent about reporting abuses. There were no reports to the Government of violations of occupational health or safety standards during the year. The Division of Labor enforces safety standards and laws.

Reports of mistreatment of foreign workers by their employers continued during the year. The foreign workers most likely to be abused were those who worked under contracts as domestic helpers, farmers, waitresses, beauticians, hostesses in karaoke bars and massage parlors, construction workers, and other semiskilled workers, the majority of whom were from the Philippines, China, and Bangladesh. The most commonly reported abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and substandard food and housing. There were also complaints of physical abuse. In a number of instances local authorities took corrective action when alerted by social service and religious organizations. The Division of Labor helped to resolve disputes or complaints between employers and foreign workers.

---

## PAPUA NEW GUINEA

Papua New Guinea is a constitutional, federal, multiparty, parliamentary democracy with a population of approximately 6.3 million and more than 800 indigenous tribes. The most recent general elections, held in 2007, were marred by bribery, voter intimidation, and influence peddling. A coalition government, led by Prime Minister Michael Somare, was formed following the elections. On December 14, Somare stepped aside as prime minister after the public prosecutor requested the chief justice to appoint a leadership tribunal to investigate allegations that he failed to file annual income tax returns for a number of years, and Deputy Prime Minister

Sam Abal became acting prime minister. Security forces reported to civilian authorities. There were some instances in which elements of the security forces acted independently.

Human rights abuses during the year included arbitrary or unlawful killings by police, severe police abuse of detainees, poor prison conditions, police impunity, lengthy pretrial detention, infringement of citizens' privacy rights, government corruption, violence and discrimination against women, sexual abuse of children, trafficking in persons, discrimination against persons with disabilities, intertribal violence, violence against Asians, and ineffective enforcement of labor laws.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, police killed a number of persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. However, public concern about police violence persisted.

On November 5, correctional officers at Baisu Prison outside Mount Hagen shot and killed five prisoners and wounded a number of others during an escape attempt. One wounded prisoner subsequently died of his wounds, and the body of a seventh was found in the Waghi River, which a number of the escapees had tried to swim across. The officers reportedly shot at the prisoners as they and other inmates attempted to run away after scaling the prison wall. Police reportedly were investigating the incident at year's end.

There were no further known developments in the following 2008 cases involving police actions: the death of a young man resulting from a shootout between police and youths in Kimbe Province and the police killings of three gunmen who tried to rob the Bank South Pacific in West New Britain.

There were numerous press reports during the year of vigilante killings and abuses, some of which were related to alleged involvement in sorcery and witchcraft. For example, in July a mob attacked and hacked to death a prison escapee wanted for robbery and murder in Lae City. In September the Post Courier newspaper reported that, in a village in the Western Highlands, a mother of four was beaten, bound with barbed wire, and later burned alive for allegedly killing a man from another tribe through sorcery. In October the Post Courier reported that four persons, including an elderly couple, accused of using sorcery to kill a tribal chief were tortured and then thrown into the Waghi River in Chimbu Province. The incident had occurred in September but was only reported to police in October. According to police reports, the victims allegedly were badly beaten, tied up with ropes, and dragged for several miles before being thrown into the fast-flowing river. Police investigations found that the killings were arranged and backed by the whole community.

No further information was available on the status of police investigations into the following 2009 vigilante killings: the killing of a woman by a group of men in Mount Hagen, allegedly for confessing she had eaten a man's heart; the killing of a man and his son by persons from Ban village near Mount Hagen; and the killing of three men by members of a community in Sandaun Province for allegedly performing witchcraft that resulted in a fellow resident's death.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, individual police members frequently beat and otherwise abused suspects during arrests and interrogations, and in pretrial detention. There were numerous press accounts of such abuses, particularly against young detainees.

In May the UN special rapporteur on torture, Manfred Nowak, visited the country on a fact-finding mission at the invitation of the Government. He reported systemic beatings of detainees by police upon arrest and within the first hours of detention, including during interrogation. He also reported severe punishment of prison escapees that he characterized as amounting to torture, including brutal beatings with bush knives and gun butts, shooting detainees at close range, and cutting detainees' tendons with axes and bush knives after they were apprehended with the intent of disabling them. He further reported that the victims usually were kept in cells without any medical treatment, which sometimes even led to their death.

At year's end no further information was available on the status of the 2009 case of alleged rape of a cleaning woman by officers at a police station in Port Moresby.

There were no further known developments in the June 2008 police shooting that resulted in the amputation of the suspect's leg and the August 2008 police shooting and wounding of bank robbery suspect William Kapris.

*Prison and Detention Center Conditions.*—Despite minor improvements to existing cells and increased capacity, prison conditions remained poor, and the prison system continued to suffer from serious underfunding. Two prisons—in Tari, Southern Highlands and Daru, Western Province—remained closed during the year due to tribal conflicts and unresolved health issues, respectively. Neither prisons nor police detention centers had medical care facilities. In some police holding cells, detainees lacked bedding and sufficient food and water. In November the National newspaper reported that problems with the water supply at Baisu Prison outside Mount Hagen caused a dysentery outbreak in which four inmates died.

Overcrowding in prisons and police cells remained a serious problem. According to the correctional services commissioner, all except five of the country's prisons experienced overcrowding during the year. The commissioner also confirmed that during the year the holding capacity of the country's prisons increased from approximately 3,600 beds to 4,366 beds, including a new facility opened in Bouganville. At year's end, the number of inmates was 4,268, approximately one-third of whom were pretrial detainees. There were 230 female inmates, including 150 convicted prisoners and 80 pretrial detainees, and 151 juveniles, including 78 convicted prisoners and 73 pretrial detainees. While there were some improvements in the pace of police investigations and an increase in the number of judges in the magistrates' courts and the National Court, in some areas infrequent court sessions, slow police investigations, and bail restrictions for certain crimes continued to exacerbate overcrowding. Prison escapes were common, even from high-security installations.

Male and female inmates usually were held separately, but some rural prisons lacked separate facilities, and there were reports in the past of assaults on female prisoners. During the year, 13 of the country's 18 prison facilities had separate, detached accommodations for juvenile offenders; the remaining five did not. To hold minors waiting to be arraigned prior to posting of bail, there were three juvenile reception centers located in Port Moresby, Lae, and Wewak, all run by the Catholic Church; there was no longer a center operating in Goroka, according to the correctional services commissioner. Human Rights Watch reported that juveniles routinely were held with adults in police detention cells, where in many cases they were assaulted by older detainees. Police denied juvenile court officers access to police cells. Pretrial detainees were held in the same prisons as convicted prisoners but had separate cells.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit credible complaints of inhumane conditions without censorship to the Ombudsman Commission for investigation or directly to the judicial authorities. The Ombudsman Commission was mandated to visit prisons, but could not effectively monitor and investigate prison conditions due to lack of adequate funds and staff.

The Government permitted monitoring visits by independent human rights observers, and one such visit was made during the year.

The Ombudsman Commission does not have specific authority to investigate on its own initiative such matters as alternatives to incarceration for nonviolent offenses; addressing status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve time beyond the maximum sentence for their offense. However, the commission can investigate prisoner complaints relating to such matters.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—A commissioner who reports to the minister for internal security heads the national police force, the Royal Papua New Guinea Constabulary. Internal divisions related to clan rivalries and a serious lack of resources negatively affected police effectiveness. Police impunity was a serious problem.

Police shootings are investigated by the police department's Internal Affairs Office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court. Despite these prescribed procedures, in many cases investigations remained unresolved.

The Ombudsman Commission deals with public complaints and concerns about members of the police force.

*Arrest Procedures and Treatment While in Detention.*—Under the law, to make an arrest police must have reason to believe that a crime was committed, is in the course of being committed, or will be committed. A warrant is not required, and police made the majority of arrests without one. Citizens may make arrests under the same standards as the police, but this was rare in practice. Police, prosecutors, and citizens may apply to a court for a warrant; however, police normally did so only if they believed it would assist them in carrying out an arrest.

Only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review; however, the Government did not always respect these rights. Detainees had access to counsel, and family members had access to detainees.

Due to very limited police and judicial resources and a high crime rate, suspects often were held in pretrial detention for lengthy periods. Although pretrial detention is subject to strict judicial review through continuing pretrial consultations, the slow pace of police investigations, particularly in locating witnesses, and occasional political interference or police corruption frequently delayed cases for months. In addition, circuit court sittings were infrequent because of shortages of judges and travel funds. Some detainees were held in jail for up to two years because of the shortage of judges.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The legal system is based on English common law. The law provides for due process, including a public trial, and the court system generally enforced these provisions. Judges conduct trials and render verdicts; there are no juries. Defendants have the right to an attorney. The Public Solicitor's Office provides legal counsel for those accused of "serious offenses" (charges for which a sentence of two years or more is the norm) who are unable to afford counsel. Defendants and their attorneys may confront witnesses, present evidence, access government-held evidence, plead cases, and appeal convictions. The law extends these rights to all citizens. The shortage of judges created delays in both the process of trials and the rendering of decisions.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. District courts may order "good behavior bonds," commonly called "protection orders," in addition to ordering that compensation be paid for violations of human rights. However, courts had difficulty enforcing judgments. In addition, many human rights matters were handled by village courts, which were largely unregulated. Village and district courts often were hesitant to interfere directly in domestic matters. Village courts regularly ordered that compensation be paid to an abused spouse's family in cases of domestic abuse rather than issue a domestic court order.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions; however, there were instances of abuse. Police raids and searches of illegal squatter settlements and homes of suspected criminals often were marked by a high level of violence and property destruction. Police units operating in highland regions sometimes used intimidation and destruction of property to suppress tribal fighting.

At year's end there was no further information on the status of a 2009 lawsuit filed by landowners in Porgera against the police, charging that, during an operation against alleged illegal mining and criminal activity in the area, police also destroyed more than 300 homes of legal residents.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. All newspapers included a variety of editorial viewpoints and reported on controversial topics. There was no evidence of officially sanctioned government censorship; however, newspaper editors complained of intimidation tactics aimed at influencing coverage.

In March Prime Minister Somare threatened to call reporters before the Parliamentary Privileges Committee to oblige them to reveal the names of politicians

allegedly linked to crime. The prime minister made the comment after reports appeared in the press that accused bank robber William Kapris had claimed that unnamed “politicians” assisted criminals. However, no reporters were called before the committee during the year. In May a National Court judge ordered that the media be prohibited from court proceedings against Kapris.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited public access to the Internet. The International Telecommunication Union reported that approximately 2 percent of the country’s inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, the Government often limited this right in practice. Public demonstrations require police approval and 14 days’ notice. Asserting a fear of violence from unruly spectators, police rarely gave approval.

In May police interrupted a rally at Goroka National Park by activists opposed to proposed government amendments to the Ombudsman Commission and Forestry Acts. The Government briefly detained three members of the group; they were released after approximately a half hour of questioning. Later during the rally, police reportedly intervened again and told the group’s leader, anticorruption activist Noel Anjo, to avoid making personal attacks on the prime minister and other senior ministers.

In September police denied approval for a planned nationwide protest march led by Anjo against controversial constitutional amendments made by Parliament to the Ombudsman Commission Act. Police had allowed earlier protests against the amendments to take place in Port Moresby and Lae in May.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/irf/rpt](http://www.state.gov/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country’s laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. The Government did not grant refugee status or asylum. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government also provided temporary protection to individuals who may not qualify as refugees.

With support from the UNHCR, the Government continued to provide protection to approximately 2,300 persons residing at the East Awin refugee settlement who fled the Indonesian province of West Papua (formerly Irian Jaya). Another 5,000 such persons, classified by the Government as “border crossers,” lived in villages adjacent to the border with Indonesia, and approximately 2,400 lived in urban areas, including the capital, Port Moresby. During the year the UNHCR assisted four persons to return to West Papua.

Registered refugees residing in the East Awin refugee settlement were granted a certificate of identity that allowed them to travel freely within the country and to West Papua.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic but flawed elections based on universal suffrage.

*Elections and Political Participation.*—The most recent general election was held in 2007. Bribery, voter intimidation, and undue influence were widespread in some parts of the country during the election. After the election the National Court registered 53 election petitions that alleged illegal practices. By the end of 2009 (the latest information available), 28 petitions were dismissed and 14 were withdrawn, two by-elections and four judicial recounts were ordered, and court decisions were pending on the remaining five petitions.

In May presidential and parliamentary elections were held for the Government of the autonomous Bougainville province. International observers deemed the elections generally free and fair. John Momis was elected president, defeating the incumbent and several other challengers.

Political parties could operate without restriction or outside influence. In February the governor of the National Capital District launched a new political party, the United Democratic Front, with a stated goal of fighting government corruption.

There is no law limiting political participation by women, but the deeply rooted patriarchal culture impeded women's full participation in political life. There was one woman in the 109-seat Parliament. She served as minister of community development, the only cabinet position held by a woman. There was one female National Court justice and no female provincial governors.

There were six minority (non-Melanesian) members of Parliament (MPs). Of these, two were in the cabinet, and three were provincial governors.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

Corruption at all levels of government was a serious problem due to weak public institutions, leadership, and governance; lack of transparency; politicization of the bureaucracy; and the use of public resources to meet traditional clan obligations.

In February Parliament's Public Accounts Committee commented on examinations it undertook of the accounting standards and handling of public monies by government entities. The committee reported that, of the nearly 1,000 agencies examined between 2003 and 2008, only five were found to be acceptably accountable and transparent in their use of public funds. In March the director of the National Research Institute stated that in many cases public development projects were not implemented because the funds allocated were stolen by public officials.

In June Finance Minister Patrick Pruaitch was suspended from office after the Supreme Court ruled that under the law an official referred to a leadership tribunal for allegations of official misconduct is automatically suspended from office. Pruaitch had been referred to such a tribunal; his appeal of the referral was pending at year's end.

In October the former police operations commander for the National Capital District, Andy Bawa, was arrested and charged with two counts of official corruption. The charges involved receiving a double salary since January 2008—one from the police force and another from another government agency. Bawa was suspended without pay pending the outcome of his court case. In November the National Executive Council (NEC) suspended then police commissioner Gari Baki for allegedly misleading the NEC into obtaining 10 million kina (approximately \$4 million) for police operations at the liquefied natural gas project site in the Southern Highlands Province. The NEC asserted that the funds were not actually necessary. The NEC also ordered investigations into Baki's four years as police commissioner. The acting commissioner, who replaced Baki, offered Andy Bawa his job back; however, Bawa declined to resume the post until the courts ruled in his case. At year's end, investigations were still ongoing, and Bawa's case was still before the courts.

In November MP Tonny Puana was arrested and charged with misappropriation of funds and false pretenses; however, the case had not been referred to the Public Prosecutor's Office for prosecution by year's end.

At year's end, charges of misappropriation of funds filed in 2009 against former Southern Highlands governor Hami Yawari were still awaiting assignment of trial dates before the National Court.

There was no further information available on the status of the Ombudsman Commission's investigation of two 2008 cases: one involving allegations that representatives of a foreign government had offered 80 million kina (approximately \$31.1 million) to government officials in exchange for establishing diplomatic relations and another in which the media claimed that a government minister had 100 million kina (approximately \$38.9 million) in a foreign bank account.

Public officials are subject to financial disclosure laws as stipulated in the leadership code of conduct. The Ombudsman Commission, Leadership Tribunal, and Pub-

lic Accounts Committee are key organizations responsible for combating government corruption.

On December 14, Prime Minister Somare stepped aside as prime minister after the acting public prosecutor requested the chief justice to appoint a leadership tribunal to investigate allegations that he failed to file income tax statements or filed incomplete statements with the Ombudsman Commission on a number of occasions between 1993 and 2005. The commission had referred the matter to the Public Prosecutor's Office. At year's end, a leadership tribunal had not yet been appointed. Deputy Prime Minister Sam Abal was appointed acting prime minister and remained in that position at year's end, pending resolution of the case against Somare.

In April, despite widespread public opposition, Parliament took a preliminary vote to pass an amendment to the constitution that removes the power of the Ombudsman Commission to issue directives to individuals and organizations to preserve and uphold the conduct of public office holders. The Ombudsman Commission had used this power to issue directives preventing payments from public funds to officeholders it believed were using such funds improperly. As of year's end, a final vote on the bill proposing the amendment had not taken place in Parliament.

No law provides for public access to government information. The Government published frequent public notices in national newspapers and occasional reports on specific issues facing the Government; however, it generally was not responsive to individual requests, including media requests, for access to government information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

As of year's end, there were no further known developments in the investigation of the December 2009 shooting and wounding of Chief Ombudsman Commissioner Chronex Manek by unknown assailants.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. The UN special rapporteur on torture visited the country during the year (see section 1.c.).

The Ombudsman Commission is responsible for investigating alleged misconduct and defective administration by governmental bodies, alleged discriminatory practices by any person or body, and alleged misconduct in office by leaders under the Leadership Code. It operated without government or political party interference; however, constraints in staffing resources often caused delays in investigations and thus in completion and release of reports. The commission presented a report to Parliament in December 2009 on the entry, arrest, detention, and transportation of former Solomon Islands attorney general Julian Moti from Papua New Guinea to Solomon Islands in 2006 while he was facing charges of having sex with a child in Australia. The report, which was tabled in Parliament in March, found that a number of the country's laws had been breached when Moti was flown to the Solomon Islands in a Papua New Guinea military aircraft. The report also found that the directions had come from Prime Minister Somare. As of year's end, the Government had taken no further action in the matter.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for equal protection under the law irrespective of race, tribe, place of origin, color, or sex; however, enforcement of the provisions was not effective.

*Women.*—Violence against women, including gang rape and domestic violence, was a serious and prevalent problem.

Rape, including spousal rape, is a crime punishable by imprisonment, and prison sentences were imposed on convicted assailants, but few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat. The legal system allows village chiefs to negotiate the payment of compensation in lieu of trials for rapists.

Human Rights Watch (HRW) documented five cases of gang rape allegedly committed in 2009 and 2010 by members of a private security force employed at the Porgera gold mine site in Enga Province. The reported assaults all took place on or near the waste dumps surrounding the mine; most of the victims were illegally mining on the dumps. HRW reported further that police and the mining company both opened investigations into these and other allegations of sexual violence by security personnel at the site, and the investigations were continuing as of November.

Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, few victims pressed charges, and prosecutions were rare. Widespread sexual violence committed by police officials and their unresponsiveness to complaints of sexual or domestic violence served as barriers to reporting by both women and men. Traditional village mores, which served as deterrents against violence, were weak and largely absent when youths moved from their villages to larger towns or to the capital. According to Amnesty International (AI), approximately two-thirds of women in the country have been hit by their partners, with the number approaching 100 percent in parts of the Highlands. AI reported that there were only three shelters for abused women in Port Moresby, all privately run; the situation was even worse outside the capital.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was customary, an increasing number of women were charged with murdering one of their husband's other wives. Independent observers indicated that approximately 90 percent of women in prison had been convicted for attacking or killing another woman.

Sexual harassment is not illegal, and it was a widespread problem.

Under the country's family planning policy, couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children free from violence and coercion. However, in practice the decision of the husband or male partner on such matters usually prevailed over the wishes of the woman. Access in practice to contraception and adequate prenatal, obstetric, and postnatal care was hindered by logistical problems faced by the Health Department in distributing supplies. Medical facilities also were limited in their capacity to provide adequate services to the growing population. According to indicators published by the Population Research Bureau, 26 percent of married women between the ages of 15 and 49 used some form of contraception. According to the UN report *Trends in Maternal Mortality: 1990-2008*, the country's estimated maternal mortality ratio was 250 deaths per 100,000 live births. Women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The laws have provisions for extensive rights for women dealing with family, marriage, and property disputes. Some women have achieved senior positions in business, the professions, and the civil service; however, traditional discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Women continued to face severe inequalities in all spheres of life: social, cultural, economic, and political. There is no employment antidiscrimination law.

Village courts tended to impose jail terms on women found guilty of adultery while penalizing men lightly or not at all. By law a district court must endorse orders for imprisonment before the sentence is imposed, and circuit-riding National Court justices frequently annulled such village court sentences. Polygyny and the custom in many tribal cultures of paying a "bride price" tended to reinforce the view that women were property. In addition to the purchase of women as brides, women sometimes were given as compensation to settle disputes between clans, although the courts have ruled that such settlements denied the women their constitutional rights.

According to statistics published by the UN Educational, Social, and Cultural Organization, women continued to lag behind men in literacy and education; 53 percent of women were literate, compared with 62 percent of men. The Ministry of Community Development was responsible for women's issues and had considerable influence over the Government's policy toward women.

*Children.*—Citizenship is derived through birth to a citizen parent.

Primary education was not free, compulsory, or universal. Substantial fees were charged and posed a significant barrier to children's education. Many children did not progress further than primary school. With foreign funding assistance, the Government abolished school fees for students in grades one and two in an effort to increase primary school enrollment.

Boys and girls had equal access to medical care, but many children did not receive effective care. Government-provided free medical care for citizens, including children, was no longer available due to budget cuts and deteriorating infrastructure, particularly in rural areas.

Sexual abuse of children was believed to be frequent. Independent sources confirmed that, in two major cities, 1,000 or more cases of child sexual abuse were reported in 2009. Incest is a crime and reportedly increased in frequency. There were cases of commercial sexual exploitation of children in urban areas, including minors working in bars and nightclubs. HRW documented numerous instances of police abuse of children.

The legal age for marriage is 18 for boys and 16 for girls. There is a lower legal marriage age (16 for boys and 14 for girls) with parental and court consent. However, customary and traditional practices allow marriage of children as young as age 12, and child marriage was common in many traditional, isolated rural communities. Child brides frequently were taken as additional wives or given as brides to pay family debts and often were used as domestic servants. Child brides were particularly vulnerable to domestic abuse.

The minimum age for consensual sex is 16. The maximum penalty for violators is 25 years' imprisonment or, if the child is under age 12, life imprisonment. Child pornography is illegal; penalties range from a minimum of five to a maximum of 15 years' imprisonment.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There was no known Jewish community in the country, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical or mental disabilities; however, there are no antidiscrimination laws. Persons with physical, sensory, intellectual, and mental disabilities faced discrimination in education, training, and employment. No legislation mandates accessibility to buildings, and most buildings were not accessible. There were no policies or programs to assist persons with disabilities in obtaining access to communications and information.

Through the National Board for the Disabled, the Government granted funds to a number of nongovernmental organizations that provided services to persons with disabilities. The Government provided free medical consultations and treatment for persons with mental disabilities, but such services were rarely available outside major cities. In several provinces, apart from the traditional clan and family system, services and health care for persons with disabilities did not exist. Most persons with disabilities did not find training or work outside the family structure.

*National/Racial/Ethnic Minorities.*—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement sometimes resulted in violent tribal conflict in the highland areas. During the year tribal fighting continued in the highlands provinces. In the last few years, the number of deaths resulting from such conflicts continued to rise due to the increased availability of modern weapons.

On September 9, mobs attempted to break into and loot Asian businesses in Goroka, Eastern Highlands Province. The businesses remained closed for the day and police dispersed the crowds. A parliamentary committee appointed to investigate the widespread violence directed at Asian businesses in the country in 2009 had not issued a report as of year's end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy and acts of "gross indecency" between male persons are illegal. The maximum penalty for sodomy is 14 years' imprisonment and, for acts of gross indecency between male persons (a misdemeanor), three years. However, there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender (LGBT) persons under these provisions during the year. There were no specific reports of societal violence or discrimination against LGBT persons, but they were vulnerable to societal stigmatization.

*Other Societal Violence or Discrimination.*—There were no reports of government discrimination against persons with HIV/AIDS; however, there was a strong societal stigma attached to HIV/AIDS infection that prevented some individuals from seeking HIV/AIDS-related services. The nongovernmental Business Coalition against HIV/AIDS worked to combat discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers in both the public and private sectors to form and join labor unions, subject to registration by the Department of Labor and Industrial Relations (DLIR), and workers exercised this right in practice. The Government did not use registration to control unions; however, an unregistered union has no legal standing and thus cannot operate effectively. An estimated one-half of the approximately 250,000 wage earners in the formal economy were members of approximately 50 trade unions. The Public Employees Association represented an estimated 12,000 persons employed by national, pro-

vincial, and municipal governments, or one-third of the public-sector workforce. Unions were independent of both the Government and political parties.

The law provides for the right to strike for workers in both the private and public sectors, although the Government may and often did intervene in labor disputes to require arbitration before workers may legally strike. The law prohibits retaliation against strikers, but the DLIR did not always enforce the law. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies or in pay disputes. In most cases the strikes were brief and ineffective.

*b. The Right to Organize and Bargain Collectively.*—Workers in both the public and private sectors have the right to organize and engage in collective bargaining, and workers exercised these rights in practice. However, under the law the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. The DLIR and the courts are involved in dispute settlement. Wages above the minimum wage were set through negotiations between employers and employees or their respective industrial organizations.

The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, the DLIR enforced the law selectively.

Antiunion practices were widespread in the logging industry, which was known for extremely low wages and poor working conditions, including debt bondage and cramped and unhygienic accommodation of workers. In July the International Transport Workers' Federation (ITF) reported that members of the ITF-affiliated Papua New Guinea Maritime and Transport Workers' Union employed by the fishing company Frabelle reportedly were told by their employer that they would lose their jobs unless they agreed to sign a petition giving up their union membership.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, but there were reports that such practices occurred.

There were instances of women and children forced into involuntary domestic servitude, often by members of their immediate family or tribe, and of men forced to work in logging and mining camps. There were also reports of a growing number of foreign workers, particularly from China and other Pacific nations, entering the country illegally and being subjected to conditions of forced labor.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law establishes the minimum working age as 16; for hazardous work, the minimum age is 18. However, children between the ages of 11 and 18 may be employed in a family business or enterprise, provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture. Work by children between the ages of 11 and 16 must not interfere with school attendance. There were children selling cigarettes, food, CDs, and DVDs on the street and in grocery stores near mining and logging camps. Some children (primarily girls) worked long hours as domestic servants in private homes, often to repay a family debt to the "host" family. In some cases the host family was a relative who had informally "adopted" the child. The DLIR is responsible for enforcing child labor laws; however, enforcement was not effective.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. In April 2009 the board increased the minimum wage to 100.80 kina (approximately \$39) per week and also abolished the separate, lower youth wage for new entrants into the labor force between the ages of 16 and 21. Although it was above the national per capita income, the minimum wage did not provide a decent standard of living for a worker and family who lived solely on the cash economy.

The law regulates minimum wage levels, allowances, rest periods, holiday leave, and overtime. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas, and it provides for premium pay for overtime work. The law provides for at least one rest period of 24 consecutive hours every week. Although the DLIR and the courts attempted to enforce the law, they were not effective.

The DLIR is also responsible for enforcing the Industrial Health and Safety Law and related regulations. The law requires inspection of work sites on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions.

Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations. The law protects legal foreign workers. Many illegal foreign workers lacked full legal protection and were vulnerable to exploitation and abuse.

## PHILIPPINES

The Philippines, with a population of 94 million, is a multiparty republic with an elected president and bicameral legislature. On May 10, approximately 75 percent of registered citizens voted in automated elections for president, both houses of congress, and provincial and local governments. The election was generally free and fair, but was marked by some violence and allegations of vote buying and electoral fraud. Long-running Communist and separatist insurgencies affected the country. Security forces reported to civilian authorities.

Arbitrary, unlawful, and extrajudicial killings by elements of the security services and political killings, including killings of journalists, by a variety of state and non-state actors continued to be serious problems. Concerns about impunity persisted. Members of the security services physically and psychologically abused suspects and detainees, and there were instances of torture. Pretrial detainees and convicts were often held in overcrowded, substandard conditions. Disappearances occurred, and arbitrary or warrantless arrests and detentions were common. Trials were delayed, and procedures were prolonged. Corruption was endemic. Leftist and human rights activists reported harassment by local security forces. Problems such as violence against women, abuse of children, child sexual exploitation, trafficking in persons, child labor, and ineffective enforcement of worker rights were common.

In addition to killing soldiers and police officers in armed encounters, rogue elements of the separatist Moro Islamic Liberation Front (MILF) and terrorist Abu Sayyaf Group (ASG), Jemaah Islamiya (JI), and New People's Army (NPA)—the military wing of the Communist Party—killed local government officials and other civilians. These same groups also were linked with bombings that caused civilian casualties and kidnappings for ransom. The MILF, ASG, and NPA reportedly used child soldiers in combat or auxiliary roles.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces and antigovernment insurgents committed a number of arbitrary and unlawful killings, including in connection with combat operations between government forces and Muslim rebels in parts of Mindanao (see section 1.g.). The Commission on Human Rights (CHR), an independent government agency, investigated 53 new complaints of politically motivated killings involving 67 victims during the year. The CHR suspected personnel from the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) in some killings of leftist activists operating in rural areas. Suspects in other cases were ordinary citizens or remained unknown. The nongovernmental organization (NGO) Task Force Detainees of the Philippines (TFDP) also reviewed allegations of summary executions by government security forces. The TFDP was unable to investigate all allegations it received but counted nine cases involving 11 victims of summary executions by government forces during the year. Karapatan, another NGO, recorded 44 victims of extrajudicial killings.

The PNP's Task Force Usig (TFU), responsible for monitoring extrajudicial killings, has recorded 161 cases of killings since 2001. The TFU, which uses different criteria than the CHR, identified nine new cases of extrajudicial killings during the year. Of the 161 cases monitored by the TFU, 99 were filed in court and prosecutors' offices, 61 were under investigation, and one case was closed. There were no convictions of state actors during the year.

Killings of activists, judicial officials, and local government leaders continued to be serious problems. On March 1, two unidentified armed men shot and killed antimining activist Gensun Agustin in Calamegatan, Cagayan. On June 14, two armed men shot and killed peasant worker and human rights activist Benjamin Bayles in Buenavista, Himamaylan City, Negros Occidental. Two members of the AFP were arrested and charged with the murder. On July 5, Fernando Baldomero, a municipal councilor of Lezo, Aklan, and provincial coordinator of a leftist group, was shot and killed in Kalibo, Aklan. Murder charges were filed against two suspects on August 2, but no arrests were made. In separate incidents on July 9, unidentified armed men shot and killed peasant leader Pascual Guevarra in San

Isidro, Laur Town, Nueva Ecija, and elementary school teacher-activist Mark Francisco in Malibas, Masbate. Both cases remained under investigation at year's end.

On May 18, unidentified armed men shot and killed Judge Andres Cipriano in Aparri, Cagayan. There were no available witnesses, and no case was filed. On October 4, Judge Reynaldo Lacasandile was shot and killed in Vigan City. The National Bureau of Investigation filed murder charges against seven persons on November 8 in connection with the killing.

On May 9, the day prior to national elections, two persons were killed and 12 wounded when a hand grenade was thrown inside a mosque in Pikit, North Cotabato. No group claimed responsibility for the attack, which authorities viewed as politically motivated.

Vigilante groups, including those with suspected ties to state actors, were suspected of summary killings of adult criminals and minors involved in petty crime in major metropolitan areas. The Coalition Against Summary Execution recorded 74 cases of apparent vigilante killings in Davao City from January through October. The CHR concluded its public hearings on the Davao killings in 2009 but had not released its report by year's end. The international NGO Human Rights Watch's April 2009 report on the Davao killings concluded that members of the police and local officials were involved or complicit. Authorities made no arrests in vigilante killings cases.

On September 8, the trial started for 19 suspects accused of involvement in the November 2009 massacre of 58 individuals in Maguindanao. An additional 32 suspects were arraigned and in pretrial detention. An additional 146 suspects remained at large, including 10 police officers and four soldiers.

Government forces, terrorist groups, and armed groups killed a number of civilians during clashes (see section 1.g).

Investigations of other cases from 2009 and 2008 were ongoing.

*b. Disappearance.*—During the year, the CHR investigated 10 new cases of enforced disappearances, abductions, and kidnappings involving 16 victims. Of the 16 victims, eight returned to their families and reported they had not been detained or kidnapped, one was found alive and in police custody, two were found dead, and five remained missing as of year's end. CHR investigations found that PNP and AFP personnel were implicated in five of the 10 disappearance cases. Four cases remained under investigation, four cases were closed when the victims resurfaced, and two cases were closed and terminated when the family declined to pursue them. During the reporting period, the NGO Families of Victims of Involuntary Disappearances (FIND) monitored four reported disappearance cases involving eight victims. At year's end, five victims were still missing, two were found dead, and one was found alive.

Some victims' families complained that the courts and police failed to address adequately their complaints concerning disappearances in which security forces were suspected. Evidence of a kidnapping or killing is required to file charges. FIND and other NGOs continued to support the efforts of victims' families to press charges. In most cases evidence and documentation were unavailable, and convictions were rare.

There were no developments in earlier disappearance cases, and there were no convictions for disappearance cases during the year. The decision as to whether to grant the petition for a writ of amparo providing the court's protection to the family of indigenous rights activist James Balao, who disappeared in 2008, remained pending before the Supreme Court.

Investigative and judicial inaction on previous cases of disappearance contributed to a climate of impunity and undermined public confidence in the justice system.

Terrorist and criminal groups committed a number of kidnappings for ransom in the southern Philippines (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits torture, and evidence obtained through its use is inadmissible in court; however, members of the security forces and police were alleged to have routinely abused and sometimes tortured suspects and detainees. According to the CHR and human rights groups, the use of excessive force and torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation included electric shock, cigarette burns, and suffocation.

The CHR investigated 22 cases of alleged torture involving 93 victims, with police, military, and other law enforcement officers identified as suspects during the year. During the same period, the TFDP documented 35 cases of torture involving 57 victims and alleged that security forces were responsible.

In November 2009, then president Arroyo signed the Anti-Torture Law that criminalizes acts of torture. Penalties range from one month to life in prison, depending

on the gravity of the offense. The law also provides rehabilitation and compensation of not less than 10,000 pesos (\$218) to victims of torture and their families. The Secretary of Justice and CHR chair signed the law's implementing rules and regulations on December 10.

There were reports that prison guards physically abused inmates. The CHR and the TFDP reported that abuse by prison guards and other inmates was common, but prisoners, fearing retaliation, refused to lodge formal complaints. Women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. The police sometimes punished officers who committed assault or abuse. Human rights activists believed suspected ASG and NPA members in captivity were particular targets for abuse.

On August 23, authorities filed administrative and criminal cases against a police officer, two of his superiors, and six of his subordinates involved in the alleged torture of a robbery suspect inside a police precinct in March. The case was initiated after a cell phone video of the suspect being questioned by police while lying naked, bound, and with a cord tied to his genitals was broadcast on local media. A police task force, the ombudsman, and the CHR conducted separate inquiries into the case.

There were alleged instances of rape perpetrated by PNP officials. On December 31, a Manila police officer allegedly arbitrarily detained, robbed, and raped a woman inside the Manila Police District headquarters. Unlike in previous years, there were no anecdotal reports of an increase in rape and sexual abuse charges filed against officers.

*Prison and Detention Center Conditions.*—Prison conditions were rudimentary and sometimes harsh. Jails and prisons were often overcrowded, lacked basic infrastructure, and provided prisoners with inadequate nutrition and medical attention.

The Bureau of Corrections (BuCor), under the Department of Justice, administered seven prisons and penal farms for prisoners sentenced to more than three years in prison. During the year, BuCor's prisons and penal farms held 36,101 prisoners, including 2,041 women. The Department of Interior and Local Government's (DILG) Bureau of Management and Penology (BJMP) and PNP control over 1,002 city, district, and municipal jails that hold pretrial detainees, those awaiting final judgment, and convicts serving sentences of three years or less. The DILG reported that its jails operate at an average of 400 percent over their designated capacity, and that Manila City Jail, built to hold 1,000 inmates, held 5,300 inmates at year's end.

Prison and jail administrators allotted a daily subsistence allowance of 50 pesos (\$1.10) per prisoner. Lack of potable water, poor sanitation, and poor ventilation continued to cause health problems. During the year, BuCor and the BPMJ reported 871 deaths in prison due to various illnesses, including cardiopulmonary arrest and pulmonary tuberculosis. Some prisoners, including women and children, were abused by other prisoners and prison personnel. The slow judicial process exacerbated overcrowding. During the year, the president granted executive clemency to 29 elderly persons. BuCor records showed that at least 8 percent of its inmates were 60 or older.

According to BJMP regulations, male and female inmates should be held in separate facilities and, in national prisons, overseen by guards of the same sex; these regulations were not uniformly enforced. In provincial and municipal prisons, male guards sometimes supervised female prisoners directly or indirectly. Although prison authorities attempted to segregate children or place them in youth detention centers, in some instances children were not fully segregated from adult male inmates. Girls were sometimes held in the same cells as boys. As part of reform and budget reduction efforts during the year, the Government consolidated women and minors into fewer jails, including some that contained separate facilities for those groups. Of the 1,002 BJMP and PNP-managed jails, 194 had separate cells for minors, while 418 jails had separate cells for women. Lack of adequate food for minors in jails and prisons was a concern (see section 6, Children).

During the year, BJMP and PNP jails held 59,289 prisoners, 95 percent of whom were pretrial detainees. The remainder had been convicted of various crimes. Of the total number of sentenced prisoners and detainees, 5,673 were adult women and 12 were minors. During the same period, the BJMP released 111 minor inmates, usually in response to a court order following a petition by the Public Attorney's Office (PAO) or the inmate's private lawyer, or through NGO-led appeals.

Prisoners and detainees generally had access to visitors, but local NGOs reported that family visitation was restricted at times for some political detainees. Prison officials noted that security concerns and space limitations at times restricted prisoners' access to visitors. Muslim officials reported that while Muslim detainees were allowed to observe their religion, Catholic masses were often broadcast by loudspeaker to prison populations made up of both Catholic and non-Catholic prisoners

and detainees. There were no reports that authorities censored or blocked prisoner or detainee complaints or requests for investigation of inhumane conditions. International monitoring groups, including the International Committee of the Red Cross, were allowed free access to jails and prisons. However, a local NGO reported difficulty accessing jails or detention centers where children were held and was forced to seek court orders or permission from the governor to visit political prisoners in one provincial jail.

In an October 16 riot in the Bataan provincial jail, 57 prisoners were injured when guards used water hoses, truncheons, and rubber bullets to quell an uprising of an estimated 900 inmates. A CHR investigation found that the guards used excessive force against the prisoners, and nine correctional officers were removed from their posts following the incident.

BuCor continued to automate inmate records in order to fast track the release of qualified inmates, and the Public Attorney's Office worked with BuCor and the BJMP to address the status and circumstances of confinement of juvenile offenders and improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. It also installed security cameras and constructed a hospital ward for inmate patients with pulmonary tuberculosis in one of its major prisons, and partnered with the Department of Health, international organizations, and other stakeholders to implement a tuberculosis control and prevention program in jails and prisons in the National Capital Region.

*d. Arbitrary Arrest or Detention.*—The law requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, in a number of cases, police and the AFP arrested and detained citizens arbitrarily. During the year, the TFDP documented 80 cases of illegal arrest and detention involving 142 victims. The CHR tracked 57 cases of arbitrary arrest involving 70 victims and 40 cases of illegal detention involving 45 victims. During the same period, the NGO FIND counted one enforced disappearance victim who was later found alive.

*Role of the Police and Security Apparatus.*—The Department of National Defense directs the AFP, which shares responsibility for counterterrorism and counterinsurgency operations with the PNP. The DILG directs the PNP, which is responsible for law enforcement and urban counterterrorism; however, governors, mayors, and other local officials have considerable influence over local police units. The 132,577-member PNP has deep-rooted institutional deficiencies and suffered from a widely held and accurate public perception that corruption remained a problem. The PNP's Internal Affairs Service remained largely ineffective. Members of the PNP were regularly accused of torture, soliciting bribes, and other illegal acts. Efforts were underway to reform and professionalize the institution through improved training, expanded community outreach, and pay raises. During the year, there were 69 administrative cases filed against 97 members of the police force, including administrative officials and police officers, for various human rights violations. Out of the 69 cases filed, 61 were resolved and eight were undergoing summary proceedings. The PNP dismissed 12 persons in connection with these cases. The deputy ombudsman for the military received 67 cases involving alleged human rights abuses by the military and law enforcement officers from January to July, the majority of which were filed against low-ranking police and military officials. All of the cases were under investigation by the Deputy Ombudsman's Office as of August.

The police and military routinely provided human rights training to their members, augmented by training from the CHR. The PNP maintained a network of 1,636 human rights desk officers at the national, regional, provincial, and municipal levels. The CHR noted that senior PNP officials appeared receptive to respecting the human rights of detainees, but rank-and-file awareness of detainee rights remained inadequate. The Commission on Appointments determines whether senior military officers selected for promotion have a history of human rights violations and solicits input from the CHR and other agencies through background investigations. A promotion can be withheld indefinitely if the commission uncovers a record of human rights abuses. Negative findings do not, however, preclude promotion, and there were no reports of promotions withheld on human rights grounds during the year.

Human rights groups and the CHR noted little progress in implementing and enforcing some reforms aimed at decreasing the incidence of killings, and cooperation and coordination between police and prosecutors remained limited. On July 16, the Department of Justice instructed prosecutors to coordinate closely with local law enforcement agencies in resolving political and media killings, violence, or harassment. The CHR approved operational guidelines and rules of procedure for its witness protection program on April 8, but funding for the CHR and government witness pro-

tection programs remained inadequate. Potential witnesses were at times unable to enter the program due to funding constraints or procedural delays. On June 14, a potential witness in the November 2009 massacre in Maguindanao, Suwaib Upahm, was shot and killed in Parang, Maguindanao, while his request for entry into the witness protection program was pending with the Department of Justice. Police arrested two suspects on July 4.

The AFP did not aggressively pursue internal investigations into alleged serious human rights abuses by some of its members. From January to July, the AFP Human Rights Office monitored four new cases of killings, two cases of torture, illegal detention, and illegal arrest, and one case of enforced disappearance. Murder charges were filed in civilian courts in one of these cases (see section 1.a).

Government-armed civilian militias supplemented the AFP and the PNP; the AFP held operational control of Citizens' Armed Force Geographical Units (CAFGU), and Civilian Volunteer Organizations (CVOs) fell under PNP command. These paramilitary units often received minimal training and were poorly monitored, tracked, and regulated. Some politicians and clan leaders, particularly in Mindanao, maintained their own private armies and at times co-opted CVO and CAFGU members into these armies. Human rights NGOs have linked state-backed militias and private armies with numerous human rights abuses, including the 2009 massacre of 58 people—family members and supporters of a gubernatorial candidate, 31 media members, and six passersby—in Maguindanao Province.

*Arrest Procedures and Treatment While in Detention.*—Citizens are apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and are brought before an independent judiciary. However, there were some reports during the year of citizens, including minor children, being picked up by security forces without warrants and detained arbitrarily. The Human Security Act of 2007 permits warrantless arrests and detention without charges for up to three days for committing or attempting to commit acts of terrorism; the Supreme Court upheld the constitutionality of this act on October 5. Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence, the right to bail. During the year, 8,260 detainees (14 percent of detainees) were able to post bail. The law provides an accused or detained person the right to a lawyer of his choice and, if indigent, to one provided by the state. Authorities are required to file charges within 12 to 36 hours for arrests made without warrants, with the time given to file charges increasing with the seriousness of the crime. Lengthy pretrial detention remained a problem, due largely to the under-resourced justice system. The BJMP released 29,800 inmates during the year as part of jail decongestion programs. There was no available data indicating the number of detainees who were released because they had been jailed for periods equal to or longer than the maximum prison terms they would have served if convicted. Large jails employed paralegals to monitor inmates' cases to prevent detention beyond the maximum sentence and to assist decongestion efforts.

On December 10, President Aquino ordered all charges dropped against 43 suspected NPA members arrested in a joint PNP and AFP operation in Morong, Rizal, on February 6. The group, dubbed the "Morong 43," asserted they were medical professionals and volunteer health workers attending a community-health training seminar. Although arrested by the PNP, the group initially was detained at a secure military compound. Local CHR personnel, legal counsel, and relatives were denied prompt access to the detainees, and there were reports of psychological and physical abuse in the initial hours of their detention. On February 11, a total of 40 detainees were charged with illegal firearms possession and the remaining three with illegal possession of firearms and explosives, all nonbailable offenses. On May 1, after almost three months in military custody, 38 detainees were transferred to a PNP detention center in Metro Manila. The other five detainees reportedly admitted their NPA affiliation and became state witnesses; they remained in military custody as part of the rebel returnee program. A local court ordered release of the "Morong 43" on December 17 following the Department of Justice's (DOJ) withdrawal of the criminal charges on grounds of illegal search and arrest, as it was determined that evidence gathered under a defective search warrant could not be used in court. Three members of the group remained in jail at year's end due to pending charges in other, unrelated cases; the five state witnesses opted to remain in the rebel returnee program.

The NPA and some Islamic separatist groups were responsible for a number of arbitrary detentions, including kidnappings and hostage taking.

*Amnesty.*—On October 12, President Aquino issued a proclamation granting amnesty to more than 300 soldiers and marines accused of participating in mutinies in 2003, 2006, and 2007.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal connections and sometimes bribery resulted in impunity for some wealthy or influential offenders. This contributed to widespread skepticism that the judicial process could deliver due process and equal justice. The Supreme Court continued efforts to ensure speedier trials, sanction judicial malfeasance, increase judicial branch efficiency, and raise public confidence in the judiciary. No judges were dismissed or disciplined during the year.

*Trial Procedures.*—The law requires all persons accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial before a judge. Defendants are presumed innocent and have the right to confront witnesses against them, present evidence, and appeal convictions. The authorities respected defendants' right to be represented by a lawyer, but poverty often inhibited a defendant's access to effective legal representation. Skilled defense lawyers staffed the PAO, but their workload was large and resources were scarce. The PAO provided legal representation for indigent litigants at trial; however, during arraignment courts may, at their option, appoint any lawyer present in the courtroom to provide counsel to the accused.

The law provides that cases should be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for a court of appeals; and three months for lower courts. However, these time limits were not mandatory and were not respected in practice. In effect, there were no time limits for trials. Government officials estimated that it takes an average of five to 10 years to obtain a conviction and that the national conviction rate was 20 percent. The system relied heavily on witnesses' testimony and gave relatively little weight to circumstantial and forensic evidence. Written evidence and wiretaps were not routinely employed.

Lengthy pretrial detention remained a problem. Trials take place in short sessions over time as witnesses and court time become available; these noncontinuous sessions created lengthy delays. Furthermore, there was a widely recognized need for more prosecutors, judges, and courtrooms. Judgeship vacancy rates were high; of the total 2,187 trial-court judgeships, 531 (24 percent) were vacant. Courts in Mindanao and poorer provinces had higher vacancy rates than the national average. Sharia (Islamic Law) court positions were particularly difficult to fill because of the requirement that applicants be members of both the Sharia Bar and the Integrated Bar. All five Sharia district court judgeships and 39 percent of circuit court judgeships remained vacant. Sharia courts do not have criminal jurisdiction.

*Political Prisoners and Detainees.*—Various human rights NGOs maintained lists of incarcerated persons they considered to be political prisoners. The TFDP tracked 287 political prisoners during the year, the majority of whom had not been convicted. Some NGOs asserted it was frequent practice to make politically motivated arrests of persons for common crimes or on fabricated charges, and to continue to detain them after their sentences expired.

The Government used NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it did not consider the persons listed to be political detainees or prisoners. During the year, the Government released eight persons whom NGOs claimed were political prisoners.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

*Civil Judicial Procedures and Remedies.*—The judiciary is independent and impartial in civil matters. There are administrative remedies as well as judicial remedies for civil complaints; however, corruption was widespread in the judiciary, and cases often were dismissed. Complainants have access to local trial courts to seek damages for, or cessation of, human rights abuses.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law allows judges to issue search warrants on a finding of probable cause. While the Government generally respected restrictions on search and seizure within private homes, searches without warrants occurred. Judges generally declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of communist and leftist organizations and rural-based NGOs complained of what they described as a pattern of surveillance and harassment.

Forced resettlement of urban squatters, who made up at least 30 percent of the urban population, continued during the year. The law provides certain protections for squatters; eviction was often difficult, especially because politicians recognized squatters' voting power. Government relocation efforts were constrained by budget limitations, and the issuance of land titles to squatters was limited.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—The Government combated antigovernment forces and terrorists who actively sought to destabilize the country during the year. Government forces killed a number of civilians during clashes with antigovernment forces. Some citizens' groups complained that the AFP, in confronting the ASG and NPA, illegally detained citizens, destroyed houses, displaced residents, and shelled villages. Clashes between the AFP and forces of the separatist MILF and incidents of clan violence continued in central Mindanao during the year, resulting in the deaths of civilians and the displacement of thousands of others. In July 2009 the Government and the MILF signed an agreement to end hostilities and resume discussions on a comprehensive peace agreement. Formal negotiations between the two parties did not resume prior to year's end.

*Killings.*—Government forces acknowledged the civilian deaths in the course of military operations against the MILF, NPA, and other groups, whose forces also killed civilians, police officers, and AFP soldiers. On November 15, three civilians, including respected botanist Leonardo Co, were killed during AFP combat operations in Kananga, Leyte. AFP forces asserted the civilians were caught in the crossfire between the military and suspected NPA insurgents; other witnesses reported the firing came only from one side. CHR and DOJ investigations into the case were ongoing at year's end.

Military sources reported that 176 AFP members were killed in action during encounters with rebel and terrorist groups during the year, 166 by the NPA and 10 by the ASG. During the same period, AFP operations killed 131 insurgents: 97 suspected NPA members, 23 ASG members, and 11 MILF members. Insurgents killed 11 PNP officers during the year, and the PNP claimed 44 NPA insurgents were killed in police operations around the country. The AFP also recorded 55 bombings during the same period.

NGOs alleged that government security forces abducted, tortured, or killed civilians during military operations against the MILF. NGOs also reported that indiscriminate shelling of villages by security forces led to civilian deaths. There were reports that both the MILF and government forces set fire to villages. Clan feuds contributed to violence between various armed factions in Mindanao.

The Government suspected groups with ties to the ASG or JI were responsible for bombings in Cotabato City, Jolo City, and Zamboanga City that killed civilians. No group claimed responsibility for the attacks. The Government also attributed fatal bombings and beheadings in Basilan to the ASG.

Communist insurgents, mainly from the NPA, used roadside bombs, ambushes, and other means to kill political figures, military and police officers, and civilians, including suspected military and police informers. The NPA and other criminal extortion groups also harassed businesses and government offices, and burned farms, businesses, and private communication facilities to enforce the collection of "revolutionary taxes."

In separate June 27 incidents, suspected NPA members shot and killed village chief Maritess Toldanes in Balatan, Camarines Sur, and a Sorsogon-based former militia member, Rodrigo Felonia. Toldanes reportedly was killed when she refused an NPA extortion attempt. The NPA also claimed responsibility for the July 13 killing of former Eastern Samar Town Mayor Mateo Biong, Jr. and the July 31 killing of former NPA member Crisaldo Banan, an alleged military informant.

On March 6, alleged NPA members ambushed and killed 11 soldiers on an election security detail in Mansalay, Oriental Mindoro. On June 9, seven AFP soldiers were killed in an ambush by suspected NPA members while securing a village for a medical mission in Bontoc Town, Mountain Province. On August 22, the NPA claimed responsibility for an August 21 ambush by landmine and small arms fire in Catarman, Northern Samar, that killed eight police officers. On December 14, two days before a scheduled holiday ceasefire, NPA members killed 10 AFP soldiers in a landmine-initiated ambush in Northern Samar. A nine-year-old boy was also killed in the attack.

*Abductions.*—Numerous kidnappings by various armed criminal and terrorist groups, including the ASG, were recorded in Mindanao and the Sulu Archipelago. Often victims were released in exchange for payments or rescued by authorities, while others were killed by their captors.

At least 23 individuals, including five businessmen, three soldiers, three farmers, three loggers, two teachers, and one militia member, were reportedly abducted by ASG, NPA, and other kidnap-for-ransom groups in Compostela Province, Basilan, Cotabato City, and the Zamboanga Peninsula during the year. Five were killed and 12 were either rescued or released; six remained missing or captive.

Unidentified gunmen abducted Nuraldin Yusoph, son of a Commission on Elections (COMELEC) commissioner, in Marawi City on June 20. In exchange for his release, the kidnappers demanded the commission nullify election results in four Lanao del Sur towns. Nuraldin was released unharmed on July 19 in Cagayan de Oro.

On July 29, NPA members used five children as human shields during an encounter with government soldiers in Lupi Town, Camarines Sur. The hostages were later released unharmed.

*Child Soldiers.*—During the year, the NPA and the ASG targeted children for recruitment as combatants and noncombatants. The NPA claimed it assigned persons 15 to 18 years of age to self-defense and noncombatant duties; however, there were reports the NPA continued to use minors in combat. During the year, the AFP reportedly rescued eight child soldiers, all of whom were allegedly recruited by the NPA.

The ASG recruited teenagers to fight and participate in its activities. The AFP stated that some Islamic schools in Mindanao served as fronts to indoctrinate children.

In May the UN released a report identifying the ASG, the NPA, and the MILF as among the world's "persistent violators of children in armed conflicts." According to the report, these groups have recruited or used child soldiers for at least the past five years. It noted the progress made with the MILF when its representatives signed the July 2009 action plan to prevent recruitment and use of child soldiers and to release children from all MILF units. The UN report also noted isolated cases of minors, ages 15-17, being voluntarily recruited into the paramilitary Citizen Armed Forces Geographical Units that fall under AFP operational control (see section 1.d.). At year's end, according to the UN Children's Fund the Government was discussing the issue with the UN country task force.

During the year, the Department of Social Welfare and Development (DSWD) assisted one child soldier rescued from rebel groups. Government reporting mechanisms for children in armed conflict were inconsistent between agencies and regions, making it difficult to evaluate the scope of the problem. See also the Department of State's annual Trafficking in Persons report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Other Conflict-Related Abuses.*—Clashes between the MILF and AFP continued and caused the number of internally displaced persons (IDPs) to fluctuate. Most IDPs were in the central Mindanao provinces of Lanao del Norte, Cotabato, and Maguindanao (see section 2.d.).

The NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for "crimes against the people." The NPA executed some of these "defendants." The MILF also maintained its own "people's courts." The AFP used civilian facilities such as schools to quarter soldiers during military operations in remote areas. NGOs claimed the AFP sometimes appropriated civilian facilities or private property without compensation to residents.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The Government owned several television and radio stations; however, most print and electronic media were privately owned. The independent media were active and expressed a wide variety of views without restriction, but they were freewheeling and often criticized for lacking rigorous journalistic standards. They tended to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom were close associates of present or past high-level officials. Special interests often used bribes and other inducements to solicit one-sided and erroneous reports and commentaries that supported their positions. Journalists continued to face harassment and threats of violence from individuals critical of their reporting.

Journalists continued to be killed. The Center for Media Freedom and Responsibility (CMFR) reported eight journalists killed during the year. The CMFR claimed that four out of the eight were killed in the line of duty. The TFU, which also tracks killings of media practitioners, classified two of these cases as work-related killings. The TFU has recorded 39 media practitioners slain in work-related killings since 2001; this total does not include the 31 media members killed in the Maguindanao massacre, which was monitored by a special task force.

On June 14, a gunman shot and killed local broadcaster Desiderio Camangyan, an anti-illegal logging activist, in Manay, Davao Oriental. On July 21, murder charges were filed against a local police officer and a local village chief in Camangyan's death. The police officer is under restrictive custody pending prelimi-

nary investigation. On July 9, two gunmen shot Iriga City-based radio broadcaster Miguel Belen in Nabua, Camarines Sur; he died 20 days later. Murder charges were filed against two suspects on August 6.

On July 21, two gunmen shot and killed local radio broadcaster Jovelito Agustin in Laoag City, Ilocos Norte. On the same day, murder charges were filed against a local government official and his aide.

Cases of journalist killings for 2009 and 2008 remained ongoing.

On August 6, a local court acquitted a former police officer and another suspect in the 2004 killing of Laoag City-based radio broadcaster Roger Mariano.

Human rights NGOs frequently criticized the Government for failing to protect journalists. The National Union of Journalists of the Philippines accused the police and the Government of failing to investigate adequately these killings and of subjecting journalists to harassment and surveillance. In some situations it was difficult to discern if violence against journalists was carried out in retribution for their profession or if these journalists were the victims of random crime.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expressions of views via the Internet, including by e-mail. Internet access was available widely. According to International Telecommunication Union statistics for 2009, approximately 6.5 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—Student groups at some universities accused security forces of harassing student political groups. The Government did not otherwise interfere with academic freedom. There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. The police exhibited professionalism and restraint in dealing with demonstrators, with a few exceptions. An NGO reported that protesters were injured by police in a July 3 protest in Manila calling for land reform.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at <http://www.state.gov/g/drl/irf/rpt>.

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign travel was limited only in rare circumstances, such as when a citizen has a pending court case. Government authorities discouraged travel by vulnerable workers to areas in which they faced personal risk.

The Government retained its formal ban on travel to Iraq for the purposes of employment, but the Department of Foreign Affairs estimated that 6,000 Filipinos worked there. The travel ban also included Afghanistan, Nigeria, Somalia, Jordan, and Lebanon. The Philippine Overseas Employment Administration (POEA) sought to regulate and control departures for work abroad, and required citizens to register with government agencies and receive pre-departure screening, training and certification before traveling for employment overseas. Millions of citizens worked overseas and remitted money home. Such remittances were equivalent to approximately 10 percent of the 2010 gross domestic product.

Forced exile is illegal, and the Government did not use it.

*Internally Displaced Persons.*—Clashes between the AFP and the MILF and incidents of clan violence during the first half of the year caused the number of internally displaced persons (IDPs) to fluctuate. The International Organization for Migration (IOM) estimated 26,600 families, or between 128,000 and 160,000 individuals, remained displaced in Mindanao either by the AFP/MILF conflict or by clan violence. The overwhelming majority were located in Maguindanao Province and the Muslim-majority areas of Cotabato. A July IOM report estimated 18,874 families, or between 94,000 and 113,000 persons, were living in displacement camps, evacuation centers, relocation sites, or in the homes of relatives in Maguindanao, and that nearly 25,000 people had been displaced by clan violence.

In October 2009 the Government and the MILF signed an Agreement on the Civilian Protection Component of the International Monitoring Team, which reconfirmed their obligations under international humanitarian and human rights law to refrain from intentionally targeting or attacking noncombatants and to avoid acts that would cause collateral damage to civilians. The agreement also includes provisions for the protection of key civilian facilities, such as schools, hospitals and relief distribution sites. The terms of reference had not, however, been finalized as of year's end.

The Government permitted humanitarian organizations to access IDP sites. NGOs noted that food aid was sometimes delayed. Security forces did not target IDPs, but military operations were carried out near IDP sites. The Government did not restrict the movement of IDPs. At various times the Government encouraged IDPs to return home, but they often were reluctant due to security concerns and food scarcity. On November 26, unidentified gunmen attacked a UN World Food Program (WFP) truck in Lanao del Sur, killing one WFP contract worker. The incident remained under investigation at year's end.

Government agencies, often with support from UN agencies and other international assistance, provided food assistance and other goods, constructed shelters and public infrastructure, repaired schools, constructed sanitation facilities, offered immunization, health, and social services, and provided cash assistance and skills training. Following its July 2009 cease-fire agreement with the MILF, the Government embarked on a program to assist IDPs to return to their villages and regain their livelihoods. UN reports indicated that some IDPs, particularly in Maguindanao and Lanao del Norte provinces, returned to their villages as a result of the improved security situation. Other agencies, including the UN Development Program, Mindanao Emergency Response Network, and the Red Cross, continued to provide food and essential items such as medicine, blankets, water containers, and mosquito nets.

*Protection of Refugees.*—No comprehensive legislation provides for granting refugee status or asylum. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. The refugee unit in the DOJ determined which asylum seekers qualify as refugees. The Government also provided temporary protection to individuals who may not qualify as refugees. There were no reports of the Government extending such protections during the year.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. In August 2009 the Department of Foreign Affairs and the UNHCR signed a Memorandum of Agreement on the Emergency Transit of Refugees, permitting the transit of refugees through the Philippines for onward resettlement in another country. The UNHCR recorded the transit of 216 refugees during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that were largely free and fair and held on the basis of universal suffrage.

*Elections and Political Participation.*—On May 10, the country conducted nationwide elections for president, both houses of congress, provincial governors, and local government officials. It was the country's first automated election, and voter turnout was high despite procedural problems that caused extensive polling delays. International and national observers viewed the election as generally free and fair, but there were incidents of violence and allegations of fraud in some areas. The PNP recorded 180 election-related violent incidents resulting in the deaths of 55 persons between January 10 and June 9.

On March 30, the COMELEC approved a resolution allowing registered detainees to vote. According to the BJMP, an estimated 17,336 detainees voted in the May 10 elections.

Some 300,000 poll station workers, mostly teachers, were denied the right to vote when COMELEC failed to create procedures allowing them to vote at their assigned polls, which generally were outside their designated precinct.

In general, political parties could operate without restriction. On April 8, the Supreme Court ruled in favor of party-list accreditation for Ang Ladlad, an organization representing lesbian, gay, bisexual, and transgender (LGBT) persons. COMELEC had rejected the group's petition for accreditation in October 2009 on grounds it "tolerates immorality, which offends religious beliefs."

There were no restrictions in law or practice on participation by women and members of minorities in politics. Many women held positions of leadership and authority. There were three women in the 24-seat Senate and 57 women in the 268-seat House of Representatives. There were six women in the 32-member cabinet, three female associate justices on the 15-member Supreme Court, and 16 women among the 82 governors.

Muslims, indigenous groups, and other citizens argued that electing senators from a nationwide list favored established political figures from the Manila area. Election of senators by region would require a constitutional amendment, which many Muslims and members of other groups underrepresented in the national legislature favored. There were no Muslim or indigenous senators and no Muslim or indigenous cabinet members. There were 11 Muslim members in the House of Representatives, mostly elected from Muslim-majority provinces, and one member of indigenous descent.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Both the Government and the private sector have established a number of anticorruption bodies, including an ombudsman's office and an anticorruption court, and public officials were subject to financial disclosure laws. During the year, the Government convicted 42 officials in 125 corruption cases, including the March 3 conviction of a former representative in Sorsogon and the August 19 conviction of a former state university president. There were reports of widespread corruption among prison guards and, to some extent, at higher levels of authority within the prison system. The 132,577-member PNP suffered from a widely held and accurate public perception that corruption remained a problem. PNP members were regularly accused of soliciting bribes and other illegal acts.

The law provides for the right to information on matters of public concern. However, denial of such information often occurred when the information related to an anomaly or irregularity in government transactions, and little government information was available electronically, making it difficult to retrieve. In addition, no legislation sets procedures for access to information or penalties for officials who fail to disclose lawfully available data.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. The CHR and, to some extent, the PNP responded to and investigated cases of human rights abuses, as requested by NGOs. Human rights activists continued to encounter occasional harassment, mainly from security forces or local officials from the area in which incidents under investigation took place. The Presidential Human Rights Committee consulted with NGOs but did not include representation from the NGO community, which some groups claimed reduced their ability to participate in the Government's human rights initiatives.

The Government cooperated with international organizations.

The CHR is mandated to protect and promote human rights. It is empowered to investigate all human rights violations and to monitor the Government's compliance with international human rights treaty obligations. The CHR has authority to make recommendations regarding military and higher-level police promotions. The commission has a chairperson and four members. CHR monitoring and investigating continued to be hamstrung by insufficient resources. Approximately three-quarters of the country's 42,000 barangays (villages) have human rights action centers, which coordinated with CHR regional offices; however, CHR's regional and subregional offices remained understaffed and underfunded. The CHR nationwide budget increased 12 percent over the prior year to 285.89 million pesos (approximately \$6.23 million). The CHR conducted numerous investigations during the year and faced some difficulty accessing military facilities and privately owned sites to conduct its searches for missing or detained persons.

The House of Representatives and Senate maintained active human rights committees.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

*Women.*—Rape, including spousal rape, is illegal, but enforcement was ineffective. Rape continued to be a problem, with most cases unreported. From January to November, the PNP reported 4,776 rape cases, 15 percent higher than reported in 2009. The Bureau of Correction's prisons and penal farms held 3,992 prisoners convicted of rape, 42 of whom were serving life sentences. There were reports of rape and sexual abuse of women in police or protective custody—often women from marginalized groups, such as suspected prostitutes, drug users, and lower-income individuals arrested for minor crimes. There were alleged instances of rape perpetrated by PNP officials. Unlike in previous years, there were no anecdotal reports of an increase in rape and sexual abuse charges filed against police officers.

Violence against women remained a serious problem. The law criminalizes physical, sexual, and psychological harm or abuse to women and their children committed by their spouses or partners. From January through November, the PNP reported 9,225 cases of domestic violence against women and their children, a 91 percent increase over the same period last year. This number likely underreported significantly the level of violence against women and children.

A local women's support group noted that, in smaller localities, perpetrators of abuse sometimes used personal relationships with local authorities to avoid prosecution. On other occasions, women who sought to file complaints through the police were told to pay special fees before their complaints could be registered.

The PNP and the DSWD both maintained help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Approximately 10 percent of PNP officers were women. The PNP has a Women and Children's Unit to deal with these matters. There are 1,843 PNP women and children's desks throughout the country.

Although prostitution was illegal, sex tourism, with clients coming from domestic sources, the United States, Europe, Australia, and other East Asian countries, continued during the year. Trafficking in women both domestically and internationally for forced labor and sexual exploitation remained serious problems. Please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The law prohibits sexual harassment, but it remained widespread and underreported in the workplace due to victims' fear of losing their jobs. Women in the retail industry worked on three- to six-month contracts and were often reluctant to report sexual harassment for fear their contracts would not be renewed. Some labor unions protested age discrimination and punitive action against female employees who became pregnant (see section 7 a.).

The constitution upholds the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. However, the provision of health care services is the responsibility of local governments, and although men and women generally were treated equally, restrictions on the provision of birth-control supplies by government-run health facilities in some localities reduced the availability of family-planning resources for impoverished women. For example, in 2000 the then mayor of Manila issued an executive order that discouraged the use of artificial contraception and required city hospitals and health clinics to develop programs to promote natural family planning. According to NGOs, city hospitals and health clinics have ceased to procure, offer, or advise on artificial contraception since the implementation of the order, which remained in effect at year's end. In an October 7 advisory, the CHR found the executive order to be in violation of the laws on non-discrimination. While artificial contraception could be purchased on the open market, it remained unaffordable for many of the city's poorest residents.

Social hygiene clinics in urban areas served everyone who sought consultation and treatment. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV. The Department of Health trained rural health physicians in diagnosis and treatment, but local health offices faced resource constraints. For maternal health services, 70 percent of pregnant women had at least four antenatal care visits, and 40 percent of births were facility based or had skilled birth attendants. According to UN Population Fund statistics, the adjusted maternal mortality rate was 160 deaths per 100,000 live births in 2009.

The law does not provide for divorce, although courts generally recognized the legality of divorces obtained in other countries if one of the parties is a foreign national. Marriage can be terminated through a legal annulment, but the cost precludes annulment as an option for many families. Many lower-income couples simply separated informally without severing their marital ties. The family code provides that in child-custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of seven are placed in the care of the

mother unless there is a court order to the contrary. Children over the age of seven normally also remained with the mother, although the father could dispute custody through the courts.

By law, but not always in practice, women have most of the rights and protections accorded to men. Women are accorded the same rights as men in respect to the ownership, acquisition, management, administration, enjoyment, and disposition of property and assets. Although they faced workplace discrimination, women continued to occupy positions at all levels of the workforce. In an April labor force survey, 57 percent of government officials, corporate executives, managers, and supervisors were women. The survey also revealed that of the 3.1 million unemployed persons, 37.5 percent were women and 62.5 percent were men.

The Philippine Commission on Women (PCW), composed of 10 government officials and 11 NGO leaders appointed by the president, is the primary policy-making and coordinating body on issues of women and gender equity.

*Children.*—Citizenship is derived by birth within the country's territory or from one's parents. The Government continued to promote birth registration. Credible organizations estimated there were more than two million unregistered children in the country, primarily among Muslim and indigenous groups.

Elementary and secondary education is free and compulsory through age 11, but the quality of education remained poor and access was not universal. Public elementary and secondary school enrollment rates were 85 and 62 percent, respectively. According to the 2007 UNICEF Mid-Term Review, boys were more likely than girls to drop out of school. Children could be deprived of education if they lacked required documents, such as birth certificates.

Child abuse remained a problem. From January to June, DSWD offices served 4,451 victims of child abuse, of whom 66 percent were girls. Approximately 44 percent of the girls were victims of sexual abuse, while 2 percent were victims of sexual exploitation. Some children also were victims of police abuse while in detention for committing minor crimes. Several cities ran crisis centers for abused women and children. Foreign pedophiles exploited children, and the Government continued its efforts to prosecute accused pedophiles and deport foreign pedophiles.

Child prostitution continued to be a serious problem, and the country remained a destination for child sex tourism. Since the passage of a law against child labor in 2003, the Department of Labor and Employment (DOLE) ordered the closure of 22 establishments for allegedly prostituting minors. Trials in these cases were ongoing. In 2009 DOLE issued new regulations that facilitate the immediate closure of establishments suspected of using children for commercial sex acts, with court hearings to determine the validity of the Government's complaint to be held at a later time. Under the new regulation, the DOLE was able to close two establishments as of year's end.

The minimum age for consensual sex is set at 12 years of age. The statutory rape law criminalizes sex with minors under the age of 12 and sex with a child under age 18 involving force, threat, or intimidation. The maximum penalty for child rape is reclusion perpetua, a 40-year sentence with no option for pardon or parole until 30 years have been served and a lifetime bar to holding political office. In November 2009 President Arroyo signed the Anti-Child Pornography Act, which carries penalties ranging from one month to life in prison and fines from 50,000 to five million pesos (\$1,090 to \$109,051), depending on the gravity of the offense. Law enforcement agencies and NGOs report that minors continued to be unlawfully used in the production of child pornography and exploited in cybersex operations.

The NPA and ASG continued to recruit minors both as combatants and non-combatants (see section 1.g.).

UNICEF estimated that there were 250,000 street children. Many street children appeared to be abandoned and engaged in scavenging or begging. At year's end the DSWD had provided services to 2,360 street children nationwide.

NGOs alleged that vigilantes with ties to government authorities were responsible for killing street children engaged in petty crime in Davao and other major cities (see section 1.a.). Children were affected by displacement in central Mindanao but generally had access to government services (see section 2.d.).

A variety of national executive orders and laws provide for the welfare and protection of children. Police stations have child and youth-relations officers to ensure that child suspects are treated appropriately, but procedural safeguards often were ignored in practice. According to the BJMP, 418 minors were held on "preventive detention" while their trials were underway. Many child suspects were detained for extended periods without access to social workers and lawyers and were not segregated from adult criminals. NGOs believed that children held in integrated conditions with adults were highly vulnerable to sexual abuse, recruitment into gangs, forced labor, torture, and other ill treatment.

During the year, government agencies and NGOs transferred 399 minor prisoners to DSWD rehabilitation centers and continued to work to secure the release of minors wrongfully imprisoned and of those below 15 years of age. The DSWD ran 11 regional youth rehabilitation centers for juvenile offenders. There were three detention centers for children in Manila.

The Philippines is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—An estimated 400 to 1,000 mostly foreign nationals of Jewish heritage lived in the country. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical, sensory, intellectual and mental disabilities in employment, education, access to health care, and other social services. The law provides for equal physical access for persons with both physical and mental disabilities to all public buildings and establishments, but in practice many barriers remained.

The National Council for the Welfare of Disabled Persons formulates policies and coordinates the activities of all government agencies for the rehabilitation, self-development, and self-reliance of persons with disabilities and their integration into the mainstream of society. The DOLE's Bureau of Local Employment maintained registers of persons with disabilities indicating their skills and abilities. The bureau monitored private and public places of employment for violations of labor standards regarding persons with disabilities and also promoted the establishment of cooperatives and self-employment projects for persons with disabilities. One NGO reported that the Government had limited means to assist persons with disabilities in finding employment, and such persons had limited recourse when their rights were violated because of the financial barriers to filing a lawsuit.

The DSWD operated two assisted living centers in Metro Manila and five community-based vocational centers for persons with disabilities nationwide. Assisted-living centers were understaffed and underfunded. During the year, the DSWD provided services to 3,886 persons with disabilities.

Advocates for persons with disabilities contended that equal-access laws were ineffective due to weak implementing regulations, insufficient funding, and government programs that were inadequately focused on integration. Many public buildings, particularly older ones, lacked functioning elevators. Many schools had architectural barriers that made attendance difficult for persons with disabilities.

Government efforts to improve access to transportation for persons with disabilities were limited. Two of Manila's three light-rail lines were wheelchair accessible; however, many stops had unrepaired, out-of-service elevators. Buses lacked wheelchair lifts, and one NGO claimed that private transportation providers, such as taxis, often overcharged persons with disabilities or refused service. A small number of sidewalks had wheelchair ramps, which were often blocked, crumbling, or too steep. The situation was worse in many smaller cities and towns.

The constitution provides for the right of persons with physical disabilities to vote; however, persons with mental disabilities are disqualified from voting. Persons with physical disabilities are allowed to vote with the assistance of a person of their choice. In practice, many persons with disabilities did not vote because of the physical barriers described above.

*Indigenous People.*—Indigenous people lived throughout the country but primarily were concentrated in the mountainous areas of northern and central Luzon and in Mindanao. They numbered over 14 million persons or 16 percent of the national population, with more than 63 percent of the total in Mindanao. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children often suffered from lack of health, education, and other basic services. NGOs estimated that up to 70 percent of indigenous youth left or never attended school because of discrimination they experienced. According to a local NGO, only 21 of 1,700 local government units in the country complied with the requirement of the 1987 People's Rights Act for the mandatory representation of indigenous persons in policy-making bodies and local legislative councils.

Indigenous people suffered disproportionately from armed conflict, including displacement from their homes, because they often inhabited mountainous areas favored by guerrillas. Their lands were often the sites of armed encounters, and various parties to the fighting recruited many indigenous people. The Task Force for Indigenous People's Rights (TFIPR) lobbied for an appropriate mechanism through

which indigenous people could be recognized as an official party and represented in peace talks between the Government and MILF. During the year, the National Commission on Indigenous People (NCIP) reported 12 cases of human rights violations, including harassment, physical, and sexual abuse allegedly committed by military and NPA forces. The NCIP referred these cases to the CHR, the PNP, and the Office of the Presidential Adviser on the Peace Process for investigation. Other NGOs reported the use of security forces to protect mining and other private interests in indigenous areas.

The NCIP, staffed by tribal members, implemented constitutional provisions to protect indigenous people, including the awarding over the last year of Certificates of Ancestral Land and Ancestral Domain Titles covering over 665,889 acres of land claimed by indigenous people. It awarded such “ancestral domain lands” on the basis of communal ownership, stopping sale of the lands by tribal leaders. TFIPR reported extrajudicial killings of indigenous people and lobbied against encroachment by mining companies on indigenous land. On August 17, two unidentified men shot and killed antilogging tribal leader Carlito Chavez in Monkayo, Compostela Valley. The task force also contended that mining companies were unlawfully claiming three million of the 4.5 million acres of Igorot-owned ancestral land in Cordillera region.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was some societal discrimination based on sexual orientation, including in employment and education. LGBT organizations held public marches or other events during the year to promote equality and antidiscrimination legislation. An LGBT group’s effort to register as a political party originally was denied because it “tolerated immorality, which offends religious beliefs.” However, on April 8, the Supreme Court allowed it to participate in the elections.

*Other Societal Violence or Discrimination.*—The law prohibits all forms of discrimination against persons with HIV/AIDS and provides basic health and social services for these persons. However, there was some evidence of discrimination against HIV/AIDS patients in the provision of health care, housing, and insurance services. The rate of HIV/AIDS remained low, although the rate of infection was believed to be underreported. Overseas workers were required to participate in an HIV/AIDS class as part of a predeparture orientation seminar.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of most workers, with the exception of the military and the police, to form and join trade unions. Foreign national workers are prohibited from forming or joining unions unless there is a reciprocity agreement between the countries. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups, and many of them join national and international confederations.

During the reporting period, the Bureau of Labor Relations reported 135 registered labor federations and 16,132 private sector unions. The 1.7 million union members included approximately 4.7 percent of the total workforce of 36.5 million. Use of short-term contractual labor, which is not permitted to organize, was still prevalent, particularly by large employers. There were 1,706 public sector unions, with a total membership of 368,315 or approximately 21 percent of the total employed persons in the public sector.

Killings and harassment of labor leaders and advocates continued to be a problem, although to a lesser extent than in recent years. From January to June, the Center for Trade Union and Human Rights (CTUHR) documented five killings of labor leaders, including the June 14 killing of Benjamin Bayles (see section 1.a.) and the June 2 killing of Edward Panganiban. Panganiban was the Secretary of the independent union Samahang Lakas ng Manggagawa sa Takata Philippines (SALAMAT-Independent) in the Japanese-owned company Takata Philippines Incorporated. Union leaders of SALAMAT-Independent link the killing to the continuing collective bargaining dispute between the union and Takata Philippines management; Takata Philippines denied any connection to the killing. The case remains under investigation. In addition, the CTUHR documented 22 cases of threats, harassment, and intimidation affecting 151 workers and labor advocates, seven cases of physical assault, and three case of violent dispersal of protests.

Eight cases alleging violations of freedom of association rights were pending with the International Labor Organization (ILO) Committee on Freedom of Association (CFA). In September 2009 the Government cooperated with a high-level ILO mission to investigate labor rights violations in the country. The ILO mission noted issues relating to violence, intimidation, threat, and harassment of trade unionists and the absence of convictions in relation to those crimes. It also observed obstacles

to the effective exercise in practice of trade union rights. In response to ILO mission recommendations, the Government constituted the Tripartite Industrial Peace Council on January 20 to monitor the application of international labor standards.

Subject to procedural restrictions, strikes in the private sector are legal; however, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law, the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must have been exhausted. During the year, the DOLE reported eight strikes involving 3,034 workers.

On September 9, the association representing flight attendants and stewards of Philippine Airlines (FASAP) filed a notice of strike over alleged unfair labor practices. The 1,600-member association denounced discriminatory airlines policies that mandate retirement at age 40 and require pregnant flight attendants to take seven months of unpaid leave. In addition to the loss of salary or allowance, the seven months are deducted from the employee's years of service. On December 23, DOLE ruled in favor of the FASAP, granting back salary increases amounting to 222 million pesos (\$4.9 million), a compulsory retirement age of 60 years, and other benefits. Philippine Airlines (PAL) was expected to appeal the decision.

The DOLE secretary, and in some special cases, the president, may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the Secretary or the president determines the strike-affected company is vital to the national interest. During the year, the DOLE assumed jurisdiction in seven labor dispute cases. Labor rights advocates criticized the Government for intervening in labor disputes in sectors that were not vital to the national economy. On December 15, President Aquino assumed jurisdiction over a labor dispute between PAL and the PAL Employees Association (PALEA) regarding PAL's plan to outsource some 2,600 "non-core" positions. Upon assuming jurisdiction, the president issued a stay order that temporarily suspended implementation of a layoff plan that DOLE had previously approved and prohibited a planned PALEA strike. The case remained with the Office of the President at year's end.

Government workers are prohibited from joining strikes under threat of automatic dismissal. Government workers may file complaints with the Civil Service Commission, which handles administrative cases and arbitrates disputes between workers and their employers.

Although the labor code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to three years, there has never been a conviction under this provision.

*b. The Right to Organize and Bargain Collectively.*—Law and regulations provide for the right to organize and bargain collectively in both the private sector and in corporations owned or controlled by the Government. Similar rights are afforded to most government workers. Collective bargaining was practiced; however, it was subject to hindrance by employers, and union leaders were subject to reprisal. In the public sector, collective bargaining was limited. During the year, 212,054 private- and public-sector workers were covered by collective bargaining agreements, or approximately 12 percent of union members and less than 1 percent of the total workforce.

Allegations of intimidation and discrimination in connection with union activities are grounds for review before the quasijudicial National Labor Relations Commission (NLRC) as possible unfair labor practices. Before disputes reach the NLRC, the DOLE provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. The DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

On March 18, the Bureau of Labor Relations released its decision nullifying the February 13 impeachment of Amado-Kadena union officials. In July the union also filed a complaint before the Commission on Human Rights against Dole Philippines and the AFP, asserting the company is harassing plantation workers and conducting anti-union activities. At year's end there were no reported developments.

According to union leaders, union members were frequently threatened with dismissal, and union organizers were sometimes illegally dismissed. On February 18, a total of 17 bus driver-union members were dismissed after seeking the union's certification as the sole and exclusive bargaining agent. The union filed illegal dismissal cases with money claims regarding underpayment of wages; the case was pending at NLRC at year's end.

Labor law applies uniformly throughout the country, including in Special Economic Zones (SEZs); however, local political leaders and officials who governed the SEZs attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for

labor inspection further obstructed the enforcement of workers' rights to organize. The DOLE can conduct inspections of SEZs and establishments located there, although local zone directors claimed authority to conduct their own inspections as part of the zones' privileges intended by congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs were few and marginal in part due to organizers' restricted access to the closely guarded zones and the propensity among zone establishments to adopt fixed-term, casual, temporary, or seasonal employment contracts.

Labor unions claimed that government security forces were stationed near industrial areas or SEZs to intimidate workers attempting to organize. Labor groups also alleged that companies in SEZs used frivolous lawsuits as a means of harassing union leaders and reported that firms used bankruptcy as a reason for closing and dismissing workers attempting to organize. Bankruptcy is an acceptable reason for closing a firm, unless there is a pattern in which it was falsified and used to deny worker rights.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred, particularly affecting children, mainly in prostitution, drug trafficking, domestic service, agriculture, and other areas of the informal sector (see sections 6 and 7.d.).

Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians. The law allows employment of those between the ages of 15 to 18 for certain hours and periods of the day but forbids the employment of persons less than 18 years of age in hazardous or dangerous work.

Child labor remained a common problem, and a significant number of children were employed in the informal sector of the urban economy as domestic workers or as unpaid family workers in rural agricultural areas. NGO and government officials report cases in which family members sell children to employers for domestic labor or sexual exploitation. A DOLE report estimated there were more than 2.2 million working children ages 15 to 17 in the country in 2009; the majority were laborers and unskilled workers. There were no reliable estimates on the number of working children below age 15, as the last comprehensive child labor survey was conducted in 2001. Government and NGO sources report that child workers were often exposed to hazardous working environments in industries such as mining, fishing, pyrotechnic production, domestic service, garbage scavenging, and agriculture, especially sugar cane plantations. See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Most child labor occurred in the informal economy, often in family settings. The Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop safer options for children, return them to school, and offer families viable economic alternatives to child labor. Although the Government devoted additional resources to programs that worked to prevent, monitor, and respond to child labor during the year, resources remained inadequate.

The Government imposed fines and instituted criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. The trial continued for a Metro Manila garment factory that employed 10 child laborers. In October 2009 the DOLE issued a circular that provides that businesses found guilty of violating the child labor law more than three times would face closure. The DOLE continued its efforts to remove child workers from hazardous situations. From January to September, DOLE conducted five rescue operations involving 35 child laborers.

*e. Acceptable Conditions of Work.*—Tripartite regional wage boards responsible for setting minimum wages approved an increase in daily minimum wage rates in 12 regions during the year. Under a new law, minimum wage earners are exempt from paying income tax. The highest minimum wage rates were in the National Capital Region, where the minimum daily wage for nonagricultural workers was 404 pesos (\$9). The lowest minimum wage rates were in the Southern Tagalog Region, where daily agricultural wages were 190 pesos (\$4.21). Labor groups protested that the hike, the first since 2008, was too small, and that the national minimum wage did not provide a decent standard of living for a worker and family. The regional wage board orders covered all private sector workers except domestic servants and others employed in the service of another person; these persons were frequently paid less than the minimum wage.

Boards exempted some newly established companies and other employers from the rules because of factors such as business size, industry sector, export intensity,

financial distress, and level of capitalization. These exemptions excluded substantial numbers of workers from coverage under the law. During the year, the regional wage boards of the National Wage and Productivity Commission granted minimum wage exemptions to 87 establishments. Unions filed complaints about the minimum wage exemption policies.

Violation of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in the Government-designated SEZs, where tax benefits were used to encourage the growth of export industries. According to a January to November Bureau of Working Conditions report, 12,566 of 34,948 inspected firms were found to have violated core labor standards. Many firms hired employees for less than the minimum apprentice rates, even if there was no approved training in their production-line work.

DOLE relies on a system of inspections and voluntary self-certifications to verify labor law compliance. DOLE conducts inspections in establishments that employ 10 to 199 workers. Establishments employing under 10 or more than 200 persons and unionized establishments with collective bargaining agreements are subject to self-assessment. DOLE provided training and advisory services to enterprises with less than 10 workers to help them comply with national labor laws. From January to November, 11 percent (606 out of 5,323) of commercial establishments inspected by DOLE were not in compliance with the prevailing minimum wage. DOLE acknowledged that the shortage of inspectors made it difficult to enforce the law. In addition to fines, the Government also used administrative procedures and moral suasion to encourage employers to rectify violations voluntarily. Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an eight-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates one day of rest each week. However, there is no legal limit on the number of overtime hours that an employer may require. DOLE conducted only sporadic inspections to enforce limits on workweek hours. From January to November, DOLE labor inspectors made 1,245 inspections to check on companies' compliance with general labor and working standards. Labor groups maintained that forced overtime was common.

The law provides for a comprehensive set of occupational safety and health standards. DOLE has responsibility for policy formulation and review of these standards, but with too few inspectors nationwide, local authorities often must carry out enforcement. DOLE continued a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Through November, DOLE conducted occupational safety standards compliance inspections on 5,323 establishments; 1,360 (25 percent) of these had occupational safety standards violations at inspection. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's overseas citizens, most of whom were temporary or contract workers. The Government placed financial sanctions on and criminal charges against domestic recruiting agencies found guilty of unfair labor practices. Although POEA registered and supervised domestic recruiters' practices successfully, the authorities sometimes lacked sufficient resources to ensure workers' protection overseas. It sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

Most labor laws apply to foreign workers, who must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens, as they were generally employed in the formal economy and were recruited for high-paying, specialized positions.

---

## SAMOA

Samoa, with a population of approximately 188,000, is a constitutional parliamentary democracy that incorporates traditional practices into its governmental system. Executive authority is vested in Head of State Tui Atua Tupua Tamasese Efi, elected by parliament in 2007. The unicameral parliament, elected by universal suffrage, is composed primarily of the heads of extended families (matai). The most recent parliamentary elections, held in 2006, were marred by charges of bribery. All 10 by-

elections subsequently ordered by the Supreme Court were considered generally free and fair. The ruling Human Rights Protection Party maintained its majority and continued to be the only officially recognized party in parliament. Security forces reported to civilian authorities.

Human rights problems included police abuse, poor prison conditions, domestic violence against women, abuse of children, and discrimination against women and non-matai.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and the Government generally observed these prohibitions in practice. However, there were some allegations of police abuses.

The media and publications of a local nongovernmental organization (NGO) reported police abuses. In January a young man lodged a complaint of police brutality through a local NGO. The man alleged that he sustained injuries to his head, teeth, and ear after a police officer punched him. In May the same NGO received complaints from the mother of a 16-year-old boy who she claimed received injuries to his hands while he was in police custody; the boy was believed to be handcuffed at the time of questioning. In August a woman lodged a complaint through a local NGO that she was indecently assaulted by a police officer while under questioning at the police station. All such cases were reported to be under investigation by the Police Professional Standards Unit. At year's end there were no reports on the results of these investigations.

In April the court dismissed a case against a former minister, accused of killing a fellow villager, when not enough witnesses appeared.

In July a senior police officer accused in March 2009 of sodomy and indecent assault of a juvenile in 2007 at the Oloamanu Juvenile Center was found guilty and sentenced to three-and-one-half years in prison. However, in December the Supreme Court ordered a retrial, reportedly due to a request from the Attorney General's Office to rehear the witnesses' accounts. The trial continued at year's end.

There were no reported developments in the investigation of two cases in September 2009 in which police allegedly assaulted persons in custody.

*Prison and Detention Center Conditions.*—Prison conditions remained poor. Some prison facilities were nearly a century old. The Tafaigata men's prison had 29 cells of various sizes, including eight large concrete cells that were approximately 30 feet by 30 feet and held 20 to 25 inmates each. Only basic provisions were made with respect to food, water, and sanitation in the 24 older cells. Cell lighting and ventilation remained poor; lights were only turned on from dusk until 9 p.m. Some but not all individual cells had toilet facilities.

The separate Tafaigata women's prison had five cells that were approximately 15 feet by nine feet, and each held four to six inmates. Bathroom facilities were in separate rooms. Physical conditions, including ventilation and sanitation, generally were better in the women's prison than in the men's prison.

Some juveniles were held with adults, but most were housed in the Oloamanu Juvenile Center. Physical conditions at the center were generally better than those at the adult facilities, but there were unconfirmed reports of problems with food, clothing, and the water supply.

Prisoners were permitted escorted hospital visits for medical checks as necessary. There is a room at the police officers' headquarters used as a medical clinic; however, there was no doctor or nurse assigned to the facility. In September the media reported an influenza outbreak at the Tafaigata men's prison. One of the cells reportedly was used as an isolation cell, which public health officials inspected daily. The influenza epidemic subsequently was contained and eliminated.

At year's end there were more than 300 inmates at the Tafaigata men's and women's prisons, the Oloamanu Juvenile Center, and Vaiaata Prison combined. Most inmates were incarcerated in the Tafaigata facilities. Although exact numbers were not available, both the men's and the women's prisons contained more inmates than they were originally designed to hold. By December construction was completed on an additional wing of five cells for male inmates at Tafaigata. The wing was expected to hold 60 inmates.

The Government permitted family members and church representatives to visit prisons every two weeks. Families were allowed to bring food parcels for inmates; however, the practice was disallowed in December when police found contraband and cell phones in the parcels.

Overnight detainees were held at two holding cells at police headquarters in Apia. The cells had good lighting, sanitation, and ventilation. Pretrial detainees were held at the Tafaigata Prison but in separate holding cells; they did not socialize with the rest of the prison community.

Prisoners and detainees were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, and authorities investigated such allegations and documented the results in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

In August police officials announced that the Professional Standards Unit was investigating police wardens at Tafaigata Prison after the media published complaints made by a prisoner on parole. The first matter involved the investigation of a claim that a police warden impregnated a female inmate. The same female prisoner previously had received an additional two-year sentence when she was found guilty of having her baby aborted by another inmate. The second matter under investigation was an allegation that police wardens had borrowed money from inmates and failed to pay back the loans. Police officials stated their concern regarding such events; however, at year's end officials had not released any findings from investigations.

The Government permitted monitoring visits by independent human rights observers; however, there were no known requests during the year. The Office of the Ombudsman is legally mandated to receive and investigate complaints of prisoners and detainees on issues of inhumane overcrowding, status and circumstances of juvenile offenders, and improvement of pretrial detention, bail, and recordkeeping procedures. There were no complaints or reports by prisoners made known to the Ombudsman's Office.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The country has a small national police force. Enforcement of rules and security within individual villages is vested in the fono (council of matai). A commissioner for police and prisons administration is appointed to a three-year term and reports to the minister of police. A lack of resources limited police effectiveness.

In May the court found an assistant commissioner guilty of indecent assault in 2007 against a female police officer. The assistant commissioner was fined 250 tala (\$107) and put on probation for 12 months. The assistant commissioner was not reappointed when his three-year contract ended.

The Samoa Police Force contributed to United Nations Peacekeeping efforts in Sudan, Liberia, East Timor, and the Solomon Islands. In June a Samoan peacekeeper was sentenced to three years' imprisonment for negligent driving for causing the death of a civilian in the Solomon Islands. The Samoan government negotiated an extradition agreement with the Solomon Islands government, and at year's end the police officer was serving his sentence in Tafaigata Prison.

*Arrest Procedures and Treatment While in Detention.*—The Supreme Court issues arrest warrants based on sufficient evidence. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities generally respected this right in practice. Detainees were informed within 24 hours of the charges against them, or they were released. There was a functioning bail system. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee was indigent, the Government provided a lawyer.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

Due to staff shortages, some Supreme Court and district court judges faced a backlog of pending cases. Of particular concern were postponements of rulings on constitutional cases, some of which were pending for years.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A trial judge examines evidence and determines if there are grounds to proceed. Defendants have the presumption of innocence. Trials are public, and juries are used. Defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held

evidence, and defendants have the right to appeal a verdict. The law extends these rights to all citizens.

Many civil and criminal matters were handled by village fono, which varied considerably in their decision-making styles and the number of matai involved in the decisions. The Village Fono Act recognizes the decisions of the fono and provides for limited appeal to the Lands and Titles Court and the Supreme Court. The nature and severity of the dispute determine which court receives an appeal. A further appeal may be made to the Court of Appeal if necessary. According to a 2000 Supreme Court ruling, the fono may not infringe upon villagers' freedom of religion, speech, assembly, or association.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The laws prohibit such actions, and the Government generally respected these prohibitions in practice. However, there is little privacy in villages, where there can be substantial societal pressure on residents to grant village officials access without a warrant.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals generally could criticize government officials publicly or privately without reprisal.

The independent media were generally active and expressed a wide variety of views without restriction. The law stipulates imprisonment for any journalist who, despite a court order, refuses to reveal a confidential source upon request from a member of the public. However, there has been no court case invoking this law.

The opposition alleged limited access to state-run radio and former state-run television.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Although for financial reasons private ownership of computers was relatively uncommon, access to the Internet through Internet cafes was generally available and widely used in urban areas. Internet access was limited or nonexistent in rural areas. The International Telecommunication Union reported that approximately 5 percent of the country's inhabitants used the Internet in 2008.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom or cultural events. The 2009 ban on the movies *Milk*, *Angels and Demons*, *The Butcher*, *Van Wilder*, *Unborn*, and *The Cell 2* continued. In March the movie *Precious* was banned for inappropriate scenes and story; however, the ban was lifted in April. A local NGO that had pressed for the release of the film argued that themes of incest and indecent assault helped raise public awareness of these issues.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. However, traditional law governs villages, and village fono regularly banned citizens from village activities or banished citizens from the village for failing to conform to village laws or obey fono rulings. Cases of village banishment were rarely made public. Of those cases that became known during the year, reasons for banishment included murder, rape, adultery, and unauthorized claims to land and matai title. In some cases civil courts overruled banishment orders. Some banished persons were accepted back into the village after performing a traditional apology ceremony.

In August the head of state was banned from one of his villages after the village refused to recognize him as a title holder. The conflict, according to media reports, arose from a dispute whereby the head of state built a shelter without the tradi-

tional protocol consultation with members of the village. In September traditional leaders banished the deputy prime minister from his electoral constituency after he delivered a letter to them announcing he would not run in the next general elections. According to media reports, the constituency decision was based on the deputy prime minister's failure to follow the traditional protocol of announcing such a decision with the leaders in person. At year's end both the head of state and deputy prime minister remained banished from their respective villages.

The Government was willing to cooperate with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, but the need did not arise during the year.

The law prohibits forced exile, and the Government did not use it.

*Protection of Refugees.*—The country's laws provide for the granting of refugee status, but the Government has not established a system for providing protection to refugees. The Government received no requests during the year for refugee status, asylum, or protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The most recent elections, held in 2006, were marred by charges of bribery. As a result of election challenges filed by losing candidates, the Supreme Court ordered 10 by-elections. All the mandated by-elections were conducted and generally considered free and fair.

The law does not prohibit the formation of opposition parties, but there were no officially recognized opposition parties. Restrictive rules limiting the formation of viable opposition political parties has allowed the ruling political party to dominate government since 1982. In October 2009 and February 2010, parliament amended the Electoral Act and the constitution, respectively, to disallow current members of parliament from joining or associating with political parties other than those of which they were members during their initial oath of allegiance. As a result, in March three Independent members resigned from parliament because of their association with the Tautua Samoa Party. After by-elections in May, two members were reelected, while the ruling Human Rights Protection Party gained the other seat.

While the constitution gives all citizens above the age of 21 the right to vote and run for office, by social custom candidates for 47 of the 49 seats in parliament are drawn from the approximately 30,000 matai, who are selected by family agreement; there is no age qualification. Although both men and women are permitted to become matai, only 8 percent were women. Matai controlled local government through the village fono, which were open to them alone.

There were four women in the 49-member parliament, three of whom served in the 13-member cabinet. One woman served as head of a constitutional office, two women as chief executive officers of government ministries, and six women as general managers of government corporations. There are no constitutional quotas reserved for the number of female parliamentarians.

The political rights of citizens who are not of ethnic Samoan heritage are addressed by the reservation of two parliamentary seats for at-large members of parliament, known as "individual voters" seats. One at-large cabinet minister and parliamentarian was of mixed European-Samoan heritage. Citizens of mixed European-Samoan or Chinese-Samoan heritage were well represented in the civil service.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented the law effectively. Penalties ranged from several months to several years of imprisonment if convicted. There were isolated reports of government corruption during the year.

In March a cabinet minister pled guilty to two charges of negligent driving and was fined 300 tala (\$130) from two separate accidents in November 2009. On one occasion, he was driving a government vehicle; on the other, a government-paid rental vehicle.

In July an account officer in the Ministry of Police pled guilty to charges of theft from a 2008 charge of embezzling approximately 270,000 tala (\$116,460) and was

sentenced to four-and-one-half years' imprisonment. The case of two other account officials in the Ministry of Finance continued at year's end.

Police corruption was not a significant problem, although there were credible reports of minor instances of bribery, such as bribes to avoid traffic citations.

Public officials were not subject to financial disclosure laws; however, such disclosure was encouraged by codes of ethics applicable to boards of directors of government-owned corporations. The law provides for an ombudsman to investigate complaints against government agencies, officials, or employees, including allegations of corruption. The ombudsman may require the Government to provide information relating to a complaint.

By law, government information is subject to disclosure in civil proceedings involving the Government, unless the information is considered privileged or its disclosure would harm the public interest. In the case of other requests, petitioners had to navigate an often slow bureaucratic process, and consequently information was not always obtainable in a timely manner.

The November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) presented information indicating that African Ventures Ltd., which was registered in Samoa, directly or indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. In July representatives from the UN Convention Against Corruption visited the country, as did UN Human Rights Council representatives in September; each group conducted regional and local workshops.

The Office of the Ombudsman was generally considered effective and operated free from government or political party interference; however, the Government did not always adopt its recommendations.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally respected these provisions in practice. However, politics and culture reflected a heritage of matai privilege and power, and members of certain families of high traditional status possessed some advantages.

*Women.*—The constitution prohibits abuse of women, but common societal attitudes tolerated their physical abuse within the home; such abuse was common.

Rape is illegal, but there is no legal provision against spousal rape. Many cases of rape went unreported because common societal attitudes discouraged such reporting. In recent years, however, authorities noted a rise in the number of reported cases of rape. This appeared to be a result of efforts by government ministries and local NGOs to increase awareness of the problem and the need to report rape cases to police. Rape cases that reached the courts were treated seriously, and the conviction rate was generally high. The penalties for rape range from two years' to life imprisonment, but a life sentence has never been imposed. The trial of the former cabinet minister charged with 22 charges of rape and assault was adjourned to January 2011 after the prosecution was allowed more time to collect evidence. In October a former deputy speaker of the house admitted to a charge of attempted rape following a 2009 complaint from a female relative. In December the former deputy speaker was sentenced to four years' imprisonment.

Domestic abuses typically went unreported due to social pressure and fear of reprisal. Village fono typically punished domestic violence offenders, but only if the abuse was considered extreme (that is, visible signs of physical abuse). Village religious leaders also were permitted to intervene in domestic disputes. When police received complaints from abused women, the Government punished the offender, including by imprisonment. Domestic violence is charged as common criminal assault, with penalties ranging from several months to one year in prison. The Government did not keep statistics on domestic abuse cases specifically but acknowledged the problem to be one of considerable concern. The Ministry of Police has a nine-person Domestic Violence Unit, which worked in collaboration with NGOs that combated domestic abuse. NGO services for abused women included confidential hotlines, in-person counseling, victim support, and shelters.

From February to August, a local NGO carried out a national campaign to bring awareness through reporting, services, and information against abuses to women and children. The campaign included holding community workshops, providing counseling, and posting banners along roadsides throughout the country.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination. The National Health Service, private hospitals, general practitioners, and various health care centers provided information and access to contraception and access to maternal health services, which included skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. The UN Children's Fund (UNICEF) reported that the estimated annual maternal mortality rate was 29 deaths per 100,000 births from 2003 to 2008. Women and men had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have equal rights under the constitution and statutory law, and the traditionally subordinate role of women was changing, albeit slowly, particularly within the more conservative segments of society. The Ministry of Women, Community, and Social Development oversees and helps secure the rights of women. To integrate women into the economic mainstream, the Government sponsored numerous programs, including literacy and training programs for those who did not complete high school.

A labor law provision prohibits employment of women between midnight and 6 a.m. unless special permission is granted by the commissioner of labor. This regulation was generally observed. Permission for night work was generally granted upon application.

*Children.*—Citizenship is derived by birth in the country if at least one parent is a citizen; the Government may also grant citizenship by birth to a child born in the country if the child would otherwise be stateless. Citizenship also is derived by birth abroad to a citizen parent who either was born in Samoa or resided there at least three years.

By law education is compulsory through the age of 14. The Government did not effectively enforce the compulsory education law, as children under the age of 14 years were seen selling goods on the streets during school hours.

The January enactment of the 2009 Education Act led to a government initiative, supported by foreign assistance, that suspends public and private Christian school fees for five years for all students attending public school under the age of 14. However, students had to pay some administration fees, which were controlled by respective school boards for operating the school.

Law and tradition prohibit the severe abuse of children, but both tolerate corporal punishment. Although there were no official statistics available, press reports indicated a rise in reported cases of child abuse, especially incest and indecent assault cases, which appeared to be due to citizens' increased awareness of the need to report physical, emotional, and sexual abuse of children. The Government aggressively prosecuted such cases. In August a teacher was sentenced to 12 months' probation and fined 150 tala (\$65) for inflicting bodily harm on a high school student.

The minimum age for consensual sex is 16 years; the maximum penalty for violators is seven years' imprisonment. There is no specific criminal provision regarding child pornography; however, child pornography cases can be prosecuted under a provision of law that prohibits distribution or exhibition of indecent material. The maximum penalty is imprisonment for two years.

The Ministry of Justice and Courts Administration and the Ministry of Education, in collaboration with NGOs, carried out educational activities to address domestic violence and inappropriate behavior between adults and children and to promote human rights awareness.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—The country had no organized Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—There is no law pertaining specifically to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of discrimination against persons with disabilities, including physical, sensory, intellectual, and mental disabilities, in the areas of employment, education, access to health care, or the provision of other state services. Many public buildings were old, and only a few were accessible to persons with dis-

abilities. Most new buildings provided better access, including ramps and elevators in most multistory buildings.

The Ministry of Women, Community, and Social Development has responsibility for protecting the rights of persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy and “indecent between males” are illegal, with maximum penalties of seven and five years’ imprisonment, respectively. However, these provisions were not actively enforced with regard to consensual homosexual acts between adults. There were no reports of societal violence based on sexual orientation or gender identity; however, there were isolated cases of discrimination.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the private sector workforce was unionized. The Public Service Association functioned as a union for all government workers, who made up approximately 8,000 of the approximately 25,000 workers in the formal economy. Unions generally conducted their activities free from government interference.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety, and workers exercised this right.

Workers in the private sector have the right to strike, but there were no private sector strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers with the right to organize and bargain collectively, and workers exercised this right in practice. The Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. Arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arose.

There are no special laws or exemptions from regular labor laws in the sole export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, but the matai frequently called upon persons, including minors, to work for their villages. Most persons did so willingly; however, the matai may compel those who do not.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—It is illegal to employ children under the age of 15 years except in “safe and light work.” The Ministry of Labor refers complaints of illegal child labor to the attorney general for enforcement; however, no cases were prosecuted during the year. The law does not apply to service rendered to family members or the matai, some of whom required children to work for the village, primarily on village farms. The extent of this practice varied by village, but it generally did not significantly disrupt children’s education.

Children frequently were seen vending goods and food on Apia street corners. The Government has not made a definitive determination whether this practice violates the country’s labor laws, which cover only persons who have a place of employment. Although the practice may constitute a violation of the law, local officials mostly tolerated it. To address the child vendor problem, the 2009 Education Act prohibits any student from being engaged in light or heavy industrial activity within school hours of 8 a.m. to 2 p.m.; however, it did not ban vending by children under 14 years of age altogether.

*e. Acceptable Conditions of Work.*—An advisory commission to the minister of labor makes recommendations on minimum wage increases every five years, based on national surveys held every three years. There were two minimum wages: two tala (\$0.86) per hour for the private sector, and 2.65 tala (\$1.14) for the public sector. In June the public-sector minimum wage was passed by government after recommendation by the advisory commission; however, in December authorities decided to maintain the private-sector minimum wage at two tala. Neither provided a decent standard of living for a worker and family unless supplemented by other activities, such as subsistence farming and fishing. Wages in the private sector are determined by competitive demand for the required skills but should not be less than the minimum private sector wage.

The provisions of the Labor Act cover only the private sector; a separate law, the Public Service Act, covers public sector workers. Labor laws stipulate a standard workweek of no more than 40 hours, or eight hours per day (excluding meal times). For the private sector, overtime pay is specified at time and a half, with double time for work on Sundays and public holidays and triple time for overtime on such days. For the public sector, there is no paid overtime, but compensatory time off is given for overtime work.

The Occupational Safety Hazard Act establishes certain rudimentary safety and health standards for workplaces, which the Ministry of Commerce, Industry, and Labor is responsible for enforcing. The law also covers persons who are not workers but who are lawfully on the premises or within the workplace during work hours. However, independent observers reported that safety laws were not enforced strictly, except when accidents highlighted noncompliance. Work accidents were investigated when reports were received. Many agricultural workers, among others, were inadequately protected from pesticides and other dangers to health. Government education and awareness programs addressed these concerns by providing appropriate training and equipment to agricultural workers. Safety laws do not apply to agricultural service rendered to the matai.

While the law does not address specifically the right of workers to remove themselves from dangerous work situations, the commissioner of labor investigates such cases, without jeopardy to continued employment. The Government investigated several cases during the year. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

---

## SINGAPORE

Singapore is a parliamentary republic in which the People's Action Party (PAP), in power since 1959, overwhelmingly dominates the political scene. The population was approximately five million, with foreign guest workers accounting for one-quarter of the total. Opposition parties exist, and the 2006 parliamentary elections were generally fair and free of tampering; however, the PAP placed formidable obstacles in the path of political opponents. Security forces reported to civilian authorities.

The Government has broad powers to limit citizens' rights and handicap political opposition, which it used. Caning is an allowable punishment for numerous offenses. The following human rights problems also were reported: preventive detention, infringement of citizens' privacy rights, restriction of speech and press freedom and the practice of self-censorship by journalists, restriction of freedoms of assembly and association, some limited restriction of freedom of religion, and some trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these prohibitions.

The law mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving violence, such as rape and robbery, and for non-violent offenses such as vandalism, drug trafficking, and violation of immigration laws. The cane, made of rattan, is four feet long and one-half inch in diameter; it is soaked in water and treated with antiseptic before the caning. The caning officer delivers the strokes using the whole of his body weight. Caning is discretionary for convictions on other charges involving the use of force, such as kidnapping or voluntarily causing grievous hurt. All women, men over age 50 or under age 16, and persons determined medically unfit are exempt from punishment by caning. During the year, 3,170 convicted persons were sentenced to judicial caning, and 98.7 percent of caning sentences were carried out.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards.

At year's end the total number of prisoners and detainees in custody of the authorities was 12, 798, of whom 9.4 percent were women. Ninety-four inmates, ages

17 and 18, comprised the juvenile prison population, which included drug rehabilitation center inmates. The designed capacity of the prison system was 15,564.

The frequency and type of visitors allowed was determined by the category of the inmate. In general, family members and close relatives were allowed to visit inmates. The Prison Authority must approve nonrelatives who wish to visit. Most inmates were allowed visits either once or twice every month. Prisoners awaiting trial were allowed visits every weekday. Most inmates were allowed up to three visitors in a visit session. The prison system also uses tele-visits. There were seven tele-conference centers located throughout the city-state, including one specifically for visits by children under age 21.

Religious services within the prison system were provided by volunteers from religious organizations such as the Prison Fellowship, the Buddhist Federation, the Roman Catholic Prison Ministry, SANA (Muslim), and the Sikh Welfare Council.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Board of Visiting Justices, made up of justices of the peace who are appointed by the prime minister, is responsible for the basic welfare of the prisoners and conducts prison inspections. All inmates have access to the visiting justices.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions. The Institutional Discipline Advisory and Review Committee renders an opinion to the director of prisons on whether corporal punishment ordered by a superintendent on any inmate for committing an institutional offense in penal institutions or drug rehabilitation centers is excessive.

The Government did not allow human rights monitors to visit prisons; however, diplomatic representatives were given regular, frequent consular access to citizens of their countries.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police force and the armed forces, and the Ministry of Home Affairs and the Corrupt Practices Investigation Bureau had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law provides that, in most instances, arrests are to be carried out after issuance of an authorized warrant; however, some laws, such as the Internal Security Act (ISA), provide for arrests without warrants. Those arrested under warrants must be charged before a magistrate within 48 hours. The majority of those arrested were charged expeditiously and brought to trial. A functioning bail system exists. Those who face criminal charges are allowed counsel; however, there is no access to counsel during an initial arrest and investigation before charges are filed. The Government assigned attorneys to represent indigent persons accused of capital crimes. The Law Society administered a legal aid plan for some other accused persons who could not afford to hire an attorney.

Some laws—the ISA, the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (the drug act), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant, and under the ISA, CLA, and drug act, executive branch officials can order continued detention without judicial review. The ISA has been employed primarily against suspected security threats; in recent years such threats have come from suspected terrorists. The CLA has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA authorizes the minister for home affairs, with the consent of the president, to order detention without filing charges if it is determined that a person poses a threat to national security. The initial detention may be for up to two years, and the minister for home affairs may renew the detention for an unlimited number of additional periods of up to two years at a time with the president's consent. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead, detainees may make representations to an advisory board, headed by a Supreme Court justice, which re-

views each detainee's case periodically and must make a recommendation to the president within three months of the initial detention. The president may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order, but he is not obligated to do so.

In January, a member of the Moro Islamic Liberation Front (MILF) was arrested for terrorist activities and ordered to be detained under the ISA.

In July three male citizens, suspected of links to Muslim radicals, were arrested. One, a full-time member of the armed forces, was ordered detained for two years under the ISA. The other two were placed under Restriction Orders (ROs—limits on ability to travel and participate in public organizations and activities) for two years.

In August, three years after escaping from custody, Mas Selamat Kastari, the leader of the Singapore Jemaah Islamiya (JI) terrorist network, was returned to Singapore by Malaysian law enforcement authorities and again detained under the ISA.

At year's end 15 detainees were held under the ISA as suspected terrorists. The majority were suspected of belonging to JI; three were suspected of self-radicalization, and one was detained for his suspected involvement with the MILF.

A religious rehabilitation program designed to wean detained terrorists from extremist ideologies is in effect, and a number of detainees were released under the program, subject to ROs. The authorities stated that all of the detainees released cooperated in investigations and responded positively to rehabilitation.

At year's end 48 persons were on ROs. This number included both released detainees and suspected terrorists who were never arrested. A person subject to an RO must seek official approval for a change of address or occupation, for overseas travel, or for participation in any public organization or activity. There is also a category of Suspension Direction (SD), which prohibits association with militant or terrorist groups or individuals as well as the ability to travel outside the country without the prior written approval of the Government. During the year two persons were on SDs. Detainees released on ROs and SDs were monitored by the authorities and required to report to authorities on a regular basis.

Authorities released two JI detainees, being held under the ISA, on ROs in January. In the same month, the Government did not renew the expired ROs of three other JI members who had been on ROs since 2004.

In February authorities released a self-radicalized detainee under an SD and in July released a JI detainee under an SD.

The CLA comes up for renewal every five years and was last renewed in February 2009. Under the CLA the minister for home affairs may order preventive detention, with the concurrence of the public prosecutor, for an initial period of one year, and the president may extend detention for additional periods of up to one year at a time. The minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require that detainees be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing the committee makes a written recommendation to the president, who may cancel, confirm, or amend the detention order. Persons detained under the CLA have recourse to the courts via an application for a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel, but they may challenge the substantive basis for their detention only to the CLAC. The CLA was used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. In 2008 the most recent year for which statistics were available, the Government issued 64 detention orders and six police supervision orders, and 290 persons were in detention under the CLA. During the five-year period from 2004 through 2008, the Government detained 366 persons and released 272 persons under the CLA.

Persons who allege mistreatment while in detention may bring criminal charges against government officials alleged to have committed such acts; no such cases were reported during the year.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The drug act also permits detention without trial. Under the drug act, if a suspected drug abuser tests positive for an illegal drug, the director of the Central Narcotics Bureau (CNB) may commit the person to a drug rehabilitation center for a six-month period, which is extendable by a review committee of the institution for up to a maximum of three years. At year's end 765 persons were held in drug reha-

bilitation centers while 32 persons were held in the Inhalant Treatment Center. Under the Intoxicating Substances Act, the CNB director may order the treatment of a person believed to be an inhalant drug abuser for up to six months.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence; however, in practice constitutionally authorized laws that limit judicial review permit restrictions on individuals' constitutional rights. The president appoints judges to the Supreme Court on the recommendation of the prime minister and in consultation with the chief justice. The president appoints subordinate court judges on the recommendation of the chief justice. The term of appointment is determined by the Legal Service Commission (LSC), of which the chief justice is the chairman. Under the ISA and the CLA, the president and the minister for home affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the Government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics. Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflected the views of the ruling party in politically sensitive cases. In past years, some opposition politicians have been bankrupted by such suits.

Some commentators and representatives of international nongovernmental organizations (NGOs) said that the LSC's authority to rotate subordinate court judges and magistrates and the Government's discretion with regard to extending the tenure of Supreme Court judges beyond the age of 65 undermined the independence of the judiciary.

*Trial Procedures.*—The law provides for the right to a fair trial, and independent observers viewed the judiciary as generally impartial and independent, except in a small number of cases involving direct challenges to the Government or the ruling party. The judicial system generally provides citizens with an efficient judicial process. In normal cases the Criminal Procedure Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Trials are public and heard by a judge; there are no jury trials. Defendants have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal-aid plan for those who cannot afford to hire an attorney. In death penalty cases, the Supreme Court appoints two attorneys for defendants who are unable to afford their own counsel. Defendants also have the right to question opposing witnesses, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Defendants enjoy a presumption of innocence and the right of appeal in most cases. Despite the general presumption of innocence, the drug act stipulates that a person, who the prosecution proves has illegal narcotics in his possession, custody, or control, shall be assumed to be aware of the substance and places the burden on the defendant to prove otherwise. The same law also stipulates that, if the amount of the narcotic is above set limits, it is the defendant's burden to prove he or she did not have the drug for the purpose of trafficking. Convictions for narcotics trafficking offenses carry lengthy jail sentences or the death penalty, depending on the type and amount of the illegal substance.

Persons detained under the ISA or CLA are not entitled to a public trial. In addition proceedings of the advisory board under the ISA and CLA are not public.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is no differentiation between civil and criminal judicial procedures. The subordinate courts handled the majority of civil cases. Access to the courts is open, and citizens and residents have the right to sue for infringement of human rights. There were no known attempts to use legal action against the Government for human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution does not address privacy rights; remedies for infringement of some aspects of privacy rights are available under statutory or common law. The Government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its broad discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a court to conduct a search; however, they may search a person, home, or property without a warrant if they decide that such a search is necessary to pre-

serve evidence or under the discretionary powers of the ISA, CLA, the drug act, and the UPA.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, had extensive networks for gathering information and conducting surveillance and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants are required for such operations. Most residents believed that the authorities routinely monitored telephone conversations and the use of the Internet. Most residents also believed that the authorities routinely conducted surveillance of some opposition politicians and other government critics.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and in practice the Government significantly restricted freedom of speech and of the press. Government intimidation and pressure to conform resulted in self-censorship among journalists; however, there was a moderate level of debate in newspapers and on the Internet on some public issues such as the institution of a minimum wage, immigration policy, and censorship. There also was extensive coverage of opposition parties and candidates in the Government-linked media.

Under the ISA the Government may restrict or place conditions on publications that incite violence, counsel disobedience to the law, have the potential to arouse tensions in the country's diverse population, or might threaten national interests, national security, or public order. The ISA has not been invoked in recent years against political opponents of the Government.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition to strict defamation and press laws, the Government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials led journalists and editors to moderate or limit what was published.

Citizens do not need a permit to speak at indoor public gatherings outside the hearing or view of nonparticipants, unless the topic refers to race or religion.

The Government effectively restricts the ability to speak or demonstrate freely in public to a single location called Speakers' Corner, which is located in a public park. Prospective speakers must be citizens or permanent residents and show their identification cards. Events need not be registered in advance with the police but must be preregistered online with the Government. While it was not necessary to declare speech topics in advance, regulations governing the Speakers' Corner state that "the speech should not be religious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups."

In August in a rally organized by the Singapore Anti-Death Penalty Campaign and the socio-political Web site The Online Citizen, approximately 140 persons gathered at the Speaker's Corner to sign a petition urging that a Malaysian drug trafficker who had been sentenced to death be spared.

The Government strongly influenced both the print and electronic media. Two companies, Singapore Press Holdings Limited (SPH) and MediaCorp, owned all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. MediaCorp was wholly owned by a government investment company. SPH was a private holding company with close ties to the Government; the Government must approve (and can remove) the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and reporting of sensitive foreign relations topics usually closely reflected government policies and the opinions of government leaders.

Columnists' opinions and letters to the editor expressed a moderate range of opinions on public issues.

Government-linked companies and organizations operated all domestic broadcast television channels and almost all radio stations. Only one radio station, the BBC World Service, was completely independent of the Government. Some Malaysian and Indonesian television and radio programming could be received, but satellite dishes were banned, with few exceptions. Cable subscribers had access to numerous foreign television news channels and many entertainment channels. In general these were not censored with the exception of certain themes such as homosexuality and explicit sexual content.

The Media Development Authority (MDA), a statutory board under the Ministry of Information, Communications, and the Arts (MICA), continued to heavily regulate broadcast and print media, Internet sites, and other media, including movies, video

materials, computer games, and music. Banned publications consisted primarily of sexually oriented materials but also included some religious and political publications. Both the MDA and MICA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the banning, seizure, censorship, or restriction of written, visual, or musical materials if authorities determine that such materials threaten the stability of the state, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. The MDA has the power to sanction broadcasters for broadcasting what it believes to be inappropriate content. All content shown between 6 a.m. and 10 p.m. must be suitable for viewers of all ages.

A substantial number of foreign media operations were located within the country, and a wide range of international magazines and newspapers could be purchased uncensored. However, under the Newspaper and Printing Presses Act (NPPA), the Government may limit the circulation of foreign publications that it determines interfere with domestic politics. The NPPA requires foreign publications that report on politics and current events in Southeast Asia, with circulation of 300 or more copies per issue, to register, post a S\$200,000 (approximately \$153,000) bond, and name a person in the country to accept legal service. The Government has granted exemptions to 19 of the 24 publications to which these requirements could apply.

The Government may limit (or "gazette") the circulation of publications. The Government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. The Broadcasting Act empowers the minister for information, communication, and the arts to gazette or place formal restrictions on any foreign broadcaster deemed to be engaging in domestic politics. Once "gazetted," a broadcaster can be required to obtain express permission from the minister to continue broadcasting in the country. The Government may impose restrictions on the number of households receiving a broadcaster's programming, and a broadcaster may be fined up to S\$100,000 (approximately \$76,500) for failing to comply.

Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. Conviction on criminal defamation charges may result in a prison sentence of up to two years, a fine, or both.

In March the International Herald Tribune (IHT) settled the libel lawsuit brought by Prime Minister Lee Hsien Loong, Senior Minister Goh Chok Tong, and Minister Mentor Lee Kuan Yew. An apology was issued for a February article from which readers may have inferred that Lee Hsien Loong attained his position through nepotism. The IHT's publisher, The New York Times Co., the editor of the global edition, and the article's writer paid a total of S\$160,000 (approximately \$122,400) in damages.

In July Christopher Neo, vice president of the opposition National Solidarity Party, was issued a summons for illegal hawking by the National Environment Agency for selling the party's newsletter without a license, the first such summons issued to a political party since 2003.

The attorney general may bring charges for contempt of court, and he used this power to charge several persons who published criticisms of the judiciary.

On November 16, freelance journalist and author, Alan Shadrake, was sentenced to six weeks in jail and a fine of S\$20,000 (\$15,300) for contempt of court for 11 passages which impugned the impartiality, integrity, and independence of the Singapore courts in his antideath-penalty book *Once a Jolly Hangman: Singapore Justice in the Dock*. He also was held responsible for the prosecution's cost, S\$50,000 (\$38,250). On November 22, the court granted Shadrake a stay on his sentence pending appeal. Although the authorities have not officially banned Shadrake's book, it can no longer be found for sale in the country.

*Internet Freedom.*—Although residents generally had unrestricted access to the Internet, the Government subjected all Internet content to the same rules and standards as traditional media. However, the Government did not appear to enforce many restrictions on Internet content, and some banned videos and other materials were accessible online. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Internet service providers (ISPs) are required to ensure that content complies with the MDA's Internet code of practice. The MDA also regulates Internet material by licensing the ISPs through which local users are required to route their Internet connections. The law permits government monitoring of Internet use, and the Government closely monitored Internet activities such as blogs and podcasts. The MDA was empowered to direct service providers to block access to Web sites that, in the Government's view, undermined pub-

lic security, national defense, racial and religious harmony, or public morals. Political and religious Web sites must register with the MDA. Although a government-appointed review panel recommended the Government cease banning 100 specific Web sites that the Government considered pornographic, incited racial and religious intolerance, or promoted terrorism and extremism, the ban remained.

In August a citizen was arrested for inciting violence through comments he posted on his Facebook page criticizing the Youth Olympic Games organizing committee. He was released on bail.

The Internet was widely available and used, with extensive wireless access throughout the country. According to the 2009 Singapore Infocomm Development Authority's Household and Individual Usage Survey, 81 percent of the country's inhabitants had household Internet access.

*Academic Freedom and Cultural Events.*—All public institutions of higher education and political research had limited autonomy from the Government. Although faculty members are not technically government employees, in practice they were subject to potential government influence. Academics spoke, published widely, and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or in academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

In March 2009 Parliament amended the Films Act to permit certain previously banned political films. Documentary films “without any animation and composed wholly of an accurate account” depicting events, persons, or situations, and party-political videos, party manifestoes, or declarations of policy are now permitted, provided they do not contain “dramatic” elements. The Films Act does not to apply to any film sponsored by the Government and allows the MICA minister to exempt any film from the act. The amended Films Act also preserves the MICA minister's power to ban any film, whether political or not, that in his opinion is “contrary to the public interest.”

In July MICA banned the film Dr. Lim Hock Siew under a section of the Films Act that allows the banning of any film that is contrary to public interest. The Government contended the film gave a “distorted and misleading portrayal of Dr. Lim's 1963 arrest and detention under the ISA.”

Certain films that were barred from general release may be allowed limited showings, either censored or uncensored, with a special rating.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions “it considers necessary or expedient” in the interest of security, public order, or morality; in practice the Government restricted this right. Public assemblies, including political meetings and rallies, require police permission. The threshold for a public assembly was previously an event involving at least five persons, but an act passed in April 2009 redefined “public assembly” to include events staged by as few as one person. However, citizens do not need permits for indoor speaking events unless they touch on “sensitive topics” such as race or religion, or for qualifying events held at Speakers' Corner. Spontaneous public gatherings or demonstrations were virtually unknown. The 2009 act also gives police the power to order a person to “move on” from a certain area and not to return to the designated spot for 24 hours.

During the year a number of Falun Gong practitioners who were Peoples' Republic of China (PRC) citizens with permanent residency, dependent, and student visa statuses claimed harassment by the police and immigration authorities. In December five practitioners were convicted of committing or abetting vandalism for displaying placards and posters in a pedestrian underpass near the site of their group exercises in October 2009. The authorities impounded their passports and issued them special passes authorizing them to remain in the country. The special passes forbid them to work and must be renewed on a monthly basis. Other PRC-citizen Falun Gong practitioners in the country also claimed to be in an “immigration limbo” unable to work, and some reportedly left the country.

In August authorities arrested a PRC-citizen Falun Gong practitioner in Singapore on a social visitor's pass for meditating at the Esplanade. The Government decided to deport her rather than charge her with a crime. Issued a special pass while awaiting deportation, she appeared weekly at the Immigration and Customs authority to renew her status.

On December 9, the NGO Singaporeans for Democracy (SFD) cancelled plans for its International Human Rights Day march for 30 persons on December 10 when it failed to obtain a police permit. The proposed march was to be from Speakers' Corner to Parliament House (approximately one-half mile); the police advised the organizers to hold the event at Speakers' Corner. The SFD's appeal also was denied.

In April five members of the opposition Singapore Democratic Party (SDP) were convicted of taking part in a 2007 procession without a valid permit. The High Court allowed the Government a rare appeal of their October 2009 acquittal.

In May 12 members of the SDP were charged with taking part in an illegal assembly in 2008. The assembly's focus was targeted at economic issues. Each faces a fine of up to S\$1,000 (\$765) if convicted.

In September the SDP advertised and held a preelection rally at Speaker's Corner. Party members, wearing red party shirts, distributed literature, gave speeches, and played music. The rally took place without disturbance.

The Government closely monitored political gatherings regardless of the number of persons present. Plainclothes police officers often monitored political gatherings.

*Freedom of Association.*—Most associations, societies, clubs, religious groups, and other organizations with more than 10 members are required to register with the Government under the Societies Act. The Government denied registration to groups that it believed were likely to have been formed for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. The Government has absolute discretion in applying criteria to register or dissolve societies. During the year the Registry of Societies received 278 registration applications. Eight applications were withdrawn, and 63 were pending at year's end. Two approved applications were for new political parties: The Socialist Front and the United Singapore Democrats. Singaporeans for Democracy also was registered during the year.

In November the Government officially categorized the human rights advocacy group, Maruah, as a political association under the Political Donations Act. Maruah is the country's representative in the region-wide Working Group for an ASEAN Human Rights Mechanism.

The Government prohibits organized political activities except by groups registered as political parties or political associations. This prohibition limits opposition activities disproportionately and contributes to restricting the scope of unofficial political expression and action. The PAP was able to use nonpolitical organizations, such as residential committees and neighborhood groups, for political purposes far more extensively than opposition parties. Political parties and associations are subject to strict financial regulations, including a ban on receiving foreign donations. Due to laws regulating the formation of publicly active organizations, there were few NGOs apart from nonpolitical organizations such as religious groups, ethnically oriented organizations, and providers of welfare services.

*c. Freedom of Religion.*—For a complete discussion of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice; however, it limited them in certain circumstances. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Citizens' choice of where to live sometimes was limited by the Government's legal requirement for ethnic balance in publicly subsidized housing, in which the majority of citizens lived. The Government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The Government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA a person's movement may be restricted. According to official press releases, at year's end there were 48 suspected terrorists subject to such restrictions.

The law prohibits forced exile, and the Government did not employ it.

The right of voluntary repatriation was extended to holders of national passports. The Government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of the law allows for the loss of citizenship by citizens who reside outside the country for more than 10 consecutive years, but it was not known to have been used.

Men are required to serve 24 months of uniformed national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens and permanent residents with national service reserve obligations are required to advise the Ministry of De-

fense if they plan to travel abroad. Persons 13 years of age or older who have not completed national service obligations are required to obtain exit permits for international travel. To obtain the required permit, a prospective traveler must in certain cases post a bond equal to S\$75,000 (approximately \$57,350) or 50 percent of the combined gross annual income of both parents for the preceding year, whichever is greater. The bond requirement applies to travelers age 16 years and above for travel exceeding three months, and to travelers age 13 to 16 for travel lasting two years or more.

In exchange for allowing former members of the Communist Party of Malaya (CPM) residing outside the country to return to Singapore, the Government requires that they renounce communism, sever all links with the CPM, and agree to be interviewed by the Internal Security Department about their past activities. Some former CPM cadres accepted these conditions and returned, but some observers estimated that approximately 30 alleged CPM members have not.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. The country's laws do not provide for the granting of asylum or refugee status, although the Government has established a system for providing protection to refugees on a case-by-case basis. In practice the Government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully. Opposition parties can contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for five decades, has used the Government's extensive powers to place formidable obstacles in the path of political opponents.

*Elections and Political Participation.*—The general elections operate under the first-past-the-post system. Following the 2006 elections, the PAP (having captured 66.6 percent of the vote) held 82 of 84 elected constituency seats in Parliament; the opposition Singapore Democratic Alliance (13.1 percent) and the Workers' Party (16.3 percent) each held one elected seat. Because three seats are reserved by law for opposition parties, the Workers' Party obtained a second, "nonconstituency" seat as the opposition party with the highest vote total.

The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to handicap opposition parties. The PAP maintained its political dominance in part by intimidating organized political opposition and circumscribing political discourse and action. The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters inhibited opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to challenge seriously the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and the absence of persuasive alternative policies.

The PAP has an extensive grassroots system and a carefully selected, highly disciplined membership. The establishment of government-organized and predominantly publicly funded Community Development Councils (CDCs) further strengthened the PAP's position. The CDCs promoted community development and cohesion and provided welfare and other assistance services. The PAP dominated the CDCs even in opposition-held constituencies from which it threatened to withdraw publicly funded benefits.

The PAP completely controlled key positions in and out of government, influenced the press, pursued opposition political figures in the courts, and otherwise limited opposition political activities. Often the means were fully consistent with the law and the normal prerogatives of a parliamentary government, but the overall effect was to disadvantage and weaken political opposition. Since 1988 the PAP changed all but nine single-seat constituencies into group representational constituencies (GRCs) of five to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one ethnic minority candidate. These changes made it more difficult for opposition parties, all of which had very limited memberships, to fill multimember candidate lists. The constitutional requirement that members of Parliament resign if expelled from their party helped ensure backbencher discipline.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability. There were 28 registered political parties in the country; however, only seven of these were active. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing blocks or to establish community foundations. In addition government influence extended in varying degrees to academic, community service, and other NGOs.

The law provides for a president to be popularly elected for a six-year term from among candidates who are approved by a constitutionally prescribed committee selected by the Government. In 2005 the committee decided that the PAP-endorsed incumbent, President S.R. Nathan, was the only qualified candidate out of four applicants. The election was cancelled, and Nathan was inaugurated for a second term. The Government placed significant obstacles in the way of opposition political figures' presidential candidacies. For example, opposition members were much less likely to satisfy the requirement that candidates have experience in managing the financial affairs of a large institution, since many of the country's large institutions were run by or linked to the Government.

Voting is compulsory, and 95 percent of eligible voters voted in the most recent general election. However, more than 43 percent of those eligible voters lived in GRCs where the opposition was unable to field candidates and the PAP candidates were automatically elected. There is no legal bar to the participation of women in political life; women held 17 of the 84 elected parliamentary seats. There were four female ministers of state, including one of cabinet rank. Three of the 15 Supreme Court justices were women. The solicitor general was a woman.

There are no restrictions in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the Government, except in some sensitive military positions. Malays made up approximately 13 percent of the general population and held approximately 15 percent of elected seats in Parliament. Indians made up approximately 9 percent of the general population and held approximately 11 percent of the elected seats in Parliament. There were four ethnic Indian ministers and one ethnic Malay minister. Two of the 15 members of the Supreme Court were ethnic Indian; there were no Malays on the court.

#### *Section 4. Official Corruption and Government Transparency*

The Government actively prosecuted officials involved in corruption. The Government-linked media increased its coverage of government employees arrested for corruption. During the year details of a fraud in which officials of the Singapore Land Authority (SLA) embezzled millions of dollars over a number of years emerged. In December Ho Yen Teck, a SLA contractor, pleaded guilty to 21 counts of conspiracy to cheat the Government. Eight other persons were accused of cheating the public sector department out of S\$12.2 million (\$9.3) million.

In December one of the nine persons accused in the SLA fraud case, Koh Seah Wee, a former senior government executive, was also charged with defrauding the Supreme Court and the Intellectual Property Office. He was remanded to custody to await trial.

The salaries of senior officials are public information, and political parties must report donations; however, there is no financial disclosure law. The Corrupt Practices Investigation Board, which answers directly to the prime minister, is responsible for investigating and prosecuting corruption by government officials.

There are no laws that specifically provide for public access to government information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. NGOs were subject to registration under the Societies Act. Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions.

The Government did not obstruct international human rights organizations from observing human rights-related court cases.

The UN special rapporteur on racism visited the country from April 21 through April 28.

Some international human rights NGOs criticized the Government's policies in areas such as capital punishment and freedom of expression. The Government generally ignored such criticisms or published rebuttals.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government generally respected these provisions in practice; there is no explicit provision granting equal rights to women and minorities. Mindful of the country's history of intercommunal tension, the Government took measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or gender.

*Women.*—The Government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law rape can be committed only by a man, and spousal rape is generally not a crime. However, husbands who force their wives to have intercourse can be prosecuted for other offenses, such as assault, and spousal rape is a criminal offense when the couple is separated, subject to an interim divorce order that has not become final, or subject to a written separation agreement, as well as when a court has issued a protection order against the husband. During the year 21 persons were prosecuted for rape; there were 15 convictions, and six persons were awaiting trial. The Ministry of Education and the police carried out programs aimed at preventing rape.

The law criminalizes domestic violence and intentional harassment. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse has ceased aggressive behavior. The law prescribes mandatory caning and a minimum imprisonment of two years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave prominent coverage to instances of abuse or violence against women. A 2009 survey by a local NGO found that 9 percent of respondents reported having experienced some form of sexual or physical violence in their lifetime. Several voluntary welfare organizations provided assistance to abused women. During the year there were 3,058 applications for personal protection orders, 15 percent of which were filed by wives for protection against their husbands.

There are no specific laws prohibiting stalking or sexual harassment; however, the Miscellaneous Offenses Act (MOA) and laws prohibiting insults to modesty were used successfully to prosecute these offenses. Under the MOA a person who uses threatening, abusive, or insulting words or behavior can incur a fine of up to S\$5,000 (\$3,800). A 2008 survey by a local NGO found that 54 percent of respondents (58 percent of females and 42 percent of males) reported having experienced some form of sexual harassment at work. The Ministry of Manpower, the National Trades Union Council, and the Singapore Employers Federation jointly operated a venue for public feedback and advice on fair employment practices.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Contraceptive supplies and information, provided by the Ministry of Health, as well as public and private doctors, were readily available. Medical services were available, including for sexually transmitted diseases, and were provided without discrimination. According to UN statistics, the maternal mortality ratio was nine deaths per 100,000 live births in 2008. The national birthrate was well below replacement levels and since the mid-1980s the Government has pursued pronatalist policies, which provide comprehensive clinical services and a wide range of social and fiscal incentives.

Women accounted for 56.4 percent of civil service employees. They enjoyed the same legal rights as men, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the rights to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage falls under the administration of the Muslim Law Act, which empowers the Sharia (Islamic law) court to oversee such matters. The law allows Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing wife or wives and reviews the financial capability of the husband. During the year there were 40 applications for polygynous marriage of which eight were approved. The rest were rejected, withdrawn, or remained pending at the end of the reporting period. Polygynous marriages constituted 0.3 percent of Muslim marriages.

Both men and women have the right to initiate divorce proceedings; however, in practice some women faced significant difficulties that prevented them from pursuing such proceedings. This included the lack of financial resources to obtain legal

counsel. Men do not have the right to seek alimony from their wives in cases of divorce or separation.

In recent years women constituted approximately 55 percent of the labor force and were well represented in many professions. However, women held few leadership positions in the private sector and only one cabinet-level position in the Government. Women were overrepresented in low-wage jobs such as clerks and secretaries. In 2008 salaries for women ranged upwards from 66 percent of men's salaries depending on the occupational grouping.

*Children.*—Citizenship is derived from one's parents, and birth registration is essentially universal.

In May a government press release stated that the law distinguishes between minors and children. Minors are defined as under 18 years of age, and children are defined as those below 14 years old.

The Children and Young Persons Act created a juvenile court system and established protective services for children orphaned, abused, "troubled," or with disabilities. The Ministry of Community Development, Youth, and Sports (MCYS) worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the Government funded a substantial portion of living expenses and overhead, as well as expenses for special schooling, health care, and supervisory needs.

Female circumcision is prevalent among the Muslim population. The procedure is performed by female doctors at Muslim clinics, usually on female infants or prepubescent girls. It normally involves nicking the prepuce. It is markedly different from the more severe forms of genital mutilation.

Some child prostitution occurred. During the year authorities arrested 28 girls under the age of 18 for prostitution-related activities. Two persons were convicted of crimes relating to commercial sexual exploitation of persons under 18; a third case remained under investigation.

The age of consent to noncommercial sex is 16 years. In 2009 there was a 36 percent increase in reported statutory rape cases involving girls less than 14 years of age—83 cases, up from 61 cases in 2008. Sexual intercourse with anyone under 16 is punishable by up to five years in prison and a maximum fine of S\$10,000 (approximately \$7,600). The authorities may detain persons under 18 who are believed to be engaged in prostitution, as well as to prosecute those who organize or profit from prostitution, who bring women or girls to the country for prostitution, or who coerce or deceive women or girls into prostitution.

The MCYS sponsored activities promoting children's causes, including family stability.

Singapore acceded to the 1980 Hague Convention on the Civil Aspects of International Child Abduction in December; the convention is scheduled to come into force on March 1, 2011. For information on international parental child abduction, please see the Department of State's annual report at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The size of the Jewish community was approximately 800 to 1,000. There were no reports of anti-Semitic acts, and synagogues held regular Sabbath services.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The MCYS is responsible for protecting the rights of persons with disabilities. MCYS' Enabling Masterplan 2007-11 outlined a five-year policy roadmap for the programs and services in the disability sector.

Electoral law allows those voters who, incapacitated by blindness or other physical cause, are unable to vote in the manner described by law to receive voter assistance by other authorized citizens to mark and cast their ballots.

The Government maintained a comprehensive code on barrier-free accessibility; it established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no comprehensive legislation addressing equal opportunities for persons with disabilities in education or employment; however, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. A tax deduction of up to S\$100,000 (approximately \$76,500) was available to employers to defray the expense of building modifications to benefit employees with disabilities. The country allows guide dogs for the blind into public places and on trains, but the laws do not cover buses and taxis. During the year 100 percent of public trains and 37 percent of buses were wheelchair accessible. All major pedestrian thoroughfares have curb cuts.

Informal provisions in education permit university matriculation for the visually impaired, those hard of hearing, and students with other physical disabilities. Approximately 8,200 children with intellectual disabilities attended mainstream schools during the year. There were 20 special education schools that enrolled approximately 4,900 students. All primary and secondary schools were equipped with basic handicap facilities such as handicap toilets and first-level wheelchair ramps. Approximately 20 percent of all primary and secondary schools (68 schools) were equipped with full-handicap facilities.

The Government provided funds for two distinct types of early education programs for children with special needs. The Early Intervention Program for Infants and Children (EIPIC) provides educational and therapy services for children up to six years of age who have handicaps or special needs. During the year there were 1,225 children enrolled in the 12 EIPIC programs. At the 18 Integrated Child Care Centers (ICCP), special needs children engage in the same group activities as the other children while also receiving enhancements of the normal childcare curriculum. During the year 97 special needs children were enrolled in the ICCPs.

The Government allows a tax deduction of up to S\$3,500 (approximately \$2,700) per individual for families caring for a sibling or spouse with a disability. For families caring for a child who is disabled, they received a tax deduction of up to S\$5,500 (approximately \$4,200) per child. Mental and physical disabilities are treated in the same way. Every child under EIPIC received a S\$300 (approximately \$234) monthly subsidy. The state-mandated health insurance program specifically excludes coverage for mental illnesses and personality disorders.

Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

*National/Racial/Ethnic Minorities.*—Ethnic Malays constituted approximately 13 percent of the population. The constitution acknowledges them as the indigenous people of the country and charges the Government to support and promote their political, educational, religious, economic, social, cultural, and language interests. The Government took steps to encourage greater educational achievement among Malay students. However, ethnic Malays have not reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels and, some asserted, in certain sectors of the Government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. Some ethnic Indians also reported that discrimination limited their employment and promotion opportunities. Government guidelines called for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as “Chinese speaker” remained acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the Government on matters that affected any racial or religious community.

Government policy enforced ethnic ratios for publicly subsidized housing.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—After failure of a 2007 attempt to repeal the section of the penal code criminalizing sex between men, Prime Minister Lee stated that the authorities would not actively enforce the statute, leaving gay men free to live their private lives in peace as long as they did not actively promote their sexual orientation.

During the year two men were arrested for a homosexual act in a public toilet and charged under laws that provide for a jail term of up to three months, or fine, or both. One of the men was convicted and fined S\$3,000 (\$2,300). At year's end the other man remained out on bail awaiting trial.

*Other Societal Violence or Discrimination.*—Some individuals with HIV/AIDS claimed that they were socially marginalized and faced employment discrimination if they revealed they were suffering from the disease. The Government discouraged discrimination, supported initiatives that countered misperceptions about HIV/AIDS, and publicly praised employers that welcomed workers with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides all citizens the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations.

Under these laws any group of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel or government employees. The registrar, however, has broad powers to refuse to register a union or to cancel registration, and to approve a new union's rules or changes to an existing union's rules. The Amalgamated Union of Public Employees was declared exempt from these provisions, and its scope of representation expanded to cover all public sector employees except the most senior civil servants.

The Trade Unions Act restricts the right of trade unions to elect their officers and to choose whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, the minister of manpower may grant exemptions. The Trade Unions Act limits the objectives for which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes.

The national labor force consisted of slightly more than three million workers, 540,000 of whom were represented by 60 unions and one association. Approximately 18 percent of the workforce is unionized. There is no agricultural sector in Singapore.

Almost all of the unions were affiliated with the National Trade Union Congress (NTUC), an umbrella organization with a close relationship with the Government. Formed in 1961 from the amalgamation of trade unions affiliated to the ruling PAP, NTUC expanded over the years to control other smaller unions. The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's secretary general, Lim Swee Say, a PAP member of parliament (MP), was a member of the cabinet as minister in the Prime Minister's Office. Young PAP MPs with no union experience were elected to leadership positions in the NTUC or member unions. NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. While the NTUC was financially independent of the PAP, the two shared a common ideology and worked closely with management in support of nonconfrontational labor relations. Labor groups expressed concerns that while the arrangement has created a conducive environment for multinational corporations to invest, it effectively restricted the rights of workers to associate freely and bargain collectively with employers.

The NTUC was free to associate regionally and internationally.

Workers in "essential services" are required to give 14 days' notice to an employer before striking, and there is a prohibition on strikes by workers in three sectors: water, gas, and electricity. Other workers have the legal right to strike but rarely did so. No specific laws prohibit retaliation against strikers. The law provides that before striking, 51 percent of unionized workers must vote in favor of the strike by secret ballot, as opposed to the more common practice of 51 percent of those participating in the vote. There were no strikes during the year.

Most disagreements were resolved through informal consultations with the Ministry of Manpower. If conciliation failed, the disputing parties usually submitted their case to the tripartite Industrial Arbitration Court (IAC), which was composed of representatives from labor and management and chaired by a judge. In limited situations the law provides for compulsory arbitration, which has not been used since 1980.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was a normal part of labor-management relations in the industrial sector. Because almost all unions were affiliated with the NTUC, it almost has an exclusive authority to exercise collective bargaining power. The IAC must certify collective agreements before they go into effect. The IAC may refuse certification at its discretion on the ground of public interest. In 2009, a total of 384 collective agreements were filed with the IAC. Union members may not reject collective agreements negotiated between their union representatives and the employer. Transfers and layoffs are excluded from the scope of collective bargaining. However, in practice employers consulted with unions on both issues and the Tripartite Panel on Retrenched Workers issued guidelines calling for early notification to unions of layoffs.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. There were reports of practices indicative of forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government enforced the Employment Act, which prohibits employment of children under the age of 13. Restrictions on the employment of children between the ages of 13 and 16 are rigorous and were fully enforced. Children under the age of 15 generally

are prohibited from employment in the industrial sector. Exceptions include family enterprises; children may work in a business in which only members of the same family are employed. A child age 13 or older may be employed in light work, subject to medical clearance. Employers must notify the commissioner of labor within 30 days of hiring a child between the ages of 15 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibit night employment of children and restrict industrial work for children between the ages of 15 and 16 to no more than seven hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The minister of manpower effectively enforced these laws and regulations.

*e. Acceptable Conditions of Work.*—There are no laws or regulations on minimum wages or unemployment compensation. Agreements between management and labor were renewed every two to three years, although wage increases were negotiated annually. The National Wages Council, a group composed of labor, management, and government representatives, issued yearly guidelines on raises and bonus pay that served as the starting point for bargaining agreements. Subject to negotiation in each enterprise, up to 10 percent of salaries was considered “variable” each month, allowing companies to eliminate that portion of pay if there were financial problems. The labor market generally offered citizens and permanent residents good working conditions and relatively high wages that provided a decent standard of living for a worker and family. In 2009 the median income among all households headed by a citizen or permanent resident was S\$58,200 (\$44,530); among employed households headed by a citizen or permanent resident, the median income was S\$64,776 (\$49,560).

The Employment Act sets the standard legal workweek at 44 hours and provides for one rest day each week.

The Ministry of Manpower effectively enforced laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. Effective March 2009, the ministry tightened the factory registration scheme for some 8,000 higher-risk factories. The new scheme strengthens the requirements for implementation of risk management and safety and health management system in these higher-risk factories, including construction worksites, shipyards, metal working factories, and petrochemical plants. While workers have the right under the Employment Act to remove themselves from a dangerous work situation, their right to continued employment depended upon an investigation by the ministry.

Because of a domestic labor shortage, in 2009 approximately 700,000 foreign workers were employed legally. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Although substantial numbers of foreign workers held white-collar jobs, foreign workers were generally concentrated in low-wage, low-skill jobs and were often required to work long hours. Employers are required by law to provide their workers with a minimum standard of housing. In 2009 the Ministry of Manpower removed 21,000 foreign workers from unacceptable housing. Although the great majority of the approximately 196,000 foreign domestic workers (mainly from the Philippines, Indonesia, and Bangladesh) worked under clearly outlined contracts and reported no complaints against their employers or employment agencies, there are regular reports of employers arrested for abuse or mistreatment of their domestic workers. The authorities fined or imprisoned employers who abused maids. In 2009 the Ministry of Manpower collected unpaid wages on behalf of maids in 219 cases. Pregnancy is a breach of the standard work permit conditions for foreign domestic workers, and the Government may cancel work permits and require repatriation of foreign domestic workers who become pregnant.

The Employment Act protects foreign workers such as the many employed in the construction industry; however, domestic servants are not covered by the act and are not eligible for limited free legal assistance from the Government. The NTUC reported that it advocated for the rights of all migrant work-permit holders through its Migrant Workers' Forum. In addition the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the ministry provided free advisory and mediation services to foreign workers experiencing problems with employers. The Government allowed complainants to seek

legal redress and operated a hotline for maids. In 2009 the hotline received approximately 2,193 calls, 95 percent of which were general inquiries.

## SOLOMON ISLANDS

The Solomon Islands is a constitutional multiparty parliamentary democracy with a population of approximately 537,000. Parliamentary elections held on August 4 were considered generally free and fair, although there were incidents of vote buying. On August 24, Parliament elected Danny Philip as prime minister. The Regional Assistance Mission to the Solomon Islands (RAMSI), a multinational police-centered force organized by Australia, arrived in the country in 2003 at the Government's invitation to assist in restoring law and order and rebuilding the country's institutions following the 1998-2003 violent conflict between the Malaitan and Guadalcanalese ethnic groups. RAMSI continued its assistance during the year, and relations between RAMSI and the Government remained stable. Security forces reported to civilian authorities.

Human rights problems during the year included lengthy pretrial detention, government corruption, and violence and discrimination against women.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no confirmed reports of such practices during the year. There were a few allegations by detainees that they were mistreated by police during questioning, but they often lacked substantiating evidence.

In November the High Court convicted Member of Parliament (MP) and Fisheries Minister Jimmy Lusibaea of unlawful wounding for shooting an unconscious man in the knees and of assault on a police officer with a pistol butt; the assault occurred in 2000 following a shootout at a nightclub. Lusibaea was the leader of the militant group Malaita Eagle Force during the country's 1998-2003 ethnic conflict. The court sentenced him to two years and nine months' imprisonment. His appeal of the conviction was pending at year's end; the High Court rejected his application for release on bail pending the court's consideration of the appeal.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards.

At year's end there were 163 convicted prisoners and 102 pretrial detainees in the country. Of these, one was female and 12 were juveniles.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints and request investigation of credible allegations of inhumane conditions. Complaints and requests were screened by the respective prison commanders. The Professional Standards Unit of the Correctional Service and the Office of the Ombudsman investigated credible allegations of inhumane conditions and documented the results in a publicly accessible manner. The Government, through the judiciary and Office of the Ombudsman, investigated and monitored prison conditions.

The Government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

Although the Office of the Ombudsman has authority to investigate complaints of inhumane prison conditions, it does not have specific legal authority to consider on its own initiative such matters as alternatives to incarceration for nonviolent offenses or improving pretrial detention, bail, and recordkeeping procedures.

The International Committee of the Red Cross (ICRC) had a program in place to cover costs for family visits to long-term prisoners from other provinces held in Honiara.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—A commissioner, who reports to the minister of police, heads the Royal Solomon Islands Police (RSIP) force of 1,134 members, including 159 women. This force was supported by 310 RAMSI Participating Police Force officers, who served in line positions and in logistical and finan-

cial support. Peter Marshall, a New Zealander, was appointed police commissioner in 2008.

While the police were more effective under RAMSI, the RSIP continued to be weak in investigation and reporting. Police impunity was not a serious problem during the year. The police service has an inspection unit to monitor police discipline and performance.

In December 2009 a Honiara probationary police officer, who was charged with indecent assault and attempted rape in November 2008, was convicted and sentenced to two years' imprisonment. He was discharged from the police in 2009.

*Arrest Procedures and Treatment While in Detention.*—The law provides for a judicial determination of the legality of arrests. Detainees generally were informed promptly of the charges against them and have the right to counsel. The Public Solicitor's Office provided legal assistance to indigent defendants, and detainees had prompt access to family members and to counsel. Officials found to have violated civil liberties were subject to fines and jail sentences. There was a functioning system of bail. However, delays in adjudication of the large number of cases before the courts resulted in lengthy pretrial detention for some detainees. During the year RAMSI had 10 legal advisors brought in from Australia, New Zealand, and the Pacific islands: four worked with the Office of the Director of Public Prosecutions and six worked with the Public Solicitor's Office. The advisors helped to build the expertise of the Government's lawyers and also contributed to reducing the backlog of cases.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Trial procedures normally operated in accordance with British common law, with a presumption of innocence, access to attorneys, and the rights to access government-held evidence, confront witnesses, and appeal convictions. The law extends these rights to all citizens. Judges conduct trials and render verdicts; there are no juries. Accused persons are entitled to counsel, and an attorney was provided at public expense for indigent defendants facing serious criminal charges.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters; local courts and magistrates' courts have civil jurisdiction. In addition, the constitution provides that any person whose rights or freedoms have been contravened may apply directly to the High Court for redress.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

In 2008 RAMSI initiated the Solomon Islands Media Strengthening Scheme (SOLMAS), which continued during the year. SOLMAS worked with the Media Association of Solomon Islands, the Solomon Islands Broadcasting Corporation, and the Department of Communications to provide training and technical support to local journalists.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. In practice cost factors and lack of infrastructure limited public access to the Internet. The International Telecommunication Union reported that approximately 2 percent of the country's inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, and the Government generally respected this right in practice. Demonstrators must obtain permits, which the Government generally granted.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it. Native-born citizens may not be deprived of citizenship on any grounds.

*Protection of Refugees.*—The country's laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. The Government did not grant refugee status or asylum during the year. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The August 4 national parliamentary elections were regarded as generally free and fair, although there was evidence of vote buying. On August 24, Parliament elected Danny Philip as prime minister.

Political parties could operate without restriction, but they were institutionally weak, with frequent shifts in political coalitions and unstable parliamentary majorities.

Male dominance in government limited the role of women. There were no women in the 50-member Parliament. The five women who served as permanent secretaries in the previous Sikua government continued in their roles with the new Philip government. Unlike in 2009, there were no female judges on the High Court.

There was one minority (non-Melanesian) MP.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Government corruption and impunity in both the executive and legislative branches continued to be serious problems.

Police corruption was not a serious problem during the year. However, some observers criticized the police as more loyal to their respective ethnic group, or wantok (extended family), than to the country as a whole.

Public officials were subject to financial disclosure laws under the leadership code of conduct. The Office of the Leadership Code Commission (LCC) investigates matters of misconduct involving MPs or senior civil servants. If the LCC finds that there is conclusive evidence of misconduct, it sends the matter to the Department of Public Prosecution, which may then proceed with legal charges. The LCC chairman and two part-time commissioners make up a tribunal that has the power to screen certain cases of misconduct and apply fines of up to SI\$5,000 (approximately \$665) on MPs or senior civil servants. The Office of the Ombudsman is responsible for investigating public complaints of government maladministration.

In March the auditor general ordered the Agricultural and Livestock Department to account for its management of a 2007 SI\$10 million (approximately \$1.3 million) cattle-funding project, calling the department's management records "abysmal" and citing a number of omissions and irregularities in the department's records. The auditor general also stated that an MP pressured department staff to allocate and pay funds to cattle farmers in his particular constituency.

MP Peter Shanel, who served a nine-month jail sentence following his 2008 conviction for unlawful wounding and possession of an unlawful weapon in a restricted area, was reelected to Parliament in the August elections and was appointed minister for foreign affairs and external trade.

At year's end no further information was available on the status of the LCC investigation begun in 2008 into 16 MPs from the National Alliance Party of Solomon Islands (NAPSI) for accepting SI\$50,000 (approximately \$6,655) in loans from Bobo Dettke, a prominent Honiara businessman and founder of NAPSI.

Former prime minister and former MP Sir Allan Kemakeza's appeal of his 2007 conviction for intimidation, larceny, and demanding money with menace was discontinued in 2009; he was not reelected to Parliament in the August election.

On June 6, a former East Honiara MP and a former cabinet minister were convicted after a High Court retrial on charges lodged in 2004 and 2005, respectively, of official corruption involving the granting of certificates of naturalization to Chinese nationals. They appealed, and on October 8, the Court of Appeals overturned the convictions.

No law provides for public access to government information. In practice the Government generally was responsive to inquiries from the media during the year.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

The Guadalcanal Peace Building and Reconciliation Committee (GPRC) was formed in 2007 to plan the reconciliation and peace process on Guadalcanal. The GPRC has 15 members appointed by the Ministry for National Unity, Reconciliation, and Peace (MNURP). Together with the Malaita Peace and Reconciliation Committee, the GPRC planned and coordinated peace and reconciliation activities in consultation with the MNURP. Since the establishment of the two committees, work plans were produced and some key activities were implemented, including provincial and community consultations and dialogue forums, and the establishment of task forces on Marau and Guadalcanal Province reconciliation, RSIP and Guadalcanal Provincial Government (GPG) reconciliation, and national government and GPG reconciliation. In 2009 the MNURP also recruited a number of peace mediators from local communities on short-term contracts as part of the ministry's continuing work in strengthening the peace-building capacity of existing structures.

The Government cooperated with international governmental organizations and permitted visits by UN representatives and other organizations. There were a number of visits from UN representatives during the year; however, no public reports were released.

The constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. While the ombudsman's office has potentially far-ranging powers and operated without governmental or political party interference during the year, it was limited by a shortage of resources.

In 2009 the Guadalcanal Truth and Reconciliation Commission (TRC) was launched by South African Nobel Peace Prize winner Bishop Desmond Tutu. The commission is an independent body comprising three national and two international commissioners. It was established to hear accounts of violence and abuse experienced by thousands of citizens during the 1998-2003 period of ethnic violence between Malaitans and Guadalcanalese and provide a forum for victims and perpetrators to speak about the causes and impact of that violence. During the year stakeholder workshops were held in Malaita, Guadalcanal, and Gizo; a national public hearing was held in March in Honiara; and five regional public hearings were held in other provinces. Closed hearings were held for cases of particular sensitivity, including those involving the RSIP Voluntary Early Retirement Scheme for officers who had participated in the ethnic conflict. In December the Government granted a one-year extension to the TRC to enable it to fulfill its mandate. At year's end the Government had not provided to the TRC SI\$5 million (approximately \$665,500) in development funds that was promised and committed in 2009; however, the Government continued to provide other regular funding for staffing and leasing of premises. At year's end the TRC continued negotiating with the MNURP to provide the development funds.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that no person—regardless of race, place of origin, color, or disability—shall be treated in a discriminatory manner with respect to access to public places. The constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in the male-dominated society. Unemployment remained high, and there were limited job opportunities for persons with disabilities.

*Women.*—Violence against women, including rape and domestic abuse, remained a serious problem. Among the reasons cited for the failure to report many incidents of abuse were pressure from male relatives, fear of reprisals, feelings of shame, and cultural taboos on discussion of such matters.

The maximum penalty for rape is life imprisonment. Spousal rape is not a crime. As part of the police curriculum, officers received specialized training on how to work with rape victims. The police have a Sexual Assault Unit, staffed mostly by female officers, to combat the problem.

The law does not specifically address domestic violence; however, there are provisions against common assault. Although statistics were unavailable, incidents of domestic violence appeared to be common. The police commissioner confirmed that, as in 2009, domestic violence complaints were received almost every week. However, in the cases of domestic abuse that were reported, victims often dropped charges before the court appearance, or the case was settled out of court. According to the police commissioner, in cases in which charges were filed, the time lapse between the charging of an individual and the subsequent court hearing may be as long as two years. The magistrates' courts dealt with physical abuse of women as with any other assault, but prosecutions were rare. Nongovernmental organizations (NGOs) conducted awareness campaigns on family violence during the year. The Family Support Center and a church-run facility for abused women provided counseling and other support services for women. The Family Support Center did not have an in-house lawyer and depended heavily on the Public Solicitor's Office for legal assistance for its clients.

Sexual harassment is not illegal and was a widespread problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Contraception and adequate prenatal, obstetric, and postnatal care were accessible at all government hospitals and rural health clinics, and all nurses were trained to provide family planning services. According to indicators published by the Population Reference Bureau, an estimated 35 percent of married women ages 15-49 used some form of contraception and an estimated 27 percent used modern contraceptive methods. According to a UN report entitled *Trends in Maternal Mortality, 1990-2008*, the country's estimated maternal mortality was 100 deaths per 100,000 live births. An estimated 86 percent of births were attended by skilled health personnel. Women and men had equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

The law accords women equal legal rights, including the right to own property. However, most women were limited to customary family roles, and this situation prevented women from taking more active roles in economic and political life. A shortage of jobs also inhibited the entry of women into the work force. Women who were employed were predominantly engaged in low-paying and low-skilled jobs.

The Solomon Islands National Council of Women and other NGOs attempted to make women more aware of their legal rights, including voting rights, through seminars, workshops, and other activities. The Government's Women's Development Division within the Ministry of Women, Youth, and Children's Affairs also addressed women's issues.

*Children.*—Citizenship is acquired through one's parents. The country's laws do not allow dual citizenship for adults, and persons who acquire dual citizenship at birth must decide by age 18 which citizenship they wish to retain. Births frequently were not registered immediately due to lack of infrastructure, but the delays did not result in denial of public services to children.

During the year major foreign assistance continued to bolster the educational system, but education was not compulsory, and the high cost of school fees severely limited attendance at secondary and higher institutions. In 2009 the Government implemented a new education policy that abolished school fees up to the form three (high school) level. A sample survey released by the Government in September 2009 found that since implementation of the policy, primary school enrollment increased 6 percent, and secondary school enrollment increased 4.8 percent. School attendance rates were lower for girls than for boys, and the dropout rate was higher for girls.

The law grants children the same general rights and protections as adults. There are laws designed to protect children from sexual abuse, child labor, and neglect, but few resources were provided to enforce the law. Child sexual and physical abuse remained significant problems, according to the coordinator of the Family Support Center in Honiara. However, children generally were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services. Virtually no children were homeless or abandoned.

Both boys and girls may legally marry at age 15, and the law permits marriage at age 14 with parental and village consent, but marriage at such young ages did not appear to be common.

There were some anecdotal reports of children involved in prostitution.

The minimum age for consensual sex is 15. The maximum penalty for sexual relations with a girl under age 13 is life imprisonment, and for sexual relations with a girl above age 12 but under age 15, it is five years' imprisonment. Consent is not a permissible defense under either of these provisions; however, in the latter case, reasonable belief that the victim was 15 or older is a permissible defense. Child pornography is illegal, with a maximum penalty of 10 years' imprisonment. However, there were reports of use of children in the production of pornography.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community was very small, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There is no law or national policy on persons with physical, sensory, intellectual, or mental disabilities, and no legislation mandates access to buildings for such individuals. In practice very few buildings were accessible to persons with disabilities. There were no special accommodations for persons with disabilities to ensure access to information and communications. Their protection and care were left to the extended family and NGOs. The country had one educational facility for children with disabilities, which was supported almost entirely by the ICRC. A disability center in Honiara assisted persons with disabilities in finding employment; however, with high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

Persons with mental disabilities were cared for within the family structure; there were very limited government facilities for such persons. The Kilufi Hospital in Malaita operated a 10-bed ward for the treatment of psychiatric patients. A psychiatrist resident in Honiara ran a clinic at the National Referral Hospital.

The Ministry of Home Affairs is responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The country comprises more than 27 islands with approximately 70 language groups. Many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in 1998. The presence of RAMSI greatly reduced ethnic tension between the two groups, and the Peace and Reconciliation Ministry organized reconciliation ceremonies. However, underlying problems between the two groups remained, including issues related to jobs and land rights.

On November 29, rioting broke out in Honiara following the conviction and sentencing of Fisheries Minister and former militant leader Jimmy Lusibaea on assault charges (see section 1.c.); gangs of youths attempted to break into and loot Chinese businesses. Police contained the violence and arrested 37 persons. Police attributed the violence to opportunism rather than racial or political motives.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy is illegal, as are “indecent practices between persons of the same sex.” The maximum penalty for the former is 14 years' imprisonment and for the latter five years. However, there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under these provisions during the year. There were no reports of violence or discrimination against persons on the basis of sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There was societal stigma toward persons with HIV/AIDS, but there were no specific reports of disownment by families as reported in the past and no reports of violence targeting persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights, and workers exercised them in practice. Only an estimated 10 percent of the population participated in the formal sector of the economy. According to the president of the Council of Trade Unions (CTU), approximately 35 percent of the total workforce was employed in the public sector and 65

percent in the private sector, and 55 percent of employees in the public sector and 25 percent of those in the private sector were organized.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

The law permits strikes in both the public and private sectors. Advance notice to the Government is required for strikes to be legal. Private-sector disputes usually were referred quickly to the Trade Disputes Panel (TDP) for arbitration, either before or during a strike. In practice the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating.

In January the Government paid the remaining seven percent of an increase in the cost of living allowance for public employees that the TDP had prescribed in 2009 following a strike by the Solomon Islands Public Employees Union (SIPEU). The Government had made an initial payment of 4.5 percent in 2009.

Also in 2009, following the SIPEU strike, the Government issued an official notice prohibiting strikes by civil servants in essential services. There were procedures in place designed to ensure these workers due process and protect their rights.

In 2009 the Government appointed a commission of inquiry (COI) to examine the longstanding standoff between the Solomon Islands National Union of Workers and the Russell Islands Plantation Estate. In June, however, the COI was discontinued due to lack of funds and inability of the chairman, a retired Australian judge, to continue to serve. At year's end no report was issued, and the Government was planning to form a working group to negotiate with union members, villagers, and company management to resolve the dispute.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and unions exercised these rights in practice. Wages and conditions of employment were determined by collective bargaining, usually at the level of individual firms. According to the president of the CTU, a number of collective bargaining agreements were reached or renewed during the year. The CTU president also reported that nearly all workers in the public sector and approximately 80 percent of workers in the private sector were covered by collective bargaining agreements.

Disputes between labor and management that cannot be settled between the two sides are referred to the TDP for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, except as part of a court sentence or order; however, the law contains no penalties for violators. There were unconfirmed reports of forced domestic servitude and persons forced to work in logging camps.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law forbids labor by children under age 12, except light agricultural or domestic work performed in the company of parents or other labor approved by the commissioner of labor. Children under age 15 are barred from work in industry or on ships, except aboard training ships for educational purposes; those under age 18 may not work underground in mines, or at night in any industry. The commissioner of labor is responsible for enforcing child labor laws, but few resources were devoted to investigating child labor cases. Given low wages and high unemployment, there was little incentive to employ child labor in the formal wage economy; however, there were reports of children working as cooks and performing other tasks in logging camps, where conditions often were poor. There also were reports of children working in subsistence agriculture and other family-run enterprises.

*e. Acceptable Conditions of Work.*—The minimum wage was SI\$4.00 (approximately \$0.53) per hour for all workers except those in the fishing and agricultural sectors, who received SI\$3.50 (approximately \$0.47). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to six days per week. There are provisions for maternity leave and for premium pay for overtime and holiday work.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The commissioner of labor, the public prosecutor, and police are responsible for enforcing labor laws; how-

ever, they usually reacted to complaints rather than routinely monitoring adherence to the law. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear.

Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site. Laws on working conditions and safety standards apply equally to foreign workers and citizens. However, according to the president of the CTU, during the year there were numerous violations of the occupational safety and health laws, and the authorities did not effectively enforce safety and health law provisions.

---

## TAIWAN

Taiwan's population of 23 million is governed by a president and parliament chosen in multiparty elections. International observers considered the January 2008 legislative elections and the March 2008 presidential election, which Ma Ying-jeou of the Kuomintang Party (KMT) won, free and fair. Security forces reported to civilian authorities.

Principal human rights problems reported were corruption, violence and discrimination against women and children, trafficking in persons, and abuses of foreign workers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the authorities committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution stipulates that no violence, threat, inducement, fraud, or other improper means should be used against accused persons, and there were no reports that the authorities employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the authorities permitted visits by independent human rights observers. As of December there were 57,088 adults (52,367 men and 4,721 women) and fewer than 1,000 juveniles imprisoned, and prisons operated at 119.6 percent of design capacity.

All prisoners and detainees have access to visitors. During the active investigation phase of their cases, a small number of detainees, on a court order, may be deprived of the right to have visitors. All prisoners and detainees are permitted religious observance. Prisoners are able to meet with religious leaders, who visit on a regular basis, and may request additional meetings with religious leaders as well.

Authorities permit prisoners and detainees to submit complaints to judicial authorities without censorship, although in practice all correspondence is screened entering and leaving the facilities.

When a prisoner makes allegations of inhumane conditions, prison authorities investigate the claims and release the results of their investigation to the judicial authorities and occasionally to the press. Authorities investigate and monitor prison and detention center conditions.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the authorities generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The National Police Administration (NPA) of the Ministry of Interior (MOI) has administrative jurisdiction over all police units, although city mayors and county magistrates appoint city and county police commissioners. Mayors and magistrates are responsible for maintaining order and assessing the performance of police commissioners within their jurisdictions.

Prosecutors and the Control Yuan are responsible for investigating allegations of police malfeasance. The NPA also has an inspector general and an internal affairs division that investigates allegations of police misconduct. Police officers and senior officials suspected of corruption and other misbehavior were prosecuted and punished upon conviction.

*Arrest Procedures and Treatment While in Detention.*—A warrant or summons is required by law, except when there is ample reason to believe the suspect may flee, or in urgent circumstances. Indicted persons may be released on bail at judicial dis-

cretion. By law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The authorities generally observed these procedures, and trials usually took place within three months of indictment. According to the Code of Criminal Procedure, prosecutors may apply to a court for approval of a pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Judicial reform advocates have urged limiting pretrial detention to better protect defendants' rights. Pretrial detention may be requested in cases where the potential sentence is five years or more and where there is a reasonable concern that the suspect could flee, collude with other suspects or witnesses, or tamper or destroy material evidence.

Human rights advocates complained that the law did not provide adequate protection, since there is no requirement that suspects have legal representation during questioning. The Judicial Yuan (JY) and the NPA operated a program to provide legal counsel during initial police questioning to qualifying indigent suspects who are mentally handicapped or charged with a crime punishable by three or more years in prison. Lawyers recruited by the Legal Aid Foundation staffed 21 branch offices that serviced 23 cities and counties around the island. Fifty police sub-bureaus, one-third of the island's 158 subbureaus, were implementing the program. Detained persons may request such assistance in all of the island's subbureaus. Human rights lawyers contended that while courts were required to appoint counsel after an indictment was filed, the existing Criminal Procedure Code did not specify what lawyers could do to protect the rights of indigent criminal suspects during initial police questioning. The program has enjoyed some success, but some groups argued that police need more on-the-job training and police facilities should be improved to accommodate lawyers in their initial questioning of suspects. More than half of the island's 5,000 lawyers have participated in this program.

Beginning May 2009, authorities implemented the January 2009 Constitutional Court interpretation declaring that prison authorities could no longer tape or monitor nor provide to prosecutors discussions between defense counsel and their clients.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the authorities generally respected judicial independence in practice. Although the authorities made efforts to eliminate corruption and to diminish political influence in the judiciary, some residual problems remained. During the year judicial reform advocates pressed for greater public accountability, reforms of the personnel system, and other procedural reforms. Some political commentators and academics also publicly questioned the impartiality of judges and prosecutors involved in high-profile and politically sensitive cases.

Former president Chen Shui-bian and his wife, who were indicted in 2008 on corruption charges, were found guilty and sentenced to life in prison in September 2009. Chen appealed the verdict and on June 10, the Taiwan High Court reduced Chen's prison term to 20 years. The Chen trial heightened scrutiny of issues such as pre-indictment and pretrial detention, prosecutorial leaks, other possible prosecutorial misconduct, and transparency in judicial procedures. In October 2009 the Constitutional Court upheld the constitutionality of judicial procedures used by the Taipei District Court in the Chen case.

*Trial Procedures.*—The constitution establishes the right to a fair trial, and an independent judiciary generally enforced this right. Judges, rather than juries, decided cases; all judges were appointed by and were responsible to the JY. A single judge, rather than a defense attorney or prosecutor, typically interrogated parties and witnesses.

Trials are public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. A defendant's access to evidence held by the prosecution is determined by the presiding judge on a case-by-case basis. All defendants are presumed innocent until proven guilty and have the right to an attorney, and criminal procedure rights are extended to all persons without limitation.

The law states that a suspect may not be compelled to testify and that a confession shall not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of three years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences. It is unconstitutional to allow the confessions of accomplices to be the only evidence to convict a defendant.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters. Administrative remedies are available in addition to judicial remedies for alleged wrongs, including human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the authorities generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

There was a vigorous and active free press. Critics alleged that the authorities increased their placement of advertisements packaged as news reports and programs in local newspapers and television. They said the placement deterred a few media outlets from criticizing the authorities. The authorities denied using advertising revenue to manipulate the media.

In September the Public Television Service (PTS) Foundation board fired PTS President Sylvia Feng. She then alleged the Taiwan authorities were interfering in the operations of PTS. PTS is a part of the Taiwan Broadcasting System (TBS), which is funded principally by the authorities. In January 2009, 3,000 persons gathered outside the Legislative Yuan (LY) to protest the legislature's freeze on TBS's budget and alleged political interference in the operation of TBS.

In September the National Communications Commission (NCC) rejected, for the second time, applications from Next TV (a unit of Next Media Group) to launch news, information, and entertainment channels on cable, although it approved Next TV's applications for a sports and a movie channel. The NCC said the proposed programming on the three rejected channels was more or less the same and questioned the necessity of the additional channels. The NCC also expressed concern that Next TV's plan to include animated news, which presents events in "drama" format, did not meet the standards of professional journalism. Next TV accused the NCC of suppressing freedom of speech and stifling creativity. Next TV said its animated news program had won praise for its innovative format.

In November 2009, the Taipei City Government fined Apple Daily, also a part of the Next Media Group, a total of NT\$1 million (approximately \$35,710) for using animation on its Web site to reconstruct and illustrate stories of rape, sexual assault, and violence that appeared in the newspaper. The city government also barred primary and middle schools in the city from subscribing to Apple Daily and added that anyone wishing to borrow Apple Daily from Taipei public libraries must provide identification proving they were 18 years or older. At year's end the ban remained in effect. Taipei Mayor Hau Lung-bin said he respected press freedom but would do what was necessary to comply with the Child Welfare Law.

A total of 26 journalists from 10 People's Republic of China (PRC) news outlets had journalists based in Taiwan.

*Internet Freedom.*—There were no official restrictions on access to the Internet, and individuals and groups could engage in the expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics, approximately 70.1 percent of the population used the Internet.

Several nongovernmental organizations (NGOs) reported that law enforcement officials monitored Internet chat rooms and bulletin boards and used Internet addresses to identify and prosecute adults responsible for posting sexually suggestive messages; one leading NGO noted a decrease in such monitoring. Critics alleged the Child and Youth Sexual Transaction Prevention Act (CYSTPA), which is intended to protect children from sexual predators, was used to punish constitutionally protected free speech between consenting adults. In response to a request by persons opposed to this use of the CYSTPA, the Constitutional Court looked at the issue and ruled in favor of the law enforcement officials' actions. The court noted that the constitutional guarantee to free speech is not absolute and may be subject to reasonable restrictions intended to preserve a significant public interest—in this case, "to deter and eliminate cases where children or juveniles become objects of sexual transaction."

*Academic Freedom and Cultural Events.*—There were no restrictions on academic freedom.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Opposition-party legislators and human rights NGOs claimed that the Assembly and Parade Law unconstitutionally restricted free speech and assembly, and called for it to be amended or abolished. They claimed that the law unfairly disadvantaged smaller organizations and was selectively enforced. The Taiwan Association for Human Rights and more than a dozen other civic groups formed an alliance to advo-

cate removing restrictions on street protest demonstrations and eliminating the requirement to apply to police for permission to hold a demonstration.

In May 2009 the authorities charged two professors alleged to be organizers of the 2008 “Wild Strawberry” student movement demonstrations for failing to obtain permits in violation of the Assembly and Parade Law. On September 9, the Taipei District Court deferred the trial of one of the defendants in the case and requested a ruling by the Constitutional Court on the Assembly and Parade Law. In 2009 Taiwan courts convicted three individuals of violations of the law in separate cases. The courts sentenced two to prison terms of less than two months and fined one. During the year authorities did not charge anyone with violations of the assembly law.

*Freedom of Association.*—The law provides this right, and the authorities generally respected it in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within Taiwan, foreign travel, emigration, and repatriation, and the authorities generally respected these rights in practice.

All travelers from the PRC are required to have invitations from sponsors and are subject to approval by the Mainland Affairs Council. PRC tourists must travel in groups and stay at designated hotels. PRC tour groups must be chaperoned by a Taiwan travel agency, which is required to post a NT\$1 million (approximately \$35,710) bond in order to receive PRC tour groups. The bond can be partially or entirely forfeited if any tour group member is involved in legal problems or is reported missing. The Tourism Bureau must be notified in advance of any change to a tour group itinerary.

The law does not provide for forced exile, and it was not practiced.

*Protection of Refugees.*—Because of its international status, Taiwan is unable to be a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol; its law does not provide for the granting of asylum or refugee status. All PRC citizens unlawfully present are required by law to be returned to the PRC. At year’s end there were eight PRC nationals on Taiwan seeking asylum elsewhere.

Throughout the year the authorities repatriated undocumented immigrants to their countries of origin. According to the MOI, the total number of undocumented PRC immigrants deported to the mainland declined from 365 in 2008 to 236 in 2009 and to 90 in 2010. As of November 66 undocumented PRC immigrants were awaiting deportation. For the first eight months of the year, the average detention for PRC undocumented immigrants lasted 81 days. There were 1,159 non-PRC undocumented aliens (including 504 men and 655 women) awaiting deportation. Their average waiting time was 37.7 days.

In January 2009 a group of more than 100 ethnic Tibetans ended a 24-day sit-in seeking legal status in Taiwan. The Tibetans entered Taiwan at different times since 2002 and overstayed their temporary visas. In January 2009 the LY passed amendments to the Immigration Act allowing Tibetans who overstay their visas to apply for residency certificates, and since then more than 100 ethnic Tibetans have gained legal residency.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In January 2008 the Kuomintang Party (KMT) won a significant majority in the LY following the implementation of a new single-member-district electoral system. Two months later the KMT presidential candidate Ma Ying-jeou won the presidency, marking the second peaceful, democratic transfer of power in Taiwan’s history. Observers regarded the elections as free and fair.

Political parties operated without restriction or outside interference.

There were 33 women in the 113-member LY. Eight of the 48 Executive Yuan (cabinet) members were women. The mayor of Kaohsiung, the island’s second largest city, was a woman. Two of the 15 Constitutional Court justices were women. At least half of the at-large seats won by a political party were required to be filled by women.

Representatives of the indigenous population participated in most levels of the political system. They held six reserved seats in the LY, half of which were elected by plains tribes and half by mountain tribes. Indigenous persons accounted for ap-

proximately 2 percent of the population; their allocation of legislative seats was more than double their proportion of the population.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the authorities generally implemented these laws effectively. There were allegations of official corruption during the year.

In June the Taipei High Court upheld the conviction of former president Chen Shui-bian and his wife Wu Shu-jen for corruption, money laundering, forgery, and embezzlement but reduced the sentences from life to twenty years in prison. Chen remained in custody while he appealed his high court conviction.

Over the past two years, the courts have convicted four KMT legislators and one People First Party legislator of vote buying. On September 8, Taipei courts also convicted two incumbent KMT lawmakers and six former Democratic Progressive Party lawmakers of corruption and sentenced them to jail terms ranging from four to 10 years.

In April 2009 the LY amended the Act for the Punishment of Corruption to allow criminal charges against civil servants who fail to account for the origins of abnormal increases in their assets. All public servants are subject to the Public Servants' Property Declaration Law.

The Ministry of Justice (MOJ) is in charge of combating official corruption.

Police corruption, while limited, was a problem. The NPA did not keep statistics on police corruption cases. In June nine ranking police officers in Taipei City were indicted for taking bribes from organized crime figures. The prosecutors recommended sentences ranging from 11 to 20 years in jail. In August the director of a police station in Hualien County was sentenced to 13 years in jail for taking bribes from an illegal gravel business. Another two police officers involved in the case were sentenced to 31 months and 64 months, respectively.

In September a former police officer in Taipei County was sentenced to 10 and a half years in jail for taking bribes from a human-trafficking ring to extend the residence permits of Vietnamese victims. In October 2009 three police officers in Taipei County were indicted for receiving bribes amounting to NT\$23 million (approximately \$821,400) from brothels. The prosecutor recommended a prison term of 13 years and six months for the main suspect. At year's end the trial was ongoing. From January to November, prosecutors indicted 1,123 persons on various corruption charges, including 68 senior officials (department director level and above) and 33 elected officials.

The Access to Government Information Law stipulates that all such information be made available to the public upon request, except national secrets, professional secrets, personal information, and protected intellectual property. The law provides that registered citizens, companies, and groups can submit information requests and can appeal denied requests. These privileges are extended on a reciprocal basis to citizens of foreign countries.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. The authorities often were cooperative and responsive to their views.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for equality of citizens before the law irrespective of sex, religion, race, class, or party affiliation. It also provides for the rights of persons with disabilities. The authorities enforced these provisions effectively.

*Women.*—Violence against women, including rape and domestic violence, remained a serious problem. Rape, including spousal rape, is a crime. Because victims were socially stigmatized, many did not report the crime, and the MOI estimated that the total number of sexual assaults was 10 times the number reported to the police.

The law provides protection for rape victims. Rape trials are not open to the public, unless the victim consents. The law permits a charge of rape without requiring the victim to press charges.

The law establishes the punishment for rape as not less than five years' imprisonment, and those convicted usually were given prison sentences of five to 10 years. According to the MOI, 6,816 reports of rape or sexual assault were filed through September. As of November 1,815 persons were indicted for sexual assault, and 1,705 persons were convicted. According to the MOJ, the average prosecution rate

for rape and sexual assault over the past five years was approximately 50 percent, and the average conviction rate was about 90 percent.

The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. As of November 91,457 cases of domestic violence had been reported. Also as of November authorities prosecuted 2,894 persons for domestic violence and convicted 2,159. As of November 18,120 protection orders had been issued to female domestic violence victims and 3,033 to male victims. Typically persons convicted in domestic violence cases were sentenced to less than six months in prison. Social pressure not to disgrace their families discouraged abused women from reporting incidents to the police.

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse. These centers provided victims with protection, medical treatment, emergency assistance, shelter, legal counseling, and education and training on a 24-hour basis.

Sexual harassment in the workplace is a crime, punishable by fines of from NT\$100,000 to NT\$1 million (approximately \$3,570 to \$35,710) and imprisonment for up to two years. All public employers and larger private employers are required to enact preventive measures and establish complaint procedures to deter sexual harassment. During the year 19,814 cases were reported through the 113 hotline. Women's groups complained that, despite the law and increased awareness of the issue, judicial authorities remained dismissive of sexual harassment complaints.

Individuals and couples had the right to decide the number, spacing, and timing of their children and had the information and means to do so.

Unmarried persons, however, are prohibited by law from obtaining fertility treatments. Access to contraception and skilled attendance during childbirth and postpartum were widely available. In 2009 the maternal mortality rate per 100,000 live births was reported as 8.4 deaths. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law prohibits discrimination based on gender. The Gender Equality in Employment Act (GEEA) provides for equal treatment with regard to salaries, promotions, and assignments. The GEEA entitles women to request up to two years of unpaid maternity leave and forbids termination because of pregnancy or marriage. Central and local agencies, schools, and other organizations are required to develop enforcement rules and set up gender equality committees to oversee the implementation of the law. One NGO claimed that the authorities were not doing enough to raise public awareness of this issue.

Women's advocates noted that women continued to be promoted less frequently, occupied fewer management positions, and worked for lower pay than did their male counterparts. Women made up 50 percent of the service industry workforce and the total workforce. According to the Council for Labor Affairs (CLA), salaries for women averaged 82 percent of those for men performing comparable jobs.

*Children.*—Citizenship is derived from one's parents or by birth on the island. The authorities were committed to the rights and welfare of children, and the law included provisions to protect them.

Child abuse continued to be a widespread problem. A reliable NGO reported sexual abuse was more prevalent than the public realized, with the estimated number of victims reaching approximately 20,000 annually while only approximately 3,000 were reported. According to the MOI, 22,089 cases, including cases of physical, mental, or sexual abuse or harm due to guardian neglect, were reported during the year. Central and local authorities, as well as private organizations, continued efforts to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

By law persons discovering cases of child abuse or neglect must notify the police or welfare authorities. Child welfare specialists must notify the local authorities within 24 hours, and authorities must take appropriate measures within 24 hours. Regulations encourage officials to respond to investigation requests within four days. The MOI Children's Bureau and NGO specialists monitored cases to ensure that requirements were met. An official hotline accepted complaints of child abuse and offered counseling. Courts are to appoint guardians for children whose parents are deemed unfit.

The minimum age of consent to engage in sexual relations is 18. Persons who engaged in sex with children under age 14 faced sentences of three to 10 years in prison. On September 26, more than 15,000 persons gathered in front of the presidential office to demand a mechanism for eliminating incompetent judges following a series of verdicts that gave lenient sentences to child sex offenders. On September 7, the Supreme Court announced that, effective immediately, offenses involving sexual assault on children under the age of seven would result in a minimum sentence of

seven years in prison. Those who engaged in sex with minors between ages 14 to 16 were sentenced to three to seven years. Solicitors of sex with minors older than 16 but younger than 18 faced up to one year in prison or hard labor, or a fine up to NT\$ three million (approximately \$107,000). According to the MOI Child Welfare Bureau, 418 minors were rescued from prostitution in 2009 and placed in shelters.

The extent to which child prostitution occurred was difficult to measure because of increased use of the Internet and other sophisticated communication technologies to solicit clients. Advertisements related to prostitution were prohibited, and the law was enforced in practice. Under the law citizens arrested abroad for having sex with minors could also be indicted and convicted for patronizing underage prostitutes in foreign countries, although there were no such cases over the past four years. The law also prohibits child pornography, and violators are subject to sentences of up to six months and substantial fines.

As of November, 382 persons were indicted and 320 persons were convicted of violating the Child and Youth Sexual Transaction Prevention Act, which criminalizes child prostitution and the possession and distribution of child pornography. The law requires publication of violators' names in newspapers.

Taiwan is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's report on compliance at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts. The Jewish population numbered approximately 200 persons.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities and sets minimum fines for violations.

The MOI and the CLA are responsible for protecting the rights of persons with disabilities. The law stipulates that the authorities must provide services and programs to members of the population with disabilities. Free universal medical care was provided to persons with disabilities. NGOs continued to assert that more public nursing homes were needed and that current programs, such as home care services, needed to be expanded to meet the growing needs of those with disabilities, including the growing number of elderly persons.

From July 2009 a public agency with 34 or more employees must hire at least 3 percent of its workforce from among those with physical or mental disabilities. Private sector enterprises that have a work force of 67 or more are required to have at least 1 percent of the payroll filled by employees with disabilities. The new employment regulations were expected to provide approximately 4,400 job opportunities for persons with disabilities. The authorities provided subsidies ranging from NT\$3,000 to 7,000 (approximately \$107 to \$250) to persons with disabilities. As of September, subsidies amounting to NT\$12.1 billion (\$432 million) had been allocated. In 2009 a total of NT\$15.65 billion (\$559 million) was distributed.

By law new public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and this requirement was generally met. Violations resulted in fines ranging from NT\$60,000 to NT\$300,000 (approximately \$2,140 to \$10,700).

*National/Racial/Ethnic Minorities.*—As of November, 8 percent of all marriages included a foreign-born spouse, primarily from China, Vietnam, Indonesia, or Thailand, and an estimated 8.9 percent of all births were to foreign-born mothers.

Foreign spouses were targets of discrimination both inside and outside the home.

In 2009 the Control Yuan held that the right to family unification was a protected constitutional right and that, therefore, consideration of spousal visas should be handled in accordance with due process principles.

The authorities offered free Chinese-language and child-raising classes and counseling services at community outreach centers to assist foreign-born spouses' integration into society. The Legal Aid Foundation provided legal services to foreign spouses and operated a hotline to receive complaints. The MOI also operated its own hotline with staff conversant in Vietnamese, Cambodian, Thai, Indonesian, English, and Chinese.

Following amendments to the law, PRC-born spouses must wait six rather than eight years to apply for Taiwan residency, whereas non-PRC spouses may apply after only three years. The amended law also stipulates that PRC foreign spouses are also permitted to work on Taiwan immediately on arrival. In addition the authorities canceled the quota for visas for PRC spouses in August 2009.

*Indigenous People.*—There are 14 identified non-Chinese groups of indigenous people, accounting for approximately 2 percent of the population. The law protects the

civil and political rights of these indigenous persons. The Indigenous Peoples Basic Act stipulates that the authorities should provide resources to help indigenous individuals develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their language and culture. Critics complained that the authorities did not do enough to preserve aboriginal culture and language.

In September activists claiming to represent the Pingpu, an indigenous population of approximately one-half million, filed a petition with the Presidential Office and the Council of Indigenous Peoples asking for official recognition. The application was rejected. The Pingpu activists claimed that without official recognition, they would eventually become culturally extinct.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws prohibiting homosexual activities. According to homosexual rights activists, violence against lesbian, gay, bisexual, and transgender (LGBT) persons was rare, but societal discrimination against LGBT persons with HIV and AIDS was a problem.

LGBT rights activists said instances of police pressure to LGBT-friendly bars and bookstores decreased. However, in February the Taipei City Education Bureau issued an official letter to schools warning of homosexual influence on students. Following mounting pressure from LGBT rights advocates, in September the Education Bureau asked that school officials disregard the letter.

The eighth annual gay pride march was held on October 30.

LGBT rights activists alleged the restrictions on doctors providing fertility treatments to unmarried persons unfairly discriminated against LGBT persons, who are not permitted to marry.

Employers convicted of discriminating against jobseekers on the basis of sexual orientation face fines of up to NT\$1.5 million (approximately \$53,570).

*Other Societal Violence or Discrimination.*—There was reported discrimination, including employment discrimination, directed against persons with HIV/AIDS. An amendment of the AIDS Prevention and Control Act allows foreign spouses infected with HIV to remain on Taiwan, if they can show they were infected by their spouse or by medical treatment received while on Taiwan. The amended law, renamed the HIV Prevention and Patients' Rights Protection Act, also stipulates that HIV-infected citizens cannot be denied access to education, medical services, housing, or other necessities.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The right to unionize is protected by the constitution but is highly regulated under the Labor Union Law (LUL) and other laws.

Some public employees have limited rights to form unions. Teachers and civil servants were allowed to form professional associations to negotiate with the authorities but were not allowed to strike. These restrictions led to a long-running dispute between the authorities and groups representing teachers and civil servants.

Foreign workers are not allowed to form their own unions. In June the LY amended the LUL to allow foreign workers to assume union leadership positions.

A number of laws and regulations limit the right of association. While labor unions may draw up their own rules and constitutions, they must submit them to county and city authorities as well as to the CLA for review. Labor unions may be rejected or dissolved, if they do not meet CLA certification requirements or if their activities disturb public order.

At the end of September, approximately 29 percent of the 11.1 million-person labor force belonged to one of the 4,842 registered labor unions. Many of them were also members of one of 10 island-wide labor federations.

The right to strike is provided by law, and workers exercised this right in practice.

However, legal constraints make it difficult to strike, undermining the usefulness of collective bargaining. Workers may strike over issues of compensation and working schedules but not living or working conditions. The law requires mediation of labor disputes when the authorities deem them to be sufficiently serious or to involve unfair practices. The law also prohibits labor and management from disturbing the "working order" while mediation or arbitration is in progress. Teachers and defense industry employees, however, are not afforded the right to strike. Critics contended the law had a chilling effect on the right to strike, because it restricted workers' ability to take action in a dispute. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. In June the LY amended the LUL and reduced punishments for unions that violate regulations.

*b. The Right to Organize and Bargain Collectively.*—The law gives workers the right to organize, bargain, and act collectively, although some positions are not afforded this right.

At the end of September, there were 39 collective bargaining agreements in force. However, they covered only a small proportion of the labor force, mainly in large companies; 95 percent of industrial labor unions had no collective agreements. No special labor laws or labor law exemptions apply to the export processing zones in Kaohsiung and Taichung.

The LUL prohibits discrimination, dismissal, or other unfair treatment of workers because of union-related activities. Labor unions charged, however, that during employee cutbacks, labor union leaders were sometimes laid off first or dismissed without reasonable cause. For example, in March labor union leaders of a touch panel manufacturing company alleged that lay-offs management said were necessary due to shrinking revenue and outsourcing were, in fact, an effort to get rid of union leaders. In addition the Teachers' Association of Taipei County claimed in August that Taipei County authorities had requested all schools to cancel leave for teachers' association-related activities. Although workers did not pursue mediation in either case, labor activists maintained that the labor environment remained unfriendly to any organization activities. The Taiwan Confederation of Trade Unions and the Taiwan Labor Front contended there was no specific penalty for the improper dismissal of a labor union leader.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor. However, there were reports that such practices occurred. There was evidence of trafficking in persons into forced labor in such sectors as household caregivers, farming, fishing, manufacturing, and construction (see section 7.e.).

The antitrafficking law criminalizes forced labor, and public awareness campaigns included worker education pamphlets, foreign worker hotlines, and Ministry of Education programs on trafficking as part of the broader human rights curriculum.

See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Labor Standards Law (LSL) stipulates age 15, when compulsory education ends, as the minimum age for employment. County and city labor bureaus effectively enforced minimum-age laws.

*e. Acceptable Conditions of Work.*—The LSL provides standards for working conditions and health and safety precautions. At the end of September, the LSL covered an estimated 6.6 million of the 8.1 million salaried workers. Those not covered included health-care workers, gardeners, bodyguards, teachers, doctors, lawyers, civil servants, and domestic workers.

Foreign household caregivers and domestic workers are covered instead by the Employment Services Act, which does not provide for a minimum wage or overtime pay, set limits on the workday or workweek, or provide for minimum breaks or vacation time. At the end of December, 184,000 of the 377,000 foreign household caregivers and domestic workers had applied for coverage under the Employment Services Act. In September migrant workers' rights advocates protested the failure of authorities to submit a Household Services Act, which would provide those basic labor protections for all household caregivers and domestic workers, to the legislature for consideration.

An increase in the minimum wage to NT\$17,880 per month (\$638) or NT\$98 per hour (\$3.50) was scheduled to take effect in January 2011. While sufficient in less expensive areas, the minimum wage did not provide a decent standard of living for a single-income family in urban areas such as Taipei. Labor rights activists reported that any benefit to foreign workers from previous increases to the monthly minimum wage failed to cover the increase in the maximum NT\$5,000 (\$178) monthly deduction the CLA allowed employers to collect. The average manufacturing wage was more than double the legal minimum wage, and the average wage for service industry employees was even higher. Nevertheless, the real monthly average wage decreased from NT\$44,424 (\$1,580) in 2008 to NT\$42,176 (\$1,506) in 2009 due to the influence of the global financial crisis. Many workers either lost their jobs or took unpaid leave in 2009. As a result, unemployment increased from 1.8 percent to 5.9 percent in 2009, but decreased to 5.2 percent during the year. The number of labor disputes in 2009 numbered 30,385 cases in 2009, a 24 percent increase from 2008. Of these, 29,128 cases were related to wage and severance pay disputes. As the economy and employment recovered, there were 18,118 labor disputes in the first nine months of the year, a 24.2 percent decrease from the same period in 2009.

To assist jobless workers, the authorities provided unemployment relief payments for nine months and offered short-term job programs.

Legal working hours were 336 hours per eight-week period (for an average of 42 hours per workweek). A five-day workweek has been mandated for the public sector, and according to a CLA survey, more than half of private sector enterprises also had a five-day workweek.

The law provides standards for working conditions and health and safety precautions and gives workers the right to remove themselves from dangerous work situations without jeopardy to their continued employment. There was widespread criticism, however, that the CLA did not effectively enforce workplace laws and regulations. During the year the CLA's 307 inspectors conducted 89,339 inspections, a decrease of 1.1 percent from 2009. Those 307 inspectors were responsible for inspecting approximately 310,000 enterprises covered by the Occupational Safety and Health Law. Labor NGOs and academics argued that the labor inspection rate was far too low to serve as an effective deterrent against labor violations and unsafe working conditions, especially for labor working in small and medium factories.

Regulations require intensified inspection and oversight of foreign labor brokerage companies. NGOs reported that some labor brokers and employers regularly collected high fees or loan payments from foreign workers, using debts incurred in the source country as a tool for involuntary servitude. During the year there were 379,653 documented migrant workers in Taiwan—among them, 135,019 from Indonesia, 64,516 from Thailand, and 54,218 from Vietnam. The CLA estimated there were 33,000 undocumented workers. NGOs asserted that foreign workers were unwilling to report employer abuses for fear the employer would terminate the contract and forcibly deport them, leaving them unable to pay back debt accrued to brokers or others.

An employer may deduct only labor insurance fees, health insurance premiums, income taxes, and meal and lodging fees from the wages of a foreign worker. Violators face fines of NT\$60,000 to 300,000 (approximately \$2,140 to 10,710) and loss of hiring privileges. Critics, however, complained that violations continued and that the CLA did not effectively enforce statutes and regulations intended to protect foreign laborers from unscrupulous brokers and employers.

The CLA operated a Foreign Worker Direct-Hire Service Center that allowed local employers to rehire their foreign employees, especially caregivers, without a broker. NGOs, however, argued that complicated procedures and restrictions on eligibility to use the service prevented widespread implementation and advocated lifting restrictions on transfers between employers.

The service center also permitted the direct rehiring of foreign workers engaged in manufacturing, fisheries, construction, and other industries. NGOs and academics urged the CLA to provide basic labor protections such as minimum wage, overtime, and a mandatory day off for household caregivers and domestic workers.

The National Immigration Agency is responsible for all immigration-related policies and procedures for foreign workers, foreign spouses, immigrant services, and repatriation of undocumented immigrants. The CLA is responsible for work permits and services related to occupation. The CLA also provides mediation services and may permit the transfer of employees in situations where the employee has suffered exploitation or abuse.

Except for victims of trafficking in persons or employer abuse, foreign workers deemed to have worked illegally faced heavy fines, mandatory repatriation, and a permanent ban on reentering Taiwan.

---

## THAILAND

Thailand is a constitutional monarchy with a population of more than 67 million. The king is revered and in the past exerted strong informal influence. A coalition government led by Abhisit Vejjajiva, of the Democratic Party, has been in power since 2008. The most recent national elections for the lower house of parliament, held in 2007, were generally viewed as free and fair, but there were widespread allegations of vote buying. Antigovernment protests that resulted in significant political unrest from March to May in Bangkok and various northeastern provinces, along with continuing internal conflict in the southernmost provinces, led the Government to restrict some rights and delegate certain internal security powers to the armed forces. Security forces reported to civilian authorities.

Security forces continued at times to use excessive force against criminal suspects, and there were reports that police tortured, beat, and otherwise abused suspects, detainees, and prisoners, many of whom were held in overcrowded and unsanitary conditions. There were occasional dismissals, arrests, prosecutions, and convictions of security forces in response to this behavior; however, official impunity continued

to be a serious problem. A separatist insurgency in the South resulted in numerous human rights abuses, including killings, committed by government security forces, ethnic Malay Muslim insurgents, and local defense volunteers. The Government maintained some limits on freedom of speech, the press, and assembly. Human rights workers, particularly those focusing on violence in the South, reported harassment and intimidation. Police corruption was widespread. Trafficking in persons remained a concern. Members of hill tribes without proper documentation continued to face restrictions on their movement, could not own land, and often were the targets of labor violations. Government enforcement of labor laws was inconsistent.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports that the Government or its agents committed any politically motivated killings; however, at year's end government and independent fact-finding commissions were investigating April and May clashes between security forces and antigovernment protesters in Bangkok and the Northeast that resulted in the deaths of 79 civilians, 11 security force members, and two foreign journalists. Public attention focused in particular on the May 19 deaths of six protesters and volunteer medical personnel in Wat Pathum and the vicinity. Additionally, security forces occasionally used excessive and at times lethal force against criminal suspects and committed or were connected to extrajudicial, arbitrary, and unlawful killings. There were reports of killing, torture, and unlawful detention during the year in connection with the conflict in the southernmost provinces (see section 1.g.).

According to the Ministry of Interior's (MOI) Investigation and Legal Affairs Bureau, from October 1, 2009, to September 30, 819 persons died in official custody. Authorities attributed most of the deaths to natural causes while in prison. Police killed 145 suspects during the arrest process.

Between March and May, antigovernment protesters affiliated with the United Front for Democracy Against Dictatorship (UDD, or red shirts) established two separate protest sites, including the commercial center of Bangkok, while calling for the dissolution of parliament. Ensuing clashes with government security forces left 92 persons dead. However, it remained unclear how many were killed by security forces, by armed factions associated with the protest, or by accident.

On May 30, Sulaiman Naesa died at the Inkhayuthboriharn Army Camp after apparently using a towel to hang himself. Sulaiman's relatives and local human rights groups reported what they considered to be signs of torture on his body, including a wound on the left side of his neck and another wound on his back that appeared to be from a sharp object. The National Human Rights Commission (NHRC) was examining the case at year's end.

On June 26, police shot and killed Manit Toommuang, suspected of drug trafficking and murder, while in police custody. Shortly before being shot, Manit was photographed sitting on a couch in his apartment with his hands handcuffed behind his back. According to police accounts, Manit took a gun from one of the officers and fired once, causing the police to use deadly force in self-defense. The case remained under investigation at year's end.

On August 11, Makhoseng Pohtae, a suspected militant, died in custody due to injuries reportedly received after being tortured by Yala police in the initial months following his arrest in March 2009. An internal investigation by the Southern Border Provinces Police Command found the abusing officers guilty of misconduct. At year's end the National Counter-Corruption Commission (NCCC) was investigating the case.

On September 2, a Narathiwat court acquitted a police superintendent of all charges related to his involvement in the case of Imam Yapa Koseng, who died while in army custody in 2008. In addition the court rejected the case against five Royal Thai Army (RTA) soldiers from Task Force 39 for their involvement in Yapa's death, stating that the criminal proceedings should be filed with a military court. Two lawsuits remained pending: the potential criminal proceeding against the five military suspects, under consideration by the NCCC since 2008; and the civil lawsuit filed by Yapa's family in March 2009 against the Ministry of Defense, RTA, and Royal Thai Police (RTP), which was suspended pending the resolution of a jurisdictional problem.

A criminal trial continued against three officers in Kalasin Province suspected of involvement in the 2004 killing of Kiattisak Thitboonkhong and the subsequent cover-up. This was one of 10 cases accepted in 2009 by the Department of Special Investigation's (DSI) Special Case Center for investigation related to the 2003 "War on Drugs" campaign, although the killings occurred after 2003. The DSI forwarded

eight of the cases to the Office of the Attorney General (OAG) and one to the NCCC. The remaining cases were pending.

According to the Thailand Mine Action Center, during the year there was one death and 23 injuries due to land mines, occurring in Buriram, Chanthaburi, Sakaew, Sisaket, Ubon Ratchatani, Tak, and Trat provinces. The Government continued public awareness campaigns, including sending landmine awareness teams to the affected villages and landmine education teams to local schools to inform students of the risk associated with land mines and instruction on how to avoid injuries.

There were at least eight violent incidents between Thai border rangers and Cambodian illegal loggers during the year. For example, on January 10, border rangers shot at a group of Cambodians illegally logging on the Thai side of the border in Sisaket Province. Two Cambodians reportedly were killed during the incident. On March 8, border rangers allegedly shot and killed one individual among a group of Cambodian illegal loggers in Surin Province. On November 6, Thai border rangers allegedly shot and killed two armed Cambodian loggers in Sisaket Province.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances; however, nongovernmental organizations (NGOs) reported that several persons remained missing following the dispersal of antigovernment protesters in May. According to the Mirror Foundation, the whereabouts of 17 protesters remained unknown at year's end; there also were multiple media reports of numerous protesters having fled to Cambodia. There were no confirmed reports that individuals disappeared after being questioned by security officials in the southern provinces.

The Working Group on Justice for Peace reported that Doromae Jehlae disappeared on his way to work on March 17 in Pattani Province. His relatives stated that he had been questioned by soldiers in the days prior to his disappearance.

There were no developments in the case of Abduloh Abukaree, who disappeared in December 2009 after failing to return to his home in Narathiwat Province. He was a key witness in a DSI case against high-ranking police officials connected to the disappearance of prominent Muslim attorney and human rights activist Somchai Neelaphajit. There were no developments in the 2008 case of Kamol Laosophaphant, a businessman in Khon Kaen Province who disappeared after going to a police station to lodge criminal complaints against local officials concerning state railway land deals. At year's end the case regarding the disappearance of Somchai Neelaphajit remained before the NCCC, and the appeals court continued to examine the possibility of future prosecutions. Somchai disappeared in 2004 after providing legal representation to criminal suspects who had allegedly been tortured by high-ranking police officials.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution specifically prohibits such practices, but there is no law that specifically prohibits torture, and it is not punishable as an offense under criminal law. Additionally, section 17 of the Emergency Decree effectively provides immunity from prosecution to security officials for actions committed during the performance of their duties. NGOs and legal entities continued to report that members of the police and military occasionally tortured and beat suspects to obtain confessions. There were newspaper reports of numerous cases in which citizens accused police and other security officials of using brutality. By year's end there had been one prosecution, although no conviction, of a military official for alleged torture; there also were criminal actions being pursued against RTP officers.

The NHRC, in a report dated September 15, found that torture took place widely and systematically in the deep South. The study, which examined 35 alleged torture cases since 2006, found that beating and intimidation tactics were widely used by state officials. Torture tactics included covering the victims' heads with plastic so they were unable to breathe, applying lit cigarettes to body parts, beating victims with a wooden stick covered by a sponge, and using electric shocks. According to the report, most of the abusers were members of the armed forces or police who arrested and detained suspects under special laws including martial law, the Internal Security Act, and the Emergency Decree.

In May 2009 an army unit stopped Adil Samae and Masaofi Khawaenbgbu for questioning in Yala Province. One of the soldiers began beating the pair before the two escaped. They reported the incident to the police two days later, and on January 26, the case was brought before the Pattani Military Court. On April 26, the court found the soldier guilty of abuse, sentenced him to six months in prison, and fined him 2,000 baht (\$62.50). The prison sentence was later reduced to two years' probation. Following the military court verdict, on May 10, Adil and Masaofi filed a civil

lawsuit at the Songkhla Administrative Court against the Ministry of Defense and the Royal Thai Army. At year's end the court was examining the case.

There were no developments in the case of university students Ismael Tae and Amisi Manak, allegedly tortured by security personnel from Yala and Pattani provinces in 2008.

There were no developments in the case of Rayu Korkor, arrested in 2008 with Imam Yapa Koseng and four other men. Rayu alleged that he witnessed Yapa's death at the hands of security officials (see section 1.a.) and that he was tortured. The RTP forwarded the case to the NCCC, and Rayu's relatives also filed a civil lawsuit against the RTA that remained pending at year's end.

*Prison and Detention Center Conditions.*—Prison conditions were poor. Most prisons and detention centers were overcrowded. There were approximately 172,000 prisoners in prisons and detention facilities designed to hold 150,000. Sleeping accommodations were insufficient, medical care was inadequate, and communicable diseases were widespread in some prisons. Seriously ill prisoners at times were transferred to provincial or state hospitals.

Prison authorities sometimes used solitary confinement of not more than one month, as permitted by law, to punish male prisoners who consistently violated prison rules or regulations; the Department of Corrections maintained that the average confinement was approximately seven days. Authorities also used heavy leg irons to control prisoners who were deemed escape risks or harmful to other prisoners.

Approximately 13 percent of the prison population consisted of pretrial detainees, who were not segregated from the general prison population. Men, women, and children often were held together in police station cells pending indictment. Separate detention facilities for juvenile offenders were available in all provinces.

Prisoners and detainees had access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees or their representatives to submit complaints without censorship to ombudsmen but not directly to judicial authorities. The Ministry of Justice (MOJ), through its Department of Corrections, was responsible for investigating and monitoring prison and detention facility conditions, but authorities rarely investigated complaints and did not make public the results of such investigations.

Conditions in immigration detention centers (IDCs) remained poor. The Immigration Police Bureau, reporting to the Office of the Prime Minister, administered the IDCs, which were not subject to many of the regulations that govern the regular prison system. Overcrowding and a lack of basic medical care continued to be serious problems. Juveniles above the age of 14 were detained with adults in IDCs. There also were complaints of inadequate and culturally inappropriate food, especially by Muslim detainees. There were reports that detainees, including children, were not permitted sufficient exercise at some facilities. Unlike in previous years, there were no reports that guards physically abused detainees in IDCs administered by the Immigration Police Bureau.

The Government permitted visits to prisons and IDCs by independent human rights observers. Additionally, the Government allowed human rights observers to make a single controlled visit to the Inkayuth military camp in Pattani Province, the first visit of its kind in the southernmost provinces. Representatives of the International Committee of the Red Cross (ICRC) were allowed to meet prisoners without third parties present and made repeated visits. By the end of 2009, the ICRC had also received access to all police facilities in the southernmost provinces; however, at year's end the military had not approved ICRC requests to visit prisoners detained in military detention facilities in the four southernmost provinces, where detainees allegedly were mistreated. Additionally, the ICRC was unable to visit persons affiliated with the March-May antigovernment protests who were arrested and detained in military camps for violating provisions of the Emergency Decree. Representatives of the Office of the UN High Commissioner for Refugees (UNHCR) had access to some detainees at the Suvarnabhumi Airport IDC in Bangkok; however, the access varied on a case-by-case basis. UNHCR officials were able to interview detainees in Suan Phlu IDC, and access continued for third countries to process recognized refugees for resettlement.

Ombudsmen have the power to consider and investigate complaints lodged by any aggrieved citizen. Following an investigation, ombudsmen can refer a case to a court for further review or provide recommendations for further action to the appropriate agency, but they do not have the power to force agencies to comply with their recommendations. They can investigate complaints and petitions received from prisoners and provide recommendations to the Department of Corrections; however, they are not empowered to act on a prisoner's behalf, nor do they involve themselves in a case unless an official complaint is received.

*d. Arbitrary Arrest or Detention.*—The constitution specifically prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. The Emergency Decree, which gives the Government the authority to detain persons without charge for up to 30 days in unofficial places of detention, was used during parts of the year in as many as 27 of the country's 76 provinces. This action was in addition to martial law, which existed in 31 border-region provinces and allows for detention without charge for a maximum of seven days. The Emergency Decree was lifted in Bangkok and three adjoining provinces on December 22, leaving only three southern provinces under the decree at year's end.

Emergency Decree provisions make it very difficult to challenge a detention before a court. According to the law, under the decree detainees should have legal access to counsel; however, in practice there was no assurance of prompt access to legal counsel or family members, nor were there transparent safeguards against the mistreatment of detainees. Additionally, the decree effectively provides broad-based immunity from criminal, civil, and disciplinary liability for officials acting under its provisions.

According to the NHRC subcommittee on civil and political rights, 422 persons were detained for violating the Emergency Decree for actions connected to violent red-shirt antigovernment protests in April and May, some of whom were believed to have been bystanders not participating in the protests or violence. Human rights groups reported that a number of those arrested and detained for six months or longer without having the opportunity in court to answer for their charges committed relatively minor offenses such as violating curfew, participating in the protests, or burning tires. At year's end 158 of the 422 remained in detention.

*Role of the Police and Security Apparatus.*—The RTP has the authority to minimize threats to internal security and suppress criminal activity. It is under the direct supervision of the prime minister and a 20-member police commission. The police commissioner general is appointed by the prime minister and subject to cabinet and royal approval. The Border Patrol Police has special authority and responsibility in border areas to combat insurgent or separatist movements.

The 2008 implementation of the Internal Security Act (ISA) created the Internal Security Operations Command (ISOC) as a state agency under the command of the prime minister, who acts as the ISOC director. It is considered an interagency monitoring body, with both civilian and military representation. The act also includes broad powers for the military. During the year the Government invoked the ISA five times in Bangkok to allow security forces to deal with antigovernment protests. The Emergency Decree, which was in effect across large sections of the country during part of the year, including in Bangkok between April and December, provides the Government greater powers than the ISA and therefore takes precedence. At year's end Bangkok remained covered by the ISA, which replaced the decree on December 22. The ISA also was in effect in four districts of Songkhla Province throughout the year. Human rights organizations and academics criticized the Government for repeatedly utilizing the ISA, with cabinet approval, to respond to alleged threats to national security by restricting fundamental rights.

There were reports that police abused prisoners and detainees, generally with impunity. Complaints of police abuse can be filed directly with the superior of the accused police officer, the Office of the Inspector General, or the police commissioner general. The NHRC, Lawyers' Council of Thailand (LCT), NCCC, Court of Justice, MOJ, and Office of the Prime Minister also accept complaints of police abuse and corruption, as does the Office of the Ombudsman. The NHRC received 78 complaints of police abuse during the year.

When the police department receives a complaint, an internal investigation committee first takes up the matter and may temporarily suspend the officer involved in the complaint during the investigation. Various administrative penalties exist, and serious cases can be referred to a criminal court.

The joint NCCC-OAG committee investigation into the April 2009 attempted killing of People's Alliance for Democracy leader Sondhi Limthongkul continued. At year's end the police officer and two soldiers for whom arrest warrants were issued in July 2009 remained free.

Procedures for investigating suspicious deaths, including deaths occurring in police custody, require that a prosecutor, forensic pathologist, and local administrator participate in the investigation and that, in most cases, family members have legal representation at the inquests. However, these procedures often were not followed. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrests.

The Ministry of Defense requires that service members receive human rights training both as a part of routine training and prior to deployments. This training takes place under the mandate of a 1992 cabinet resolution in response to the polit-

ical violence in May of that year. The routine training occurs at various levels, including for officers, noncommissioned officers, enlisted personnel, and recruits. Additionally, military service members deploying in support of counterinsurgency operations in the South also received specific human rights training, including training for detailed, situation-specific contingencies.

*Arrest Procedures and Treatment While in Detention.*—With few exceptions, the law requires police to obtain a warrant from a judge prior to making an arrest. In practice the system for issuing arrest warrants was subject to misuse by police officers and a tendency by the courts automatically to approve all requests for warrants. By law persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. The law provides for access to counsel for criminal detainees; however, lawyers and human rights groups claimed that police often conducted interrogations without providing access to an attorney. Lawyers working in the southern provinces reported that under the Emergency Decree they were denied adequate access to detained clients, and some individuals in those southern provinces reported they were denied permission to visit detained family members. Foreign detainees sometimes were pressured to sign confessions without the benefit of a competent translator. The MOJ and OAG sought to provide an attorney to indigent detainees at public expense.

Under normal conditions the law allows police to detain criminal suspects for 48 hours after arrest for investigation. Court permission is required to extend detentions for additional periods (up to a maximum of 84 days for the most serious offenses) to conduct investigations. Lawyers reported that police rarely brought cases to court within the 48-hour period. Laws and regulations place offenses for which the maximum penalty is less than three years under the jurisdiction of the district courts, which have different procedures. In these cases police are required to submit cases to public prosecutors within 72 hours of arrest. According to the LCT, pretrial detention of criminal suspects for up to 60 days was not uncommon.

The law provides defendants the right to request bail, and the Government generally respected this right. However, some human rights groups reported that police frequently either did not inform detained suspects of their right to request bail or refused to recommend bail after a request was submitted.

Under martial law the military has the authority to detain persons without charge for a maximum of seven days, and under the Emergency Decree a person may be detained for up to 30 days without charge.

On May 24, Suthachai Yimprasert, assistant professor of history at Chulalongkorn University, was arrested for violating the Emergency Decree by distributing leaflets critical of the Government's treatment of the red-shirt protesters. He was detained without charge at a military camp in Saraburi Province before being released on June 5.

On June 27, Sombat Boonngammanong was arrested under a provision of the Emergency Decree prohibiting the gathering of more than five persons after he held a small demonstration in Bangkok, during which he tied red ribbons to a signpost while others with him held up photographs of violent actions allegedly related to the military dispersal of red-shirt protesters on May 19. He was held in detention without charge at a Border Patrol Police command office in Pathumthani Province before being released on July 9.

On October 5, police in Ayutthaya Province arrested Amornwan Charoenkij for selling flip-flop shoes printed with the faces of the prime minister and deputy prime minister, along with a statement that read, "People died at Ratchaprasong." She was arrested for violating provisions of the Emergency Decree, despite the fact that the decree had been lifted in Ayutthaya in July. Amornwan was released on bail, and her case was pending at year's end.

*Amnesty.*—The king issued a royal amnesty proclamation in honor of his 60th wedding anniversary on April 28. By year's end approximately 10,000 prisoners had been pardoned and released as part of this amnesty.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary. Although the judiciary generally was regarded as independent, it was subject to corruption and outside influences. According to human rights groups, the lack of progress in several high-profile cases involving alleged abuse by the police and military diminished the public's trust in the justice system and discouraged some victims of human rights abuses (or their families) from seeking justice.

*Trial Procedures.*—The law provides for the presumption of innocence. There is no trial by jury. A single judge decides trials for misdemeanors; two or more judges are required for more serious cases. The constitution provides for a prompt trial, although a large backlog of cases remained in the court system. While most trials are

public, the court may order a closed trial, particularly in cases involving national security, the royal family, children, or sexual abuse.

In ordinary criminal courts, defendants enjoy a broad range of legal rights, including access to a lawyer of their choosing; however, indigent defendants are not automatically provided with counsel at public expense. The LCT budget was reduced by more than 15 percent from 2009. The legal aid provided was often done on an intermittent, voluntary, public-service basis and was of low standard. Some NGOs reported that legal aid lawyers pressured their clients into paying additional fees directly to them. The court is required to appoint an attorney in cases where the defendant disputes the charges, is indigent, or is a minor, as well as in cases where the possible punishment is more than five years' imprisonment or death. Most free legal aid came from private groups, including the LCT and the Thai Women Lawyers Association. There is no discovery process; consequently, lawyers and defendants do not have access to evidence prior to the trial. The law provides for access to courts or administrative bodies to appeal or seek redress, and the Government generally respected this right.

Several NGOs expressed concern over the lack of adequate protection for witnesses, particularly in cases involving alleged police wrongdoing. The MOJ's Office of Witness Protection had limited resources and primarily played a coordinating role. In most cases witness protection was provided by the police, but six other state agencies participated in the program. Witnesses, lawyers, and activists involved in cases of alleged police abuse reported that protection was inadequate and that they were intimidated by the police sent to provide protection.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. The law provides for access to courts and administrative bodies to bring lawsuits seeking damages for, or cessation of, a human rights violation, and the Government generally respected this right. However, sections 16 and 17 of the Emergency Decree, which was in force in as many as 27 provinces, expressly excludes scrutiny by the Administrative Court or civil or criminal proceedings against government officials, although victims may seek compensation from a government agency instead.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution specifically prohibits such actions, and the Government generally respected these prohibitions in practice. However, the use of martial law and the Emergency Decree gives government security forces the authority to conduct searches without a warrant, and this authority was used on many occasions. There were numerous complaints from persons claiming that security forces abused this authority, but the decree provides security forces broad immunity from prosecution.

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

*g. Use of Excessive Force and Other Abuses in Internal Conflict.*—The internal conflict in the ethnic Malay, Muslim-majority, southernmost provinces (Narathiwat, Pattani, Yala, and portions of Songkhla) continued throughout the year. Insurgents carried out almost daily bombings and attacks that caused deaths and injuries. The Emergency Decree in effect in this area gives military, police, and civilian authorities significant powers to restrict certain basic rights and delegates certain internal security powers to the armed forces. The decree also provides security forces broad immunity from prosecution. The martial law imposed in 2006 remained in effect in Narathiwat, Pattani, and Yala, giving a wide range of powers to security forces.

*Killings.*—Human rights groups accused government forces of extrajudicial killings, arbitrary arrests, and torture of individuals suspected of involvement with separatists. As a result of attacks by suspected insurgents, tension between the local ethnic Malay Muslim and ethnic Thai Buddhist communities remained high, alongside a distrust of security officials.

On March 14, insurgents killed police Colonel Sompian Eksomya, police commander in Bannang Sata, Yala, in an ambush. The insurgents first disabled Sompian's vehicle with a bomb and then fired at the vehicle, killing the colonel and his driver and injuring two other police officers.

On June 6, Doro-mae Da-che, also known as Ustaz Mae, was shot and killed in Bannang Sata. The media and NGOs speculated that the act was in retaliation for the killing of Colonel Sompian.

There was no progress in the case of Laila Paaitae Daoh, a prominent human rights activist in Yala killed by suspected insurgents in March 2009.

On September 2, police dropped charges against former paramilitary ranger Sutthirak Kongsuwan, stating there was insufficient evidence to continue.

Sutthirak, wanted on a warrant for the June 2009 attack at the Al Furqon mosque in Narathiwat, turned himself in to authorities on January 14. There was no progress in the case related to the alleged getaway driver.

There were no developments in June 2009 shooting of two Buddhist monks in Yala; one monk was killed and the other seriously wounded.

According to statistics from DeepSouthWatch, between January and October separatist violence resulted in 831 individuals killed and injured in 1,183 incidents. As in previous years, separatists frequently targeted government representatives, including district and municipal officials, as well as Buddhist and Muslim civilians.

Some government-backed civilian defense volunteers, most of them ethnic Thai Buddhists from villages in the South, continued to receive basic training and weapons from security forces. Human rights organizations expressed concerns about vigilantism against ethnic Malay Muslims by these defense volunteers and other civilians.

*Physical Abuse, Punishment, and Torture.*—The Government continued to arrest suspected militants, some of them juveniles, and in some cases held them for a month or more under provisions of the Emergency Decree and martial law. Human rights organizations considered the arrests arbitrary, excessive, and needlessly lengthy, and they expressed concerns about detention facility overcrowding. Civil society groups accused the army of torturing some suspected militants at detention facilities.

The three southernmost provinces are covered by two security laws. Martial law allows for detention without charge up to seven days without court or government agency approval in Pattani, Narathiwat, and Yala. The Emergency Decree, in effect in the same areas, allows authorities to arrest and detain suspects for up to 30 days without charge. After the expiration of this period, authorities can begin holding suspects under normal criminal law. Unlike under martial law, these detentions require the consent of a court of law, although human rights NGOs complained that courts did not always exercise their right to review these detentions. In some cases a suspect was held first under martial law for seven days and then detained for an additional 30 days under the Emergency Decree. In December 2009 the ISA was imposed in lieu of martial law and the Emergency Decree in the four districts of Songkhla. The Southern Border Province Police Command stated that 447 persons were arrested in 2009 under the Emergency Decree, with 12 killed during arrest or in related skirmishes. It was unclear whether any persons were detained under martial law alone.

*Child Soldiers.*—There were no reports of persons under the age of 18 conscripted or recruited into governmental armed forces. There were reports that separatist groups recruited teenagers under the age of 18 to carry out attacks. Human rights organizations alleged that separatists used private Islamic schools to indoctrinate ethnic Muslim Malay children with a separatist agenda.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Other Conflict-Related Abuses.*—Human rights organizations alleged that the military mailed official letters to village headmen or local district officers in the four southernmost provinces, inviting them to nominate a specific number of "voluntary villagers" to attend a workshop. Credible sources indicated that villagers who attended these training sessions were subject to interrogations and collection of biological data (fingerprints, DNA samples, and photographs).

The Ministry of Education reported that since 2004 insurgents had burned more than 330 schools in the South, 40 of them more than once. During the year insurgents burned six schools in Yala and Pattani; at least three had been burned previously. The Government periodically closed schools throughout the region in response to attacks against teachers, students, educational facilities, and parents. The Government frequently armed ethnic Thai Buddhist and ethnic Malay Muslim civilians, fortified schools and temples, and provided military escorts to monks and teachers. According to the ministry, 173 teachers, students, and education staff had been killed and 284 others injured due to separatist violence since 2004. During the year 10 students were injured and two were killed; six school personnel were injured and 12 were killed.

Separatist violence included attacks on medical facilities. According to the Ministry of Public Health, 81 public health volunteers had been killed, 50 health volunteers injured, and 25 community health centers burned or bombed in the South since 2004.

While official government statistics were not available, there were reports that more than 30 percent of ethnic Thai Buddhists had fled violence-affected areas to other provinces.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law specifically provide for freedom of speech and of the press with some exceptions, although the Government limited these rights during the year.

Freedom of speech and of the press occasionally were curtailed by government interference and the use of provisions authorized under the Emergency Decree. Attempts by the Government to hamper freedom of expression on the Internet increased. Television and radio broadcasters also were monitored closely, and the Government exerted pressure on broadcast media to cooperate in disseminating constructive and “balanced” news, especially after the April 7 invocation of the decree in response to the onset of civil unrest. Nevertheless, the media and civil society vocally criticized government authorities throughout the year. Print, broadcast, and online media covered news critical of the Government and senior-level officials and carried interviews with opposition figures.

The international and independent media were allowed to operate freely, except in coverage of matters deemed a threat to national security or offensive to the monarchy.

By law the Government may restrict freedom of speech and of the press to preserve national security, maintain public order, preserve the rights of others, protect public morals, and prevent insults to Buddhism. The law allows police under a court order to restrict or confiscate publications and other materials for disturbing the peace, interfering with public safety, or offending public morals.

By invoking the Emergency Decree, the Government can restrict print and broadcast media, online news, and social media networks. The decree empowers the Government “to prohibit publication and distribution of news and information that may cause the people to panic or with an intention to distort information.” It also authorizes the Government to censor news considered a threat to national security. These powers were employed beginning in April and continued through the end of the year.

Lese majeste provisions in the criminal code make it a criminal offense punishable by up to 15 years’ imprisonment to criticize the king, queen, royal heir apparent, or regent. The provisions allow private citizens to initiate lese majeste complaints against each other, and there were several cases in which private citizens did so. During a December 2009 speech, Prime Minister Abhisit announced the establishment of a committee to advise the police, DSI, and Ministry of Information and Communication Technology (MICT) on the careful, appropriate, and fair conduct of lese majeste cases. The committee, chaired by Permanent Secretary to the Ministry of Justice Kittipong Kittayarak, held its first meeting on January 12.

On October 20, prosecutors indicted Surachai Danwattananusorn, leader of the antigovernment Red Siam Group, on lese majeste charges relating to a speech he made at a rally in 2008. He remained free on bail awaiting a trial date at year’s end.

On November 2, the Metropolitan Police announced that arrest warrants had been issued for two unnamed women shown in a photograph holding placards with lese majeste content during a red-shirt rally near Democracy Monument on October 10. By year’s end the two women had not been arrested.

On November 24, former UDD leader Worawut Tanungkorn (Suchart Narkbangsai) was sentenced to three years in prison for comments made during a speech at a red-shirt rally at Sanam Luang in 2008 deemed to be in violation of lese majeste. Worawut was arrested on November 1 after evading arrest for more than two years.

The appeal of political activist Daranee Charnchoengsilpakul, sentenced in August 2009 to 18 years in prison on three counts of lese majeste, was pending at year’s end. On August 3, the appeals court denied a request for bail.

The 2008 case against social activists Chotisak Ongsoong and Songkran Pongbunjan, who were charged with lese majeste for not standing for the royal anthem in a movie theater in 2007, remained pending at year’s end.

The 2008 lese majeste case against social critic Sulak Sivaraksa remained pending at year’s end.

Two separate lese majeste cases filed in 2008 against journalist Jonathan Head, former BBC Bangkok bureau chief, remained pending at the end of the year. The charges originated from remarks Head made in 2007 at panel events at the Foreign Correspondents’ Club of Thailand (FCCT), as well as a claim that his reporting over a two-year period “damaged and insulted the reputation of the monarchy.”

There was no government ownership or control of print media. Political figures, prominent families, and large media conglomerates owned large stakes in many leading newspapers.

Government entities owned and controlled all radio and broadcast television stations, including the 524 officially registered "regular" AM and FM stations. The armed forces and police owned another 244 radio stations, ostensibly for national security purposes. Other owners of national broadcast media included the Government's Public Relations Department and the Mass Communication Organization of Thailand, a former state enterprise of which the Government owned a majority share. Nearly all stations were leased to commercial companies.

The 2008 Broadcasting Act governs the regulation of radio and television frequencies. The act provides for three categories of broadcast licenses: public service, community service, and commercial. On December 20, the Frequency Allocation Bill, which establishes a National Broadcasting and Telecommunications Commission to allocate broadcast frequencies and regulate broadcast media, received royal approval and was signed into law; by law the commission must be formed within 180 days.

Radio stations must renew their licenses every seven years. Radio signals are broadcast via government transmitters. Stations are required by law to broadcast 30-minute, government-produced newscasts twice daily. Under new regulations governing community radio operations that took effect in July 2009, community radio operators were granted a 30-day period to register for temporary 300-day trial operating licenses with the National Telecommunications Commission. According to the Government, by year's end more than 7,000 community radio operators had registered. The Government warned community radio operators who failed to register that they would be considered illegal if they continued to operate and could be charged with unlicensed use of transmitters and radio frequencies. At year's end there were few reports of government action against unlicensed operators, estimated to be numerous.

According to the Thai Journalists Association, the Government did not interfere with the freedom of mainstream print newsrooms during the political unrest. However, authorities shut two UDD-sponsored magazines in May during the political unrest, ThaiRed News and Voice of Thaksin, claiming they were a threat to national security. On June 24, in response to the forced closings, a group of UDD members launched another UDD-leaning news magazine called Red Power. Under the auspices of the Emergency Decree, authorities closed its printing facility in September; however, by November Red Power was back on the newsstands, reportedly being printed in a neighboring country.

On April 7, Deputy Prime Minister Suthep Thaugsuban, citing a threat to national security, ordered the closure of the People's Channel (PTV), the satellite television station operated by the UDD. Suthep alleged that PTV was spreading distorted information about the Government's handling of the red-shirt protests; the Government subsequently distributed clips of PTV broadcasts of protest leaders calling for widespread arson. In addition PTV's related Web sites were blocked.

On April 13, acting under the authority of the Emergency Decree, the Government ordered satellite operator Thaicom to terminate the signal of D-station, the satellite television outlet operated by the UDD. Days later police raided D-station operations in Bangkok and seized broadcasting equipment. D-station resumed broadcasting in May.

According to the National Telecommunications Commission, by year's end at least 25 community radio stations had been shut after the Government invoked the Emergency Decree in April. In Chiang Mai Province, police searched a community radio station known to support the UDD and seized its transmission equipment; the station resumed broadcasting politically related content in September. Provincial ISOC branches also asked community radio stations to not incite unrest and warned that they would be closed if they failed to comply. In Udon Thani Province, police raided a pro-UDD community radio station and seized its transmission equipment; the director was charged with operating radio equipment without a license and released on bail. Some pro-UDD radio stations later resumed operations, but most if not all reportedly were self-censoring political content. One radio station manager reported that many stations did not have the money to reopen, particularly after their broadcasting equipment was confiscated by government officials and never returned.

On April 16, Taxi Radio FM 106.8, a station affiliated with the red-shirt movement in Bangkok, shut the station after the Government reportedly succeeded in jamming the frequency. The station later resumed broadcasting with only sports news and entertainment content; the former station manager reportedly was in hiding.

On June 16, the censorship board banned a television commercial entitled "Thailand, We Apologize," citing its potential to cause unrest. The commercial featured scenes of riots and arson as well as clashes between protesters and security forces in Bangkok.

There were reports that journalists were subject to harassment, intimidation, and violence due to their reporting, particularly during the period of political unrest in March through May. The deaths of two foreign journalists killed while covering the antigovernment protests in Bangkok in April and May remained under investigation.

On July 27, journalist Kongpop Sawasdi, a reporter for the Thai Rath newspaper in Nakhon Pathom Province who also owned the local newspaper Pathom Post, was shot and killed at a local restaurant. The journalist had previously written a series of articles investigating a corruption case involving a local politician. On August 17, police announced that seven suspects had been arrested. The case continued at year's end.

The case of Samraeng Khamsanit, a reporter whose car was set on fire in 2008, as well as the shooting cases of Matichon reporters Surayud Yongchaiyudh and Atiwat Chainurat in 2008, remained under investigation. All three victims were believed to have been targeted for their politically sensitive reporting.

Print media criticism of political parties, public figures, and the Government was common. Journalists generally were free to comment on government activities and institutions without fear of official reprisal; however, they occasionally practiced self-censorship, particularly with regard to the monarchy and national security. Broadcast media was subject to government censorship both directly and indirectly, and self-censorship was evident. Nevertheless, broadcast media reported criticism of the Government.

Defamation is a criminal offense, punishable by a fine of up to 200,000 baht (approximately \$6,250) and two years' imprisonment. Criminal courts made several rulings on defamation and libel cases against media figures, political activists, and politicians.

People's Alliance for Democracy leader Sondhi Limthongkul, found guilty in September 2009 of defamation for statements made against a former deputy prime minister during a weekly show presented on ASTV in 2007, continued to appeal his case. Sondhi was sentenced to two years in prison without probation and was released on bail.

On September 2, a criminal court found Sondhi Limthongkul and ASTV program host Sarocha Pornudomsak guilty of defaming former prime minister Thaksin Shinawatra. The charges stemmed from remarks made by Sondhi about Thaksin while visiting supporters in the United States in 2007; the remarks were subsequently broadcast on ASTV. The pair were sentenced to two years in prison, subsequently reduced to six months' probation, and fined 20,000 baht (\$625).

Two issues of *The Economist* magazine had distribution disrupted due to the sensitive nature of their content. The March 20 issue, which included an article about the monarchy entitled "As the Father Fades, His Children Fight," was not made available to subscribers, due to concerns about the sensitivity of its content and the potential risk placed on distributors. The May 22 issue, which included articles entitled "The Battle of Bangkok" and "A Polity Imploding," was shared with distributors; however, the newsstand distributor decided not to place the issue on newsstands. The May 22 issue was distributed to subscribers.

Local television stations came under heavy criticism from UDD members for what they claimed was one-sided coverage of events, and UDD protesters reportedly attacked local television crews during demonstrations in Bangkok.

During antigovernment protests on March 27 and April 4, and again on August 31, state-run NBT Channel 11 was attacked with grenades. The attacks remained under investigation.

On May 19, in the aftermath of the Government's move to disperse the protesters from the Bangkok city center, a group of persons believed to be affiliated with the red-shirt protest movement set fire to the building that housed the Channel 3 television station, causing severe damage.

*Internet Freedom.*—The Government imposed some restrictions on access to the Internet and reportedly monitored Internet chat rooms. Individuals and groups generally could engage in the peaceful expression of views via the Internet, including by e-mail; however, there were limitations. Internet access was available and used by citizens in urban and rural areas, with an estimated penetration of 31 percent.

The 2007 Computer Crime Act (CCA), which created new computer crime offenses, establishes procedures for the search and seizure of computers and computer data in certain criminal investigations, and it gives the MICT authority to request and enforce the suspension of information disseminated via computer. Under the act a court order is required to ban a Web site; however, this was not always applied in practice. A maximum five-year prison sentence and a 100,000 baht (\$3,125) fine can be imposed for posting false content on the Internet that undermines public security, causes public panic, or hurts others. A maximum 20-year sentence and

300,000 baht (\$9,375) fine can be imposed if an offense results in the death of an individual. It also obliges Internet service providers to preserve all user records for 90 days, in the event that officials wish to access them. In addition any service provider who gives consent to or intentionally supports the publishing of illegal content is also liable. Most prosecutions under the CCA were for content-related offenses. Media activists criticized the law, stating that the offenses were defined too broadly and some penalties were too harsh.

Additionally, the Government used provisions of the Emergency Decree to block thousands of Web sites and specific URLs. Unlike the CCA, under the decree authorities are not required to obtain a court order when blocking a Web site or a specific URL. Web site operators whose sites are blocked under the decree are given no warning, and there is no appeals process. Despite the lifting of the decree on December 22, Web sites blocked under such provisions remained inaccessible at year's end.

There was a significant increase in Internet censorship, and the CCA and the Emergency Decree were used to stifle freedom of expression. The Government closely monitored and blocked thousands of Web sites that expressed antigovernment sentiment and those that were deemed critical of the monarchy. Many political Web boards and discussion forums chose to self-censor and closely monitored discussions to avoid being blocked. In addition many newspapers disabled or restricted access to their public comments sections to minimize exposure to possible lese majeste charges.

According to a report from i-Law, the Government used the CCA to block almost 44,000 specific URLs, approximately 88 percent of which were for lese majeste-related content. The research also revealed that the courts took relatively little time to review a URL before granting the order to block access, often granting the order to block on the same day that MICT made the request. The number of URLs blocked on each court order varied but typically numbered in the hundreds.

On April 1, Thanthawut Thaweewarodomkul, also known by his online name Red Eagle, was arrested in Bangkok and charged with lese majeste under provisions of the CCA. Thanthawut, who denied all charges, was the alleged Web master of a UDD Web site. He was awaiting trial at year's end.

On April 8, the Government, under the authority of the Emergency Decree, issued an order to close 36 Web sites that were accused of being a threat to national security. Although most of the blocked sites were pro-UDD Internet forums and blogs, Prachatai.com, a politically neutral Web site known to be critical of the Government, was also on the list. Also under the decree, the Government blocked access to numerous UDD-affiliated Facebook and Twitter accounts; the majority of these Web sites remained inaccessible at year's end. Additionally, a number of Web sites chose to self-censor, voluntarily discontinuing their services by shutting their Web sites or changing their content.

On April 9, the MICT announced that it had restricted access to 10,000 URLs and other online content deemed inappropriate or a threat to national security. The MICT also announced that it would begin focusing its attention on content posted on social networking sites such as Hi5, Facebook, and Twitter.

On April 30, authorities arrested Wipas Raksakulthai in Rayong Province for posting an alleged lese majeste comment on his Facebook page, the first known social networking-related arrest under the CCA. His case was pending at year's end.

On September 13, the DSI announced via its Web site that an arrest warrant, dated May 24, had been issued for Thanapol Bamrungsri for comments posted on his Facebook page deemed in violation of lese majeste laws. At year's end no arrest had been made.

On September 24, Prachatai.com executive director Chiranuch Premchaiporn was arrested at Suvarnabhumi International Airport on lese majeste charges related to comments posted on her Web site by a user in 2008. She was transported to Khon Kaen Province and was granted bail early on September 25. Her case was pending at the end of the year. Chiranuch was also arrested in March 2009 and charged with violating article 15 of the CCA for allowing material on her Web board considered offensive to the monarchy; her trial in this earlier case was scheduled for February 2011.

Squadron Leader Chanin Khlaikhlung, of the Royal Thai Air Force, surrendered to police on November 17 after his supervisor filed a lese majeste complaint against him for comments about the monarchy posted on his Facebook page. His case remained pending at year's end.

Suwicha Thakhor received a royal pardon and was released from prison on June 28, after serving part of his 10-year sentence following a lese majeste conviction under CCA provisions in April 2009.

Thiranan Vipuchanan, Katha Pajajiriyapong, Somchet Ittiworakul, and Thassaporn Rattawongsa, arrested in November 2009 for allegedly spreading false information on the Internet about the king's medical condition and thus endangering national security, remained free on bail while awaiting the results of a police investigation.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom.

Cultural events may be censored, usually for reasons of public decency. Under the 2008 Film Act, the state is authorized to ban the release of movies that “offend the monarchy, threaten national security, hamper national unity, insult faiths, disrespect honorable figures, challenge morals, or contain explicit sex scenes.” Section 25 of the act stipulates that all films to be screened, rented, exchanged, or sold in the country must be screened and approved by the Film and Video Classification Committee. The film *Insects in the Backyard*, which tells the story of a transgendered single father and features scenes with child prostitutes and homosexual sex, was banned by the Culture Ministry's National Film Board for immorality and scenes considered pornographic. Additionally, theater owners and broadcasters frequently censored films before submitting them to the board. As part of the 2008 act, a seven-tiered rating system was introduced in August 2009. Movie theaters also had to apply for operation licenses by September 2009 or pay up to one million baht (\$31,250) in fines. There were no reports that fines were levied or any other restrictions acted upon during the year.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, and the Government generally respected this right with some exceptions. Martial law, which gives the military authority to restrict freedom of assembly, was in effect in 31 provinces. The Emergency Decree, which covered as many as 27 provinces during the year, also gives the Government the authority to limit freedom of assembly.

The provinces of Surat Thani, Phuket, and Phang Nga have provisions that prohibit migrant workers—specifically those from Cambodia, Burma, and Laos—from forming gatherings, among other restrictions, while Samut Sakhon Province prohibits gatherings of more than five persons. The provisions were not strictly enforced. Employers and NGOs could request permission from authorities for migrant workers to hold cultural gatherings and were often not required to do so if the gatherings were on private property.

Throughout the year the UDD network staged protests in Bangkok and other areas of the country. Demonstrations in Bangkok drew as many as 100,000 persons in March. The protests began on March 12 as UDD supporters began to converge on Bangkok. On March 16, protesters collected their own blood and began splashing it on the offices of the prime minister and the ruling party headquarters. On April 3, the demonstrators began occupying the Ratchaprasong intersection, located at the heart of Bangkok's commercial district. On April 7, thousands of protesters stormed parliament, seizing weapons from bodyguards and forcing legislators to flee. In response the Government invoked the Emergency Decree, restricting all political gatherings of more than five persons. The restriction was not enforced until May 19.

On April 10, violent clashes occurred between UDD protesters and government security forces on Ratchadamnoen Road near Phan Fah Bridge; live ammunition and military-grade weaponry was used by both sides, according to eyewitness reports and the media. By the following morning, 25 persons had been killed, including 10 protesters, nine civilians, one foreign journalist, and five members of the security forces. The circumstances surrounding the deaths were under investigation at year's end.

On April 21, UDD protesters clashed with progovernment protesters near Silom Road, using bottles, slingshots, and fireworks, causing several injuries. On April 22, a series of M-79 grenade attacks on a mass transit station in Bangkok killed one person and injured more than 50. On April 28, one soldier was killed and 19 persons were wounded as protesters and security forces clashed near Don Muang Airport. The soldier's death was initially reported in the media as a case of “friendly fire”; however, it remained under investigation. On April 29-30, hundreds of UDD protesters forced their way into Chulalongkorn Hospital, searching for soldiers who they believed were stationed there, causing the hospital to close and transfer patients to other hospitals.

On May 13, two protesters were killed, including Major-General Khattiya Sawasdiapol, the self-described military adviser to the UDD, who was shot in the head by a sniper while giving a media interview. On May 14, protesters clashed with police and army units as they began surrounding the protesters' main camp. Small-scale clashes between armed protesters and security forces continued outside

the perimeter of the protest encampment, with dozens of deaths and hundreds of injuries reported. On May 19, security forces dispersed the protesters, with casualties reported on both sides, along with a foreign journalist.

At year's end government and independent fact-finding commissions were investigating the April and May clashes between security forces and antigovernment protesters.

*Freedom of Association.*—The constitution specifically provides for freedom of association, although exceptions are made “to protect public interests, to maintain public peace and order or good morals, or to prevent economic monopoly.”

The law prohibits the registration of parties with the same name or emblem as that of a dissolved political party. Legal experts maintained that the law was designed to inhibit the reregistration of the Thai Rak Thai political party, which the Constitutional Court dissolved in 2007.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The Government generally respected these rights in practice, with some exceptions for “maintaining the security of the state, public peace and order or public welfare, town and country planning, or youth welfare.” The Government generally cooperated with humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, although with restrictions.

Members of hill tribe minorities who were not citizens were issued identity cards that restricted their freedom of movement. Holders of such cards were prohibited from traveling outside their home district without prior permission from the district head and needed permission from the provincial governor to travel outside their home province. Offenders were subject to fines and jail terms. Persons without a card could not travel at all. Human rights organizations reported that police at inland checkpoints often asked for bribes in exchange for allowing stateless persons to move from one district to another.

Refugees residing in the nine camps on the border with Burma were not granted freedom of movement and were legally confined to refugee camps. If caught outside one of the official camps, a refugee is subject to fines, detention, deregistration, and deportation.

Other long-time noncitizen residents, including thousands of ethnic Shan and other nonhill tribe minorities, were required to seek permission from local authorities or the army for foreign and domestic travel.

The law prohibits forced exile, and the Government did not practice it.

*Protection of Refugees.*—The country is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the law does not provide for the granting of asylum or refugee status. Nevertheless, authorities continued the country's longstanding practice of hosting significant numbers of refugees. In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Asylum seekers and non-Burmese refugees who reside outside the official refugee camps are considered illegal migrants by law. If captured, they are detained at IDCs in Bangkok and other provinces. Conditions in many IDCs were poor, often stemming from overcrowding and poor ventilation. Some refugees and asylum seekers held at IDCs suffered from physical and mental health problems. Refugees are unable to work legally in the country. Burmese refugees in the official camps are formally prohibited from working or earning a livelihood outside the camps.

The Government allowed undocumented migrant workers from three neighboring countries to work legally in certain sectors of the economy if they registered with authorities and began a process to document their status (see section 7.e.).

Provincial Admissions Boards (PABs), the Government's screening process for Burmese asylum seekers, were reactivated in 2009 on a pilot basis in four refugee camps following a four-year hiatus. At year's end the results of the pilot screening were under review by the Government, and the planned expansion of the screening process to the remaining five camps during the year had not occurred. While the Government generally cooperated with humanitarian organizations in assisting refugees in official camps, cooperation with the UNHCR to protect certain groups remained uneven. The UNHCR was formally forbidden to conduct refugee status determinations or provide its protection mandate to Lao Hmong, North Koreans, and

Burmese (including Rohingya) outside the official camps. The UNHCR continued to have access to asylum seekers in the main IDC in Bangkok to conduct status interviews and monitor new arrivals. Several resettlement countries were allowed to conduct processing activities, and NGOs were able to provide health care, nutritional support, and other assistance there as well.

The Government continued to allow the UNHCR to monitor the protection situation of more than 144,000 Burmese refugees and asylum seekers living in nine camps along the Burmese border but prohibited the UNHCR from having an assistance role in the camps. NGOs provided basic humanitarian assistance in the camps. Government authorities issued identification cards to registered refugees living in the camps. The Government allowed NGOs to provide food, education, shelter, water, sanitation, housing, and other services to Burmese in the camps. An estimated 45,000 Burmese were not registered due to the defunct status of the PABs. Government officials did not distinguish between asylum-seeking Burmese and other undocumented Burmese migrants outside the designated camps, regarding all as illegal migrants. Generally, those arrested were taken to the border and deported.

The Government continued to facilitate third-country resettlement of camp refugees, and during the year 11,107 Burmese were resettled from camps to other countries.

The Government convened a special "fast track" PAB screening process for certain persons affected by the 2007 repression of prodemocracy protesters in Burma. By the end of 2007, the special PAB had approved 98 persons for refugee status and allowed their third-country resettlement. During the year special "fast track" PAB screenings were initiated for two humanitarian cases. The PAB approved 11 persons, permitting them to seek third-country resettlement.

Many Burmese asylum seekers—mostly those seeking refuge from border skirmishes—were returned to Burma by army border units before they could reach the established refugee camps. During the year thousands of asylum seekers entered the country and the refugee camps. In July officials confirmed that 922 ethnic Karen had crossed into Tak Province seeking asylum in anticipation of fighting between Democratic Karen Buddhist Army factions after a breakdown in negotiations with the Burmese government. After two days the army facilitated their return to Burma with the promise that the asylum seekers could return if fighting erupted.

From November 7 until the end of the year, approximately 30,000 ethnic Karen and other Burmese entered the country at Mae Sot, Phop Pra, and Three Pagodas Pass to flee fighting between the Democratic Karen Buddhist Army, often aligned with other ethnic armies, and the Burmese army. In the months prior to the Burmese elections, the UNHCR and NGOs working in and around the official camps had conducted contingency planning at the request of the RTA. While fighting was underway, fleeing populations generally were permitted to remain in the country at designated sites outside the official camps. The UNHCR, NGOs, and community-based organizations were able to provide food, water, shelter, health, and sanitation services to most populations. When the fighting ceased, the Thai army facilitated the return of the displaced Burmese to Burma with the promise that they could cross again if fighting resumed. Some small groups of refugees remained in Thailand, waiting for conditions to improve before returning to Burma. Some NGOs reported both coerced and forced returns by the Thai army. The UNHCR confirmed that forced returns occurred at Wah Lay on December 25.

In late 2008 and early 2009, 79 Rohingya and Bangladeshi migrants who arrived by sea were caught and detained in an IDC. In July 2009 two died of illness while in detention. On February 28, 28 Bangladeshi migrants from this group were repatriated, and one Rohingya was deported to Burma. During the year one person died of illness in detention and one was released. At year's end 46 members of the group remained in indefinite detention at Suan Phlu IDC. NGO groups had regular access to the detained Rohingya.

The Immigration Police conducted sweeps in Bangkok and the southern region of the country from October to December, arresting and detaining 208 Sri Lankan Tamils, including women and children. Of this group, 195 were UNHCR-designated persons of concern. At least 119 remained in detention at year's end. In December the Immigration Police conducted similar operations in Bangkok in a Pakistani Ahmadi community and detained 84 persons, including 54 women and children; all were refugees or asylum seekers.

*Stateless Persons.*—A significant number of stateless persons, many of whom are known as highlanders or members of hill tribes, resided in the country, concentrated in the northern region. Others migrated from Burma but are not ethnic Burmese and do not have Burmese citizenship. Still others fall into neither category. According to the 2009 UNHCR statistics of stateless persons in the world, there were ap-

proximately 3.5 million stateless persons in the country. This total included approximately one million members of hill tribes and displaced persons holding various registration cards issued by government agencies; one million registered illegal migrant workers from Burma, Laos, and Cambodia; 148,000 refugees from Burma residing in camps along the Thai-Burma border; and 1.5 million to two million unregistered illegal migrant workers.

Citizenship is not automatically conferred by birth within the country. By law citizenship is based either on birth to one or both Thai parents, marriage to a Thai man, or naturalization. It can also be acquired by means of special government-designated criteria implemented by the MOI with approval from the cabinet. Finally, it can be granted as a result of the 2008 nationality law (see also section 6, Children). Progress was made in removing some of the significant obstacles to establishing citizenship—specifically, the requirements for certain documentary evidence and witnesses. The labyrinth of citizenship-related laws and regulations and the existence of substantial gray areas within and among them continued to lead to their uneven application as well as extortion by corrupt local officials.

The 2008 nationality law provides citizenship eligibility to certain categories of previously ineligible highlanders, streamlining citizenship registration and easing evidentiary requirements. A subcommittee of the National Security Council approved granting of permanent residency permits and naturalization for approximately 200,000 registered stateless persons residing in the country for 20 to 30 years. An additional 500,000 unregistered stateless persons were pending consideration by the same subcommittee.

The 2008 Civil Registration Act stipulates that every child born in the country will receive an official birth certificate, regardless of the parents' legal status. Some stateless persons born in the country who may have been able to prove citizenship eligibility often waived that right to classify themselves as "migrants," thereby gaining access to public health care and certain jobs unavailable to stateless persons. In doing so these individuals lost any claim for citizenship eligibility that they previously held. The nationality law allows these individuals to reclaim their eligibility provided they relinquish migrant worker status and take certain steps, such as surrendering work permits.

Previously, implementation of the Civil Registration Act was not uniform, often depending on local authorities' knowledge, ability, and willingness to follow the law; however, the Government, with support from the UNHCR, UN Children's Fund (UNICEF), and UN Educational, Scientific, and Cultural Organization (UNESCO), launched a nationwide campaign for universal birth registration for refugee children in camps. Ministerial regulations and guidelines were issued to address gaps in knowledge and understanding to implement this policy effectively. Additionally, the Government approved the withdrawal of the country's reservation on article 7 of the Convention on the Rights of the Child regarding birth registration and nationality.

The 2005 national strategy permits individuals who lack legal status and entered the country before January 1995 to remain in the country temporarily and apply for legal status, including citizenship. However, at year's end some implementing regulations remained under development.

Stateless highland women encountered more barriers to citizenship than did men. Tribal customs and traditions subjected women to a social status that limited their access to postprimary education and political opportunities that would have contributed to knowledge of the citizenship process. Many stateless highland women had few economic opportunities outside the home and therefore could not afford the bribes sometimes demanded for processing citizenship applications. Highlanders claimed to have paid district officials 3,000 to 49,000 baht (\$94 to \$1,530), although there is no official processing cost for citizenship. NGOs reported that some local officials pressed women into offering sexual favors in exchange for accelerating their citizenship registration.

Many stateless highlanders lived in poverty. As noncitizens they could not vote, own land, or travel outside their home district or province without prior permission. Stateless persons also had difficulty accessing credit and government services, such as health care. The law also prohibits stateless persons from participating in certain occupations reserved for citizens, most notably farming; however, in practice officials permitted noncitizen highlanders to undertake subsistence agriculture. Without legal status, stateless persons were also subject to arrest, deportation, extortion, and other forms of abuse. UNESCO officials asserted that lack of legal status was the single greatest risk factor for trafficking or other exploitation of highlanders, such as by being forced into the drug trade or other sectors of the underground economy, as a result of being precluded from many legitimate economic opportunities.

Any stateless person wishing to travel outside the country must have an exit permit. The Ministry of Foreign Affairs issued exit permits to stateless persons to study

abroad. Other long-time noncitizen residents, including thousands of ethnic Shan and other nonhill tribe minorities, were required to seek permission from local authorities or the army for foreign and domestic travel.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully through periodic, free, and fair elections based on universal, compulsory suffrage. The constitution provides for the election of all members of the 480-seat House of Representatives and 76 members of the 150-seat Senate. It also provides for the appointment of 74 additional Senate members by members of the judiciary and other regulatory bodies.

*Elections and Political Participation.*—The 2007 national election for the House of Representatives generally was considered free and fair; however, there were allegations of widespread vote buying, minor procedural irregularities, and scattered but unconfirmed reports of intimidation by local military and government officials. International observers stated that the martial law in effect in parts of the country during the election was inconsistent with international norms.

During the year five by-elections were held. The Election Commission of Thailand (ECT) reported 62 complaints of election fraud related to campaign promises or vote buying. There were no reports of election-related violence during the year.

In the parliament all 150 allotted seats for senators were filled. Of the 480 allotted seats for the House of Representatives, five were not filled due to party dissolutions. In September 2009 the ECT disqualified 16 representatives for unconstitutional stock holdings that created conflicts of interest and sent their cases to the Constitutional Court for a final ruling. On November 3, the Constitutional Court upheld the disqualification of six of the 16 representatives. December 12 by-elections filled the seats vacated by the court ruling.

Political parties could operate without restriction or outside interference. During the year the ECT dissolved nine parties for inability to maintain compliance with the election law, and six parties requested to be dissolved.

There were 85 women in the 630-seat bicameral parliament. Women chaired six of the Senate's 22 standing committees but none in the lower house. Women held three of the 36 cabinet positions. The constitution encourages political parties to consider a "close proximity of equal numbers" of both genders. Women have the right to vote and run for positions, but there were relatively few elected female officials.

Few members of ethnic minorities held positions of authority in national politics. Muslims from the South held significant elected positions, although they continued to be underrepresented in appointed local and provincial government positions. There were 30 Muslim and seven Christian members of parliament.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, government implementation of the law was weak, and officials sometimes engaged in corrupt practices with impunity.

Corruption remained widespread among members of the police force. There were numerous incidents of police charged with sexual harassment, theft, and malfeasance. There were reports that police tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. Police officers were arrested for drug trafficking, were reportedly involved with intellectual property rights violations, and were convicted on extortion charges.

On February 26, the Supreme Court of Justice's Criminal Division for Persons Holding Political Positions (SCCDP) issued its verdict in the 76 billion baht (\$2.38 billion) asset confiscation case against former prime minister Thaksin Shinawatra, ordering 46 billion baht (\$1.44 billion) to be confiscated on abuse of power grounds. Thaksin appealed the verdict on March 26. On August 11, the court ruled in favor of the prosecution, closing the case. A July 2009 warrant for the arrest of Thaksin continued in force, and the SCCDP case against him regarding the Export-Import Bank of Thailand's loan to Burma of four billion baht (\$125 million) remained suspended. Thaksin continued to reside outside the country.

On December 21, Vice-Minister of Commerce Veerasak Jinarat was dismissed from his position by order of the prime minister in response to a report from the NCCC implicating him in financial improprieties with a rice sale scheme. The NCCC was investigating the case at year's end.

On December 29, a criminal court sentenced Wassana Permlarp, former chairman of the Election Commission, and two other former election commissioners to two

years in prison for malfeasance in office for exploiting their positions on the commission to increase their salaries in 2004.

The OAG decided not to pursue charges against one of two former senior Anti-Money Laundering Office (AMLO) administrators found guilty in May 2009 by the NCCC of abuse of power while they held their positions in 2001-02. At year's end the OAG was considering whether to pursue charges against the other official, former AMLO secretary general Phiraphan Premphuti.

The case against Wisit Tantisunthorn, former secretary general of the Civil Servants' Pension Fund Board and found guilty in 2009 of insider trading, was forwarded to the NCCC for further action and remained pending at year's end.

Thaksin's wife, her brother, and her secretary were sentenced in 2008 to prison terms ranging from two to three years for tax evasion. They were released on bail and appealed their sentence in 2008; the appeal continued to be examined at year's end.

The NCCC and OAG continued to investigate allegations of corruption committed by the Thaksin government. The findings by the NCCC and OAG triggered multiple cases at the SCCDP. The NCCC brought several other cases to court and reported that there were 6,407 cases pending investigation in June. In the year prior to June, 2,779 cases were received, of which 1,104 were completed; 154 of those cases required further action, including disciplinary actions, impeachments, and referrals to the courts, the OAG, or a joint NCCC-OAG committee.

In August the OAG decided not to indict three of seven prominent former government ministers and other high-ranking officials on charges of malfeasance related to a 2007 purchase of fire trucks. The OAG cited insufficient evidence for their decision. The NCCC stated it would pursue cases against the seven accused without going through the OAG. All seven cases were pending at year's end.

In addition to the NCCC and OAG, other entities playing a role in combating corruption included the Anti-Money Laundering Office, Supreme Court, Ombudsman's Office, Administrative Court, and MOJ.

Public officials were subject to financial disclosure laws.

The constitution provides access to public information, and there were no reports that government agencies denied citizens' requests for information. If a government agency denies a request, a petition may be made to the Official Information Commission, and petitioners may appeal the commission's preliminary ruling to an appellate panel. According to the commission, the vast majority of petitions were approved. There were 453 petitions received and 251 appeals during the year. Requests for public information may be denied for reasons of national security and public safety.

On August 12, a foreign court sentenced film producers Gerald and Patricia Green to six months in prison for paying a Thai tourism official \$1.8 million in bribes to secure the rights to manage the Bangkok International Film Festival. At year's end no charges had been filed against the official who allegedly received the bribe, although the NCCC was examining the case.

The November 2009 and 2008 reports of the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) presented information indicating that Thailand Smelting and Refining Company, Ltd. (Thaisarco), which was based in Thailand and owned by Amalgamated Metals Corporation (AMC), a United Kingdom-based company, purchased minerals from suppliers who sourced their minerals from mines in eastern DRC controlled by the Democratic Liberation Forces of Rwanda, whose leaders continued to include architects of the 1994 Rwandan genocide and which has committed numerous, serious human rights abuses in eastern DRC and Rwanda. In addition, according to the UNGOE Report of November 2009, Thaisarco purchased minerals from DRC-based companies, including World Mining Company (WMC). The UNGOE obtained documents showing that WMC received shipments of cassiterite from a mining zone where production was controlled by DRC Armed Forces soldiers under the command of Lieutenant Colonel Innocent Zimurinda. During the year the UN Security Council sanctioned Zimurinda for having unlawfully used and recruited child soldiers. AMC announced in September 2009 that it had ceased purchasing minerals from the DRC.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated without government restriction, investigating and publishing their findings on human rights cases. However, NGOs that dealt with sensitive political matters, such as opposition to government-sponsored development projects or border matters, faced periodic harassment. Human rights workers focusing on violence in the southern provinces were particularly vulnerable to harassment and intimidation

by government agents and militant groups. Very few NGOs were accorded tax-exempt status, which sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

At year's end police had not identified any suspects in the April 2009 shooting of Phetchaburi environmentalist and community leader Phongthep Hongthong. Police report that the case was suspended until a suspect could be identified.

In April the person arrested for the July 2009 shooting of environmentalist and community leader Kittinarong Koetrot in Phetchaburi Province was sentenced to 34 years and four months in prison.

Security remained a concern for several groups who were unable to register as NGOs with the Government. In September 2009 police visited the offices of at least 12 Burmese exile groups on several "immigration raids." The groups targeted included the Human Rights Education Institute of Burma and the Burmese Women's Union. Ten women from the union were detained but later released after paying 5,000 baht (\$156) each. As a result of these raids, many offices remained closed for several weeks.

The seven-member NHRC is tasked with producing two annual reports on the human rights situation in the country. In June Chairwoman Amara Pongsapich announced the formation of a committee to look into various incidents related to the March-May street protests in Bangkok, but at year's end it had not produced a public report. The NHRC received 748 cases during the year, but modest staffing and resources hampered progress.

The parliament had two committees that addressed human rights problems: the House Standing Committee on Legal Affairs, Justice, and Human Rights; and the Senate Standing Committee on Human Rights, Rights and Liberties, and Consumer Protection. Human rights advocates generally believed the committees were well intended but lacked the enforcement capability required to be truly effective. They also were described as reactive, difficult to access, and hampered by the political affiliations of their chairmen.

Following the dispersal of the antigovernment protests in May, Prime Minister Abhisit Vejjajiva, as part of a proposed reconciliation plan, formed three commissions to investigate events leading up to and including the March-May protests for the purposes of national reconciliation. The National Reform Committee, chaired by former prime minister Anand Panyarachun, was tasked with creating a plan for national reforms across the country. The Assembly for National Reform, chaired by Prawase Wasi, was responsible for mobilizing persons from all sectors of society to participate in national reform. The Truth and Reconciliation Commission, chaired by Khanit na Nakhorn, was charged with uncovering the facts related to the deadly violence in April and May.

The Government denied visas to two human rights activists from France who were invited to present a human rights report on Vietnam at the FCCT on September 13. The Government also pressured the FCCT to cancel the event, claiming that it had a long-standing policy of not allowing persons or organizations to use the country as a place to conduct activities detrimental to other countries.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides for equal treatment without respect to race, gender, religion, disability, language, or social status; however, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

*Women.*—Rape is illegal, although the Government did not always enforce the law effectively. The criminal code permits authorities to prosecute spousal rape, and prosecutions occurred. According to the police, 4,255 rape cases were reported during the year, with nine additional cases in which the victim was killed. Suspects were arrested in 2,397 of the former category of cases and in all nine of the cases that resulted in the victim's death. The Health Ministry reported that an estimated 25,750 women and children were abused between January and November, including approximately 12,000 women more than 18 years old and 13,000 children. The ministry reported that the majority of the abused children were girls, with most of the cases involving sexual abuse.

NGOs believed that rape was a serious problem. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because state agencies tasked with addressing the problem were not adequately funded and law enforcement agencies were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of female police officers in metropolitan Bangkok and three other provinces.

The law specifies a range of penalties for rape or forcible sexual assault, depending on the age of the victim, severity of assault, and physical and mental condition

of the victim after the assault; penalties range from four years' imprisonment to life as well as fines. The law also provides that any individual convicted twice for the same criminal rape offense in three years is liable to receive increased penalties for recidivism, which include monetary fines and harsher jail sentences. The amount of the penalty depends on such factors as the severity of the injury or the death of the victim and generally varies from 30,000 baht (\$940) to 150,000 baht (\$4,700).

Domestic violence against women was a significant problem. The 2007 Protection of Victims of Domestic Violence Act imposes a fine of up to 6,000 baht (\$190) or up to six months' imprisonment for violators and provides authorities, with court approval, the power to prohibit offenders from remaining in their homes or contacting family members during trial. The law implements measures designed to facilitate the reporting of domestic violence complaints and reconciliation between the victim and the perpetrator. Additionally, the law restricts media reporting on domestic violence cases in the judicial system.

Some domestic violence crimes, particularly cases where the victim was seriously injured, were prosecuted under provisions for assault or violence against a person where harsher penalties could be levied. Domestic violence frequently went unreported, and police often were reluctant to pursue reports of domestic violence. NGO-supported programs included emergency hotlines, temporary shelters, and counseling services to increase awareness of domestic violence, HIV/AIDS, and other matters involving women. The Government's crisis centers, located in some state-run hospitals, cared for abused women and children, although several centers faced budget difficulties. State-run hospitals referred victims to external organizations when services at a hospital were not available. The Ministry of Social Development and Human Security (MSDHS) reported that 673 cases of domestic violence were recorded during the year in 67 of the country's 76 provinces.

The MSDHS continued to develop a community-based system, operating in all regions of the country, to protect women from domestic violence. The program focused on training community representatives from each community on women's rights and abuse prevention to increase community awareness of these problems.

Sex tourism was a problem. According to the MSDHS, there are no laws that specifically address sex tourism. However, the criminal code, laws on prostitution, and laws combating trafficking in persons contain provisions to combat sex tourism.

Sexual harassment is illegal in both the public and private sectors. The law for public-sector employees specifies fines of not more than 20,000 baht (\$625) for individuals convicted of sexually harassment. Private-sector employees must file criminal charges if they have a sexual harassment claim. The punishment depends on the degree of harassment and age of the victim. Abuse categorized as an indecent act may result in imprisonment of up to 15 years and a fine of up to 30,000 baht (\$940). The Civil Servant Regulations Act prohibits sexual harassment and stipulates five levels of punishment: probation, docked salary, salary decrease, discharge from service, and termination. NGOs claimed that the legal definition of harassment was vague and prosecution of harassment claims difficult.

In September the Public Prosecutor's Office dismissed for insufficient evidence a case in which a female naval lieutenant claimed to have been sexually harassed by a senior army general. On June 29, the Defense Ministry also concluded its own investigation into the allegation, finding that the complainant was unable to provide sufficient information and evidence for a prosecution to proceed. The lieutenant also received an official reprimand for not following military procedure, since she had made her case public and filed the complaint with civilian courts. At year's end the alleged victim was considering refileing the case.

Couples and individuals could decide freely and responsibly the number, spacing, and timing of children, and they had the information and means to do so free from discrimination. The publicly funded medical system provided access to contraceptive services and information, prenatal care, skilled attendance during childbirth, and essential obstetric and postpartum care. Women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

According to data from the Population Reference Bureau, approximately 70 percent of married women and girls ages 15 to 49 used contraception. Although statistics were unavailable, the percentage of unmarried women, men, adolescents, ethnic minorities, and migrant workers who had access to contraception was estimated to be less. Approximately 97 percent of births were attended by skilled health personnel, and the lifetime risk for death during childbirth was one in 500. Prenatal and postnatal care was estimated to be accessible to more than 90 percent of mothers and babies.

Military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. After the military reorganization in September, 42 women held the rank of

general or above across all branches of the military and within the Ministry of Defense. The Police Cadet Academy for commissioned officers accepts female cadets, and 70 of 280 new cadets were women. According to the MSDHS, in 2007 women held 22 percent of managerial positions in publicly listed companies and 35 percent in commercial companies. In 2008 women held 16 percent of high-level administrative positions in the Government sector. According to the Office of the Civil Service Commission, women held 24 percent of executive-level positions. Women were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and women were concentrated in lower-paying jobs. In practice women received lower pay for equal work in many sectors of the economy.

The Government's Office of Women's Affairs and Family Development promotes the legal rights of women, notably through the suboffice of the Bureau of Gender Equality Promotion.

*Children.*—Citizenship is not automatically conferred by birth within the country. By law citizenship is based either on birth to one or both Thai parents, marriage to a Thai man, or naturalization. It can also be acquired by means of special government-designated criteria implemented by the MOI with the approval of the cabinet. Finally, it can be granted as a result of the 2008 nationality law. Additionally, the Government approved the withdrawal of the country's reservation on article 7 of the Convention on the Rights of the Child regarding birth registration and nationality (see section 2.d.).

According to NGOs, highlanders and other stateless individuals on occasion did not register births with the authorities because administrative complexities, misinformed and unscrupulous local officials, language barriers, and restricted mobility made it difficult to do so (see section 2.d.).

Primary education was compulsory, free, and universal. Violence in the southern provinces, especially that aimed at public school teachers, sporadically forced the temporary closure of public schools and disrupted the educational process in those areas. Many NGOs reported that most children of registered migrant workers, particularly in Chiang Mai and Mae Sot, were permitted to attend public schools; however, language barriers, distance from school, and frequent relocations to follow parents to new job sites prevented some migrant children from attending school. These children remained without access to community services provided to children attending public schools, such as day-care centers, government-subsidized free milk, and lunch privileges. Migrant workers who could afford it often chose to send their children to private nurseries or day-care centers at their own expense.

The law provides for the protection of children from abuse, and laws on rape and abandonment carry harsher penalties if the victim is a child. The law imposes a jail term of seven to 20 years' imprisonment and a fine of up to 40,000 baht (\$1,250) for sexual intercourse with a victim under the age of 13. If the victim is under the age of 15, the penalty is four to 20 years' imprisonment and a fine of up to 40,000 baht (\$1,250).

A 2009 private university-sponsored poll of persons ages 12 to 24 in the Bangkok area found that 12.9 percent had encountered sexual harassment. Police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse difficult. The law is designed to protect witnesses, victims, and offenders under the age of 18, and procedures with a judge's consent allow children to testify on videotape in private surroundings in the presence of a psychologist, psychiatrist, or social worker. However, many judges declined to use videotaped testimony, citing technical problems and the inability to question accusers and defendants directly in court. Some children's advocates claimed that minor female sexual abuse victims received better physical and psychological care than male victims did. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Child prostitution remained a problem. According to government officials, academics, and NGO representatives, children (both boys and girls), especially among migrant populations, were sometimes forced, coerced, or lured into prostitution. While it was widely believed there were fewer incidences of citizens forced into prostitution, children from poor families remained vulnerable, and there were some incidences of parents who forced their children into prostitution. Pedophilia continued, by citizens and foreign sex tourists.

The 1996 Prostitution Prevention and Suppression Act imposes heavy penalties on whoever procures, lures, compels, or threatens children under 18 years old for the purpose of prostitution. Section 8 of the act provides that a customer who has sexual intercourse with a prostitute under the age of 15 shall be subject to two to

six years in prison and a fine of up to 120,000 baht (\$3,750); if the prostitute is between the ages of 15 and 18, the prison term is one to three years, and the fine is up to 60,000 baht (\$1,875). Parents who allow a child to enter into prostitution also are punishable and can have their parental rights revoked. Those who procure children for prostitution face strict penalties, and the punishment is more severe if the minors involved are under 15. The penal code prohibits the production, distribution, and import or export of child pornography. The penalty is imprisonment of not more than three years and a fine of not more than 6,000 baht (\$190). The law also imposes heavy penalties on persons who sexually exploit children, both boys and girls, younger than 18 years old. It defines punishments for pimping, trafficking for labor exploitation, and human smuggling.

A 2005 study widely cited by NGOs and state agencies estimated there were 20,000 street children in major urban centers. However, the Government and NGOs could provide shelter to only 10,000 children each year. Generally, the children were referred to government-provided shelters, but many, especially foreign illegal migrants, reportedly avoided the shelters due to fear of being deported. Ultimately the Government either sent citizen street children to school, to occupational training centers, or to their families with social worker supervision. Some street children from other countries were repatriated.

Street children were often omitted from national reports on child labor matters, and national statistics on street children often included only citizens.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish community is very small, and there were no reports of anti-Semitic incidents.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in education, access to health care, or the provision of other state services; however, government enforcement was not effective. The law also mandates that persons with disabilities have access to information, communications, and newly constructed buildings, but these provisions were not uniformly enforced. Activists continued to work to amend laws that allow employment discrimination against persons with disabilities.

Persons with disabilities who register with the Government are entitled to free medical examinations, wheelchairs, and crutches. The Government provided five-year, interest-free, small business loans for persons with disabilities.

The Community Based Rehabilitation Program remained active in all provinces. The Community Learning Center for People with Disabilities project expanded to 30 provinces. A National People with Disabilities Day is recognized annually on November 14.

The Government maintained 43 special schools for students with disabilities. The Ministry of Education reported that there were 76 centers nationwide offering special education programs for preschool-age children, one in each province. All state schools nationwide, approximately 30,000, are required by law to accept students with disabilities. There also were nine government-operated and at least 23 NGO-operated training centers for persons with disabilities, including both full-time and part-time or seasonal centers. The Government operated 111 state shelters specifically for persons with disabilities, including two day-care centers for autistic children. In addition there were private associations providing occasional training for persons with disabilities. There were reports of schools turning away students with disabilities, although the Government claimed that such incidents occurred because schools did not have appropriate facilities to accommodate such students.

Some persons with disabilities who found employment were subjected to wage discrimination. Government regulations require private firms either to hire one person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision was not uniformly enforced. Government officials estimated that as many as 50 percent of firms complied with the law; the chairman of the Council of Disabled People of Thailand believed the number to be 35 to 45 percent, mostly due to inadequate government follow-up with companies. Some state enterprises had discriminatory hiring policies.

*National/Racial/Ethnic Minorities.*—Two groups—former belligerents in the Chinese civil war and their descendants living in the country since the end of the civil

war, and children of Vietnamese immigrants who resided in 13 northeastern provinces—lived under laws and regulations that could restrict their movement, residence, education, and occupation. The Chinese are required to live in the three northern provinces of Chiang Mai, Chiang Rai, and Mae Hong Son. According to the MOI, none were granted citizenship during the year.

*Indigenous People.*—Members of hill tribes who were not citizens continued to face restrictions on their movement, could not own land, had difficulty accessing credit from banks, and although protected by labor laws, often were subjected to labor violations. They also were barred from state welfare services such as universal health care.

The 2008 Nationality Act provides citizenship eligibility to certain categories of highlanders who were not previously eligible (see section 2.d.). Although the Government supported efforts to register citizens and educate eligible hill tribe persons about their rights, activists reported that widespread corruption and inefficiency, especially among highland village headmen and district and subdistrict officials, contributed to a backlog of pending citizenship applications as well as improperly denied applications.

Hill tribe members continued to face societal discrimination arising in part from the belief that they were involved in drug trafficking and environmental degradation.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws that criminalize sexual orientation. Lesbian, gay, bisexual, and transgender (LGBT) groups were able to register with the Government, although there were some restrictions on the language that can be used in registering their group names. They reported that police treated LGBT victims of crime as any other person except in the case of sexual crimes, where there was a tendency to downplay sexual abuse or not take harassment seriously.

There was continued discrimination based on sexual orientation and gender identity. The Thai Red Cross would not accept blood donations from gay men. Some life insurance companies refused to issue policies to gay persons, although four major insurance companies agreed to sell life insurance policies to LGBT citizens with full transfer of benefits to same-sex partners. According to military sources, the armed forces did not draft gay or transgendered persons because of the assumed detrimental effect on the military's strength, image, and discipline. The official rejection rationale recorded in military documentation was "Type 3—Sickness That Cannot Be Cured Within 30 Days," as opposed to the previously utilized "Type 4—Permanently Disabled or Mentally Ill." The law does not permit transgendered individuals to change their gender on identification documents. Some major businesses did not allow transgendered persons to use their preferred bathrooms. NGOs also alleged that some nightclubs, bars, hotels, and factories denied entry or employment to gays, lesbians, and transgendered individuals.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS faced the psychological stigma associated with rejection by family, friends, colleagues, teachers, and the community, although intensive educational outreach efforts may have reduced this stigma in some communities. There were reports that some employers refused to hire persons who tested HIV-positive following employer-mandated blood screening. According to the Thailand Business Coalition on AIDS, an estimated 8,000 businesses pledged not to require HIV/AIDS tests for employees or discharge infected employees and vowed to hold regular awareness campaigns, with 1,150 pledging during the year.

The NHRC was investigating a complaint filed in September 2009 about the so-called AIDS temple, Wat Phrabat Namphu, which sheltered many dying AIDS patients. AIDS activists objected to the temple's practice of displaying corpses of AIDS patients as a cautionary tale, although temple officials stated that the patients gave consent. On July 1, the NHRC held a meeting with Wat Phrabat Namphu and struck a preliminary agreement whereby the temple would be permitted to display corpses provided that no personal information on the deceased individuals, including names, was included. The NHRC made a follow-up visit to the temple on December 20, and a final recommendation was pending at year's end.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows private sector workers to form and join trade unions of their choosing without prior authorization. Enforcement of labor laws was inconsistent, and in some instances the 1975 Labor Relations Act and the 1998 and 2008 Labor Protection Acts (LPA) were not effective in protecting workers who participated in union activities. The law allows unions to conduct their activi-

ties without government interference. It also permits workers to strike, and this right was exercised in practice.

The labor law does not allow civil servants, including public schoolteachers, soldiers, and police, to form or register a union. They can form and register associations, but these associations do not have the right to bargain collectively. Labor activists and some civil servants interpreted the 2007 constitution as broadening the freedom of association to include granting civil servants the right to form a union. While efforts by a small number of civil servants to organize a union or unions were underway, the related labor laws had not been amended to allow civil servants to do so.

The State Enterprise Labor Relations Act (SELRA) gives state-owned enterprise workers the right to form unions. These unions generally operated independently of the Government. The law restricts affiliations between state enterprise unions and private-sector unions. However, unofficial contacts at the union level between public- and private-sector workers continued, and the Government did not interfere with these relationships.

Noncitizen migrant workers, whether registered or illegally present, do not have the right to form unions or serve as union officials; however, registered migrants may be members of unions organized and led by Thai citizens. A few registered migrants joined unions, but the number that did so was low, due in part to language barriers and the fact that migrant workers and Thai workers often worked in different industries. A substantial number of migrant workers worked in factories near border-crossing points, where there were reports of frequent violations of labor laws and where few inspections were carried out to verify compliance with the law.

The labor force consisted of 38.4 million persons. Less than 2 percent of the total work force but nearly 10 percent of industrial workers and more than 59 percent of state enterprise workers were unionized. At the end of 2009, there were 44 state enterprise unions with 167,510 members and 1,194 private labor unions with 338,550 members. Compared with 2008, the number of private labor unions decreased, and membership in both state enterprise and private unions decreased slightly.

Workers can be dismissed for any reason, provided severance payment is made. The law does not provide for reinstatement, and the requirement for severance pay was not always respected. The labor court ordered reinstatement of employees in some cases where dismissal resulted from union activity and was illegal. However, because the process to request reinstatement was lengthy and costly for the employee, most cases were settled out of court through severance payments to the employee with no punitive sanctions for employers.

The Supreme Court denied Jitra Kotchadet's case against garment maker Triumph International for dismissing her without cause in 2008.

In February former employees of a Triumph subsidiary company agreed to move their protest from the Ministry of Labor (MOL) building, where they had protested since October 2009, in exchange for 250 sewing machines and vocational training. These workers had been dismissed in June 2009. As part of this agreement, the Government also promised to help the group secure loans from financial institutions and provide transportation for the workers to go home. The company blamed the global economic situation and a drop in demand for the layoffs; union leaders argued the layoffs were an attempt to purge the firm of active union members, many of whom had protested Jitra's dismissal in 2008.

In September 900 Burmese migrant workers staged a nine-day strike at the Dechapanich Fishing Net Factory in Khon Kaen after factory management fired six workers and refused to return their legal documents to the fired workers. Workers demanded the return of all passports, worker identity cards, and work permits. They also demanded compensation for daily overtime earned since February. The striking workers were threatened with cancellation of their visas and deportation, but the employer eventually complied with the workers' demands. Ultimately, the migrant workers all resigned from the factory and found new jobs in Bangkok.

The Government has the authority to restrict private-sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision in the past and did not do so during the year. The law also forbids strikes in "essential services," which are defined much more broadly than under International Labor Organization (ILO) criteria and include sectors such as telecommunications, electricity, water supply, and public transportation. The law prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. Employers are legally permitted to hire workers to replace strikers. Strike action in the private sector was constrained by the legal requirement to call a general meeting of trade union members and have a

strike approved by at least 50 percent of all union members. During the year there were strikes against various companies, generally after negotiations over compensation had reached an impasse. In one instance, while negotiations were still underway, management of an international automotive company ordered a lockout, stating that workers were damaging equipment and vehicles on the production line.

The SELRA prohibits lockouts by state enterprises and strikes by state enterprise workers. However, in the past a large number of state enterprise workers took sick leave or vacation on the same day, leading to the closing of business operations. No legal action was taken against those workers.

During 2009 there were 101 labor disputes, nearly double the 2008 figure. MOL statistics showed three lockouts by employers involving 156 employees and two strikes that involved 456 employees. The majority of union demands in 2009 were related to wages and other benefits.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of citizen private-sector workers to organize and bargain collectively. The law defines the mechanisms for collective bargaining and for government-assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces; however, many disagreements were settled successfully.

The law prohibits antiunion actions by employers; however, it also requires that union officials be full-time employees of the company or state enterprise, which made them vulnerable to employers seeking to discipline workers who served as union officials or who attempted to form unions. It also serves as a prohibition against permanent union staff, thus limiting the ability of unions to organize in depth and be politically active. The Labor Relations Act allows only two government-licensed outside advisors to a union, and local-level MOL offices reportedly blocked the registration of labor advisors deemed too activist. Union leaders and outside observers complained that this action interfered with the ability to train union members and develop expertise in collective bargaining and that it contributed to rapid turnover in union leaders.

Employers reportedly discriminated against workers seeking to organize unions. While the law protects workers who submit demands relating to working conditions, it does not protect workers from employer reprisal for union activities prior to the registration of the union; employers could exploit this loophole to defeat efforts at union organization. During the year there were reported cases of workers being dismissed from their jobs for engaging in union activities. In some cases the labor courts ordered workers reinstated if grounds for their dismissal were proven inaccurate. Reinstatement of some of these workers subsequently occurred.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector; however, there was reported abuse in the system. Problems of collective labor relations are adjudicated through the tripartite labor relations committee and are subject to review by the labor courts. Workers may also seek redress through the NHRC. In private-sector labor disputes that cannot be resolved through negotiations or voluntary arbitration and that may affect the national economy or public order, the law authorizes the MOL to refer them to the Labor Relations Committee for settlement. Although the legal authority seldom was used, international standards allow for this type of provision only if the private sector activity in question involves essential services—those whose interruption would endanger the life, personal safety, or health of the whole or part of the population.

Redress of grievances for state enterprise workers was handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders unjustly dismissed were awarded only back wages with no punitive sanctions against the employer. This approach limited any disincentive for employers to fire union organizers and activists.

Labor brokerage firms used a “contract labor system” under which workers signed an annual contract. Although contract laborers performed the same work as direct-hire workers, often they were paid less and received fewer, or no, benefits. Contract laborers are covered under the law, and according to the 2008 Labor Protection Act, businesses must provide contract laborers “fair benefits and welfare without discrimination.” Regardless of whether the contract labor employee was outsourced and collected wages from a separate company, according to the act the contracting business is the overall employer. Plaintiffs filed lawsuits in an attempt to seek clarification of their obligations under the new law; the labor court ruled in each case that the law requires equal pay and benefits for subcontract and regular employees.

The law requires that members of a union be “employees working for the same employer” or “employees in the same description of work.” Such provisions, coupled with requirements that the union represent a certain percentage of the workforce,

could hamper collective bargaining efforts where contract workers are not considered part of the potential bargaining unit but make up a substantial portion of the workforce.

There are no special laws or exemptions from regular labor laws in export processing zones. However, employers' associations reportedly cooperated to discourage union organization in the zones. Union organization was common at major international firms in large industrial estates.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor except in the case of national emergency, war, or martial law, or to avoid imminent public calamity. The 2008 Antitrafficking in Persons Act prohibits all forms of human trafficking, including forced labor of men, women, and children. Despite efforts by the Government to enforce and raise awareness of the law, problems of forced labor of men, women, and children persist in a small proportion of the economy, particularly in those sectors where foreign migrant labor is common.

Employers often kept possession of migrant workers' registration and travel documents, which restricted their travel outside the work premises. Reportedly, some migrant workers requested that employers keep their documentation for safekeeping.

There continued to be reports of sweatshops or abusive treatment in a few sectors, particularly on seagoing trawlers, in garment factories, and in shrimp and seafood processing facilities. Mistreatment at times included the prevention of workers, primarily foreign migrants, from leaving the premises. The large number of migrants from Burma, Cambodia, and Laos created opportunities for abuse.

Sarawut Ayuken, sentenced to death in August 2009 for the 2007 murder of a Karen migrant worker, remained in prison awaiting the decision of the appeals court, along with two other defendants involved in the case.

In January the criminal court convicted a Burmese broker, arrested in October 2009, of violating the Anti-Human Trafficking Act and the Immigration Act in a case involving 18 Burmese forced to work on fishing boats in Chonburi Province. The broker was sentenced to four years' imprisonment; the boat foreman was sentenced to 30 months in prison and a fine of 82,500 baht (\$2,600). Due to lack of evidence, charges were dropped against a third individual involved in the case.

Two persons convicted in November 2009 for trafficking workers to the Anoma Samut Sakhon shrimp processing factory remained free while awaiting the result of their appeal.

On December 9, a criminal court convicted the three defendants in the forced labor-related case involving the Ranya Paew shrimp processing factory. A 2006 raid on the factory resulted in the identification of 66 victims of trafficking. Each of the defendants was sentenced to 20 years in prison, the maximum penalty. At year's end the defendants remained free while awaiting the result of their appeal.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—In general, sufficient legal protections exist for children in the formal economic sector. The LPA is the primary law regulating employment of children under the age of 18. Employment of children under the age of 15 is prohibited. An exception exists for children 13 to 15 years old who have parental permission to perform agricultural work during school breaks or nonschool hours as long as the employers provide a safe work environment. Employers may not require children under the age of 18 to work overtime or on a holiday and may not require work between 10 p.m. and 6 a.m. without MOL approval. Children under 18 must not be employed in hazardous work, which includes any activity involving metalwork, hazardous chemicals, poisonous materials, radiation, and harmful temperatures or noise levels; exposure to toxic microorganisms; operation of heavy equipment; underground or underwater work; and work in places where alcohol is sold or in massage parlors. The maximum penalty for violating these prohibitions is one year in prison, fines up to 200,000 baht (\$6,250), or both. The LPA provides limited coverage to workers in some informal sectors, such as fishing and domestic employment. The law allows for issuance of ministerial regulations to address sectors not covered in the law; such regulations increased protections for child workers in domestic and agricultural sector work.

Child labor remained a problem, particularly in agriculture, the garment industry, seafood processing, fishing-related industries, and the informal sector. There was reason to believe that some garments, pornography, shrimp, and sugarcane were produced and processed by child labor in violation of international standards. In urban areas most underage workers worked in the service sector, including in gasoline stations, small-scale industry, and restaurants. Observers believed that while

the prevalence decreased, some children (usually foreign) were exploited in street selling, begging, domestic service, and agriculture work, sometimes in a system of debt bondage. Many of these foreign children, predominantly migrants from Burma, Cambodia, and Laos, were in the country illegally, which increased their vulnerability to exploitation. There were reports of street children who were bought, rented, or forcibly “borrowed” from their parent or guardians to beg alongside women in the street.

Outside urban areas, children worked in agriculture, garment, and fishing-related industries. Child labor was less evident in larger, export-oriented factories and registered processing facilities. NGOs reported greater child labor in garment factories along the Burmese border, in Mae Sot Province. There was no comprehensive survey of child labor throughout the country.

The Social Security Office under the MOL reported that there were 65,536 children ages 15 to 18 years old formally working and registered in the social security system in 2009. This figure was an almost 40 percent decrease from 2008 and may be a result of the extension of free education from nine years to 12 years in the 2007 constitution and the 2009 government policy that extended free education, including coverage of fees, books, and uniforms, further to 15 years. Other MOL statistics showed that 2,774 children between 15 and 17 years old worked legitimately in 2009. This increase (more than 2,065 in 2008) was more indicative of increased efforts by the MOL to inspect facilities than an increase in child labor. The number of all child laborers, legal and illegal, was likely much larger when taking into consideration child laborers in the informal sector, including unregistered migrant children. According to a study funded by the MOL and the ILO, labor abuse of child citizens was declining, and such children made up less than 1 percent of the workforce.

The MOL is the primary agency charged with enforcing child labor laws and policies. Labor inspectors, widely considered to be too few, were believed to be reactive, rather than proactive, and normally complaints-driven. In an effort to improve labor law enforcement, the MOL Department of Labor Protection and Welfare inspection plan for the year prioritized labor inspections of small factories (fewer than 49 workers), which were believed to be high risk for the use of child labor. In line with prevailing cultural norms, the inclination of labor inspectors when dealing with violators was to negotiate promises of better future behavior rather than seek prosecution and punishment. The legal requirement for a warrant hampered inspection of private homes to monitor the welfare of child domestic workers.

Also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The minimum wage ranged from 151 baht to 206 baht per day (\$4.72 to \$6.44), depending on the cost of living in various provinces. The minimum wage was not adequate to provide a decent standard of living for a worker and nuclear family. On December 14, the cabinet approved an increase in the minimum wage. Beginning on January 1, 2011, the minimum wage was set to range from 159 baht to 221 baht (\$4.97 to \$6.91) per day.

The Government sets wages for state enterprise employees under the SELRA. Wages for civil servants are determined by the Office of Civil Service Commission. However, the 2008 Civil Servant Act gives each ministry or department more flexibility in setting civil servant salary levels.

The MOL is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, enforcement of minimum wage laws was mixed. Some formal sector workers nationwide received less than the minimum wage, especially those in rural provinces. Labor protections apply to undocumented workers; however, many unskilled and semiskilled migrant workers worked for wages that were at times significantly less than the minimum wage.

The LPA mandates a maximum workweek of 48 hours, or eight hours a day over six days, with a limit on overtime of 36 hours per week. Employees engaged in “dangerous” work, such as chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 42 hours per week and are not permitted overtime. Petrochemical industry employees cannot work more than 12 hours per day and can work continuously only for a period not exceeding 28 days. Protections existing in the LPA do not apply universally to all sectors. Household domestic workers, for example, are covered by only a few sections of the LPA.

Provisions of the LPA include protection for pregnant workers, prohibiting them from working on night shifts, overtime, and holidays, with dangerous machinery, or on boats. In some cases, a pregnant employee who works in a nonphysically demanding office position may work overtime, if the employee consents. Despite the act’s prohibition against dismissing pregnant workers, there were reports that employers intentionally laid off workers who became pregnant.

The MOL promulgates health and safety regulations regarding conditions of work and is responsible for their enforcement; however, the inspection department enforced these standards inconsistently due to a lack of human and financial resources. There is no law affording job protection to employees who remove themselves from dangerous work situations. According to the MOL's Department of Labor Protection and Welfare, consumer goods production, hotels, restaurants, and the construction industry had the highest incidence of legal violations regarding workers' safety.

During 2009 there were 149,436 reported incidents of diseases and injuries from industrial accidents. This included 106,598 minor disabilities (resulting in no more than three days of missed work) and 42,838 disabilities resulting in more than three days of missed work (including permanent disabilities and deaths). However, the rate of incidents occurring in the informal and agricultural sectors and among migrant workers was believed to be higher. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. Many of the young migrant women employed along the Burma border had limited and sub-standard medical care options. In medium-sized and large factories, government health and safety standards often were applied, but overall enforcement of safety standards was lax. In the informal sector, health and safety protections were sub-standard.

Redress for workers injured in industrial accidents was rarely timely or sufficient. Few court decisions were handed down against management or owners involved in workplace disasters.

On November 8, in the first workplace health and safety case to go to the Supreme Court, the court ruled that the Bangkok Weaving Factory must pay almost eight million baht (\$250,000) in compensation to 37 ailing former workers. The court ruled that the company failed to provide a safe working environment, which resulted in the staff developing byssinosis, a respiratory disorder common among textile workers.

The Government allowed undocumented migrant workers from three neighboring countries to work legally in certain sectors of the economy if they registered with authorities and began a process to document their status, namely the verification of their nationality, by March 2. However, on January 19, the Government extended the deadline for an additional two years.

Migrants from Laos and Cambodia may complete their citizenship verification at locations throughout Thailand. Generally, Burmese migrants must travel to one of three processing centers in border locations inside Burma, reportedly due to Burmese government insistence that registration take place within Burma. The Burmese government, however, temporarily allowed citizenship verification to take place on the Thai side of the border in Ranong Province from July through the end of the year to alleviate the need for some migrants to make a boat crossing into Burma during the monsoon season. Following the July closure of the Thai-Burma Friendship Bridge between Mae Sot and Myawaddy, migrants could no longer complete processing at Myawaddy. Workers could conduct processing at the third processing center located in Tachilek, across the border from the Thai town of Mae Sai.

In September 2009 three workers' rights and labor organizations submitted a letter to the UN special rapporteur on the human rights of migrants, requesting an investigation into the migrant worker nationality verification process for Burmese migrants due to concern for the safety of migrants. On February 2, the UN special rapporteur on the human rights of migrants, along with the special rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, sent a letter of concern to the Government.

According to information compiled by the International Organization for Migration with the assistance of the MOL, between January and February 932,255 migrants (812,984 from Burma) renewed their work permits and were eligible for nationality verification processing. By December 388,506 individuals had completed the process. Migrant children of registered migrants are entitled to register for residential permits if their parents have residential permits.

Migrant workers, regardless of their legal status, remained vulnerable to poor working conditions. Reports indicated that they were routinely paid well below the minimum wage, worked long hours and in unhealthy conditions, and (because of their generally illegal status) were at risk of arrest and deportation. Civil society observers continued to criticize the Government's handling of migrant workers due to the workers' perceived vulnerability to exploitation. There were several reports of migrant workers forced to make extorted payments to local-level officials. There also were reports that migrant worker deportees were coerced to make payments to officials in Burma, who allegedly shared payments with local Thai officials. NGOs complained that a June 2 order to deport undocumented migrants exacerbated the

problem. Concerns also were raised regarding a September ministerial regulation that brought into effect a section of the 2008 Alien Working Act requiring affected workers from Cambodia, Laos, and Burma to contribute a set amount to a repatriation fund. In response to criticisms by civil society and government concern that the financial burden of the fund as organized could push workers underground, the Government delayed planned implementation of the fund until March 2012. Until reaching the potential implementation date in 2012, the MOL planned to study how to address the financial burden concerns.

Irregular migrant workers that complete the new amnesty and related nationality verification process have access to the Workmen's Compensation Fund (WCF) and Social Security Office (SSO) funds. However, migrant workers faced discrimination by an SSO policy that denies migrants registered but with disabilities access to the WCF.

The March report of the ILO Committee of Experts asked the Government to review the SSO policy and "to instruct the SSO to take positive and urgent measures lifting restrictive conditions and facilitating access of migrant workers to the WCF irrespective of their nationality." This action followed a 2009 complaint alleging that the Government was denying Burmese migrant workers access to the WCF following work accidents in violation of ILO convention 19.

In July the family of Hsai Htun, an unregistered Shan migrant from Burma who died in 2007 as a result of a work accident, appealed a lower court's decision to revoke an SSO order that directed the employer to pay compensation. At year's end the Supreme Court had not ruled on the appeal, and the family had not received compensation.

In some provinces local regulations prohibit migrant workers from owning mobile telephones, leaving a worksite at night between the hours of 8 p.m. and 6 a.m., gathering in assemblies of more than five persons, and organizing or taking part in cultural events. However, the regulations were rarely enforced. There were reports that security officials harassed NGO personnel who were trying to assist illegal migrant workers.

Problems encountered by Thai citizens working overseas highlighted the problem of exploitative labor supply agencies that charged heavy and illegal recruitment fees sometimes equal to a worker's first- and second-year earnings. In many cases recruited workers did not receive the benefits they were promised and incurred significant debt. Local moneylenders, mostly informal, contributed to this practice by offering exorbitant loans to allow workers to pay recruitment fees, some of which were as high as 500,000 baht (\$15,625), according to an NGO study. The Department of Employment issued regulations limiting the maximum charges for recruitment fees to ensure that the fees are not excessive; however, effective enforcement of the rules was difficult.

---

## TIMOR-LESTE

Timor-Leste is a multiparty parliamentary republic with a population of approximately 1.1 million. President Jose Ramos-Horta was head of state. Prime Minister Kay Rala Xanana Gusmao headed a four-party coalition government formed following free and fair elections in 2007. International security forces in the country included the UN Police (UNPOL) within the UN Integrated Mission in Timor-Leste (UNMIT) and the International Stabilization Force (ISF), neither of which was under the direct control of the Government. The national security forces are the National Police (PNTL) and Defense Forces (F-FDTL). Security forces reported to civilian authorities, but there were some problems with discipline and accountability.

Serious human rights problems included police use of excessive force during arrest and abuse of authority; perception of impunity; arbitrary arrest and detention; and an inefficient and understaffed judiciary that deprived citizens of due process and an expeditious and fair trial. Domestic violence, rape, and sexual abuse were also problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no politically motivated killings by the Government or its agents during the year; however, on August 27, F-FDTL soldiers were involved in a fight with locals in Laivai, Lautem, in which one civilian was beaten to death. The case was handed to the Prosecutor General's

Office and the Human Rights Ombudsman for investigation. At year's end the investigation was ongoing.

There were no developments in the May 2009 case in which a group of F-FDTL members allegedly beat two men on a beach in Dili; one of the victims was subsequently found dead.

On January 4, a PNTL officer was arrested after he allegedly shot and killed a 25-year-old man and injured another in Dili in December 2009. A judge released the officer a day later under restrictive measures. The PNTL suspended the officer and referred the case to the Prosecutor General's Office. The Prosecutor General brought charges against the officer and the trial commenced on December 9. At the end of the year the trial continued.

On March 3, the Dili District Court convicted and sentenced 23 of the former police and soldiers involved in the failed assassination attempts on President Ramos-Horta and Prime Minister Gusmao in February 2008. On August 27, President Ramos-Horta commuted the sentences of the 23 rebels, and they were released from prison.

On May 6, the Court of Appeals overturned the Dili District Court's February 15 sentencing of two civilian perpetrators of violent incidents in the 2006 crisis to lengthy prison terms. The civilians, leaders of a militant veterans group, were found guilty by the District Court of violence against persons and property and illegal use of firearms, ammunition, and explosives. The Court of Appeals stated that the evidence did not strongly support the lower court's ruling.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment of civilians by police and military personnel. Parliamentarians, nongovernmental organizations (NGOs), UNMIT, and the Office of the Ombudsman for Human Rights and Justice received complaints about the use of excessive force by security forces. Most involved beatings, use of excessive force during incident response or arrest, threats made at gunpoint, and intimidation.

In the beginning of the year, the PNTL conducted operations in the Bobonaro and Covalima Districts against "ninjas" (armed individuals who concealed their identities with masks) accused of committing serious crimes. The police detained individuals who were alleged members of the Popular Council for the Defense of the Democratic Republic of Timor-Leste (CPD-RDTL), and there were accusations that some of the detained were beaten.

There were no updates on the following cases from 2009:

In June 2009 F-FDTL personnel beat at least two civilians and reportedly pointed their weapons at UNPOL members after breaking up a fight between two martial arts groups in Maliana, Bobonaro District. At year's end a criminal investigation was ongoing.

Also in June 2009 an F-FDTL member, using his rifle, allegedly threatened and beat a residential security guard. The guard filed official complaints with both the F-FDTL and PNTL, but it was not clear that an investigation was opened.

In September 2009 a group of F-FDTL members physically assaulted a Timorese woman and two foreign military personnel. One of the F-FDTL members involved was expelled from the military in December 2009. The criminal investigation continued.

In November 2009 an off-duty police officer allegedly shot and seriously injured Mateus Pereira in Vila Verde, Dili. The police officer was suspended for 120 days during an internal PNTL investigation. After the internal investigation the results were transferred to the Prosecutor General's office. At year's end no charges were filed.

At year's end there were no developments in the following 2008 incidents: the case of former Baucau PNTL subdistrict commander Francisco Ersio Ximenes serving a suspended one year sentence following his removal from active duty for the beating of a victim with a baton during questioning; the case of three PNTL officers in Suai who allegedly participated in gang-related violence that resulted in 15 persons injured and 20 houses burned; and the case of PNTL Task Force members beating four Dili residents; or the two police officers who were sentenced to two and six months' suspended imprisonment for the assault of a woman in Ossu Subdistrict, Viqueque District.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. Despite some improvements with regard to access to food and water, police station detention cells generally did not comply with international standards and lacked sanitation facilities and bedding. The lack of detention cells

at some police stations discouraged the initiation of formal charges against detained suspects. The civilian authorities ran two prisons, located in Dili (Becora) and Gleno. Together the two prisons held 223 individuals (reliable estimates of the designed capacity of the prisons were not available). The vast majority were pretrial detainees charged with homicide, robbery, or sexual assault. Four of the prisoners were women, and 10 were juveniles. The F-FDTL operated a military prison facility at its headquarters in Dili without civilian oversight. There were no separate facilities for women and youth offenders.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions; however, the results of such investigations were not clearly documented in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

UNMIT personnel noted allegations of mistreatment of prisoners by prison guards during the first 72 hours of imprisonment and a lack of special facilities for the mentally ill, who consequently were detained with other prisoners.

The Government permitted prison visits by the International Committee of the Red Cross and independent human rights observers. The Ombudsman's Office was able to conduct detainee monitoring in Dili. It was not clear whether an ombudsman could serve on behalf of prisoners and detainees more broadly, could address the status of juvenile offenders, or could improve pretrial detention, bail, and record-keeping procedures.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, there were many instances in which these provisions were violated, often because magistrates or judges were unavailable.

*Role of the Police and Security Apparatus.*—The president is commander-in-chief of the armed forces, but the chief of defense, the F-FDTL's senior military officer, exercised effective day-to-day command. Civilian secretaries of state for public security and defense oversaw the PNTL and F-FDTL, respectively.

The PNTL, with UNMIT assistance, continued efforts to reform, restructure, and rebuild in the wake of its collapse during the political crisis of 2006. A central element was a "screening" to ensure that each of the approximately 3,000 PNTL officers was checked for integrity and past crimes or misbehavior. Following screening, officers were to go through renewed training and a six-month UNPOL mentoring program. By year's end all but 209 officers had completed the UNPOL program.

Each of the country's 13 districts has a district PNTL commander who normally reports to the PNTL general commander. In spite of improvements, the PNTL as an institution remained poorly equipped and undertrained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption. An opposition parliamentarian and an international NGO criticized the emphasis on a paramilitary style of policing, which includes highly armed special units and does not sufficiently delineate between the military and the police.

Efforts were made to strengthen the PNTL's internal accountability mechanisms. At year's end the Professional Standards and Discipline Office (PSDO) had 358 cases in its database, although all but 162 cases had been closed. These cases include assaults, use of violence, fraud, unlawful discharge of a weapon, neglect of duty, not reporting to duty, and misconduct. The PSDO forwarded substantiated cases to the appropriate authorities. Out of the substantiated cases, 16 cases resulted in verbal warnings, 42 cases resulted in written reprimands, 19 cases resulted in suspensions, and one case ended in dismissal. At the district level there were serious obstacles to the functioning of the PSDO. PSDO officers were appointed by, and reported to, the PNTL district commander. Persons with complaints about police behavior experienced obstacles when attempting to report violations including repeated requests to return at a later date or to submit their complaint in writing. The Organic Police Law promulgated in February 2009 does not provide for guaranteed participation from the civilian sector in police oversight.

In February 2009 the UN Security Council instructed UNMIT to begin handing over primary policing responsibilities to the PNTL once PNTL personnel in a particular district demonstrated the ability to perform those responsibilities adequately. Handovers occurred in four of the country's 13 districts in 2009: Lautem, Oecussi, Manatuto, and Viqueque. During the year, handovers occurred in six additional districts: Aileu, Ainaro, Baucau, Ermera, Liquica, and Manufahi.

More than 550 ISF personnel from Australia and New Zealand supported the police and security forces.

*Arrest Procedures and Treatment While in Detention.*—The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated. The extreme shortage of prosecutors and judges outside of the capital contributed to police inability to obtain required warrants.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of an arrest or detention and to provide the right to a trial without undue delay. During these hearings the judge may also determine whether the suspect should be released because evidence is lacking or because the suspect is not considered a flight risk. The countrywide shortage of magistrates meant that police often made decisions without legal authority as to whether persons arrested should be released or detained after 72 hours in custody. This contributed to an atmosphere of lawlessness and impunity. Judges may set terms for conditional release, usually requiring the suspect to report regularly to police.

The law provides for access to legal representation at all stages of the proceedings, and provisions exist for providing public defenders to indigent defendants at no cost. Public defenders were in short supply. Most were concentrated in Dili and Baucau, with other areas lacking the same level of access. Many indigent defendants relied on lawyers provided by legal aid organizations. A number of defendants who were assigned public defenders reported that they never saw their lawyer, and there were concerns that some low priority cases were delayed indefinitely while suspects remained in pretrial detention.

The pretrial detention limit of six months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes. The 30-day review deadline was also missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The law provides that judges shall perform their duties “independently and impartially” without “improper influence” and requires public prosecutors to discharge their duties impartially. However, the country’s judicial system faced a wide array of challenges including concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex and multisourced legal regime, and the fact that the majority of the population did not speak Portuguese, the language in which the laws were written and the courts operated. Access to justice was notably constrained.

Progress in establishing judicial institutions and recruiting and training qualified judges, prosecutors, and defense attorneys was slow. By year’s end, 17 judges, 11 prosecutors, and 11 public defenders of Timorese nationality were assigned to the country’s judicial institutions. Three non-Timorese public defenders and three judges served in the country.

Judges, prosecutors, and public defenders assigned to other districts outside Dili often did not reside in these areas. Their intermittent presence continued to hamper severely the functioning of the judiciary outside the capital.

The trial process often was hindered by nonattendance of witnesses due to lack of proper notification or lack of transportation. The shortage of qualified prosecutors and technical staff in the Prosecutor General’s Office hampered its work and resulted in a large case backlog. International prosecutors continued to handle many sensitive cases. At year’s end there was a nationwide backlog of approximately 4,500 cases, a reduction of approximately 700 cases from the previous year. The length of time for cases to come to trial varied significantly, with some delayed for years and others tried within months of accusations.

*Trial Procedures.*—The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except in sensitive cases, such as crimes involving sexual assault, trials are public. Defendants have the right to be present at trials and to consult an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present other witnesses and evidence. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime was complex and inconsistently applied, but the Government adopted a new criminal procedure code and a penal code; the latter came into force in June 2009. The criminal procedure code was translated into Tetum (the language spoken most widely in the country), but the Penal Code was available only in Portuguese.

The Court of Appeal operated primarily in Portuguese. The UN regulations, many of which remained in force, were available in English, Portuguese, Indonesian, and Tetum. Laws enacted by parliament, intended to supplant Indonesian laws and UN

regulations, were published in Portuguese but were seldom available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted in Portuguese and Tetum. However, the quality of translation provided in court varied widely, and translations into Tetum were often incomplete summaries.

In July 2009 a witness protection law came into force, but protection arrangements remained lacking. In many violent crimes, witnesses were unwilling to testify because of the high potential for retribution against them or their families. Court personnel also reported increased concern regarding their own safety.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Civil judicial procedures were beset by the same problems encountered by the judicial system as a whole. The ombudsman for human rights and justice can sue government agencies/agents for alleged human rights abuses; however, the ombudsman's approach has been to refer allegations of abuse to the prosecutor general or the leadership of the PNTL or F-FDTL.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

A 2003 land law broadly defines what property belongs to the Government and was criticized as disregarding many private claims. In previous years the Government evicted persons from land identified as state property at times with little notice and with no due process.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The independent media were active and expressed a wide variety of views without restrictions. Television and radio broadcasts were the primary sources for news. However, there was often no reception outside Dili and district capitals, and broadcasts were often irregular due to technical or resource problems. Many persons did not have access to television or radio.

In June a journalist from *Diario Nacional* was beaten by PNTL officers at the Government Palace, but it was not clear that an investigation was opened.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was extremely limited. According to International Telecommunication Union statistics for 2008, less than 1 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom or cultural events. Academic research on Tetum and other indigenous languages must be approved by the National Language Institute.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The law on assembly and demonstrations establishes guidelines to obtain permits to hold demonstrations and requires police be notified four days in advance of any demonstration or strike. The law also stipulates that demonstrations cannot take place within 100 yards of government buildings or facilities, diplomatic facilities, or political party headquarters. In practice demonstrations were allowed to take place without the requisite advance notification, and the 100-yard regulation was rarely observed.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice. However, in the beginning of the year, there were accusations that during the anti-“ninja” activities (see section 1.c.), the PNTL intimidated and asked members of CPD-RDTL to resign from the organization.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel by road to the western enclave of Oecussi required visas and lengthy stops at Timorese and Indonesian checkpoints at the border crossings.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—In June 2009 the Government formally closed the last of the IDP camps set up after the 2006 political crisis displaced an estimated 150,000 individuals. All persons who remained in transitional shelters have returned home or been resettled. The Ministry of Social Solidarity administered reintegration assistance in coordination with local and international NGOs.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government established a system for providing protection to refugees. The Government granted refugee status or asylum in the past; however, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravened the 1951 Convention relating to the Status of Refugees. These advocates also expressed concern that no written explanation is required when an asylum application is denied. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The president and parliament were elected to a five-year mandate in generally free and fair national elections in 2007. The Government headed by Prime Minister Gusmao is a four-party coalition controlling 37 seats in the 65-seat parliament.

There were 19 women in parliament. Women held three senior ministerial positions—finance, justice, and social solidarity—one vice-minister position, and one secretary of state position.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain.

*Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt practices. By law the Anticorruption Commission is charged with leading national anticorruption activities and has the authority to refer cases for prosecution. The Anticorruption Commission was established in February, taking responsibility for corruption cases from the Office of the Ombudsman for Human Rights and Justice, and a commissioner was appointed in March. At year's end the Commission had begun several investigations.

The Ombudsman's Office transferred several high-profile corruption cases to the Prosecutor General's Office, including accusations of nepotism against the vice prime minister and the minister of foreign affairs for employing the vice prime minister's wife at a Timorese mission overseas. The Prosecutor General's Office submitted charges in this case.

There were accusations of police corruption in the country. Some of the accusations involved border police accepting bribes along the extensive land borders with Indonesia, and police accepting bribes from brothels that engaged in trafficking in persons.

On October 20, the Prosecutor General's Office brought charges against four members of the PNTL for stealing money from funds set up for the 2008 Anti-Rebels joint operations.

The country does not have financial disclosure laws. In 2009 Prime Minister Gusmao demanded that all cabinet officials in his government complete financial disclosure documents, but by year's end none had done so.

The law stipulates that all legislation, Supreme Court decisions (when the court is established), and decisions made by government bodies must be published in the official gazette. If not published they are null and void. Regulations also provide for public access to court proceedings and decisions and the national budget and ac-

counts. In practice there were concerns that public access to information was constrained. For example, the official gazette was published only in Portuguese, although by law it is to be published in Tetum as well. Moreover, its irregular publishing schedule and varying cost meant that few journalists, public servants, or others had regular access to it or knew how to access it. During the year, the official gazette became available online.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. NGOs also played an active role in assisting and advising in the development of the country. The Government generally cooperated with these organizations, but during the year there were instances of security authorities preventing or resisting efforts to monitor human rights compliance.

UNMIT continued to play an important role in the country's development and cooperated closely with the Government.

The Office of the Ombudsman is responsible for the promotion of human rights and good governance. It has the power to investigate and monitor human rights abuses and governance standards, and to make recommendations to the relevant authorities. The Ombudsman's Office was located in Dili, with satellite offices in Same, Bobonaro, Oecussi, and Baucau. It had limited ability to conduct outreach or activities in other districts. The Human Rights Monitoring Network, made up of 10 NGOs, closely cooperated with the ombudsman.

In July 2008 President Ramos-Horta and Indonesian President Yudhoyono publicly accepted the bilateral Commission on Truth and Friendship's (CTF) finding that gross human rights violations had been committed during and after the 1999 independence referendum. The report assigned "institutional responsibility" for such violations to the Indonesian Armed Forces. Presidents Yudhoyono and Ramos-Horta also accepted the report's other findings, conclusions, and recommendations. Neither government pursued individuals responsible for abuses at this time. In December 2009 parliament adopted a resolution acknowledging the work and reports of the CTF and the Commission for Reception, Truth, and Reconciliation. The resolution instructed that legislation be drafted to implement the recommendations of the two reports and to establish an autonomous body to carry them out. Parliament debated a national reparations program and "Institute for Memory" during the year, but at year's end, no legislation implementing the CTF recommendations had been passed.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

*Women.*—Gender-based violence remained a serious concern. Although rape is a crime, failures to investigate or prosecute cases of alleged rape and sexual abuse were common, as were long delays. Authorities reported that the backlog of court cases led some communities to address rape accusations through traditional law, which does not always provide justice to victims. The definition of rape under the Penal Code appears broad enough to make spousal rape a crime, although that definition had not been tested in the courts.

On May 3, the parliament passed the Law against Domestic Violence. The law was enacted to provide protection and defense to vulnerable groups including women, children, the elderly, and persons with disabilities, against all forms of violence, exploitation, discrimination, abandonment, oppression, sexual abuse, and mistreatment.

Domestic violence against women was a significant problem often exacerbated by the reluctance of authorities to respond aggressively. Cases of domestic violence and sexual crimes generally were handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed VPU performance as variable, with some officials actively pursuing cases and others preferring to handle them through mediation or as private family matters. VPU operations were severely constrained by lack of support and resources. Police at times came under pressure from community members to ignore cases of domestic violence or sexual abuse.

There was no law prohibiting sexual harassment, and sexual harassment was reportedly widespread, particularly within some government ministries and the police.

The Government recognized the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children to have the information and means to do so free from discrimination, coercion, and violence. Women's access to family planning information, education, and supplies was limited prin-

cipally by economic considerations. Contraceptive use was low, although the Ministry of Health and NGOs promoted both natural and modern family planning methods, including the distribution of intrauterine devices, injectable contraceptives, and condoms. The results of a Demographic and Health survey released during the year indicated significant improvements in mortality rates, but adult women continued to suffer from higher mortality than men and 42 percent of such deaths were associated with pregnancy and childbirth. According to 2008 estimates by the UN Population Fund, the maternal mortality rate in the country was 370 deaths per 100,000 live births. Thirty percent of women had skilled attendance during childbirth, 61 percent of mothers received antenatal care from a medical professional, and only 32 percent of mothers received postpartum care. Both women and men had equal access to diagnostic and treatment services for sexually transmitted infections, including HIV.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property. Traditional cultural practices, such as payment of a bride price and occasionally polyandry, also occurred. Women were also disadvantaged in pursuing job opportunities at the village level.

The constitution guarantees equal rights to own property. Parliament debated a national land law, which included more specific rights for women's ownership of land, but at year's end, no land law legislation was passed.

The Secretary of State for the Promotion of Equality in the Prime Minister's Office is responsible for the promotion of gender equality. UNMIT's Gender Affairs Unit also monitored discrimination against women. Women's NGOs worked under an umbrella organization called Rede Feto (Women's Network). Rede Feto coordinated the work of NGOs working on women's issues and provided input to draft legislation on women's issues, such as the recent Law on Domestic Violence. The Secretary of State for the Promotion of Equality and the Advisor to the Prime Minister for Civil Society both coordinated and supported the work of Rede Feto.

Women's organizations offered some assistance to female victims of violence, including shelters for victims of domestic violence and incest, a safe room at the national hospital for victims of domestic violence and sexual assault, and escorts to judicial proceedings.

In November the country submitted its candidacy as a member of the UN Women Executive Board.

*Children.*—Children acquire citizenship both through birth within the territory of the country and by having a citizen parent. A Central Civil Registry registers a child's name at birth and issues birth certificates. The rate of birth registration was low.

The constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to ensure provision of free education. According to UN statistics, approximately 20 percent of primary school-age children nationwide were not enrolled in school; the figures for rural areas were substantially higher than those for urban areas.

In rural areas heavily indebted parents sometimes provided their children as indentured servants as a way to settle the debt. If the child was a girl, the receiving family could also demand any dowry payment normally owed to the girl's parents.

There is no clearly defined age below which sex is by definition nonconsensual. Violence against children and child sexual assault was a significant problem. Some commercial sexual exploitation of minors occurred. The Penal Code describes a vulnerable victim for purposes of rape as a "victim aged less than 17 years" and provides an aggravated sentence. The Penal Code separately addresses "sexual abuse of a minor," which is described as one "age less than 14 years," and also separately addresses "sexual acts with an adolescent," which it defines as "a minor aged between 14 and 16 years." The Penal Code also makes both child prostitution and child pornography crimes and defines a "child" for purposes of those provisions as a "minor aged less than 17 years." The Penal Code also criminalizes abduction of a minor, although it does not define what constitutes a minor for purposes of that section.

In September 2009 the Prime Minister's office established the Timor-Leste National Commission on Child Rights. The commission is mandated to promote, defend, and monitor child rights.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Although the constitution protects the rights of persons with disabilities, the Government has not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, in many districts children with disabilities were unable to attend school due to accessibility problems.

Training and vocational initiatives did not address the needs of persons with disabilities. In the past some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources or lack of referral to existing resources; it was not clear whether this situation had improved. Mentally ill persons were imprisoned with the general prison population and were denied needed psychiatric care. An office in the Ministry of Social Solidarity was responsible for protecting the rights of persons with disabilities. Persons with disabilities are eligible for monthly special monetary stipends through the Ministry of Social Solidarity.

*National/Racial/Ethnic Minorities.*—Although tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) contributed to the 2006 political crisis, such tensions appeared to be greatly reduced and no specific incidents were observed during the year.

Relations were generally good between the ethnic majority and members of several small ethnic minority groups including ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law makes no reference to homosexual activity. Gays and lesbians were not highly visible in the country, which was predominantly rural, traditional, and religious. According to the East Timor Law and Justice Bulletin (ETLJB), the principal international NGO that runs an HIV-AIDS transmission reduction program excludes gays from its program. Aside from the ETLJB report, there were no formal reports of discrimination based on sexual orientation, due in part to limited awareness of the issue and a lack of formal legal protections.

*Other Societal Violence or Discrimination.*—There were no formal reports of discrimination based on HIV/AIDS status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally were slowed by inexperience, a lack of organizational skills, and the fact that more than 80 percent of the workforce was in the informal sector. There are official registration procedures for trade unions and employer organizations. At year's end the Government began compiling data on the percentage of unionized workers in the formal sector.

While the law prohibits dismissal for union activity, it also allows for financial compensation in lieu of reinstatement, thus partially weakening the protection against employers' interference.

The law provides for the right to strike, but few workers exercised this right during the year. The law on assembly and demonstrations could be used to inhibit strikes but was not used in this way.

The law prohibits foreigners from participating in the administration of trade unions.

*b. The Right to Organize and Bargain Collectively.*—While collective bargaining is permitted by law, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations. The Ministry of Social Solidarity is the Government agency charged with labor dispute settlement.

There are no formal export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Government regulations prohibit forced or compulsory labor, and there were reports that such practices occurred. Men from Burma were subjected to conditions of forced labor in construction and

other industries, while men from Cambodia and Thailand were forced to toil on fishing boats under harsh working conditions, and with poor food and no access to medical care. Also see the Department of State's annual Trafficking in Persons Report at <https://www.state.gov/g/tip>.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law generally prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 and 18, as well as children under 15, can work. The minimum age does not apply to family-owned businesses, and many children worked in the agricultural sector. Child labor in the informal sector was a major problem. In practice enforcement of the labor code outside of Dili was limited.

*e. Acceptable Conditions of Work.*—The law does not stipulate a minimum wage. The law provides for a standard workweek of 40 hours, standard benefits such as overtime and leave, and minimum standards of worker health and safety. The Ministry of Social Solidarity is responsible for enforcing the labor code. A National Labor Board and a Labor Relations Board exist, and there are no restrictions on the rights of workers to file complaints and seek redress. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear whether they could avail themselves of this right in practice.

---

## TONGA

The Kingdom of Tonga is a constitutional monarchy with a population of approximately 120,900. Political life is dominated by King Siaosi (George) Tupou V, the nobility, and a few prominent commoners. Parliamentary elections held November 25 were deemed generally free and fair. On December 21, Parliament elected nobles' representative Lord Tu'ivakano as prime minister. A state of emergency declared following a 2006 riot in the capital of Nuku'alofa remained in effect during the year but limited in scope to Nuku'alofa. Security forces reported to civilian authorities.

The king's June replacement of the Judicial Services Commission with a royally appointed lord chancellor for appointing judges raised concerns about the continued independence of the judiciary. The Government at times restricted media coverage of certain political topics. Government corruption was a problem, and domestic violence and discrimination against women continued.

The aristocracy-dominated political system was democratized during the year with the November parliamentary elections, in which for the first time a majority of members were popularly elected in accordance with political reforms promulgated in 2009.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards. The Government permitted monitoring visits by international human rights observers, but there were no such visits during the year.

At year's end the country's four prisons and other detention facilities—located on the main islands of Tongatapu, Vava'u, Ha'apai, and 'Eua—held a total of 159 inmates, including pretrial detainees. Of these, seven were women and 22 were juveniles (defined as under age 20). A breakdown between the number of convicted prisoners and the number of pretrial detainees was not available. There were 103 male and seven female inmates in Tongatapu Prison, four additional prisoners who lived and worked on the prison's animal farm, and one person held in a police cell on Tongatapu. There were 14 inmates on Vava'u, 13 on Ha'apai, and 17 on 'Eua—all male. The maximum prison capacity was 132 persons on Tongatapu, 14 on Vava'u, 13 on Ha'apai, and 30 on 'Eua.

Prisoners had reasonable access to visitors and were permitted religious observance. The authorities permitted prisoners to submit complaints without censorship.

to the prison officer-in-charge, who then forwarded them to the commissioner of prisons for review and action. At least once every quarter, a group of three to five persons called "visiting officers," chosen by the cabinet and normally including a police magistrate, a physician, and a clergyman, visited the prisons to hear any prisoner complaints or grievances. Prisoners also are permitted to submit complaints to judicial authorities.

The country does not have an ombudsman who can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for non-violent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. However, overcrowding was not a problem during the year, and the authorities maintained a tracking system to ensure that prisoners were not held beyond the maximum sentence for their offense.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The minister of defense controls the TDS, which is responsible for external security and, under the state of emergency, shared domestic security duties with the police.

The minister of police and prisons directs the police force of approximately 405 persons. There were no reports of police impunity during the year. Public complaints against the police are referred to a specific police office that conducts internal investigations and, if necessary, convenes a police tribunal. Entry-level police training included training on corruption, ethics, transparency, and human rights.

*Arrest Procedures and Treatment While in Detention.*—The law provides for the right to judicial determination of the legality of arrest, and this was observed in practice during the year. Under normal circumstances police have the right to arrest detainees without a warrant, but detainees must be brought before a local magistrate within 24 hours. In most cases magistrates set bail. The law permits unlimited access by counsel and family members to detained persons. Indigent persons could obtain legal assistance from the community law center (CLC). However, the CLC did not have a dedicated source of funding during the year and was dependent on donations.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice. The highest-ranking judges historically have been foreign nationals from the British Commonwealth legal tradition.

In June the king announced that the appointment of judges would hereafter be handled by a lord chancellor appointed by the monarch in place of the Judicial Services Commission, which the king disbanded. The lord chancellor also has authority to investigate complaints against judges, which previously rested with the Judicial Services Commission. The change ostensibly was made to insulate judicial appointments from parliamentary influence. Opponents of the change asserted it would compromise the independence of the judiciary.

A number of controversial changes were made in the judiciary during the year. In December 2009 the cabinet reportedly decided not to renew the chief justice's contract; he left office in August. His departure was followed by the contentious departure, also in August, of Acting Chief Justice Warwick Andrew, who claimed he was prevented from completing the remaining one month of his term. The Government denied this, stating that Andrew was granted early leave that he had requested. These departures left the judiciary with only one sitting judge and one magistrate until newly appointed Chief Justice Michael Scott began his term in September. Subsequently, two additional magistrates were appointed to the Tongatapu courts to manage a backlog of cases that arose due to the availability of only one sitting magistrate, whose death in September created even more delays in court processes.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, and defendants have the option to request a seven-member jury. Defendants are presumed innocent, may question witnesses against them, and have access to government-held evidence. They have the right to be present at their trials and to consult with an attorney in a timely manner. Public defenders are not provided, but the CLC provided free legal advice and representation in court. Local lawyers occasionally took pro bono cases. Defendants have the right of appeal. The law extends these rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Any violation of a human right provided for in the law can be addressed in the courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, but the Government did not always respect these rights in practice.

In May the Government withdrew a charge against member of Parliament Clive Edwards for “speaking seditious words” at a prodemocracy rally in 2006.

Media outlets reported on political developments and high-profile court cases but exercised self-censorship regarding high-profile individuals. Since the political campaigns of 2008, the Government-owned Tonga Broadcasting Commission (TBC)’s board has directed that all programming be reviewed by TBC board-appointed censors prior to broadcast.

In December the Ministry of Information ordered the FM 88.1 radio station to cease broadcasting, on the grounds that it was broadcasting without a license. The station had been operating under a license owned by publisher Kalafi Moala, who reportedly withdrew the license after receiving complaints from the ministry about the station’s political reporting. The station’s owner denied that its reporting was partisan and asserted that the Government was attempting to hinder public discussion about the negotiations to form a new government after the November elections.

Media access to parliamentary debates remained restricted; however, the debate minutes were available publicly online a day after the debates. The Government lifted these restrictions to allow the media to cover Parliament’s election of a new prime minister in December. However, some prodemocracy media complained that their reporters were not invited to the new prime minister’s installation ceremony, although other media representatives were invited.

Privately owned media carried reports about internal government changes and policies, and letters to the editor continued to be a favorite venue for citizens to air criticisms and concerns about the country’s direction. From time to time, private media carried comments, including some by prominent citizens, critical of government practices and policies.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Lack of infrastructure limited access to a certain extent, but there were Internet cafes available in the larger towns in all three of the country’s main island groups. The International Telecommunication Union reported that approximately 7 percent of the country’s inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, and the Government generally respected this right in practice. Revised emergency powers regulations, issued in September 2008 and renewed every 30 days thereafter, do not explicitly prohibit public meetings or gatherings.

By year’s end all court cases involving persons charged with offenses relating to the 2006 riot in Nuku’alofa had been resolved.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and prior to the declaration of a state of emergency in 2006, the Government generally respected these rights in practice. The continuing emergency powers regulations authorized the police and military to restrict free movement in and around a “proclaimed area” of Nuku’alofa, but these restrictions were rarely enforced.

The need did not arise during the year for cooperation with the UN High Commissioner for Refugees or other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not prohibit forced exile, but the Government did not employ it in practice.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. Its laws do not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. In principle the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, but no persons were known to have applied for refugee status or temporary protection during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

During the year the Government implemented political reforms approved by Parliament in 2009. The number of popularly elected members of the unicameral Parliament was increased to a majority of 17 out of 26; the remaining nine MPs are nobles elected by their peers. Parliament elects the prime minister, who appoints the cabinet; up to four cabinet members may be selected from outside Parliament. Prior to the reforms, only nine of 30 MPs were popularly elected, with nine elected by the nobles and the remainder appointed by the king; the king also appointed the prime minister and cabinet. Cabinet members and nobles often voted as a bloc.

Although, under the reforms, the majority of MPs are chosen by popular vote, the king retains significant powers, such as that to withhold his assent to laws and to dissolve Parliament.

*Elections and Political Participation.*—Citizens 21 years or older and resident in the country may vote. The most recent parliamentary elections, held November 25, were deemed generally free and fair and resulted in a strong showing for prodemocracy candidates, who won 12 of the 17 popularly elected seats. However, five popularly elected MPs joined with the nine nobles to elect a noble, Lord Tu'ivakano, as prime minister.

Nobles and cabinet members associated with the royal family have traditionally dominated the Parliament and government. For several decades a democracy movement has been building, and since 2005 three pro-reform political parties have been registered.

There was one woman in the 30-member Parliament prior to the November election. No women were elected to the new Parliament in November. A woman may become queen, but the constitution forbids a woman to inherit hereditary noble titles or become a chief.

There were no members of minorities in the Government.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. The Government generally implemented the law, but officials often engaged in corrupt practices with impunity, and corruption remained a serious problem. In February 2008 the Office of the Auditor General began reporting to Parliament directly, instead of to the prime minister. The Office of the Anti-Corruption Commissioner is empowered to investigate official corruption.

There were unconfirmed reports of government corruption during the year. Incidents of bribe taking and other forms of corruption in the police force reportedly occurred. Government preferences appeared to benefit unfairly businesses associated with government officials, nobles, and the royal family. There is no law requiring financial disclosure for public officials. The royal family continued to exert significant influence over public finances.

The law does not specifically allow for public access to government information, and such access was a problem, especially when the Government deemed the information sensitive.

### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were fairly cooperative and responsive to their views.

Government offices include a commission on public relations that investigates and seeks to resolve complaints about the Government.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law confirms the special status of members of the royal family and the nobility. While social, cultural, and economic facilities were available to all citizens regardless of race and religion, members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status.

*Women.*—Rape is punishable by up to 15 years' imprisonment. The law does not recognize spousal rape. The incidence of rape appeared to be infrequent, although there were no reliable statistics. Rape cases were investigated by the police and prosecuted under the penal code. Police received two reports of rape during the year. One nongovernmental organization (NGO) reported receiving three reports of rape.

The Police Domestic Violence Unit, together with various NGOs, including the National Center for Women and Children, the Women and Children Crisis Center, and the Salvation Army, conducted public awareness and prevention campaigns against domestic violence. Statistics compiled by the National Center for Women and Children and the Women and Children Crisis Center indicated that more than 600 persons sought assistance from these organizations during the year. Of these, 79 percent were women, and 14 percent were children. Domestic violence was the leading complaint for women, while neglect and physical abuse were the leading reasons for seeking assistance for children.

The law does not address domestic violence specifically, but domestic violence can be prosecuted under laws against physical assault. The Police Domestic Violence Unit has a "no drop" policy in complaints of domestic assault, and these cases proceed to prosecution in the Magistrate's Court. The no drop policy was introduced in 2009 because many women were reluctant to press charges against their spouses due to cultural constraints. Police received 174 domestic assault reports during the year. Following reports of abuse, victims received counseling from Police Domestic Violence Unit officers. Perpetrators were also provided counseling. The police worked with the National Center for Women and Children as well as the Women and Children Crisis Center to provide shelter for abused women. The Free Wesleyan Church operated a hotline for women in trouble, and the Salvation Army provided counseling and rehabilitation programs.

Sexual harassment is not a crime, but physical sexual assault can be prosecuted as indecent assault. Sexual harassment of women sometimes occurred, based on complaints received by the Police Domestic Violence Unit.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. Public hospitals and health centers and a regional NGO's clinic provided free information about and access to contraception. According to indicators published by the Population Research Bureau (PRB), an estimated 23 percent of married women ages 15-49 used modern contraceptive methods. Under a Ministry of Health policy, a woman is not permitted to undergo a tubal ligation at a public hospital without the consent of her husband or, in his absence, her male next of kin. Public hospitals and health centers provided free prenatal, obstetric, and postpartum care. According to PRB indicators, skilled health personnel attended an estimated 95 percent of births. According to Ministry of Health data, in 2007 (the latest figure available) the estimated maternal mortality ratio was 37 deaths per 100,000 live births. Women and men received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land, but inheritance rights pass through the male heirs. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter. If there are no male relatives, a widow is entitled to remain on her husband's land as long as she does not remarry or engage in sexual intercourse.

The Office of Women within the Ministry of Education, Women, and Culture is responsible for facilitation of development projects for women. During the year the office assisted women's groups in setting up work programs.

There were no reports of discrimination against women compared with men in the terms of employment, including types of work, hours worked, or pay. Women who rose to positions of leadership often had links with the nobility. Some female commoners held senior leadership positions in business and government, including that of governor of the Reserve Bank.

The National Center for Women and Children and the Women and Children Crisis Center focused on domestic abuse and improving the economic and social conditions of women. Both offered counseling to women in crisis, and the Women and Children Crisis Center operated a safehouse for women and children. Other NGOs,

including Ma'a Fafine Moe Famili (For Women and Families, Inc.) and the Tonga National Women's Congress, promoted human rights, focusing on the rights of women and children. Several religiously affiliated women's groups also advocated for women's legal rights.

*Children.*—Birth in the country does not confer citizenship. Citizenship is derived from one's parents or from the citizen parent if only one parent is a citizen.

According to Police Domestic Violence Unit statistics, during the year there were 22 reports of assaults on children up to age 18, two of which involved children age 10 or younger. One person was sentenced to life imprisonment for manslaughter in the 2009 death of a four-year-old child, but in October the Appeals Court ordered a retrial on grounds of miscarriage of justice. The retrial was pending before the Supreme Court at year's end.

The minimum age for consensual sex is 16 years. Violators may be charged with indecent assault on a female, which carries a maximum penalty of two years' imprisonment; indecent assault of a child carries a maximum sentence of five years. A separate provision of law prohibits carnal knowledge of a girl under age 12, with a maximum penalty of life imprisonment. The law also prohibits child pornography, with penalties of a fine of up to 100,000 pa'anga (approximately \$53,475) or up to 10 years' imprisonment for individuals and a fine of up to 250,000 pa'anga (approximately \$133,700) for corporations.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known resident Jewish community, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There are no legally mandated provisions for services for persons with physical, sensory, intellectual, or mental disabilities. There were no formal complaints of discrimination in employment, education, and provision of other government services. However, there were no programs to ensure access to buildings for persons with disabilities, and in practice most buildings were not accessible. There also were no programs to ensure access to communications and information for persons with disabilities. The Tonga Red Cross Society operated a school for children with disabilities and conducted occasional home visits. A Ministry of Education pilot program, which began in 2007, continued during the year to assimilate children with disabilities into primary schools. The queen mother ran a center providing accommodation and meals for adults with disabilities. There was an NGO advocating on behalf of persons with disabilities.

There was no specific government agency with responsibility for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to the Ministry of Labor, Commerce, and Industries, ownership and operation of food retail stores in the country has been legally restricted to citizens since 1978. Despite this policy the retail sector in many towns was dominated by Chinese nationals, who also moved into unrestricted sectors of the economy. There were reports of crime and societal discrimination targeted at members of the Chinese minority.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy is illegal, with a maximum penalty of 10 years' imprisonment, but there were no reports of prosecutions directed at lesbian, gay, bisexual, or transgender persons under this provision. Persons who engaged in openly homosexual behavior faced societal discrimination. There were no reports of violence against persons based on sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination or violence against persons based on HIV/AIDS status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers gained the right to form unions under the 1964 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no official unions. An estimated 35 percent of the population were wage earners, of whom approximately 65 percent worked in the agricultural sector. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they have no formal bargaining rights under the act. The Public Servants Association (PSA) acted as a de facto union representing all government employees.

The Trade Union Act provides workers with the right to strike, but implementing regulations were never formulated. There have been strikes, but none took place during the year.

*b. The Right to Organize and Bargain Collectively.*—The law permits collective bargaining, but there were no implementing regulations, and collective bargaining was not known to take place in practice.

There was no dispute resolution mechanism in place specifically for labor disputes, although persons could take their cases to court. In January an out-of-court settlement was recorded in the PSA's suit against the Government relating to the firing of the PSA secretary from her government job in 2007; the details were not made public.

There are no special laws or exemptions from regular labor laws in the two small export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred among citizens. There were anecdotal reports that some foreign workers may have been coerced into forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy. According to the National Center for Women and Children and other NGOs, some school-age children were working in the informal sector in traditional family activities such as subsistence farming and fishing.

*e. Acceptable Conditions of Work.*—There is no minimum wage law, although there are government guidelines for wage levels set by the Ministry of Labor, Commerce and Industries. According to the Asian Development Bank, 23 percent of workers in 16 communities surveyed in 2005 earned less than 29 pa'anga (approximately \$16) per week, which did not provide a decent standard of living for a worker and family. Government workers received pay raises in 2009, and their salaries generally were sufficient to provide a decent standard of living for a worker and family.

Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The ministry enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu, but enforcement in the agricultural sector and on the outer islands was less consistent.

Few industries exposed workers to significant danger, and industrial accidents were rare. Workers have the right to remove themselves from situations that endangered health or safety without jeopardy to their employment; however, the authorities seldom enforced this right.

---

## TUVALU

Tuvalu is a parliamentary democracy with a population of approximately 11,100. In September citizens elected a 15-member unicameral Parliament in generally free and fair elections. There were no formal political parties. Following the elections a loose coalition of eight members of Parliament formed a new government and selected Maatia Toafa as prime minister. In December Parliament ousted Toafa in a vote of no confidence and selected Willy Telavi, Toafa's former health minister, as the new prime minister. Security forces reported to civilian authorities.

Few human rights problems were reported, but there were concerns that traditional customs and social patterns led to and perpetuated religious and social discrimination, including discrimination against women. Domestic violence also was a problem.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

Local hereditary elders exercise traditional discretionary punishment and disciplinary authority. This includes the right to inflict corporal punishment for infringe-

ment of customary rules, which can be at odds with national law. However, during the year there were no reports of such corporal punishment.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted visits by local church representatives. The Government permitted visits by independent human rights observers, but there were no such visits during the year.

As of October the prison system held seven convicted prisoners and one pretrial detainee, all male. The pretrial detainee was held in a separate facility from the prisoners. There were no juvenile offenders (defined as those under age 18) in custody.

Prisoners had reasonable access to visitors and were permitted religious observance. A government doctor provided medical treatment for prisoners. Prisoners were permitted to submit complaints without censorship through the Office of the Peoples' Lawyer. During the year the Government did not investigate or monitor prison conditions and did not receive any complaints or allegations of inhumane prison conditions.

The country does not have an ombudsman who can act on behalf of prisoners and detainees.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national police service, and the Government has effective mechanisms to investigate and punish police abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law permits arrests without warrants if a police officer witnesses the commission of an unlawful act or has "reasonable suspicion" that an offense is about to be committed. Police estimated that the majority of arrests were of this type. Police may hold a person arrested without a warrant for no more than 24 hours without a hearing before a magistrate. When a court issues an arrest warrant, the maximum permissible detention time before a hearing must be held is stated on the warrant and normally is one to two weeks.

There was a functioning system of bail. Arrested persons generally were promptly informed of the charges against them, although bureaucratic delays sometimes occurred because persons charged with serious offenses to be tried in the High Court must wait for its semiannual session. Detainees had prompt access to family members. A "people's lawyer" (public defender) was available free of charge for arrested persons and other legal advice. Persons on the outer islands did not have ready access to legal services, however, as the people's lawyer was based on the main island of Funafuti and infrequently traveled to the outer islands. The country had no attorneys in private practice.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Procedural safeguards are based on British common law. The law provides for a presumption of innocence. Judges conduct trials and render verdicts; there are no juries. Trials are public and defendants have the right to be present. Defendants have the right to be informed of the nature of the offenses with which they are charged, to consult with an attorney in a timely manner, and to have access to an independent public defender. They also have the right to confront witnesses, present evidence, and appeal convictions. The law extends these rights to all citizens. Since 2008 the number of backlogged cases awaiting trial both on Funafuti and the outer islands decreased significantly.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Individuals may bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Although there were no government restrictions, there were no private, independent media. The Government's Media Department controlled the country's sole radio station.

There was no domestic television broadcast. Those few who could afford it received international satellite television broadcasts. DVDs and videotapes circulated freely and were widely available. International media were allowed to operate freely.

*Internet Freedom.*—There were no government restrictions on access to the Internet and no reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. In 2009 the International Telecommunication Union reported that approximately 43 percent of the country's inhabitants used the Internet. The relative lack of telecommunications infrastructure and high cost restricted public access to the Internet beyond the capital island of Funafuti.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The need did not arise during the year for government cooperation with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the Government did not practice it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, but the Government has not established a system for providing protection to refugees. During the year there were no applications for refugee resettlement, asylum, or protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The September general elections were generally free and fair. An eight-member majority of the newly elected Parliament selected Maatia Toafa as prime minister. In December Parliament ousted Toafa in a no-confidence vote and selected Willy Telavi, the former health minister in Toafa's government, as the new prime minister.

There were no formal political parties; instead, Parliament tended to divide between an ad hoc faction with at least the necessary eight votes to form a government and an informal opposition faction.

Participation by women in government and politics was limited, largely due to traditional perceptions of women's role in society. There were no women in the 15-member Parliament. One woman served as a cabinet minister.

There were no members of minorities in Parliament or the cabinet.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for some forms of official corruption, such as theft; however, laws against corruption are weak. There was a widespread public perception that government transparency and accountability needed further improvement. While the Government enacted a "leadership code" in 2007 that outlines standards of conduct for government officials, as of year's end it was not implemented. Concerns remained that public funds sometimes were mismanaged and that government officials sometimes benefited unfairly from their positions, particularly in regard to overseas travel and related payments and benefits.

The law provides for annual, public ministerial reports, but publication was spotty and often nonexistent. The Auditor General's Office, responsible for providing gov-

ernment oversight, was underfunded. Public officials were not subject to financial disclosure laws.

Since 2009, together with Nauru and Kiribati, the country has participated in a subregional audit support program, an initiative of the Pacific Association of Supreme Audit Institutions, with the goal of enabling public accounts to be audited to uniformly high standards in a timely manner.

There is no law providing for public access to government information. In practice the Government was somewhat cooperative in responding to individual requests for such information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no local NGOs focused entirely on human rights, although there were no known barriers to their establishment. Some human rights advocates, such as the Tuvalu National Council of Women, operated under the auspices of the Tuvalu Association of Nongovernmental Organizations, which was composed primarily of religious organizations. The people's lawyer monitored sentencing, equality before the law, and human rights issues in general. This institution, which at times was critical of the Government, nonetheless was supported by the Government, which frequently sought its advice. The few other local organizations involved in human rights issues generally operated without government restriction, investigating and publishing their findings on human rights cases. However, opportunities to publicize such information locally were severely limited due to the lack of local print and electronic media. Government officials were somewhat cooperative and responsive to local organizations' views.

The Government cooperated with international governmental organizations and permitted visits by UN representatives or other organizations.

Although the country does not have a human rights ombudsman, persons can raise human rights concerns and complaints with the Office of the People's Lawyer.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, color, and place of origin, and the Government generally enforced these prohibitions. In 2005 the High Court stated that the omission of gender as a basis of discrimination in the constitution was deliberate, and there is no constitutional protection against sex discrimination.

*Women.*—Rape is a crime punishable by a minimum sentence of five years' imprisonment, but spousal rape is not included in the legal definition of this offense. There were both arrests and trials for rape-related offenses during the year. The High Court convicted one defendant of rape and sentenced him to seven years' imprisonment. A second rape case was scheduled for trial in March 2011.

The law does not specifically address domestic violence, and the issue was not a source of broad societal debate. Acts of domestic violence were prosecuted under the assault provisions of the penal code. The maximum penalty for common assault is six months' imprisonment, and for assault with actual bodily harm, five years' imprisonment. A 2007 demographic and health survey conducted by the Secretariat of the Pacific Community reported that approximately 47 percent of the women surveyed had experienced some type of violence in their lifetime. Nine percent experienced sexual violence, 25 percent experienced other physical violence, and a further 12 percent were victims of both sexual and other physical violence. Human rights observers criticized the police for seeking to address violence against women using traditional and customary methods of reconciliation rather than criminal prosecution. There were no shelters or hotlines for abused women.

The law does not specifically prohibit sexual harassment but prohibits indecent behavior, which includes lewd touching. Sexual harassment was not widely reported.

Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and have the means and information to do so free from discrimination, coercion, and violence. The nongovernmental Tuvalu Family Health Association provided information and education about, and access to, contraception. According to indicators published by the Population Research Bureau, an estimated 29 percent of married women ages 15-49 used modern contraceptive methods. Government hospitals also offered family planning services and provided free prenatal, obstetric, and postnatal care. Virtually all births were attended by skilled health personnel, and maternal mortality was reported to be at zero since 2004. Women and men received equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

There remained some areas in which the law contributes to an unequal status for women, such as land inheritance rights and child custody rights. In practice women

held a subordinate societal position, constrained both by law in some instances and by traditional customary practices. Nonetheless, women increasingly held positions in the health and education sectors, headed a number of NGOs, and were more active politically. In the wage economy, men held most higher-paying positions, while women held the majority of lower-paying clerical and retail positions.

*Children.*—Citizenship is derived through one's parents.

The Government did not compile child-abuse statistics, and there were no reported cases of child abuse or child prostitution during the year. However, anecdotal evidence indicated that child abuse occurred. Corporal punishment, in the form of strokes of a cane or paddle, was common in schools.

The age of consent for sexual relations is 15. Sexual relations with a girl below age 13 are punishable by up to life imprisonment. Sexual relations with a girl older than age 12 but younger than age 15 are punishable by up to five years' imprisonment. The victim's consent is irrelevant under both these provisions; however, in the latter case, reasonable belief that the victim was 15 or older is a permissible defense. There is no specific provision of law pertaining to child pornography.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There was no known Jewish community and no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law does not prohibit discrimination on the basis of physical, sensory, intellectual, or mental disability. There were no known reports of discrimination against persons with disabilities in employment, education, or the provision of other state services. However, supplementary state services to address the special needs of persons with disabilities were very limited. There are no mandated building accessibility provisions for persons with disabilities. Although the one multi-story government building had elevators, they were not operational, and there were no elevators in other multi-story buildings. Persons with disabilities had limited access to information and communications. The Fusi Alofa Association (Tuvalu National Disabled Persons Organization) and the Tuvalu Red Cross undertook regular home visits to persons with disabilities and conducted educational programs to raise community awareness of the rights of persons with disabilities and to advocate for such persons. The Fusi Alofa Association ran basic education classes in Funafuti for children with disabilities who were not able to attend school.

The Community Affairs Department in the Ministry of Home Affairs and Rural Development is responsible for protecting the rights of persons with disabilities.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Sodomy and acts of "gross indecency between males" are illegal, with maximum penalties of 14 and seven years' imprisonment, respectively, but there were no reports of prosecutions directed against lesbian, gay, bisexual, or transgender persons under these provisions during the year. Societal discrimination against persons based on sexual orientation was not common, and there were no reports of such discrimination during the year.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS faced some societal discrimination. Local agents of foreign companies that hired seafarers from Tuvalu to work abroad barred persons with HIV/AIDS from employment. The Government and NGOs cooperated to inform the public about HIV/AIDS and to counter discrimination. There were no reports of violence against persons based on HIV/AIDS status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the working-age population (approximately 75 percent) lacked permanent employment and worked in the informal and subsistence economy.

An estimated 69 percent of the wage-earning workforce was employed by the Government either directly (39 percent) or in public or semipublic corporations (30 percent). Public-sector employees, such as civil servants, teachers, and nurses, were members of professional associations that did not have union status. The only registered trade union, the Tuvalu Seamen's Union, had approximately 1,350 members, approximately 300 of whom worked on foreign merchant vessels.

The law provides for the right to strike, but no strike has ever taken place.

*b. The Right to Organize and Bargain Collectively.*—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice the few individual private-sector employers set their own wage scales. Both the private and public sectors generally used nonconfrontational deliberations to resolve labor disputes.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under age 14 from working in the formal labor market. The law also prohibits children under age 15 from industrial employment or work on any ship and stipulates that children under age 18 are not allowed to enter into formal contracts, including work contracts. However, a separate provision of law allows children age 15 or older to enter into apprenticeships of up to five years, subject to approval by the Commissioner of Labor. No restrictions are placed on the type of work that a child apprentice may perform; however, he or she must be medically examined and determined to be physically and mentally fit to be employed in the specified occupation. Apprentices may lawfully live away from their families; in such cases, under the law the contract must adequately provide for the supply of food, clothing, accommodation, and medical attention to the apprentice. However, the Government did not have sufficient resources to monitor and enforce child labor law provisions effectively. Children rarely were employed outside the traditional economy of subsistence farming and fishing.

*e. Acceptable Conditions of Work.*—The minimum wage, set by the Ministry of Foreign Affairs and Labor, was barely sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public sector was AUS\$130 (approximately \$130). The Government does not set a minimum wage for the private sector. Private-sector wages were typically somewhat lower than the Government's minimum wage rate.

The Ministry of Foreign Affairs and Labor may specify the days and hours of work for workers in various industries. The law sets the workday at eight hours. However, the ministry did not have sufficient resources to enforce the law during the year.

The law provides for rudimentary health and safety standards. It requires employers to provide adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Foreign Affairs and Labor is responsible for the enforcement of these regulations, but in practice it provided minimal enforcement. Workers may remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

---

## VANUATU

Vanuatu is a multiparty parliamentary democracy with a population of approximately 234,000. The head of government, Prime Minister Sato Kilman, was appointed in December after Edward Natapei was ousted in a parliamentary vote of no confidence. The most recent elections, held in September 2008, were considered generally free and fair. Security forces reported to civilian authorities. Police officials on occasion acted peremptorily or at the direction of senior politicians.

Human rights problems during the year included police violence, poor prison conditions, arrests without warrants, an extremely slow judicial process, government corruption, and violence and discrimination against women.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings. On March 4, authorities released the report of a coroner's inquest conducted by New Zealand Justice Nevin Dawson in the case of escaped prisoner John Bule, who died after sustaining multiple injuries while in police custody following his recapture in March 2009. The report highlighted police abuse by the Vanuatu Mobile Force (VMF), a police paramilitary unit, and called for an inquiry into Bule's death and a scaling down of the VMF's powers. The report noted instances of intimidation during the inquest, including a death threat against Dawson from a senior VMF officer. At year's end no one had been

charged in the case, and the Government had not set up any commission of inquiry into the matter.

In March a group of villagers from Kaiovo village on Maewo Island reportedly killed two brothers from the same village whom they accused of using sorcery to cause the deaths of two staff members of Gambule Junior Secondary School in 2009. The killings occurred on Ambae Island. Police arrested five suspects, who were later released on bail. Two of the suspects jumped bail before questioning. At year's end they were still at large, and police were still investigating the matter.

During the year a court found one defendant guilty of murder and another guilty of intentional assault causing permanent injury in the case of the 2007 mob violence in which three persons were killed and 20 injured in the Blacksands and Anabrou squatter settlements in Port Vila. Specific information on the first defendant's sentence was not available. The second defendant was sentenced to two years and nine months' imprisonment.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, there were reports of police and correctional officer abuse of criminal suspects and prison inmates, respectively.

*Prison and Detention Center Conditions.*—Conditions at the three prisons in Port Vila improved slightly during the year with foreign donor funding but remained below international standards.

Following the 2008 release of a report detailing prisoner complaints about the poor conditions at the main Port Vila prison, the Government established a commission of inquiry to investigate prisoner allegations. The commission prepared a report that was released in August 2009. Major recommendations included a review of certain sections of the Correction Services Act and demolition and rebuilding of buildings at the Stade Correctional Center in Port Vila. In April 2009 a Supreme Court judge expressed the court's concern about treatment of inmates and ordered the public prosecutor to investigate and report back to the court, among other things, the names of all prisoners hospitalized since January 2009, details of their injuries and illnesses, and information on prison escapees. According to the public prosecutor, only one case—that of inmate Sam Koilo—had been sent to the courts; at year's end the case remained before the Court of Appeal, and no report had been released.

At year's end the prison system held a total of 190 inmates, including 158 convicted prisoners and 32 pretrial detainees. There were five female prisoners and three male juvenile prisoners (defined by law as persons under age 16). Although there is no legislated maximum capacity for existing prison facilities, the total prison capacity during the year was 210. This included two men's facilities in Port Vila, one men's facility in Santo, and one women's facility in Port Vila. Male inmates were incarcerated in overcrowded facilities. Persons deemed mentally unfit to stand trial were held with the general prison population.

In September 2009 the nongovernmental organization (NGO) Impunity Watch reported that the country had implemented separation of juveniles from adult prisoners in its correctional facilities. According to the acting director of the Correctional Services Department, the existing facilities, especially in Port Vila, made total separation of juveniles from adults difficult, and in some cases juveniles still were held with adults during the year. However, he stated that the number of juveniles in custody remained very low.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Office of the Ombudsman is mandated to investigate complaints of human rights violations; however, no investigations related to prison conditions were undertaken during the year. Supreme Court justices regularly visited prisons to monitor conditions.

The Government permitted prison monitoring visits by independent human rights observers. During the year representatives from the UN High Commissioner for Human Rights visited the prisons in Port Vila.

The Ombudsman Commission is not authorized to consider on its own initiative such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offenses. The commission can investigate specific complaints received from prisoners relating to such matters, but it did not undertake any such investigations during the year.

There were some improvements reported in prison conditions during the year. According to the acting director, in line with recommendations from the commission of inquiry report into prisoner complaints of 2008, prison authorities increased activities and programs for prisoners, with a focus on vocational training, education, and arts. Foreign government assistance continued to support the maintenance and improvement of the existing facilities. There was an increase in the number of church groups visiting the correctional centers, and a prison ministry was established. Unlike in 2009, when health-care services were procured from the Red Cross to supplement services available through the public health system, inmates were taken to the local hospital to receive health-care services. The technical advisor of the Vanuatu Corrections Project stated that, with foreign government assistance, significant progress was made toward construction of a new correctional center, with the acquisition of a site and the development of a concept design in 2009. In November a groundbreaking ceremony was held to begin construction of a road to the site for the new center.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The commissioner of police heads the police force, including a police maritime wing, the paramilitary VMF, the Immigration Department, the National Disaster Management Office, and the National Fire Service. Police effectiveness was hampered by a lack of resources and involvement in ancillary activities such as search and rescue operations, immigration, and national disaster response.

There were allegations of police impunity, in particular with regard to the VMF. The report of a coroner's inquiry into the 2009 death in custody of recaptured prison escapee John Bule (see section 1.a.) characterized the VMF as a force with a "culture of violence" that considered itself "above the law."

The Office of the Ombudsman is mandated to investigate complaints of security force abuses.

During the year foreign assistance continued to address some of the problems confronting the force. Actions taken under the assistance projects included recruitment of new officers, establishment of additional police posts on outer islands and in rural areas, and police building repairs and maintenance. Under a five-year capacity-building project begun in 2006, seven Australian Federal Police officers were attached to the Vanuatu Police Force as advisors.

*Arrest Procedures and Treatment While in Detention.*—A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year. The constitutional provision that suspects must be informed of the charges against them generally was observed in practice.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency. The ratio of pretrial detainees to the total prison population was relatively high. Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years could pass before a case was brought to trial. Detainees were allowed prompt access to counsel and family members. The Public Defender's Office provided counsel to indigent defendants.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial system is derived from British common law. Judges conduct trials and render verdicts; there are no juries. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right to counsel, a right to judicial determination of the validity of arrest or detention, a right to question witnesses and access government-held evidence, and a right of appeal. The law extends these rights to all citizens. The Public Defender's Office provides free legal counsel to indigent defendants.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary for civil matters, including for human rights violations; however, police were often reluctant to enforce domestic court orders, particularly when the orders concerned their own family or clan members.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

During the year charges brought against a correctional officer for assaulting Marc Neil-Jones, publisher of the Vanuatu Daily Post newspaper, in January 2009 were dropped after witnesses failed to confirm the identities of the defendant and three other alleged assailants in the case.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail; however, cost and lack of infrastructure limited public access to the Internet. The International Telecommunication Union reported that approximately 8 percent of the country's inhabitants used the Internet in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

The law does not address forced exile, but the Government did not employ it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. The law does not provide for the granting of asylum or refugee status, and the Government has not established a system for providing protection to refugees. The Government did not grant refugee status or asylum. In practice there were no cases of refugees being returned or expelled to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. According to the immigration compliance officer, at year's end three Sri Lankans and one Indonesian from West Papua remained in Port Vila awaiting resettlement in a third country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—The most recent national parliamentary elections were held in September 2008; they were considered generally free and fair. Allegations of bribery and electoral fraud were raised against then foreign minister Bakoa Kaltonga, two other politicians, and a former ambassador to the UN. The allegations included bribery of electoral officials and discrepancies in voting rolls that led to some voters being turned away from polling booths. According to the chief electoral officer, 13 petitions were filed alleging irregularities in the elections. Of these, six were upheld in court, resulting in three recounts and three by-elections. At year's end two additional petitions were pending Supreme Court decisions, and the remaining petitions were withdrawn.

Political parties could operate without restriction or outside interference.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There was one woman in the 52-member Parliament. No women served in the cabinet. The solicitor general—the second-ranking official (under the attorney general) in the Office of the State Law—was a woman.

There were no minorities (non-Melanesians) in Parliament or the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity.

There were reports of government corruption during the year. The law provides for the appointment of public servants on the basis of merit; however, in practice political interference at times hampered the effective operation of the civil service.

The ombudsman reported that, while police corruption sometimes occurred, his office received no specific complaints during the year.

At year's end police were still investigating a 2008 report by the Office of the Ombudsman that revealed allegations of corruption and fraud in the Vatumaui Bay land deal. A new member of Parliament (MP) and a former lord mayor of Port Vila allegedly were implicated in the case. Although the case was referred to the Public Prosecutor's Office for further action, in 2009 that office sent it back to the police for further investigation, citing lack of sufficient evidence to prosecute.

MPs and elected members of provincial governments are subject to a leadership code of conduct, which includes financial disclosure requirements. However, the Office of the Ombudsman confirmed that some officials did not comply with these disclosure requirements. The Ombudsman's Office and Auditor General's Office are key government agencies responsible for combating government corruption.

No law provides for public access to government information. In practice the Government's response to requests for information from the media was inconsistent.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The president appoints a government ombudsman to a five-year term in consultation with other political leaders. Since its establishment the Ombudsman's Office has issued a number of reports critical of government institutions and officials. However, it did not have adequate resources or independent power to prosecute, and the results of its investigations may not be used as evidence in court proceedings. Cases reported to the ombudsman and deemed to be valid were referred to the Public Prosecutor's Office for further action, but there were few prosecutions.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the basis of race, place of origin, language, or sex; however, women remained victims of discrimination in the tradition-based society.

*Women.*—Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters.

Violence against women, particularly domestic violence, was common, although no accurate statistics existed. Most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse.

The 2008 Family Protection Act (FPA), which entered into force in March 2009, covers domestic violence, women's rights, children's rights, and family rights. Violators could face prison terms of up to five years or a fine of up to 100,000 vatu (approximately \$1,095) or both. In November the Government established a Family Protection Unit at police headquarters in Port Vila to deal with issues addressed by the FPA. An officer in the Family Protection Unit confirmed that more than 50 protection orders were issued since the FPA's entry into force. A protection order does not require proof of injury; as long as there is a threat of violence, police can issue an order.

There were no government programs to address domestic violence, and media attention to the abuse was limited. The Department of Women's Affairs played a role in the process for implementing the Family Protection Act. The Police Academy provided training in the handling of domestic violence and sexual assault cases. Police have a "no drop" policy under which they do not drop reported domestic violence cases; if the woman later wishes to withdraw her complaint, she must go to court to request that it be dropped.

Churches and NGOs operated facilities for abused women. NGOs also played an important role in educating the public about domestic violence, but did not have sufficient funding to implement their programs fully.

Sexual harassment is not illegal and was a problem.

According to the country's family planning policy guidelines, couples and individuals have the right to decide freely the number, spacing and timing of their children. This right was generally upheld in practice. According to the national reproductive health coordinator, the Ministry of Health provides training on, and works to raise awareness of, human rights and gender equity with regard to reproductive health services and behavior. The country is predominantly a patriarchal society, and sometimes decisions on family planning and contraceptive use were made by the man in the relationship without taking the woman's views into consideration. According to country indicators published by the Population Reference Bureau, an estimated 38 percent of married women ages 15-49 used some form of contraception, with 37 percent using modern contraceptive methods. The ministry cooperated with the Department of Labor on the Male Involvement in Reproductive Health Project, which worked to sensitize men in the workforce about reproductive health issues. A regional adolescent health and development program funded by the UN Population Fund worked with schools to strengthen school-based clinics and to incorporate counseling and services.

The country's geographical layout in relation to service delivery points, both between islands and inland, sometimes made it difficult to obtain access to contraception; essential prenatal, obstetric, and postpartum care; and treatment of sexually transmitted infections, including HIV. Obstacles included lack of adequate roads and the high cost of transport to reach health-care facilities. According to the World Health Organization, the estimated maternal mortality ratio was 70 deaths per 100,000 live births, and nearly 93 percent of births were attended by skilled health personnel. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

While women have equal rights under the law, they were only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. The majority of women entered into marriage through "bride-price payment," a practice that encouraged men to view women as property. Although the law does not prohibit women from owning or inheriting land, in practice women generally were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women.

In practice women experienced discrimination in access to employment, credit, and pay equity for substantially similar work. Vanuatu Transparency Limited and the South Pacific Commission, through a program of the Pacific Regional Rights Resource Team, worked to increase awareness of women's legal rights. The Government, with the assistance of the UN Development Program, ran the Vanuatu Women's Development Scheme (VANWODS). VANWODS provided poor and disadvantaged women with microloans to start income-producing activities, with the goal of making these activities progressively more self-financing. Women interested in running for public office received encouragement from the Vanuatu Council of Women and the Department of Women's Affairs, which also offered training programs and funding.

*Children.*—Citizenship is derived through one's parents.

The Government stressed the importance of children's rights and welfare, but there were significant problems with regard to education. Although there is a free and universal education policy, school fees served as a barrier to education. In October the Government released its second and final tranche of funds to honor a commitment made in 2009 to provide all primary-school children (grades 1-6) with a stipend to pay school fees.

School attendance is not compulsory. Boys tended to receive more education than did girls. Although attendance rates were similar in the early primary grades, fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate.

Child abuse was not believed to be extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years, but no statistics were available.

In December Supreme Court Justice Oliver Sasak gave a suspended three-year sentence to a man who pleaded guilty to the sexual assault of a 10-year-old girl on the island of Epi; the chairperson of the NGO Pacific Network against Violence against Women criticized the leniency of the sentence.

Children generally were protected within the traditional extended family system. Members of the extended family played an active role in a child's development. Virtually no children were homeless or abandoned.

The legal age for marriage is 21, although boys between 18 and 21 and girls between 16 and 21 may marry with parental permission. In rural areas and some outer islands, some children married at younger ages.

There were some children under age 18 who were engaged in prostitution.

Section 97 of the penal code addresses statutory rape. It provides for a maximum legal penalty for violators of five years' imprisonment if the child is over age 12 but under age 15, or 14 years' imprisonment if the child is under age 13.

Child pornography is illegal. The maximum penalty is five years' imprisonment if the child is age 14 or older, and seven years' imprisonment if the child is under age 14.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The country's Jewish community was limited to a few foreign nationals, and there were no reports of anti-Semitic acts.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—There is no law specifically prohibiting discrimination against persons with physical, sensory, intellectual, or mental disabilities. There is a national policy designed to protect the rights of persons with disabilities, but the Government did not implement it effectively. There were no special programs to assist persons with disabilities and no legislation mandating access to buildings, information, and communications for them. Their protection and care were left to the traditional extended family and NGOs. In practice most buildings were not accessible to persons with disabilities. Due to a high rate of unemployment, few jobs were available for persons with disabilities. Persons with mental illness generally did not receive specialized care; members of their extended families usually attended to them.

The Ministry of Justice and Social Welfare is responsible for overseeing the implementation of the country's obligations under the UN Convention on the Rights of Persons with Disabilities.

*National/Racial/Ethnic Minorities.*—Most of the population is Melanesian. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although prime real estate was increasingly leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, only indigenous farmers may legally grow kava, a native herb, for export.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no reports of societal violence or discrimination against persons based on sexual orientation or gender identity.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons based on HIV/AIDS status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides all workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 15,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,900. The two existing trade unions, the Vanuatu Teacher's Union and the Vanuatu National Worker's Union, were independent of the Government and grouped under an umbrella organization, the Vanuatu Council of Trade Unions. The high percentage (approximately 70 percent) of the population engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations, but the Government has not denied any union such permission.

Workers have the right to strike, and this right was exercised in practice. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations are referred to the Department of Labor for conciliation and arbitration. In the public sector, the Public Service Commission handles complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

*b. The Right to Organize and Bargain Collectively.*—Unions exercised the right to organize and bargain collectively. They negotiated wages and conditions directly

with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the minister of home affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the magistrates' courts. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration.

While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized. Complaints of antiunion discrimination are referred to the Department of Labor. There were no known employee complaints of such discrimination received by the department during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits children under age 12 from working outside family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age is restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. However, the Department of Labor did not effectively enforce these laws.

*e. Acceptable Conditions of Work.*—In 2008 the Department of Labor increased the minimum wage to 26,000 vatu (approximately \$285) per month. The minimum wage was enforced effectively, but did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing their incomes through subsistence farming.

Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, including a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act provides for a premium of 50 to 75 percent over the normal rate of pay for overtime work. A 2008 amendment to the act increased maternity leave pay from 50 percent of salary to full salary for up to 12 weeks.

The Employment Act, enforced by the Department of Labor, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the four inspectors attached to the Department of Labor could not enforce the law fully. Laws on working conditions and safety standards apply equally to foreign workers and citizens.

---

## VIETNAM

The Socialist Republic of Vietnam, with a population of approximately 88.6 million, is an authoritarian state ruled by the Communist Party of Vietnam (CPV), led by General Secretary Nong Duc Manh, Prime Minister Nguyen Tan Dung, and President Nguyen Minh Triet. The most recent National Assembly elections, held in 2007, were neither free nor fair, since the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's mass organizations, vetted all candidates. Security forces reported to civilian authorities.

Citizens could not change their government, and political opposition movements were prohibited. The Government increased its suppression of dissent, arresting at least 25 political activists, convicting 14 dissidents arrested in 2008, 2009, and 2010, and denying the appeals of another 10 dissidents convicted at the end of 2009. Police commonly mistreated suspects during arrest or detention. Prison conditions were often austere. Although professionalism in the police force improved, members of the police sometimes acted with impunity. Individuals were arbitrarily detained for political activities and denied the right to fair and expeditious trials. Political influence, endemic corruption, and inefficiency strongly distorted the judicial system. The Government increased measures to limit citizens' privacy rights and freedom of the press, speech, assembly, movement, and association. Internet freedom was further restricted as the Government orchestrated attacks against critical Web sites and spied on dissident bloggers. Freedom of religion continued to be subject to uneven interpretation and protection; despite some progress, significant problems remained, especially at the provincial and village levels. Police corruption remained a significant problem. The Government maintained its prohibition of independent human rights organizations. Violence and discrimination against women as well as trafficking in persons continued to be problems, despite laws and government efforts

to combat such practices. Some ethnic minority groups suffered societal discrimination. The Government limited workers' rights to form and join independent unions.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings; however, there were reports of nine deaths of persons in custody during the year. In nearly all cases, police alleged the victim committed suicide.

In January Nguyen Quoc Bao died while in custody in Hanoi, allegedly as the result of being beaten by police after being detained for a traffic violation. There was no reported investigation into Bao's death.

Vo Van Khanh died in police custody in May in Quang Nam Province, after police arrested him for a traffic violation. There was no reported investigation into police conduct, despite allegations of abuse leading to Khanh's death.

In June two individuals allegedly died as the result of beatings received while in detention: Nguyen Phu Trung was detained by police for his suspected involvement in a burglary in Hanoi, and Vu Van Hien died after being taken to the hospital in Thai Nguyen Province following a beating in detention. Several police officers in Hanoi reportedly were either arrested, suspended, or fired for their involvement in Trung's death.

In July Nguyen Van Khuong in Bac Giang Province was beaten to death after being arrested for a traffic violation. One police officer involved in the questioning of Khuong was arrested for use of excessive force.

In August Tran Duy Hai died in police custody in Hau Giang Province shortly after questioning related to his supposed involvement in a burglary. Police claimed Hai committed suicide, but family members asserted he was beaten to death. There was no reported investigation into police conduct.

Tran Ngoc Duong died in police custody in Dong Nai Province in September after being arrested for involvement in a neighborhood dispute. An investigation into police conduct reportedly was initiated.

There were two deaths in custody in December: Nguyen Van Thang died after he was arrested in Haiphong Province, and Dang Van Den died after being detained in An Giang Province for allegedly being involved in a burglary. There were reports that police were investigating the cause of Thang's death. In An Giang Province, police detained several other individuals following public protests of police involvement in the death of Den in custody.

In addition, police in Thanh Hoa Province shot and killed two individuals in May, including a 12-year-old child, who were participating in a land-rights protest against a large state-owned enterprise. Press reports claimed that police were investigating the actions of officers involved, but there was no public information on the results of the investigation.

There were no developments in the case of Y Ben Hdok, a Montagnard from Dak Lak who died while in detention in 2008.

*b. Disappearance.*—There were no reports of politically motivated disappearances. There was no information on the whereabouts of Thich Tri Khai, a monk from the unregistered Unified Buddhist Church of Vietnam, arrested in 2008.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits physical abuse; however, police commonly mistreated suspects physically during arrest or detention. Incidents of police harassment were reported in Hanoi and Danang and in the provinces of Bac Giang, Binh Phuoc, Dak Lak, Dien Bien, Hanoi, Gia Lai, Ha Giang, Lai Chau, Nghe An, Quang Nam, Son La, Thai Binh, Thai Nguyen, Thanh Hoa, and Tra Vinh.

Many incidents were related to unrecognized Protestant churches seeking to hold services in these provinces. For example, several small house churches affiliated with the Inter-Evangelistic Movement (IEM) continued to report difficulties in several locations in Dien Bien Province, where police in past years broke up meetings of worshippers. Local authorities there refused to register IEM meeting points and pressured followers to abandon their faith. Between July 2009 and March 2010, Pastor Nguyen Trung Ton, head of the Full Gospel Church in Thanh Hoa Province, reported repeated and extended harassment and beatings by local and provincial police at several different Full Gospel meeting points in Thanh Hoa. Local officials interrupted numerous church gatherings and detained and physically abused church members and leaders, including Ton and his family. Authorities did not investigate the actions of security officials or those hired to carry out the physical attacks. Ton

was a member of the Bloc 8406 political movement and a close affiliate of dissidents Le Thi Cong Nhan and Do Nam Hai.

Land-rights protesters in Hanoi, Ho Chi Minh City, Danang, and several Mekong Delta provinces also reported harassment from local authorities. Most incidents between local authorities and ethnic minorities involved land, money, or domestic disputes.

The Government reported that more than 33,000 drug users were living in forced detoxification labor camps. The overwhelming majority of these individuals were administratively sentenced to two years without judicial review.

*Prison and Detention Center Conditions.*—Prison conditions could be austere but generally were not life threatening. Overcrowding, insufficient diet, lack of clean drinking water, and poor sanitation remained serious problems. Prisoners generally were required to work but received no wages. Foreign diplomats observed Spartan but clean living areas and generally acceptable labor conditions during a November 2009 visit to Nam Ha Prison in Ha Nam Province. Prisoners sometimes were placed in solitary confinement, where they were deprived of reading and writing materials for periods of up to several months. Family members made credible claims that prisoners received benefits by paying bribes to prison officials or undertaking hunger strikes.

Prisoners had access to basic health care, with additional medical services available at district or provincial hospitals. However, in many cases officials prevented family members from providing medication to prisoners. Family members of imprisoned activists who experienced health problems claimed that medical treatment was inadequate, resulting in greater long-term health complications.

The total number of prisoners and detainees was not publicly available. Pretrial detainees were held separately from convicted prisoners. Juveniles were held separately from adults in prison, but on rare occasions they were held with adults in detention for short periods of time due to unavailability of space. Men and women were held separately. Political prisoners were typically sent to specially designated prisons that also held other regular criminals, and in most cases political prisoners were kept separate from nonpolitical prisoners. Some high-profile political prisoners were kept in complete isolation from all other prisoners. While prison sentences could be extremely lengthy, prisoners were not forced to serve beyond the maximum sentence for their charged offense.

Prisoners were limited to one 30-minute family visit a month, and family members were generally permitted to give supplemental food and bedding to prisoners. Prisoners did not have the right to manifest their religious beliefs or practices in public. Roman Catholic priest Thaddeus Nguyen Van Ly (released in March), Le Thi Cong Nhan, and Nguyen Van Dai were allowed to keep the Bibles given to them by visiting foreign delegations, but in general prisoners were denied access to religious books and scriptures. Prisoners were allowed to submit complaints to prison management and judicial authorities, but their complaints were routinely ignored.

Authorities allowed foreign diplomats and a foreign delegation to make limited prison visits and meet with prisoners in various prisons. The press was permitted limited visits to prisons, but state control of the media restricted reporting on living conditions. In the past the International Committee of the Red Cross was permitted to visit prisons, but no such visits occurred during the year. No individuals were allowed to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders.

*d. Arbitrary Arrest or Detention.*—The criminal code allows the Government to detain persons without charges indefinitely under vague “national security” provisions such as articles 84, 88, and 258. The Government also arrested and detained indefinitely individuals under other legal provisions. Authorities subjected several dissidents throughout the country to administrative detention or house arrest.

*Role of the Police and Security Apparatus.*—Internal security is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas, the military is the primary government agency and performs public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintains a system of household registration and block wardens to monitor the population. While this system was less intrusive than in the past, it continued to be used to monitor those suspected of engaging, or likely to engage, in unauthorized political activities. Credible reports suggested that local police used “contract thugs” and “citizen brigades” to harass and beat political activists and others, including religious worshippers, perceived as “undesirable” or a “threat” to public security.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of people's committees at each level. At the commune level, it was common for guard forces made up of residents to assist the police. The police were generally effective at maintaining public order, but police capabilities, especially investigative, were generally very low. Police training and resources were inadequate.

The Government cooperated with several foreign governments in a program for provincial police and prison management officials to improve the professionalism of security forces.

*Arrest Procedures and Treatment While in Detention.*—The criminal code outlines the process by which individuals are taken into custody and treated until they are brought before a court or other tribunal for judgment. The Supreme People's Procuratorcy (Public Prosecutor's Office) issues arrest warrants, generally at the request of police. However, police may make an arrest without a warrant on the basis of a complaint filed by any person. The procuratorcy issues retroactive warrants in such cases. The procuratorcy must issue a decision to initiate a formal criminal investigation of a detainee within nine days; otherwise, police must release the suspect. In practice the nine-day regulation was often circumvented.

The investigative period typically lasted from three months for less serious offenses (punishable by up to three years' imprisonment) to 16 months for exceptionally serious offenses (punishable by more than 15 years' imprisonment or capital punishment) or more than two years for national security cases. However, at times investigations were prolonged indefinitely. The criminal code further permits the procuratorcy to request additional two-month periods of detention after an investigation to consider whether to prosecute a detainee or ask police to investigate further. Investigators sometimes used physical abuse, isolation, excessively lengthy interrogation sessions, and sleep deprivation to compel detainees to confess.

By law detainees are permitted access to lawyers from the time of their detention; however, authorities used bureaucratic delays to deny access to legal counsel. In cases investigated under broad national security laws, authorities prohibited defense lawyers' access to clients until after an investigation had ended and the suspect had been formally charged with a crime, most often after approximately four months. Under the regulations, investigations can be continued and access to counsel denied for more than two years. In addition a scarcity of trained lawyers and insufficient protection of defendant rights made prompt detainee access to an attorney rare. In practice only juveniles and persons formally charged with capital crimes were assigned lawyers.

Attorneys must be informed of and allowed to attend interrogations of their clients. However, a defendant first must request the presence of a lawyer, and it was unclear whether authorities always informed defendants of this right. Attorneys also must be given access to case files and be permitted to make copies of documents. Attorneys were sometimes able to exercise these rights.

Police generally informed families of detainees' whereabouts, but family members could visit a detainee only with the permission of the investigator, and this permission was not regularly granted. During the investigative period, authorities routinely denied detainees access to family members, especially in national security cases. Prior to a formal indictment, detainees also have the right to notify family members. However, a number of detainees suspected of national security violations were held incommunicado. There is no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing.

Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Terms of 24 months were standard for drug users and prostitutes. Individuals sentenced to detention facilities were forced to meet work quotas to pay for services and the cost of their detention. Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. Authorities continued to punish some individuals using vaguely worded national security provisions in the criminal code.

Six police officers in Quang Ninh Province were administratively punished in December after a video they took while arresting several alleged prostitutes later appeared on the Internet. Police officers were shown in the video prohibiting several naked crying women from covering themselves while being questioned, videotaped,

and photographed. Three of the police officers were demoted two ranks, two were demoted one rank, and one officer received a written reprimand for violating the rights of the accused.

Arbitrary detentions, particularly for political activists, remained a problem. The Government used decrees, ordinances, and other measures to detain activists for the peaceful expression of opposing political views (see section 2.a.). During the year authorities increasingly charged political dissidents with violating article 79, "attempting to overthrow the state," due to their alleged membership in political parties other than the CPV. While violators of article 79 had the possibility of receiving the death penalty, they typically received sentences of up to seven years in prison, although one individual received a sentence of 16 years' imprisonment. Unlike in previous years, all activists who appealed their sentences had their original sentences upheld.

There were continued reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad.

Peaceful land-rights protests in Ho Chi Minh City and Hanoi resulted in the temporary detention and surveillance of several organizers, although the Government handled the dispersal of these protests without significant violence.

Religious and political activists also were subject to varying degrees of informal detention in their residences. In Ho Chi Minh City, prominent activists Nguyen Dan Que and Do Nam Hai remained under house arrest.

*Amnesty.*—In honor of National Day, the central government amnestied approximately 17,500 prisoners, the overwhelming majority of whom had ordinary criminal convictions. More than 100 Montagnards from the Central Highlands convicted of violating national security laws in 2001 and 2004 were released during the year.

*e. Denial of Fair Public Trial.*—The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels through its effective control over judicial appointments and other mechanisms. In many cases the CPV determined verdicts. Most, if not all, judges were members of the CPV and were chosen at least in part for their political views. As in past years, the judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high-profile cases and other instances in which a person was charged with challenging or harming the CPV or the state.

There was a shortage of trained lawyers and judges. Low salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad in countries with communist legal traditions. The Government continued to participate in training programs to address the problem of inadequately trained judges and other court officials.

In May the Government granted a foreign nongovernmental organization (NGO) an operating license to conduct training initiatives aimed at reforming the criminal code and strengthening lawyers' capacity.

The Vietnam Bar Federation, a national professional association created in May 2009 to represent practicing attorneys, falls under the supervision of the VFF and closely coordinated with the Ministry of Justice and the Vietnam Lawyers Association. The federation acted as an umbrella association overseeing the functions of local bar associations and continued developing a professional code of conduct for lawyers.

*Trial Procedures.*—The constitution provides that citizens are innocent until proven guilty; however, many lawyers complained that judges generally presumed guilt. Trials generally were open to the public, but in sensitive cases judges closed trials or strictly limited attendance. Juries are not used. The public prosecutor brings charges against an accused person and serves as prosecutor during trials. Defendants have the right to be present and have a lawyer at trial, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer generally were provided one only in cases involving a juvenile offender or with possible sentences of life imprisonment or capital punishment. The defendant or defense lawyer has the right to cross-examine witnesses; however, there were cases in which neither defendants nor their lawyers were allowed to have access to government evidence in advance of the trial, cross-examine witnesses, or challenge statements. Defense lawyers commonly had little time before trials to examine evidence against their clients. In national security cases, judges occasionally silenced defense lawyers who were making arguments on behalf of their clients in court that because the judges deemed the arguments reactionary. Convicted persons have the right to appeal. District and provincial courts

did not publish their proceedings. The Supreme People's Court continued to publish the proceedings of all cases it reviewed.

There continued to be credible reports that authorities pressured defense lawyers not to take as clients any religious or democracy activists facing trial, and several lawyers who took these cases faced harassment, arrest, conviction, and occasionally disbarment. Other human rights lawyers, such as Le Cong Dinh, Le Tran Luat, Le Thi Cong Nhan, and Le Quoc Quan, were stripped of their bar memberships and were not permitted to practice law.

*Political Prisoners and Detainees.*—There were no precise estimates of the number of political prisoners. The Government reportedly held more than 100 political detainees at year's end, although some international observers claimed there were even more.

In January in Phu Yen Province, lay preachers Ksor Y Du and Kpa Y Ko, affiliated with the Good News Mission Church, were arrested for alleged connections with the United Front for the Liberation of Oppressed Races (FULRO) and for opposing the Government. Police allegedly handcuffed and dragged Ksor Y Du behind a motorbike to the police station. The Government's Committee for Religious Affairs (CRA) asserted that both had long-time connections with FULRO, an armed guerrilla group that sought the creation of an independent Montagnard state, and had prior convictions for "illegally crossing the border." The CRA contended that they had been "embroiled by hostile forces" in a plot to encourage a separatist movement by sowing division among ethnic communities. In November both were tried jointly and convicted in Phu Yen Provincial Court. Ksor Y Du was sentenced to six years' imprisonment and Kpa Y Ko to four years' imprisonment for attempting to organize demonstrations, causing political and security disorder, and dividing national solidarity.

On January 24, dissident Nguyen Ba Dang, a member of the People's Democratic Party (PDP), was arrested in Hai Duong Province and charged with violating article 88, which prohibits distribution of propaganda against the state. He awaited trial at year's end.

In February Doan Huy Chuong, Nguyen Hoang Quoc Hung, and Do Thi Minh Hanh, affiliated with the For the People's Party (FPP) and the United Workers and Farmers Organization (UWFO), were arrested for distributing pamphlets calling for citizens to advocate for democracy and fight attempted invasions from China. The distribution of the leaflets was a joint campaign by Viet Tan, Rally for Justice, the PDP, and the Viet Labor Movement. The individuals were tried jointly in October and convicted of violating article 89, "causing public disorder to oppose the people's government." Nguyen Hoang Quoc Hung was sentenced to nine years' imprisonment, while Do Thi Minh Hanh and Doan Huy Chuong each were sentenced to seven years' imprisonment.

On April 19, Pham Thi Phuong and her husband Pham Ba Huy were arrested in Ho Chi Minh City for planning "terrorist activities." The Government alleged that Phuong, an FPP member, left the country in 2002 while under investigation for fraud and illegally returned as part of a campaign to bomb statues in Ho Chi Minh City. The Government also alleged that the FPP had paid her \$5,000 to carry out the bombing. They were awaiting trial at year's end.

In May a priest with the unrecognized Cao Dai faith in Tay Ninh was convicted for "slandering an on-duty official," according to the MPS-affiliated People's Police newspaper. The priest was arrested in November 2009 after criticizing several police officers for actions against religious followers of the unrecognized Cao Dai faith. In 2008 the priest had led a protest of more than 300 followers of the group to the Cao Dai Holy See to denounce the leader of the official Cao Dai organization and demand that the officially recognized church return properties, including the Cao Dai Holy See, to the unrecognized church.

In June Doan Van Chac was arrested after evading arrest for 27 years. In 1983 Doan participated in a campaign against the Government that resulted in the deaths of three government officials. He was awaiting trial at year's end.

In June Phung Lam from Binh Phuoc Province was arrested for alleged ties to the Democratic Party of Vietnam (DPV) and DPV chairman Nguyen Sy Binh. Police claimed that Lam posted articles opposing the Government on the Internet. Lam fled to Cambodia in May but was arrested when he attempted to return to visit his family in June. He was awaiting trial at year's end.

In July and August, Nguyen Thanh Nam and Pham Van Thong from Ben Tre Province, Pastor Duong Kim Khai from Ho Chi Minh City, and Tran Thi Thuy from Dong Thap were arrested for their alleged ties to Viet Tan and for organizing and advocating on behalf of land-rights claimants in Ben Tre and Dong Thap provinces; they were charged with violating article 79. The Government alleged that several of the individuals had participated in Viet Tan training in Thailand. Several family

members of the accused denied any connection to Viet Tan. In November authorities arrested lay pastor Nguyen Chi Thanh and congregant Pham Ngoc Hoa, affiliated with Khai and the unrecognized Mennonite Church, on the same charge for their alleged ties to Viet Tan and their work with Khai. All awaited trial at year's end.

In August Pham Minh Hoang, a dual foreign national and professor at the Ho Chi Minh City University of Technology, was arrested for his alleged ties to Viet Tan and for posting critical comments online against the Government under a pseudonym; he was charged with violating article 79. Hoang's family denied any connection to Viet Tan. He was awaiting trial at year's end.

On October 10, Australian citizen Vo Hong was arrested for her involvement in a public protest sponsored by Viet Tan against China's actions over maritime boundary disputes on the eve of Hanoi's 1,000th anniversary. Hong was originally charged with terrorism but was released and deported after being detained for 11 days.

On October 29, U.S. citizen Le Kin was arrested in Ho Chi Minh City for violating article 79 relating to his alleged involvement with overseas political organizations critical of the Government. He was awaiting trial at year's end.

In November attorney Cu Huy Ha Vu was arrested first for allegedly soliciting a prostitute but later for violating article 88 relating to his Internet articles and interviews with foreign media criticizing Prime Minister Nguyen Tan Dung. Vu twice sued the prime minister, first for the controversial decision to allow Chinese companies to mine bauxite in the Central Highlands, and second for issuing a decree that restricted complaints against the Government. He was awaiting trial at year's end. Vu, a former employee of the Ministry of Foreign Affairs, is the son of Cu Huy Can, a friend of Ho Chi Minh and famous revolutionary poet who served as the first minister of agriculture and later as minister of culture.

Vu Duc Trung and Le Van Thanh, affiliated with the Falun Gong movement, were arrested in Hanoi in November for illegally broadcasting information into China. According to state-run media, Chinese officials asked the Vietnamese government to initiate the arrests. Both were awaiting trial at year's end.

In December Chau Heng, a Khmer Krom land-rights activist from An Giang Province, was arrested upon reentering Vietnam after being denied political refugee status by the Office of the UN High Commissioner for Refugees (UNHCR) in Thailand. Heng led large-scale protests in 2007 and 2008 against local government land seizures.

On January 20, prominent attorney Le Cong Dinh, businessman and blogger Tran Huynh Duy Thuc, Le Thang Long, and DPV leader and Viet Youth for Democracy cofounder Nguyen Tien Trung, arrested in mid-2009, were tried jointly in Ho Chi Minh City for violating article 79. The Government claimed the individuals were involved in a plot to create new political parties and overthrow the Government. Dinh and Trung pled guilty to joining political parties other than the CPV but denied they were attempting to overthrow the Government. They were sentenced to five and seven years' imprisonment, respectively. Long and Thuc maintained their innocence but were sentenced to five and 16 years' imprisonment, respectively. Foreign diplomats and journalists were permitted to attend the trial. Several foreign governments denounced the proceedings and sentences. On March 11, the Ho Chi Minh City Appellate Court rejected the appeals of Le Cong Dinh, Le Thang Long, and Tran Huynh Duy Thuc and upheld their original sentences. Foreign diplomats and journalists were denied admittance to the appeals court. Nguyen Tien Trung did not appeal his verdict.

On April 29, the Thai Binh Province Appeals Court upheld the five-and-a-half-year prison term of Tran Anh Kim, arrested in July 2009 and convicted in December 2009 for violating article 79 due to his leadership role in the DPV.

On April 20, four FPP members arrested in September 2009 were convicted in Lam Dong Province for violating article 91 for "fleeing abroad to oppose the Government." Duong Au was sentenced to five years' imprisonment and five years' administrative probation, Phung Quang Quyen was sentenced to four years' imprisonment and four years' administrative probation, and Truong Van Kim and Truong Thi Tam were each sentenced to three years' imprisonment and three years' administrative probation.

On February 5, dissident author Tran Khai Thanh Thuy was convicted of assault in Hanoi and sentenced to three-and-one-half years in prison following an October 2009 incident in which she and her husband, Do Ba Tan, were attacked by unidentified individuals. Thuy was struck in the head with a brick but was charged with assault. Do Ba Tan was sentenced to two years' probation. Foreign diplomats and journalists were permitted to attend the trial but not the appeals hearing in April that upheld her original sentence. There were credible reports that Thuy was beaten in August by another prisoner. Foreign diplomats were denied repeated requests to visit Thuy in prison.

On January 18, the Hanoi Appellate Court upheld the three-year sentences of Bloc 8406 members Tran Duc Thach and Vu Van Hung and the four-year sentence of Pham Van Troi. All three were arrested in 2008 and convicted of violating article 88 in October 2009 for displaying banners that criticized the Communist Party and advocated multiparty democracy. Foreign diplomats and journalists were not permitted to attend the appeal.

On January 21, the Haiphong Appellate Court rejected the appeals of six dissidents affiliated with Bloc 8406 who were arrested in 2008 and convicted in October 2009 for violating article 88. The six were sentenced to jail terms ranging from two to six years' imprisonment for displaying banners that criticized the Communist Party and advocated multiparty democracy. Foreign diplomats and journalists were not allowed to attend the appeals trial.

On January 29, Pham Thanh Nghien, a Bloc 8406 member arrested in 2008, was convicted in Haiphong for violating article 88 and sentenced to four years' imprisonment and three years' administrative probation relating to her petition to hold a demonstration against the Government's policies on inflation and for criticizing the Government's handling of border disputes with China. Nghien's family, journalists, and foreign diplomats were not permitted to attend the appeal proceedings.

Several other political dissidents affiliated with outlawed political organizations, including Bloc 8406, PDP, People's Action Party, Free Vietnam Organization, DPV, UWFO, and others, remained in prison or under house arrest in various locations. In March Bloc 8406 published a list of 38 members imprisoned for their affiliation with the movement.

Several of approximately 30 activists arrested in 2006-07 but later released remained under investigation and administrative detention without being formally charged.

International NGOs estimated that several hundred ethnic minority demonstrators associated with the 2004 Central Highlands protests remained in prison.

Authorities also detained and imprisoned persons who used the Internet to publish ideas on human rights, government policies, and political pluralism (see section 2.a., Internet Freedom).

Several persons, including political activists and religious leaders, were released during the year.

In June Mennonite pastor Nguyen Thi Hong was released five months early following her January 2009 conviction for "abusing trust to appropriate property" related to alleged unpaid debts owed by her deceased husband.

In March, following two strokes in prison in July and November 2009, dissident Catholic priest Thaddeus Nguyen Van Ly was granted a one-year humanitarian medical release to allow him to seek treatment for a brain tumor. Ly was arrested in 2007 for violating article 88 due to his role in cofounding the Bloc 8406 movement and the Vietnam Progressive Party (VPP) and was sentenced to 8 years' imprisonment.

In March Le Thi Cong Nhan—well-known human rights attorney, Bloc 8406 cofounder, and VPP spokeswoman—was released from prison after completing her three-year sentence. Nhan was arrested in 2007 and convicted of violating article 88.

In August Truong Minh Nguyet was released from prison. A member of the Vietnamese Patriots Group and vice chair of the Vietnam Political and Religious Prisoners Friendship Association, Nguyet was arrested in 2007 and sentenced to four years' imprisonment for "abusing democratic freedoms."

In August PDP founding member Le Nguyen Sang was released from prison after completing his four-year sentence. Sang was arrested in Ho Chi Minh City in 2006 for violating article 88, related to his involvement with the PDP.

In May PDP founding member Nguyen Bac Truyen was released after completing his three-and-a-half-year prison sentence. Truyen was arrested in Ho Chi Minh City in 2006 for violating article 88 related to his role in the creation of the PDP.

Mai Thi Dung, a member of the unrecognized Hoa Hao Buddhist Church, was released in August after completing her five-year sentence. Dung was arrested in 2005 and convicted in 2006 for "disturbing the public order" and assaulting police after allegedly assisting in pouring gasoline on a local official.

During the year there were reports that authorities released more than 100 Montagnards from the Central Highlands convicted of violating national security laws relating to 2001 and 2004 protests in the Central Highlands.

In July Dinh Quang Hai was released after completing his 10-year sentence. In September Huynh Buu Chau was released after completing an 11-year sentence. He was arrested in 1999 in Cambodia while petitioning the UNHCR for refugee status; Cambodian officials escorted Chau to the Vietnamese border and turned him over

to Vietnamese police. He was subsequently convicted of “fleeing abroad to oppose the Government.”

Nguyen Anh Hao was released in July after completing a 13-year sentence. Hao was arrested in 1997 and convicted of “fleeing abroad to oppose the Government.”

In July Truong Van Suong was granted a one-year humanitarian medical release due to declining health after spending 33 years in detention, including six years in reeducation camps (1975-81).

*Civil Judicial Procedures and Remedies.*—There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses committed by authorities. Civil suits are heard by administrative courts, civil courts, and criminal courts, all of which follow the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience.

By law a citizen seeking to press a complaint regarding a human rights violation by a civil servant is required first to petition the officer accused of committing the violation for permission to refer the complaint to the administrative courts. If a petition is refused, the citizen may refer it to the officer’s superior. If the officer or his superior agrees to allow the complaint to be heard, the matter is taken up by the administrative courts. If the administrative courts agree that the case should be pursued, it is referred either to the civil courts for suits involving physical injury seeking redress of less than 20 percent of health-care costs resulting from the alleged abuse, or to the criminal courts for redress of more than 20 percent of such costs. In practice this elaborate system of referral and permission ensured that citizens had little effective recourse to civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system. In August the Government issued new regulations limiting the number of government agencies that could receive a complaint and restricting each complaint to only one signatory. The new regulation restricted the common practice of individuals, particularly land-rights petitioners, from sending joint complaints to numerous federal agencies.

*Property Restitution.*—In August 2009 the prime minister issued a decree that offers compensation, housing, and job training for individuals displaced by development projects. Nevertheless, there were widespread reports of official corruption and a general lack of transparency in the Government’s process of confiscating land and moving citizens to make way for infrastructure projects. By law citizens must be compensated when they are resettled to make way for infrastructure projects, but there were complaints, including from the National Assembly, that compensation was inadequate or delayed.

In January Catholic parishioners in Hanoi conducted several large-scale prayer vigils as a result of the police’s destruction of a large concrete crucifix on disputed property at Dong Chiem parish.

In May police clashed with local Catholics at a cemetery in the village of Con Dau outside Danang. In 2003, despite objections by some parishioners, the Government reached an agreement with Catholic officials to relocate parishioners while building an ecotourism resort in the area. Both sides agreed that a former Catholic cemetery within the construction zone would no longer be used, and the Government designated a new cemetery. On May 4, when protesting parishioners attempted to bury the remains of a local parishioner in the cemetery, which authorities had closed in March, police intervened. Parishioners reportedly attacked police who were blocking the entrance to the cemetery, and violence between police and parishioners ensued. Police arrested six parishioners accused of starting the altercation and damaging a police vehicle. On October 27, the six were tried for public disorder; two individuals received nine- and 12-month jail sentences, and the remaining four defendants received suspended sentences. Three of the accused were denied their right to legal representation. An appeal by family members of the convicted was denied on the grounds that it was not filed by the convicted individuals directly.

Local security officials allegedly interrogated Nguyen Thanh Nam on two separate occasions for his involvement in the May clash in Con Dau. In July Nam died under unusual circumstances one day after being detained by police for attempted burglary. The accounts of the cause of Nam’s death differed widely, even among family members. Some claimed the death was from natural causes, while others alleged it was the result of police beatings during interrogation. Nam’s family denied efforts by police to conduct an autopsy and signed an affidavit claiming he died from a stroke. In October Nam’s wife was pressured by security services to make a videotaped statement that Nam died of a stroke, but she refused.

Some members of ethnic minority groups in the Central and Northwest Highlands continued to complain that they had not received proper compensation for land con-

fiscated by the Government to develop large-scale state-owned coffee and rubber plantations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice. Household registration and block warden systems existed for the surveillance of all citizens, although these systems were less intrusive than in the past. Authorities focused particular attention on persons suspected of being involved in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat of repercussions for failure to cooperate. Police forcibly entered homes of a number of prominent dissidents, such as Nguyen Khac Toan, Nguyen Thanh Giang, Le Tran Luat, Nguyen Cong Chinh, and Do Nam Hai, and removed personal computers, cell phones, and other material.

Government authorities opened and censored targeted persons' mail; confiscated packages and letters; and monitored telephone conversations, e-mail, text messages, and fax transmissions. The Government cut the telephone lines and interrupted the cell phone and Internet service of a number of political activists and their family members.

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification made membership in the CPV and CPV-controlled mass organizations less essential to financial and social advancement.

The imbalanced ratio of newborn boys to girls was increasing rapidly. According to the UN Population Fund, for every 100 female births in 2009 there were 111 male births, up from 105 five years ago. One government study found the ratio to be 120 boy births per 100 girls in some wealthier areas of Hanoi and Ho Chi Minh City. The Government announced nationwide targets to reduce the growing disparity to no more than 113 male births in 2015 and 115 in 2020. Experts attributed the rise to three main factors: societal bias, government pressure for smaller family size, and the increasing access to affordable technology for son-selection.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government continued to restrict these freedoms, particularly with respect to speech that criticized individual government leaders; promoted political pluralism or multiparty democracy; or questioned policies on sensitive matters such as human rights, religious freedom, or border disputes with China. The line between private and public speech continued to be arbitrary.

Both the constitution and the criminal code include broad national security and antidefamation provisions that the Government used to restrict freedom of speech and of the press. The criminal code defines the crimes of “sabotaging the infrastructure of socialism,” “sowing divisions between religious and nonreligious people,” and “conducting propaganda against the Socialist Republic of Vietnam” as serious offenses against national security. The criminal code also expressly forbids “taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations.”

Political activists and family members of prisoners occasionally were physically prevented from meeting with foreign diplomatic representatives. Tactics included setting up barriers or guards outside their residences or calling them into the local police station for random and repetitive questioning.

The CPV, government, and party-controlled mass organizations controlled all print, broadcast, and electronic media. The Government exercised oversight through the Ministry of Information and Communication (MIC), under the overall guidance of the Communist Party Propaganda and Education Commission. These two bodies frequently intervened directly to dictate or censor a story. More often, however, control over media content was ensured through pervasive self-censorship, backed by the threat of dismissal and possible arrest.

Some private investors were permitted to operate television channels and news aggregator Web sites and to publish certain pages in newspapers, as long as the content was not deemed “sensitive” by the Government. However, private ownership of any media outlet was prohibited.

During the year Vietnam News Agency began the first exclusive news channel, V-News, broadcasting in Vietnamese and English. Vietnam Television (VTV) also began Vietnam Today, a daily program aimed at the overseas Vietnamese community to encourage the diaspora to return.

Despite the continued growth of Internet blogs, the party and the Government increased efforts to suppress press freedom, continuing a “rectification” campaign

begun in 2008. In speeches in January and February, the prime minister stated that “journalists must be loyal soldiers serving the nation,” called on news agencies to fight against “sedition,” and asserted that the press “should not report information that harms the country’s interests.” Similarly, the MIC held a conference on the media’s responsibility in the “fight against false arguments, slanders, and accusations against Vietnam,” claiming that many “reactionary forces” were attempting to carry out “peaceful evolution plots against Vietnam to incite an overthrow of the Government” and that the media should be more active in reporting on these “slanders” from overseas.

In December the MIC officially reprimanded the editor in chief and two reporters from the news Web site Vietnam Net for publishing results of a survey on corruption by Transparency International. The author of the article was also denied renewal of her government-issued press card.

Several journalists were attacked or threatened relating to their reporting on sensitive stories. The most serious cases included Lao Dong newspaper reporter Tran The Dung, who was assaulted by several individuals while reporting on illegal poultry imports, and Tien Phong newspaper reporters Vo Minh Chau and Minh Thuy, who were attacked in Ha Tinh Province while investigating illegal land encroachment. Police continued to investigate several of the assaults at year’s end. Phan Ha Binh, deputy managing editor of Tien Phong, was arrested in October for soliciting a VND 220 million (\$11,000) bribe from a cement company about which he threatened to write negative articles.

The law requires journalists to pay monetary damages to individuals or organizations whose reputations were harmed as a result of journalists’ reporting, even if the reports were true. Independent observers noted that the law severely limited investigative reporting. There were press reports on topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials, as well as occasional criticism of officials and official associations. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted.

In November the MIC issued a new decree restricting the ability of the local press to report on foreign news stories, requiring them to seek advance permission.

Foreign journalists must be approved by the Foreign Ministry’s press center, and they must be based in Hanoi, with the exception of one correspondent reporting solely on economic matters who lived and maintained an office in Ho Chi Minh City while officially accredited to Hanoi. Foreign journalists are required to renew their visas every three to six months. The number of foreign media employees allowed was limited, and Vietnamese employees working for foreign media are required to register with the Foreign Ministry.

The procedure for foreign media outlets to hire local reporters and photographers and receive approval for their accreditation continued to be cumbersome. The press center nominally monitored journalists’ activities and approved, on a case-by-case basis, requests for interviews, photographs, filming, or travel, which must be submitted at least five days in advance. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although this procedure often was ignored in practice. Foreign journalists noted that they generally did not notify the Government about their travel outside Hanoi unless it involved a story that the Government would consider sensitive or they were traveling to an area considered sensitive, such as the Central Highlands.

Under February 2009 regulations, the MIC has the authority to revoke licenses for foreign publishers, and each foreign publisher must reapply annually to maintain its license. Foreign-language editions of some banned books were sold openly by street peddlers and in shops oriented to tourists. Foreign-language periodicals were widely available in cities. Occasionally the Government censored articles.

The law limits satellite television access to top officials, foreigners, luxury hotels, and the press, but in practice persons throughout the country were able to access foreign programming via home satellite equipment or cable. Cable television, including foreign-origin channels, was widely available to subscribers living in urban areas.

*Internet Freedom.*—The Government allows access to the Internet through a limited number of Internet service providers (ISPs), all of which were state-owned joint stock companies. Internet usage continued to grow throughout the year. Nearly 27.3 million persons (32 percent of the population) had access to the Internet, according to the Government’s General Statistics Office. According to a separate study by Internet World Stats, in large population centers more than 50 percent had access, with even higher numbers reported in Hanoi and Ho Chi Minh City.

Blogging continued to increase rapidly. The MIC estimated that there were more than one million bloggers. In addition a number of prominent print and online news

journalists maintained their own professional blogs. In several cases their blogs were considered far more controversial than their mainstream writing. In a few instances, the Government fined or punished these individuals for the content of their blogs.

The number of persons who used social networking sites increased to several million. Zing Me, officially launched in August after one year of trial operation, was estimated to be the largest social networking site, with more than five million users. Despite the Government ordering ISPs to block Facebook in November 2009, the site remained popular with young persons, many of whom used workarounds to access the site. Facebook finished the year with nearly two million users. In May the Government-owned Vietnam Multimedia Corporation launched GO.VN, but adoption was sluggish.

The Government forbids direct access to the Internet through foreign ISPs, requires domestic ISPs to store information transmitted on the Internet for at least 15 days, and requires ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities.

The Government requires cybercafes to register the personal information of their customers and store records of Internet sites visited by customers. However, many cybercafe owners did not maintain these records. ISP compliance with these government regulations was unclear.

Although citizens enjoyed increasing access to the Internet, the Government monitored e-mail, searched for sensitive key words, and regulated Internet content.

Decree 97, issued by the Prime Minister's Office in 2008, details the Government's role in the management, provision, and use of Internet services and electronic information on the Internet. During the year several cities and provinces issued additional regulations to control online access. In April the Hanoi People's Committee issued regulations requiring all "Internet retailers" to install government-approved software to monitor online activities.

In June the MIC issued new regulations governing Internet companies and requiring social networking sites and Web sites that provide information in the areas of "politics, economics, culture, and society" to register and receive an operating license from the Government before operation.

In September Hanoi authorities ordered Internet cafes within 200 meters (219 yards) of a school to cease operations and required ISPs to cut online access to Internet cafes between 11 p.m. and 6 a.m. to curb online gaming. Some businesses flouted the regulations by registering as restaurants, which were not subject to the same restrictions.

Government regulations prohibit bloggers from posting material that the Government believes undermines national security or discloses state secrets, incites violence or crimes, or includes inaccurate information harming the reputation of individuals and organizations. These regulations were routinely ignored. The regulations also require global Internet companies with blogging platforms operating in the country to report to the Government every six months and, if requested, to provide information about individual bloggers. Officials construed article 88 of the criminal code, which bans "distributing propaganda against the state," to prohibit individuals from downloading and disseminating documents that the Government deemed offensive.

Authorities continued to detain and imprison dissidents who used the Internet to criticize the Government and publish ideas on human rights and political pluralism.

In January Tran Huynh Duy Thuc, the blogger known as Change We Need who regularly reported on corruption in the prime minister's family, was sentenced to 16 years' imprisonment for subversion. In August 2009 Huy Duc was dismissed from his job for his politically sensitive blog postings.

In March several bloggers affiliated with the Free Journalists Club, including bloggers Wind Trader, Truth and Justice, and AnhBa Saigon (Phan Thanh Hai), were detained for short periods.

In October authorities arrested AnhBa Saigon for postings critical of the Government and charged him with violating article 88. Officials arrested Le Nguyen Huong Tra (Co Gai Do Long) for violating article 258 after posting commentaries critical of the son of MPS Vice Minister Nguyen Khanh Toan. Nguyen Van Hai (Dieu Cay) was transferred to a new jail on the day of his scheduled release in October and rearrested for violating article 88 based on three-year-old blog postings. His former wife was denied permission several times to meet with him, while his son was allowed regular 30-minute monthly meetings. At year's end Nguyen reportedly was being held in isolation. All three bloggers were awaiting trial at year's end.

In October Vi Duc Hoi, a former Communist Party official from Lang Son, was arrested for online postings critical of the CPV and charged with violating article

88. Hoi, a CPV member since 1980, was ejected in 2007 after he authored online articles disparaging corruption in the CPV. He was awaiting trial at year's end.

At least 50 Web sites critical of the Government and hosted overseas were targeted by distributed denial-of-service attacks. A majority of the targeted Web sites were news aggregator sites that regularly republish postings by high-profile dissidents critical of the Government. Several other Web sites were made inoperable by hackers.

Throughout the year the Web site Bauxite Vietnam, an online forum started by intellectuals in opposition to the Government's plan to allow Chinese companies to mine bauxite in the Central Highlands, experienced repeated distributed denial-of-service attacks. The main Bauxite Vietnam Web site was disabled, as were several replacement Web sites of the same name; however, the managers of the site created new Bauxite Vietnam Web sites with different Internet protocol addresses to avoid attacks. Security services repeatedly questioned the chief editor of Bauxite Vietnam, Nguyen Hue Chi, from mid-January to February regarding his role with the Web site.

In December the popular news portal Vietnam Net was hacked multiple times and made inaccessible. An investigation into the attacks continued at year's end.

On March 30, Google's security team posted online a statement affirming that malware implanted in Vietnamese-language keyboard software had been used to spy on Vietnamese dissidents and to launch "distributed denial-of-service attacks against blogs containing messages of political dissent." Online security company McAfee also alleged that the denial-of-service attacks were "politically motivated" and that the perpetrators "have some allegiance to the Government of the Socialist Republic of Vietnam."

Political dissidents and bloggers routinely reported having the Internet connections at their homes disconnected on orders from the security services. In May well-known dissident poet and blogger Ha Si Phu had his Internet and telephone lines disconnected in his home town of Dalat for spreading "antigovernment" information.

The Government continued to use firewalls to block some Web sites that it deemed politically or culturally inappropriate, including sites affiliated with the Catholic Church, such as Vietcatholic.net, and others operated by overseas Vietnamese political groups. The Government appeared to have lifted most of its restrictions on access to the Voice of America Web site, although it continued to block Radio Free Asia most of the time. During the year BBC online in Vietnamese and English was at times blocked. Nevertheless, the local press occasionally wrote stories based on Radio Free Asia broadcasts and BBC articles.

The MIC requires owners of domestic Web sites, including those operated by foreign entities, to register their sites with the Government and submit their planned content and scope to the Government for approval; however, enforcement remained selective.

*Academic Freedom and Cultural Events.*—The Government asserts the right to restrict academic freedom, and authorities sometimes questioned and monitored foreign field researchers. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical topics widely and freely in classes, but government observers regularly attended classes taught by both foreigners and nationals. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the Government. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research.

In November the Government issued a decree restricting the ability of international and domestic organizations to host conferences with international sponsorship or participation. The decree requires government approval of all such events at least 20 days in advance of the conference. The Government used the edict to postpone or cancel conferences hosted by foreign embassies and consulates.

Members of the academic community continued to express concern over the July 2009 decree (Decision 97), which prohibits independent scientific and technical organizations from publicly criticizing party and state policy, alleging that it was a potentially severe restriction on academic freedom.

The Government controlled art exhibits, music, and other cultural activities; however, artists were allowed broader latitude than in past years to choose the themes for their works. The Government also allowed universities more autonomy over international exchanges and cooperation programs.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—Freedom of assembly is limited by law, and the Government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required by law and regulation to apply for a permit, which local authorities can issue or deny arbitrarily. In practice only those arranging publicized gatherings to discuss sensitive matters appeared to require permits, and persons routinely gathered in informal groups without government interference. The Government generally did not permit demonstrations that could be seen to have a political purpose. The Government also restricted the right of several unregistered religious groups to gather in worship.

Demonstrations by citizens demanding redress for land-rights claims frequently took place in Ho Chi Minh City and occasionally in Hanoi. Police monitored these protests but generally did not disrupt them.

*Freedom of Association.*—The Government severely restricted freedom of association. Opposition political parties were neither permitted nor tolerated. The Government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, including unregistered religious groups, were able to operate outside of this framework with little or no government interference.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government imposed some limits on freedom of movement for certain individuals. The Government generally cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements. Although their probation ended in 2009, dissidents Nguyen Khac Toan, Pham Hong Son, Le Thi Kim Thu, and others were prohibited from receiving a passport and traveling overseas. Attorney Le Quoc Quan, attorney Le Tran Luat, and journalist Nguyen Vu Binh were allowed to travel within the country but were prohibited from traveling overseas.

A government restriction regarding travel to certain areas remained in effect. It requires citizens and resident foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of “national strategic storage,” and “works of extreme importance for political, economic, cultural, and social purposes.”

The 2007 Law on Residence was not broadly implemented, and migration from rural areas to cities continued unabated. However, moving without permission hampered persons seeking legal residence permits, public education, and health-care benefits.

Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens also were required to register with local police when staying overnight in any location outside of their own homes; the Government appeared to enforce these requirements more strictly in some districts of the Central and Northern Highlands.

Officials occasionally delayed citizens’ access to passports in order to extort bribes, and prospective emigrants occasionally encountered difficulties obtaining a passport.

The law does not provide for forced internal or external exile, and the Government did not use it.

The Government generally permitted citizens who had emigrated to return to visit. However, the Government refused to allow certain activists living abroad to return. Known overseas Vietnamese political activists were denied entrance visas or were detained and deported after entering the country.

By law the Government considers anyone born to at least one Vietnamese citizen parent to be a citizen; there are also provisions for persons who do not have a Vietnamese-citizen parent to acquire citizenship under certain conditions. Emigrants who acquire another country’s citizenship are generally considered Vietnamese citizens unless they formally renounce their Vietnamese citizenship. However, in practice the Government treated overseas Vietnamese as citizens of their adopted country. Legislation passed in 2008 sought to clarify this apparent discrepancy by allowing for dual citizenship. The Government generally encouraged visits and investment by such persons but sometimes monitored them carefully. The Government

continued to liberalize travel restrictions for overseas Vietnamese, including permitting visa-free travel and permitting individuals to petition to receive Vietnamese passports.

The Government continued to honor a tripartite memorandum of understanding signed with the Government of Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic Vietnamese who did not qualify for third-country resettlement.

Local government authorities observed but did not hinder fact-finding and monitoring visits by UNHCR and foreign diplomatic representatives to the Central Highlands. The UNHCR reported that it was able to meet with returnees in private. Foreign diplomats experienced some resistance from lower-level officials in permitting private interviews of returnees. As in previous years, local police officials sometimes were present during foreign diplomat interviews with returnees but left when asked. Provincial governments generally continued to honor their obligations to reintegrate peacefully ethnic minority returnees from Cambodia.

The UNHCR, which conducted several monitoring trips throughout the year, reported that there was “no perceptible evidence of mistreatment” of any of the ethnic minority individuals it monitored in the Central Highlands.

*Protection of Refugees.*—The country is not a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the law does not provide for the granting of asylum or refugee status. The Government has not established a system for providing protection to refugees and did not grant refugee status or asylum. Government regulations and policy do not explicitly provide protection against the expulsion or return of persons where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, there were no such reported cases during the year.

*Stateless Persons.*—The country’s largest stateless group consisted of approximately 9,500 Cambodian residents who sought refuge in Vietnam in the 1970s and were denied the right to return by the Government of Cambodia, which asserted no proof existed that these individuals had ever possessed Cambodian citizenship. Almost all were ethnic Chinese or Vietnamese who were initially settled in four refugee camps in and around Ho Chi Minh City. When humanitarian assistance in these camps ceased in 1994, an estimated 7,000 refugees left the camps in search of work and opportunities in Ho Chi Minh City and the surrounding area. An additional 2,100 remained in four villages in which the camps once operated. Many had children and grandchildren born in Vietnam, but neither the original refugees nor their children enjoy the same rights as Vietnamese citizens, including the right to own property, comparable access to education, and public medical care. In July the first group of 287 individuals received Vietnamese citizenship as part of a joint UNHCR-government effort to survey and naturalize these stateless individuals. The naturalization applications for the approximately 1,800 remaining had been submitted to the Office of the President for final approval and were expected to be completed before the end of 2011.

The Government previously resolved earlier problems of statelessness due to involuntary denationalization of its citizens, such as women who married foreigners, by implementing legislation passed in 2008 allowing dual citizenship. This group typically consisted of women who married Chinese and Korean men. Previously the women had to renounce their Vietnamese citizenship to apply for foreign citizenship, but before gaining foreign citizenship they divorced their husbands and returned to Vietnam without possessing any citizenship or supporting documentation. However, Taiwanese law continued to require Vietnamese women to renounce their citizenship in order to marry and apply for Taiwanese citizenship. The Government and the UNHCR worked with the authorities in Taiwan to address this problem.

The Vietnam Women’s Union continued to work with the Government of South Korea to address international marriage brokering and premarriage counseling, including education on immigration and citizenship regulations. Some domestic and international NGOs provided assistance.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them.

*Elections and Political Participation.*—The most recent elections to select members of the National Assembly were held in 2007. The elections were neither free nor fair, since all candidates were chosen and vetted by the VFF. Despite the CPV’s

early announcement that a greater number of “independent” candidates (those not linked to a certain organization or group) would run in the elections, the ratio of independents was only slightly higher than that of the 2002 election. The CPV approved 30 “self-nominated” candidates, who did not have official government backing but were allowed to run for office. There were credible reports that party officials pressured many self-nominated candidates to withdraw or found such candidates “ineligible” to run.

According to the Government, more than 99 percent of the 56 million eligible voters cast ballots in the election, a figure that international observers considered improbably high. Voters were permitted to cast ballots by proxy, and local authorities were charged with assuring that all eligible voters cast ballots by organizing group voting and that all voters within their jurisdiction were recorded as having voted. This practice was seen as having greatly detracted from the transparency and fairness of the process.

In the 2007 election, CPV leaders—Prime Minister Nguyen Tan Dung, Party Chief Nong Duc Manh, President Nguyen Minh Triet, and National Assembly Chairman Nguyen Phu Trong—retained their seats. CPV candidates took 450 of 493 seats. Only one of the 30 self-nominated candidates won.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and more than 90 percent of its members were party members), continued to take incremental steps to assert itself as a legislative body. The National Assembly publicly criticized socioeconomic policies, corruption, the Government’s handling of inflation, financial problems of large state-owned enterprises, and the plan to mine bauxite in the Central Highlands. For the first time, the National Assembly voted against an official government project sponsored by the prime minister—a VND 1.12 quadrillion (\$56 billion) high-speed rail project. Assembly sessions were televised live countrywide. Some legislators also indirectly criticized the CPV’s pre-eminent position in society.

All authority and political power is vested in the CPV, and the constitution recognizes the leadership of the CPV. The CPV Politburo functioned as the supreme decision-making body in the country, although technically it reports to the CPV Central Committee. Political opposition movements and other political parties are illegal.

The Government continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of government policy from private citizens, including some former senior party members. The most prominent of these involved widely publicized letters from General Vo Nguyen Giap criticizing the Government’s decision to allow substantial foreign investment in bauxite-mining projects in the Central Highlands. The Government continued to crack down on the small opposition political groupings established in 2006, and members of these groups faced arrests and arbitrary detentions.

Members of Bloc 8406, a political activist group that calls for the creation of a multiparty state, continued to face harassment and imprisonment. At least 38 members of the group were in detention at year’s end.

The law provides the opportunity for equal participation in politics by women and minority groups. There were 127 women in the National Assembly, or 26 percent, a slightly lower percentage than in the previous assembly.

Ethnic minorities held 87 seats, or 18 percent, in the National Assembly, exceeding their proportion of the population, estimated at 14 percent.

#### *Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the Government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption continued to be a major problem. The Government persisted in efforts to fight corruption, including publicizing budgets of different levels of government and continuing to streamline government inspection measures. Cases of government officials accused of corruption occasionally were widely publicized.

The anticorruption law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In regular Internet chats with high-level government leaders, citizens asked pointed questions about anticorruption efforts. However, the Government continued to consider public political criticism a crime unless the criticism was controlled by authorities. Attempts to organize those with complaints to facilitate action are considered proscribed political activities and subject to arrest. Senior government and party leaders traveled to many provinces, reportedly to try to resolve citizen complaints. Corruption related to land use was widely publicized in the press, apparently in an officially orchestrated effort to bring pressure on local officials to reduce abuses.

Corruption among police remained a significant problem at all levels, and members of the police sometimes acted with impunity. Internal police oversight structures existed but were subject to political influence.

Foreign aid donors conducted a biannual Anti-Corruption Dialogue as part of consultative group meetings with the Government. Previous dialogues focused on corruption in the education, health, and construction sectors.

In January Vu Dinh Tuan, the former deputy chairman of the Office of the Government, and 22 other collaborators were charged with abuse of power to seek personal benefit relating to taking bribes while rewarding contracts for modernizing information technology systems in government agencies. The Government alleged Tuan took VND 275 million (\$14,100) and that his actions directly cost the Government approximately VND 4.6 billion (\$242,100).

In June police arrested Doan Tien Dung, deputy general director of the state-owned Bank for Investment and Development, alleging he had received more than VND six billion (\$307,700) in bribes in exchange for approving loans and illegal cash withdrawals. Also in June a high school teacher, who became famous throughout the country for bringing endemic bribe-taking by teachers in the education system to light through undercover videotapes shown on national television, resigned his position due to being harassed and passed over for promotion. The teacher's actions in bringing the corruption to light had earlier earned him an award from the minister of education.

In August Bui Tien Dung, the former director of Project Management Unit Number 18 (PMU-18), was sentenced to an additional three years' imprisonment, in addition to his earlier sentence of 13 years, for "intentionally violating state economic regulations causing serious consequences." Two other colleagues of Dung also received prison terms for embezzlement. At year's end eight key corruption cases originating in 2007 remained unfinished, including the PMU-18 and Bai Chay bridge project scandals.

In a wide-ranging corruption scandal in Ho Chi Minh City, in August two individuals were convicted of bribery and "cheating to usurp the people's property" and sentenced to life imprisonment in relation to bribes paid to city officials, bank officers, and others under the ruse of building a housing complex and industrial park. The two ringleaders bribed city officials with more than VND 1.6 billion (\$72,000) to obtain government approval for the projects, and then based on these approvals they borrowed and embezzled more than VND 115 billion (\$5.9 million) from the Vietnam Bank for Agriculture and Rural Development (Agribank). The former district people's committee chairman who had received the bribes and facilitated government approval of the project was sentenced to 26 years' imprisonment, while several commune officials received double-digit sentences related to abuse of power. Several officials at Agribank also received lengthy prison terms for violating banking regulations.

In August Pham Thanh Binh, chief executive officer of the shipbuilding conglomerate Vinashin, was arrested under misappropriation charges. In September two former Vinashin board members—Tran Quang Vu and Tran Van Liem—and two former Vinashin subsidiaries general directors—Nguyen Van Tuyen and Nguyen Tuan Duong—were also arrested on similar charges of misappropriation and embezzlement.

A VTV financial department employee alleged in September that the VTV director had embezzled VND 1.6 billion (\$82,000) in value-added taxes and had also misappropriated funds of the Japanese aid agency relating to construction of a new VND10 trillion (\$500 million) headquarters. There was no official investigation into the alleged embezzlement.

In September Huynh Ngoc Si, former deputy director of the Ho Chi Minh City transport service, was indicted for receiving more than \$262,000 in bribes from officials of Pacific Consultants International (PCI), a foreign consulting firm. Si was sentenced to life imprisonment on October 18. The Government seized his two homes and also ordered him to pay a \$262,000 fine to the Government. Si and his associate Le Qua were convicted in September 2009 of "abusing power while on official duty" for accepting VND 52 million (\$2,700) and VND 54 million (\$3,000), respectively, in kickbacks from office rent from PCI. In March Si and Qua appealed their three- and two-year sentences, only to have the appellate court extend their sentences to six and five years, respectively.

In September four Vietnamese-American directors of the foreign-based Nexus Corporation were convicted of paying bribes to government officials from 1999 to 2008 in exchange for contracts with government agencies.

According to the asset declaration decree, government officials must annually report by November 30 the real estate, precious metals, and "valuable papers" they own; money they hold in overseas and domestic bank accounts; and their taxable

income. The Government must publicize asset declaration results only if a government employee is found “unusually wealthy” and more investigation or legal proceedings are needed. In addition to senior government and party officials, the decree applies to prosecutors, judges, and those at and above the rank of deputy provincial party chief, deputy provincial party chairperson, deputy faculty head at public hospitals, and deputy battalion chief. Due to a lack of transparency, it was not known how widely the decree was enforced.

The law does not provide for public access to government information, and the Government did not usually grant access for citizens and noncitizens, including foreign media. In accordance with the Law on Promulgation of Legal Normative Documents, the Official Gazette published most government legal documents in its daily edition. The Government maintained a Web site in both Vietnamese and English, as did the National Assembly. In addition decisions made by the Supreme People’s Court Council of Judges were accessible through the Supreme People’s Court Web site. Party documents such as politburo decrees were not published in the Gazette.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government does not permit private, local human rights organizations to form or operate. The Government did not tolerate attempts by organizations or individuals to comment publicly on its human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of the press and assembly, interference with personal communications, and detention.

The Government generally prohibited private citizens from contacting international human rights organizations, although several activists did so. The Government usually did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, the UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands. The Government criticized almost all public statements on human rights and religious matters by international NGOs and foreign governments.

In September the Government requested that Thai authorities prohibit two individuals affiliated with a human rights NGO from entering that country. The NGO had planned to unveil a report critical of Vietnam’s leadership on human rights issues during its chairmanship of the Association of Southeast Asian Nations (ASEAN). Similarly, two individuals affiliated with a foreign-based human rights NGO were barred from visiting the country to attend the ASEAN People’s Forum in September.

During the year the Government hosted two UN independent experts: the independent expert on minority issues in July, and the independent expert on human rights and extreme poverty in August. Both met with the deputy prime minister and foreign minister and were permitted to travel to remote regions of the country.

The Government discussed human rights matters bilaterally with some foreign governments. Several foreign governments continued official talks with the Government concerning human rights, typically through annual human rights dialogues.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status; however, enforcement of these prohibitions was uneven.

*Women.*—The law prohibits using or threatening violence, taking advantage of a person who cannot act in self-defense, or resorting to trickery to have sexual intercourse with a person against that person’s will. This criminalizes rape, spousal rape, and in some instances sexual harassment. In 2009 a man from the Phan Thiet Province was jailed for 18 months for raping his wife. Other rape cases were traditionally prosecuted to the full extent of the law. No reliable data were available on the extent of the problem.

Domestic violence against women was considered common. A landmark survey conducted jointly by the UN and the General Statistics Office in November found that 58 percent of married women had been victims of physical, sexual, or emotional domestic violence. Officials increasingly acknowledged it as a significant social concern, and it was discussed more openly in the media. The law prescribes punishment ranging from warnings to a maximum of two years’ imprisonment for “those who cruelly treat persons dependent on them.” The Law on Domestic Violence Prevention and Control specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and stipulates punishments for perpetrators of domestic violence; however, NGO and victim advocates considered many of the provisions to be weak. While the police and legal system generally remained unequipped to deal with cases of domestic violence, the

Government, with the help of international and domestic NGOs, continued to train police, lawyers, and legal system officials in the law.

Several domestic and international NGOs worked to address domestic violence. Hotlines for victims operated by domestic NGOs existed in major cities. The Center for Women and Development, supported by the Vietnam Women's Union, also operated a nationwide hotline, although it was not widely advertised in rural areas. Another NGO, Hagar Vietnam, established a training program to reintegrate into society women who suffered domestic abuse. In September the first 13 girls graduated from the program. While rural areas often lacked the financial resources to provide crisis centers and hotlines, a 2007 law establishes "reliable residences" allowing women to turn to another family while local authorities and community leaders attempt to confront the abuser and resolve complaints. Government statistics reported that approximately half of all divorces were due in part to domestic violence. The divorce rate continued to rise partly due to domestic violence and also to growing societal acceptance of divorce, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty.

The Government, with the help of international NGOs, supported workshops and seminars aimed at educating women and men about domestic violence and women's rights in general and also highlighted the problem through public awareness campaigns. Domestic NGOs were increasingly engaged in women's issues, particularly violence against women and trafficking of women and children.

The act of sexual harassment and its punishment is clearly defined in the law; however, in reality there was no legal requirement to prevent it. Publications and training on ethical regulations for government and other public servants do not mention the problem, although it existed.

Victims of sexual harassment may contact social associations such as the Women's Union to request their involvement. If the victim has access to a labor union representative, complaints can also be lodged with the labor officers. In serious cases victims may sue offenders under article 121 of the penal code, which deals with "humiliating other persons" and specifies punishments that include a warning, non-custodial reform for up to two years, or a prison term ranging from three months to two years. However, in reality sexual harassment lawsuits were unheard of, and most victims were unwilling to denounce the offenders publicly.

The law restricts the number of children per couple to two. The Government primarily implemented the policy through media campaigns that strongly encouraged individuals to practice family planning. The Government also enforced the policy by denying promotions and salary increases to public-sector employees with more than two children, albeit in an inconsistent manner.

The law affirms an individual's right to choose contraceptive methods as well as access to gynecological diagnosis, treatment, and health check-ups during pregnancies. It also provides for medical services when giving birth at health facilities, and officials generally enforced the law. According to data gathered by the UN, the estimated maternal mortality ratio in 2008 was 56 deaths for every 100,000 live births. Unmarried women in reproductive ages had limited or no access to subsidized contraceptives, due to government policy and lack of access in rural areas. Women were equally diagnosed and treated for sexually transmitted diseases, including HIV.

Women continued to face societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage and in the workplace, as well as labor code provisions that call for preferential treatment of women, women did not always receive equal treatment.

Although legislation provides for equal inheritance rights for men and women, in practice women faced cultural discrimination. A son was more likely to inherit property than a daughter, unless specified by a legal document. Labor laws prohibit gender-based preferential hiring for jobs, and while NGOs assumed that such discrimination occurred, allegations were hard to prove.

The CPV-affiliated Women's Union and the Government's National Committee for the Advancement of Women (NCFAW) continued to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote the advancement of women. The NCFAW continued implementing the Government's national strategy on the advancement of women. Key areas of this strategy focused on placing more women in senior ministry positions and in the National Assembly. The strategy also focused on increasing literacy rates, access to education, and health care.

*Children.*—By law the Government considers anyone born to at least one Vietnamese citizen parent to be a citizen, although persons born to non-Vietnamese parents can also acquire citizenship under certain circumstances. Not all births were

registered immediately, but this was sometimes the result of an uneducated populace. A birth certificate is required for public services, such as education and health care, and the choice by some parents, especially ethnic minorities, to not register their children affected the ability to enroll them in school and receive government-sponsored care.

Education is compulsory, free, and universal through the age of 14; however, authorities did not always enforce the requirement, especially in rural areas, where government and family budgets for education were strained and children's contribution as agricultural laborers was valued.

Anecdotal evidence suggested that child abuse and corporal punishment in schools was widespread. A study conducted by the UN and the General Statistics Office found that 25 percent of children were victims of child abuse as reported by their mothers during a study on domestic violence.

Child prostitution, particularly of girls but also of boys, existed in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some minors entered into prostitution for economic reasons. The penal code, issued in 1999 and updated in 2009, criminalizes all acts of sale, fraudulent exchange, or control of children as well as all acts related to child prostitution and forced child labor. The 2009 penal code carries sentences ranging from three years' to life imprisonment and fines from VND five million to VND 50 million (\$256 to \$2,564). Articles 254, 255, and 256 describe acts related to child prostitution, including harboring prostitution (12 to 20 years' imprisonment), brokering prostitution (seven to 15 years' imprisonment), and buying sex with minors (three to 15 years' imprisonment). Similarly, the 1991 Law on Protection, Care, and Education of Children prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development. The 2004 revised version has an additional chapter on protection and care of disadvantaged children.

The minimum age of consensual sex is 18. Statutory rape is illegal under article 111 of the criminal code. Statutory rape can result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18, dependent upon the circumstances, vary from five to 10 years in prison. The production, distribution, dissemination, or selling of child pornography is illegal under article 253 of the criminal code and carries a sentence of three to 10 years' imprisonment.

The Government's National Program of Action for Children for 2001-10 aimed to create the best conditions to meet demands and rights of every child, prevent and eliminate child abuse, and implement programs to prevent child trafficking, child prostitution, and child pornography. The Government also promulgated the Program on Prevention and Resolution of the Problems of Street Children, Sex-abused Children, and Children Being Overworked and Working in Poisonous and Dangerous Conditions for 2004-10. The program had separate projects for prevention of sexual child abuse; communication, advocacy, and capacity enhancement for program management; prevention of and support for street children; and prevention of hazardous and dangerous working conditions for children. Initial assessments indicated that these measures provided an important legal basis for children's matters and that most local governments, departments, and unions supported these efforts. A lack of funding and a clear understanding of responsibilities, along with unclear implementation guidance, hindered implementation in certain localities.

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were an estimated 23,000 street children, who were sometimes abused or harassed by police. MOLISA managed two centers to provide support for children in needy situations. Youth unions also launched awareness campaigns.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There are small Jewish expatriate communities in Hanoi and Ho Chi Minh City, with a permanent Chabad-Lubavitch center in Ho Chi Minh City. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Articles 59 and 67 of the constitution provide for the protection of persons with disabilities. The Law on Disabled Persons prohibits discrimination against or maltreatment of persons with disabilities. The law also encourages the employment of persons with disabilities. In June the National Assembly enacted a national law providing for the rights of people with physical, sensory, intellectual, and mental disabilities. The new law requires equality for people with disabilities through accommodation, access to education, employment, health care, rehabilitation, transportation, and vocational training.

The provision of services to persons with disabilities, although limited, improved during the year. The Ministry of Transportation continued to implement accessibility codes for public transportation facilities and trained transportation agency officials and students on use of the codes. Construction or major renovation of new government and large public buildings must include access for persons with disabilities. The Ministry of Construction maintained enforcement units in Hanoi, Ho Chi Minh City, Danang, Quang Nam, and Ninh Binh to enforce the barrier-free codes.

Access to education for children with disabilities, including blindness, deafness, and mobility restrictions, was extremely limited. The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the Government enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities can qualify for special government-subsidized loans.

The Government respected the political and civil rights of persons with disabilities. Under the election law, ballot boxes may be brought to the homes of individuals unable to go to a polling station.

The Government supported the establishment of organizations aiding persons with disabilities. Such persons were consulted in the development or review of national programs, such as the national poverty reduction program, vocational laws, and various educational policies. The National Coordination Committee on Disabilities and its ministry members worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The Government operated a small network of rehabilitation centers to provide long-term, inpatient physical therapy. Several provinces, government agencies, and universities had specific programs for those with disabilities.

*National/Racial/Ethnic Minorities.*—Although the Government officially prohibits discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities persisted. Despite the country's significant economic growth, some ethnic minority communities benefited little from improved economic conditions. In certain areas, including the Northwest Highlands, Central Highlands, and portions of the Mekong Delta, ethnic minority groups made up the majority of the population.

Some members of ethnic minority groups continued to leave for Cambodia and Thailand, reportedly to seek greater economic opportunity or shortcuts to immigration to other countries. Government officials monitored certain highland minorities closely, particularly several ethnic groups in the Central Highlands, where it continued to impose security measures because of concern that the religion they practiced encouraged ethnic minority separatism.

The Government continued to impose security measures in the Central Highlands in response to concerns over possible ethnic minority separatist activity. There were reports that ethnic minority individuals who telephoned the ethnic minority community abroad were a special target of police attention. Several individuals connected to overseas separatist organizations were arrested, convicted, and sentenced to lengthy prison terms. During the period around sensitive occasions and holidays, an increased security presence was reported throughout the region. There were a few reports that members of ethnic minorities seeking to enter Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by police beatings and detentions.

The Government continued to address the causes of ethnic minority discontent through special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The Government allocated land to ethnic minorities in the Central Highlands through a special program, but there were complaints that implementation of these special programs was uneven.

The Government maintained a program to conduct classes in some local ethnic minority languages in elementary and secondary schools. The Government worked with local officials to develop local language curricula, but it appeared to implement this program more comprehensively in the Central Highlands and the Mekong Delta than in the mountainous northern and northwestern provinces. Ethnic minorities were not required to pay regular school fees, and the Government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the middle- and high-school levels. The Government offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level. There were also a few government-subsidized technical and vocational schools for ethnic minorities. Nonetheless, there were credible cases of discrimination against Christian ethnic minorities, although the law provides for universal education for children regardless of religion or ethnicity.

The Government broadcast radio and television programs in ethnic minority languages in some areas. The Government also instructed ethnic-majority Kinh officials to learn the language of the locality in which they worked. Provincial governments continued initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

The Government granted preferential treatment to domestic and foreign companies that invested in highland areas, which are populated predominantly by ethnic minorities. The Government also maintained infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas. The July and August visits of the UN independent expert on minority issues and the independent expert on human rights and extreme poverty focused on the need to facilitate bilingual education to improve the economic situation of minorities. Both experts visited majority minority areas, including the Northwest Highlands, Central Highlands, and portions of the Mekong Delta.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—A homosexual community exists but was largely underground. There are no laws that criminalize homosexual practices. There was no official discrimination in employment, housing, statelessness, or access to education or health care based on sexual orientation, but social stigma and discrimination was pervasive. Most homosexual persons chose not to tell family of their sexual orientation for fear of being disowned.

There was growing public awareness of homosexuality and little evidence of direct official discrimination based on sexual orientation. In contradiction of the penal code, the chief judge of the Quang Binh Provincial People's Court in August refused to prosecute the gang rape of a transsexual, claiming the code did not address rape of transgendered individuals.

*Other Societal Violence or Discrimination.*—There was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed. Individuals who tested positive for HIV reported latent social stigma and discrimination, although not in receiving medical treatment for their condition. The law states that employers cannot fire individuals for having HIV/AIDS and doctors cannot refuse to treat persons with HIV/AIDS. However, there were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. The Government reported approximately 5,100 school age children with HIV/AIDS. In several cases HIV/AIDS-infected children or HIV/AIDS orphans were barred from schools due to pressure from other parents. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and thereby decrease societal stigma and discrimination, but these measures were not consistently applied. Faith-based charities were sometimes permitted to provide HIV prevention and home-based care services to persons with or affected by HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law does not allow workers to organize and join independent unions of their choice. While workers may chose whether or not to join a union and the level (local, provincial, or national) at which they wish to participate, every union must be affiliated with the country's only trade union, the Vietnam General Confederation of Labor (VGCL).

The VGCL, a union umbrella organization controlled by the CPV, approves and manages a range of subsidiary labor unions organized according to location and industry. By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union.

According to VGCL statistics, in November its total membership was more than seven million, an estimated 15 percent of the total labor force. Of the VGCL members, 53 percent worked in the public sector and state-owned enterprises and 47 percent in the private sector. Approximately three million union members worked in the private sector, including in enterprises with foreign investment (nearly 1.4 million persons). The VGCL reported that more than 102,000 individual workplace unions existed, with approximately 75,000 unions in the public sector and state-owned enterprises and 31,000 unions in the private sector.

The law does not allow for independent unions; however, a 2007 revision states that the negotiation of disputes can be led and organized by "relevant entities," which may be composed of worker representatives when the enterprise in question

does not have a union. While the law allows for “union activities,” especially during emergencies such as a strike, the VGCL is required to establish an official union within six months. There was little evidence that leaders or organizations active during this six-month window continued to be active or recognized afterwards.

There are mandatory union dues for union members of 1 percent of salary, and employers must contribute 2 percent of payroll. In foreign direct investment companies, employers are required to contribute 1 percent of payroll. While these dues are intended to support workers and union activities, there was little transparency regarding their use. The vast majority of the workforce was not unionized and did not pay union dues, as almost 36 million of the country’s 46.7 million total laborers worked in the informal sector and engaged in activities such as small-scale farming or worked in small private-sector companies.

Union leaders influenced key decisions, such as amending labor legislation; developing social safety nets; and setting health, safety, and minimum wage standards.

Strikes are illegal if they do not arise from a collective labor dispute or if they concern problems that are outside of labor relations. The law stipulates an extensive and cumbersome process of mediation and arbitration that must be followed before a strike may take place. Before a legal strike can be held, workers must take their claims through a process involving a conciliation council (or a district-level labor conciliator where no union is present); if no resolution is obtained, the claims must be submitted to a provincial arbitration council. Unions (or workers’ representatives where no union is present) have the right either to appeal decisions of provincial arbitration councils to provincial people’s courts or to go on strike. Individual workers may take cases directly to the people’s court system, but in most cases they may do so only after conciliation has been attempted and has failed. The amendment also stipulates that workers on strike will not be paid wages while they are not at work.

The labor code prohibits strikes in 54 occupational sectors and businesses that serve the public or that the Government considers essential to the national economy and defense. A decree defines these enterprises as those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The “essential services” under this decree are defined much more broadly than in the International Labor Organization (ILO) criteria. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

The VGCL reported 424 strikes throughout the year, with more than 83 percent occurring in Ho Chi Minh City and surrounding provinces. This represented an increase compared with 310 strikes in 2009 but well below peak levels in 2008, when 762 strikes were recorded. The vast majority of strikes typically did not follow the authorized conciliation and arbitration process and thus were considered illegal “wildcat” strikes. During the year 85 percent of strikes occurred in foreign-invested companies, primarily those owned by Taiwanese or South Koreans.

While wildcat strikes are illegal, the Government tolerated them and took no action against the strikers. The law prohibits retribution against strikers, and there were no reports of retribution. In some cases the Government disciplined employers for the illegal practices that led to strikes, especially with foreign-owned companies. By law individuals participating in strikes declared illegal by a people’s court and found to have caused damage to their employer are liable for damages.

*b. The Right to Organize and Bargain Collectively.*—The law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers; the law was generally enforced, although VGCL-affiliated unions were not independent. Collective labor disputes over rights must be routed through a conciliation council and, if the council cannot resolve the matter, to the chairperson of the district-level people’s committee. The law stipulates an extensive and cumbersome process of mediation and arbitration that must be followed before a strike may take place.

There are no special laws or exemptions from regular labor laws in export processing zones and industrial zones. A May 2009 government circular tasks zone boards with responsibility for monitoring labor law compliance within their zones. There was no evidence that labor inspection quality or frequency differed within the zones. However, there were credible reports that employers, both in and outside the zones, tended to use short-term or probationary contracts to avoid certain legally mandated worker benefits such as unemployment insurance or to inhibit workers from joining trade unions.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred. Prisoners routinely were required to work for little or no pay under administrative and legislative regulations. They produced food and other goods used directly in prisons or sold on local markets, reportedly to purchase items for their per-

sonal use. There was anecdotal evidence and press reports of forced labor by children in small privately owned garment factories and gold mines and by ethnic minority adults on coffee plantations in the Central Highlands.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits most child labor but allows exceptions for certain types of work. However, child labor remained a problem, particularly in rural areas, where two-thirds of the population resided. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA. A 2006 ILO analysis of the country's household surveys showed that 6.7 percent, or 930,000, of children between the ages of six and 17 participated in some economic activity, usually on family farms or in family businesses not within the scope of the law.

By law an employer must ensure that workers under 18 do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the law. The law permits children to register at trade training centers, a form of vocational training, from the age of 13. Children may work a maximum of seven hours per day and 42 hours per week and must receive special health care. A 2008 MOLISA survey reported that there were more than 25,000 children working in conditions considered hazardous, but some observers questioned the accuracy of this number.

In rural areas children worked primarily on family farms and in other agricultural activities and household responsibilities. In some cases they began work as young as age six and were expected to do the work of adults by the time they were 15. Especially during harvest and planting seasons, some parents did not permit children to attend school. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households in urban areas. Consequently, their children could not attend public schools, and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers, were commonly assigned work for "educational purposes."

In urban areas children worked in family-owned small businesses or on the street shining shoes or selling articles such as lottery tickets and newspapers. One shelter reported that children as young as nine years were lured into Ho Chi Minh City to sell lottery tickets. Child labor was also increasingly common in small urban factories. Labor officials in Ho Chi Minh City declared that 62 of 173 production units they inspected in 2009 used illegal child labor. During the year city labor officials reported 558 documented child laborers, but international organizations estimated that there were between 2,500 and 5,000 child laborers under age 14. Most were employed in garment or mechanic workshops in Binh Tan, Tan Phu, and Binh Chanh districts. Government inspectors reported that more than 96 percent of child workers were employed without official documentation and that 75 percent were from the central coast and Mekong Delta provinces. A 2009 ILO study also found evidence of child labor in family or small informal businesses such as brick-making, stone and wood carvings, and rubber sap collection; however, the survey authors refrained from drawing nationwide conclusions based on these limited data.

MOLISA is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the Government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitive situations, and fined the employers.

The Government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans, and in March launched a joint project with the ILO to eliminate the worst forms of child labor.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for unskilled laborers at foreign-investment joint ventures and foreign and international organizations was between VND 1.19 million (\$61) and 1.34 million VND (\$69) in urban areas and approximately VND 1 million (\$53) in rural areas. For employees working for the state sector or domestic-owned private-sector companies, on farms, or in family households, the official minimum wage was between VND 730,000 (\$37) and VND 980,000 (\$50), based on the region. While

this was above the poverty line set by the Government, many considered this amount inadequate to provide a worker and family a decent standard of living.

The Government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The law sets normal working hours at eight hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at one and one-half times the regular wage, two times the regular wage for weekdays off, and three times the regular wage for holidays and paid leave days. The law limits compulsory overtime to four hours per week and 200 hours per year but provides for an exception in special cases, where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the Government after consulting with VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how strictly the Government enforced these provisions. There were credible reports that factories exceeded the legal overtime thresholds and did not meet legal requirements for rest days.

By law a female employee who is engaged to be married, pregnant, on maternity leave, or caring for a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are caring for a child under one year of age cannot be compelled to work overtime, at night, or in locations distant from their homes. It was not clear how well the law was enforced.

The law requires the Government to promulgate rules and regulations that provide for worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations, but enforcement was inadequate for many reasons, including low funding and a shortage of trained enforcement personnel. The VGCL asserted that authorities did not always prosecute violations. MOLISA acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against violations. During the year a government decree increased fines on employers who failed to pay mandated social insurance premiums on behalf of employees. MOLISA stated these increased fines were still too low to deter violations. On-the-job injuries due to poor health and safety conditions and inadequate employee training in the workplace were a problem, but the number of reported workplace fatalities decreased from 550 in 2009 to 287 in the first 10 months of the year. Machinery, such as rolling mills and presses, caused the greatest number of occupational injuries.

According to a 2008 survey by MOLISA on working conditions in small and medium-sized enterprises, up to 80 percent did not meet minimal work safety requirements, 8 percent had working conditions described as considerably poor, and 90 percent used obsolete machines and equipment. Employees typically worked in hazardous working environments—31 percent worked in very hot conditions, 24 percent in excessively noisy conditions, and 17 percent in places with high levels of dust.

The law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this was enforced. MOLISA stated that there were no worker complaints of employers failing to abide by the law.

---



## EUROPE AND EURASIA

### ALBANIA

The Republic of Albania is a parliamentary democracy with a population of approximately three million. The constitution vests legislative authority in the unicameral Assembly (parliament), which elects both the prime minister and the president. The prime minister heads the Government, while the president has limited executive power. In June 2009 the country held parliamentary elections, which the Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) described as marking progress over past elections, but not fully realizing OSCE commitments. While the opposition Socialist Party (SP) voted to certify the elections as legal and final, it began a boycott of the parliament in September 2009, calling for an investigation into alleged electoral fraud. The boycott continued at year's end. Security forces reported to civilian authorities.

There were reports that police severely beat and mistreated suspects during interrogation and detention. Some cases of physical mistreatment were reported in prisons. Police corruption and impunity persisted. Government corruption remained a serious and unresolved problem. Discrimination against women, children, homosexual persons, and minorities were problems. Trafficking in persons also remained a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings. The killings of two political figures—Socialist Party Member of Parliament Fatmir Xhindi and a Christian Democrat leader, Alex Keka—were under investigation and remained unresolved at year's end.

On December 12, the Parliamentary Assembly of the Council of Europe (COE) released COE rapporteur Dick Marty's report on allegations concerning inhuman treatment of persons and illicit trafficking in human organs. The report stated that, from July 1999 to mid-2000, elements of the Kosovo Liberation Army (KLA) and affiliates held scores of "disappeared" persons at temporary locations at Bicaq, Burrel, Rripe, and Fushe-Kruje. The report alleged that some of these persons had their kidneys extracted for use by an international organ-trafficking ring. The report alleged that most of those held—ethnic Albanians and Serbs whom the KLA believed to be collaborators—were presumed to have been killed. According to the report, first-hand sources credibly implicated five members of the "Drenica Group" within the KLA in having ordered, and in some cases personally overseen, killings, detentions, beatings, and interrogations in the context of KLA-led operations on the territory of Albania between 1998 and 2000. The report also stated that the head of the Drenica Group, Kosovo Prime Minister Hasim Thaqi, operated with the "support and complicity" of Albania's government, secret service, and the mafia. Albanian authorities denounced the content of the report but pledged their cooperation with any investigation.

The UN Interim Administration Mission in Kosovo (UNMIK) and International Criminal Tribunal for the Former Yugoslavia (ICTY) whose mandates did not extend into Albania, previously investigated the allegations of organ harvesting contained in the Marty report and concluded that there was insufficient evidence to pursue a criminal case.

The EU Rule of Law Mission in Kosovo (EULEX) War Crimes Unit maintained an open but inactive investigation into the organ trafficking allegations. The EULEX War Crimes Unit stated that it possessed no evidence related to these allegations and called on the COE and other parties to share whatever evidence they

may have obtained. Following the release of the COE report, EULEX indicated that it lacked jurisdiction to investigate alleged crimes committed on the territory of Albania. However the Government publicly expressed its willingness to cooperate with an investigation of these alleged crimes.

During the year there were continuing reports of societal killings, including both generational “blood feud” and revenge killings. Such killings sometimes involved criminal gangs. According to the Interior Ministry, there were five blood feud-related killings during the year. However, NGOs reported 55 blood feud-related killings during the year. According to NGOs, fear of blood feud reprisals effectively imprisoned approximately 1,490 families their homes. The Court of Serious Crimes tried blood feud cases. The law punishes premeditated murder, when committed for revenge or a blood feud, with 20 years’ or life imprisonment.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

Albanian prosecutors believed that they had traced Ilir Kumbaro, on trial with three of his National Intelligence Service (SHISH) colleagues for the 1995 kidnapping and torture of Remzi Hoxha and two other citizens, to the United Kingdom, where he was allegedly living under an assumed name and had applied for asylum. The prosecutor requested extradition. The trial and the extradition request were pending at year’s end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such actions; however, police and prison guards sometimes beat and abused suspects and detainees.

During the year the Government continued to implement recommendations resulting from the Council of Europe’s Committee for the Prevention of Torture (CPT) 2008 visit to the country’s prisons and detention centers. In its report on the visit, the CPT noted credible allegations of physical mistreatment, at times severe, mostly during police questioning.

The December 12 COE report on inhuman treatment of persons and illicit trafficking in human organs (see section 1.a.) alleged that, in 1998 to June 1999, the KLA with the cooperation of SHIK, detained “prisoners of war” from Kosovo at locations in Durres, Cahan, and Kukes, where they were held in makeshift cellblocks, left in insanitary conditions without food and water, and were visited periodically by KLA soldiers to be questioned under harsh treatment, or indiscriminately beaten.

The Albanian Helsinki Committee (AHC) and the Albanian Human Rights Group (AHRG) reported that police sometimes used excessive force or inhuman treatment. During the year the AHC reported that it received 10 complaints of mistreatment by police and prison staff. The majority of these complaints concerned unjustified stops by police, detention past legal deadlines, failure to make citizens aware of their rights when detained, and poor conditions of detention centers. The AHC reported that conditions and treatment while in police custody are more problematic than in the prison system. According to the AHRG, police more often mistreated suspects at the time of arrest or initial detention. Roma, Balkan-Egyptians, and persons engaging in homosexual conduct were particularly vulnerable to police abuse.

Police sometimes used threats and violence to extract confessions.

*Prison and Detention Center Conditions.*—The Ministry of Justice operated all detention facilities, while the Ministry of Interior oversaw police detention facilities.

Prison conditions varied widely between prison facilities dating from the communist period and those opened after 1991. In the facilities dating from the communist period, concerns existed about adequate provisions for sanitation, ventilation, lighting, health care, and access to potable water. The Government was taking steps to address these needs and slowly phase out the older facilities. Establishments opened after 1991 generally met international standards. Changes in the law establishing a probation system, usage of alternative sentencing guidelines, and the construction of new prisons decreased overcrowding. The Albanian Helsinki Committee (AHC) reported during the year that there was a general alleviation of prison overcrowding, largely due to probationary services. Prisons have obtained modernized medical equipment and additional medical staff and supplies. However, access to medical care was not always available. During the year the AHC found that infrastructure conditions in some of the police detention facilities were very troubling.

Prisoners and detainees have the right to meet relatives and meetings can occur up to four times per month for adults and up to eight times for juveniles. Prisoners and detainees are free to exercise their religion and some facilities have special places for religious services.

Prisoners and detainees are permitted to submit complaints to the ombudsman. Every penal installation has a mailbox in which prisoners and detainees are entitled to submit complaints without censorship. The ombudsman reported that this service

was functional. Prisoners and detainees are also entitled under the law to submit complaints to judicial and administrative authorities.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations, although the results were not always easily accessible to the general public. According to the Government, in 2009 the Government carried out over 350 inspections and investigations.

The Government allowed local and international human rights groups, the media, and others to monitor prison conditions. The law provides for an ombudsman to implement the National Mechanism for Torture Prevention. The ombudsman also monitored prison conditions and acted on prisoner complaints. The ombudsman found that several facilities lacked the appropriate infrastructure and found instances of overcrowding. The ombudsman investigated allegations of corruption within the prison system and found corruption to be a serious problem. However, the ombudsman's term in office ended in March, and the parliament was unable to appoint a new ombudsman, leaving a gap which hindered the functioning of this office.

During the year there were no reports that authorities held minors together with adults. In October 2009 the Government opened the Juvenile Institute in Kavaje, which serves as a rehabilitation, correctional, and consultation center for juveniles.

In 2009 authorities initiated 361 disciplinary proceedings against prison guards and officials.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, there were some reports that police occasionally arbitrarily arrested and detained persons.

*Role of the Police and Security Apparatus.*—Local police units report to the Ministry of Interior and are the main force responsible for internal security.

Despite improvements in law enforcement training and management, police did not consistently respect the human rights of citizens during the performance of their duty and were not fully accountable to the rule of law. In some instances, police impunity was a problem. Police officers did not enforce the law equally and an individual's political or criminal connections often influenced enforcement of laws. Low salaries contributed to continued corruption and unprofessional behavior which remained impediments to the development of an effective civilian police force.

During the year the ombudsman processed and completed complaints against police officers mainly on arrest and detention problems; the ombudsman resolved nearly one third in favor of the complaining citizen.

*Arrest Procedures and Treatment While in Detention.*—The constitution requires that authorities inform detained persons immediately of the charges against them and of their rights. Police sometimes failed to inform citizens of their rights at the time of arrest. Under the law, police must immediately inform the prosecutor of an arrest. The prosecutor may release the suspect or petition the court within 48 hours to hold the individual further. A court must decide within 48 hours whether to place a suspect in detention, require bail, prohibit travel, or require the defendant to report regularly to the police. In practice prosecutors requested and courts routinely ordered detention in many criminal cases. However, courts routinely denied prosecutors' requests for detention for well-connected, high-profile defendants. In many cases house arrest was granted and not enforced consistently; time spent under house arrest accrued toward prison time if a defendant was convicted.

Courts must provide indigent defendants with free legal counsel. According to the AHC, police officers often failed to inform defendants of this right, and there were complaints by detainees that authorities did not provide them with defense counsel from the outset of their detention. The AHC and several NGOs offered free legal advice and advocacy services to indigent persons.

The law requires completion of most pretrial investigations within three months; however, a prosecutor may extend this period to two years or longer. The law provides that the maximum pretrial detention should not exceed three years; there were no reports that authorities violated this limit during the year. However, lengthy pretrial detentions often occurred due to delayed investigations, defense mistakes, or the intentional failure of defense counsel to appear. For example, in the 2008 Gerdec case involving the explosion of a former military ammunition demilitarization facility resulting in 26 deaths. During the year the hearings were postponed 77 times, due in many cases to the failure of defense attorneys to appear or due to the absence of a member of the court. Under the law, a judge cannot hold an attorney in contempt of court to prevent these actions by attorneys.

Limited material resources, lack of space, poor court calendar management, insufficient staff, and failure of attorneys and witnesses to appear prevented the court system from adjudicating cases in a timely fashion.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, political pressure, intimidation, widespread corruption, and limited resources sometimes prevented the judiciary from functioning independently and efficiently. The politicization of appointments to the High and Constitutional Courts threaten to undermine the independence and integrity of these courts.

*Trial Procedures.*—The law provides for the right to a fair trial with defendants presumed innocent until convicted. The court system does not provide for jury trials. Prosecutors and defense lawyers present cases to a judge or panel of judges, and defendants have the right to access all evidence that prosecutors present to the judges, can question witnesses against them, and present witnesses and evidence. Defendants have the right to appeal. The law mandates an alternative sentencing system for juveniles.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees; however, former political prisoners under the communist government complained that they had either not received the compensation due them under the law or that payments were coming too slowly.

*Regional Human Rights Courts Decisions.*—During the year the European Court of Human Rights (ECHR) delivered eight judgments concerning the country. These cases largely concerned the right to a fair trial within a reasonable time, the right to an effective remedy, and the right to peaceful enjoyment of possessions. As of September there were 287 cases pending before the ECHR regarding Albania.

*Civil Judicial Procedures and Remedies.*—There is a functional civil law system where citizens have access to redress; however, it was susceptible to corruption, inefficiency, and political tampering. These factors undermine the judiciary's authority, contribute to controversial court decisions, and lead to an inconsistent application of civil law. The Bailiff's Office is responsible for enforcing civil judgments. The law allows private bailiffs to enforce judgments, facilitating both private and public entities to help enforce rulings. However, complete and timely enforcement of court decisions remained elusive.

*Property Restitution.*—The laws governing restitution or compensation for private and religious property confiscated during the communist era are complex, and a large number of cases involving conflicting claims by new owners and the state (on one side) and former owners (on the other) remained unresolved. There was no update to the September 2008 European Parliament briefing paper on property restitution in the country which noted that the first round of judgments of the ECHR had found "serious deficiencies" in the administrative and judicial system of the country with respect to property restitution and compensation of former owners. The judiciary has serious problems with independence, transparency, and accountability.

As in previous years, the Government did not provide restitution or compensation to religious organizations for religious properties and objects that the former communist government confiscated or damaged.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government respected many of these rights in practice, however: there were reports that the Government and businesses influenced and pressured the media.

Individuals could freely criticize the Government publicly or privately without reprisal, although there were some exceptions. Some media outlets reported they experienced selective tax inspections due to their editorial point of view. Two dailies (Tema and Korrieri) closed in the spring after receiving fines of 20 million leks and 22 million leks respectively (\$200,000 and \$220,000). The dailies stated that the Government imposed the fines due to their lack of documentation showing they had destroyed unsold copies. Tema stated that inspections went as far back as 2005. Tema appealed the fine with the Ministry of Finance and the case was ongoing. In October Tema resumed publication after a reorganization.

The media were active and largely unrestrained, however; there were cases of direct and indirect political pressure on the media, including threats against journalists. At times political pressure and lack of funding constrained the independent print media, and journalists reported that they practiced extensive self-censorship. Political parties, trade unions, and other groups published newspapers or magazines independent of government influence.

The public Albanian Radio and Television operated a national television channel and a national radio station and, by law, receives 50 percent of its budget from the Government. The station remained under government control in its editorial line. While private stations generally operated free of direct government influence, most owners believed that the content of their broadcasts could influence government action toward their other businesses. Business owners also freely used media outlets to gain favor and promote their interests with both major parties.

The investigative role of the media continued during the year. Leading broadcaster Top Channel's popular investigative satirical show, *Fiks Fare*, led to dismissals and criminal cases against corrupt public officials. In 2009 hidden camera footage led to the dismissal of former-minister of culture, youth, and sports Ylli Pango who was accused of sexual misconduct. On June 18, the Tirana District Court heard Pango's lawsuit and decided to fine the broadcaster 51 million leks (\$500,000) for "harming the ex-minister's moral stature and causing anxiety and grief." The station appealed the ruling, and the case was pending at year's end.

In March the appellate court remanded the modified 2006 Council of Ministers decision to break its 20-year lease of space to Top Channel, a private television station that was sometimes critical of the Government, and order the station to vacate the state-owned office building in which it was located. The council agreed to allow Top Channel to move to another state-owned property. Despite this order, the station claimed that tenants in the new property did not allow Top Channel to move in and carry out its work. In March the Appeals Court returned the case for readjudication to the Tirana District Court. The case was ongoing at year's end.

The law punishes libel with a prison sentence of up to two years and a fine. During the year there were no libel suits against reporters. However, two media outlets, Vision Plus and Shekulli, filed libel suits against the prime minister in December for prejudicial public statements that he allegedly made against them in parliament. The High Court ruled in May and June on the lawsuits, citing that "there were no elements of the criminal offences of insult and defamation because the damaged parties could not prove the charges."

Various forms of media intimidation continued. Journalists continued to complain that publishers and editors censored their work, either directly or indirectly in response to political and commercial pressures. Many journalists complained that their lack of employment contracts frequently hindered their ability to report objectively.

On November 14, a Gjirokaster correspondent of the daily Panorama newspaper was reportedly assaulted by two persons. The assailants reportedly told the reporter to stop writing in the newspaper. Before the assault, the reporter had printed an interview with an unnamed woman who reportedly worked in drug plantations in Lazarat. The reporter filed a criminal suit with the Prosecutor's Office. The case was ongoing at year's end.

In December businessman Rezart Taci, who was accused of assaulting journalist Mero Baze in November 2009 for Baze's reporting on alleged corruption in the privatization of ARMO, the country's state-owned oil refinery, was acquitted. His two bodyguards were each fined 350,000 leks (\$3,500).

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Access to the Internet increased rapidly during the year but remained limited, particularly outside major urban areas. According to International Telecommunication Union statistics for the year, approximately 36 percent of the country's inhabitants used the Internet compared to 20.6 percent in 2009. Of those an estimated 80 percent were Internet users through mobile phones.

The law provides that the Office of the Commissioner for Data Protection to handle complaints regarding the abuse or misuse of personal information in the Internet. During the year there were no reports that the Government attempted to collect identifiable information on a person in connection with that person's peaceful expression of political, religious, or ideological opinion.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedoms of assembly and association, and the Government generally respected these rights in practice.

The law requires the organizers of gatherings in public places to notify police three days in advance; there were no reports that police arbitrarily denied such gatherings.

*Freedom of Association.*—The constitution provides for freedom of association and the Government generally respected it in practice. The law prohibits the formation of any political party or organization that is nontransparent or secretive; there were no reports that the Government used this provision against any group during the year.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Internal migrants must transfer their civil registration to their new community of residence to receive government services and must prove they are legally domiciled through property ownership, a property rental agreement, or utility bills. Many persons could not provide this proof and thus lacked access to essential services. Other citizens lacked formal registration in the communities in which they resided, particularly Roma and Balkan-Egyptians. The law does not prohibit their registration, but it was often difficult in practice to complete.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Under the law, there is no time limit for requesting asylum, but the Government must make the decision regarding granting asylum within 101 days of the initial request. The Government generally complied with this time frame. The Government actively cooperated with the UNHCR and the Refugee and Migrants Services Albania, which provided assistance to refugees.

The Government provided temporary protection to refugees and provided it to 99 persons during the year.

In cooperation with international organizations, the Government, through the EU's Community Assistance for Reconstruction, Development, and Stabilization program, prescreened undocumented migrants at all border crossing points. Under the program, an NGO and government team assisted border police in identifying undocumented migrants who were potential victims of trafficking, asylum-seekers, or economic migrants.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections based on universal suffrage.

*Elections and Political Participation.*—In June 2009 the country held parliamentary elections that the OSCE ODIHR election observation mission stated met most OSCE commitments but nevertheless “did not fully realize the country's potential to adhere to the highest standards for democratic elections.” The observation mission specifically cited problems in administrative procedures with the vote count, “a highly polarized environment,” biased media coverage, and procedural violations, such as proxy voting. ODIHR observers assessed voting positively in 92 percent of voting centers.

The process through which political parties name electoral commissioners remains opaque. According to the law, political parties should name electoral commissioners 45 to 90 days prior to the election depending on their role. However, political parties did not always follow the law in practice. As a result, political parties often changed commissioners, or did not name them until shortly before elections, preventing them from receiving the training required to execute their duties effectively. Electoral commissioners were also susceptible to interference from political parties.

At year's end the political impasse that followed the June 2009 election continued. The SP, despite having certified the electoral results, boycotted parliament, called for investigations into alleged electoral fraud, and blocked key legislation requiring a parliamentary super majority, including the establishment of an administrative

courts system. The parliament's work has been obstructed by the ongoing political impasse and neither the SP nor the Government has shown a readiness to compromise and end the deadlock. As a result, the parliament was not fully functioning during the year, and the parliament approved almost no major legislative proposals.

Political parties operated without restriction or outside interference. The country has two major political parties, the Democratic Party (DP) and the SP and many smaller parties. In the June 2009 elections, 34 parties campaigned freely throughout the country. Political party financing was largely opaque.

Overall, women were poorly represented at the national and local levels of government, despite commitments by the major political parties to increase their representation. After the June 2009 elections, there were 23 women in the 140-seat parliament, an increase from nine in the previous parliament. These included the speaker and one woman in the Council of Ministers.

The law mandates that women fill 30 percent of appointed and elected positions, and the electoral code provides that 30 percent of candidates should be women. However, not all parties followed the electoral code, and many placed women's names in low spots on the ballot, virtually assuring that they would not win a seat in the parliament under the country's regional proportional parliamentary system in which votes are allocated to candidates in order of their appearance on the ballot.

Several members of the Greek minority served in parliament and in the executive branch in ministerial and subministerial positions, including as the minister of labor.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, despite several arrests of high-level local and central government officials, government corruption remained a major obstacle to meaningful reform. World Bank governance indices for 2009 indicated that corruption was a serious problem. According to a corruption survey released during the year, 91.8 percent of respondents think that corruption among public officials was either "widespread" or "somewhat widespread." Respondents to the survey stated that customs and tax officials, as well as doctors, were the most corrupt institutions and groups.

The Government prosecuted corrupt officials and managed complaints regarding corrupt police through the ombudsman and the Internal Control Service of the Albanian State Police. However, broad immunity provisions for judges, members of parliament, and other high level officials hindered the Government's ability to prosecute high-level corruption. Immunity can only be lifted by parliament or by a High Council of Justice decision. The Government's anticorruption task force against organized crime coordinated anticorruption activities. The prime minister headed the task force that included several ministers and heads of independent state-owned agencies, such as the public electricity company and representatives of the police and intelligence organizations.

The law prohibits government ministers and their close family members from owning a company directly tied to their official responsibilities. Since its inception in 2003, the High Inspectorate for the Declaration and Audit of Assets (HIDAA) received assets declarations from officials. HIDAA is charged with the implementation of the asset declaration law and the conflict of interest law. Each year HIDAA collects nearly 4,000 asset declaration forms from politicians, public servants, and the judiciary. HIDAA selected 4 percent randomly for a full administrative investigation. HIDAA also investigated cases that the media, civil society, or others referred to it. HIDAA's mandate is limited in that it conducts administrative investigations and refers cases to prosecutors for additional investigation. During the year HIDAA sent 14 cases to prosecutors for further investigation and facilitated the resolution of 197 conflict of interest cases. During the year there were new officials who declared their assets for the first time. HIDAA administers conflict of interest regulations; during the year it fined individuals for delaying their submissions and fined 29 for conflict of interest. During the year the Ministry of Interior reported that the state police investigated 1,931 cases related to corruption and financial crimes, and authorities arrested 359 persons. The Government confiscated approximately 835 million leks (\$8 million) in assets. According to the Ministry of Interior, police dismantled organized criminal groups during the year. However, organized crime remained a serious problem.

The Joint Investigative Units to Fight Economic Crime and Corruption (JIU) are multiagency units which investigated and prosecuted public corruption and other financial crimes. There are seven JIUs, one in Tirana and six others throughout the country, which investigate corruption and other financial crimes. Citizens referred two judges, whom officials had asked for bribes in return for favorable rulings. The

JIU also charged two prosecutors with corruption for accepting bribes related to criminal cases. All of these cases were pending at year's end.

The JIUs were composed of police staff from the prosecutor's offices, the state police, customs and tax police, and other relevant institutions. The JIUs used a team structure to concentrate capacity and foster communication necessary for effective investigations and prosecutions. The JIUs received direct referrals from citizens.

The JIUs continued to bring cases in numerous sectors rife with corruption. In the medical field, officials charged surgeons, anesthesiologists, and other medical personnel with corruption for demanding payment to provide what should have been free government services. Officials arrested traffic police officers in several major cities on charges of corruption and abuse of office for accepting bribes in lieu of traffic fines. Prosecutors charged customs officers and businessmen with corruption and smuggling for allowing trucks to cross the border without paying customs duties.

After an eight-month investigation into corruption in the importation of fuel, on June 3, authorities arrested the director and two inspectors from the Fuel Inspection Directorate in the Ministry of Economy for taking \$100,000 in bribes (\$10,000 per ship cleared) over an eight-month period from a fuel importer in exchange for issuing false technical inspection permits and customs clearances.

In early 2009 the trial of several former government officials, including the former head of the Property Restitution Commission and his lawyer on charges of corruption, abuse of office, and falsification of documents. Prosecutors alleged that the two orchestrated a scheme to transfer 135 acres of prime coastal land to a family that had never owned or claimed to own the land. Due to many delays, including the absence of defense attorneys on several occasions, the trial continued at year's end.

During the year the prosecutor general made no further requests to lift the official immunity of former minister of defense Fatmir Mediu in connection with the 2008 explosion at a military base where old ammunition was rendered safe in Gerdec. In 2009 the Supreme Court ruled that Mediu had official immunity upon his June 2009 reelection to parliament.

The lack of an independent, effective, and merit based civil service system remains an impediment to fighting corruption and hinders the ability of the Government to serve its citizens effectively and transparently. Politicization of the civil service recruiting system leads to high turnover in civil servants.

Corruption in the education system continued. University officials reportedly required payments for students to gain admission. Officials sometimes required bribes or sexual favors from students for them to matriculate or pass examinations.

Citizens and noncitizens, including foreign media, have the right to obtain information concerning the activities of government bodies and persons who exercise official state functions; however, citizens often faced serious problems in obtaining information from public and government institutions.

The law requires public officials to release all information and official documents with the exception of classified documents and state secrets. Most government ministries and agencies posted public information directly on their Web sites. However, businesses and citizens complained of a lack of transparency and the failure to publish regulations or legislation that should be basic public information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated and responded to their views. During the year the Government set up an agency for the support of civil society which has the mandate to allocate state funding to NGOs. In December 2009 a group of human rights NGOs collaborated to publish a human rights report on the country and plans to issue another in 2011.

The ombudsman is the main human rights institution for promoting and enforcing human rights. The ombudsman has the authority to monitor judicial proceedings and inspect detention and prison facilities; the ombudsman can initiate cases in which a victim is unwilling or unable to come forward. Although the ombudsman lacked the power to enforce decisions, he acted as a monitor for human rights violations. The most common cases included citizen complaints of police abuse of power, lack of enforcement of court judgments in civil cases, wrongful dismissal, and land disputes. The ombudsman reports to parliament annually.

In many cases the Government took concrete steps to correct problems in response to the findings of the ombudsman. Cooperation improved between the Ministry of Interior and the ombudsman, and the Government implemented some suggestions made by the ombudsman.

The Government cooperated with the UN and other international bodies, permitting visits throughout the year.

The parliament has a committee on Legal Issues, Public Administration, and Human Rights. However, this committee was largely ineffective on human rights issues and remained constrained in its work by the SP boycott of parliament.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, ethnicity, disability, language, or social status; however, the Government did not effectively enforce these prohibitions, and discrimination persisted. On February 4, parliament approved a new law on antidiscrimination. The law created the Office of the Commissioner for Protection from Discrimination, which is to receive and process complaints of discrimination. In May parliament named a commissioner; however, the new institution suffered from inadequate funding and staffing.

*Women.*—The criminal code penalizes rape, including spousal rape; however, victims rarely reported spousal abuse, and officials did not prosecute spousal rape in practice. The concept of spousal rape was not well established, and authorities and the public often did not consider it a crime. The law imposes penalties for rape and assault depending on the age of the victim. For rape of an adult, the prison term is three to 10 years; for rape of an adolescent between the ages of 14 and 18, the term is five to 15 years and, for rape of a child under the age of 14, the sentence is seven to 15 years.

Domestic violence against women, including spousal abuse, remained a serious problem. During the year police reported cases of domestic violence and the Government pressed charges in cases. The Department of Equal Opportunities at the Ministry of Labor, Social Affairs, and Equal Opportunity covers women's issues, including domestic violence.

The Government did not fund specific programs to combat domestic violence or assist victims, although nonprofit organizations provided assistance. NGOs reported that an estimated eight domestic violence hotlines operated. The hotlines, serving mainly the northern part of the country, each received approximately 25 calls per month from women reporting some form of violence. NGOs operated four shelters for battered women in Tirana, Vlora, Elbasan, and Gjirokaster. During the year NGOs and police noted a substantial increase in reports of domestic violence, primarily due to increased awareness of services and more trust in the police. According to government figures, there were 1,744 cases of domestic violence reported during the year, compared with 1,063 in 2009. Often the police do not have the training or capacity to deal with domestic violence cases.

In many communities, particularly those in the northeast, women were subjected to societal discrimination as a result of traditional social norms that considered women to be subordinate to men.

The law prohibits sexual harassment; however, officials rarely enforced the law.

Reproductive rights are generally respected by the Government. Couples and individuals have the right to decide freely the number, spacing, and timing of their children and have the information and means to do so free from discrimination, coercion, and violence. Citizens have access to contraception. Under the law, health care is provided to all citizens; however, the quality of and access to care, including obstetric and postpartum care, was not satisfactory, especially in the remote rural areas. According to 2008 UN estimates, the maternal mortality rate in Albania is 31 deaths per 100,000 live births. Women are equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides equal rights for men and women under family law, property law, and in the judicial system. Neither the law nor practice excluded women from any occupation; however, they were not well represented at the highest levels of their fields. The law mandates equal pay for equal work; however, the Government and employers did not fully implement this provision.

*Children.*—On November 4, the parliament approved the law "For the Protection of the Rights of the Child." This law provides the legal and institutional framework for protecting children's rights.

In general parents must register their children in the same community where they are registered. However, according to the Children's Rights Center of Albania (CRCA), children born to internal migrants or those returning from abroad frequently had no birth certificates or other legal documentation and, as a result, were unable to attend school. This is a particular problem for Romani families as well, who often marry young and fail to register their children.

The law provides for nine years of free education and authorizes private schools. School attendance is mandatory through the ninth grade or until age 16, whichever comes first; however, in practice many children left school earlier than the law al-

lowed to work with their families, particularly in rural areas. Parents must purchase supplies, books, uniforms, and space heaters for some classrooms, which was prohibitively expensive for many families, particularly Roma and other minorities. Many families also cited these costs as a reason for not sending girls to school.

As in previous years, child abuse, including sexual abuse, occurred occasionally, although victims rarely reported it. In some cases children under the age of 18 engaged in prostitution. The penalties for the commercial sexual exploitation of children range from fines to 15 years' imprisonment. The country has a statutory rape law and the minimum age of consensual sex is 14. The penalty for statutory rape of a child under the age of 14 is a prison term of five to 15 years. The law prohibits making or distributing child pornography, and the penalties are a fine of one to five million leks (\$10,000 to \$50,000) and a prison sentence of one to five years. Child marriage remained a problem in many Romani families and typically occurred when children were 13 or 14 years old.

There were reports that orphans leaving the custody of the state at adulthood faced significant challenges finding adequate housing and services.

Displaced and street children remained a problem, particularly Romani children, who made up 90 percent of street children. Street children begged or did petty work; some migrated to neighboring countries, particularly during the summer. These children were at highest risk of trafficking, and some became trafficking victims.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were reportedly fewer than 100 Jews living in the country; there were no known functioning synagogues or community centers and no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities; however, employers, schools, health care providers, and providers of other state services sometimes discriminated against persons with disabilities. The law mandates that new public buildings be accessible to persons with disabilities, but the Government only sporadically enforced the law. Widespread poverty, unregulated working conditions, and poor medical care posed significant problems for many persons with disabilities.

During the year the ombudsman continued to inspect mental health institutions and found that while physical conditions in facilities in Vlora and Shkoder had improved, they were not in compliance with standards and remained understaffed. Inspections of the Tirana Psychiatric Hospital found that specific windows and doors needed to be replaced for safety reasons. The ombudsman regularly conducts inspections throughout Albania and recommended a major legal, organizational, and budgetary review of the country's mental health care system. The admission and release of patients at mental health institutions was a problem due to lack of sufficient financial resources to provide adequate psychiatric evaluations.

*National/Racial/Ethnic Minorities.*—There were reports of societal discrimination. As visible minorities, members of the Romani and Balkan-Egyptian communities suffered significant societal abuse and discrimination.

The law permits official minority status for national groups and separately for ethnolinguistic groups. The Government defined Greeks, Macedonians, and Montenegrins as national groups; Greeks constituted the largest of these. The law defined Aromanians (Vlachs) and Roma as ethnolinguistic minority groups.

In October the Council of Ministers approved the National Action Plan for the Roma and Egyptian Involvement Decade for 2010-15. The total budget for implementing the five-year plan was expected to be nearly 2.5 billion leks (\$23 million).

The ethnic Greek minority pursued grievances with the Government regarding electoral zones, Greek-language education, property rights, and government documents. Minority leaders cited the Government's unwillingness to recognize ethnic Greek towns outside communist-era "minority zones"; to utilize Greek in official documents and on public signs in ethnic Greek areas; to ascertain the size of the ethnic Greek population; or to include a higher number of ethnic Greeks in public administration.

During the year government prosecutors continued to appeal the dismissal of charges against Vasil Bollano, the ethnic Greek mayor of Himara, who was found guilty of abuse of office, but whose conviction was overturned on appeal in June 2009. The court convicted Bollano of destruction of government property after he or-

dered the removal of several new road signs in the Himara district because they were written in Albanian and English but not Greek.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing sexual orientation, and the law does not differentiate between types of sexual relationships. There were lesbian, gay, bisexual, and transgender (LGBT) organizations in the country. The groups operated without interference from police or other state actors. There were reports that individuals were beaten, fired from their employment, or subjected to discrimination due to their sexual orientation. Often these cases went unreported.

NGOs claimed that police routinely harassed LGBT persons and transgender sex workers.

*Other Societal Violence or Discrimination.*—The country has a low prevalence of HIV/AIDS. There is a general social stigma against persons with HIV/AIDS, although there were no reports of violence against such individuals during the year. The country's legal structures prohibit discrimination; however, implementation at times was lacking. Under the law, all health services are provided free of charge.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers have the right to form independent unions and they exercised this right in practice; however, the law prohibits members of the military and senior government officials from joining unions and requires that a trade union have at least 20 members to be registered. Approximately 18 percent of the workforce belonged to unions.

The law provides the right to strike for all workers except civil servants, and workers exercised this right in practice. Civil servants do not have the right to strike; this applies to the uniformed military, police, indispensable medical and hospital personnel, persons providing air traffic control and prison services, and both essential and nonessential workers in water and electrical utilities. The law prohibits strikes that courts judge to be political.

*b. The Right to Organize and Bargain Collectively.*—Citizens in all fields of civilian employment have the constitutional right to organize and bargain collectively, and the law establishes procedures for the protection of workers' rights through collective bargaining agreements. However, labor unions operated from a weak position. Unions representing public sector employees negotiated directly with the Government. Effective collective bargaining remained difficult, and agreements were hard to enforce. During the year parliament adopted a law requiring workers' representative bodies in enterprises with 20 or more employees to inform workers of all problems affecting them and their companies.

The law does not prohibit antiunion discrimination, and there were some reports of such occurrences. According to the Independent Trade Union of Textile, Garment, and Leather Workers, employers in the textile, garment, leather, and footwear sectors engaged in antiunion behavior. Reportedly, they threatened international relocation if workers unionized. In April the Constitutional Court overturned the 2009 law that could be used to sequester properties belonging to the country's trade unions.

There are no export processing zones, free trade zones, or industrial parks.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, women and children were trafficked for sexual exploitation and labor. For more information on forced or compulsory labor, please see the Department of State's annual Trafficking in Persons report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law criminalizes exploitation of children for labor or forced services; however, the Government did not enforce the law effectively. According to a CRCA estimate released during the year, more than 50,000 children under 18 years of age worked at least part time. The CRCA reported that the majority of child laborers worked as street or shop vendors, beggars, farmers or shepherds, drug runners, vehicle washers, textile factory workers, miners, or shoeshine boys. Research suggested that begging started at a young age—as early as four or five years old. The criminal code prohibits the exploitation of children for begging. Police generally did not enforce this law.

The law sets the minimum age of employment at 16 years and regulates the amount and type of labor that children under the age of 18 may perform. Children between the ages of 16 and 18 years old can work in certain specified jobs. The law provides that the Ministry of Labor, Social Affairs, and Equal Opportunity is responsible for enforcing minimum age requirements through the courts; however, there were no reports of enforcement. Labor inspectors investigated the formal labor

sector, whereas most child labor occurred in the informal sector. Most of the labor inspections occurred in shoe and textile factories, and some instances of child labor were found in the course of these inspections.

In 2008 a massive explosion at a military base in the town of Gerdec, where old ammunition was rendered safe, killed 26 persons, including several illegally employed children, and injured hundreds of others, some seriously.

The Government, together with several NGOs and international donors, had some specific programs aimed at preventing illegal child labor. During the year the Child Labor Unit at the Ministry of Labor continued to implement the second phase of its child labor monitoring initiative in the regions of Elbasan and Shkoder. As a result of those efforts, 362 children were withdrawn from various forms of employment and returned to school. In addition the Ministry of Tourism has established a code of conduct for preventing child sex tourism that was signed by 24 tourist agencies and hotels.

*e. Acceptable Conditions of Work.*—The national minimum wage was 20,000 leks (\$190) per month. However, it was not sufficient to provide a decent standard of living for a worker and family. According to INSTAT, the average wage for government workers in the third quarter of the year was 47,000 leks (\$447) per month. The Albanian Institute of Statistics also reported that average monthly wages in the public sector had increased 6.4 percent from 2009. The Ministry of Labor, Social Affairs, and Equal Opportunity has the responsibility for enforcing minimum wage compliance.

The law establishes a 40-hour workweek; however, individual or collective agreements typically set the actual workweek. Many persons worked six days a week. The law requires payment of overtime and rest periods; however, employers did not always observe these provisions in practice. The Government had no standards for a minimum number of rest periods per week, no limits on the maximum number of hours worked per week, and no regulations regarding premium pay for overtime; it did not prohibit excessive compulsory overtime.

The Ministry of Labor, Social Affairs, and Equal Opportunity is responsible for enforcing occupational health and safety standards and regulations; however, enforcement was lacking overall. Workplace conditions were frequently very poor and, in some cases, dangerous. Workers at the Bulqiza mines continued to request a lower retirement age. In response the Government issued instead a salary increase for miners who work beyond the age of 50. Other requests from miners included better medical services for miners who have an accident at work and an improvement of their legal status as miners. The respective Ministry of Economy, Trade and Energy attempted in March to reinvigorate the mechanism of the Mines Inspection and Rescue Unit which has been in place for the last 50 years. The Government also created a task force with a combination of central and local authorities, the tax administration, and the state police to improve law enforcement in the area.

Several accidents in the Bulqiza mines were reported during the year. Most accidents involved collapses in the mines and were due to a lack of adequate safety measures and procedures. In May a 65-year-old mineworker was reported to have died in a work-related accident while working in one of the Bulqiza mines. During the year media outlets continued to report that women and minors collected chromium from mines to support their families.

The law does not provide workers the right to remove themselves from hazardous situations without jeopardy to their employment.

---

## ANDORRA

The Principality of Andorra is a constitutional parliamentary democracy with a population of approximately 85,000. Two co-princes—the president of France and the Spanish bishop of La Seu d’Urgell—serve with joint authority as heads of state, and a delegate represents each in the country. In April 2009 the country held free and fair multiparty elections for the 28 seats in the General Council of the Valleys (the parliament), which selects the head of government. Citizens elected Jaume Bartomeu from the Social Democratic Party as head of government. Security forces reported to civilian authorities.

The ombudsman reported prolonged pretrial detention. The law does not protect effectively the right of workers to form and join unions or unions’ right to bargain collectively and to strike.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards. The Government permitted monitoring visits by independent human rights observers.

According to information obtained from the Government, at year's end 61 persons, 10 women and 51 men, of 15 nationalities, including Romanian, Spanish, Andorran, Georgian, Ukrainian, Chinese, French, Moroccan, and Italian, were in jail. In the majority of cases the prisoners were accused of robbery.

The prison regime separated prisoners according to gender, age, and other personal circumstances. Convicted prisoners were held separately depending on their sentence and were separated from pretrial detainees. Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. The Government investigated and monitored prison and detention center conditions.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national police, the country's only security force, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving police during the year.

*Arrest Procedures and Treatment While in Detention.*—Warrants are required for arrest. Police legally may detain persons for 48 hours without charging them with a crime, and police generally observed this time limit in practice. A system of bail exists. The law allows detainees to have prompt access to a lawyer. In September the Constitutional Court declared unconstitutional the established practice of not allowing detainees to have access to a lawyer for as long as 24 hours after their detention. Persons charged with a crime can either choose their own lawyer or accept one designated by authorities. Detainees generally were allowed prompt access to family members.

Cases of foreigners accounted for most of the lengthy detention cases of up to one year primarily because in most such cases two or even three countries might be involved.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are public, and defendants can request a jury. Defendants have the right to be present and consult with an attorney in a timely manner. If a defendant facing serious criminal charges cannot afford an attorney, the Government must appoint a public attorney. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and attorneys have access to government-held evidence in their cases. The law extends the rights to all citizens with no exception. Defendants have the right to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The judiciary is independent and impartial in civil matters. Plaintiffs can bring lawsuits seeking damages for, or cessation of, a human rights violation. No administrative remedies are available for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for the year, approximately 79 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assisting refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol relating to the Status of Refugees. The law does not provide for the granting of asylum or refugee status. However, the Government has from time to time cooperated with the UNHCR and other organizations in assisting refugees “for humanitarian reasons.”

In practice the country provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were no such cases during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—Observers considered the General Council elections in April 2009 free and fair. Individuals and parties could freely declare their candidacy and stand for election.

There were 10 women in the 28-seat General Council and two women in the nine-seat cabinet. One of the five judges of the Supreme Court of Justice is a woman.

Citizens are ethnically and linguistically homogeneous but represent only 36 percent of the total population. Only citizens have the right to vote and hold official positions; consequently, there were no members of minorities in government. The population largely consists of immigrants from Spain, Portugal, and France.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. The chief of police is responsible for combating corruption. There were no reports of government corruption during the year.

Public officials are not subject to financial disclosure laws. The Unit for the Prevention and the Fight against Corruption is the Governmental agency responsible for the implementation and monitoring of the provisions contained in the law.

The law provides for public access to government information, and the Government permitted access in practice for citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The ombudsman is a consolidated entity well known in different areas of the Government and among citizens. While the ombudsman is a complementary institution to the traditional judicial control of the administrative activity, its main function is to defend and oversee the fulfillment and application of the rights and liberties included in the constitution and ensure that the performance of the public sector adheres to constitutional principles. The ombudsman is independent from other institutions and provides its functions free of charge for interested persons. The ombudsman enjoyed the Government's cooperation and operated without government interference. In general the ombudsman had adequate resources and was considered effective. The ombudsman makes a published annual report to parliament with recommendations.

There was a moderate increase in the number of cases examined by the ombudsman. According to the latest report, the institution received 266 complaints in 2009 (compared with 258 in 2008). Of these, 184 were simple requests for information; 37 complaints related to housing controversies between owners and renters and social security services; and 45 complaints dealt with prolonged pretrial detention. In October parliament authorized the ombudsman to accept requests and complaints from minors.

*Section 6. Discrimination, Societal Abuse, and Trafficking in Persons*

The constitution and law declare all persons equal before the law and prohibit discrimination on grounds of birth, race, gender, origin, opinions, or any other personal or social condition. In the most part, the Government effectively enforced it.

*Women.*—The law prohibits rape, including spousal rape; rape is punishable by up to 15 years' imprisonment. Authorities enforced the law effectively.

There is no specific law prohibiting domestic violence, although other laws may be applicable in such cases. According to the Ministry of Health, Welfare, and Family, there were 167 reports of physical abuse against women until the end of November, an increase from 2009, when the total number of cases was 162. Of the 167 cases to which the State Secretariat for Equality and Welfare of the Ministry of Health attended, 15 percent of the women were Andorran nationals. Only 47 percent of the complaints were filed by women. Victims of domestic violence could also request help from the Andorran International Women's Association (AIWA) and the Andorran Women's Association, but victims rarely filed a complaint with police due to fear of reprisal. In early December the Government opened its first shelter for women. The Government also operated a hotline and provided medical and psychological services to victims of domestic violence. The Government and AIWA placed abused women and their children in the private apartments of families who agreed to provide them with shelter. Caritas, a religious nongovernmental organization, worked closely with the Government and AIWA on social problems.

The law prohibits sexual harassment under the provisions for other sexual aggressions. The law provides a penalty of three months to three years. The Government enforced the law effectively.

Couples and individuals have the right to decide freely the number of children they wish to have. There was easy access to contraception and skilled attendance during childbirth. Women were treated for sexually transmitted infections, including HIV, equally with men.

The law prohibits discrimination against women privately or professionally; however, the nongovernmental organization working for women's rights and trade union representatives reported cases of gender discrimination especially related to unequal salaries for the same work. Observers estimated that women earned 35 percent less than men for comparable work. The Government is making efforts to combat pay discrimination in general, and it applied pay equality within the Government. There are no limitations on women's participation in the labor market, and the Government has encouraged women to participate in politics.

*Children.*—Citizenship is derived from one's parents; birth in the country's territory does not confer citizenship. Legal immigrants may obtain citizenship after 20 years of residence in the country. Children of residents may obtain citizenship after age 18 if they have resided virtually all of their life in the country. Dual nationality is not permitted.

Violence against children persisted. According to data from January, the latest available, 222 minors were treated for various forms of abuse during the year.

The country's general law against rape also covers statutory rape. Child pornography is illegal and carries a prison sentence of up to four years. The age of majority, 18 years, is also the age of consent. The penalty for statutory rape is 15 years' imprisonment, the same as for rape in general.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abductions. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts against the approximately 500-person Jewish community.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services, and the Government enforced it effectively. Nevertheless, societal discrimination against persons with disabilities existed on a small scale in the form of social and cultural barriers. Persons with disabilities also faced disadvantages in the labor market. The law mandates access to public buildings for persons with disabilities, and the Government generally enforced this provision.

According to the Ministry of Health, Welfare, and Labor, there were approximately 400 persons with disabilities, of whom 99 were minors. Schools continued to implement the law to adapt infrastructure to the needs of children with disabilities. During the year approximately 99 children with disabilities attended modified schools. An association for persons with disabilities operates in the principality.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—On the basis of constitutional provisions for the right to freedom of ideas, religion, and ideology, the Government acts against any discrimination that may occur in the country. There were no reports of official or societal discrimination based on sexual orientation in employment or occupation, housing, or access to education or health care.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS. However, the Government bars immigrants with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution recognizes that workers have the right to form trade unions to defend their economic and social interests. In 2009 the Government approved a labor relations law to protect the right of unions to operate. However, this law does not provide the right to strike. Alternate dispute mechanisms such as mediation and arbitration exist. During the second half of the year, the Government and all relevant agents worked to develop further the rights contained in the constitution regarding this issue, including the right to strike as well as provisions for minimum services in cases of strike. In practice, the Government lacked mechanisms to protect worker rights. Unions continued to denounce the lack of laws that effectively develop and protect the constitutional rights of workers.

No strikes occurred during the year. However, on May 1 (Labor Day), approximately 100 workers conducted a peaceful demonstration calling on the Government to approve new laws further developing workers rights.

*b. The Right to Organize and Bargain Collectively.*—The law does not specifically provide for collective bargaining, and collective bargaining did not occur.

The law does not prohibit antiunion discrimination but there were no official reports that it occurred during the year. Workers continued to be reluctant to admit to union membership, fearing retaliation by their employers, and unions did not make their membership numbers public.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—Slavery and forced or compulsory labor are punishable by a maximum of 12 years in prison. There were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Without exception, the law prohibits children younger than 14 years from working. Children between the ages of 14 and 15 may work up to two months per year during school holidays following strict regulations contained in the laws. Laws protect children between the ages of 14 and 15 and children between the ages of 16 and 17 by limiting

working hours, providing for safety restrictions, restricting the type of work children may perform, and outlining other conditions.

Laws protect children from exploitation in the workplace, and the Government effectively enforced these laws.

The labor inspection office in the Ministry of Social Welfare, Public Health, and Labor effectively enforced child labor regulations.

*e. Acceptable Conditions of Work.*—The national minimum wage of 5.28 euros (\$7.08) per hour and 915.20 euros (\$1,226.40) per month did not provide a decent standard of living for a worker and family due to the high cost of living. The labor inspection office enforced the minimum wage effectively.

The law limits the standard workweek to five eight-hour days for a total of 40 hours per week. Workers may work up to two overtime hours per day or 15 hours per week, 50 hours per month, and 426 hours per year. The law provides for premium pay of time plus 25 percent the first four hours per week and time plus 50 percent the following four hours. There is a required rest period of 12 hours between working shifts.

The labor inspection service sets occupational health and safety standards and had the authority to levy sanctions and fines against companies violating them. Although the law authorizes employees to refuse certain tasks if their employers do not provide the necessary level of protection and security standards, it does not provide workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

The labor inspection service received more than 200 complaints from January to October against companies for violating health and safety regulations. Accidents at work diminished; from January through December, there were 4,019 accidents reported. The majority of accidents reported came from the construction sector, as well as the motor and machinery sector.

---

## ARMENIA

Armenia is a constitutional republic with a population of approximately 3.2 million. The constitution provides for an elected president and a unicameral legislature (the National Assembly). The country has a multiparty political system. In 2008 Serzh Sargsian of the Republican Party of Armenia (RPA) was sworn in as president, after a significantly flawed presidential election. The RPA continued to dominate the three-party ruling coalition in the National Assembly, as well as the Government's cabinet. Security forces reported to civilian authorities.

Citizens' right to change their government through peaceful elections was restricted due to repeated, significant flaws in the conduct of elections, including a by-election for a parliamentary seat in January. Some members of the security forces continued to commit human rights abuses with impunity while under the direction of civilian leadership. During the year suspicious deaths occurred in the military under noncombat conditions, while hazing and other mistreatment of conscripts by officers and fellow soldiers, and a lack of accountability for such actions, continued. Police reportedly beat citizens during arrest and interrogation. Overcrowding contributed to a significant worsening of prison conditions. Authorities continued to arrest and detain criminal suspects without reasonable suspicion and to detain arbitrarily individuals due to their opposition political affiliations or political activities. Courts remained subject to political pressure from the executive branch, and judges operated in a judicial culture that expected courts to find the accused guilty in almost every case. During the year the authorities released four individuals who had been convicted in connection with the 2008 presidential election and postelection unrest in trials flawed by due process violations and apparent political motivations. Two other individuals convicted in connection with these events were released from prison after serving their full sentences, while a handful of other individuals remained incarcerated. The media, in particular television, continued to lack diversity of opinion and objective reporting; incidents of violence, intimidation, and self-censorship against and in the press continued. Authorities continued to deny requests by opposition parties and other groups to gather or hold rallies at requested venues arbitrarily, sometimes providing alternative venues, and sometimes preventing persons from attending rallies. Authorities and laws restricted religious freedom. Corruption remained a problem, with authorities taking limited measures to curb it. Domestic violence was common, but largely went unreported to authorities. Trafficking was a problem, but authorities took efforts to combat it.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, four police officers stood trial for allegedly beating and inducing the suicide of a suspect in their custody, and suspicious deaths of military personnel occurred under noncombat conditions.

On April 13, Vahan Khalafian, a 24-year-old robbery suspect, died under suspicious circumstances while in police custody in the city of Charentsavan. Initially National Police Chief Alik Sargsian issued several statements that Khalafian was mentally unstable and had committed suicide. Sargsian also denied the possibility that Khalafian might have been physically mistreated by police; however, an investigation by the Special Investigative Service (SIS) revealed that Khalafian apparently was tortured by a senior police officer attempting to extract a robbery confession, and Sargsian issued a public apology. Authorities continued to maintain, however, that Khalafian committed suicide by grabbing a kitchen knife from a drawer and stabbing himself to death. On June 25, the SIS announced that its investigation had concluded that the behavior of police officers led Khalafian to commit suicide. On April 27, Ashot Harutyunian, head of the criminal intelligence division of the Charentsavan police, was arrested and formally charged with actions that exceeded his official authority and had grave consequences. Moris Hayrapetian, Garik Davtian, and Gagik Ghazarian, Harutyunian's subordinates, were charged with abuse of official authority. Khalafian's family, their lawyer, and human rights activists following the case challenged the official version of death, asserting that the autopsy revealed other bruises and injuries in addition to Khalafian's two stab wounds. Khalafian's family also questioned the role of Charentsavan police chief Norik Heboyan—who was dismissed from his position on May 28—and Deputy Chief Samvel Tonoyan—who retained his position—in Khalafian's death, calling into question the conduct of the investigation. The trial of the four defendants began on July 6. Harutyunian denied the charges against him. He also denied that Khalafian had committed suicide and said that he was being framed by the SIS and his subordinate Moris Hayrapetian, who was charged with lesser crimes, in order to cover up Khalafian's killing by police. On November 29, a judge in the first instance court of Kotayk found Harutyunian guilty and sentenced him to eight years in prison. Hayrapetian was given a two-year suspended sentence and the two other suspects, Garik Davtyan and Gagik Ghazarian, were acquitted. Khalafian's family denounced the verdict as unfair and maintained that their relative had been killed by police while at the police station and that the investigation failed to reveal Khalafian's murderer and the complete circumstances of his death. The human rights defender (ombudsman) also challenged the official version of suicide in a November 29 interview with Radio Liberty.

In a July 28 statement, the Ministry of Defense announced that Lieutenant Artak Nazarian, a platoon commander stationed in the Tavush region, reportedly killed himself on July 27. The Office of the Military Prosecutor subsequently began a criminal case against a captain and three servicemen for beating and humiliating Nazarian. According to official information, Nazarian killed himself after becoming unable to bear abuse by fellow servicemen. Captain Hakob Manukian was arrested on charges of abuse of official authority with grave consequences, while Mkhitar Mkhitarian, Adibek Hovhannisian, and Harutik Kirakosian were arrested and charged with using violence towards a commander. In interviews given after the death, Nazarian's relatives accused the military of a cover up, claiming that Nazarian was either forced to commit suicide or killed by fellow servicemen, possibly even earlier than the date of death specified in the military report. Nazarian's cousin, who was present at the autopsy, told reporters that the forensic medics had found numerous injuries on his relative's face, hands, shoulders, and feet which were allegedly inflicted hours before Nazarian's death. According to official information, a suicide note was found inside Nazarian's clothes. In subsequent interviews, the family alleged numerous violations in the conduct of the investigation and evidence tampering aimed at covering up Nazarian's death. The investigative body denied the Nazarian family's requests to disregard as evidence the suicide note (which was discovered by Captain Manukian and transferred to the investigative body with significant delay on August 9); to be given copies of the notebook pages to conduct an alternative forensic examination of the handwriting; and to have access to the protocols and relevant documents on examination of the crime scene and Nazarian's clothes. The investigation of the case remained underway at end of the year.

In response to public outcry concerning noncombat-related military shooting deaths, the Ministry of Defense on August 8 issued a statement announcing disciplinary measures it had taken during an unscheduled August 6 session of the Defense

Ministry collegium. Eight officers who were commanders and deputy commanders of military units were dismissed from their posts; seven of them were also discharged from the military services. In addition 14 officers were issued strict reprimands, six were issued regular reprimands, and 10 received warnings for failing to comply with the terms of service. Ten commanders of subunits and chiefs of services were also released from their positions and demoted; one officer was reduced in rank.

On September 8, according to media reports, Artur Hakobian, an enlisted 27-year-old junior sergeant serving in a military unit in the Vayots Dzor region, shot himself to death. A criminal case was opened into the death on charges of “inducing” suicide; no update was available on the status of the investigation at year’s end.

In apparent response to the reports of abuse occurring in the military, the Ministry of Defense on December 13 launched a 24-hour, anonymous hotline that citizens could call to register concerns related to military service.

The military prosecutor reported that during the year 54 military servicemen died under noncombat conditions, an increase from 44 in 2009. According to official statistics 11 were killed by enemy fire; of the remaining cases, 13 were murders; eight deaths were due to illnesses; six deaths were caused by car accidents; five deaths by accidents; four deaths were due to mishandling of weapons; three were suicides; three were induced suicides; and one was due to physical violence.

On May 4, the court of first instance sentenced Andok Galstian to 10 years of imprisonment for the September 2009 death of Aram Mkrtchian, an 18-year-old conscript who died in a hospital after being beaten by Galstian, his battalion commander at a military post in the Vayots Dzor region. Major Mamikon Vardanian, the second defendant in this case and deputy commander of the military unit who had been charged with insulting a soldier, was given a six month suspended sentence.

No developments were reported in the investigation into the deaths of eight civilians and two police officers killed during clashes between security forces, looters, and protesters disputing the 2008 presidential elections. In August 2009 authorities opened criminal proceedings against four police officers accused of improperly using tear gas against demonstrators in the postelection events. The four officers allegedly fired tear gas grenades at demonstrators from dangerously close distances, resulting in the deaths of three civilians and the injury of three others. For the second consecutive year, the criminal proceedings were still in the investigation stage, and no police officer had been prosecuted. Law enforcement bodies were reportedly still unable to match the ballistics evidence to specific firearms. According to new official information, however, forensic tests reportedly determined that the tear gas canisters had ricocheted from other surfaces and had not been fired directly at the victims.

On March 19, the European Committee for the Prevention of Torture (CPT) released a report on its 2008 visit to the country just weeks after the events took place. The report stated that the type of injury experienced by two of the victims suggested impact from a weapon such as a “rubber bullet” or possibly from a tear gas canister fired at close range directly at the head. During the year the families of nine of the 10 victims unsuccessfully filed four separate lawsuits against the SIS and the Prosecutor General’s Office for inaction and failure to investigate, reveal, and punish those responsible for the deaths. The first instance court and the Court of Appeals rejected the lawsuits, and the highest appellate court, the Court of Cassation, refused to accept the cases for review.

On January 13, the court of first instance of the Gegharkunik region acquitted the soldiers Rustam Asatrian and Karen Tovmasian of criminal negligence in the death by electrocution of serviceman Tigran Ohanjanian in 2007. However, the court subsequently sent the case to the military prosecutor’s office for additional investigation. Ohanjanian’s family has long insisted that Ohanjanian did not die from accidental electrocution but was killed. Both the Court of Appeals (on March 30) and the Court of Cassation (on June 7) upheld the trial court decision. Additional investigation into the case was ongoing at the end of the year.

According to human rights observers, in the majority of reported incidents of hazing and death in the military services, the relevant bodies usually presented a sanitized version of events and follow-up investigations focused on reinforcing it. Observers also claimed that the armed forces in most cases declined to punish those behind hazing incidents and suspicious deaths.

Ethnic Armenian separatists, with Armenia’s support, continued to control most of the Nagorno-Karabakh region of Azerbaijan and seven surrounding Azerbaijani territories. Land mines placed along the border with Azerbaijan and along the line of contact in the Nagorno-Karabakh conflict continued to cause bodily harm. During

the year government sources reported that 12 military personnel were injured by landmine explosions and one civilian was killed.

According to official information, during the year shootings along the line of contact in the Nagorno-Karabakh conflict resulted in casualties on the Armenian side, including the death of 11 and the wounding of 34 military personnel.

No developments were reported in the February 2009 killing of Colonel Gevorg Mherian, deputy chief of the national police, who was shot outside the entrance to his home in central Yerevan. As of year's end, the killer had not been identified, and the investigation continued. On February 10, Police Chief Alik Sargsian announced the creation of a special investigation force tasked with solving high-profile killings committed since 2000, including the death of Colonel Mherian.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—While the law prohibits such practices, members of the security forces regularly employed them. Witnesses continued to report that police beat citizens during arrest and interrogation. Human rights nongovernmental organizations (NGOs) reported similar allegations; however, most cases of police mistreatment continued to go unreported due to fear of retaliation. Human rights groups continued to report that many individuals transferred to prisons from police detention facilities alleged torture, abuse, or intimidation while in police custody and that the main purpose of the torture and physical abuse was to extort confessions. According to domestic observers, most instances of abuse of arrested persons by law enforcement personnel continued to occur in police stations, particularly in the offices of police officers, rather than at police detention facilities, which were accessible to monitors.

On February 10, the ombudsman sent a letter to the prosecutor general informing him that, during a February 5 visit to the detention facility of the Yerevan Police Department, his staff discovered multiple records of persons who were brought to the facility with numerous bruises, abrasions, and other injuries. The ombudsman provided details on 10 such cases and inquired about measures, if any, the Prosecutor General's Office was taking to investigate. At year's end, the authorities had yet to reply to the requests in the ombudsman's letter.

The NGO Helsinki Citizens Assembly-Vanadzor (HCAV) reported that, in the first nine months of the year, it received seven complaints from citizens who alleged police torture either against them or their relatives that was aimed at obtaining information about certain crimes or at extracting self-incriminating testimony. According to HCAV, in most of these cases, the police failed to act on HCAV's reports with a criminal or internal investigation or the police responded by saying that the internal queries revealed no violations.

On May 17, various media announced that Gagik Ghazarian died in a hospital from injuries incurred when he jumped from the window of the Kentron and Nork-Marash Courthouse, reportedly in an escape attempt. A spokesperson for the Cassation Court stated that the incident occurred after the judge had ruled that Ghazarian be held as a suspect in a drug-trafficking case. HCAV alleged that Ghazarian jumped to his death in response to police torture he experienced prior to the session. It based its claim on a letter it received on May 27 from an individual identified as K.M., who described being beaten along with Ghazarian by police after they apprehended him on May 13. According to K.M., the beatings were part of an attempt to extort confessions from the two that they were carrying drugs. Although no bodily injuries were registered upon their transfer from the police station to a detention facility at Nubarashen penitentiary, K.M. said he had blood in his urine for three days after the police beatings, while Ghazarian sustained a broken rib. According to official information, a criminal case was launched to investigate the escape attempt by Ghazarian, which also reportedly investigated the alleged cruel treatment in custody. The case was subsequently dropped due to Ghazarian's death, and, according to official information, the alleged cruel treatment in custody was not confirmed.

Unlike the previous year, the Civil Society Monitoring Board (CSMB) did not report any new incidents of alleged torture and mistreatment of detainees by the Rapid Response Division of the Justice Ministry's Penitentiary Department. However, authorities did not respond to the CSMB's September 2009 allegations that inmates were tortured. According to the Helsinki Committee NGO, most instances of abuse in prisons went unreported due to the opaque nature of life behind bars, but anecdotal accounts suggest that it is a systemic problem.

On June 23, the Public Monitoring Group of Police Detention Facilities (PMG) released its annual report covering 2009. It noted that 172 of the 967 persons arrested by police and subsequently transferred from police stations to police detention facilities in the capital of Yerevan showed bruises and bodily injuries upon their arrival

at the detention facilities. The sources of the injuries were not listed and no one was held responsible for them.

According to the ombudsman's annual report for 2009, released in March, citizen complaints about illegal actions by the police, including allegations of torture, continued to grow in comparison with previous years. The complaints mostly concerned citizens who claimed they had been summoned to police stations, detained there illegally, and subjected to inhuman treatment, including torture and beating. Complainants also alleged that police officers sought to extort confessions through violence, threats, and unlawful pretrial detention. According to the ombudsman's report, it was virtually impossible to restore the rights of citizens who had suffered police mistreatment or torture. The ombudsman asserted that police routinely responded to the ombudsman's inquiries about allegations of abuse with uninformative, formulaic replies; he added that such an atmosphere of impunity contributed to the increase in such abuse.

On March 5, the Paris-based International Federation for Human Rights (FIDH) together with a domestic NGO, the Civil Society Institute, issued a joint statement noting Sasha Davtian's release from prison and calling for an investigation of allegations that he and his two daughters were tortured by police personnel. The statement also called for a reinvestigation of charges that Davtian tortured his daughters, for which he was convicted. Davtian was released on February 26 after the Court of Appeals reduced his prison sentence from four to three years, making him eligible for release under a 2009 general amnesty. In 2008 Davtian reported the abduction and rape of his then underage daughter to the police. In February 2009 police dismissed their investigation, claiming they could not locate the alleged perpetrator. Following complaints by Davtian, a different police investigator reopened the case in May 2009. According to a journalist reporting on the case, Davtian was subsequently summoned to the police station of Yerevan's Kentron District and severely beaten by approximately 10 officers over several days as they tried to force him to confess to torturing his two daughters and raping one of them. According to the same report, Davtian identified some of his assailants—police officers Eric Poghosian, Artur Poghosian, and Artur Hovhannisian and police investigator Ruben Vardanian. According to the joint statement, the presidents of these organizations visited Davtian in prison on February 5, documented his testimony about his mistreatment, and certified that he had lost eight teeth as a result of his beatings. According to an October 2009 media report, police also abused Davtian's two daughters—one of whom was the rape victim—in an attempt to force them to testify against their father. The younger daughter was reportedly taken to the police station of Yerevan's Kentron District where Eric Poghosian, Ruben Vardanian, and other officers repeatedly beat her, deprived her of food and water, and did not allow her to use the restroom during the three days they held her. She testified against her father in the initial proceedings but later recanted her testimony in court. The other daughter testified that she was also detained by the police for two days, not allowed to sit down, and repeatedly struck and humiliated. In December 2009 a trial court judge threw out the initial testimony of the daughters against their father as well as other police evidence on the grounds that the testimony had been obtained in an unlawful manner; she subsequently also cleared Davtian of the rape charge. At the same time, she sentenced Davtian to four years on the torture charges, since he had admitted beating his daughters. According to the journalist covering the case, police were believed to have harassed the family to hide the identity of the true rapist, allegedly a son of a high-ranking police officer. The investigation into the rape was suspended in February 2009, after no perpetrator was found. According to official information, neither the alleged abuse of the Davtian family by police officers nor any violation of the criminal procedural legislation was substantiated during the trial.

In December 2009 the criminal case against Shirak Shahnazarian, the former police chief of Gyumri, was dropped. He was charged in 2009 with abuse of power "accompanied by the use of violence" for allegedly beating and illegally detaining a citizen who had come to him with a complaint in custody in July.

In response to a 2009 request made by the ombudsman that the authorities investigate reports that police mistreated five persons while they were held in the police station of Yerevan's Arabkir District in April 2009, the authorities replied that two of the five individuals had attacked police officers while at the station and allegations of abuse by police officers were not substantiated. According to the ombudsman, the alleged abuses had included illegal deprivation of liberty, denial of food and sleep, beating, withholding medical aid, and degrading treatment.

In a March 19 report on the visit of its representatives to detention facilities two weeks after the 2008 postelection unrest in Yerevan, the CPT stated that it interviewed approximately 70 persons being detained on charges related to the unrest.

Almost all claimed they had been physically mistreated by law enforcement officers at the time of their apprehension although they offered no resistance. The mistreatment allegedly included pushing, truncheon blows, kicks and punches to the body and head, and being dragged into police vehicles. In some cases mistreatment continued during transportation to police facilities and at these police facilities after arrival. Examination of some detainees by a medical professional in the delegation found physical marks or conditions consistent with the allegations. Medical documentation at penitentiary establishments also contained descriptions by prison doctors of various injuries observed in the initial examination of a number of persons who had been admitted in the two weeks preceding the delegation's visit. Detainees charged that some of the law enforcement officials involved wore masks and showed no form of identification. Some of those interviewed maintained that the mistreatment they experienced was intended to obtain self-incriminating confessions or damaging information about others.

There was no progress during the year in the police investigation into allegations that law enforcement personnel tortured and intimidated numerous witnesses who were called to testify against opposition figures arrested in connection with the disputed 2008 presidential elections and ensuing violence.

On February 7, the Court of Appeals upheld the December 2009 decision of a lower court rejecting the appeal of the family of Levon Gulian against the SIS's termination in April 2009 of their investigation into Gulian's death due to lack of evidence that a crime had occurred. On August 27, however, the Court of Cassation invalidated the Court of Appeals decision and returned the case to the SIS for further investigation. The SIS claimed that Gulian, an alleged witness to a homicide, had fallen to his death from a second-story police station window in 2007 while trying to escape. Gulian's family and human rights activists maintained the investigation was not conducted in a credible and transparent manner and claimed that Gulian had died as a result of police abuse.

On June 15, the European Court of Human Rights (ECHR) ruled that authorities had subjected penitentiary inmate Ashot Harutyunian to torture or inhuman or degrading treatment or punishment by failing to provide him with appropriate medical assistance and by placing him in a metal cage during appeal proceedings. The ECHR also ruled that Harutyunian's right to a fair trial and presumption of innocence had been violated. Harutyunian was serving a seven-year sentence for defrauding a business partner; he suffered from several serious illnesses. In his appeal to the ECHR, he claimed that prison authorities ignored his requests for medical assistance and a special diet. Harutyunian suffered a first heart attack in 2004 but was not allowed urgent surgery recommended by doctors in a Yerevan prison hospital; he subsequently died from a second heart attack in Kosh Prison in January 2009. The media reported Harutyunian's lawyer as claiming that the Office of the Prosecutor General ensured that Harutyunian was returned to prison after an early release in 2007 because of the office's reputed close ties with the businessman Harutyunian was convicted of defrauding.

Within the armed forces, the impunity and lack of accountability of commanders, rampant corruption, and substandard living conditions continued to contribute to mistreatment and noncombat injuries. Although no reliable statistics on the prevalence of military hazing were available, soldiers reported to human rights NGOs that the abuse continued. Soldiers' families claimed that corrupt officials controlled military units, while human rights monitors and the ombudsman reported that soldiers with serious disqualifying health conditions were conscripted into military service. According to official information, during the year 176 military personnel were convicted of hazing and related violations and 12 more cases were under trial at year's end.

On September 18, the opposition Hraparak newspaper published the anonymous account of a young man who had recently finished his military service and which detailed abuses by his battalion commander officer, Vardan Martirosian, at a military unit in the Ararat region. According to the account, Martirosian brutally beat and punished soldiers for minor misconduct or no reason at all. The young man also alleged that an induced suicide of a soldier in their unit had never been officially reported, and nobody was punished in connection with the death. On October 14, Radio Liberty reported that the investigation service of the Ministry of Defense had arrested Vardan Martirosian on charges of abuse of power after it had discovered that Martirosian had forced conscripts to take out and hand over to him loans from a local bank in the amount of 500,000 drams (approximately \$1,400). Further reports revealed that Artur Karapetian, another officer from that unit, had also been arrested for extorting money from soldiers. According to official information, the investigation revealed, that in following Martirosian's orders, Major Arsen Nersisian, the head of the headquarters of the military unit, had collected 610,000 drams (ap-

proximately \$1,500) from various servicemen in the period from June 2009 to August. Nersisian had also collected 170,000 drams (approximately \$425) from soldiers and had purchased a laptop from the deputy commander of the unit, Artur Karepetian, and presented it to Martirosian. A criminal case was launched against the three on charges of abuse of authority. On December 29, the criminal case against Martirosian and Karapetian was dropped due to “actual repentance,” and the investigation into Nersisian was still ongoing at year’s end.

According to 2009 research conducted by the domestic Soldier’s Mothers NGO, the most numerous violations of soldiers’ rights, approximately 46 percent, occurred during the process of medical examination. These violations included incomplete medical examinations prior to induction into service and induction into service of recruits with disqualifying medical conditions. The ombudsman in his 2009 annual report cited one instance in which these practices led to the death of a soldier. The ombudsman’s report noted that families of recruits who complained to the Office of the Ombudsman about the actions of the military commissariats were reluctant to put their complaints in writing from fear that their sons would be assigned to far-away units in retaliation. The Office of the Ombudsman found servicemen in poor health at almost all military units it visited. The ombudsman’s report also noted that conscripts with various degrees of psychological illness were given assignments to guard border areas. These individuals included conscripts who had medical restrictions, such as prohibitions on carrying weapons, as well as persons with histories of self-injury. The report cited unit commanders as observing that some conscripts with severe psychological problems were a significant threat to others.

On November 5, media outlets reported the arrest of Lieutenant Colonel Armen Bareghamian, deputy commander of a military unit, for brutally beating soldier Eric Grigorian on October 28. Grigorian was hospitalized with a broken nose, brain concussion, and other injuries following an almost hour-long beating by Bareghamian, who was angered by the fact that Grigorian missed the morning assembly. By year’s end, the investigation on charges of abuse of authority remained underway, while Bareghamian remained under detention. Prior to this incident, Bareghamian was under investigation for beating another soldier, Bagrat Yeghishian, in the same unit on June 17, while continuing to hold his position as deputy commander. The criminal case into Yeghishian’s beating was launched on August 19. On November 9, Bareghamian was convicted and sentenced to two-and-one-half years in prison for abusing Yeghishian.

On September 11, amateur video footage appeared on YouTube depicting an unidentifiable man in a rural, outdoor setting slapping and otherwise mistreating two young men in army uniforms. The man was sitting on the ground enjoying a meal, while the two young men took turns kneeling in front of him and having their ears pulled and their necks and heads slapped and shaken. The video, which was immediately removed from YouTube, caused a public outcry. Although initially condemning the creation and dissemination of such footage, the Defense Ministry announced on September 17 that the film was authentic and that the depicted events involving Armenian military personnel occurred in July. The ministry identified the abuser as Major Sasun Galstian, who was reportedly intoxicated, and the victims as Sergeant Garik Harutyunian and conscript Bakur Yeghikian. Authorities initiated a criminal case, and Major Galstian was arrested on charges of abuse of authority. On December 9, Galstian was convicted and sentenced to three years in prison.

In mid-July the investigative Hetq weekly reported on the trial of 11 conscripts who had repeatedly beaten and humiliated fellow conscript Abraham Kupalian over a period of approximately six months starting in September 2009. A second victim, Armen Borisov, was also mistreated when he tried to protect Kupalian. According to Hetq, Kupalian could recall 12 instances of battery and abuse by the conscripts Yura Sarjian, Davit Manukian, Andranik Terterian, Aghasi Tonoyan, Gevorg Davtian, Levon Galstian, Davit Ghazarian, Davit Ghukasian, Artur Tarloyan, Ara Manukian, and Aram Vagharshakian. Kupalian complained to his commander, Grigori Avetisian, who took no action. According to the article, at least two other officers, Gevorg Yeritsian and Ara Melkonian, knew about the beatings but also took no action. Four of the 11 abusers were sentenced to three years in prison, while the others received conditional sentences. However, neither the commander of the unit nor the two other officers were held accountable. Grigor Avetisian was initially charged with inaction; however the charges against him were later dropped.

*Prison and Detention Center Conditions.*—Prison conditions worsened significantly during the year, in large part due to overcrowding. The number of registered deaths in prisons increased, from 15 in 2009 to 37 during the year, with most attributed to illnesses and some to suicides. In a preliminary statement issued at the end of a September 6 to 15 observation mission, the Working Group on Arbitrary Detention

of the UN Human Rights Council (UNHRC) noted that some prisons exhibited overcrowding, poor sanitation, minimal medical care, and a lack of sufficient ventilation. The working group observed that overcrowding appeared to facilitate corruption in prison, including prisoners bribing guards to move them to less populated cells. However, the working group also noted some improvements. Authorities generally permitted visits by independent human rights observers.

On July 26, the CSMB noted that in the previous 12 months, the number of inmates in confinement increased by 20 percent. The CSMB reported that, according to official data as of July 1, 4,850 persons were being held in penitentiary institutions designated to hold a maximum of 4,396 inmates. The CSMB stated that in Nubarashen, the country's largest penitentiary, 16 to 20 inmates were kept in cells designed to hold only eight persons, with convicts taking turns sleeping. According to the CSMB, the overcrowding and consequent bad ventilation caused health and psychological problems and produced tensions and conflict among inmates. The CSMB noted that conditions could be interpreted under the European Convention of Human Rights as constituting cruel, inhuman, or degrading treatment, and, in certain cases, torture.

According to the CSMB, overcrowding was attributable in part to the courts' extensive use of pretrial detention and the limited application of alternative punishments and conditional release on parole. The board noted that, according to 2009 data, only 14 percent of inmates who qualified for early release on parole were actually released. During the year human rights activists and attorneys continued to voice concerns over the activities of the Commissions on Early Release and Release on Parole, particularly the absence of strict criteria for the commissions' decision-making process, the lack of an appeal mechanism, and the fact that most members of the commissions were representatives of law enforcement structures who were prone to hold a bias against individuals with criminal records.

During the year the CSMB filed several urgent reports to the Ministry of Justice regarding the deteriorating health condition of some convicts; although these convicts theoretically qualified for early release on account of their health problems, they remained in prison. According to the CSMB, the interagency medical commission in charge of considering the early release of prisoners on health grounds was generally very slow to act, which resulted in undue delays in their deliberations.

According to official information, the average number of persons held in penitentiaries during the year was 4,807 persons. This included an average yearly number of 456 pretrial detainees and 416 detainees whose cases were in progress and who were in custody awaiting court verdicts. Pretrial detainees were confined separately from inmates. The total capacity of all penitentiary institutions was 4,395 persons.

By the end of the year, there were 204 women (143 convicts and 61 detainees) and 34 juveniles (22 convicts and 12 detainees) who were kept in the Abovian penitentiary for women and juveniles. One of the juvenile detainees was a woman. Women and male juveniles were kept in separate zones. There were no facilities for female juvenile convicts, mainly because juvenile girls were rarely convicted; however, if convicted they were held with adult women. Inmates were housed in large dormitories—with women housed separately from juvenile boys—and, according to domestic observers, this arrangement generated conditions that were worse than those observed at penitentiaries where inmates were confined in separate cells.

In its 2009 report, the PMG described the use of police detention cells as actual holding centers for pretrial detainees as a significant problem. In the regions outside of Yerevan, pretrial detainees outnumbered arrestees in police cells by more than two to one—2,276 of the former compared with 915 of the latter. By law pretrial detainees may not be held in police cells for more than three days, since the cells were not equipped to offer detainees the same conditions as pretrial detention cells at penitentiaries. However, the PMG reported that in the regions there were instances of pretrial detainees spending as long as 27 days in police cells. While the PMG monitored police detention facilities, they did not have access to police station premises.

Convicts and detainees did not always have reasonable access to visitors. Both have the right to short-term visits, and convicts are also entitled to long-term (conjugal) visits. A person under pretrial detention is granted at least two visits per month (each lasting up to three hours) with close relatives, representatives of the mass media, or other persons—unless the body conducting pretrial proceedings has prohibited such visits. Most convicts are entitled to at least one short-term visit per month (lasting up to four hours) with close relatives or other persons and to long-term visits (up to three days) with close relatives once per every two months. These minimum entitlements were not always met, however, mainly for technical reasons. Due to overcrowding, individuals confined in the Nubarashen penitentiary could not exercise their right to visits or were forced to accept much shorter visits than pro-

vided by law. Persons convicted of especially grave crimes and those serving life sentences are entitled to fewer visits—three short-term and one long-term visit per year. According to domestic observers, these additional limitations on access constituted excessive punishment beyond what was ordered by the courts.

According to domestic observers, authorities did not investigate credible allegations of inhumane conditions and did not document the results of such investigations in a publicly accessible manner. In addition authorities did not always permit prisoners and detainees to submit uncensored appeals to authorities requesting investigation of credible allegations of inhumane conditions. By law the communications of pretrial detainees may only be censored by a court order. However, according to domestic observers, there were numerous cases when the letters of convicted persons were read and censored by prison administrations.

According to domestic observers, the Government did not efficiently investigate and monitor conditions in prison and detention facilities. The Oversight Department of the Ministry of Justice was in charge of monitoring the implementation of the legal requirements for the penitentiaries, but according to domestic observers, it did not have sufficient staff and resources to carry out this function effectively.

During the year there were no cases launched against prison administration or other officials for violence toward inmates.

On July 20, the ombudsman sent a letter to the Ministry of Justice conveying his concern about suicides and deadly accidents in the Nubarashen prison during the May to July period. He asked the ministry to explain these events and describe the measures it was taking to address them. In its response, the Ministry of Justice reported that it had discovered a number of violations committed by prison administration and medical personnel in civilian medical institutions and, while they had not contributed to the deaths, they nevertheless rendered those in confinement more vulnerable. The Ministry of Justice said it was taking measures to correct the situation.

Domestic prison monitors believed that the increase in deaths was correlated with worsening prison conditions. According to official information during the year, 37 deaths were registered in the penitentiaries—an increase from 15 cases in 2009. Most of the deaths were due to illnesses, one was due to an accident, and four were suicides.

Corruption among prison officials was also a problem in which both prisoners and administration participated (see section 4). In 2009 the NGO Helsinki Committee reported the account of a former prisoner at Nubarashen penitentiary who claimed that the prison was ruled by a clandestine organized criminal system, with rampant corruption affecting the prisoners and involving the administration; he described secrecy, blackmail, gambling, torture, psychological pressure, intimidation, and inducing inmates to commit suicide as prevalent practices. The account alleged that bribes had to be paid for legally prescribed privileges, such as visits, walks, telephone calls, and receipt of packages.

The Government generally permitted domestic NGOs and international rights groups, including the International Committee of the Red Cross (ICRC), to monitor conditions in prisons. The ICRC was permitted to visit both prisons and pretrial detention centers and did so in accordance with its standard modalities. Authorities generally permitted CSMB personnel to visit prisons without advance notice.

In 2008 the National Assembly delegated to the ombudsman responsibility for the country's implementation of the Optional Protocol to the United Nations Convention against Torture (OPCAT). Overseen by the Office of the Ombudsman, a group of four representatives of various NGOs and three experts appointed by the ombudsman began implementing OPCAT during the year and visited various detention facilities and police stations beginning in the summer months.

The Law on the Human Rights Defender does not specify whether the ombudsman can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate inhumane overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense. The law does allow the ombudsman, after receiving a complaint of a human right violation from any person, to propose corrective action by the state to eliminate the committed violation, including initiating legal action to invalidate any legal acts of the state that violate human rights and fundamental freedoms.

At the conclusion of its September observation mission, the UNHRC working group found some positive developments, including efforts to improve physical conditions in the prisons and detention centers it visited, and noted that 33 out of 40 police detention centers had been refurbished. The statement also stressed the apparent good rapport between prisoners, detainees, and prison guards and reported

it did not receive any allegations of abuse of power or mistreatment by prison guards from any inmate.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention. While statutory law provides for adequate judicial review, judges are often reluctant, however, to challenge the requests of prosecutors in detaining persons or the conduct of police in arresting suspects. Statutory law does not require that a wanted person for whom a warrant has been issued be promptly brought before a judge for the review of his detention after apprehension. However, case law from the Cassation Court requires such prompt judicial review. In practice authorities on occasion arrested and detained criminal suspects without reasonable suspicion. Authorities continued to detain arbitrarily individuals who held political affiliations or engaged in activities perceived to be in opposition to the Government.

*Role of the Police and Security Apparatus.*—The national police are responsible for internal security, while the National Security Service (NSS) is responsible for national security, intelligence activities, and border control; the heads of both organizations are appointed by the president. The police and the NSS continued to lack sufficient training, resources, and established procedures to implement reforms successfully or to prevent incidents of abuse. Law enforcement bodies did little to investigate allegations of abuse within their ranks. As a result, impunity remained a chronic, serious problem, particularly among police personnel.

There was no dedicated mechanism for investigating police abuse. By law citizens may sue police in court. According to official information, during the year the police conducted 24 internal investigations into citizens' complaints of police misconduct and brutality against detained or arrested persons, witnesses, or citizens. Eighteen of the cases were considered unsubstantiated by proof; two were in progress; and four cases resulted in disciplinary actions towards four police officers, including removal from service in one case.

During the year the SIS conducted four investigations into instances of abuse by representatives of law enforcement bodies. Two of these cases involving eight defendants were sent to the courts, one was dropped due to the absence of a crime, and one was suspended since the perpetrator could not be found.

By law detainees may file complaints before trial to address abuses allegedly committed by law enforcement personnel during criminal investigations; however, detainees must obtain permission from the police or prosecutor's office to undergo the forensic medical examination that is required to substantiate a report of physical abuse. Human rights NGOs continued to report that authorities rarely granted such permission or granted it at a later date when physical signs of abuse were no longer visible.

On March 31, the Government approved the 2010-11 Police Reform Program. The program was developed with the support of the Organization for Security and Cooperation in Europe (OSCE) and recommended structural, organizational, and educational reforms in the police. Authorities continued to develop community policing initiatives in cooperation with the OSCE, through which two police outreach stations were opened in Yerevan's Arabkir District in 2009.

On May 14, the two opposition members of a fact-finding group the Government created and subsequently disbanded after the 2008 postelection disturbances, released a report on the involvement of the armed forces in those events. The report asserted that armed forces units were ordered into Yerevan prior to the declaration of the state of emergency on March 1 and argued that this was a violation of the constitution. As evidence the authors cited a legal analysis of the constitution, the numerous contradictions between the statements of various officials, available photographic and video material, and a 2008 top secret directive that was leaked to the press in December 2009. The directive, issued by then minister of defense Mikael Harutyunian, placed the armed forces on high alert, ordered the formation and arming of special groups of officers, and created a special command structure with broad control over military units stationed in and around Yerevan under the leadership of then commander of the Yerevan garrison and deputy minister of defense, Yuri Khachaturov. On May 4, Armen Sargsian, a former senior defense ministry official, was sentenced to two years in prison for leaking the document; his subordinate, Lyusia Aivazian, received a one-year suspended sentence on the same charges. Following the release of the secret directive and the report by the former members of the fact-finding group of experts, the political opposition claimed that the actions of the authorities represented a coup d'etat.

*Arrest Procedures and Treatment While in Detention.*—Within three hours of taking a person into custody, the investigative body must either formally arrest or release the individual. Within 72 hours after taking a person into custody, the investigative body must either release the arrested person or bring charges against the

individual and obtain a detention warrant from a judge. Judges rarely denied police requests for detention warrants. At times police summoned individuals and held them in excess of three hours, without a formal arrest, on the pretext that they were material witnesses to a crime (and not suspects). Domestic observers contended police avoided labeling summoned persons as suspects to avoid the legal requirement to grant them the rights of suspects.

According to the PMG's 2009 report, the registries of police detention facilities noted 257 occasions when the right to meet with an attorney had been exercised by the 4,158 persons held in such facilities during 2009. This figure included instances when the same person met with his attorney several times.

In its statement of preliminary observations issued in September, the UNHRC Working Group on Arbitrary Detention noted the excessive powers of police, the NSS, and Border Guards facilitated the arrest and detention of numerous individuals without an arrest warrant. Arrests were often not a consequence of an ongoing police investigation; instead, persons were detained to be investigated.

The law provides for a bail system; however, in practice most courts denied requests for bail, ordering instead either continued detention or release of defendants on their own recognizance pending trial. In the latter case, defendants were sometimes required to surrender their passports and to sign statements promising not to leave the country or, in some cases, the city limits. Attorneys and court observers complained that while the law requires reasoned decisions be made on detention, and that detention be viewed as the measure of last resort, in practice detention decisions were often approved automatically by courts, with little consideration given to whether less restrictive alternatives might suffice to assure the orderly administration of justice. The overuse of detention applied also to juvenile offenders. There is no separate system for dealing with juvenile offenders and, in the view of some observers, the lack of demarcation between the adult and juvenile systems fails to recognize the unique nature of juvenile justice fully.

On March 8, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) issued the final report on its trial monitoring project in the country from April 2008 to July 2009, which contained findings from ODIHR's monitoring of the criminal trials resulting from the postelection unrest in 2008. According to the report, judicial review of arrest and detention did not always meet either international standards or national legal requirements, and decisions to keep persons who were accused in custody pending trial were not reasoned properly and did not adequately address the facts in individual cases. The ODIHR report stated that alternatives to custody were seldom explored, and defense motions requesting them were frequently not addressed. Police arrests were often improperly and inaccurately documented, which created doubts about the legality of arrests and detention in police custody. The report noted the law treated detention hearings as closed hearings. The justification given by judicial authorities for holding closed hearings was to protect information obtained during a criminal investigation; however, this procedure prevented the media and public from monitoring the appropriateness of detention decisions and shielded courts from any scrutiny of those decisions.

The law requires police to inform detainees of their rights to remain silent, to make a telephone call, and to be represented by an attorney from the moment of arrest. Public defenders must be provided in the case of indigent detainees; however, in practice police often questioned and pressured detainees to confess to crimes prior to indictment and in the absence of legal counsel. The practice of detaining individuals as "material witnesses" before designating them as suspects resulted in the questioning of individuals without the benefit of a defense attorney. Police sometimes restricted detainees' access to family members and attorneys.

Between May 28 and 31, police, under the command of Deputy Chief of Yerevan Police Robert Melkonian, arbitrarily detained dozens of persons—mainly youth activists, representatives of the political opposition, and some journalists—who sought to enter the centrally located Freedom Square after police ordered them not to do so—in several instances resorting to force to deter them (see section 2.b.).

Lengthy pretrial or preventive detention remained a chronic problem. Although the law requires a well-reasoned decision to justify grounds for an extension of pretrial custody, judges routinely prolonged custody on seemingly unclear grounds. In practice authorities generally respected the provision of the law stipulating that pretrial detention could not extend beyond 12 months. However, the law does not set any limits for detention of defendants once their cases are sent to court.

According to official information, during the year the average prison population consisted of 4,807 inmates of which pretrial detainees totaled 456 persons and 416 were detainees whose trials were in progress.

In a statement containing its preliminary observations on its September 6 to 15 visit, the UNHRC working group noted the ratio in prisons between persons in pre-

trial detention and those convicted seemed proportional and adequate, with approximately a quarter of detainees on remand.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, courts remained subject to political pressure from the executive branch as well as the self-imposed expectation that judges would find the accused guilty in almost every case. Although judicial corruption continued to exist, courtroom observers believe it occurred less frequently than in the past. This was due to several reported factors—judicial salaries were raised significantly; many corruption cases were brought against mid to low-level government personnel (including police officers and prosecutors); and the mindset of judges has become more cautious due to a greater possibility of disciplinary action and other penalties than in previous years.

Trials usually met many of the procedural standards for fairness; however, they were often unfair in substance, because many judges felt compelled to work with prosecutors to achieve convictions. Judges were reluctant to challenge police experts or hold the prosecution accountable for meeting an appropriately high standard of guilt, thereby hampering the defendant's ability to mount a credible defense.

Since 2008 the ECHR has found 13 violations of citizens' right to a fair trial as provided under the European Convention on Human Rights. In one case decided during the year, the ECHR declared the right of access to a court was violated when the Court of Cassation rejected an applicant's appeal as not timely without due regard to the fact that the applicant was unable to submit the appeal for reasons beyond his control. The judgment went into effect on October 4, following the Government's unsuccessful appeal of the decision to the Great Chamber of the ECHR.

*Trial Procedures.*—The law requires most trials be public but permits exceptions, including when a secret trial is deemed to be in the interest of "morals," national security, or for the "protection of the private lives of the participants." Juries are not used. A single judge issues verdicts in first instance courts (except for cases on crimes punishable by life imprisonment), and panels of judges preside in the higher courts. Defendants generally have the right, and are generally required, to be present at their trials. They have the right to counsel of their own choosing, and the Government is required to provide them with defense counsel—a public defender—upon request; however, this obligation was frequently not honored in regions outside of Yerevan, where there often were not enough defense lawyers. Reportedly, defendants would at times refuse their public defenders because of the perception that public defenders colluded with prosecutors.

By law defendants may confront witnesses, present evidence, and examine the Government's case in advance of the trial; however, in practice defendants and their attorneys had very little ability to challenge government witnesses, particularly police officers. Under the law, police officers are prohibited from testifying at trial in their official capacities unless they are testifying as a witness or victim in a case. Thus, official police reports detailing the evidence found at a crime scene or the confession of a defendant were routinely received as evidence without any in-court testimony from police. Defense lawyers had almost no ability to challenge the findings of these official reports, which were generally considered by courts to be unimpeachable. Judges controlled the "witness list," which designated the witnesses deemed to have evidence relevant to a criminal case, and defense attorneys complained that at times they were not allowed to call or obtain the attendance at trial of witnesses whom they believed to have evidence helpful to their client's defense.

Defendants, prosecutors, and the injured party have the right to appeal court rulings. Judges generally granted defendants' requests for additional time to prepare cases. The law provides for the presumption of innocence; in practice, however, this right was frequently violated.

Courts at all levels failed to give proper consideration to claims by defendants or witnesses that they had undergone torture during the investigation of their cases. Defense lawyers have the right to present evidence of torture to overturn improperly obtained confessions; however, judges often did not respond to such evidence, gave it little credence, or rejected it outright and issued guilty verdicts in cases where witnesses had alleged torture. A reported exception was the December 2009 decision of a trial court judge in the Aragatsotn region, who recognized as unacceptable the testimony obtained from the daughters of Sasha Davtian on the grounds that those testimonies had been obtained in an unlawful manner, under duress. In spite of this decision, no subsequent investigation or prosecution of those who committed the rape was conducted, nor was there an investigation into the violence allegedly inflicted on the family by police officers (see section 1. c.). Judges also failed to exclude evidence resulting from illegal arrests.

The OSCE/ODIHR trial monitoring report released on March 8 observed that the right not to be compelled to testify and the obligation to exclude unlawfully obtained evidence were not always respected in practice. Defense motions to exclude such evidence were largely ignored or denied. In some cases judges relied on pretrial statements of defendants which conflicted with their testimonies during the trial, despite allegations the pretrial statements were made under duress and intimidation. Similarly, judges relied on witness statements despite allegations they were obtained under duress. Research on this subject by the UN Development Program, in collaboration with the ombudsman, concluded that even in the presence of objective indications that a party to the trial had been subjected to torture, the courts did not raise the issue, and, in rare instances, evidence was admitted even when it was officially recognized that it had been obtained as a result of an act of torture.

Domestic observers maintained that judges were somewhat more sensitive to the rights of the defense than in years past; however, the courts tended to favor the prosecution in all but a few proceedings. They cited as evidence the courts' continued denials of defense motions and improper editing of the records of court proceedings.

It was very common for witnesses in criminal cases to disavow in court statements they had previously given to police. This may be done in part because witnesses fear retribution from the defendant, in part because their initial statements were made under police pressure, but mostly it is done because it is the custom and practice to recant such statements so as to accuse a person in a public forum. As such recantations are common in criminal cases, the courts routinely relied on a witness's initial statement to find an accused person guilty.

Expert opinions proffered by the prosecution were often not effectively challenged. This circumstance was sometimes due to reluctance of the courts to grant motions of defense attorneys requesting additional forensic expertise. The OSCE/ODIHR report noted that defense lawyers regularly motioned the courts to summon witnesses, order forensic expertise, and introduce other additional evidence. Courts were generally reluctant to grant such motions and often refused to do so without providing a rationale as required by law. Defense lawyers claimed that such attitudes prevented them from defending their clients, especially if the clients were perceived to be opponents of the Government.

On January 14, the Constitutional Court ruled unconstitutional the "contempt of court" provision of the criminal code, since it envisaged criminal liability only towards witnesses, victims, and defense attorneys, but not prosecutors. The ruling was based on the application of the ombudsman in response to a request from the Chamber of Advocates (defense bar), after two criminal cases were launched against four defense attorneys for disrespectful actions towards the court. The defense attorneys had walked out of a trial of Khachatur Sukiasian, a prominent opposition supporter, member of parliament, and businessman whom they were defending, to illustrate that the trial could go on without them, as they complained that trials for criminal cases were a formality, with verdicts decided by judges before the trials started. These and other defense attorneys claimed this put them in a difficult situation in which they were present at the trial but unable to defend their clients. The four attorneys were acquitted following the Constitutional Court ruling.

Two court decisions during the year appeared to shift the balance slightly in the direction of defendants. On March 26, the Cassation Court ruled that a statement given to investigators by an individual classified by police—the investigative body in the country—as a "witness" could not be used against that person in a criminal case because in reality that person was a suspect whom the police had classified as a witness and who had been denied the right to an attorney. The court's decision followed a ruling by the ECHR that the actual status of a person was determinative of that person's rights, and that the artificial determination made by a police officer would not determine a person's true status and rights.

On April 2, the Constitutional Court found unconstitutional a 2007 provision in the criminal procedural code which allowed trial judges to suspend a trial and apply to the Prosecutor General's Office for revision of the indictment protocol to include new or aggravated charges. The Constitutional Court ruled this provision was in violation of the main principles of fair trial and the presumption of innocence. This decision, viewed by many observers as significant, reaffirmed the judiciary must be independent from the prosecution and that these entities cannot coordinate efforts to secure a conviction.

As in the past, the vast majority of criminal cases sent to trial resulted in convictions. Observers reported this was because many judges felt it was their job to work with the prosecutors and return guilty verdicts. Furthermore, many judges feared they would face retribution should they return an acquittal on a sensitive case that was important to authorities. Notwithstanding that many weak cases resulted in

convictions, the high conviction rate could also be attributed to police investigators weeding out weak cases and not sending them to court. According to court statistics, the courts rendered only 31 acquittals (both partial and full acquittals in reference to 39 persons) out of a total of 3,307 verdicts announced during the year, an acquittal rate of approximately 0.9 percent. However, in comparison with 2009, the number of acquittals increased.

In December 2009 the ombudsman issued a public report in which he noted that violations of the right to a fair trial distorted the role of the courts as an impartial arbiter, keeping public confidence in the administration of justice very low.

*Political Prisoners and Detainees.*—During the year authorities released four individuals who had been convicted in connection with the 2008 presidential election and postelection unrest. Two other individuals convicted in connection with these events were released from prison after serving their full sentences, while a handful of other individuals remained incarcerated. Most were supporters or members of the political opposition that disputed the outcome of the 2008 presidential election or participated in postelection demonstrations. The arrests and trials of most or all of the incarcerated individuals appeared politically influenced to varying degrees. Some were charged under broadly defined criminal charges of “usurpation of state authority” or “organizing mass disorder,” while others were prosecuted under weapons possession laws or for resisting arrest. As a result of subsequent amendments to the criminal code, the “usurpation of state authority” charges were dropped, but the other charges remained. Authorities continued to deny the presence of political prisoners in the country.

On January 29 and July 29, Mkrtich Sapeyan and his brother Zhora Sapeyan were released after serving their terms of two and two-and-a-half years, respectively. They were convicted, in a trial many observers considered lacking due process and politically motivated, of beating a government supporter who heckled opposition presidential candidate Levon Ter-Petrossian in the town of Talin during a 2008 campaign rally.

Oppositionists Ashot Manukian, Mushegh Saghatelian, Gabriel Gabrielian, and Felix Gevorgian, who had been imprisoned following the 2008 events, were granted early release on October 29, November 24, December 6, and December 9, respectively, after serving half of their sentences that many considered politically motivated.

On February 10, authorities returned Sasun Mikaelian to a prison hospital after he underwent a second heart surgery in a private clinic. Mikaelian was a supporter of 2008 opposition presidential candidate Ter-Petrossian and a former member of parliament who was sentenced to eight years’ imprisonment for illegal weapons possession and organizing mass disorder following the 2008 events in a trial many considered politically motivated. Arevik Stepanian, a physician at the clinic, claimed that Mikaelian, who in addition to heart trouble suffered from war-time injuries, needed physical exercise, a special diet, and constant monitoring by a cardiologist. The Ministry of Justice claimed that Mikaelian could receive the necessary treatment at the prison hospital, a claim his family members strongly disputed. Throughout the year there were reports that Mikaelian’s health was deteriorating and, on more than one occasion, he was taken to a civilian hospital for urgent care. The opposition Armenian National Congress (ANC) claimed that Mikaelian was eligible for, and should be granted, early release on health grounds in accordance with the criminal procedural code. However, he remained in a prison hospital at year’s end.

On January 19, Nikol Pashinian, a prominent opposition figure and editor of the opposition Haykakan Zhamanak daily, was convicted of organizing “mass disorder” in connection with the March 2008 events and sentenced to seven years’ imprisonment in a trial many observers considered to be politically motivated. At the same time, Pashinian was acquitted of assaulting a police officer during a separate pre-election opposition demonstration in 2007. The Court of Appeals upheld the verdict on March 9 but ruled he was eligible for the June 2009 amnesty, and his sentence was reduced by half.

On February 12, Saribek Sukiasian was detained by police and held for 72 hours for allegedly keeping the businessman Gor Davtian hostage in his office to renegotiate the terms of ownership of one of the companies owned by his brother, Khachatur Sukiasian. Khachatur Sukiasian’s family and companies continued to be government targets, apparently in retaliation for his support of Ter-Petrossian’s 2008 presidential candidacy. Charges against Saribek Sukiasian were dropped on June 14 due to lack of evidence. According to official information, on October 19, the SIS dropped the criminal case against Sukiasian as his participation in the alleged crime was not proven.

*Regional Human Rights Court Decisions.*—Once they have exhausted domestic legal remedies, citizens may apply to the ECHR for the redress of grievances involving an alleged infringement of rights under the European Convention on Human Rights. During the year the ECHR announced it handed down five judgments against the state and that dozens of applications remained pending before the court at year's end. In 2009 the ECHR issued judgments in nine cases involving the country, eight of which found at least one violation of the convention by the state.

The Government was generally responsive in providing specific monetary compensation when ordered to do so by ECHR. However, it was substantially less responsive in readjudicating the cases that resulted in the violations of the European Convention of Human Rights—and the ECHR's subsequent decisions—and in making legislative or administrative corrective changes to prevent similar violations. For example, on August 13, the Court of Cassation again refused Meltex Limited, the parent company of broadcaster A1Plus, a broadcast license, despite an ECHR ruling that the Government violated the freedom of expression provisions of the convention by failing to provide a written explanation for denying it a license in 2002. However, the Government paid 30,000 euros (\$42,900) to Meltex Limited as ordered by the ECHR.

In 2007 the ECHR had stated that during the trial of the criminal case Misha Harutiunian versus Armenia, Harutiunian's right to a fair trial was violated when evidence that had been obtained by torture was used as proof of guilt in the case. In its April 2009 decision, the Court of Cassation reversed previous judgments against Harutiunian and sent the case to the court of general jurisdiction of the Syunik Region for a new trial. On March 22, Harutiunian was again convicted and sentenced to 10 years in prison, exactly the same amount of time which he had already served. The defense appealed the judgment in the Review Criminal Court, and the case was pending at year's end. Harutiunian's defense attorneys raised issues as to whether the ECHR decision was properly enforced. The ECHR judgment had legally obliged the country to stop the violation and eliminate its consequences to restore Harutiunian to the state existing before the judgment to the highest possible extent. The defense challenged the action of the Government, alleging that by reconvicting Harutiunian, who had already served his entire sentence, the Government had failed to follow the principle of restitution. The defense further alleged the evidence used in the second trial was insufficient to support the second conviction.

*Civil Judicial Procedures and Remedies.*—Citizens had access to courts to bring lawsuits seeking damages for, or cessation of, a human rights violation; however, the courts were widely perceived as corrupt, and potential litigants in civil cases often evaluated the advisability of bringing suit on the basis of whether they or their opponents had greater resources with which to influence judges. Citizens also had access to the Office of the Ombudsman as well as to the Constitutional Court in order to challenge the constitutionality of legislation.

There was no progress during the year in the cases of many Yerevan residents whose property was razed on eminent domain grounds, despite the Constitutional Court's ruling in 2006 that the 2002 government decision authorizing such demolitions violated the constitution. In June 2009 the ECHR delivered a verdict in the Minasian and Semerjian versus Armenia case, ruling the state had violated the property rights of both citizens when expropriating their property. By the end of the year, ECHR had not made an accompanying decision on the amount of the compensation to be provided.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits unauthorized searches and provides for the right to privacy and confidentiality of communications. However, the Government violated these rights in practice.

By law judges may authorize authorities to wiretap a telephone or intercept correspondence only after being presented with compelling evidence of criminal activity; however, during the year judges arbitrarily granted permission, and searches without warrants reportedly occurred. According to a February 23 statement issued by the defense attorneys of Saribek Sukiasian, the police on February 13 conducted an illegal search in the office of "SIL Concern" CJSC belonging to the Sukiasian family. According to the defense attorneys, although the court warrant was issued for a different address, the investigator allegedly wrote over the other address to carry out the search. The statement also noted police had illegally confiscated a computer in the office that contained important material in reference to Saribek Sukiasian's case that should have been protected by attorney-client privilege.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government did not always respect these rights in practice. There continued to be incidents of violence and intimidation of the press and press self-censorship throughout the year. The media, especially television, continued to lack diversity of opinion and objective reporting. Domestic and international observers expressed concern substantive changes to media legislation enacted during the year, in connection with the country's planned switchover to digitalized broadcasting, could reduce media pluralism and citizens' access to diverse information and opinions.

Individuals could generally criticize the Government publicly and privately without fear of retaliation; however, media outlets, particularly broadcasters, feared reprisal for reporting that was critical of the Government. These reprisals included the threat of losing a broadcast license or of a selective tax investigation, as well as loss of revenue when advertisers learned an outlet was in disfavor with the Government. This fear of retribution led to a high degree of self-censorship.

Most newspapers were privately owned, with the exception of government-sponsored Hayastani Hanrapetutium and its Russian-language version, Respublika Armenii. The print media generally expressed a wide variety of views without restriction but remained influenced by economic or political interest groups or individuals.

Greater plurality of opinion existed in online publications, although the readership of online media remained limited, especially outside Yerevan.

Newspaper circulation remained very limited, as was the audience for the country's 20 radio stations, of which three were public and two were broadcast from abroad. According to official information, 82 television stations operated during the year, of which three were public and four were broadcast from abroad. All but the three public television stations were privately owned, and half of all of the television stations operating in the country were small broadcasters based in outlying regions. Only the state-owned Public Television (H1) had nationwide coverage, although several other stations were able to broadcast beyond their home regions. Most stations were owned by progovernment politicians or well-connected businessmen, factors that continued to prompt journalists working for them to practice self-censorship. Major broadcast media outlets generally expressed progovernment views and avoided editorial comment or reporting critical of the Government.

During the year there were reports of physical attacks against journalists in connection with their journalistic activity. Many of the perpetrators remained unidentified. Representatives of law enforcement agencies also occasionally harassed journalists during the year. There were no new developments in the investigation of attacks against journalists recorded in previous years.

The Government's relationship with journalists, particularly those who were independent of, or regarded as hostile to, the authorities was not constructive. There were no reports authorities took any special measures during the year to protect threatened or vulnerable journalists or to punish those who sought to intimidate them.

On February 24, Gagik Margarian, a police officer seconded to the SIS, reportedly attacked photojournalist Gagik Shamshian as Shamshian was about to enter the Prosecutor General's Office to cover a press conference. When Shamshian refused to stop taking pictures of Margarian as Margarian was entering the office, Margarian reportedly swore at Shamshian and struck him in the head with a briefcase. During the press conference, the prosecutor general encouraged the photojournalist to file a complaint and to share with law enforcement bodies the footage he had taken. On February 25, an investigation of possible battery and obstruction of a journalist's work was launched against Margarian, and in a press release issued the same day, the Prosecutor General's Office condemned "all manifestations of violence, regardless of towards whom it is directed," and posted on its Web site the video footage of the incident caught by its security cameras. The video footage depicted a scuffle between Shamshian and Margarian, where the two mostly pushed each other, but also showed Margarian striking Shamshian's head with a briefcase. According to the February 25 medical report issued by the hospital he visited after the scuffle, Shamshian suffered damage to his ear membrane as a result of the blow; however, according to the subsequent March 1 medical forensic examination that formed part of the investigation, the injury could not have been sustained as a result of the scuffle. On April 9, the case against Margarian was dropped for "lack of a criminal action," since according to official information, most witnesses attested that Shamshian provoked the attack.

Investigative journalism was often viewed negatively, especially by those who were the subjects of scrutiny. Physical attacks on investigative journalists, or other attempts to discourage whistle-blowing by journalists, continued to occur. On April 2, the Azg daily reported its reporter was attacked by a construction worker when the reporter tried to photograph a construction site in downtown Yerevan. The worker allegedly struck the reporter on the head and shoulders and tried to grab the camera and the bag from him. Nearby students helped the reporter escape the attacker. Reportedly the worker threatened the journalist, saying that “your hours are numbered.” The reporter chose not to press charges and remained unidentified.

On May 31, during a small opposition gathering, police detained Susanna Poghosian and Lilit Tadevosian, reporters for the opposition newspapers Haykakan Zhamanak and Hayk, respectively, as they were performing their journalistic duties. Poghosian and Tadevosian were released later the same day.

On the same day, Ani Gevorgian, another reporter from the opposition Haykakan Zhamanak daily, was arrested as she was filming a confrontation between police and opposition supporters near Freedom Square. She was charged with assaulting a police officer. On June 3, she was released by a court on condition she not depart the country. On November 29, the criminal case against Gevorgian was dropped.

On September 7, members of Prime Minister Sargsian’s entourage accompanying him to the opening of a cultural center in the Shirak Region reportedly impeded the journalistic activities of the independent GALA television and broke a microphone belonging to the company. In a statement released on September 7, GALA described the incident as obstruction of journalistic activity. The statement also noted that, after the incident, an employee of the prime minister’s press service offered a verbal apology to GALA’s journalist. However, on the same day, an assistant to the prime minister denied GALA’s allegations, claimed that one of Sargsian’s bodyguards had accidentally broken the microphone’s tripod, and stated other journalists present could prove it was an accident. The assistant also announced that GALA would be compensated for the damages to the company’s equipment, but no such compensation was provided by year’s end.

At year’s end, there were no indications police investigated allegations of police abuse in connection with the reported April 2009 attack on journalist David Jalalian. Jalalian was reportedly attacked by police officers before Yerevan’s May 2009 municipal election while he was covering an opposition gathering in downtown Yerevan. The initial reports of the attack, accompanied with photos of Jalalian’s injuries, were followed by a report that Jalalian testified to the police that he was not beaten but instead pushed by police officers and fell on his back. Media reports alleged that Jalalian recanted after two police officers visited him at his home and threatened him.

An NSS investigation of an apparent attempt in April 2009 to kill Argishti Kivirian, an attorney and the editor of two independent online media outlets, continued at year’s end. Three assailants attacked Kivirian with wooden batons and tried to shoot him in the entryway of his apartment building as he returned home from work in the early morning. Kivirian was hospitalized in grave condition with severe injuries and cuts on his head and body and was placed in intensive care. In July 2009 the NSS arrested two suspects, Gurgen Kilikian and Vladik Merabian, and charged them with attempted murder but released them on March 8 pending further investigation.

There were no developments in the investigation of the May 2009 attack on Nver Mnatsakanian, a news anchor and talk show host for the private Shant TV television station. Mnatsakanian was attacked and beaten by unknown assailants on his way home from work and suffered injuries to his head, foot, and hand, requiring treatment in a hospital. The case was suspended in September 2009, since the perpetrators were not found.

There were no developments in the investigation of any of the attacks on journalists during the May 2009 Yerevan municipal elections. On election day, violence and abuse directed at journalists often occurred in the presence of police and election officials, who did not intervene either to prevent or stop it.

There was no progress during the year in resolving numerous cases of intimidation and violence against journalists and damage to their property during the 2008 presidential election. Likewise, no progress was made in the numerous cases of widespread harassment and intimidation of reporters during the 2008 postelection protests. There were no suspects identified or prosecutions initiated in connection with these incidents, except in one case of a voting precinct chairperson who was fined for restricting the rights of a journalist and election observers at a polling place.

Police reportedly continued their search for two of the three persons who violently attacked investigative journalist Edik Baghdasarian, known for exposing corruption,

in 2008. In June 2009 one individual, Karen Harutyunian, was sentenced to five years in prison for his role in the attack. Police failed to apprehend the two other alleged perpetrators and suspended their investigation in October 2009.

There was no progress in the investigation of the 2008 attacks against Gyumri-based Asparez Journalists Club.

During the year the GALA television station based in Gyumri continued to face legal disputes and government pressure that led most advertisers to withdraw their commercials. On April 6, the State Revenue Committee (SRC) terminated the customs clearance of equipment GALA was seeking to import, claiming the broadcaster owed 822,200 drams (approximately \$2,100) in fines imposed for its failure to pay back taxes in 2007-08. GALA insisted it had no outstanding tax obligations, but its equipment was cleared by customs only after the SRC seized the 822,200 (\$2,100) drams from the company. In May GALA's executive director, Karine Harutyunian, stated that advertisers were cancelling their commercials under government pressure. Only the French-owned mobile telephone operator Orange continued to place its commercials with the television station. The station's difficulties began in late 2007 when GALA broadcast a speech by former president Levon Ter-Petrosian before he announced his candidacy for the 2008 presidential election. Following the broadcast, authorities launched an aggressive tax audit and in 2008 charged GALA 26 million drams (\$85,000) in back taxes, fines, and late fees.

On December 16, the National Commission on TV and Radio (NCTR) turned down the 13th bid for a frequency by the independent A1Plus television news outlet, which was forced off the air in 2002. According to the NCTR's chairman, Grigor Amalian, A1Plus lost its latest bid for a television broadcasting license to another television company because it presented false letters of financial support in its application for a new license. According to the attorneys of A1Plus, NCTR committed procedural violations in its conduct of the competition for the new license; they maintained the NCTR should have returned the application, requested clarifications, or completely removed A1Plus from the competition if it had concerns about the application's contents. A1Plus representatives also maintained that even without the funds that were pledged in the letters in question, the media outlet still had sufficient financial resources to carry out its proposed business plan. On December 20, A1Plus announced it had appealed to the administrative court to compel the NCTR to provide it with a copy of the application package of its competitor and winner of the tender, Armnews TV. NCTR had refused to provide the documents to A1Plus immediately after the competition, claiming it needed the documents for work, and that the documents would be provided only after January 20, 2011. A1Plus stated that it would file other appeals with the court on different aspects of the December 16 NCTR competition; however, by year's end no such appeals had been lodged.

In 2008, in response to an appeal from A1Plus, the ECHR ruled that the NCTR's refusal to provide a written explanation for its repeated refusals to grant a license violated the freedom of expression provisions of the European Convention on Human Rights. The ECHR awarded, and the Government paid, 30,000 euros (approximately \$42,900) to A1Plus' parent company, Meltex Limited. However, the Cassation Court declined a subsequent application by A1plus that it revise its earlier decisions to comply with the ECHR decision, on grounds that the ECHR decision had not explicitly required it to do so. Meltex then appealed to the Constitutional Court, which ruled on February 12 that a provision of the civil procedure code the Cassation Court had relied upon in its decisions was unconstitutional. The Constitutional Court also noted the Cassation Court should have complied with an earlier ruling on this subject in an unrelated matter. However, on August 13, the Cassation Court again rebuffed a subsequent application by Meltex and reaffirmed its earlier decision to uphold the NCTR's decision to deny A1 Plus an operating license.

On May 18, the National Assembly adopted changes to the civil, criminal, and criminal procedural codes decriminalizing the offenses of "libel" and "insult." The changes were enacted in response to calls by international organizations for greater protection for freedom of expression. Dunja Mijatovic, the OSCE representative on freedom of the media, stated the country "made a significant step forward to support freedom of expression." Domestic media watchdog groups nevertheless asserted the ceiling for pecuniary damages was high in the domestic context; they cautioned that, although the authorities cited decriminalization as justification for the amendments, the offense of "false denunciation," whose definition is very similar to that of "libel" and "insult," still remained a criminal offense and could be used against journalists. At the same time, a statute remained in the criminal code criminalizing slander of judges, prosecutors, and other representatives of law enforcement bodies. As of year's end, there were no reported cases of the new statutes being used.

The transition from analog to digital broadcasting prompted additional amendments to the Law on Television and Radio, which, in spite of its stated purpose, were widely perceived as a way of further tightening government control of broadcast media and limiting the voices of independent media in advance of the next national election cycle in 2012-13. On May 10, the Government published draft amendments to the law that it claimed were necessary to establish the legal framework for the transition. With little time for deliberation, the National Assembly, in its last session prior to the summer recess, enacted the amendments on June 10, and President Sargsian signed them a week later. The drafters of the amendments had offered assurances the recommendations of domestic media associations and international organizations would be considered when the National Assembly revised the drafts, but the final version ignored most of them. These amendments followed the 2008 enactment, also done hurriedly and with little input from the parties most concerned, of controversial amendments to the same law that established a two-year moratorium on the issuance of broadcast licenses, also justified on the basis of the impending switchover to digital broadcasting.

While the June amendments failed to address key issues related to digitalization, such as the regulation of mobile and Internet broadcasting, digital transmitters, and network operators, they contained provisions many asserted were not technically necessary for digitalization, and, as domestic observers indicated, would significantly limit media freedom and pluralism. The June amendments would reduce the number of television channels eligible to broadcast in Yerevan from 22 to 18 and allow only one local channel to broadcast by digital signal from each of the country's 10 administrative regions to replace the multiple local television companies already broadcasting via analog signals. Regional television companies would be allowed to continue broadcasting analog signals until 2015.

The seemingly arbitrary number of digital broadcasting licenses perplexed domestic observers in light of the potential afforded by digital technology to expand vastly the number of television channels. The Government claimed the reduction was required by the peculiarity of the frequency landscape; however, in spite of significant pressure from domestic media associations and international organizations, the Government did not publicize the technical audit of available frequencies on which it claimed the planned reduction was based, making verification of the limitations impossible. Representatives from the NCTR, including its chairman, Grigor Amalian, had promised to release the audit initially in September, and later by October, but had not done so by year's end. Furthermore, in response to an inquiry by the domestic NGO Committee to Protect Freedom of Expression, the Ministry of Economy on December 2 stated that the foreign company which had been commissioned to conduct the technical audit had presented its final report on August 26—a date well after the Law on TV and Radio had been amended in June. The Ministry of Economy also stated that the Government had rejected and returned the audit for revision on October 27. The amendments also imposed thematic directions for each of the future digital channels—such as youth-oriented and scientific-educational programming, entertainment, music, local and international news programming, and rebroadcasting of foreign TV channels—thereby restricting what each TV company could broadcast.

On June 15, OSCE media freedom representative, Dunja Mijatovic, whose office provided legal expertise and recommendations throughout the amendment process, announced the final version of the law passed by parliament failed to promote broadcast pluralism in the digital era. Although Mijatovic's office acknowledged that some of the OSCE's recommendations were acted upon, it noted others of crucial importance for a smooth transition from analog to digital broadcasting were not taken into account.

On July 20, as the 2008 moratorium on the issuance of new licenses expired, the NCTR issued a tender for applications for 18 broadcast licenses for nationwide, Yerevan-based, and regional broadcasting. On July 27, it issued a second tender for applications for seven more broadcast licenses, reportedly for TV broadcasters in the country's regions, notwithstanding that the June amendments specified that only 18 requests for broadcast licenses would be tendered. In October the NCTR announced that 20 media companies had applied for the 18 broadcast licenses it had tendered in July, with two of the licenses each being bid on by two competitors. On December 16, the NCTR selected the winners for the 18 licenses. A1Plus lost its bid to the Yerevan-based Armnews TV, widely perceived as a progovernment company. The Yerevan-based ALM TV, which unlike A1Plus had an existing broadcasting license and was in operation at year's end, lost its bid to Yerevan-based Yerevan TV.

On December 23, the NCTR announced the winners of the seven bids for regional-based broadcasting in the country's regions. Only two of the seven bids involved more than one competitor. GALA TV in the Shirak Region lost its bid in one of these

competitive tenders to a television station widely perceived as progovernmental also operating there.

Prompted by the controversy sparked by the June amendments to the Law on Television and Radio, the Presidency announced on September 28 its recommendation to the ombudsman that he lead a working group to review the legislation and its effect on the digitalization process. The ombudsman accepted the offer and, on October 12, the group, consisting of representatives of various NGOs and state bodies, held its first meeting. At year's end, the working group had yet to issue any recommendations for amending the legislation passed in June, and it remained unclear when it would do so.

On September 16, the National Assembly passed amendments that significantly increased the fees charged to broadcasters—both annual fees for broadcasting and one-time fees for participating in a tender for a broadcast license. According to some observers, while the amount of the new fees was understandable considering the very low fees broadcasters had previously paid, their rapid escalation could nevertheless pose an insurmountable burden for smaller companies, especially those operating in the country's regions.

*Internet Freedom.*—During the year there were no government restrictions on access to the Internet or reports of suspected government monitoring of e-mail or Internet chat conversations. During the year there were no reported cases of the Government deliberately blocking independent or pro-opposition Web sites, as it had done during the 2008 state of emergency.

Internet cafes were widely available in the cities, although Internet service provider connections were often extremely slow, thus limiting their effectiveness. Some Internet cafes also operated outside urban areas. According to International Telecommunication Union statistics for 2010, approximately 7 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—On April 16, the Ministry of Education and Science prohibited the premiere showing of the film *Election* by Tigran Paskevichian at the National Center of Aesthetic Education. The film depicted the developments prior to and following the disputed 2008 presidential election. In explaining the decision, a ministry official, Arman Aivazian, referred to a provision of a governmental decree that prohibited religious and political organizations from conducting activities in not-for-profit institutions. Paskevichian denied the applicability of this statute to the movie showing and insisted his freedom of speech had been infringed. The film was eventually broadcast on GALA Television and was shown in small halls belonging to opposition parties.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly; however, authorities restricted this right in practice, particularly the assembly of individuals perceived to be political opponents. Authorities continued arbitrarily to deny requests by opposition parties and other groups to gather or hold rallies in originally requested venues of Yerevan. Some groups reported lack of access to closed venues as well.

Domestic observers perceived the current Law on Conducting Meetings, Assemblies, Rallies, and Demonstrations and its implementation as unfairly restricting individuals' right to assemble, with the implementation of the law giving authorities unfettered discretion to grant or deny permission to conduct meetings and rallies. According to the law, organizers must notify authorities about all planned gatherings with the exception of not mass public events (fewer than 100 persons) and spontaneously formed events. Observers complained, however, that these procedures were heavily regulated and contained loopholes that permitted abuse by the authorities. For example, although the law states that an authorized body is required to consider the notification of a mass public event (over 100 persons) within 72 hours of receiving it, and the organizers must be immediately informed about a decision, the law appears to prohibit any assembly if a decision is never made by the authorized body. Furthermore, observers noted the criteria under which rallies may be denied are highly subjective, as any "justified official opinion" of the police or the National Security Service may be used to justify such a denial to permit assembly or to terminate an assembly that already began.

On May 25, in a report on freedom of assembly over the period 2008-09, the ombudsman concluded that the country's practices regarding peaceful assembly did not correspond with applicable international standards. The report stated that, although legislation on freedom of assembly was largely brought into line with international standards in 2004, it still contained ambiguous provisions that resulted in inconsistent application of the law, particularly when reviewing notifications, which led to legal uncertainty as to when applications could be denied. The report concluded the conduct of authorities in many cases supported the claim they did not ade-

quately appreciate the importance of freedom of assembly or its utility in helping a country resolve its national problems.

During the year authorities prevented, dispersed, or otherwise interfered with gatherings by organizations it associated with opposition to its policies. On at least eight occasions during the year, authorities dispersed opposition ANC and other groups seeking to hold small scale demonstrations in Freedom Square or rejected permit applications by them to do so. Freedom Square reopened in May after two years of closure for construction of an underground parking lot. The square is particularly symbolic, as it has served as the country's historic venue for demonstrations against sitting governments. The square was the site of 10 days of peaceful protests following the disputed 2008 presidential elections until security forces used force to dislodge the protesters.

In the course of heading off one of these demonstrations, police told the demonstration leader his group could rally anywhere in Yerevan but Freedom Square. On at least two occasions, authorities cited other events that purportedly had been scheduled at the same time; however, observers noted that no notice of these events had been published. In several instances, police efforts to prevent the demonstrations resulted in violence, injuries, and the detention of some demonstrators.

On May 31, a skirmish between ANC supporters and police occurred when police stopped approximately 50 ANC supporters from entering Freedom Square. Police forcibly detained approximately 20 demonstrators and three journalists working for opposition newspapers. One of the detained journalists accused the police of beating and pushing individuals at the scene, regardless of whether they were ANC supporters or ordinary citizens. All but three of those detained were released within a few hours. The exceptions were journalist Ani Gevorgian and two youth activists, Sargis Gevorgian and Davit Kiramijian. In a written statement defending their actions, police stated that Sargis Gevorgian and Kiramijian struck a police sergeant and tore off his epaulettes; they provided no reason for Ani Gevorgian's arrest. The lawyer for the three claimed that all three were subjected to violence and suffered injuries. Ani Gevorgian and Sargis Gevorgian were released after 72 hours but were charged with violence towards a representative of authority. Davit Kiramijian, charged with hooliganism, was held without bail pending police investigation; however, he was released on July 2 following a court order. The combined trial for Davit Kiramijian and Sargis Gevorgian began on July 14 and, on December 28, both were convicted and given suspended two-year prison sentences. The investigation of the separate case against Ani Gevorgian, charged with using violence against two police officers, was dropped on November 29.

According to official information on the investigation of criminal cases launched in connection with the incidents occurring in and around Freedom Square from May 26 to June 1, police actions were deemed legitimate. The investigation found that ANC supporters had held mass gatherings in Freedom Square without permission from the municipality, disturbed the peace of citizens and various organizations, and insulted and attacked police officers, resulting in injury to several officers. The ANC denied these claims, asserting all the attempted gatherings were peaceful, small in size, and thus not requiring advance authorization.

In addition to preventing demonstrations in Freedom Square, police interfered with a number of other efforts by opposition groups to assemble peacefully during the year.

On February 19, ANC youth attempted to march in the center of Yerevan to mark the second anniversary of the disputed 2008 presidential elections. Police pushed them out of the street and cordoned off their rally area. Six youths were detained and released several hours later.

On March 1, the ANC held a rally in front of the Institute of Ancient Manuscripts. Police did not disperse the rally but reportedly tried to limit access to roads leading into Yerevan and denied buses entry into the capital. There were also reports police summoned ANC supporters outside of Yerevan and tried to persuade them not to participate in the rally. There were similar efforts by police to prevent persons from the regions from travelling to Yerevan to participate in other demonstrations.

On March 27, the ANC attempted to hold a town hall meeting in Gyumri in a privately owned sports center. The landlord accepted the rental payment, but after the meeting was announced in the press, NSS officers reportedly visited the landlord and compelled him to cancel the agreement. A second attempt by the ANC to hold the meeting in a movie theater was unsuccessful after the NSS reportedly pressured the theater owner to cancel that rental agreement.

The municipality of Yerevan rejected the application of the "We Are against Foreign Schools" initiative to organize a concert on June 19 in Aznavour Square in front of the Moscow Cinema.

On July 28, according to media reports, police used force to prevent a group of environmental activists from blocking the entrance to the Russia-based VTB Bank in downtown Yerevan. The activists were protesting mining, principally financed by the bank, in the country's Teghut forest. Armen Dovlatian, chairman of the Greens Union, was reportedly injured, while environmental activist Mariam Sukhudian was reportedly struck.

On September 29, the Armenian Revolutionary Federation (Dashnaksutyun) political party, was able to hold a small rally in the town of Ashtarak despite the refusal of local authorities to sanction the rally and a subsequent decision of an administrative court on September 28 upholding the refusal.

On November 9, a videotaped skirmish occurred between police and a small number of ANC youth picketers who were protesting outside a Yerevan hotel at the start of an EU-organized human rights seminar. The skirmish broke out when police attempted to move the picketers forcibly behind a cordon they erected after the youth had already begun their peaceful picket. The police briefly detained youth activists Areg Gevorgian, Sargis Ghazarian, Sargis Gevorgian, and Vahagn Gevorgian, claiming that they disobeyed lawful demands, insulted and attacked a police official, and launched a criminal case of violence against representatives of authorities. The activists claimed they were punched and kicked them at the police station. According to official information, the criminal case was dropped on December 28 with the investigation showing the youth had no intention of violating public order. Authorities did not investigate or question the legality of the police actions in breaking up the peaceful picket.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected it in practice; however, registration requirements for all political parties, associations, and secular and religious organizations remained cumbersome. The law stipulates citizens have the right to form associations, including political parties and trade unions, except for persons serving in the armed services and law enforcement agencies.

*c. Freedom of Religion.*—For a description of religious freedom, please see the Department of State's 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, there were some restrictions in practice. The authorities cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

During the year there were numerous credible reports authorities prevented citizens residing outside Yerevan from travelling to attend opposition rallies in the capital.

To leave the country on a temporary or permanent basis, citizens must obtain an exit visa. Exit visas for temporary travel out of the country may be routinely purchased within one day of application for approximately 1,000 drams (approximately \$3) for each year of validity.

The law does not prohibit forced exile, but there were no reports the Government used it.

*Internally Displaced Persons (IDPs).*—During the country's war with Azerbaijan over Nagorno-Karabakh, authorities evacuated approximately 65,000 households from the border region, but most IDPs later returned to their homes or settled elsewhere. Of the remaining IDPs, almost two-thirds could not return to their villages, which were surrounded by Azerbaijani territory. Other IDPs chose not to return due to socioeconomic hardship or fear of land mines. A 2005 mapping study conducted by the Norwegian Refugee Council, together with the Migration Agency under the Ministry of Territorial Administration, found that 8,399 IDPs resided in the country. There were no further studies to estimate current numbers of IDPs.

During a visit to the country in September, the UN representative on the human rights of IDPs, Walter Kaelin, cited a lack of adequate housing and limited economic opportunities as remaining obstacles faced by some of the country's IDPs.

*Protection of Refugees.*—The laws provide for granting asylum or refugee status, and the Government has established a system for providing protection to refugees.

The law on refugees and asylum adopted in 2009 incorporated the basic principles of refugee protection established by the 1951 Convention relating to the Status of Refugees, bringing most aspects of the admission and treatment of asylum seekers and refugees into conformity with international standards, ensuring respect for the right to asylum, and addressing national security concerns. Since its adoption, the

Government, in consultation with the UNHCR, has issued nine by-laws setting up procedural standards for the implementation of the law.

In practice authorities provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Authorities also provided temporary protection during the year. According to the Migration Service, 50 persons applied for asylum during the year. During the year the Government granted asylum and refugee status to 14 persons.

There was an established procedure for granting asylum that included amnesty for the illegal entry of an asylum seeker and access to the territory for individuals seeking asylum. Asylum seekers experienced prolonged delays at the airport's international zone while waiting for their asylum application to be registered. Asylum seekers who were serving sentences for illegal entry were generally not released immediately following the registration of their asylum applications and were required to serve the remainder of their sentences.

The UNHCR reported at least one case of extradition of a person who contacted the UN expressing a clear wish to claim asylum. The UNHCR had immediately passed the information to the relevant state authorities; however, the person was extradited despite the efforts of the State Migration Service and the UNHCR to prevent it. In its September statement, the UN Human Rights Council's Working Group on Arbitrary Detention noted its concerns that asylum seekers not be turned away at the border or after detention without an opportunity to claim asylum in accordance with internationally accepted procedures.

Due to a lack of institutional capacity, the authorities often struggled to integrate asylum seekers into society once they were granted permanent residency status. Temporary housing for refugees and asylum seekers was often inadequate in supply and in poor condition. Refugees faced the same social and economic hardships that confronted the general population.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Although the law provides citizens with the right to change their government peacefully, that right was restricted in practice due to repeated, significant flaws in the conduct of elections.

*Elections and Political Participation.*—On January 10, three candidates competed in a by-election to fill the seat formerly held by a government opponent, Khachatur Sukiasian, who in September 2009 relinquished his seat in protest against the parliament's stripping of his parliamentary immunity as well as the immunity of three other members who supported the presidential campaign of opposition leader Levon Ter-Petrossian in the 2008 presidential elections. One of the candidates for the seat included prominent jailed oppositionist Nikol Pashinian, who remained incarcerated at year's end on charges related to the 2008 postelection unrest.

In December 2009 four youth activists were accosted and beaten by more than 20 assailants in downtown Yerevan while distributing election-related materials on behalf of Pashinian's campaign in the by-election. The police launched a criminal case and charged Vahan Nadarian and David Simonian, reportedly progovernment loyalists, with provoking the incident. Opposition officials alleged that supporters of the ruling RPA carried out the attack, but Simonian denied the allegations. Charges against Nadarian were later dropped due to lack of evidence, while Simonian was charged with infliction of willful slight damage to health and battery and, on April 2, was convicted and fined 150,000 drams (\$345).

The by-election was marred by numerous reports of irregularities, including intimidation of voters; verbal and physical threats directed at journalists, observers, and candidate proxies; ballot stuffing; and the unregulated presence in polling places of nonvoting individuals sympathetic to the progovernment National Unity Party candidate. In some instances, these individuals, rather than electoral commission members, appeared to be managing the electoral process.

On election day, Petros Makeyan, a campaign manager for Nikol Pashinian, and two companions were hospitalized after being beaten outside a polling station. Authorities launched a criminal case, but the case was subsequently dropped.

According to HCAV, a domestic organization that observed the election, the chairperson of polling station number 10/19, after receiving complaints about election violations, forcibly evicted those who had complained and closed the polling station for over an hour. During the station's closure, the voters' lists disappeared temporarily until the chairperson returned them, removing them from his jacket. During the day, some voters arriving at the polling station discovered that somebody had already voted under their names. The election commission refused to discuss the nu-

merous complaints lodged with it over its administration of the voting. The results at this and one other polling station were later invalidated.

In its findings, HCAV said it observed open voting in 10 polling stations; directed voting and campaigning in 18 stations; and intimidation, threats, and restriction of rights of proxies, observers, and reporters in eight polling stations. Voting in the by-election was conducted in 34 polling stations in Yerevan's Kentron District.

The by-election produced a very low turnout with numerous observers attributing this circumstance to growing public apathy about politics and distrust of the flawed electoral processes. An estimated 23 percent of approximately 56,000 eligible voters cast their ballots. In 2007 voter turnout in the same parliamentary district was 53 percent.

Women's participation in political and public life, especially in decision-making bodies, remained low. There were 11 women in the 131-seat National Assembly, two in the cabinet, and no female governors. Only five of the incoming 52 Yerevan City Council members were women, and no women headed any of Yerevan's 12 administrative districts. The ombudsman's annual report, released in March, pointed out the inadequate participation of women in the country's political life. The election code stipulates that at least every 10th person on each party list submitted for parliamentary elections should be a woman, and at least 15 percent of the individuals submitted in parties' final lists should be women. Although many observers considered the quota insufficient, the final seat allocation for women was often lower than that mandated in the electoral code. For example, only two of the 63 members of parliament representing the ruling RPA were women.

#### *Section 4. Official Corruption and Government Transparency*

Corruption remained a problem, with authorities taking limited preventive or punitive measures against it. While the law provides criminal penalties for official corruption, the Government did not implement the law effectively or evenly, and officials frequently engaged in corrupt practices with impunity. Although two high level officials were arrested in February for taking bribes and the minister of agriculture received a public reprimand in March for misuse of government funds, no concrete actions were taken to address the systemic corruption in government.

The World Bank's Worldwide Governance Indicators also reflected that corruption continued to be a serious problem. Civic groups working to address corruption stated authorities continued to ignore media reports implicating government officials in corrupt practices.

Beginning in January 2009, all public officials and their family members, as well as citizens with annual incomes exceeding eight million drams (approximately \$21,000), were subject to financial disclosure laws, according to which they had to file their asset declarations no later than April 15; however, it was unclear to what extent officials and individuals with high incomes complied. According to domestic observers, tax authorities lacked the capacity and resources to verify the reliability of asset declarations.

Government programs to curb chronic corruption continued to produce few tangible results. The activities of the Governmental Anticorruption Strategy Monitoring Commission and Anticorruption Council continued to be viewed with skepticism. In 2009 the Government approved a 2009-12 anticorruption strategy following two years of development and six months of wide-ranging discussions in Yerevan and the regions and the posting of the strategy on the Government's Web site; however, the Government failed to fund implementation of the strategy and devoted no money for anticorruption efforts.

On January 22, President Sargsian told the Control Chamber (an official auditing body that monitors government budgetary activity) it must work more closely with law enforcement authorities and press harder for the prosecution of state officials suspected of embezzling public funds and engaging in corrupt practices. Sargsian acknowledged the lack of prosecutions of government officials on corruption charges undermined public trust. Ishkhan Zakarian, head of the Control Chamber, reported the chamber had inspected all ministries and government agencies in 2009 and reported 21 cases of embezzlement to state prosecutors.

On February 18, the Prosecutor General's Office accused Tigran Grigorian, head of the Ministry of Nature Protection's State Ecological Inspectorate office, and his deputy, Arsen Petrosian, of accepting five million drams (approximately \$13,000) in bribes from a mining company to reduce the company's fines for violations of environmental safety rules. On August 6, the court sentenced Grigorian to seven years in prison, and Petrosian to 10 years' imprisonment, on charges of accepting a bribe.

On March 4, during a cabinet meeting, Prime Minister Sargsian publicly reprimanded the agriculture minister for misuse of government funds. The Control Chamber discovered the Agriculture Ministry had purchased cattle medication for

farmers from a private supplier at grossly inflated prices. Sargsian asked the state body overseeing the civil service to dismiss the two senior Ministry of Agriculture officials in charge of procurement.

On March 26, newspapers reported allegations that Hovhannes Hovsepien, head of the Control Service under the Presidency, arranged for relatives to be appointed to government positions. One sister was appointed as head of a state medical college while another sister was appointed head of a maternity hospital. Hovsepien also allegedly arranged for his brother-in-law to be appointed deputy head of a department of the real estate registration agency.

On December 27, a criminal case was launched against Alvaro Antonian, the head of the Seismic Protection Service, for allegedly misappropriating three million drams (\$8,000) in a French government-sponsored assistance program to establish a network of seismic stations in the country.

On May 5, the Office of the Prosecutor filed a criminal case against Areg Hayrapetian, head of the legal and inspection department of the Ministry of Culture, for abuse of office. Hayrapetian allegedly arranged for the ministry to pay 19,600,000 drams (\$53,000) to a private insurance company which he owned for services that were never provided.

While the constitution prohibits individuals with active business interests from holding public office, the authorities continued to ignore the prohibition in practice and ignored violations. Prominent businessmen continued to occupy seats in parliament, while various government officials reportedly continued to use their offices to promote their private business interests.

On February 9, newspapers published a photograph of a large manor alleged to be the home of Minister of Nature Protection Aram Harutyunian. One article alleged that the minister owned three gas stations, a hotel-restaurant complex, and an asphalt factory. On March 4, another newspaper reported that member of parliament Hrant Grigorian allegedly declared an annual income of 190,000,000 drams (\$512,000) in addition to his government salary of 311,000 drams (\$840) per month. The newspaper said it had discovered that Grigorian owned a private transportation company, a gas station, a hotel complex, a restaurant, and a store.

Corruption remained a significant problem in the police and security forces. In spite of efforts further to reduce bribe taking by traffic police, citizens continued to report being solicited to pay bribes, although less frequently than in previous years. Citizens also reported police officers solicited bribes to drop criminal cases or reduce penalties. Corruption in prisons continued to be a problem, exacerbated by low salaries and poor and sometimes dangerous working conditions for prison employees. In certain facilities, prisoners bribed officials to obtain single occupancy cells and additional comforts. There were unverified reports prison officials charged unofficial fees to family members and friends seeking to deliver meals to inmates.

There were widespread reports about corruption in the Medical-Social Expertise Commission (MSEC) under the Ministry of Labor and Social Affairs, the body that determines a person's disability status (see section 6).

During the year the Control Chamber published similar findings on gross violations and financial abuse in numerous state bodies; as in previous years, however, these cases were rarely prosecuted.

According to official statistics, various law-enforcement bodies launched 420 corruption-related cases during year. During the year the courts convicted 159 persons, including 79 officials. The majority of officials investigated or convicted were section heads or other low-level officials.

While the law provides for public access to government information, in practice many government bodies and officials were reluctant to provide such access. As of year's end, the Government had not adopted the regulations on the collection and provision of information that were required by, and supplementary to, the 2003 Freedom of Information Law. Officials cited the absence of these regulations when refusing to provide information. NGOs were more successful in gaining access to information through the courts than obtaining it directly from government agencies.

In 2008 the Freedom of Information Center published the results of a survey on journalists' access to information, which reported difficulty accessing official information remained a serious problem. The survey claimed the main obstacle to obtaining official information was the mentality of officials who viewed information at their disposal as their private property. Other obstacles included the absence of formal procedures for storing and providing information as well as the low level of awareness among journalists of their rights.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restrictions, freely investigating and publishing their findings on human rights cases.

During the year independent domestic human rights organizations and domestic affiliates of international organizations operated in the country. Authorities generally did not deny requests to meet with domestic NGO monitors and followed some NGO recommendations, particularly those related to social welfare, education, and local matters. Authorities were usually unresponsive, however, to NGO allegations of mistreatment and abuse committed by law enforcement bodies. Authorities' general response in such instances was that they had investigated the allegations but could not corroborate them.

On August 5, without any prior consultations with interested parties, the Government adopted a highly controversial decree establishing an oversight body under the Ministry of Justice to watch over the "legality" of activities of nonprofit organizations. The stated objectives of the new body were to provide for the compliance of nonprofit organizations with domestic legislation, to reveal cases of their violating the law, and to increase the transparency of their finances. The decree gives broad authorities to the new oversight body, which, among other powers, will be able to inspect NGOs and demand they be suspended or closed without providing a mechanism for appeal. NGOs criticized the decree as unconstitutional and the oversight body as a means for establishing complete governmental control over civil society organizations. According to NGOs, the creation of the oversight body followed failed attempts by the Government in 2009 to push similarly restrictive legislation through the National Assembly.

On March 11, the prosecutor's office announced that charges against Mariam Sukhudian, a young environmental activist, had been dropped. In August 2009 police charged Sukhudian with falsely reporting a crime after she publicly reported instances of sexual and other abuse at a state-run boarding school for children with special needs in 2008. The charges were downgraded to slander in October 2009. The defendant and domestic human rights monitors criticized the charges as retaliation for Sukhudian's bringing the abuses to light.

On February 5, the court acquitted Arshaluis Hakobian of the domestic Helsinki Association NGO, who was on trial for assaulting police officers, after the prosecution withdrew all charges for lack of evidence. Police arrested Hakobian in June 2009, claiming he had assaulted police officers while they were summoning him to appear at SIS in connection with an official complaint of electoral fraud that Hakobian filed after the May 2009 municipal elections. According to Hakobian, police officers beat him on the way to and at the police station and denied him access to a lawyer during the initial hours of his detention. CSMB members visited Hakobian in prison and reported numerous injuries on his legs, hands, back, and head.

There were no developments in the investigation of the assaults against youth activists Arsen Kharatian and Narek Hovakimian in 2008.

There was a human rights defender (ombudsman) with a mandate to protect human rights and fundamental freedoms from abuse by the national, regional, and local governments and their officials. During the year the ombudsman issued both regular and unscheduled reports on human rights problems. The law requires the ombudsman to present an annual report to the National Assembly during the first quarter of every year, but parliament did not schedule its hearing on the ombudsman's 2009 annual report until November 15. The Government has generally been unresponsive to the ombudsman's reports; it never answered the questions raised in the ombudsman's 2008 report on that year's postelection violence, choosing to criticize the report instead. During the year the Ombudsman's Office received 4,089 complaints from 5,221 citizens; it resolved 123 of these complaints with 562 persons reportedly receiving redress for their grievances.

In September 2009 the ad hoc parliamentary commission set up to investigate the postelection disturbances of 2008 reported that it was unable to shed more light on the 10 deaths that occurred and urged law enforcement authorities to do more to identify and prosecute those responsible. In June 2009 President Sargsian disbanded the bipartisan fact-finding group of experts he established to assist the commission in its inquiry. According to domestic observers, the disbanding of the fact-finding group was connected to the leaking of sensitive reports that assigned culpability to authorities for some of the 10 deaths.

In December 2009 the PACE Monitoring Committee criticized the commission's self-censorship for not sufficiently challenging the official version of events. It also

deplored the report's one-sided description of events and lack of discussion of the postelection arrest and prosecution of a large number of opposition supporters.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, the Government did not effectively enforce these prohibitions in practice.

*Women.*—Rape is a criminal offense and carries a maximum penalty of 15 years' imprisonment. There are no explicit laws criminalizing marital rape. According to police information cited by the Prosecutor General's Office, nine cases of rape and attempted rape were registered in the country during the year. In connection with these cases, nine individuals were prosecuted, seven were convicted, and two cases were still under investigation. According to official information, none of these reported cases constituted marital rape. Crimes such as rape continued to be underreported due to the social stigma attached to them.

There is no law against domestic violence. Few cases of spousal abuse or other violence against women were reported during the year, although such violence was believed to be widespread, a belief supported by a study released by the UN Population Fund (UNFPA) in July. That study, conducted during 2008 and 2009 with the cooperation of the National Statistical Service, indicated that partners had subjected 61 percent of women to controlling behavior, 25 percent to psychological violence or abuse, 8.9 percent to physical violence, and 3.3 percent to sexual violence. Perpetrators other than husbands and other intimate partners subjected 2.3 percent of women to physical violence and 0.1 percent to forced sex. The survey revealed that 7.4 percent of women gave up or refused a job because their partner did not want them to work; 8.7 percent said their partners had taken their earnings or savings against their will; and 60.9 percent of women who had a partner during their lifetime were unemployed. The survey also showed that violence against women had an adverse effect on women's health and their social, mental, physical, and economic well-being.

Local experts indicated the survey findings did not reflect the full scope of domestic violence, since the household survey was not anonymous.

On October 4, the Armavir Development Center, a domestic NGO, presented the results of an anonymous survey it had conducted among 300 women in the Armavir Region in November and December 2009. According to the findings, 68 percent of women interviewed admitted being subjected to psychological abuse (42 percent of these women indicated the abuse occurred either often or sometimes); and 38 percent of women interviewed admitted being subjected to physical abuse (21 percent indicating often or sometimes). According to the findings, 76 percent of those who were subjected to physical violence did not ask for help, but those who did applied to family or neighbors. The survey revealed a connection between the level of education and location (for example, rural versus urban), with more educated, urban-dwelling women considering psychological abuse or physical violence inflicted by spouses to be unacceptable.

In another anonymous 2007 survey commissioned by the domestic Women's Rights Center NGO, 66 percent of respondents acknowledged that family members had subjected them to psychological abuse, and 39 percent considered themselves victims of either moderate or severe physical abuse.

According to domestic observers, most cases of domestic violence continued to go unreported because victims were afraid of physical harm, were apprehensive that police would return them to their husbands, or were ashamed to disclose their family problems.

On October 1, police launched an investigation into the death of 20-year-old Zaruhi Petrosian, a resident of the town of Masis, who was hospitalized late on September 30 with a brain hematoma, a broken finger, and bruises on her body. The police subsequently arrested Yanis Sargisov, Petrosian's common law husband, on charges of willful heavy damage to health leading to death by negligence. The criminal investigation was later transferred to the investigation department of the Ministry of Defense in light of Sargisov's service in the armed forces. According to Hasmik Petrosian, Zaruhi Petrosian's sister, Zaruhi had long been physically abused by her husband and mother-in-law. Officials stated the investigation could not corroborate abuse by the mother-in-law. At year's end, the investigation of Sargisov continued while he remained in custody. Petrosian's child remained in an orphanage while the mother-in-law and Petrosian's sister both claimed custody of the child.

In March the domestic Women's Resource Center Armenia (WRCA) NGO launched a public awareness campaign to advertise its Sexual Assault Crisis Center and help hotline. The Yerevan municipality eventually rejected the organization's application to advertise the center on large commercial billboards, on the grounds

that the billboard graphics would place unnecessary psychological stress on teenagers and women. The municipality then took steps to remove all WRCA's advertising. The WRCA asserted that, by limiting the billboards to providing only the help hotline number, the municipality reduced the effect of its advocacy against sexual assault of women.

There were two NGO-operated shelters, in Yerevan and Gyumri, offering victims of domestic violence refuge and other assistance, including psychological and legal counseling. The NGO running the Yerevan shelter also operated a hotline. Both shelter operations depended upon private donors; the Government did not provide them funding.

Referring to data analyzed by the Police Information Center, the Prosecutor General's Office reported 392 cases of domestic violence were registered in the country during the year, which included not only spousal abuse but also violence perpetrated by any family member. These included 229 cases of battery; 104 cases of infliction of willful light damage to health; 25 cases of threats to murder, to inflict heavy damage to one's health, or to destroy property; 22 cases of infliction of willful medium damage to health; six cases of infliction of heavy damage to health, two of which led to the death of the victim; one case of torture; and five murders or attempted murders.

The law does not specifically prohibit sexual harassment, although it addresses lewd acts and indecent behavior. While there was no public data on the extent of the problem, observers believed sexual harassment directed against women in the workplace to be widespread.

According to law, couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. However, in practice especially in more traditional families, such decisions were often made by the male spouse and his parents. Access to and information about contraception was low, especially in rural areas. Skilled attendance during childbirth was more accessible in large towns and other population centers. Women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men. According to data compiled by international organizations, in 2008 there were approximately 29 maternal deaths per 100,000 live births. The publication *Maternal Mortality in 2005: Estimates developed by WHO, UNICEF, UNFPA and the World Bank* estimated the lifetime risk of maternal death, the probability that a woman will die of pregnancy-related causes, to be one in 980.

There were reports that women, especially those in rural or remote areas, faced insufficient access to adequate general and reproductive health-care services. Observers noted various efforts made to improve reproductive health care had not been effective.

International and local observers recommended during the year that the Government continue to take measures to improve women's access to health care in general, and to reproductive health-care services in particular. During the year observers called on authorities to increase efforts to improve the availability of sexual and reproductive health services (including family planning), to mobilize resources for that purpose, and to monitor actual access to those services by women. Further recommendations were made that the Government widely promote family planning and reproductive health education for girls and boys, with special attention to prevention of pregnancies of underage girls, sexually transmitted diseases, and HIV/AIDS.

Men and women enjoy equal legal status; however, gender and age discrimination were continuing problems in the public and private sectors. Women generally did not enjoy the same professional opportunities or wages as men and often were relegated to more menial or low-paying jobs. Women remained underrepresented in leadership positions in all branches of government—national, regional, and local.

*Children.*—Citizenship is derived from one's parents. Observers indicated that parents, particularly the poorest and most socially disadvantaged, were unable to register their children at birth, thereby potentially depriving them of essential social services and increasing their children's vulnerability. However, during the year international donors continued to work with authorities to address the situation.

Severe disparities remained in preschool, primary, and secondary education based on gender, geographic region, and income. Despite generally equitable access, substantial inequities existed in the quality of education between affluent and poorer households and between urban and rural areas. More affluent households and households from urban areas had greater access to better education, training, and complementary school programs than did poor and rural households. The number of dropouts after basic education remained substantial, especially among impoverished students.

Free basic health care was equally available to boys and girls through the age of 18 but often was of poor quality, and officials often required overt or concealed payment for services.

In April and May, the domestic branch of the international NGO Save the Children conducted an assessment of child abuse in the regions of Tavush, Lori, and Gegharkunik. According to the assessment, children in those regions were subjected to abuse from numerous sources. The most common forms of abuse included domestic physical and psychological abuse and neglect, particularly the failure to provide adequate food, clothing, and shelter. Children reported that outside the home they had also been subjected to physical and psychological abuse in institutions, schools, and occasionally on the streets. According to the assessment, parents also exploited their children economically by forcing them to work. The assessment revealed children were unaware of their rights and responsibilities, and this lack of awareness appeared to make violence against children socially acceptable.

The law prohibits sexual exploitation of children through antitrafficking statutes. These envisage punishment for trafficking of children from seven to 15 years imprisonment, depending on aggravating circumstances (see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)).

Statutory rape, defined in the law as sexual acts with a person less than 16 years of age, is punishable with a fine and imprisonment up to two years. Since the punishment for statutory rape is not categorized as grave, sexual solicitations and similar actions directed at minors and failure to report statutory rape are not criminalized. According to domestic observers, the criminal code does not provide the necessary legal framework for adequately assessing and prosecuting sexual crimes involving children.

Child pornography is punishable by imprisonment for up to six years.

There were some reports of abuse of children in institutions. On November 30, a court sentenced Smbat Urumian to nine years' imprisonment for trafficking children. Urumian, a former deputy director of a special school for children who exhibit socially dangerous behavior, was found guilty of forcing three of the students of the special school into beggary. The court meanwhile cleared Urumian of the child molestation charges he also faced.

On January 11, the Prosecutor General's Office began a criminal investigation of allegations of sexual and physical abuse of female students by a teacher at Special School No. 11 for children with special needs. This action reversed the office's August 2009 determination the allegations were unsubstantiated. A group of youth activists who served as volunteers at the school raised the initial alarm of abuse in 2008. On May 24, the trial court convicted former teacher Levon Avakian, who admitted his guilt, to two years in prison. On May 31, the Ministry of Education and Science dismissed the principal, Meruzhan Yengibarian, citing lack of trust in his capacity to head the school. The youth activists considered the teacher's punishment to be too lenient and called for further investigation into the role played by the principal and other teachers, who were reportedly aware of but did not prevent the abuse. On August 4, following an appeal by the victims, the court of appeals increased Avakian's sentence to three years.

On March 12, following the developments related to Special School No. 11 and in response to significant pressure from civil society and the international community, the Ministry of Education and Science established a public group for monitoring special schools and residential facilities, whose composition included approximately 18 NGOs.

A 2009 study by the domestic NGO Armenian Helsinki Committee monitored 12 special education schools and four boarding institutions. Many children indicated that, among other forms of punishment, they had been slapped or beaten, shut in a classroom, or prevented from going home. Some teachers admitted resorting to violence for discipline. The study also noted that most institutions lacked proper central heating, and that sanitary and hygiene conditions were substandard. In a study of 12 general education schools in the Syunik Region during the same period, the NGO found that physical or psychological violence, including beating, slapping, pulling ears, and other degrading treatment were used regularly as punishment. Treatment of students at schools was unequal and depended on teachers' relations with students, whether students pursued private classes with a teacher, and whether students had influential parents. The results of studies in 2007 and 2008 by the same organization were substantively the same.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The size of the country's Jewish population was estimated at between 500 and 1,000 persons. There were no reports of anti-Semitic violence during the year. On October 19, the Hebrew side of the Joint Tragedies Memorial, erected in downtown Yerevan in 2006, was vandalized. Brown paint was poured over the memorial and "Death to the Jew" was stenciled on the memorial along with a swastika. Representatives of the Jewish community denied the presence of anti-Semitic sentiments in the country and labeled the incident "hooliganism," possibly caused by foreigners. The Jewish community praised the immediate reaction by the presidential administration, which called into action local authorities and law enforcement. The city administration removed the signs of vandalism by the next morning, and police launched an investigation. On October 21, the president's press secretary and the Armenian Church made separate statements condemning the desecration of the memorial.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services; however, discrimination remained a problem. The law and a special government decree provide for accessibility to buildings, including schools, for persons with disabilities, but in practice very few buildings and other facilities were accessible to these persons. The Ministry of Labor and Social Affairs is responsible for protecting the rights of persons with disabilities but failed to do so effectively.

In spite of the large number of officially registered persons with disabilities in the country, disabled persons are seldom seen outside the home due to the social stigma associated with disabilities. In extreme cases the social stigma sometimes prompts families to hide their disabled children completely from public view, depriving them in the process from access to education and integration into society.

Persons with all types of disabilities experienced problems in virtually all spheres of life, including health care, social and psychological rehabilitation, education, transportation, communication, access to employment, and social protection. Access to information and communications was a particularly significant problem for persons with sensory disabilities. Hospitals, residential care, and other facilities for persons with serious disabilities remained substandard. According to official data, more than 90 percent of persons with disabilities who were able to work were unemployed.

In its monitoring of mental health facilities in the Syunik and Shirak regions during 2009, the domestic NGO Helsinki Citizens Assembly of Vanadzor (HCAV) reported numerous deficiencies, including poor hygienic conditions, poor nutrition, inappropriate buildings, outdated and ineffective medications, lack of professionally trained staff, instances of physical violence, and use of patient labor in health facilities. HCAV expressed the view that the entire operation of mental health facilities was deficient. It noted the absence of a state policy on mental health, the lack of appropriate legislation for the proper implementation of legislation regulating the work of psychological clinics, the lack of standards and norms for staff conduct, and insufficient funding of facilities.

In a May 10 letter to the Ministry of Health, the ombudsman called attention to violations his office discovered in the Nubarashen Psychological Clinic during an April 13 visit. The ombudsman's staff encountered a number of patients who were being kept involuntarily in the clinic after the conclusion of their treatment under the pretext that their "relatives would not come for them." The ombudsman noted this was unacceptable. The ombudsman highlighted other inappropriate practices including denying pretrial detainees, who were in the clinic for psychological evaluations, the right to recreational walks and telephone use. The ombudsman called on the ministry to conduct an internal investigation to address these problems. The ministry responded to the ombudsman's letter by creating on May 25 a special commission to review the problems. The commission confirmed some of the findings and reported the clinic would resolve those problems, including by purchasing new bedding and ensuring that pretrial detainees had walking space. In reference to the patients who were kept involuntarily, the ministry responded that those were legally incapable persons who were undergoing treatment based on the request of their legal representatives.

There were widespread reports about corruption and arbitrary rulings in the body that determines a person's disability status, the Medical-Social Expertise Commission (MSEC) under the Ministry of Labor and Social Affairs. On May 3, the ombudsman informed the head of the commission by letter the number of complaints his office received about the arbitrary decisions of MSEC continued to grow annually.

Citizens complained to the ombudsman that MSEC would arbitrarily deprive them of disability status despite their worsening health condition. According to the letter, the ombudsman's office had never managed to achieve redress for any of the grievances against the commission, which, according to the ombudsman, placed it alongside police in terms of unanswered complaints.

In 2008 an online news agency published a HCAV survey of patients at the Vanadzor Neurological and Psychiatric Clinic. Patients reported physical abuse, torture, and abusive narcotic sedation by clinic personnel and medical staff. Patients also complained of deprivation of privileges and insufficient food.

According to the domestic NGO Unison, which monitored the May 2009 Yerevan municipal elections, many persons with physical disabilities did not have access to the polls during the vote, and very few participated in the vote.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Societal attitudes towards homosexuality remained highly unfavorable, with society generally viewing homosexuality as an affliction.

Persons who were openly gay were exempted from military service, purportedly because of concern they would be abused by fellow servicemen. However, the actual exemption required a medical finding via psychological examination that gays possessed a mental disorder, which was stamped in their documents and could affect their future.

According to human rights activists, lesbians, gays, bisexuals, and transgender persons experienced some of the most humiliating discrimination in prisons, where they were forced to do some of the most degrading jobs and separated from the rest of the prison population.

Societal discrimination based on sexual orientation continued to be a problem with respect to employment, family relations, and access to education and health care for sexual minorities.

In an interview with the *Iravunk* biweekly that appeared in the newspaper's December 24 to 27 edition, Artur Baghdasarian, secretary of the National Security Council that advises the president on national security matters, answered a question on homosexuality stating that, "Such conduct does not fit in with our society. Family and Armenian traditions prevail for people who were the first to adopt Christianity. Those unnatural things are unacceptable to us. I am against limitations of human rights in general. However, I consider homosexuality is extremely dangerous for Armenia."

In an interview in the *Hraparak* daily on December 6, National Police Chief Alik Sargsyan answered a question on the gathering of homosexuals in one of Yerevan's central parks, stating that, "We try to take them to such a place where they won't be seen, but they like to appear in public. We do not practice any violent measures, do not violate human rights, it is their business, but in our city, it is not appropriate for people. I cannot bear them physically."

*Other Societal Violence or Discrimination.*—There were no reports during the year of acts of societal violence or discrimination against persons with HIV/AIDS.

Many employers reportedly discriminated against potential employees by age, most commonly requiring job applicants to be between the ages of 18 and 30. While this discrimination appeared to be widespread, authorities did not take any action to mitigate it. After the age of 40, workers, particularly women, continued to have little chance of finding jobs appropriate to their education or skills.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, except those serving in the armed forces and law enforcement agencies, to form and to join independent unions of their choice without previous authorization or excessive requirements. However, in practice most workers were unable to exercise this right. Labor organizations remained weak because of employer resistance, high unemployment, and poor economic conditions. The Confederation of Labor Unions (CLU) estimated that, as of February, approximately 250,000 workers, or an estimated 21 percent of the workforce, were members of 27 trade unions. There were additional labor unions that did not belong to the CLU. Labor unions were generally inactive with the exception of those connected with the mining industry.

The law allows unions to conduct their activities without government interference. The law also provides for the right to strike except for members of the armed forces and law enforcement agencies, but workers rarely went on strike due to the fear of losing their jobs. While the law prohibits retaliation against strikers, it occurred periodically.

Employees of the Kapan Gold Mining Company, a major mining company in the South, held a large scale strike in January to demand an increase in wages and bo-

nuses as well as improvement in working conditions. As the strike was not sanctioned by the workers' local union, company management found it to be in violation of domestic labor legislation and dismissed approximately 50 workers, mainly those most active in staging the strike. Many were subsequently reinstated, and the dispute was settled after negotiations with the company's management and the regional governor, with mutual concessions by the involved parties.

*b. The Right to Organize and Bargain Collectively.*—Although the law provides for collective bargaining, in practice it was practically nonexistent.

There were no specific reports of antiunion discrimination. However, reportedly some mining enterprises, including some financed by foreign investors, discouraged employees from joining labor unions with the implied threat of loss of employment. There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that women and girls were trafficked for commercial sexual exploitation and labor, and that men were trafficked for labor exploitation in the construction sector. A small number of girls and boys were trafficked internally for commercial sexual exploitation and forced begging, respectively. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace. The minimum age for employment is 16 years old, but children may work from the age of 14 with permission of a parent or a guardian. Persons who are under 18 years old are prohibited from working overtime, in harmful and dangerous conditions, at night, or on holidays; nevertheless, authorities responsible for compliance with child labor law failed to implement the law in practice.

According to observers, many children, especially in rural regions, were involved in family businesses, mainly in agriculture. Observers also reported seeing children in Yerevan selling flowers and drawings and working in local markets after school hours. Children also worked in trade, construction, and car services, operated vehicles, and gathered waste metal and bottles. According to a 2008 study by the UN Children's Fund on child labor, less than 5 percent of children between seven and 18 years old had paying jobs, not counting those involved in family farms or businesses. The survey also found almost one-third of working children were below the legal working age, almost all children worked without legal contracts, and some children were employed in heavy manual work as laborers and loaders.

*e. Acceptable Conditions of Work.*—The monthly minimum wage of 30,000 drams (\$80) did not provide a decent standard of living for a worker and family.

The law provides for a 40-hour workweek, 28 days of mandatory annual leave, and compensation for overtime and nighttime work. In practice the authorities did not effectively enforce these standards. Many private sector employees were unable to obtain paid leave and were required to work more than eight hours a day without compensation. According to representatives of some employment agencies, many employers also continued to hire employees for a "probationary" period of 10 to 30 days, during which they were not paid. Often these employees were subsequently dismissed and unable to claim payment for the time they worked because their initial employment was undocumented.

Occupational and health standards are established by government decrees. The State Labor Inspectorate responsible for enforcing these standards did not always do so effectively. During the year the State Labor Inspectorate reportedly made little progress toward implementing an inspection regime or enforcing the labor code, and its work was reportedly undermined by corruption.

Workers had the right to remove themselves from work situations that endangered their health and safety, but they were unlikely to do so because such an action could jeopardize their employment. Work safety and health conditions remained substandard in numerous sectors, and there was one fatal workplace incident during the year.

On February 23, 18-year-old construction worker Arman Gasparian was killed as a result of a crane jib collapse at a construction site in Yerevan. The crane jib collapsed when the crane operator attempted to extricate a cement truck stuck in the ground at the construction site. On July 22, the crane operator was found guilty on charges of causing death by negligence, and was given a two-year suspended prison sentence.

## AUSTRIA

Austria is a parliamentary democracy with constitutional power shared between a popularly elected president and a bicameral parliament (Federal Assembly). The country's eight million citizens choose their government representatives in periodic, free, and fair multiparty elections. In 2008 voters elected members of the national parliament. Security forces reported to civilian authorities.

During the year there were some reports of excessive use of force by police and societal discrimination against Muslims and members of unrecognized religious groups, particularly those considered "sects." Incidents of violence against women, child abuse, and trafficking in women and children for prostitution and labor were also reported. There were reports of anti-Semitic incidents, including physical attacks, taunting, graffiti and defacement, Internet postings, property damage, and vilifying and threatening letters and telephone calls. Isolated incidents of neo-Nazi and right-wing extremism and xenophobia directed toward members of minority groups occurred.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

On March 12, a Lower Austrian court found a police officer guilty of negligence causing bodily harm in the August 2009 shooting death of a 14-year-old burglary suspect. The officer was given an eight-month suspended prison term.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were isolated reports that police beat and abused persons.

On March 11, the Council of Europe's Committee for the Prevention of Torture (CPT) released the report on its February 2009 delegation visit to the country. The CPT delegation reported receiving a number of allegations of excessive use of force at the time of apprehension. The delegation also received a number of allegations, in particular from juveniles, of physical mistreatment or verbal abuse during police questioning. The report noted that in two cases police officers allegedly also threatened to inflict pain on juveniles if they did not confess to a particular criminal offense.

On February 11, a U.S. citizen working in Vienna was injured when police arrested him after reportedly confusing him with a drug dealer. Police rejected accusations of excessive use of force and stated that physical force was used only when the subject resisted arrest. The Prosecutor's Office filed charges of negligence against one of the officers involved. In a trial on June 24, the district court judge concluded that the intent to harm could not be excluded and that she had no jurisdiction to rule in this case. The case was sent to the higher provincial court, which at year's end had not yet heard the case.

*Prison and Detention Center Conditions.*—Prisons and detention center conditions did not always meet international standards.

Overcrowding remained a problem in some institutions. In its March 11 report, the CPT noted that the overall prison population in the country had been on the decline since 2004 and stood at a little over 8,000 at the beginning of 2009. At the same time, the official capacity of prisons increased from 8,074 to 8,501 detainees.

The CPT reported that the delegation had not received any allegations of staff mistreatment at any of the prisons visited and that many prisoners emphasized the correct attitude and behavior of staff towards prisoners. However, the CPT delegation reported hearing a number of allegations of violence among prisoners at the Innsbruck and Vienna-Josefstadt prisons. Detention conditions at regional police headquarters and police stations visited by the CPT were on the whole satisfactory.

In March the Human Rights Advisory Council, an independent governmental body whose members were appointed by the minister of the interior, released its 2009 annual report. The report described conditions facing aliens prior to deportation as "questionable from a human rights point of view" and at times "not in conformity with human rights standards." There were no indications that authorities made changes in response to these criticisms.

Some human rights observers criticized the incarceration of nonviolent offenders, including persons awaiting deportation, for long periods in single cells or inadequate facilities designed for temporary detention. In its March 11 report, the CPT expressed misgivings over the long-standing practice of accommodating foreign nation-

als pending deportation in police establishments designed to hold criminal and administrative offenders. It noted that conditions under which foreign nationals were held in the police detention center in Vienna-Hernalser Guertel remained unacceptable, with foreign nationals being locked in their cells for 23 hours a day, with reading and playing board games their only occupation.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The Government investigated and monitored prison and detention center conditions. The Federal Ombudsman's Office can investigate on behalf of prisoners and detainees but cannot consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding. There were strict checks on the enforcement of pretrial detention restrictions and bail provisions, and detailed recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for the offense with which they were charged.

Nongovernmental organizations (NGOs) monitored prisons on a regular basis. In addition delegations from the CPT regularly visited the country to review conditions at the country's prisons and detention centers. During its most recent visit in February 2009, the delegation paid particular attention to the treatment of persons in police detention and to the detention conditions under which foreign nationals were held.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and information available during the year suggests that the Government generally observed these prohibitions; however, the strict application of slander laws tended to discourage reports of police abuse.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police and army, and the Government has effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces during the year.

Some police violence appeared to be racially motivated. Amnesty International's Annual Report for 2009 criticized a certain degree of "ethnic profiling" by police, noting that immigrants and ethnic minorities were more likely to be suspected of crimes than "Caucasians." The report further claimed that police and the judicial system regularly denied minorities their right to equal treatment and noted that authorities do not effectively investigate and punish racially motivated police misconduct. Amnesty International expressed concern that the criminal justice system as a whole, and police in particular, were failing to provide the same level of service to foreign nationals and members of ethnic minorities as they routinely provided to citizens from the country's majority ethnic group.

Police were also accused of not taking seriously the personal safety concerns of members of minority communities. After the killings of a Chechen asylee in January 2009 and a Sikh religious leader at a Sikh temple in May 2009, information emerged suggesting that in both cases police had ignored warnings or specific requests for personal protection.

NGOs and other groups continued to criticize the police for targeting minorities. Racial sensitivity training for police and other officials continued with NGO assistance. The Human Rights Advisory Council monitored police respect for human rights and made recommendations to the interior minister.

*Arrest Procedures and Treatment While in Detention.*—In criminal cases the law allows investigative or pretrial detention for up to 48 hours, during which a judge may decide to grant a prosecution request for extended detention. The law specifies the grounds for investigative detention and conditions for bail. The judge is required to evaluate such detention periodically. The maximum duration for investigative detention is two years. There is a functioning bail system. Police and judicial authorities respected these laws and procedures in practice. Apprehensions were based on sufficient evidence and issued by a duly authorized official and brought before an independent judiciary.

Some legal experts called for a review of an article in the criminal code designed to target collusion of suspected terrorists, which they asserted authorities have used improperly to detain persons on charges not connected with terrorism. The provision was used to try animal rights activists who had damaged fur stores.

Detainees have the right to access a lawyer. Although indigent criminal suspects have the right to an attorney, the criminal procedures code requires an attorney be appointed only after a court decision to remand such suspects into custody (i.e., 96 hours after their apprehension). The law provides that criminal suspects are not required to answer questions without an attorney present although, according to the

March 11 CPT report, the criminal police were instructed to question suspects without delay and may do so before an attorney arrives. In its March 11 report the CPT also noted that, while a system of free legal counseling by telephone was introduced in 2008 in cooperation with the Austrian Bar Association, many police officers outside Vienna appeared to have received no information on how to utilize the service. On average, according to the bar association, only a few such calls per day had been registered in the country since the hotline's introduction. Only initial counseling by telephone was free of charge, which, according to the CPT report, affected the utilization of the service by detained persons, since they did not have the means to pay an attorney to be present during police questioning.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A system of judicial review provides multiple opportunities for appeal. Persons charged with criminal offenses are considered innocent until proven guilty. Trials must be public and conducted orally. Juries are used only in trials for major offenses. Defendants have the right to be present during trials. They can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants can consult attorneys no later than 96 hours after apprehension. Legal counsel is provided pro bono for needy persons in cases where attorneys are mandatory. Attorneys are not mandatory in minor offense cases. Defendants and their attorneys have access to government-held evidence relevant to their cases.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—From January to August the European Court of Human Rights (ECHR) ruled on 13 cases against the Government. The ECHR found violations concerning the right to a fair trial and the presumption of innocence until proven guilty, the length of proceedings, the prohibition of discrimination, and the right to vote during imprisonment. The Government complied with the ECHR orders and decisions.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including an appellate system. These institutions are accessible to plaintiffs seeking damages for human rights violations. Administrative remedies as well as judicial remedies were available for redressing alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press. The independent media were active and expressed a wide variety of views with few restrictions. Individuals generally could criticize the Government publicly or privately without reprisal.

The law prohibits public denial, belittlement, approval, or justification of the Nazi genocide or other Nazi crimes against humanity in a print publication, a broadcast, or other media. It also prohibits incitement, insult, or contempt against a group because of its members' race, nationality, or ethnicity if the statement violates human dignity. The Government strictly enforced these laws.

On September 9, the Vienna Criminal Court gave convicted Holocaust-denier Gerd Honsik an additional two-year, nonsuspended prison sentence for violating the law prohibiting neo-Nazi activities. The conviction stemmed from the 2009 publication of two neo-Nazi books in which Honsik made accusations concerning the work of Simon Wiesenthal. Honsik was already serving time for a previous violation of the law prohibiting neo-Nazi activities.

Strict libel laws discouraged reporting of governmental abuse.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. Approximately 75 percent of the country's inhabitants used the Internet, according to 2010 statistics from the International Telecommunication Union.

Beginning in June, a special unit of the Interior Ministry investigated a neo-Nazi Web site that was based outside of Europe and that displayed links to Hitler's Mein

Kampf, called for actions to preserve the “German heritage,” and denounced persons who fight right-wing extremism. In October police conducted several house searches but no arrests were reported.

There were no reports that the Government attempted to collect personally identifiable information of persons in connection with their peaceful expression of political, religious, or ideological opinion or beliefs.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use it in practice.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

Rejected asylum seekers have recourse to the Federal Asylum Court. When they allege a breach of the European Convention on Human Rights, they can appeal to the Constitutional Court. Since July 2008 asylum seekers no longer have recourse to the Higher Administrative Court, a change criticized by human rights groups.

The Federal Asylum Court reported that more than half of new appeal cases were adjudicated in less than six months whereas decisions in “Dublin cases” (i.e., cases returned to another EU member state under the Dublin Regulation establishing the criteria and mechanisms for determining the member state’s responsibilities in asylum cases) take an average of two weeks. In December there were 1,250 pending cases before the Asylum Court, and a further 800 cases before the Administrative Court. Under the law, authorities have six months to process an application from the time it is filed. Observers expressed concern that, due to a significant backlog of cases in the appellate system, some applicants wait four years or more for final determination of their cases.

Asylum seekers’ freedom of movement was restricted to the district of the refugee camp to which they were assigned for the duration of their initial application process, i.e., until the country’s responsibility for examining the application is determined.

Asylum seekers and refugees received a subsistence allowance and housing. While they were legally restricted from seeking regular employment, they were eligible for seasonal employment. Children of asylum seekers and refugees between the ages of six and 15 were eligible for education. Following changes to the asylum process in 2009 that placed additional restrictions on those applying for asylum, total applications have fallen by 27 percent while the approval rate for applications has declined from 32 percent in 2007 to 14 percent in 2010.

The UNHCR has noted that the country continued to return asylum applicants to Greece under the Dublin Regulation, despite expert reports that asylum law and practice in Greece were not in compliance with international and European human rights standards. In October, Human Rights Watch released a report criticizing the deportation of Roma, Ashkali, and Egyptians by a number of European countries, including Austria, back to Kosovo where adequate reception conditions for safe and dignified returns were not established.

The country subscribed to a “safe country of transit” policy, which required asylum seekers who transited a country determined to be “safe” to return to that country to seek refugee status. Member states of the EU and other signatories to the 1951 Convention relating to the Status of Refugees were considered safe countries of transit.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Human rights groups continued to criticize the detention system as a breach of human rights. Asylum seekers who are in detention awaiting deportation are held

in police detention centers, generally in closed cells with no opportunities for training/work and very limited access to legal counsel. According to Amnesty International, in October the Interior Ministry significantly reduced funding for legal advice for asylum seekers, provided by NGOs.

New asylum legislation, effective on January 1, introduced measures to counter the abuse of the asylum process. The legislation limits follow-up applications and claims to improve the assessment of claims of family relations and age. The new laws made it easier for authorities to detain asylum applicants awaiting deportation in cases, such as “Dublin cases,” where rejected asylum seekers either file follow-up applications that appear to lack justification or violate registration obligations.

The Government did not provide temporary protection during the year to any individuals who did not qualify as refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The country held national parliamentary elections in 2008 and presidential elections in April 2009; there were no reports of serious abuse or irregularities in either election.

Political parties could operate without restriction or outside interference.

The parliament consists of the popularly elected National Council and the Federal Council, which is named by the federal states. There were 51 women in the 183-seat National Council and 21 women in the 62-member Federal Council. There were six women in the 14-member Council of Ministers (cabinet).

There appeared to be relatively little representation of ethnic minorities at the national level. Following the September 2008 elections, a Muslim woman entered the Federal Assembly for the Green Party.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. In 2008 the Government tightened the criminal code’s corruption regulations and established a special central public prosecution department with countrywide authority for corruption cases. To alleviate some measures viewed as too strict, the Government in September 2009 amended and defined more precisely criminal laws against corruption. Criminal code provisions against corruption cover civil servants; officials with functions in legislation, administration or justice on behalf of the state, including ministers, governors, and members of parliament on all levels; and employees and representatives of the country’s companies. The term “corruption” includes bribery and illicit intervention, abuse of office, and accepting an advantage. The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Corruption in the private sector was not considered a major problem in the country; however, the ongoing scandals involving the Hypo Alpe Adria banking group and Meindl European Land (MEL) raised the profile of private sector corruption during the year. Another ongoing, high-profile corruption case involved the Government’s \$1.1 billion privatization of 60,000 state-owned apartments in 2004 (the so-called “BUWOG affair”). The Prosecutor’s Office continued its investigation into the matter but did not make any indictments during the year.

During the year prosecutors and the federal auditor’s office were still investigating the failed expansion of the Vienna airport terminal that, due to cost overruns, triggered a controversy regarding political influence in the appointment of the managers and consultants handling the project. The investigation of the federal auditor’s office focused on allegations of embezzlement and related statutory offenses by the board of Airport Vienna in connection with contracts for construction companies and consultants.

The five parliamentary parties agreed in August to tighten donation rules on financing for political parties.

According to Transparency International, there is “little or no enforcement” by the country of the Antibribery Convention of the Organization for Economic Cooperation and Development (OECD). In August, the head of an OECD working group on corporate corruption, Mark Pieth, criticized the country for inadequate enforcement of its anticorruption laws. Although the country has strengthened its criminal code in recent years and established an anticorruption prosecutor, a number of weaknesses remain, including too little independence for prosecutors, poor whistleblower protection, and prosecutions that are few and slow.

There are financial disclosure laws for public officials. The courts are responsible for corruption cases. Parliamentary committees oversee ethics rules for elected officials.

The law provides for full public access to government information, and the Government generally respected this provision in practice. Authorities may only deny access if it would violate substantial data protection rights or involve national security information. Petitioners could challenge denials before the Administrative Court.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views, but some groups were dissatisfied with the information supplied by authorities in response to specific complaints. A human rights ombudsman's office consisting of three independent commissioners examines complaints against the Government. There were no parliamentary human rights committees during the reporting period.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law provides for protection against discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these protections.

*Women.*—Under the law, rape, including spousal rape, is punishable by up to 15 years' imprisonment. The Government generally enforced the law. According to 2009 statistics from the Ministry of the Interior, there were 1,039 reported cases of rape or sexual coercion. There were no reports of police or judicial reluctance to prosecute spousal or other rape cases.

Violence against women, including spousal abuse, was a problem. The Office of Women's Affairs and Civil Service estimated that 10 percent of adult women have suffered from violence in a relationship. However, fewer than 10 percent of abused women filed complaints. By law police may expel abusive family members from family homes for up to three months. In 2009 the courts issued injunctions prohibiting abusive family members from returning home in 6,731 cases.

The Government funded privately operated intervention centers and help lines for victims of domestic abuse. The centers provided for victims' safety, assessed the threat posed by perpetrators, helped victims develop plans to stop the abuse, and provided legal counseling and other social services. In the view of most observers, these centers were generally effective in providing shelter for victims of abuse.

In September the Government launched a "Don't Look Away" public awareness campaign aimed at discouraging sex tourism. Billboards and short video spots featured an e-mail address that travelers and tourism industry staff could use to report suspicious activity to the authorities.

The law prohibits sexual harassment, and the Government generally enforced the law. Of the 3,455 cases of discrimination brought to the ombudsman for equal treatment of gender in 2009, 494 involved sexual harassment. The labor court may order employers to compensate victims of sexual harassment on the basis of the Federal Equality Commission's finding in a case; the law provides that a victim is entitled to a minimum of 700 euros (approximately \$940) in financial compensation.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and are free to do so without any discrimination, coercion, and violence. Women have access to contraception and skilled attendance during childbirth, including obstetric and postpartum care, and are diagnosed and treated for sexually transmitted infections as equally as men. According to data compiled by international organizations, there were approximately 5 maternal deaths per 100,000 live births in the country in 2008.

The Minister for Women's Affairs and Civil Service is responsible for promoting the legal rights of women. Women enjoy the same legal rights as men, and the Federal Equality Commission and the ombudsman for equal treatment of gender oversee laws requiring equal treatment of men and women.

According to Statistics Austria's Women's Report 2010, women earned on average 25.5 percent less than men; women's average earnings were approximately 15 percent less than men for equivalent work. Labor participation for women aged 15 to 64 was 69 percent, roughly the same as men. The report attributed the recent increase in female labor market participation to a rise in part-time work. Approximately 41.5 percent (1998: 30.7 percent) of women in employment worked part-time. The report stated that labor market participation of women is also important in re-

ducing poverty risk: around 60 percent of single mothers who do not work are at risk of poverty.

Although labor laws provide for equal treatment of women in the civil service, women remained underrepresented. The law requires the Government to hire women of equivalent qualifications ahead of men in all civil service areas, including the police force. During the year less than 40 percent of civil servants were women. The judiciary system and academia were two areas which did not meet the target. There are no penalties, however, for agencies failing to attain the 40-percent target.

To address the low labor market participation rate for women, Women's Affairs Minister Gabriele Heinisch-Hosek, together with trade unions, continued an awareness-raising campaign during the year. She pointed to the international study Global Gender Gap Report 2009, published in October 2009, which indicated that the gender gap in the country had worsened.

Female employees in the private sector may invoke equality laws prohibiting discrimination against women. On the basis of the Federal Equality Commission's findings, labor courts may award compensation of up to four months' salary to women who experienced discrimination in promotion due to their gender. The courts may also order compensation for women who were denied a post despite having equal qualifications.

*Children.*—By law children derive citizenship from their parents.

Child abuse remained a problem, and the Government continued its efforts to monitor abuse and prosecute offenders. The Ministry for Economics, Family, and Youth estimated that 90 percent of child abuse was committed by close family members or family friends. Officials noted a growing readiness to report abuse cases. Trafficking of children remained a problem. See the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

During the year there were occasional reports of underage marriage, primarily in the Muslim and Romani communities; however, such cases were undocumented. Some male immigrants married underage girls in their home countries and returned to the country with them.

The law provides up to 10 years' imprisonment for an adult convicted of sexual intercourse with a child under the age of 14. If the victim becomes pregnant, the sentence may be extended to 15 years. In 2008 the Ministry of the Interior reported 1,806 cases of child abuse, most involving intercourse with a minor.

The law provides for criminal punishment for possessing, trading, or private viewing of child pornography. Exchanging pornographic videos of children is illegal.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—According to 2001 census figures and 2010 estimates from the Vienna Institute of Demography, a branch of the Austrian Academy of Sciences, the Jewish community in the country numbered approximately 7,000.

The NGO Forum against Anti-Semitism reported 70 anti-Semitic incidents between January and December, including four physical assaults, as well as name-calling, graffiti and defacement, threatening letters, anti-Semitic Internet postings, property damage, and vilifying letters and telephone calls. Vienna Jewish Community (IKG) President Ariel Muzicant reported a rise in anti-Semitic incidents related to the May 31 Gaza flotilla incident. There were anti-Israel demonstrations organized by several Muslim groups at the beginning of June, including the use of an anti-Semitic banner displaying the slogan, "Wake up, Hitler." Another banner equated the Star of David to the swastika. Muzicant also reported an incident in which two Turkish-speaking men spat on a rabbi in Vienna. The Vienna Jewish Community's offices and other Jewish community institutions in the country, such as schools and museums, continued to receive extra police protection.

In March the outside wall of the Mauthausen concentration camp site was defaced with anti-Islamic and anti-Semitic graffiti, similar to that of a previous incident in February 2009. The Interior Ministry increased security but rejected a proposal by the Mauthausen Memorial Committee to place video cameras on the site.

The law banning neo-Nazi activity prohibits public denial, belittlement, approval, or justification of the Nazi genocide or other Nazi crimes against humanity in print publication, broadcast, or other media. The Government strictly enforced these laws.

Beginning in June, a special unit of the Interior Ministry investigated a neo-Nazi Web site based outside of Europe that displayed links to Hitler's *Mein Kampf* and called for actions to preserve the "German heritage," while denouncing persons who

fight right-wing extremism. In October police conducted several house searches but no arrests were reported. In November the country's media reported denials from the Office for the Protection of the Constitution and Counter-Terrorism (BVT) that neo-Nazis had infiltrated one of its branch offices. The statements came in the wake of reports regarding the transfer of a BVT agent whose son was linked to the neo-Nazi Web site.

On September 9, the Vienna Criminal Court gave convicted Holocaust-denier Gerd Honsik an additional two-year nonsuspended prison sentence for violating the law prohibiting neo-Nazi activities. The conviction stemmed from the 2009 publication of two neo-Nazi books in which Honsik made accusations concerning the work of Simon Wiesenthal. Honsik was already serving time for a previous violation of the law prohibiting neo-Nazi activities.

On November 15 and 16, the criminal court in Eisenstadt tried 14 men, ages 18 to 38, on charges of neo-Nazi activity. The men were accused of publicly displaying the Hitler salute and smearing swastika graffiti on stores between 2007 and 2009. The court gave six of the defendants suspended prison sentences of five to eight months and sentenced five of them to 70-100 hours of social work. Three of the defendants were acquitted.

On December 1, a regional court in Wels convicted three men of neo-Nazi activity in relation to an incident at the site of the former concentration camp in Ebensee. The men disturbed a commemoration ceremony at the site, fired air rifles at a group of French visitors, and shouted Nazi slogans. The three men received suspended prison sentences of up to six months.

On December 3, the Austrian Times reported that an Austrian soldier was facing charges for giving a Nazi salute while on a peacekeeping mission in Bosnia-Herzegovina. The soldier was subsequently dismissed from military service. In a July press conference, the Defense Minister announced the military had a "no tolerance" policy in regards to any form of right-wing extremism.

School curricula fostered discussion of the Holocaust and the tenets of different religions and advocated religious tolerance. The Education Ministry offered special teacher-training seminars on Holocaust education while also conducting training projects with the Anti-Defamation League.

On November 17, the parliament adopted a law establishing a fund for the renovation and maintenance of Jewish cemeteries. In compliance with the 2001 U.S.-Austrian "Washington Agreement," which called for the country to "provide additional support for the restoration and maintenance of Jewish cemeteries," the Government will allocate 20 million euros (approximately \$27 million) over 20 years to the project.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law protects persons with physical, sensory, intellectual, and mental disabilities from discrimination in housing, education, employment, and access to health care and other government services. The Government's performance in enforcing these provisions was mixed.

Federal law mandates access to public buildings for persons with physical disabilities; however, many public buildings lacked such access due to insufficient enforcement of the law and low penalties for noncompliance. Persons with disabilities generally had access to information and communications.

The law provides for involuntary sterilization of adults with mental disabilities in cases where a pregnancy would be considered life-threatening. However, authorities have not performed any involuntary sterilization in recent years. The law prohibits the sterilization of minors.

The Ministry of Labor, Social Affairs, and Consumer Protection handles problems for persons with disabilities. The Government funded a wide range of programs for persons with disabilities, including provision of transportation and assistance for integrating schoolchildren with disabilities into regular classes and for integrating employees with disabilities into the workplace.

*National/Racial/Ethnic Minorities.*—In 2009 the Ministry of the Interior recorded 453 neo-Nazi, right-wing extremist, xenophobic, or anti-Semitic incidents directed against members of minority groups. The Government continued to express concern over the activities of extreme right-wing skinhead and neo-Nazi groups, many with links to organizations in other countries.

Human rights groups reported that Roma faced some discrimination in employment and housing. However, the head of the Austrian Romani Cultural Association reported that the situation of the Romani community, estimated at more than 6,200 indigenous and between 15,000 and 20,000 nonindigenous individuals, has significantly improved in recent years. Government programs, including financing for tu-

tors, have helped school-aged Romani children move out of “special needs” and into mainstream classes. The Government also initiated programs in recent years to document the Romani victims of the Holocaust and to compensate its victims.

NGOs reported that Africans living in the country experienced verbal harassment in public. In some cases black Africans were stigmatized as being involved in the drug trade or other illegal activities.

Federal law recognizes Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes as national minorities. It requires any community where at least 25 percent of the population belongs to one of these groups to provide bilingual town signs, education, media, and access to federal funds earmarked for such minorities. Communities in the Slovene-speaking area of the state of Carinthia have some bi-lingual town signs, but authorities have so far refused to implement rulings by higher courts requiring the state to install additional bilingual signs. The Chancellor’s Office appointed a high-ranking official tasked with resolving the dispute.

The Government continued training programs to combat racism and educate the police in cultural sensitivity. The Ministry of the Interior renewed an agreement with the Anti-Defamation League to teach police officers cultural sensitivity, religious tolerance, and the acceptance of minorities.

Poor German language skills were a major factor preventing minorities from entering the workforce. In April 2009 the Labor Ministry announced efforts to combat this situation by providing German language and skilled labor training for 19- to 24-year-olds.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was some societal prejudice against gays and lesbians; however, there were no reports of violence or discrimination based on sexual orientation. Lesbian, gay, bisexual, and transgender persons’ organizations, such as the Homosexual Initiatives (HOSI) in Vienna and Linz and the Lambda Rights Committee, were present and generally operated freely. Vienna hosted an annual gay pride march in July and the city provided police protection.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join independent unions without prior authorization or excessive requirements, and workers exercised this right in practice. According to the Austrian Trade Union Federation, 35 percent of the workforce belonged to unions. The law does not explicitly provide a right to strike; however, the right is recognized in practice. The law prohibits retaliation against strikers, and the Government effectively enforced the law.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 80 percent of the labor force worked under a collective bargaining agreement. The Austrian Trade Union Federation was exclusively responsible for collective bargaining.

The law prohibits antiunion discrimination, and there were no reports of antiunion discrimination or other forms of employer interference in union functions.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that women were trafficked to the country for domestic labor and that children were trafficked to the country for begging (see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Laws and policies protect children from exploitation in the workplace and prohibit forced or compulsory labor, and the Government generally enforced these laws and policies effectively.

There were reports of trafficking of children for begging. In 2009 the Crisis Center for Unaccompanied Minors in Vienna assisted 121 children, primarily from Bulgaria and Romania, who were trafficked into the country (see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)).

The minimum legal working age is 15 years. Children under the age of 15 are not permitted to work, with the exception of children at least 12 years old engaged in certain forms of light work on family farms or businesses. Children over 15 years of age are subject to the same regulations on hours, rest periods, overtime wages, and occupational health and safety restrictions as adults, except for additional limitations on hazardous forms of work or limitations for ethical reasons.

The Labor Inspectorate of the Federal Ministry of Labor, Social Affairs, and Consumer Protection is responsible for enforcing child labor laws and policies in the workplace, and the Inspectorate enforced the laws effectively. The Labor Inspectorate did not find any violations of child labor laws during the year.

*e. Acceptable Conditions of Work.*—There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. All collective bargaining agreements provide for a minimum wage of 1,000 euro (\$1,340) per month. Wages in select areas where no such collective agreements exist, such as for domestic workers, janitorial staff, and au pairs, are regulated in pertinent law and are generally lower than those covered by collective bargaining agreements. According to the Austrian Trade Union Federation, some 350,000 Austrians are “working poor,” meaning that they have a job, but cannot sustain themselves or their families without additional assistance.

The country participated in an International Labor Organization (ILO) pilot project measuring “decent work standards” in ILO member states. The ILO’s profile for the country, released in October 2009, noted progress in employment rates for women and an improved framework for reconciling work, family, and personal life, but found the country lagging in reducing the persistently large wage gap between men and women.

Existing legal provisions stipulate a maximum workweek of 40 hours, but collective bargaining agreements also provide for a workweek of 38 or 38.5 hours per week for more than half of all employees. Flexible work hour regulations, in place since 2008, allow firms to increase the maximum regular time hours from 40 to 50 per week. In special cases and including overtime, work hours can be raised up to 60 hours per week for a maximum of 24 weeks annually. However, these 24 weeks can only be in eight-week segments, with at least a two-week break between each eight-week period.

The law also requires compulsory time off on weekends and official holidays. An employee must have at least 11 hours off between workdays. Authorities effectively enforced these provisions. Foreign workers in both the formal and informal sectors make up approximately 13 percent of the country’s workforce. Wage and hour standards are equitably enforced across all groups.

The law limits overtime to five hours per week and to 60 hours per year; however, authorities did not enforce these laws and regulations effectively, and some employers exceeded legal limits on compulsory overtime. Collective bargaining agreements can specify higher limits. The law stipulates 50-percent premium pay for overtime.

The Labor Inspectorate regularly enforced mandatory occupational health and safety standards. Workers could file complaints anonymously with the Labor Inspectorate, which could bring suit against the employer on behalf of the employee. However, workers rarely exercised this option and normally relied instead on the nongovernmental worker’s advocacy group, the Chamber of Labor, which filed suits on their behalf.

The law gives workers the right to remove themselves from a job without incurring any prejudice to their careers if they fear serious, immediate danger to life and health, and workers were able to exercise this right in practice.

---

## AZERBAIJAN

Azerbaijan is a republic with a population of approximately nine million and a presidential form of government. Legislative authority is vested in the Milli Majlis (National Assembly). In practice the president dominated the executive, legislative, and judicial branches of government. November 7 parliamentary elections did not meet a number of key standards of the Organization for Security and Cooperation in Europe (OSCE) for democratic elections. According to the final report of the OSCE’s Office of Democratic Institutions and Human Rights (ODIHR), election shortcomings included a deficient candidate registration process, limits on freedom of assembly and expression, a restrictive political environment, unbalanced media coverage of candidates, and problems in vote counting and tabulation. President Ilham Aliyev, the son of former president Heydar Aliyev, was elected to a second term in 2008 in a flawed election; constitutionally mandated presidential term limits were removed in a March 2009 referendum, which was also seriously flawed. Although there were more than 50 political parties, the ruling Yeni Azerbaijan Party, chaired by President Aliyev, dominated the political system. Ethnic Armenian separatists, with Armenia’s support, continued to control most of the Nagorno-Karabakh region of the country and seven surrounding Azerbaijani territories. The Govern-

ment did not exercise any control over developments in those territories. Security forces reported to civilian authorities.

Restrictions on freedom of expression, assembly, and association impaired political party activities and significantly limited citizens' right to change their government through peaceful elections. There were reports that torture and beating of persons in police and military custody resulted in at least seven deaths, and law enforcement officials acted with impunity. Prison conditions were generally harsh and in some cases life threatening. Arbitrary arrest and detention, particularly of individuals considered by the Government to be political opponents, and lengthy pretrial detention continued. The Government continued to imprison persons for political reasons, although authorities released some of these individuals during the year. Pervasive corruption, including in the judiciary and law enforcement, continued. Restrictions and pressure on the media and restrictions on political participation worsened. The Government continued to restrict religious freedom in some cases. Cases of violence against women were also reported. Trafficking in persons remained a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any arbitrary or unlawful killings during the year; however, human rights monitors reported that at least seven persons died in police or military custody.

On March 25, Jeyhun Zarbaliyev died while in the custody of the Nasimi District Police Department #19. Police detained him on March 23. Authorities alleged that Zarbaliyev committed suicide. The Ministry of Internal Affairs indicated that it launched an internal investigation, and as a result three employees were dismissed from the service at the internal affairs agencies, and six employees were found liable by a disciplinary committee. The ministry also reported that the Nasimi District prosecutor's criminal investigation revealed misconduct by police.

On April 14, Vugar Azizov, age 43, died while in Salyan District Police custody. He had been detained on drug use charges. The official cause of death was reported as drug addiction and arterial hemorrhaging.

On July 14, Urkhan Mammadov, age 21, died in a military unit located in the District of Shaki. The Government reported the victim suffered from respiratory distress, coronary failure, and a brain tumor. Mammadov's family sued the Government, alleging that there were minor bruises on Mammadov's body. At year's end, the case was pending in the Ganja City Court of Appeals.

On September 28, police in the Ujar District Police Department reportedly beat Nadir Abdullayev to death for rudely answering an officer's question. Abdullayev's relatives alleged that the victim's extensive injuries proved he had been tortured.

On September 31, Namir Pirmammadov died at Military Unit # 157 in Goranboy District, reportedly after suffering beatings to his head and face.

On November 17, Rauf Huseynov died at the Shirvan City Road Police Department. Officials reported Huseynov had a heart attack while in detention. Huseynov was the chief of the Zardab District Military Conscript Office. No signs of physical torture were reported.

On December 11, police in Jalilabad allegedly beat Gazanfar Seydanov; he died of his injuries at the hospital on the same day.

There were no new developments in the cases of Vagif Suleymanov, Togrul Mammadzade, Rustam Aliyev, or Aga Turabov, all of whom died in police or Justice Ministry custody in 2009.

There were no new developments in the cases of Rashad Haziyyev, Mahammad Rahimov, or Zaur Mammadov, all of whom were found dead in or outside of police stations in 2008.

Abuse in the military was widespread (see section 1.c.) and at times resulted in death.

The Government reported six deaths of military conscripts during 2009, which it attributed to incidents along the line of contact.

Ethnic Armenian separatists, with Armenia's support, continued to control most of the Nagorno-Karabakh region of Azerbaijan and seven surrounding Azerbaijani territories. During the year shootings along the militarized line of contact separating the sides as a result of the Nagorno-Karabakh conflict again resulted in numerous casualties on both sides. The Ministry of Foreign Affairs reported two civilian casualties along the line of contact during 2009. Figures for 2010 were unavailable.

According to the national agency for mine actions, landmines killed one soldier and injured four (two soldiers and two civilians). According to the Azerbaijan National Agency for Mine Action, 64,448 units of explosive ordnance were destroyed.

*b. Disappearance.*—During the year there were no reports of politically motivated disappearances. However, the Government reported that 4,049 Azerbaijani citizens were registered as missing persons at the State Committee as the result of the Nagorno-Karabakh conflict.

The International Committee of the Red Cross (ICRC) continued to process cases of persons missing in connection with the Nagorno-Karabakh conflict and worked with the Government to develop a consolidated list of missing persons. According to the ICRC, during the year the number of persons confirmed missing from both sides of the conflict increased from 4,558 to 4,571. As a result of a framework agreement signed with the Government in 2008, the ICRC collected ante mortem data from 3,189 families since the beginning of the collection in 2008. The information, gathered from families on both sides of the line of contact as well as in Armenia, was meant to assist state commissions in the identification of human remains. In December the ICRC signed a license agreement with the Government to hand over an ante mortem/post mortem database which will allow for the matching of the information collected from the families of missing persons (ante mortem data) with the information collected by forensic experts during future exhumations (post mortem data).

The ICRC continued to pay special attention to prisoners of war and civilian internees (POWs/CI) and conducted visits throughout the year to ensure their protection under international humanitarian law. The ICRC regularly facilitated the exchange of Red Cross messages between POWs/CI and their families to help them reestablish and maintain contact. The Government reported that the ICRC facilitated the repatriation of one prisoner of war and one civilian internee, as well as the return/transfer of the remains of four Azerbaijanis (two military and two civilian) to Azerbaijan during the year, and in exchange, the remains of two individuals were returned to Armenia.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and criminal code prohibit such practices and provide for penalties of up to 10 years' imprisonment; however, there were credible reports that security forces beat detainees to extract confessions and that military personnel physically abused subordinates. During the year domestic human rights monitors reported that 169 persons were tortured in custody by security forces. There were reports that at least seven of these individuals subsequently died. Impunity remained a problem. According to a 2009 report submitted to the UN Committee against Torture by the Human Rights Center of Azerbaijan and the International Federation of Human Rights, authorities also implemented a de facto ban on independent forensic examinations of detainees who claimed mistreatment and delayed access to an attorney.

The military Prosecutor's Office arrested and summoned to the court five members of the military regarding crimes committed on January 28, including taking bribes; insulting; causing injuries or torture of a military man; and abuse of authority, excess, or negligence. The court hearing continued at year's end.

On June 12, three cadets of the High Military Navy School beat fellow cadet Royal Musayev. Musayev was hospitalized. Ombudswoman for Human Rights Elmira Suleymanova appealed to both the deputy prosecutor general and the military prosecutor to investigate and bring the perpetrators to justice. Neither had initiated an investigation by year's end.

On August 6, human rights monitors in Nakhchivan reported that authorities wrongfully placed Jannet Baghirova in a state mental clinic after Baghirova reportedly violated a ban on street vending. Authorities released Baghirova the same day after receiving numerous complaints.

During the year a local nongovernmental organization (NGO) reported numerous police beatings of persons based on sexual orientation (see section 6).

During the year there was no accountability for the 2008 beating of Mirza Zahidov.

According to the Ministry of Internal Affairs, authorities punished 276 employees for human rights abuses and dismissed 20 from their positions during the year.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh, and some prison conditions were life threatening, despite continuing prison infrastructure improvements.

Overcrowding, inadequate nutrition, lack of heating and ventilation, and poor medical care combined to make the spread of infectious diseases a serious problem. Despite ongoing improvements to prison infrastructure, prisons, which were generally Soviet-era facilities, did not meet international standards. In maximum-secu-

rity facilities, authorities limited physical exercise for prisoners as well as visits by attorneys and family members. There were few opportunities for prisoners to work or receive training. Some pretrial detainees reportedly were held in “separation cells,” which were often located in basements to conceal evidence of physical abuse. Food and sleep reportedly were denied in these cells to elicit confessions.

Local and international monitors continued to report poor conditions at maximum security Qobustan Prison. Authorities began construction of a new facility during the year. In a November 2009 report, the European Committee for the Prevention of Torture (CPT) stated that during a 2008 visit to Qobustan Prison, a prison officer attempted to threaten a prisoner for speaking to the CPT delegation, and it was apparent that authorities had warned certain other prisoners not to complain to the delegation. Nevertheless, the delegation received several credible reports from prisoners of intentional physical abuse and excessive use of force by prison officers.

The Ministry of Internal Affairs reported that during the year, it renovated the following detention facilities: the Counter Trafficking Department and the Police Departments of Khazar, Sabail, Nasimi districts of Baku and Gusar, Goygol, and Lerik districts. The ministry also reported that an additional 20 detention facilities were renovated.

During the year harsh prison conditions resulted in numerous deaths; the Ministry of Justice reported that 106 persons died in detention during the year, a decrease of 19 percent from 2009. The Ministry attributed most deaths to a variety of diseases but reported a substantial decrease in deaths due to tuberculosis, although more inmates died of tuberculosis than from any other disease. The Ministry of Internal Affairs reported one death in its facilities, due to suicide. Authorities dismissed one officer and disciplined two others for negligence in connection with these deaths.

In August 2009, Novruzali Mammadov, a prominent scholar of the ethnic minority Talysh group and former editor in chief of the Talysh Sedo newspaper, died in the Ministry of Justice medical treatment facility. The Ministry reported that he died of a stroke, but family members and local human rights defenders believed he had not received appropriate medical care. Mammadov’s widow sued the Ministry of Justice and submitted Mammadov’s case to the European Court of Human Rights (ECHR) during the year. Some local NGOs believed Mammadov’s arrest was related to his ethnicity and cultural activities.

During the year there was no investigation into the 2008 death of Arif Aslanov while in Ministry of Justice custody.

The Ministry of Justice reported treating 497 prisoners for drug-resistant tuberculosis during the year. The Government reported that the other major causes of death among prisoners and detainees were cancer, myocardial infarction, hepatic cirrhosis, and strokes.

A joint government-human rights community prison monitoring group was able to gain access to prisons only with prior notification to the Penitentiary Service. During the year the group reportedly experienced difficulty in obtaining permission to access facilities, even with prior notification. In 2009 the group visited numerous detention facilities, advocated for better medical conditions in prisons, arranged for more telephones to be installed in prison facilities, donated books to prison facilities, and provided legal assistance to 47 prisoners.

Men and women were held together in pretrial detention facilities; however, all women were housed in a separate prison facility after being sentenced. Minors were also supposed to be held in a separate facility; however, international monitors noted some children were held with adults.

The Government permitted some prison visits by international and local humanitarian and human rights groups, including the ICRC, the CPT, the OSCE, and the Azerbaijan Committee against Torture. As of July 2009, however, the Azerbaijan Committee against Torture was no longer permitted to visit Ministry of Justice facilities without prior notification. The Ministry of Internal Affairs-run pretrial detention centers still allowed the committee immediate access. The ICRC had unobstructed access to the POWs/CIs who were held in connection with the conflict over Nagorno-Karabakh as well as to detainees held in facilities under the authority of the Ministries of Justice, Internal Affairs, and National Security. The Penitentiary Service denied foreign embassies access to prisons outside of consular visits. The missions of some international organizations were still permitted to visit prisons for monitoring purposes.

*d. Arbitrary Arrest or Detention.*—Although the law prohibits arbitrary arrest and detention, the Government generally did not observe these prohibitions in practice, and impunity remained a problem.

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs and the Ministry of National Security are responsible for internal security and report directly to the president. The Ministry of Internal Affairs oversees local police forces and maintains internal civil defense troops. The Ministry of National Security has a separate internal security force.

While security forces were generally able to act with impunity, the Government asserted that it took action against 276 Ministry of Internal Affairs employees for 174 complaints of human rights violations during the year. The Government did not report on its criminal prosecutions but stated that it dismissed 20 officers from the Ministry of Internal Affairs police forces, removed 18 officers from their positions, and administratively disciplined 238 others.

*Arrest Procedures and Treatment While in Detention.*—The law states that persons who are detained, arrested, or accused of a crime should be advised immediately of their rights and the reason for their arrest and accorded due process; however, the Government did not respect these provisions in practice. Arbitrary arrest, often based on spurious charges of resisting the police, remained a problem throughout the year.

The law allows police to detain and question individuals for 48 hours without a warrant; in practice police detained individuals for several days, sometimes weeks, without a warrant. In other instances judges issued ex post facto warrants.

Judges, acting at the instruction of the Prosecutor General's Office or of other executive branch officials, sentenced detainees to jail within hours of their arrest without providing them access to an attorney.

The law provides for access to a lawyer from the time of detention; in practice access to lawyers was poor, particularly outside of Baku. Although entitled to it by law, indigent detainees did not have such access. Authorities often restricted family member visits and withheld information about detainees; days frequently passed before families could obtain any information about detained relatives. There was no formal, functioning bail system; however, individuals were sometimes permitted to vouch for detainees, enabling their conditional release during pretrial investigation. Politically sensitive suspects were at times held incommunicado for several hours or sometimes days while in police custody.

During the year there were numerous instances of violations of arrest and detention procedures.

On November 12, the Sharur police department detained Sabit Aliyev until November 21 without charge. Sabit Aliyev served as an election monitor for his brother, Sakhavat Aliyev, a candidate in the November 7 parliamentary elections; 48 hours is the legal limit of detention without charge. Ahead of release, Sabit Aliyev was required to sign a statement forbidding him to leave the village (see section 3).

On November 19, Bakhtiyar Hajiyeve reported that he had been released after having been detained for over 24 hours without food or water. Hajiyeve, a candidate in the November 7 parliamentary elections, also told Radio Liberty that officials threatened him during his detention and did not allow his family to see him (see section 2.d.).

During the year there were a number of cases of police detaining members of opposition political parties in connection with their attempts to hold peaceful political demonstrations (see section 2.b).

Lengthy pretrial detention of up to 18 months was a serious problem. The prosecutor general routinely extended the initial three-month pretrial detention period permitted by law in successive increments of several months until the Government completed an investigation.

*Amnesty.*—On March 17, President Aliyev issued a pardon for 62 prisoners. Among those pardoned was the editor in chief of Azadlig newspaper, Ganimat Zahid (Zahidov), who had been convicted on charges many international and domestic observers characterized as spurious and politically motivated (see section 2.a.).

*e. Denial of Fair Public Trial.*—Although the law provides for an independent judiciary, in practice, judges did not function independently of the executive branch. The judiciary remained corrupt and inefficient. Verdicts were largely unrelated to the evidence presented during the trial.

The executive branch continued to exert a strong influence over the judiciary. The Ministry of Justice controls the Judicial Legal Council, which administers the examination for judge candidates.

Credible reports indicated that judges and prosecutors took instruction from the presidential administration and the Justice Ministry, particularly in cases of interest to international observers. While judges' salaries steadily increased for several years prior to 2008, there continued to be credible allegations that judges routinely accepted bribes. During the year the ministry reported that the Judicial Council ini-

tiated disciplinary proceedings against 21 judges. The ministry reported that 11 of its employees were subjected to disciplinary actions; two of these cases were sent to the Prosecutor General's Office, resulting in one conviction.

In February 2009 the president issued a decree creating the 2009-13 State Program on Development of the Justice System. The program's objectives included improving legislation and the quality of professional staff training.

On February 26, the Supreme Court dismissed the appeal by Intigam Aliyev, head of the Legal Education Society, regarding the lower court's decision that he insulted the "honor and dignity" of Judge Gazanfar Karimov in a book on disciplinary actions against judges. In June 2009 Aliyev appealed to the ECHR; the case was pending at year's end.

The constitution prohibits a person from being tried and/or sentenced twice for the same crime. On September 29, Sayyara Heydarova, who received a three-year conditional sentence in April 2009 for the same incident for which she was originally jailed in 2005, appealed her conviction to the ECHR, after exhausting national court remedies. The case was pending at year's end.

The Judicial Legal Council continued to coordinate efforts with international organizations to train judges.

On February 4, the Judicial Legal Council issued a decision to dismiss three judges working in Baku courts for negligence. One of the judges, Sudaba Mammadova, had sentenced Azadlig newspaper editor in chief Ganimat Zahid to four years' imprisonment in 2007 on charges that international monitors considered spurious (see section 2.a.).

*Trial Procedures.*—The law provides for public trials except in cases involving state, commercial, or professional secrets or matters involving confidential, personal, or family matters. However, during the year international monitors noted numerous violations of this law in practice.

While the law provides for the presumption of innocence in criminal cases, the right to review evidence, the right of defendants to confront witnesses and present evidence at trial, the right to a court-approved attorney for indigent defendants, and the right of appeal for defendants and prosecutors, these provisions generally were not respected in practice.

International monitors found numerous instances where judges did not inform the accused of their rights or the charges brought against them. Even in cases where the presumption of innocence was not explicitly breached, the practice of having the accused appear in handcuffs inside locked metal cages implicitly did so. In addition, judges often failed to read the verdict publicly, leaving the accused without knowledge of the reasoning behind the judgment.

Jury trials were not used. Foreign and domestic observers usually were allowed to attend trials. The use of small courtrooms with inadequate seating prevented public attendance at some hearings. Information regarding trial times and locations was generally available, although there were some exceptions, particularly in the Court of Grave Crimes.

Although the constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' privileges and rights outweighed those of the defense. Judges reserved the right to remove defense lawyers in civil cases for "good cause." In criminal proceedings, judges may remove defense lawyers because of a conflict of interest or if a defendant requests a change of counsel. In addition, judges often showed preference to prosecutors when assessing motions, oral statements, and evidence submitted by defense counsel.

The law limits representation in criminal cases to members of a government-controlled collegium of lawyers (bar association). Since there were only 768 collegium members, of which only an estimated 415 were practicing, access to licensed legal representation was restricted, particularly outside of Baku.

On August 9, the president signed a decree increasing the number of judges in the country to 600.

The constitution prohibits the use of illegally obtained evidence; however, despite some defendants' claims that testimony was obtained through torture or abuse, no cases based on claims of abuse were dismissed, and there was no independent forensic investigator to determine the occurrence of abuse. Judges often simply ignored claims of police mistreatment. Investigations often focused on obtaining confessions rather than gathering physical evidence against suspects. Serious crimes brought before the courts most often ended in conviction, as judges generally required only a minimal level of proof and collaborated closely with prosecutors. In the rare instances in which judges determined that the evidence presented was not sufficient to convict a defendant, they could return cases to the prosecutor for additional investigations, effectively giving the prosecutors subsequent chances for convictions.

Aside from the Court of Grave Crimes and the Military Court of Grave Crimes, courts often failed to provide translators. Each court is entitled to contract translators during hearings, and such expenses must be covered by the Ministry of Justice.

There were no verbatim transcripts of judicial proceedings; testimony, oral arguments, and judicial decisions were not recorded. Instead the court officer generally took notes that tended to be sparse and decided what, if anything, should be included in the notes. For example, during Eynulla Fatullayev's Court of Appeals trial, which ran from August through the end of the year, Fatullayev argued that the protocol produced by the lower court did not reflect his own words (see section 2.a.).

The country has a military court system with civilian judges. The military court retains original jurisdiction over any case in which crimes related to war or military service are adjudicated.

*Political Prisoners and Detainees.*—Local NGOs maintained that the Government continued to hold political prisoners, although estimates of the number varied. During the year the Government released between 11 and 14 individuals whose imprisonments were considered to have been politically motivated, including six journalists and two bloggers and youth activists (see section 2.a.). At year's end, NGO activists maintained that the Government held between 20 and 46 political prisoners.

Elchin Amiraslanov, Safa Poladov, and Arif Kazimov, who had been listed in the 2005 Council of Europe experts report on political prisoners, remained incarcerated during the year.

Some estimates of the number of political prisoners included persons arrested in 2005 on charges of plotting a coup and subsequently convicted of corruption.

There were no reliable estimates of the number of political detainees. Most political detainees received sentences of between 10 and 15 days in jail, which were often described as "administrative detention" sentences.

The Government generally permitted unrestricted access to alleged political prisoners by international humanitarian organizations such as the ICRC as well as UN representatives.

*Regional Human Rights Court Decisions.*—Citizens have the right to appeal court decisions on human rights cases to the ECHR within six months of the first Supreme Court ruling on a case. Citizens continued to exercise this right frequently. At year's end there were approximately 100 cases involving the country awaiting action by the ECHR.

According to the ECHR Web site, during the year it issued 18 decisions in favor of Azerbaijani citizens. According to news agency APA, Azerbaijani citizens applied mostly for protection of property rights (nine cases), protection of freedoms and security rights (eight cases), and fair hearing (four cases).

On April 22, the ECHR ruled that the imprisonment of journalist Eynulla Fatullayev violated his right to freedom of expression and that the Government therefore should immediately release him. As of year's end, the Government had not complied with the ruling (see section 2.a.).

During the year the ECHR ruled in two separate cases that authorities had violated the rights of opposition candidates Nemat Aliyev and Flora Kerimova under the European Convention on Human Rights by declaring progovernment candidates the winners in the 2005 parliamentary elections in their respective districts.

On November 9, the ECHR ruled in favor of former Minister for Economic Development Farhad Aliyev, who had challenged the length of his pretrial detention. The court awarded him 16,000 euros (\$21,400) for nonmaterial damage and 25,000 euros (\$33,500) for legal expenses. At year's end, another case submitted by Aliyev regarding his corruption conviction remained pending; he was arrested in 2005 on coup plotting charges but convicted on corruption charges. On November 9, Eldar Salayev, who was detained in the Aliyev case, also won a judgment from the ECHR for excessively long detention.

There were seven cases during the year involving property rights: one case, *Safarova v. Azerbaijan*, involved a dispute regarding a police station located on Safarova's property. The remaining six property cases involved internally displaced persons squatting in the apartment of the legal owner.

*Civil Judicial Procedures and Remedies.*—The law does not provide for an independent and impartial jury in civil matters. District courts have jurisdiction over civil matters in their first hearing; appeals are addressed by the Court of Appeals and then by the Supreme Court. Citizens have the right to bring lawsuits seeking damages for, or cessation of, human rights violations. As with criminal trials, all

citizens have the right to appeal to the ECHR within six months of the first Supreme Court ruling on their case.

*Property Restitution.*—NGOs reported that the laws governing eminent domain were sufficient. However, in practice these laws were not respected. Domestic monitors reported that the number of property rights complaints they received continued to rise, compared with previous years. NGOs further reported that the Government did not rigorously enforce its own expropriation laws, especially outside of Baku. These NGOs reported that citizens did not trust the country's court system and were reluctant to pursue compensation claims. In 2009 the Baku Executive Authority announced its plan to redevelop a section of the downtown area running from Heydar Aliyev Palace towards Azerbaijan Drama Theater. Residents of two main streets (Fuzuli and Shamsi Badalbeyli) were notified that they had to vacate their homes, for which they would be compensated at AZN 1,500 (\$1,830) per 11 square feet. Human rights defenders reported that water, electricity, and gas were shut off in the buildings to force occupants to vacate. At year's end, residents remained dissatisfied, and tensions with local authorities continued. Most houses had, however, been demolished and fenced off from residents.

During the year six of the 18 cases on which the ECHR ruled involved property rights (see section 1.e).

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary invasions of privacy and monitoring of correspondence and other private communications; the Government did not respect these legal prohibitions in practice.

The constitution allows for searches of residences only with a court order or in cases specifically provided by law; however, authorities often conducted searches without warrants. It was widely believed that the Ministry of National Security and the Ministry of Internal Affairs monitored telephone and Internet communications, particularly those of foreigners, prominent political and business figures, and persons engaged in international communication. In one such incident in 2009, the Ministry of National Security identified and questioned many of the 43 persons who voted via text message for the Armenian entry into the annual Eurovision song contest. After an investigation, the European Broadcasting Union, which ran the contest, decided not to sanction the country's public television channel but changed its rules so that, in the future, the television company that broadcasts the program will be responsible for the actions of the telephone companies with which it works.

Police continued to intimidate and harass family members of suspected criminals.

Military service is universal for all men age 18 to 35. Waivers exist for physical reasons such as poor eyesight. There was a widespread belief that a waiver from military service could be purchased. Citizens also believed that assignments to easier military duties could be bought. The constitution provides alternative service for conscientious objectors; however, the law on military service provided no clear implementation mechanism. Some chose to go to jail rather than serve in the military.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press and specifically prohibits press censorship; however, the Government often did not respect these rights in practice. During the year the Government released six journalists and two bloggers, but limited media independence remained a problem.

In September the international NGO Article 19 reported that freedom of expression had "significantly deteriorated" in the country since 2005 for journalists, activists, and ordinary citizens. Article 19 found that self-censorship had become "pervasive" and that many civil society and political party activists felt that they were living in an environment increasingly hostile to freedom of expression. The international NGO International Crisis Group stated that "the absence of a free and constructive exchange of information and ideas breeds an atmosphere of distrust and resentment." Nevertheless, many opposition parties continued to publish newspapers, and human rights activists were mostly able to conduct their work without fear of reprisal.

On October 9, police raided the office of the proreform youth movement Dalga, evicting members from the premises. Dalga closed its offices on October 11. The raid reportedly took place in response to Dalga members' publicly wearing T-shirts depicting democratic reformer Mammad Emin Rasulzade, the president of the first Azerbaijan Democratic Republic in 1918-1920.

In 2009 the Government amended the law on mass media to make it easier for the Government to close a publication.

A number of opposition and independent media outlets operated during the year. The print media expressed a wide variety of views on government policies, although objective, professional reporting was rare. The broadcast media adhered almost exclusively to a progovernment line in their news coverage.

Most print outlets in the country were organs of the ruling party, opposition parties, or were thought to be connected to prominent government officials. Newspaper circulation rates, both government and opposition, were low, not surpassing 5,000 in most cases. Many newspapers were circulated only in the capital. There were eight national television stations and 14 regional outlets. There were 11 national radio broadcasters. The Government prohibited Voice of America, Radio Free Europe/Radio Liberty, and the BBC from broadcasting on national FM frequencies and national television. Without these international broadcasters, the public did not have access to unbiased news on any widely available broadcast media. There also were several national state-owned newspapers and numerous newspapers funded by city or district-level officials.

On July 22, National Press Day, President Aliyev allocated AZN 20,000 (\$24,390) to each of 32 newspapers. The group of 32 newspapers included those associated with the Government and with the opposition.

On August 1, the publisher of Azadliq, one of two major opposition daily newspapers, barred Azadliq employees from printing activities for two days because of a reported AZN 16,000 (\$19,510) debt owed to the publisher. Press reports of the incident stated that the editor in chief, Qanimat Zahid, characterized this demand for payment as government pressure and taking back its previous financial aid.

Some private television stations operated, but independent media monitoring found their programs to be biased in favor of the ruling party. ANS Television, the audience leader, was generally regarded as a source of relatively balanced news coverage prior to its temporary closure by the National Television and Radio Council (NTRC) in 2006. However, most media monitors believed ANS had since adopted a more cautious, self-censored approach to news coverage, often broadcasting the same news and news angles as government-sponsored media. In an August ANS analytical program, journalist Mirshahin Agayev criticized imprisoned journalist Eynulla Fatullayev and disparaged civil society and opposition groups for advocating his release. Many observers believed the program was ordered by the Government and demonstrated the decline in the broadcaster's independence.

The OSCE/ODIHR's media monitoring concluded that "all monitored television channels devoted a considerable portion of their coverage to state authorities and their activities. Progovernment candidates gained an advantage prior to the commencement of the official campaign period as their competitors received hardly any news coverage on the monitored television channels."

During the year the Government released six journalists; however, two remained imprisoned or were jailed during the year on criminal convictions for libel and other charges supposedly unrelated to their work. International and local commentators believed that the Government targeted the journalists due to their criticism of government figures and policies.

On March 17, the Government released Ganimat Zahid, editor in chief of Azadliq newspaper after a presidential pardon. Zahid had been convicted of hooliganism and inflicting minor bodily harm in 2007. International and domestic observers considered his imprisonment to be politically motivated.

On July 6, the Qarabagh District Court sentenced Eynulla Fatullayev to two years and six months of imprisonment for heroin possession. At the time of the ruling, Fatullayev was serving an eight-year, six-month prison sentence on charges of supporting terrorism, inciting ethnic hatred, and tax evasion. International and domestic observers considered his imprisonment politically motivated. The OSCE representative on media freedom called the drug charge "highly improbable." Local human rights defenders believed the drug case was brought to keep Fatullayev imprisoned in anticipation of an ECHR ruling exonerating him on the previous charges. On April 22, the ECHR ordered Fatullayev's immediate release and awarded him compensation. The Government appealed the decision to the Grand Chamber of the ECHR, which on October 4 refused to hear the case. On November 5, the Court of Appeals held a hearing remanding Fatullayev into detention pending his appeal hearing on the drug conviction. On November 11, the Plenum of the Supreme Court formally absolved Fatullayev of the incitement and libel charges but increased his tax evasion sentence to two years, six months—essentially time served. Fatullayev remained in detention pending the appeal of his drug conviction at year's end.

On November 2, the Gubadly District Court sentenced Guzgu newspaper correspondent Kamran Bayaliyev (Kamran Sekhavet) to one year of corrective labor for hooliganism and inflicting intentional minor bodily injuries. The Institute for Re-

porters' Freedom and Safety (IRFS) considered this sentence to be retribution for articles Bayaliyev published in 2009 criticizing local authorities in Jeyranbatan for alleged corruption. At the end of the year, the case had moved to the Sumqayit Court of Appeals.

A number of journalists who criticized government officials in the course of their work were subjected to harassment, threats, and acts of physical violence that appeared to be connected to their criticism of the Government or public officials. The Government did not hold perpetrators accountable. According to Reporters without Borders, independent and opposition journalists were under constant pressure because of their work.

A media-monitoring NGO reported that during the year there were 106 incidents involving verbal or physical assaults on journalists, compared with 51 such cases in 2009.

For example, according to Human Rights Watch, on May 15, authorities arrested Seymur Haziev, a reporter for Azadlig and Bizim Yol, for taking part in a rally calling for the lifting of restrictions on freedom of assembly in advance of the November parliamentary elections. Police took Haziev, along with 30 others, to a police station and interrogated him without allowing him access to a lawyer. Haziev was charged with resisting arrest and sentenced to seven days' imprisonment by a Baku court. Haziev told Human Rights Watch that, on May 17, he was taken from his cell and escorted to a room where two men kicked and hit him periodically during a one-hour interrogation in which they asked Haziev why he wrote articles critical of President Ilham Aliyev and the Government. On May 22, Haziev was released. After the incident, Haziev filed a complaint against the police. At year's end the case was still pending.

On July 28, Yeni Musavat reported that unidentified men attacked reporters Elmin Badalov and Anar Gerayli while they were taking photographs for an investigative story about luxury villas on the outskirts of Baku that allegedly belonged to Transportation Minister Ziya Mammadov. While they were taking pictures of the villa, three cars pulled up and six men got out, beat the two reporters, and threatened their lives. The unidentified men held the two journalists for three hours around the premises and then released them after deleting the photographs. Immediately after reporting the incident, Yeni Musavat lodged a complaint with the police. However, at year's end, the police had yet to summon either victim.

The editor in chief of Komanda newspaper, Rashad Ergun, claimed that, on August 22, soccer player Mahmud Gurbanov assaulted him in retaliation for an August 15 article he wrote that was critical of Gurbanov. Ergun sued Gurbanov, and the case was under investigation at year's end.

In January 2009 police assaulted Afgan Mukhtarli, a reporter for the opposition newspaper Yeni Musavat. According to Human Rights Watch, Mukhtarli alleged that the Yasamal District police chief ordered the attack. Mukhtarli had previously written articles criticizing the police chief.

In April 2009 Yasamal District police beat three employees of ANS Television as they were filming the controversial destruction of a mosque. The employees received minor injuries, and their equipment was destroyed. Police eventually compensated the channel for the equipment but did not return the video of the incident.

Police physically assaulted three journalists, Elchin Hasanov, Afgan Mukhtarli, and Natig Adilov, in front of Police Department No. 39 in Sabail District in May 2009. The journalists were reporting on the detention of a group of youth who had protested against the celebration of "flower day" and the absence of any official mourning for the victims of the mass killing at the Azerbaijan State Oil Academy. On April 2, the Sabail District Court dismissed the journalists' complaint against the police. The journalists filed an appeal, which was heard on November 2 by the Court of Appeals. During the hearing, a video was shown with footage of police assaulting the journalists. Defense witness Rufet Alakberov testified that the police officers who assaulted the journalists were not employees of the Sabail District Police Office. After deliberation, the judge dismissed the lawsuit.

In September 2009, unknown assailants beat the editor in chief of Ayan newspaper, Javid Alasgaroglu, and threw him into a trash dump. Alasgaroglu sustained serious injuries and was hospitalized. The victim's family attributed the incident to Alasgaroglu's professional activity. The newspaper had published several critical articles about government officials.

Emin Huseynov, a reporter who was chair of the IRFS, was hospitalized after being beaten by police in 2008 while covering the breaking up of a public meeting by police. He later filed suit against the Ministry of Internal Affairs, charging that no legal action had been taken against his attackers.

There were no indications that authorities held any police officers accountable for physical assaults on journalists in recent years.

Serious concerns remained about impunity in the 2005 killing of Elmar Huseynov. Media and human rights activists continued to call on the Government to investigate the case fully. Those highlighting the lack of accountability for the killing during the year included the OSCE's representative for freedom of the media, the International Crisis Group, and a group of nine international NGOs. Imprisoned journalist Eynulla Fatullayev issued an appeal in March asserting that a senior National Security Ministry official had organized Huseynov's murder, that the ministry had attempted to block his and others' independent investigation of the murder, and that the ministry had him arrested for having continued to investigate the killing. Within weeks of Fatullayev's statement, his father reported a death threat made against both of them if they did not "shut up once and for all." The Committee to Protect Journalists concluded that Fatullayev's imprisonment was in reprisal for his extensive coverage of Huseynov's unsolved murder.

In February the Milli Majlis amended two laws to implement several changes approved in the March 2009 constitutional referendum that limit media freedom. These included a prohibition on videotaping or photographing anyone without their permission. The authorities implemented this prohibition selectively. For example, on July 20, citing the law, Presidential Administration guards harassed a group of journalists who were photographing and filming a protest in Sabirabad by residents unhappy with the Government response to flood damage in the region. The guards detained IRFS and Turan Information Agency employees Javid Gurbanov and Mehman Huseynov, Radio Liberty correspondent Abbas Atilay, and Bizim Yol newspaper correspondent Haji Zeynalov. The guards seized the journalists' videotape, erased images of administration buildings, and issued a warning that they were not authorized to film or photograph the administration's premises. In contrast, authorities took no action to apply the law when Lider Television broadcast a video of an opposition newspaper editor engaged in a sexually explicit act with a woman on October 25, weeks away from the November parliamentary elections. A nationwide television station, Lider was considered to be closely aligned with the Government.

Although pro-opposition journalists openly criticized government officials, a combination of intimidation and a desire not to alienate potential advertisers led most independent journalists and editors to practice some degree of self-censorship.

Suspect lawsuits were also used to intimidate journalists. For example, during the year there were 40 civil cases against media. Lawsuits were filed against the following media outlets and journalists: six cases were brought against opposition newspaper Yeni Musavat, three against its deputy editor in chief Azar Ayxan, and one against its editor in chief Rauf Arifoglu. Three lawsuits were filed against Azadliq and its reporter Alovzat Osmanly. Two lawsuits were filed against Bizim Yol news and its correspondent Natig Jadaly. Four lawsuits were brought against Gundelik Baki newspaper and one against Hurriyet newspaper. Lawsuits were also filed against Olke newspaper, its editor in chief Rafael Bejanov, and its reporters Elmidar Bayramov, Nijat Daglar, Nasimi Sharafkhanly, and Zulfugar Huseynli. Six lawsuits were filed against Khural newspaper's editor in chief Avaz Zeynally and deputy editor in chief Malahat Zeynally. Lawsuits also were brought against Dunya Kriminaly newspaper, Trend Information Agency, Milletim newspaper's Faramaz Novruzoglu, P.S. Nota newspaper, editor in chief Saradar Alibayli, and Tribuna Information Agency.

These 40 civil lawsuits were filed by Ramiz Mehdiyev, the head of the Presidential Administration; the Text-book Evaluation Council of the Ministry of Education; Mahin Orujova, the director of Children Music School # 3; Elsevar Akhundov, a military unit commander; Ikhtiyar Shirin, a former prosecutor general; Rasim Musayev, the chief of the Ganja City Police Department; Jalal Aliyev, a member of parliament; Novruzali Aslanov, a member of parliament; the head of the Binagadi Municipality; imprisoned editor in chief of Ideal newspaper Nazim Guliyev; Dilshad Amirova, an owner of the Bina Shopping Center; Nina Ahmadovam, a citizen; and Singer Karim. Anar Mammadov, son of Minister of Transportation Ziya Mammadov, filed a lawsuit against Azadliq and Yeni Musavat newspapers demanding each be fined AZN 500,000 (\$609,760).

During the year a total of AZN 37,500 (\$45,730) in fines were levied against media organizations. The highest amounts were fines against the Tribuna Agency, an independent on-line agency known for criticizing low- to mid-level officials, for AZN 20,000 (\$24,390) and Khural newspaper, a weekly paper known for its pan-Turkish ideas, for AZN 10,000 (\$12,195).

The law allows for large fines and up to three years' imprisonment for persons convicted of libel. Administration officials stated publicly in April 2009 that this provision would be removed from the criminal code, and subsequently courts overturned the conviction of two journalists for libel. However, the Government's statements notwithstanding, libel remains a criminal offense.

In previous years the Government used defamation suits and the threat of exorbitantly high fines for libel to intimidate and harass the media. Fine payments due from previous defamation suits threatened the financial viability of the print media and journalists. Government reliance on measures that hampered the printing and distribution of independent newspapers and magazines remained largely unchanged.

Most newspapers and magazines were printed in government publishing houses or on private printing presses owned by individuals who had connections with government officials. The majority of independent and opposition newspapers remained in precarious financial situations; they continued to have problems paying wages, taxes, and periodic court fines. Most relied on political parties or influential sponsors for financing. According to prominent journalists, government representatives directly or indirectly dissuaded companies and institutions from placing advertising in opposition media. As a result, paid advertising was largely absent in opposition media.

The Government prohibited some state libraries from subscribing to opposition newspapers, prohibited state businesses from buying advertising in opposition newspapers, and pressured private business to do the same. Political commentators noted this practice reduced the wages that opposition and independent outlets could pay to their journalists, allowing progovernment outlets to hire away quality staff. In addition, international media monitoring reports indicated that intimidation by officials of the Ministry of Taxes further limited the independence of the media.

There were no restrictions on systems to receive satellite broadcasts by foreign stations, but the NTRC continued to impose a general requirement that local, privately owned television and radio stations not rebroadcast entire news programs of foreign origin.

In October, nine international NGOs reported that the environment for journalists in the regions was more restrictive than in Baku. They highlighted the situation in the exclave of Nakhchivan as especially dangerous. In 2009, Nakhchivan- and Baku-based journalists reported that authorities in Nakhchivan continued to block distribution of opposition newspapers.

*Internet Freedom.*—The Government generally did not restrict access to the Internet, but it required Internet service providers to be licensed and have formal agreements with the Ministry of Communications and Information Technologies. The Ministry of Communication and Information Technologies reported that 45 percent of the population used the Internet; broadband access reached 12 percent of the population, and there were 14 computers per 100 inhabitants.

There was no evidence to confirm the widely held belief that the Government monitored Internet traffic of foreign businesses and opposition leaders. On October 8, users of the satirical [www.eqreb.com](http://www.eqreb.com) Web site could access it only through proxy servers outside of the country, since it was blocked from direct access within the country. A local NGO monitoring the media situation in the country assessed the move as government censorship.

Domestic observers stated that during the year, the Government did not block Web sites throughout the majority of the country. However, the same observers indicated that Web sites were blocked routinely in the exclave of Nakhchivan.

On November 18, authorities suspended the sentence of youth activist and blogger Adnan Hajizade and released him on parole. On November 19, a court ordered the release of youth activist and blogger Emin Milli under the same conditions. Police had arrested Hajizade and Milli in July 2009 when they complained to police about an attack on them by two men. Hajizadeh and Milli were sentenced to prison terms of 24 months and 30 months, respectively, in November 2009.

*Academic Freedom and Cultural Events.*—The Government on occasion restricted academic freedom.

Some domestic observers raised concerns about the Government's selection of participants for state-sponsored study abroad programs. The Government maintained that its selection process was transparent and that political affiliation was not a factor.

Opposition party members continued to report difficulties in finding jobs teaching at schools and universities. Most known opposition party members teaching in state educational institutions had been fired in previous years.

On January 19, the State Oil Academy dismissed student Elmin Badalov, who also worked as a journalist for the Polygon information agency. At the end of 2009 Badalov had published an article regarding bribery cases and financial fraud at the academy. On April 5, Badalov filed a lawsuit challenging his dismissal and appealed to the Court of Appeals on May 5. As of the end of the year, the case was pending at the Supreme Court.

During the fall parliamentary election campaign, students reported pressure from the administration to avoid cooperation with independent election monitoring organizations as well as pressure to vote for the Government's candidate. During the 2008 presidential election campaign, students at several universities reported pressure from deans to avoid cooperation with an independent NGO monitoring the election. Some students reported being directed by the deans of their faculties to change voter registration from their home districts so that they would have to vote at the university. Others reported that universities required students to attend pro-presidential rallies, providing transportation and threatening students with expulsion if they did not attend. In another case students were threatened with expulsion from their dormitory if they participated in election monitoring.

There were no reports of government restrictions on cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government severely restricted this right in practice. Although the law stipulates that groups may peacefully assemble only with prior notification of relevant government bodies, the Government continued to interpret this provision as a requirement for advance permission from local officials.

During the year the Government continued to require all rallies to be preapproved and held at designated locations far removed from city centers, a stipulation that most political parties and NGOs found unacceptable. Authorities throughout the country routinely refused such requests.

The Government denied opposition, NGO, religious freedom advocates, and others' requests to hold rallies on multiple occasions and broke up several unsanctioned pickets and demonstrations, often detaining participants for several hours. Many of these detentions were arbitrary (see section 1.d.)

For example, on May 15, the opposition Azadliq coalition held an unsanctioned rally in Baku. Police detained 10 participants from the opposition: five protesters for seven days and five for five days.

On June 5, the Azadliq coalition held another unsanctioned rally in Baku. After breaking it up, police briefly detained 19 participants.

On June 12, Musavat and the Popular Front Party (PFP) held an unsanctioned demonstration in Baku. Police detained 32 persons including activists Ramiz Khalilov (Musavat) and Abulfaz Gurbanly (PFP) for 10 days each. Police also issued official warnings to Arif Hajily and Tofiq Yagublu and fined Tural Abbasly and Ahad Mammadli each AZN 25 (\$30).

On June 19, the Azadliq coalition again held an unauthorized protest in Baku. Police detained 83 participants. The police later released 79, but four activists were detained for several days.

On July 3, opposition parties held a united unsanctioned demonstration in Baku. Police detained approximately 70 participants. Prior to the demonstration, police detained three opposition activists at their homes: Tural Abbasly, Yalchin Abbasly, and Ahad Mammadli. The court issued them official warnings and fined them each AZN 25 (\$30). Police also detained nine other opposition activists prior to the protest, including Fuad Gahramanly, Razi Nurullayev, Nuraddin Mammadli, and Abulfaz Gurbanly. Police took 10 or 11 protesters to Sabayil District Police Station #8 and released them that evening. Police drove the remaining protesters, nearly 60 individuals, 40 miles away from Baku to Gobustan and inexplicably abandoned them in an isolated area.

On July 31, opposition parties PFP, Classic Popular Front, and Musavat held an unsanctioned demonstration in Baku; police detained more than 100 protesters. Police issued warnings to 10 protesters; seven were detained for 10 days, one for eight days, and two for seven days. Police fined seven persons AZN 20-25 (\$25-30). Police bused 20 protesters 40 miles away from Baku to Gobustan and dropped the protesters there, leaving them to find their own ways back to the city.

On August 9, Turan News Agency reported that the Baku Mayor's Office refused to authorize a rally of unregistered NGOs. The NGOs requested permission to rally on a square near the Ministry of Justice on August 4. The mayor's office refused on the grounds that the rally would disturb people resting in the square and demonstrating near state facilities is not allowed.

Prior to October 10, the PFP-Musavat Block applied to the Baku Mayor's Office for permission to hold a rally on October 10 in support of freedom of assembly. Reportedly, Chairman of the Central Election Commission Mazahir Panahov said that the assembly was in violation of the election code because it was outside the designated campaign period. The opposition block disagreed with this characterization of its intent but moved the assembly to October 17. The Baku Mayor's Office again withheld permission. In the run up to parliamentary elections, the PFP-Musavat Block did not hold any unauthorized rallies.

On December 9, Minister of Education Misir Mardanov announced that girls were not allowed to wear hijab (headscarf) at school. News organizations reported that during a December 10 rally attended by hundreds protesting this ban outside of the Ministry of Education, police arrested 12 demonstrators. On December 15, approximately 100 persons in the Masalli region reportedly participated in a rally opposing the hijab ban. Two persons reportedly were arrested. On December 16, in Nardaran village, several thousand protested the ban.

Yusif Alikramoglu, Hajikuli Hashimov, and Azer Sarjanov were arrested for breaking a window at a school in Baku to protest the ban on hijab at schools. On December 23 they were released. The accused said they had been arrested on a framed-up charge, reported the Centre for Protection of Religion.

*Freedom of Association.*—The law provides for freedom of association, although in practice the Government's restriction of this right tightened during the year. A number of provisions allow the Government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register either with the Justice Ministry or the State Committee on Work with Religious Associations. Although the law requires the Government to act on registration applications within 30 days of receipt, vague, cumbersome, and non-transparent registration procedures continued to result in long delays that effectively limited citizens' right to associate.

In June 2009 the Milli Majlis amended the law on NGOs to add new restrictions on freedom of association. While officials removed the most troublesome provisions of the first draft of the amended law, the new amendments contained some restrictions, including requiring deputies of NGO branches to be Azerbaijani citizens and requiring foreign NGOs to sign an agreement with the Government before opening an office. In December 2009 President Aliyev issued a decree making further changes to the law on NGOs. International and local NGOs were concerned by a new provision in this decree that requires NGOs to register all grants they receive with the Ministry of Justice.

Some NGOs estimated that approximately 1,000 such groups remained unregistered at year's end.

For example, the NGO Election Monitoring Center (EMC), which the ministry deregistered in 2008, attempted to register as a new organization, the Election Monitoring and Democracy Studies Center (EMDS) that December. The organization was denied registration on what observers believed to be unsubstantial grounds. In November 2009 the EMC appealed to the ECHR; the case remained pending at year's end. On February 2, EMDS appealed its registration application to the Supreme Court. On August 13, the Supreme Court returned the case to the Court of Appeals, where it remained at year's end.

Human Rights Watch reported that the Ministry of Justice denied registration to the Television and Alternative Media Development Center three times during the year.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government limited freedom of movement at times, particularly for internally displaced persons (IDPs).

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The State Migration Service was responsible for all refugee matters, including refugee status determination. International NGOs continued to report that this department, created in 2007, remained inefficient and did not operate transparently.

Since 2006 the Government has prevented the foreign travel of PFP chairman Ali Kerimli, by refusing to renew his passport, citing an outstanding civil complaint against him from 1994. The Government had renewed Kerimli's passport on several occasions in the intervening years without objection. Kerimli filed an appeal on the decision, which was rejected at all levels of the court system. Kerimli submitted his case to the ECHR in January 2009 and was awaiting a judgment at year's end.

After the parliamentary elections, the Government prevented former candidate and democracy activist Bakhtiyar Hajiyev from crossing the border into Georgia to pursue graduate studies, citing his obligation to complete mandatory military service. Observers believed that the authorities did so because of Hajiyev's activism, which included placing evidence of electoral fraud on YouTube.

The law requires men of draft age to register with military officials before traveling abroad. Those pursuing higher education may request a deferment to complete their studies. The law on military service does not stipulate deferments for undergraduate or graduate studies although military draft boards commonly granted such deferments upon presenting annual proof of enrollment. Some travel restrictions were placed on military personnel with access to national security information. Citizens charged with or convicted of criminal offenses and given suspended sentences were not permitted to travel abroad. Officials regularly extracted bribes from individuals who applied for passports.

While official government policy allows citizens of ethnic Armenian descent to travel, low-level officials reportedly often requested bribes or harassed ethnic Armenians who applied for passports. Some Armenians of mixed descent reported to a local NGO that they had problems with officials in the passport and registration department when applying for identification cards. Applicants with Azerbaijani surnames who applied encountered no problems except for having to pay bribes.

Since his 2004 conviction for participating in postelection demonstrations in 2003, the Government prevented the former imam of the Juma Mosque in Baku, Ilgar Ibrahimoglu, from traveling outside the country. At the close of the year, his status remained unchanged.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons.*—As of year's end, the UNHCR reported that there were 592,860 registered IDPs in the country, representing 151,085 families. The vast majority fled their homes between 1988 and 1993 as a result of the Nagorno-Karabakh conflict.

IDPs were required to register their place of residence with authorities and could live only in approved areas. This so-called "propiska" system, a carryover from the Soviet era, was imposed mainly on persons who were forced from their homes after ethnic Armenian separatists took control of the Nagorno-Karabakh region and adjacent territories in the western part of Azerbaijan. The Government asserted that registration was needed to keep track of IDPs to provide them with assistance. According to the Internal Displacement Monitoring Center, many IDPs who resided in Baku were unable to register their residence, gain access to formal employment, government assistance, health care, education, or pensions and had difficulty buying property.

The UNHCR reported that during the year, the Government built three new IDP settlements (one rural and two urban) in Aghdam, Yevlakh, and Goranboy. During the last year 7,047 IDPs (1566 families) were relocated to these settlements. By the end of the year, the total number of new settlements was 67 for 20,000 families comprising 90,000 individuals.

The State IDP and Refugee Committee reported that on February 27, in Gabala 155 IDP families were re-housed in two newly constructed buildings. It reported that on November 10, in Yevlakh 612 IDP families were re-housed in a new building. It reported that on November 11, in Aghdam Region, a new settlement opened for 689 IDP families. Additionally, 70 IDP families in Baku were relocated to a five-story building in Absheron Region. The committee moved 40 IDP families, temporarily settled in Zaraghan village of Gabala Region, to a new apartment. In the area of Goranboy Region the construction of five-story buildings for 164 IDP families and a school building for 360 pupils were completed.

During the year 2,360 IDPs were provided with permanent jobs, and 4,458 individuals received seasonal jobs; 123 were eligible for unemployment assistance. The committee enrolled 363 individuals in vocational training, and 312 were involved in payable public activities. An additional 97 various community microprojects were completed by the Social Development Fund for IDPs.

The State IDP and Refugee Committee reported its 2010 budget was AZN 340 million (\$414.6 million), up from 307.8 million AZN in 2009 (\$375.4 million). IDPs received monthly food subsidies and heating fuel subsidies in the winter.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to some refugees through the Refugee Status Determination Department. While the department progressed in many ways, improvement was offset by a series of court rulings on refugee status determinations that rejected all appeals of negative asylum decisions.

In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. As of December 31, the UNHCR had 1965 individuals registered with them: 1,891 refugees and 74 asylum seekers, a decrease of 9 percent from

2009. The State Migration Service reported that it had granted 69 individuals refugee status during the year. According to the UNHCR, most of these individuals were ethnic Azerbaijanis from Iran. The Government did not provide any notable assistance to government- or UNHCR-recognized refugees or asylum seekers.

The two largest groups among the refugees are the Chechens and Afghans. The Government did not recognize most refugees as refugees under the 1951 convention. As a result, the UNHCR continued to carry out all protection and assistance functions for populations of concern in the country.

Despite UNHCR recognition of Chechens and Afghans as populations of concern, the laws on residence, registration, and the status of refugees and IDPs do not apply to these populations. They are required to register with police and are not entitled to residence permits. Chechens are permitted to enter the country visa-free under a bilateral passport system with Russia.

According to the UNHCR, 82 Chechens sought and were granted temporary protection during 2009, a 40 percent decrease from the previous year. All refugee children registered with the UNHCR were allowed to attend public schools. However, because Chechens and Afghans did not have legal resident status in the country, they were not permitted access to public medical services. The UNHCR provided basic medical assistance with the support of foreign donors.

During 2009, 100 Afghans arrived and registered with the UNHCR, a decrease from previous years. Afghans complained of police visits to their homes, with the implied threat of deportation. There were no reports of forced return of Afghans. Afghan community leaders reported that the UNHCR denied protection to 50 persons during the year. In addition, they reported that UNHCR benefits were not enough to support their families, and that without legal status in the country it was impossible to find work.

The Government has no legal mechanism to provide temporary protection to individuals who do not qualify as refugees. However, the Government accepted the UNHCR identification cards issued to Chechens and Afghans.

*Stateless Persons.*—Citizenship is derived by birth within the country or from one's parents. The law provides for the right to apply for stateless status. However, in practice many persons could not obtain the documentation required for the application and therefore remained formally unrecognized. The law on citizenship was amended in 2008 to make it harder for foreigners and stateless persons to obtain citizenship.

According to UNHCR statistics, the Government reported there were 2,078 stateless persons in the country at the end of 2009. The vast majority of these persons were ethnic Azeris from Georgia or Iran. NGOs estimated there were many other undocumented stateless persons, with estimates ranging from hundreds to tens of thousands, among them Meskhetian Turks, whose status was not formally recognized and who did not possess stateless certificates.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully; however, the Government continued to restrict this right in practice by interfering in elections. The law also provides for an independent legislature; however, the Milli Majlis's independence was minimal, and it exercised little legislative initiative independent of the executive branch. Unlike previous elections since the country's independence, no opposition party members obtained seats in the flawed November 7 parliamentary elections.

*Elections and Political Participation.*—On November 7, parliamentary elections held throughout the country included the participation of progovernment and opposition political parties. However, these elections did not meet a number of international standards for a democratic election. According to domestic and international observers, shortcomings included a deficient candidate registration process, constraints on freedom of assembly and expression, a restrictive political environment, imbalanced media coverage of candidates, and unequal treatment of candidates by authorities. The OSCE/ODIHR final report concluded that overall, the elections did not meet a number of key OSCE commitments for democratic elections and important elements of domestic legislation.

In June the Milli Majlis amended the election code with little public debate. Some of the amendments partially addressed concerns raised by the Council of Europe and the OSCE. However, other provisions further shortened the overall election period and the election campaign phase and eliminated limited state funding for candidates. The structure of election commissions at all levels—a longstanding problem—was not made more balanced by the amendments, and concerns remained over

the eligibility of candidates, complaints, appeals procedures, and the equality of the vote.

In the run-up to the November parliamentary elections, the Government limited opposition parties' right to assemble by insisting that such demonstrations and candidate meetings with voters take place far from the center of Baku, often in places difficult to reach via public transportation (see section 2.b.).

Opposition parties and local NGOs reported widespread interference in the candidate registration process. Election officials registered nearly 100 percent of the ruling Yeni Azerbaijan Party candidates, but only 30-40 percent of opposition party candidates. Media monitors concluded that news coverage favoring the ruling Yeni Azerbaijan Party, combined with restrictive interpretations of public assembly laws, created an unlevel playing field for candidates during the official campaign period and exposed citizens to no meaningful political debate. The Central Election Commission (CEC) organized televised roundtables for all candidates, granting each candidate four minutes to present his or her platform and political views.

Authorities accredited a large number of international and domestic observers; however, officials individually registered monitors from EMDS, one of the country's largest domestic observer organizations, and reportedly refused to accredit 40 EMDS monitors without providing a just cause. Although international observers saw domestic monitors in over half of the polling stations visited, precinct election commissions hindered independent domestic and international monitoring. EMDS reported that its observers encountered pressure from local authorities on election day and afterwards, despite a November 6 appeal from the EMDS chairman to the CEC chairman.

International observers negatively rated 11 percent of voting procedures and 32 percent of vote counts in observed polling stations. They found the vote tabulation process insufficiently transparent and frequently inconsistent with procedures. The OSCE final election report also concluded that the CEC and courts generally did not respect due process in reviewing post-election complaints and appeals. The Constitutional Court confirmed the CEC's final election results while cases were still pending and before all legal deadlines for appeals had expired. According to the CEC, voter turnout was just under 50 percent, although most independent observers placed the figure at approximately 20 percent.

In the post-election period, there were reports of pressure on election observers, candidates, and family members.

On November 9, Hafiz Aliyev, brother of EMDS election monitor Jeyhun Aliyev, was fired from his job as a biology teacher. On November 10, Jeyhun Aliyev's father was fired from his job as a history teacher.

On November 8, the chairman of the 103rd election district, Khalif Khudaverdiyev, called EMDS election monitor Imamverdi Valiyev to demand an official letter withdrawing Valiyev's formal complaints of election violations.

One day before the November 7 parliamentary elections, Sakhavat Aliyev (candidate for opposition party Musavat) showed to OSCE long term observers a copy of an unsigned, but otherwise completed, protocol of election results for precinct #3 in his district (Sharur #2), which Radio Liberty's Web site later reported on. After it was reported, his family received four threatening telephone calls, and on November 14, the police detained Sakhavat's younger brother Sabit for seven days without charge. Sabit had served as one of Sakhavat's election observers. On December 10, in the Nakhchivan village of Pusyan, police officers severely beat other Aliyev family members, including Sakhavat's brother, Chapay Aliyev, who sustained a head injury. Police also beat five other members of the family: two female cousins, his sister, and his brother-in-law. During the same incursion, police bulldozed the family shop. The local hospital refused treatment of one of the women who sought help. Ambulances refused to pick up victims. Taxi drivers refused to transport victims to the hospital. Local NGOs reported a police cordon around the village. On or about December 25, the police dissolved the cordon, but at year's end, Chapay Aliyev had still not received medical attention.

On November 22, Mammadgulu Aliyev went on a week-long hunger strike in protest of his and his son Hafiz's firing from their jobs as teachers in Nakhchivan. Mammadgulu Aliyev was the head of Musavat Party's local branch. Aliyev and his son observed the election and linked the loss of their jobs to their drawing attention to the electoral fraud they observed.

The IRFS reported on December 7 that Zulfugar Tagiyev had been fired from a job he had held for 20 years with the Sharur Region Electricity Network Office. IRFS reported that Tagiyev was told he had been fired because he and his family had voted for Sakhavat Aliyev. Tagiyev also alleged that he did not yet have his letter of dismissal, which prevented him from going to court. Tagiyev sought relief

from the Nakhchivan Supreme Assembly (parliament) and the Sharur Region Police Department.

Also on December 7, IRFS reported that the head of the Sharur Region Communications Office had asked for the resignation of Zakir Asgarov, who was an independent election observer.

In December 2009 municipal elections were held throughout the country. Media monitors concluded that all television stations largely ignored the preelection period. Political parties were required to have candidates registered in at least one-half of all municipalities in order to qualify for free airtime during this period, a requirement that only the ruling Yeni Azerbaijan Party met and subsequently refused to use. Opposition parties and local NGOs reported interference in the candidate registration process. Official results showed a turnout of approximately 32 percent, which was low for the country and indicated the general apathy of voters to these elections. Although the CEC announced plans to rerun some races in response to postelection complaints, such elections had not been held by year's end.

In March 2009 authorities held a national referendum on 41 proposed changes to 29 articles of the constitution. The changes included, among other items, the removal of term limits on the presidency and a provision that postpones elections in times of war. Little time was given to the Milli Majlis or the public to discuss the changes sought by the administration. Opposition groups reported widespread harassment, including arrests and detention, while collecting signatures for registration and during the campaign period. Voters lacked the information necessary to make an informed choice on the large number of referendum items.

Balloting procedures on referendum day were flawed and widely considered worse than the 2008 presidential election. Observers also noted significant shortcomings in the counting and tabulation process. Voter turnout was estimated by observers at 43 percent, rather than the official tally of more than 71 percent. This lower figure exceeded the 25 percent threshold needed under the law for referendum to be valid.

In the 2008 presidential election, the final report of the OSCE election observation mission stated that the election indicated that the country had made considerable progress toward meeting its OSCE commitments and other international standards, especially regarding some technical aspects of election administration, but found that the election process did not meet all of these commitments. The period prior to the 2008 election was marred by continued restrictions on freedom of speech and freedom of assembly for the main opposition parties. The main opposition parties boycotted the election, citing these restrictions and problems with the election code, especially provisions limiting their ability to campaign effectively.

The ruling Yeni Azerbaijan Party continued to dominate the political system. Domestic observers reported that membership in the ruling party conferred advantages such as being given preference for public positions. Despite having formed political blocs in advance of the November parliamentary elections, none of the main opposition parties won seats to the Milli Majlis according to the official results.

Members of the opposition were more likely to experience official harassment and arbitrary arrest and detention than other citizens. Regional branch opposition party members reported that local authorities often took actions to prevent routine party activities, such as pressuring restaurant owners not to allow opposition parties to use their facilities for meetings and events. Regional party members often had to conceal the purpose of their gatherings and hold them in remote locations. Opposition party members reported that police often dispersed small gatherings at tea houses and detained participants for questioning. For example, in a northern region, an opposition candidate reported that he was not informed regarding the time that the electoral commission would meet to consider his registration application. Therefore, the commission rejected his application, and he was not there to advocate on his own behalf. There were widespread complaints that an insufficient number of petition sheets were distributed to ensure a candidate made it through the registration process.

Since 2006 opposition parties have had difficulties renting office space; some parties operated out of their leaders' apartments reportedly because landlords were afraid to rent office space to them due to official pressure.

After the November 7 parliamentary elections, there were 19 women in the incoming parliament, up from 14 women in the previous parliament. Several women held senior government positions, including deputy speaker of the Milli Majlis. Hijran Huseynova was the chairwoman of the Committee for Family, Women, and Children Affairs, a ministerial level position. There were no legal restrictions on the participation of women in politics, although traditional social norms limited women's political roles, and they were underrepresented in governmental offices. No woman filled an ExCom (local authority) position.

Minorities such as the Talysh, Avars, Russians, and Jews serve in the Milli Majlis and in government.

*Section 4. Official Corruption and Government Transparency*

The law penalizes corruption by prohibiting bribery; however, there was widespread corruption with impunity throughout society, including in the civil service, government ministries, and the highest levels of government.

The World Bank's worldwide governance indicators reflected that corruption was a severe problem. Transparency International reported some improvement during the year due to the establishment of a financial intelligence unit and improved coordination and cooperation in combating corruption-related violations in the field of state and municipal property management. However, the International Crisis Group reported that there was an increased reliance on corruption by elites "to dominate virtually all aspects of public life."

Criminal cases related to petty corruption were opened during the year, specifically on bribery charges. However, these cases had little or no impact on the prevalence of bribery and petty and grand corruption in the country. In 2009 the Presidential Administration removed from office the appointed head of the Executive Committee of the Nizami District of Baku, Mehbali Aliyev, reportedly due to corruption. No criminal charges had been filed against Aliyev as of the end of the year.

Law enforcement corruption was a problem. Police often levied spurious, informal fines for traffic and other minor violations and extracted protection money from local residents. In previous years, traffic police officers received substantial pay raises to counter corruption; nevertheless, the low wages of other law enforcement officials continued to contribute to police corruption. During the year the ministry reported that it dismissed and brought criminal cases against six police officers: one on bribery charges and five officers on four counts of extortion. The Ministry of Justice reported that it called to account 220 justice officials and dismissed 26 employees from various Ministry of Justice facilities.

The Ministry of Internal Affairs reported that it received 174 complaints about its actions with accusations of violations of human rights and liberties, including: 51 cases of rude treatment, 38 cases of groundless detention, 46 instances of improperly issuing a police summons, 22 violations of drivers' rights, five cases of forced criminal accountability with no grounds, three violations of rights of foreigners or persons without citizenship, and nine miscellaneous offenses. According to the ministry, it disciplined 276 employees, demoted 18, fired 20, and applied other disciplinary measures to 238.

There were reports that police officials required additional money on top of court fines in order to return prisoners' clothing and release them.

Key provisions of the Government's 2007 national strategy for increasing transparency and combating corruption still had not been implemented at year's end. The strategy established a framework for increasing the accountability of government, cooperating with civil society, and systematically monitoring and reporting on the implementation of anticorruption measures. One of the national strategy's main elements, the law on financial disclosure, requires officials to report their annual income, sources of income, property, and financial liabilities. It also prohibits nepotism and limits gifts and direct or indirect financial benefits to public officials or third parties.

The law provides for public access to government information by individuals and organizations; however, the Government often did not provide access. Although government ministries have separate procedures on how to request information, they routinely denied requests, claiming not to possess the information. Individuals have the right to appeal the denials in court; however, the courts generally upheld the decisions of the ministries.

Azerbaijan participated in the Extractive Industries Transparency Initiative (EITI) which requires it to adhere to 12 agreed EITI principles to manage natural resources for the benefit of all members of society by creating a cooperative relationship between government, companies, and civil society, and to disclose payments and revenues received from extractive industries.

In February 2009 Azerbaijan was the first participating county to be named fully compliant by the International EITI Board. The State Oil Fund of Azerbaijan (SOFAZ), which is responsible for implementing EITI principles, also increased access to information about oil and gas revenues. However, some observers complained that the fund was not designed, governed, or managed to ensure expenditures were geared towards poverty alleviation or the delivery of public services. Moreover, observers noted that the country's oil and gas revenues were not managed in full by SOFAZ or subject to EITI transparency practices. While all of the 26 oil and gas companies in the country participated in the EITI process, only a handful of compa-

nies agreed to disaggregate revenue reporting. In February the country created the mutli-stakeholder group, a monitoring body made up of equal members from the Government, private industry, and civil society. This group was created to ensure the active engagement of civil society and to facilitate public debate. Many of its recommendations were incorporated into the 2010 work plan.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although the Government maintained ties with some human rights NGOs and responded to their inquiries, on occasion the Government criticized and intimidated other human rights NGOs and activists. The Ministry of Justice continued routinely to deny registration to some human rights NGOs. NGOs continued to report throughout the year that NGOs whose names contained the following words were routinely rejected for registration: human rights, democracy, institute, and society. In addition, the reasons for rejection were arbitrary. For example, the Ministry of Justice accepted the charter for one NGO that the ministry liked but rejected the same charter, except for a different organizational name, for an NGO that the ministry did not like. Another NGO's registration was rejected for lack of a plural ending. A number of cases were making their way through the court system. The Ministry of Justice stated that it only denied those organizations whose documents did not comply with legislation.

On August 9, Turan News Agency reported that the Baku Mayor's Office refused to authorize a rally of unregistered NGOs. The NGOs requested permission to rally on a square near the Ministry of Justice. There were approximately 1,000 unregistered NGOs. During the year the Ministry of Justice registered 124 NGOs.

The major local human rights NGOs were the Association for the Protection of Women's Rights, the Bureau of Human Rights and Respect for the Law, the Azerbaijan Foundation of Democracy Development and Human Rights Protection, the Azerbaijani Committee against Torture (ACAT), the Institute for Peace and Democracy, the Helsinki Citizens' Assembly, IRFS, and the Human Rights Center of Azerbaijan. Most of the leading NGOs were affiliated with one of two independent, umbrella organizations, the Human Rights Federation and the Monitoring Group of Human Rights Organizations.

In 2009 some NGOs reported increased pressure against their activities. For example, the minister of internal affairs sued Leyla Yunus, leader of the Institute of Peace and Democracy, for an interview she gave to an online newspaper in which she criticized the police. The minister subsequently dropped the case. In addition, several election observers affiliated with EMDS were harassed by local authorities in connection with their observation activities (see sections 2.b. and 3).

Several NGOs reported that the Government and police at times refused to protect them from so-called provocateurs who threatened, harassed, and attacked NGO activists and vandalized their property. During the year some local NGOs reported increased pressure on citizens who filed official complaints against local authorities. For example, in April human rights activist and chairman of the Defense of Democracy Public Union Vidadi Isgandarov published an article in the newspaper *Azadlig* concerning police bribery in the Goychay District. On May 3, the Goychay District former Chief of Police, Vugar Mammadyarov; the Chief of Administrative Prosecutions, Bakhtiyar Hashimov; and the head of the investigation office, Rufat Ibayev, filed a lawsuit against Isgandarov charging him with slander. The court case was pending at year's end.

In December 2009 a group of Nakhchivan State University leaders and students reportedly beat two representatives of the Nakhchivan Democracy and NGO Development Resource Center who were investigating corruption at the university. The group from the university also reportedly threatened a journalist with the IRFS who arrived at the scene of the assault. The NGO representatives called the police before the attack, as they feared an attack was imminent and needed protection. However, the police did not arrive until after the assailants had left the scene. Local authorities reportedly responded by denying that the events occurred and scheduling a tax inspection of the center for January 2010. The audit resulted in an AZN 332 (\$393) fine due to the belated submission of a statement. The NGO maintained that the Tax Authority was supposed to inform them first of the need to submit the statement before levying the fine. During the year the NGO also had a problem with maintaining an office space and was forced to vacate twice. At the end of the year, it had no office space.

In 2009 Akifa Aliyeva of the Helsinki Citizens' Assembly fled the country after reporting repeated harassment by local authorities in connection with her work defending the rights of a Ukrainian prisoner in Ganja. She has remained abroad since.

The registration process for NGOs remained cumbersome and included requirements to register grants from foreign entities. NGO grants from foreign entities were subject to a social security tax of 22 percent on employee salaries, although grants from a few countries with bilateral agreements with the Government were subject only to a 2 percent tax. NGO activists reported that these provisions inhibited their organizations' activities.

During the year the Council of State Support to NGOs provided AZN 2.10 million (\$2.56 million) to 352 NGOs, an increase from the AZN 1.8 million (approximately \$2.2 million) distributed to 250 NGOs in 2009. While many of these NGOs were considered to be progovernment, some NGOs that were critical of the Government also received grants. One NGO sued the council for revoking a grant awarded to the organization. The NGO stated the grant was revoked after the NGO submitted an official complaint about the council's grant review process, which the NGO alleged was corrupt. The Supreme Court dismissed the case on June 30.

The Government generally permitted visits by UN representatives and other international organizations, such as the ICRC. International NGOs, such as Reporters without Borders, generally operated without government hindrance.

Citizens may appeal violations committed by the state or by individuals to the Ombudswoman for Human Rights, Elmira Suleymanova. The ombudswoman may refuse to accept cases of abuse that are more than a year old, anonymous complaints, and cases already being handled by the judiciary. The ombudswoman received 8,000 appeals in 2009, of which 83.7 percent were complaints about developments that occurred during the year; 51 percent of these complaints were accepted for investigation. Of those investigated, 44.7 percent were successfully resolved. The Milli Majlis elected Suleymanova to a second term on March 5.

During 2009 the ombudswoman reported that the Human Rights National Action Plan working group, which included five subcommittees, continued to work on areas identified as priorities in the action plan. During the year the ombudswoman traveled around the country to hear human rights complaints, cooperated with foreign diplomats and domestic NGOs working on human rights, and submitted an annual report to the Milli Majlis.

The Milli Majlis and the Ministry of Justice also had human rights offices that heard complaints, conducted investigations, and made recommendations to relevant government bodies. Officials of the Human Rights Office within the Ministry of Foreign Affairs regularly met with the diplomatic community to discuss issues of concern.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, but the Government did not always respect these prohibitions in practice or effectively enforce them.

*Women.*—Rape is illegal and carries a maximum 15-year prison sentence. The Government reported 35 rapes during 2009. The Government reported 16 cases of rape or attempted rape brought against 15 persons and a further 48 cases of gender-based violence against 40 individuals.

Most rape victims reportedly knew their assailants but did not report incidents because of fear and shame.

There are no laws on spousal abuse or specific laws on spousal rape, although these crimes could be prosecuted under other sections of the criminal code if a spouse complained. Violence against women, including domestic violence, continued to be a problem. In rural areas women had no effective recourse against assaults by their husbands or others.

There were no government-sponsored programs for victims of rape or domestic violence. In Baku a women's crisis center operated by the Institute for Peace and Democracy provided free medical, psychological, and legal assistance to women. The center also worked on a number of projects funded by international donors to combat gender-based violence and trafficking in persons in the Caucasus region. Representatives of the institute regularly appeared on popular television talk shows to discuss women's issues.

The law prohibits sexual harassment; however, the Government rarely enforced the prohibition. No organization was specifically dedicated to receiving these complaints.

Couples and individuals have the right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, and violence.

Contraception was widely available, but demographic surveys showed low levels of use. Skilled attendance during childbirth was accessible, as was prenatal care and essential obstetric and postpartum care. According to estimates compiled by international organizations, the maternal mortality rate was approximately 38 deaths per 100,000 live births in 2008. Women and men had equal access to the diagnosis and treatment for sexually transmitted infections, including HIV. However, patriarchal norms, based on cultural, historical, and socioeconomic factors, in some cases limited women's reproductive rights.

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem. Traditional social norms and lagging economic development in the country's regions continued to restrict women's roles in the economy, and there were reports that women had difficulty exercising their legal rights due to gender discrimination. Women were underrepresented in high-level jobs, including top business positions. A local NGO reported that women's salaries were on average 70 percent of men's salaries.

*Children.*—Citizenship is derived by birth within the country or from one's parents.

The law requires the Government to protect the rights of children with regard to education and health care. In practice government programs provided a low standard of education and health care for children. While education was compulsory, free, and universal until the age of 17, large families in impoverished rural areas sometimes placed a higher priority on the education of male children and kept girls to work in the home. Some poor families forced their children to work or beg rather than attend school. A Baku NGO working with street children reported that boys and girls begging and/or engaged in prostitution earned three times as much in a month as a teacher.

On December 29, news reports indicated that in the Khojasan District of Baku, parents were keeping their girls at home and not sending them to school in protest of the hijab ban announced by the Minister of Education earlier that month (see section 2.b.).

The Ministry of Internal Affairs did not provide any information on the number of cases of rape or sexual abuse of children reported during the year. There were reports that children were trafficked for sexual exploitation and begging. During the year three of the identified victims of sex trafficking were under the age of 18.

One international NGO and two local NGOs reported a growing problem with child marriage. The Social Union of Solidarity among Women (SUSW) stated that statistical data was unavailable from governmental agencies. SUSW reported that the problem had spread from the southern and northern regions to the entire country. Legislation is not particularly clear; early marriages could be prosecuted on the basis of Articles 34 of the constitution and Articles 152 and 153 of the criminal code, but no cases have been prosecuted. SUSW found that rural-area girls were marrying in the eight and ninth grades. Girls marrying in religious marriage contracts (*kabin* or *kabin-nama*) evaded governmental bodies and the laws cited above and were not entitled to recognition of status in case of divorce. The American Bar Association (ABA) reported that a 12-year-old inadvertently revealed to her classmates that "my husband is picking me up." The ABA also reported on trying to help a woman left without assets or property after being divorced from her husband at age 15. SUSW reported numerous cases of men moving to Russia for work, but leaving their underage wives in Azerbaijan.

Statutory rape is prohibited by law and defined as "the sexual relations or other actions of sexual nature, committed by a person who has reached 18, with a person who has not reached 16" and is punishable by up to three years' imprisonment. The law states that a girl can marry at the age of 17 and with the local authority's permission at the age of 16. The law further states that a boy can marry at the age of 18. In 2002 the Caucasus Muslim Board issued a *fatwa* (fatwa) that stated 18 as the marriage age, but the *fatwa* failed to have much effect on the religious marriages of *kabin*.

Child pornography is prohibited by law, and its production, distribution, or advertisement is punished by three to five years' imprisonment. If the pornography is created by the parents of the child or by teachers or other educators, the punishment increases to four to seven years' imprisonment.

A large number of refugee and IDP children lived in substandard conditions. In some cases these children were unable to attend school.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—There were no credible reports of anti-Semitic acts against the country's Jewish community.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services, but the Government did not enforce these provisions effectively. Discrimination in employment was a problem. It was commonly believed that children with disabilities were ill and needed to be separated from other children and institutionalized. Several international and local NGOs developed educational campaigns to change social perceptions and reintegrate disabled children.

There are no laws mandating access to public or other buildings, information, and communications for persons with disabilities, and most buildings were not accessible.

Care in facilities for the mentally ill and persons with disabilities varied; some provided adequate care while others lacked qualified caregivers, equipment, and supplies to maintain sanitary conditions and provide a proper diet.

The Ministries of Health and Labor and Social Welfare were responsible for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Some of the approximately 20,000 citizens of Armenian descent living in the country historically complained of discrimination in employment, schooling, housing, the provision of social services, and other areas. Citizens who were ethnic Armenians often concealed their ethnicity by legally changing the ethnic designation in their passports. There were no reports of violence against Armenians during the year.

Some groups reported sporadic incidents of discrimination, restrictions on the ability to teach in their native languages, and harassment by local authorities. These groups included Talysh in the south, Caucasian Lezghins in the north, displaced Meskhetian Turks, and displaced Kurds from the Lachin Region controlled by Armenia-supported Nagorno-Karabakh separatists.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Numerous incidents of police brutality against individuals based on sexual orientation occurred, according to a local NGO. Authorities did not investigate or punish those responsible for such acts, largely because victims were unwilling to file complaints due to fear of social stigma.

During the year, members of the lesbian, gay, bisexual, and transgender (LGBT) community continued to refuse to lodge formal complaints with law enforcement bodies out of fear of reprisal or retaliatory persecution. Also during the year, the LGBT community held almost monthly gatherings; these were routinely raided.

During 2009 police raided gay bars on four occasions and arrested almost 50 persons. Police reportedly held the individuals and threatened to expose their sexuality publicly unless they paid a bribe. The human rights Ombudsman’s Office intervened to resolve the incidents.

There was one NGO that worked on LGBT issues in the country. This NGO worked to prevent the spread of HIV/AIDS and provided legal advice, psychological assistance, and outreach activities. The NGO reported no official harassment of its work. There were no attempts to organize gay pride marches during the year; however, there was a small gathering on May 17 to commemorate International Anti-Homophobia Day.

On August 11, police found the bodies of two transgendered individuals, Zamiq Gasimov and Yadigar Kuzmin, in Baku. The police arrested three perpetrators who admitted to killing the two on the basis of hatred toward sexual minorities. A local NGO reported that it was unable to obtain updates on the case, for which the investigation had been closed.

In December the Prosecutor General’s office issued a statement regarding a murder investigation that could be interpreted as linking “nontraditional” sexual orientation to criminal behavior.

There was societal prejudice against LGBT persons. While being fired from a job for sexual orientation remained illegal, LGBT individuals reported that employers found other reasons to fire them. Discrimination in access to healthcare was also a problem.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discriminations against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for freedom of association, including the right to form labor unions, but there were some restrictions on this right in practice. Uniformed military and police are prohibited from joining unions. The

law also prohibits managerial staff from joining a union, but managers in government industries often had union dues automatically deducted from their paychecks.

The law allows trade unions to conduct their activities without government interference; however, in practice most unions were not independent. The overwhelming majority of labor unions remained tightly linked to the Government, with the exception of some journalists' unions.

The Azerbaijani Trade Union Confederation (ATUC), the only trade union confederation in the country, represented approximately 37 percent of the workforce in the formal economy. Although the ATUC was registered as an independent organization, some workers considered it closely aligned with the Government.

The law provides most workers with the right to strike. Categories of workers prohibited from striking include high-ranking executive and legislative officials; law enforcement officers; court employees; fire fighters; and health, electric power, water supply, telephone, railway, and air traffic control workers. Striking workers who disrupted public transportation could be sentenced to up to three years' in prison. The law prohibits retribution against strikers, such as dismissal or replacement. Both local and international NGOs claimed that workers in most industries were largely unaware of their rights and afraid of retribution if they initiated complaints. This was especially true for workers in the public sector.

Although the labor law applied to all workers and enterprises, the Government could negotiate bilateral agreements that effectively exempted multinational enterprises from national labor laws. For example, production-sharing agreements (PSAs) between the Government and multinational energy enterprises did not provide for employee participation in a trade union. Labor organizations and local NGOs reported that some of these companies discouraged employees from forming unions, and most employees of multinational enterprises operating under PSAs were not union members, although there were exceptions. Workers employed by British Petroleum were unionized, but the situation was worse in other multinational corporations, especially companies run by Chinese subcontractors. The ATUC reported that in 2009 there was some progress in starting new unions and that multinational corporations in the country had begun to welcome these initiatives.

The law prohibits trade unions from carrying out political activities and from associating with political parties or receiving finances from political parties, but this provision was not uniformly enforced.

Many of the state-owned enterprises that dominated the formal economy withheld union dues from workers' pay but did not deliver the dues to the unions. A quarter of the dues collected for the oil workers' union were officially withheld by employers for "administrative costs" associated with running the union. However, the complete lack of transparency made it impossible to tell exactly how dues were spent. Unions and their members had no recourse to investigate withheld funds.

Membership in the Union of Oil and Gas Industry Workers remained mandatory for the State Oil Company's 65,000 workers, whose union dues (2 percent of each worker's salary) were automatically deducted from their paychecks.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers with the right to bargain collectively; however, unions could not effectively negotiate wage levels and working conditions because government-appointed boards ran major state-owned firms and set wages for all government employees. Collective bargaining agreements were often treated as formalities and not enforced. The ATUC reports that during the year, there were 130 new agreements for a total of 11, 890 collective contracts. In addition, ATUC reported that there were 1,971 collective contracts signed between non-state sector and trade unions, which is a 7.5 percent per annum increase. The ATUC also reported that during the year, 88 new trade union organizations were created, including 11 organizations with 2,157 members in joint ventures or enterprises with foreign investments.

There were reports of antiunion discrimination by foreign companies operating in Baku. Labor NGOs reported that multinational energy companies and their subcontractors often discouraged union membership by their employees. For many multinational companies, the absence of union membership rights in the PSAs facilitated this behavior.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, except in circumstances of war or in the execution of a court's decision under the supervision of a government agency. Some observers reported that there were occurrences of forced or compulsory labor. Additionally, men and boys were trafficked to Russia for forced labor. Also, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The Building and Wood Workers' International Union (BWI) reported that the Independent Trade Union of Construction Complex Workers of Azerbaijan; the Trade Union of Construction and Construction Materials of Bosnia and Herzegovina; the Trade Union Construction, Housing, and Communal Services of Republika Srpska; and BWI signed a cooperation agreement on the protection of migrant workers' rights in Eastern Europe on April 1. According to BWI, the impetus for the agreement was the situation with company SerbAz, which operated in Azerbaijan with workers from Bosnia and Herzegovina and Serbia. The SerbAz case was discovered in October 2009 and involved approximately 496 victims.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for the protection of children from exploitation in the workplace and from work that is dangerous to their health, and there were few complaints of abuses of child labor laws. Two local NGOs stated that the drastic decline in cotton production has reduced the number of children working in this sector. In addition the Government, through an NGO, has conducted outreach to further address the issue. Children were also reportedly trafficked for commercial sexual exploitation and begging. Also, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The minimum age for employment depended on the type of work. In most instances the law permits children to work from age 15; children age 14 may work in family businesses or, with parental consent, at after-school jobs during the day that pose no hazard to their health. Children under 16 may not work more than 24 hours per week; children between the ages of 16 and 18 may not work more than 36 hours per week. The law prohibits employing children under 18 in difficult and hazardous work conditions. The Ministry of Labor and Social Security is responsible for enforcing child labor laws. However, the unit responsible is considered ineffective.

*e. Acceptable Conditions of Work.*—The Government raised the minimum wage to AZN 85 (approximately \$104) per month on August 31. The minimum wage was administratively set. Domestic NGOs reported that this wage was not enough to provide a decent standard of living for a worker and family. The Ministry of Taxes, the Ministry of Labor, and the State Social Protection Fund share responsibility for enforcing the minimum wage. However, in practice the minimum wage was not effectively enforced.

The law provides equal rights to foreign and domestic workers. However, local human rights groups, including the Oil Workers Rights Defense Council, maintained that employers, particularly foreign oil companies, did not always treat foreign and domestic workers equally. Domestic employees of foreign oil companies often received lower pay and worked without contracts and health care. The Oil Rights Defense Council also reported that resolving labor issues with large international companies was far easier than with local companies because the multinational companies had more experience and more transparency in their labor relations. A representative from the International Labor Organization (ILO) noted that many persons working in governmental regulatory bodies also had business interests, causing conflicts of interest.

The law provides for a 40-hour workweek; the maximum daily work shift is 12 hours. Workers in hazardous occupations may not work more than 36 hours per week. The law requires lunch and rest periods, which are determined by labor contracts and collective agreements. It was not known whether local companies provided the legally required premium compensation for overtime, although international companies generally did. There was no prohibition on excessive compulsory overtime. However, most individuals worked in the informal economy, where the Government did not enforce contracts or labor laws.

The law sets health and safety standards; however, government inspections of working conditions were weak and ineffective, and standards were widely ignored. The ATUC monitored compliance with labor and trade regulations, including safety and health conditions. The ATUC received 236,220 complaints in 2008. Conversely, the Ministry of Labor reported receiving only one complaint.

The law sets health and safety standards; however, government inspections of working conditions were weak and ineffective, and standards were widely ignored. ATUC received 158,627 complaints during the year, down from 236,220 in 2009.

The International Trade Union Confederation reported that the Government's bilateral agreements with multinational corporations, the contents of which were confidential, contributed to labor rights violations. In 2007 the Oil and Gas Workers' Union of Azerbaijan reached a new contract with the State Oil Company that included greater social protections and health and safety commitments. By the end

of 2009, only 20 percent of the contract's points had been met, and no update was available at year's end.

Workers did not have the right to remove themselves from situations that endangered their health or safety without jeopardizing their employment. According to information provided by the Azerbaijan office of the ILO, in 2009 there were 33 fatal accidents and 122 injuries in the first six months of the year, with 18 deaths and 38 injuries in the construction sector alone. According to the Oil Workers Rights Defense Council, an NGO dedicated to protecting worker rights in the oil sector, there were nine deaths in 2010: seven at the State Oil Company, one at Salyan Oil, and one at Asfen Tekfen. There were also seven injuries in the oil sector. The Oil Workers Rights Defense Council reported initiating 37 court cases, of which 17 were successful.

---

## BELARUS

Belarus is a republic with a population of 9.5 million. The country has a directly elected president, who is chief of state, and a bicameral "parliament," the National Assembly, consisting of the Chamber of Representatives (lower house) and the Council of the Republic (upper house). A prime minister appointed by the president is the nominal head of government. In practice, however, power is concentrated in the presidency. Since his election as president in 1994, Alyaksandr Lukashenka has consolidated his power over all institutions and undermined the rule of law through authoritarian means, including manipulated elections and arbitrary decrees. Subsequent presidential elections, including the one held on December 19, were neither free nor fair, and fell well short of meeting international standards. The 2008 parliamentary elections also failed to meet international standards. Security forces reported to civilian authorities and to the president in particular.

During the year authorities continued to commit frequent, serious abuses in a system bereft of checks and balances, and dominated by the president. Authorities denied citizens the right to change their government, manipulating the December 19 presidential election to ensure that the president would not be seriously challenged. The election administration lacked independence and impartiality; opposition candidates faced an uneven playing field and a restrictive media environment, and the vote count was marked by a lack of transparency. The Government failed to account for past politically motivated disappearances. Security forces beat detainees and protesters, used excessive force to disperse peaceful demonstrators, and reportedly used torture during investigations. A crackdown on a postelection demonstration led to the arrest of over 700 activists, including criminal charges against five presidential candidates and numerous activist and journalists. Reports of abuse of prisoners continued, and prison conditions remained extremely poor. Authorities arbitrarily arrested, detained, and imprisoned citizens for criticizing officials, participating in demonstrations, and other political reasons. Impunity remained a serious problem. The judiciary lacked independence, and suffered from inefficiency, and political interference; trial outcomes were often predetermined, and many trials were conducted behind closed doors. Authorities continued to infringe on citizens' privacy rights, and to target opposition youth leaders for military conscription. The Government further restricted civil liberties, including freedom of speech, press, assembly, association, religion, and freedom of movement. The Government seized printed materials from civil society activists and prevented independent media from disseminating information and materials. The Government continued to hinder or prevent the activities of religious groups other than the Belarusian Orthodox Church, at times fining or deporting their leaders for conducting services. Official corruption in all branches of government continued to be a problem. Authorities harassed, fined, and prosecuted nongovernmental organizations (NGOs) and political parties, refusing to register many and then threatening them with criminal prosecution for operating without registration. Violence and some discrimination against women were problems, as was violence against children. Trafficking in persons remained a significant problem, although some progress was made in combating it. There was discrimination against persons with disabilities, Roma, ethnic and sexual minorities, persons with HIV/AIDS, and those who sought to use the Belarusian language. Authorities harassed and at times dismissed members of independent unions, severely limiting the ability of workers to form and join independent trade unions and to organize and bargain collectively.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports during the year that the Government or its agents committed any arbitrary or unlawful killings; some human rights observers contended that authorities staged the apparent suicide of Aleh Byabenin, a prominent independent journalist and opponent of the Government (see section 2.a.).

*b. Disappearance.*—Following the postelection arrests and detentions of hundreds of protestors on the evening of December 19 (see section 1.d.), the whereabouts of some high-profile detainees remained unknown for days. For example, presidential candidate and Tell the Truth movement leader Uladzimir Nyaklyaeu, after being beaten by individuals believed to be members of the country's special forces, was abducted from the hospital by unknown individuals believed to be state security officials. Hospital officials subsequently reportedly stated that Nyaklyaeu had been discharged and "left on his own two feet." On December 20, Lukashenka announced at a press conference that Nyaklyaeu was being held at the Committee for State Security (KGB) detention facility.

In March police reportedly suspended an investigation into the abduction of opposition youth leader Zmitser Dashkevich on the grounds that they failed to identify any suspects. Activists reported that in December 2009 security forces abducted Dashkevich near his home in Minsk, drove him to a forest approximately 40 miles north of the city, forced him out of the car, and left him there.

The prosecutor general further extended his 10-year-long investigation into the 1999 disappearance of former interior minister and opposition leader Yury Zakharenka and in August, for the first time, he sent Zakharenka's mother an official reply to her numerous requests for details of the investigation. The letter stated that the prosecutors were studying various theories of the case, including those that related it to Zakharenka's political activities. There were no developments in the continuing investigations into the 2000 disappearance of journalist Zmitser Zavadski, and the 1999 disappearances of opposition activist Viktor Hanchar and businessman Anatol Krasouski. There was evidence of government involvement in these cases, but authorities continued to deny any connection with the disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, the KGB, riot police, and other security forces continued to beat detainees and demonstrators routinely.

Police frequently beat individuals during arrests, as well as persons detained for organizing or participating in demonstrations and other opposition activities (see section 2.b.). For example, approximately 20 democratic activists complained that police bruised and scratched them on February 8 while they were detained for two hours for fingerprinting and identity checks after riot police forcibly broke up peaceful rallies in support of detained activists Mikalay Autukhovich and Uladzimir Asipenka from Vaukavysk. On February 14, police violently dispersed a St. Valentine's Day march staged by the Malady Front opposition youth organization and arrested 22 activists, four of them minors. The detainees reported that at least five of their number were beaten, and Tatsyana Shaputska, a Malady Front member previously expelled from the Belarus State University (BSU) for political activities, suffered a minor concussion.

On February 16, security forces manhandled and arrested approximately 20 democratic activists demonstrating in downtown Minsk in remembrance of opposition leaders who disappeared in 1999 and 2000. Police seized a number of persons as they approached the venue and arrested others in the square a few minutes later. Officers in plainclothes used force against journalists, blocking their photograph and video cameras, and pushing them away from the demonstrators. Six activists from the European Belarus campaign, who were charged as a result of their participation in these events, claimed to prosecutors that they experienced brutal and inhumane treatment at the hands of police.

After forcibly dispersing demonstrators in Minsk on May 6, police reportedly beat participant and former political prisoner Alyaksandr Kazulin and other democratic activists. The demonstration, involving more than 50 activists, took place outside the Supreme Court following the announcement of guilty verdicts in a criminal case against two Vaukavysk activists and two other persons.

On May 27, police in Minsk detained and severely beat opposition youths, including Franak Vyachorka and Zmitser Parmon, as they were preparing for an organized cycling event to pay tribute to a national poet. Parmon required immediate medical assistance and underwent surgery on his broken collarbone. On June 2, he

informed prosecutors about the beating and urged them to open an investigation. In their reply the prosecutors told Parmon that his injuries were due to his own “carelessness.”

On July 9, unidentified men assaulted Artur Finkevich, one of the leaders of the Young Belarus opposition youth group, and his associate Alyaksandr Lukshyn. They knocked the two down, beat them, and sprayed an unknown substance in their faces. Attackers took Finkevich’s computer, flash drives, money, mobile phone, and personal documents, including his passport. Finkevich was reportedly taken to a hospital for treatment of burns in his face and eyes, and bruises. The theft of his passport prevented Finkevich from participating in a long-planned international visitor program sponsored by a foreign government.

On the night of December 19, in a violent confrontation with demonstrators following the presidential election, police used physical force to break up the crowd, beat peaceful demonstrators, and detain over 700 persons, including presidential candidates. According to press reports, scores of demonstrators and a number of police officers were injured (see section 2.b.). Many demonstrators remained in detention at year’s end.

Human rights advocates continued to report the use of torture and other forms of physical and psychological abuse of suspects during criminal and administrative investigations. For example, the prosecution’s evidence in the criminal case against anticorruption activists Autukhovich and Asipenka consisted largely of statements by persons who subsequently recanted their testimonies. Authorities dropped treason charges against them, but convicted them on other charges. The witnesses claimed that they were subjected to violence, blackmail, psychological pressure, and other forms of intimidation to get them to testify against the activists. The Belarusian Helsinki Committee (BHC) provided documentation of a police practice of charging individuals as accomplices in certain crimes in order to induce them to implicate others, then dropping the charges and forcing them to serve as prosecution witnesses. Numerous women detained in the December 19 protests reported that they were threatened with rape while in custody. Many of those who were ultimately charged with criminal behavior were detained for the maximum ten days without charge, permitting authorities to put pressure on them by denying them visits, receipt of medicines, and food from their families.

The hazing of new army recruits, including beatings and other forms of physical and psychological abuse, continued; however, the situation improved somewhat as the Government increased its prosecution of offenders. A military prosecutor claimed in June that the number of crimes committed by army personnel was declining, although in the first six months of the year the official crime rate remained at 2009 levels. The military prosecutor stated that no hazing deaths or assaults causing severe bodily harm were registered in the first six months of the year, but he acknowledged that hazing remained the most widespread offense reported among military personnel during that period.

*Prison and Detention Center Conditions.*—Prison and detention center conditions remained poor and in many cases posed threats to life and health. There were shortages of food, medicine, warm clothing, bedding, and inadequate access to basic and emergency medical care and to clean drinking water. Ventilation in cells and overall sanitation was poor. As a result tuberculosis, pneumonia, and other communicable diseases were widespread. According to domestic human rights groups, the rate of tuberculosis infection was seven times the national average due to overcrowding and poor sanitary conditions. The death rate from tuberculosis among inmates was 1.3 times the national average. The United Nations Development Program reported in September 2009 that none of the country’s prisons fully complied with the World Health Organization’s tuberculosis infection control guidelines and expressed concern over sexual and other types of harassment and violence in prisons.

In May 2009 according to the Government, authorities were holding 37,578 persons, including approximately 1,200 juveniles, in detention. Of the prisoners, 46 percent were serving sentences for economic crimes, including embezzlement, fraud, tax evasion, theft, money laundering, and illegal business activities. Prisoners who complained about abuse of their rights often faced humiliation, death threats, or other forms of punishment. Some stated that they were blackmailed. Sources claimed that the outcome of applications for parole frequently depended on bribes to prison personnel.

According to a 2008 BHC report, authorities continued their practice of isolating certain prisoners—particularly inmates with HIV/AIDS and foreign citizens. They restricted or denied a variety of prisoners’ rights, including the right to appeal their sentences, express their political and civil beliefs, vote, and obtain information from their families. Prison administrators arbitrarily abused inmates and applied severe penalties for minor violations of the “internal regime.”

Former prisoners reported that medical checkups were rare, were frequently provided by underqualified medical personnel, and that the results were often fabricated. Authorities failed to provide conditions necessary for maintaining proper personal hygiene. Prisoners often complained of malnutrition and low quality uniforms and bedding. Some former political prisoners reported that they experienced psychological abuse and often had to share a cell with violent criminals. They also reported that authorities neither explained nor protected their legal rights.

Malady Front activist Ivan Stasyuk complained to the prosecutor general's office about conditions at the detention center in Brest, where he was held from February 3 to 6, on suspicion of malicious hooliganism. Stasyuk reported a lack of bedding, inadequate lighting and ventilation, and cold cells.

In another case Cameroonian athlete Guy Francois Toukam was detained at the Minsk airport on June 1 upon his arrival to take part in a soccer tournament and was held for 44 days because of purportedly fake travel documents. After his release from a pretrial detention center in Minsk, Toukam stated that he was beaten, denied legal assistance, experienced racial discrimination, and denied adequate nutrition, with a resulting weight loss of more than 40 pounds. Authorities permitted him to shower only once a week, never took him outdoors for exercise, required him to sleep on a wooden bench, and seized his personal belongings.

During his 15-month period of pretrial detention, which began in February 2009 Vaukavysk activist Autukhovich asserted that he lost most of his teeth due to poor quality drinking water and the denial of proper treatment and dentures.

Overcrowding in prisons and detention centers, and use of a form of internal exile known as "khimiya" were serious problems. Persons sentenced to khimiya lived in prison barracks and were forced to work under strict conditions.

The law permits family and friends to bring detainees food and hygiene products and to send them parcels by mail, but in many cases authorities did not adhere to the law.

Prisoners and detainees had limited access to visitors, and denial of meetings with families was a common punishment for disciplinary violations. Although the law provides for freedom of religion, and there were no specific reports of infringements, prisoners generally were prevented from holding religious services and performing rituals that did not comply with prison regulations. Former prisoners credibly reported that their complaints to higher authorities were often censored or not forwarded at all and that their requests for investigation of allegations of inhumane conditions were considered selectively by prison administrations and could result in severe disciplinary action against those who complained. They also complained of increased pressure from the prison administration in cases of claims of inhumane treatment.

The 2008 BHC report showed that authorities rarely investigated allegations of inhumane conditions or documented the results in a publicly accessible manner. It highlighted the lack of any independent appeals mechanism that would secure prompt, impartial, and transparent investigation of the numerous complaints of mistreatment, or would provide a means to hold offenders liable for such incidents.

While authorities claimed to conduct periodic investigations and monitoring of prison and detention center conditions, human rights groups asserted that such inspections—even if they did occur—lacked any credibility. There was no ombudsman who could serve on behalf of prisoners and detainees; human rights advocates who were not members of state-controlled bar associations had no access to prisoners and detainees and could not provide them with legal counsel. For example, on December 31, Andrey Pustashyla, a senior officer of the Prosecutor's General office, inspected the pretrial detention facilities of the KGB following numerous credible complaints from lawyers and family members of detainees in connection with the large-scale detentions in Minsk on and after December 19. Pustashyla claimed that all the detainees were healthy and did not voice any concerns regarding conditions at the facilities. He also reported that such inspections of the KGB facilities were completed every month.

Authorities did not permit independent monitoring of penal institutions. Despite numerous requests to the Ministries of Interior and Justice, government officials continued to refuse to meet with human rights advocates or approve requests to visit detention facilities. There were no reports during the year of independent monitoring of prison conditions by domestic or international human rights groups, independent media, or the International Committee of the Red Cross.

The Government took some limited steps to improve prison and detention center conditions, primarily through the use of amnesties to relieve overcrowding. In May the president signed a law that established a standard of approximately nine square feet of cell space per prisoner and would permit inmates to play sports. Prisoners enrolled in distance learning courses were allowed to leave prisons to take exams,

although they were obliged to register at a police precinct near their place of residence. The maximum term for which prisoners could be held in isolation as a punishment for disciplinary violations was reduced from 15 to 10 days. Authorities ceased to reduce food rations for prisoners being held in isolation, a practice human rights advocates described as torture. At a June 23 press conference, Prosecutor General Ryhor Vasilevich acknowledged that problems existed in providing medical and other assistance in prisons and called on the interior ministry, which supervises prisons, to enforce prison standards and eliminate “physical or psychological violence” against prisoners.

*d. Arbitrary Arrest or Detention.*—The law limits arbitrary detention; however, the Government did not respect these limits in practice. Authorities continued to arrest individuals for political reasons and to use administrative measures to detain political activists before, during, and after protests.

*Role of the Police and Security Apparatus.*—The Ministry of Interior exercised authority over the police, but the KGB and presidential security services also exercised police functions and the president has the authority to subordinate all security bodies to his personal command. Impunity among law enforcement personnel remained a serious problem. Individuals have the right to report police abuse to a prosecutor; however, the Government often did not investigate reported abuses by the security forces or hold perpetrators accountable.

*Arrest Procedures and Treatment While in Detention.*—Under the law police must request permission from a prosecutor to detain a person in excess of three hours; however, in practice these procedures were usually ignored, and police routinely detained and arrested individuals without warrants. Authorities may hold a person suspected of a crime for up to 10 days without filing a formal charge and for up to 18 months after filing charges. Under the law prosecutors, investigators, and security service agencies have authority to extend detention without consulting a judge. Detainees have the right to petition the legality of their detention, but in practice appeals by suspects for a court review of their detention frequently were suppressed or ignored.

Police often detained individuals for several hours, ostensibly to confirm their identity, and then released them without charges. They frequently used this tactic to detain members of the opposition and demonstrators, to prevent the distribution of leaflets and newspapers, or as a pretext to break up civil society meetings and events.

During the year authorities arbitrarily detained or arrested hundreds of individuals, including opposition figures and members of the independent media, for reasons that were widely considered to be politically motivated. For example, Conservative Christian Party activists Syarhey and Vital Kavalenka were subjected to repeated harassment during the year. On January 7, police arrested Syarhey Kavalenka for placing an unregistered white-red-white opposition flag on top of a Christmas tree in Vitsyebsk. On January 10, the prosecutor extended his detention for two months; however, on January 12, he was unexpectedly released but forbidden to leave the country. On May 14, he was convicted of severely disturbing public order and resisting police, and given a suspended three-year prison term with probation. The court also ordered him to pay more than 4.5 million rubles (\$1,500) in damages to police and city authorities. On April 21, Kavalenka and his brother, Vital, were sentenced to seven and six days in jail, respectively, for illegally demonstrating in front of a courthouse. Vital Kavalenka was also fined 70,000 rubles (\$23) on minor hooliganism charges. On June 8, Syarhey Kavalenka was fined 105,000 rubles (\$35) on charges that he used foul language on May 8. On July 8, he was again detained and jailed for 10 days on charges of violating probation requirements. On July 9, a Vitsyebsk district court sentenced Syarhey’s brother Vital to five days in jail for allegedly using obscenities. The activists asserted that authorities isolated them during a large international music festival held in Vitsyebsk in mid-July and attended by the president. Moreover, on August 11, Syarhey Kavalenka was fined 770,000 rubles (\$257) for slandering police officers during his detention in July.

On January 15, a Vitsyebsk district court sentenced Young Belarus member Taras Surhan to seven days in jail for minor hooliganism. Surhan was detained on January 9 and released three days later, pending trial. On February 2, a court subjected Surhan to a year of police supervision following his conviction for opposition activities in 2009. On April 23, Surhan was arrested for nine days for participating in an unsanctioned demonstration on April 20.

On February 19, Aleh Surhan, another Vitsyebsk activist and a member of the Belarusian Christian Democracy Party, was jailed on allegations of violently resist-

ing a police officer; Surhan claimed it was the police who had manhandled him. Surhan was ordered to pay 2.5 million rubles (\$833) in compensation to the officer.

On March 3, a Belarusian Christian Democracy Party activist in Zhodzina, Andrey Kasheuski, was given an administrative sentence of 15 days in prison for distributing independent newspapers. He went on a hunger strike while in jail to protest his sentence and his resulting inability to file papers that would have enabled him to run in the April 25 municipal elections. Police also briefly detained Kasheuski on April 5, but they released him later with no charge.

On March 24, a court in Minsk fined three human rights advocates 17,500 rubles (\$6) for holding an unsanctioned protest against death penalty executions in front of the presidential residence on March 23. They spent the night at detention facilities. Photojournalist Syarhey Sys, also apprehended at the site, was released without charge.

On April 27, police arrested opposition activists Andrey Kuzminsky, Mikhail Naskou, and Alyaksey Atroshchanka for carrying a white-red-white opposition flag and for organizing an unsanctioned protest against former Kyrgyz president Kurmanbek Bakiyev, who was staying in the country. They were fined 17,500 rubles (\$6) each the next day after a night in custody.

On May 7, police in Brest detained two human rights defenders for distributing leaflets on the 11th anniversary of Yury Zakharanka's disappearance. They were held for more than an hour, and all printed materials were seized from them. In Minsk seven activists, including United Civic Party Chair Anatol Lyabedzka, were apprehended for illegally demonstrating on the same occasion.

On May 18, a small business activist in Slonim, Viktor Marchyk, was summoned by police and interrogated about his political activities.

On June 2, authorities detained Young Belarus group members Ivan Zaytsau, Zmitser Skachkou, and Kiryl Kavalyou for more than an hour in Homyel while the three were collecting signatures to protest the enactment of Internet regulations. All were released without charge; police confiscated their printed materials.

On July 26, also in Homyel, police apprehended three opposition activists who were handing out greeting cards on the occasion of the 20th anniversary of the adoption of the country's declaration of independence. Independent journalist Larysa Shchyryakova also was briefly detained for covering the event.

Security forces tightened control over the dissemination of materials printed by the opposition in the months before the December 19 presidential elections. On August 7 in Dobrush, police officers arrested two activists of the For Freedom movement, Syarhey Stsepanets and Yauhen Suvorau, while they were distributing information kits about the movement's leader Alyaksandr Milinkevich. They were held at a precinct for an hour. On August 8, police in Hrodna detained Belarusian Christian Democracy Party member Mikalay Bausyuk at a bus station and confiscated "for further examination" copies of the party's bulletin, its presidential candidate's election platform, and other printed materials.

On August 15, authorities arrested human rights advocate Raman Kislyak in Brest for disseminating leaflets about the UN International Convention for the Protection of all Persons from Enforced Disappearance. Police searched his personal belongings and seized more than 20 copies of the leaflet. On August 28, authorities in Minsk detained two members of the United Civic Party for distributing leaflets about their party's presidential nominee and interrogated them for three hours. On August 31 in Brest, police detained Young Belarus activists Yury Batsuk and Ihar Mishkou for disseminating booklets about the For Freedom movement's leader. The two were questioned and their materials seized. Another For Freedom supporter, Alyaksandr Pratsko, was briefly detained in Homyel on September 3 for distributing the same booklets.

On September 8, police detained Uladzimir Valodzin, a prominent antinuclear activist and a member of the Belarusian Party of the Greens, and Ihar Shchapiha, a Right Alliance group activist, without a warrant. They were reportedly charged in connection with arson attacks on April 30 against a bank office and the House of Trade Unions and against detention facilities on September 5. Police released Valodzin and Shchapiha without charge after nine days in detention.

On September 7, police detained at a soccer game 50 activists of the Tell the Truth movement for wearing T-shirts bearing the campaign's logo. On September 9, at least 15 activists were detained at a hockey game for the same reason. In both cases all were taken to a police precinct for an identity check, filmed, and fingerprinted. In the latter incident officers reportedly ordered the activists to take their shirts off, and when one female activist refused, they cut her T-shirt into pieces and threatened others with short-term arrests. All were ultimately released without charge five hours later.

On September 11, authorities detained over 20 civil society and opposition activists who were on their way to an open-air rock music festival near Orsha. Some of them were charged with violating traffic regulations and forced to miss the event due to lengthy identity checks.

On November 15, police in Minsk detained two opposition youth Mikhail Pashkevich and Raman Bahdanovich for putting up political stickers. They were held at a police station for an hour and released without charge. In a similar incident on November 24, authorities in Minsk fined Malady Front member Eduard Lobau 105,000 rubles (\$35) for pasting political stickers on residential buildings in Babruysk on October 9.

On December 8, Zmitser Dashkevich, leader of the Malady Front youth group, was pulled over by police in Minsk and detained for several hours over an allegedly falsified driver's license. Police released Dashkevich and presented him an official notification that he was cleared of suspicion of forgery after representatives of the office of the Organization for Security and Cooperation in Europe (OSCE) arrived at the police station to monitor detention procedures.

On the night of December 19, police in Minsk arrested and detained over 700 persons who were demonstrating against Lukashenka's long hold on power. Most of these individuals were sentenced under the administrative code to detention for 10 to 15 days, and remained incarcerated at year's end (see section 2.b.). A number of leading supporters of opposition parties—including seven presidential candidates—were detained; five candidates were subsequently charged with crimes. Authorities delayed pressing charges for the maximum legal period of ten days; detainees, unlike those charged with crimes, could legally be denied access to their families and food, and medical supplies from outside. A number were initially denied access to their lawyers on the pretext that “no rooms” were available for such consultations. Authorities also pressured and harassed family members of imprisoned activists.

*Amnesty.*—On May 5, the president signed a new amnesty law. According to the interior ministry, the amnesty was initially expected to apply to approximately 30,000 convicts, of whom 4,500 could be released and others could have their sentences reduced. However, at year's end 3,300 convicts were released from prisons, more than 8,673 had their jail terms reduced by one year, and another 7,000 convicts serving noncustodial terms for various criminal offenses were amnestied. One thousand had their convictions commuted.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the Government did not respect judicial independence in practice. Corruption, inefficiency, and political interference with judicial decisions were widespread.

There was evidence that prosecutors and courts convicted individuals on false and politically motivated charges, and that senior leaders and local authorities dictated the outcomes of trials.

A 2006 report by the UN special rapporteur on the country described the authority of prosecutors as “excessive and imbalanced” because they may extend detention without the permission of judges. The report also noted an imbalance of power between the prosecution and the defense. Defense lawyers were unable to examine investigation files, to be present during investigations, or to examine evidence against defendants until a prosecutor formally brought the case to court. Lawyers found it difficult to challenge some evidence because technical expertise was under the control of the prosecutor's office. According to many defense attorneys, these imbalances of power persisted throughout the year, especially in politically motivated criminal and administrative cases. There were very few cases during the year in which criminal defendants were exonerated.

By presidential decree bar associations are independent; however, in practice they remained subordinate to the Ministry of Justice. Lawyers must be licensed by the ministry, are required to work in regional bar associations, and must renew their licenses every five years. The law prohibits attorneys from engaging in private practice, although private legal companies are allowed to provide legal assistance and advice to private companies and represent their clients in economic courts.

A number of attorneys representing prominent opposition leaders, civil society activists, and independent journalists arrested on or after December 19 reported that their licenses could be revoked for activities related to the defense of their clients. In a notice posted on its Web site, the Justice Ministry charged that “certain lawyers” who were defending individuals facing criminal charges, including up to seven presidential candidates, were committing “gross violations” of the rules of professional etiquette for lawyers as well as of the country's laws. The ministry accused the lawyers of distorting information about the investigations of their clients, their state of health, and conditions of detention. The ministry said it was conducting an

investigation and would take whatever measures the law required. Unlike in previous years, there were no reports that authorities actually revoked lawyers' licenses for defending NGOs or opposition political parties.

*Trial Procedures.*—The law provides for the presumption of innocence; in practice the burden of proof was frequently on defendants. The law also provides for public trials; however, trials were occasionally closed and frequently held in judges' offices where attendance was severely limited. Judges adjudicate all trials; there is no system of trial by jury. For the most serious cases, two civilian advisors assist a judge. Government-controlled media frequently conducted propaganda campaigns declaring the guilt of suspects even before trial and revealed alleged materials from ongoing investigations designed to demonstrate further the "guilt" of persons awaiting trial.

The law provides defendants with the right to attend proceedings, to confront witnesses, and to present evidence on their own behalf; however, in practice these rights were not always respected. During the year numerous opposition politicians and NGO leaders were tried and convicted without being permitted to be present at their trials. On January 5, Ales Halavan, a Vitsyebsk member of the Belarusian Christian Democracy Party, and his associate, Valer Ramanenka, were detained and spent three days in custody. Police seized four white-red-white opposition flags from them. On February 20, Halavan was notified that a court had sentenced him in absentia to seven days of administrative arrest.

On February 5, a court in Hrodna fined Anzhelika Borys, the former leader of the unregistered organization Union of Poles, 4.2 million rubles (\$1,400) in absentia. In addition Polonika, a Hrodna-based education, cultural, and tourism company headed by Borys, was fined 71 million rubles (\$23,700) for its failure to report humanitarian assistance it received from a Polish NGO partner. In October authorities reportedly dropped financial claims against Polonika.

On June 16, Alyaksandr Kuznyatsou, leader of the Belarusian Popular Front youth wing in Vitsyebsk, was notified that authorities had fined him 35,000 rubles (\$12) in absentia for disseminating printed materials.

The law provides for access to legal counsel for detainees and requires that courts appoint a lawyer for those who cannot afford one; however, at times some detainees were denied access to a lawyer and at other times, to a Belarusian-language interpreter if they requested hearings in the that language. Most judges and prosecutors were not fluent in Belarusian and rejected motions for interpreters. The law provides for the right to choose legal representation freely; however, a presidential decree prohibits NGO members who are lawyers by training from representing individuals other than members of their organizations in court.

Courts often allowed information obtained by use of force during interrogations to be used against defendants.

Defendants have the right to appeal court decisions, and most defendants did so. However, appeals courts upheld the verdicts of the lower ones in the vast majority of cases.

*Political Prisoners and Detainees.*—At year's end authorities had detained approximately 40 persons from the political opposition, human rights and civil society groups, and independent media organizations in connection with the large-scale demonstration in Minsk on the night of December 19. Most of these political prisoners had either been charged or were expected to be charged with the crimes of organizing or actively participating in "mass disturbances." Authorities refused to permit access to many of the prisoners by lawyers, family members, foreign embassies, or prison monitoring groups. Amnesty International described 16 of the prisoners as "prisoners of conscience" who were facing "trumped up charges."

Some of those in detention and facing politically motivated criminal charges at year's end included: Uladzimir Nyaklyaeu, presidential candidate and leader of the Tell the Truth campaign; Andrey Sannikau, presidential candidate and co-coordinator of the European Belarus coalition; Mikalay Statkevich, presidential candidate and leader of the Social Democratic party; Ales Mikhalevich, presidential candidate and leader of the NGO For Modernization; Alyaksandr Atroshchankau, Sannikau's campaign spokesman; Paval Sevyarynets, leader of the Belarusian Christian Democratic party and aide to presidential candidate Vital Rymasheuski; Zmitser Bandarenka, leader of independent media organization Charter 97 and co-coordinator of the European Belarus coalition; Iryna Khalip, independent journalist and Sannikau's wife; Natallya Radzina, Charter 97 editor; Anatol Lyabedzka, chairman of the United Civic Party; Nasta Palazhanka, deputy chair of the Malady Front opposition youth organization; Alyaksandr Fyaduta, aide to Nyaklyaeu; Alyaksandr Klaskouski, a former police officer; Uladzimir Kobets, Sannikau's campaign chief; Syarhey Vaznyak, aide to Nyaklyaeu; Alyaksandr Arastovich, aide to Statkevich; Syarhey Martsaleu, aide to Statkevich; Mikita Likhavid, For Freedom movement ac-

tivist; Dzmitry Novik, Belarusian Popular Front member; Paval Vinahradau, Tell the Truth campaign activist; Ilya Vasilevich, youth activist; and Vasil Parfyankou, Tell the Truth campaign activist.

Other protest participants or bystanders imprisoned at year's end and facing similar politically motivated charges included: Ivan Haponau and Artsyom Breus, both Russian citizens; Aleh Fedarkevich; Uladzimir Khamichenka; Dzmitry Myadzvedz; Uladzimir Loban; Alyaksandr Malchanau; and Alyaksandr Kvyatkevich. Authorities also held Malady Front leader Zmitser Dashkevich and Malady Front activist Eduard Lobau, two opposition youth activists detained on December 18 on charges of "severe hooliganism."

During the year authorities detained hundreds of persons for brief periods of time for what appeared to be political reasons. During the December 19 protests, police detained more than 700 persons for their participation in an "illegal" demonstration, and sentenced them to heavy fines or between five and 15 days of administrative detention. Police subsequently released most of them after these periods of administrative detention ended (see section 1.d.).

During the year authorities prosecuted conscientious objectors. At the same time, authorities denied such individuals the opportunity to undertake alternatives to military service, in spite of a constitutional provision guaranteeing this right.

On February 1, a court in Minsk sentenced Ivan Mikhaylau, a member of the Messianic Jewish community New Covenant, to three months in jail on charges of avoiding the draft. Mikhaylau had been in detention since his December 2009 arrest for refusing to appear at a conscription office, based on his personal beliefs. Amnesty International recognized Mikhaylau as a prisoner of conscience. The Minsk regional court revoked Mikhaylau's three-month sentence on March 9, and he was released the next day. On May 4, a Minsk district court cleared him of draft evasion charges. The prosecutor's appeal against the acquittal was rejected on June 15.

On February 11, a court in Homyel fined Belarusian Christian Democracy Party activist Yauhen Yakavenka 175,000 rubles (\$58) for failing to comply with an enlistment office summons to appear on January 29. Yakavenka filed his third application for civilian service on February 2, asserting that he was not a draft dodger but only wanted to exercise his "constitutional rights" according to his "pacifist beliefs." Yakavenka also repeatedly requested that his military summons be written in the Belarusian language. On June 4, a court sentenced Yakavenka to one year of restricted freedom for draft evasion. The Homyel regional court granted him amnesty on July 23. Yakavenka reported that on September 15, he was again summoned to appear at a conscription office; he again requested that his summons be written in Belarusian.

In November 2009 a court in Homyel fined Zmitser Smyk, a member of Jehovah's Witnesses, 3.5 million rubles (\$1,170) for alleged draft evasion. Smyk sought to participate in alternate civilian service, citing his religious beliefs. On May 31, Smyk was acquitted of draft dodging charges after his multiple appeals. On July 16, the Homyel Regional Court rejected the appeal submitted by prosecutors against the acquittal of Smyk.

The last of 11 opposition youths convicted and sentenced or fined for participating in a 2008 demonstration by entrepreneurs in Minsk, Artsyom Dubski, was released during the year. Authorities continued to seek three additional persons whom courts convicted in the same case. The three, Alyaksey Bondar, Mikhail Kryvau, and Tatsyana Tsishkevich, escaped abroad and have not served the two years of "restricted freedom" to which they were sentenced in April 2008. They faced further criminal prosecution and additional charges upon return to the country.

On May 6, following a trial marked by an array of procedural violations, the Supreme Court convicted Autukhovich and Asipenka, two Vaukavysk anticorruption activists in the entrepreneurs movement and long-time opponents of the Lukashenka government, along with two others, of illegal weapons possession after they were held in pretrial detention for approximately 15 months. During that time Amnesty International recognized Autukhovich as a political prisoner. Authorities initially charged the pair with the arson of a police station. The Supreme Court sentenced Autukhovich to five years' and two months' imprisonment, Asipenka to three years, and the others to two to three years. Autukhovich and Asipenka had been detained on the charges of arson, illegal weapons possession, and terrorism since February 2009. Authorities ultimately dismissed the terrorism charges due to lack of evidence. Human rights observers noted that no material evidence was presented against the activists in court and that most of the evidence was provided by Autukhovich's former employee, Alyaksandr Laryn, who earlier had made self-incriminating statements to police without the presence of his lawyer allowed. Asipenka was released in November.

*Civil Judicial Procedures and Remedies.*—The law provides that individuals can file lawsuits seeking damages for, or cessation of, a human rights violation; however, the civil judiciary was not independent and was rarely impartial in such matters.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice. Authorities applied wiretapping, video surveillance and a network of informers to deprive persons of privacy in which to express dissenting political views.

By law persons who obstruct law enforcement personnel in the performance of their duties can be penalized or charged with an administrative offense even if the “duties” may be perceived as illegal. “Obstruction” could include any effort to prevent KGB or law enforcement officers from entering the premises of a company, establishment, or organization; refusing to allow KGB audits; or denying or restricting KGB access to information systems and databases.

The law requires a warrant before, or immediately after, conducting a search; however, the KGB and riot police entered homes, conducted searches, and read mail without warrants. The KGB has the authority to enter any building at any time, as long as it applies for a warrant within 24 hours after the entry. There were credible reports that government agents covertly entered homes of opposition activists and offices of opposition groups and monitored the actions of individuals. In numerous instances authorities searched residences and offices for clearly political reasons.

On April 30, police searched offices of human rights advocate Zmitser Salauyeu in Navapolatsk. The prosecutor authorized the raid as part of a criminal investigation into vandalism and anti-Semitic graffiti. Police confiscated a computer, discs, printed materials, and opposition white-red-white flags. Prior to the raid, Salauyeu had made numerous complaints to local prosecutors regarding incidents of vandalism and other activities of local neo-Nazi groups. Police had also previously raided his office, and failed to return seized computer equipment from that prior search.

On May 18-19, coordinated searches were conducted in private residences and offices of activists of the Tell the Truth information campaign in more than 20 cities across the country. Dozens of persons were detained, and the equipment, documents, and financial resources of the NGO were confiscated. Most of the individuals were released without further explanation as soon as they had been questioned; however, police held the campaign’s leader, Uladzimir Nyaklyaeu, activist Andrey Dzmitryeu, and the chief editor of the independent newspaper Tavarysch, Syarhey Vaznyak, for three days and accused them of knowingly disseminating false information. The three were released without charge. On November 17, police suspended the criminal investigation again them.

On June 28, police searched without a warrant the residence of young opposition activist Andrey Krechka, whom they claimed to suspect of hacking into a commercial company’s Web site. A few days earlier unknown persons smashed a window of Krechka’s car and stole a satellite-based navigation system.

Following the December 19 postelection protests, authorities raided the offices and homes of dozens of activists and civil society organizations. On December 20, law enforcement officers raided offices of the unregistered human rights organization Vyasna and briefly detained 10 activists who were subsequently released without charge. Police seized all computer equipment, as well as still and video cameras. The same day, authorities searched the offices of the Tell the Truth campaign and Charter 97. Yuliya Rymasheuskaya, Tell the Truth leader Uladzimir Nyaklyaeu’s spokesperson, was briefly detained along with other activists. Security forces also arrested Natalya Radzina, editor of the Charter 97 Web site, on charges of organizing and participating in the December 19 demonstrations.

On December 23, four KGB officers searched the apartment of Alyaksandr Fyaduta, an aide to Nyaklyaeu, and confiscated a laptop, flash drives, and printed materials.

On December 25, KGB and police raided residences of at least 12 people, including Sannikau, Mikhalevich, Bandarenka, Atroshchankau, Radzina, and Arastovich, in connection with the criminal “mass disturbances” case. In Minsk, police also searched apartments of human rights advocate Aleh Volchak, opposition activist Vyachaslau Siuchyuk, and the parents of detained journalist Khalip. Police also raided the residences of human rights defender Alyaksey Kaputski in Maladzyechna and of opposition activist Paval Batuyeu in Salihorsk. In most of these instances police seized electronic equipment and paper files. The United Civic Party reported that the KGB raided their offices for four hours on December 25 and confiscated electronic equipment, seven computers, and printed materials.

On December 27, security officers searched the apartment of Sannikau's campaign chief, Uladzimir Kobets; Sannikau's eldest son, Kanstantsin Sannikau; and Charter 97 leader Dzmitry Bandarenka.

On December 28, four KGB officers and a police investigator searched the residence of Anatol Lyabedzka, chair of the United Civic Party, for three hours and seized a computer and printed materials. Lyabedzka had been arrested for alleged involvement in the "mass disturbances" case during a previous raid on his apartment on December 20.

On December 30, KGB officers searched the home of retired KGB lieutenant colonel Valery Kostka in Smalyavichy although Kostka had not participated in the December 19 demonstration. Police also searched the apartment of opposition youth activist Andrey Kim; the summer cottage of Nyaklyaeu's campaign chief, Andrey Dzmitryeu; and the residence of human rights advocate Alena Tankachova. Police also interrogated Tankachova and seized printed materials from her.

Security forces continued to target prominent opposition and civil society leaders with arbitrary searches and interrogations at border crossings and airports. For example, on June 2, Andrey Vardamatski, a sociologist and head of an opinion research company, was detained and searched for four hours upon his arrival in Minsk. On September 12, border guards at Minsk airport held a leader of the European Belarus civil campaign, Andrey Sannikau, for an hour to search his belongings upon his return from a conference in Riga. He was also thoroughly checked on his way to the conference on September 10.

On December 24, the country's border officers detained Vilnius-bound activist Katsyaryna Stsyapanava for two hours, transported her to a local KGB office, and interrogated her regarding her participation in the December 19 demonstration. She was subsequently released without charge.

The law prohibits authorities from intercepting telephone and other communications without a prosecutor's order. In practice authorities routinely monitored residences, telephones, and computers. Nearly all opposition political figures reported that authorities monitored their conversations and activities.

The law allows the KGB, the Internal Affairs Ministry, special security services, financial intelligence personnel, and certain border guard detachments to use wiretaps. Wiretaps require the permission of a prosecutor; however, the lack of prosecutorial independence rendered this requirement meaningless.

The Ministry of Communications has the authority to terminate the telephone service of persons who violate their telephone contracts, and such contracts prohibit the use of telephone services for purposes contrary to state interests and public order.

During the year authorities forcibly conscripted younger members of political opposition groups into the military. There were also reports of discrimination and harassment against them during their military service.

On January 26, a Brest district court rejected an appeal filed by Malady Front member Yauhen Skrabets challenging his conscription and the legality of the actions of the conscription officers. Skrabets continued to serve in the army at year's end.

On July 30, a Malady Front leader in Mahilyou, Stanislau Ramanovich, was drafted despite recent surgery on his arm. Ramanovich lost his deferment earlier when he was expelled from his university for what other activists described as political reasons.

In January 2009 authorities stopped Franak Vyachorka, former leader of the Belarusian Popular Front's youth wing, on a Minsk street and physically delivered him to the 8th Radar Brigade in Baranavichy. He took a military oath there in February 2009 and was later transferred to a radar unit in Mazyr. In mid-December 2009 Vyachorka was sent back from a hospital to the military unit despite medical grounds for an early discharge from the army. Vyachorka's medical record was subsequently revised to omit references to his medical condition as diagnosed in the hospital. Vyachorka was discharged on April 14.

The Government continued to deny certain youths their right to alternate civilian military service as provided for in the constitution. On February 11, a court in Homyel fined Belarusian Christian Democracy Party activist Yauhen Yakavenka 175,000 rubles (\$58) for failing to comply with an enlistment office summons to appear on January 29. Yakavenka filed his third application for civilian service on February 2, asserting that he was not a draft dodger but only wanted to exercise his "constitutional rights" according to his "pacifist beliefs." Yakavenka also repeatedly requested that his military summons be written in the Belarusian language. On June 4, a court sentenced Yakavenka to one year of restricted freedom for draft evasion. The Homyel oblast court granted him amnesty on July 23. Yakavenka re-

ported that on September 15, the occasion of another call-up to the conscription office, he again requested that his summons be written in Belarusian.

There were numerous reports that the Government employed a number of means to coerce young persons, including university students and military conscripts, to join the pro-Lukashenka, state-funded Belarusian Republican Youth Union (BRYU). To this end the Government employed a widespread system of BRYU informants organized into civilian patrol squads whose objective was to recruit youths and students for various projects around the country in the name of good citizenship.

High school students feared that they would not be allowed to enroll in universities without BRYU membership, and university students reported that proof of BRYU membership was often required to register for popular courses or to receive a dormitory room. Universities also offered patrol members discounts on tuition. In 2008 former education minister Alyaksandr Radzkou stated that membership in the BRYU would be considered in new mandatory recommendations for students who wished to train for professions in foreign affairs, state administration, and journalism.

During the year authorities continued to harass family members of NGO leaders and civil society activists. In March, for example, the father of Artur Finkevich, leader of the NGO Young Belarus, was summoned for an interrogation by the KGB. In late December following the arrest of presidential candidate Andrey Sannikau and his wife, independent journalist Iryna Khalip, authorities attempted to take custody of their three-year-old son, Danil Sannikau, from his maternal grandmother. Authorities claimed that they were only doing a routine investigation into whether the grandmother was healthy enough and had the financial means to care for the boy in his parents' absence.

Following the crackdown on demonstrators on December 19, authorities raided the offices of organizations and NGOs, seizing equipment and interrogating staff (see sections 2.a. and 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government did not respect these rights in practice and enforced numerous laws to control and censor the media. Individuals could not criticize the Government publicly without fear of reprisal. Authorities videotaped political meetings, conducted frequent identity checks, and used other forms of intimidation. Wearing masks, displaying unregistered flags and symbols, and displaying placards bearing messages deemed threatening to the Government or public order are also prohibited.

The law also limits free speech by criminalizing actions such as giving information to a foreigner about the political, economic, social, military, or international situation of the country that authorities deem to be false or derogatory.

The Government censored the media. Authorities warned, fined, or jailed members of the media who publicly criticized the Government. Under the law the Government may close a publication after two “warnings” in one year for violating a range of restrictions on speech and the press. In addition regulations give authorities arbitrary power to prohibit or censor reporting. The Information Ministry can suspend periodicals or newspapers for three months without a court ruling. The law also prohibits the media from disseminating information on behalf of unregistered political parties, trade unions, and NGOs. Many publications were forced to exercise self-censorship.

A February 2009 media law further restricted press freedoms by subjecting online news sources to the same regulations as print and broadcast media. It also required that all existing media reregister before February 8, mandated that journalists be accredited, and prohibited domestic media from receiving more than 30 percent of their resources from foreign organizations. Although the majority of media outlets, including private ones, successfully reregistered, the Information Ministry continued to deny registration to independent media, i.e. media perceived to be publishing information independently of government control. The 2009 law also further complicated distribution of publications with a circulation of less than 300 copies, which did not require registration but had to carry imprint information and producers of such publications could be “warned” for failing to comply with the requirement. The new law was widely criticized by domestic and international NGOs and press advocates.

There were independent media, including newspapers, magazines and Internet news Web sites, all owned by individuals or groups other than the Government, which sought to provide independent coverage of events. However, they operated under repressive media laws and most faced discriminatory publishing and distribution policies.

State-owned media dominated the information field and maintained the highest circulation and viewership. The state-owned postal system, Belposhta, and the state-owned kiosk system, Belsayuzdruk, continued to refuse to deliver and sell at least 10 independent newspapers that covered politics. In 2007 Belposhta removed three popular Russian newspapers (Kommersant, Moskovskiy Komsomolets, and Nezavisimaya Gazeta) from its subscription list. However, other Russian newspapers, including Izvestiya, were distributed. Media analysts asserted that the newspapers were removed because of reporting critical of Lukashenka's policies.

In February the Information Ministry turned down the third registration application from the regional independent newspaper Khimik Dva goroda. Officials claimed that the newspaper could not be registered because of issues related to hygiene in its office. Previous reasons for refusals included the allegedly insufficient educational qualifications of the chief editor and the fact that, while describing itself as covering general politics, the newspaper also included a "homes and gardens" section.

On March 23, the Supreme Economic Court dismissed an appeal of the Information Ministry's rejection of the registration application of the independent newspaper Nash Dom.

On April 1, the Information Ministry denied registration to the Homyel independent newspaper Silnye Novosti Gomelya on the grounds that its chief editor had "no appropriate qualifications or experience." Tatsyana Bublikava, an independent journalist previously "warned" for illegally working in the country for the Warsaw-based Belsat TV, applied for registration as the editor. There continued to be no independent newspapers that covered political issues in the Homyel Oblast.

On May 12, First Deputy Information Minister Liliya Ananich met with the editors of four regional independent newspapers that had been denied multiple registration applications. Ananich reportedly dismissed their arguments and told them that the ministry followed the law.

On June 14, Baranavichy authorities rejected the application of the local independent newspaper Intex-press to be distributed through state-run networks. Belposhta cited "inexpediency," and the Belsayuzdruk alleged that their "overburdened" network had no capacity to distribute the newspaper.

Although authorities continued to allow the independent newspapers Narodnaya Volya, Nasha Niva, and two regional newspapers, all banned for several years before 2008, to be distributed through state distribution systems, they remained subject to restrictions. On July 7, Belsayuzdruk did not release the print-run of Nasha Niva due to its front-page article reporting that an investigation by a Russian television channel implicated Lukashenka in the disappearances in 1999 and 2000 of opposition leaders and a journalist. The state-owned company denied that the copies of the newspaper were not available at kiosks. In September 2009 Belsayuzdruk denied a request from Narodnaya Volya to add a third day to its existing twice-a-week circulation, claiming that it was "not possible to distribute additional copies due to the massive output of other periodicals" on the specific day requested.

On August 11, the Brest office of Belsayuzdruk unilaterally reduced the circulation of the popular independent newspaper Brestsky Kuryer by two-thirds. An official stated that this was a way to "penalize" the owners for attempting to find additional outlets for selling the newspaper through retail stores.

Local authorities frequently warned independent editors and journalists to avoid reporting on certain topics and not to criticize the Government. Authorities also warned businesses not to advertise in newspapers that criticized the Government. According to the independent Belarusian Association of Journalists (BAJ), officials from the presidential administration met with leading bankers, including representatives of foreign-controlled banks, and "strongly recommended" that they advertise only with state media. The Babruysk-based independent newspaper Bobruysky Kuryer was forced to go out of business due to the advertisement ban.

On March 22, the Supreme Court upheld a January 13 Ministry of Justice requirement that the BAJ stop issuing press badges to its 1,000-plus members. These badges had been displayed by independent reporters, free lancers, and Web site and foreign correspondents covering public events, including opposition demonstrations, in order to gain access and report the news.

On March 11, the Information Ministry issued a warning to the popular daily Komsomolskaya Pravda v Belorussiy for publishing "false information."

On April 19, a court in Beshankovichy fined Heorhi Stankevich, a journalist and Belarusian Christian Democracy party activist, 700,000 rubles (\$235) for illegally distributing the newspaper Kryvinka with a circulation under 300 copies. Stankevich, the editor and publisher of the newspaper, was detained on April 8.

On April 26, a prosecutor in Hantsavichy warned the chief editor of the independent newspaper Hantsavitski Chas, Alyaksey Bely, and journalist Katsyaryna

Kurlovich for an April 16 article purportedly carrying false information. On November 17, a prosecutor in Hantsavichy summoned a woman who was quoted in Hantsavitski Chas expressing criticism of media coverage related to the presidential election. Deputy chief editor Pyotr Huzayeuski stated that authorities exerted pressure on the newspaper by harassing its readers.

On June 14, the Information Ministry warned the independent newspaper Novy Chas for failing to list the editor's full name and a bar code in the imprint information. On June 18, the Ministry of Trade issued a warning to the same newspaper for illegally advertising programs of Belsat TV. The chief editor noted in response that the information was published in the newspaper free of charge. On November 13, security officers detained executive director of the newspaper Yazep Palyubyatka, who was transporting copies of the newspaper. Police checked his passport information and released him without charge. Novy Chas remained out of circulation from state-run distribution centers at the end of the year.

On July 6, a prosecutor in Klyotsk issued a warning to Aleh Nikulin, the publisher of the Catholic bulletin Apostalski Vetraz with a circulation of under 300 copies, that Nikulin had violated laws and could be held liable for lacking official registration.

On September 14, the Information Ministry also warned the independent publication Brestskaya Gazeta for purportedly disseminating false information.

On September 15, the Supreme Economic Court rejected appeals by Nasha Niva of two warnings issued by the Information Ministry on July 22 and July 26 about articles allegedly containing false information and defaming the state-controlled BRYS.

On November 16, the Belposhta office in Baranavichy, citing "inexpediency," declined to include the independent newspaper Intex-press in its 2011 subscription catalogue.

Journalists reporting for international media that gave extensive coverage to the country, such as the Warsaw-based independent satellite channel Belsat TV and the Polish radio station Radio Racyja, continued to receive warnings from the prosecutor's office for working without accreditation. After enactment of the new media law, authorities sent warnings to at least 20 independent journalists.

On July 20, the Ministry of Foreign Affairs rejected the accreditation application of Radio Racyja journalist Viktor Parfyonenka.

On November 3, the foreign ministry refused to extend accreditation for Yauhen Ahurtsou, a member of BAJ and local correspondent of the Russian radio station Golos Rossii. The ministry alleged that Ahurtsou worked for the radio station without accreditation after its credentials had expired on September 1 and that it received a belated request to extend it on September 11. The ministry reportedly reviewed the request only on November 2 and alleged that Ahurtsou published articles on the station's Web site after September 1.

On November 19, the ministry denied the accreditation applications of Polish newspaper Gazeta Wyborcza's correspondent Andrzej Paczobut and a photojournalist citing their previous work for the publication without permission from the Government. This was in spite of the fact that the photojournalist had maintained a valid accreditation at all times.

On December 9, the ministry turned down the accreditation and entry visa request of Swedish photojournalist Dean Cox without any explanation.

Independent domestic media outlets faced penalties for cooperating with foreign-based media. On February 4, a court in Minsk fined the publishers of Narodnaya Volya 700,000 rubles (\$235) for placing a notice regarding the programs of Belsat TV.

International media continued to operate in the country but not without interference and harassment. Euronews and the Russian channels First Channel, NTV, and RTR were generally available, although only through paid cable services in many parts of the country. Their news programs were at times blocked, censored, or replaced with local programming. For example, the Russian NTV channel's four documentaries implicating Lukashenka in the high-profile disappearances of political leaders and a journalist in 1999 and 2000 were subject to blackouts and censorship by the Government during the year. Broadcasts from other countries, including Poland and Lithuania, could be received in parts of the country, usually along the border. In April 2009 the Government suspended the broadcast of five popular Russian channels, including TV Center International and Ren TV.

On November 18, the Ministry of Foreign Affairs renewed for one year the accreditation of nine journalists and technical personnel of European Radio for Belarus (ERB), including the bureau chief and editor. The ministry denied reaccreditation for an ERB Brest correspondent and also rejected a second registration application from external broadcaster Belsat TV.

In late December the ONT state television station announced that its talk show Vybar was being suspended until mid-January after a contentious election night interview with Lidziya Yarmoshyna, chairman of the Central Election Commission. Host Syarhey Darafeyeu asked Yarmoshyna to comment on a video clip showing a teacher at a state university urging her students to “vote early,” leading Yarmoshyna to storm off the set. Early voting, strongly encouraged by the Government, lasted five days, during which independent observers had no ability to monitor ballot boxes at night. At a news conference on December 20, Lukashenka referred to the 30-year-old Darafeyeu as a “boy journalist who must be put in his place.”

The Government continued to harass, assault, and arrest journalists. On January 13, police searched the private residence of independent journalist Syarhey Serabro in Vitsyebsk and confiscated computer equipment and a camera. Although officers returned his property on January 26, Serabro was questioned in relation to the criminal case against local opposition activist Syarhey Kavalenka on February 1. He was again summoned for interrogation on February 22.

On February 4, a court in Minsk sentenced independent journalist Ivan Shulha to 10 days in jail for allegedly inflicting bodily harm on a police officer during his detention. Also in early February police on two separate occasions attempted to conduct warrantless raids on the apartment of Belsat TV correspondent Mikhail Yanchuk.

On February 15, the chief editor of *Magazyn Polski na Uchodzstwie*, Ihar Bantsar, and *Gazeta Wyborczej* correspondent Andrzej Paczobut were each sentenced to five days in prison for participating in an unsanctioned meeting at the Polish House educational center in Hrodna on February 10. On April 1, police in Shchuchyn confiscated 450 copies of *Magazyn Polski na Uchodzstwie* from employees who were pulled over and searched on the road between Minsk and Hrodna.

Police interrogated and searched several independent journalists while investigating a defamation suit filed by Ivan Korzh, ex-chair of the KGB in the Homiel region, against police officers who had provided journalists with information Korzh contended was false. On February 17 and 26, police searched the workplace of *Narodnaya Volya* deputy editor Maryna Koktysh and the apartment of the newspaper's editor, Svyatlana Kalinkina. Iryna Khalip, a journalist for the Russian newspaper *Novaya Gazeta*, and her spouse, presidential candidate Andrey Sannikau, were questioned at a police precinct on March 3. During raids of the offices and private apartments of witnesses on March 16, police confiscated computer equipment and electronic storage media from Natallya Radzina, editor of the opposition Web site Charter 97, Koktysh and Kalinkina of the *Narodnaya Volya*, and Khalip. A police officer hit Radzina in the face when attempting forcibly to enter the office of Charter 97. On March 12, security officers arrested Koktysh and seized a vehicle that she was importing at the Lithuanian border, claiming that the car was stolen. Koktysh was released without charge the next day, and the car was returned to her a few days later. On March 26, Kalinkina, Koktysh, and Radzina were summoned for interrogation. Police again interrogated Kalinkina, Radzina, and Khalip on April 2. Radzina indicated that many of the questions related to Charter 97's operations. They were again interrogated on April 28.

Authorities also informed Radzina that police had opened a separate defamation investigation into comments made by bloggers on the Charter 97 Web site; the bloggers were reacting to an article about the imprisonment of Autukhovich that appeared in the state-owned newspaper *Sovetskaya Belorussiya*. On May 19, Radzina, Kalinkina, and Koktysh were summoned for further interrogation. Khalip was summoned again on May 26. On July 1, the Minsk city prosecutor's office questioned Radzina as a witness in the defamation case. On December 8, a prosecutor informed Charter 97 of a third criminal case opened against the group that required further examination of previously confiscated computer equipment. The prosecutor declined to disclose charges and suspects in the case. All cases were pending at year's end.

Security officers continually hampered efforts of independent journalists to cover Solidarity Day and other protests in Minsk. On February 16, *Nasha Niva* photographer Yuliya Darashkevich was detained and questioned for three hours. On February 23, authorities charged independent journalist Alyaksandr Dzianisau with conducting an unauthorized interview with the administrator of a local school, despite the administrator's agreement to participate in the interview. On March 15, a court in Hrodna fined Dzianisau 70,000 rubles (\$23).

On March 2, Interior Minister Anatol Kulyashou's deputy, Aleh Pyakarski, supported police measures during street protests and called for regulations to establish rules of conduct for reporters covering demonstrations.

On March 22, Interior Minister Kulyashou declined to meet with the BAJ to discuss possible measures against police officers for obstructing journalists during mass

events in downtown Minsk. The Minister stated that all demonstrations were prohibited in downtown Minsk and that police never abused their powers. He also claimed that “no individuals who had identified themselves as journalists were detained” during these demonstrations. Kulyashou added that his ministry gave no “special” orders to impede journalists from performing their duties.

On April 16, police detained independent photojournalists Uladzimir Grydzin and Kseniya Avimava for three hours. They were photographing democratic youth activists delivering a petition to BRYU officials in Minsk.

On April 21, police briefly detained independent journalist Uladzimir Staraverau in Vitsyebsk and confiscated his video materials.

On May 18, security officers raided the private residences and offices of activists across the country associated with the Tell the Truth information campaign. Syarhey Vaznyak, chief editor of the independent newspaper Tavarysch, was detained for three days along with two other campaign leaders. Police detained and questioned independent journalists Yury Aleinik, Yury Varonezhstau, Larysa Nasanovich, Alyaksandr Ulitsyonak, and Alyaksandr Fyaduta.

On June 15, police detained and questioned independent journalists Nasta Krauchuk and Volha Zharnasek, who were covering Tell the Truth campaign activists as they disseminated printed materials to students in front of BSU. The journalists were taken to a police precinct, searched, questioned, and released a few hours later with no charge. However, Krauchuk reported that their camera was damaged during detention.

On November 17, prosecutors questioned Viktor Fedarovich, a journalist from independent media organization BelaPAN, regarding an article that purportedly contained information illegally disclosed from a preliminary criminal investigation against senior prosecutor Svyatlana Baikova.

On December 9, police briefly detained one BelaPAN and one Nasha Niva correspondent who were covering a sanctioned demonstration staged by Belarusian activists of the Russian National Bolshevik Party against Lukashenka’s reelection bid. The two were released after an identification check without charge.

On December 10, independent journalist Dzmitry Rastaeu was forced to resign from his job at the independent Vecherniy Bobruysk newspaper after local ideology officer Mikhail Kavalevich pressured publishers to fire him for his criticism of the Government.

During and after the Government crackdown that followed the December 19 post-election demonstrations, authorities raided the offices of a number of independent media outlets.

On the night of December 19, police detained at least 15 journalists, members of BAJ, and over five foreign correspondents, according to the BAJ press services. One of the foreign journalists, Mariya Antonova, of Agence France Presse, was reportedly released and left the country on December 20. Twenty-two other journalists reported being the victims of physical violence during the police crackdown on demonstrations. These included Michael Schwirtz and James Hill of the New York Times, Anton Kharchenko and Victor Filyaev of television channel Russia Today, and Hanz Cezarek, a photojournalist for Austrian Internet-based news service news.at.

On December 25, according to press reports, authorities raided the Minsk offices of ERB, which was officially registered in the country but based in Poland, and Belsat TV, unregistered in the country and based in Poland. Over 50 pieces of office and studio equipment were seized from the ERB offices without the presence of its journalists, leaving little more than tables and chairs. In anticipation of the raid, Belsat staff had vacated their premises several days earlier. On December 31, KGB agents searched the apartment of Belsat reporter Katsyaryna Tkachenka, seizing her laptop and SIM cards.

On December 28, three KGB officers searched for three hours the residence of Andrey Skurko, chief editor of the independent Nasha Niva, and confiscated computer equipment. That same day security forces raided offices of the Belarusian PEN Center and Nasha Niva in downtown Minsk. Officers seized 12 computers and electronic storage media.

On December 31, KGB officers raided the residence of Nasha Niva photojournalist Yuliya Darashkevich in search of video and photos from the December 19 demonstration. They seized two laptops, flash drives, recording devices, cameras, and disks.

During the year several independent journalists, including Kalinkina, Radzina, and Khalip, as well as playwright Mikalay Khalezin, received threats of physical violence in anonymous letters by mail and in comments on their blogs. They linked the intimidation with their professional activities and believed security forces were behind the threats.

The Government tightly controlled the content of domestic broadcast media. In 2007 the president stated that control of radio and television stations remained a high priority for the Government and that private stations would not be allowed to operate in the country. He also stated that state publishing houses would never sign contracts with independent media publications that violated media laws. In April 2009 the president reiterated his earlier remarks and dismissed concerns about “the closure of the Russian channels.” On December 20, Lukashenka pledged to “reform the Internet” which according to him, was used to “mock authorities and the people.” He committed to “bringing it closer to Western standards” and threatened journalists that they would be held “fully responsible for every word.”

Only the state-run radio and the state-run television networks were allowed to broadcast nationwide. The Government continued to use its virtual monopoly of television and radio broadcasting to disseminate its version of events and minimize all opposing viewpoints. State television coordinated its propaganda documentaries with the country’s security services.

Local independent television stations operated in some areas and reported local news; however, most were under government pressure to forgo reporting on national issues or risk being censored. Such stations frequently were pressured into sharing materials and cooperating with authorities to intimidate local opposition and human rights groups that met with foreign diplomats.

Libel is a criminal offense. There are large fines and prison sentences of up to four years for slandering and insulting the president. Penalties for defamation of character make no distinction between private and public persons. A public figure who is criticized for poor performance while in office may sue both the journalist and the media outlet that disseminated the critical report. For example, on January 11, a court in Barysau convicted the independent newspaper Borisovskie Novosti and its journalist Anatol Mazgou of insulting a member of the local government in an article and obliged them to pay 2 million rubles (\$670) in moral damages.

On May 13, the Brest regional prosecutors warned small business activist Viktor Chaykouski that he could be held criminally liable for “discrediting the Republic of Belarus” in his “subjective” interviews with independent media. Chaykouski purportedly “cited unreliable information about the social and economic situation” in the country.

Human rights sources reported in July that prosecutors were investigating bloggers’ comments on the independent news site vialejka.org for possible libel. Activist Mikalay Susla was summoned for questioning as a witness, and his computer was confiscated for further examination.

On July 15, regional prosecutors notified Syarhey Panamarou, an editor of the Boyki Klyotsk bulletin (circulation under 300 copies), that a criminal case against him for allegedly libeling local government officials in his publications was sent to court. Hearings were scheduled for August 23, but Panamarou fled the country to escape prosecution. He characterized the charges as politically motivated.

The Government took numerous other actions during the year to limit the independent press, including limiting access to newsprint and printing presses. Several independent newspapers, including Vitsyebski Kuryer (previously forced out of the country and registered in Russia) and Tavarysch, printed materials in Russia because domestic printing presses (mostly state-owned) refused to print them. The Information Ministry warned the Tavarysch newspaper in June that it could lose its registration due to the editorial’s failure to publish the newspaper weekly according to its registration license. Both newspapers remained out of circulation at year’s end. Other independent newspapers, such as Salidarnasc, BDG, and Bobruysky Kuryer, disseminated Internet-only versions due to printing and distribution restrictions.

At year’s end journalists of the independent weekly Gazeta Slonimskaya continued to work from their homes, after having been forced to vacate the newspaper’s rented premises in mid-2008. The newspaper’s editor, Viktor Uladashchuk, stated that he could not lease a new office because rental agencies feared government reprisals.

During the year the Government confiscated numerous independent and opposition newspapers and seized leaflets and other materials deemed to have been printed illegally.

On January 12, police briefly detained opposition activist Barys Khamayda for distributing independent newspapers in Vitsyebsk. He was again apprehended and held for more than two hours on February 18 and an hour on June 27. On February 22, police detained Malady Front activist Ales Kirkevich on charges of illegally distributing the newspaper Khristiankaya Oborona. On March 25, a court in Hrodna fined him 1,225,000 rubles (\$410). In August, Kirkevich was fined 875,000 rubles (\$290) in absentia for the illegal distribution of printed materials on July 3.

Police detained private publisher Viktor Ramnyou at least four times during the year and confiscated numerous copies of his independent newspaper Vitsyebksi Kuryer (printed in Russia) and other material. He was heavily fined on charges of distributing illegally printed materials. For example, on March 17, police seized 50,000 copies of the independent newspaper Nash Dom from Ramnyou and his associate Volha Karach; on March 26, police fined Ramnyou 1,750,000 rubles (\$585). On March 25, police in the Vitsyebksk region seized over 10,000 copies of the Vitsyebksi Kuryer from Ramnyou, and on the same day a court in Lyozna fined Ramnyou 1,225,000 rubles (\$410) for illegally transporting the publication. On April 8, police seized 10,000 copies of the Vitsyebksi Kuryer from Ramnyou in the Mahilyou region and searched his car. On May 6, Ramnyou was fined 1,050,000 rubles (\$350) for illegally carrying 53 copies of the newspaper. On October 8, more than 11,000 copies of the newspaper Vitsyebksi Kuryer were seized from him. On October 12, a court in Lyozna fined Ramnyou 1,225,000 (\$410) for illegal distribution. In a separate case involving Vitsyebksi Kuryer, the Supreme Economic Court upheld a decision of the Vitsyebksk Oblast Economic court to deny publishers a license to distribute newspapers independently.

On March 24, police detained democratic activist Alyaksandr Pratsko for distributing the independent publication Novy Chas at a market in Homyel. Officers examined copies of the newspaper and released Pratsko an hour later without charge. On March 26, a court in Buda-Kashalyou fined journalist and human rights advocate Valer Shchukin 1,050,000 rubles (\$350) for transporting 24,000 copies of the Nash Dom newspaper.

On May 4, authorities confiscated more than 12,000 copies of the newspaper Nash Dom from democratic activist Khrystsina Shatsikava. On June 28, a judge in Mahilyou upheld the confiscation and the court fined Shatsikava 700,000 rubles (\$235) for disseminating illegally printed materials.

During a raid on April 1, authorities confiscated materials from For Freedom movement activist Alyaksandr Ramanovich. On June 16, a court in Pinsk fined Ramanovich 1,050,000 rubles (\$350) for distribution of illegally printed materials.

On June 7, a court in Vitsyebksk fined in absentia the editor of the Vitsyebksi Kuryer newspaper, Aleh Barshcheuski, 700,000 rubles (\$235) for illegally disseminating printed media. Police searched Barshcheuski's car and confiscated copies of the newspaper.

On July 9, police in Krychau detained an independent distributor and confiscated 297 copies of the local independent publication Volny Horad. The prosecutors ordered a "linguistic examination" of the newspaper.

On October 1, a court in Mahilyou fined human rights advocate and journalist Valer Shchukin 1,050,000 rubles (\$350) for illegal distribution of printed materials. Police detained Shchukin on August 8 and confiscated 24,000 copies of the Nash Dom newspaper as well as 5,500 copies of a bulletin about women's rights.

On November 30, a court in Vitsyebksk fined activist Syarhey Kandakou 700,000 rubles (\$235) for distributing the newspaper Vitsyebksi Kuryer. The publication remained out of circulation at year's end.

*Internet Freedom.*—On July 1, the president issued an edict that requires registration of service providers and Internet Web sites, establishes restrictions on access to sites containing "extremist activity" (which many activists believed could be interpreted to include government opponents), and requires the collection of information on users at Internet cafes. It requires service providers to store data on the Internet use of individuals for a year and to hand that information over to law enforcement agencies upon their request. The edict restricts access to Web sites whose content includes "extremist activities;" materials related to illicit weapons, explosives, and drugs; trafficking in persons; pornography; and promotion of violence. It requires service providers to eliminate access to these subject areas from government offices, educational facilities, and cultural institutions if ordered to do so by the KGB, the prosecutor general, the Operation and Analytical Center under the presidential administration, and other state agencies. On October 27, the State Telecommunications Inspectorate under the Communications Ministry stated that the list of restricted Web sites, which is undisclosed, contained 20 sources that carried "extremist or pornographic" materials. Internet service providers are required to update the list on a daily basis. Decisions to restrict access to Internet sources may be appealed to the courts.

The Government partially restricted access to the Internet, and monitored e-mail and Internet chat rooms. Individuals and groups were generally able to engage in the peaceful expression of views via the Internet, including by e-mail, but opposition activists faced the likelihood that their e-mails and other Web-based communications would be monitored.

The authorities freely monitored Internet traffic. By law the telecommunications monopoly, Beltelekam, and other organizations authorized by the Government had the exclusive right to maintain Internet domains.

On October 25, operation and analytical center deputy Uladzimir Ryabavolau stated that the main purpose of regulating the “Belarus segment of the Internet” was to create “conditions for its accelerated development.” Many activists and demonstration participants questioned after the December 19 demonstration reported that security officers told them that phone records had placed them in the vicinity of Independence Square during the demonstration. In late December international and local media reported that Swedish telecommunications firm Ericsson confirmed it had supplied surveillance equipment to authorities. Such equipment allowed the Government to track use of the three major mobile communications networks during the protests. On March 3, Lukashenka signed an edict that required telecommunications companies to provide the KGB and other security officials with access to their customer databases. The companies were responsible for bearing the costs of purchase, installation, and maintenance of the relevant equipment.

Approximately one-third of the population had access to the Internet, and Internet use was highest in urban areas. Access was restricted by relatively high costs and lack of high-speed services in certain areas of the country, as well as at state companies and organizations where reportedly filters exist (and which cover workplaces of 80 percent of the country’s workers). On occasion government providers blocked independent and opposition Web sites during major political events.

On June 24, authorities blocked the Web site of the unregistered Malady Front NGO. Additionally, the group had no control over or access to its Web site and was not able to update information on it due to “external interference” between June 8 and 20. In May the Malady Front was forced to close down its Salihorsk region Web site due to numerous viruses and continued script errors.

On July 8, the state-controlled Beltelekam claimed that it blocked the Web site of the independent Vitsyebtski Kuryer in response to a request from the newspaper’s owners to discontinue hosting services as of July 5. Volha Karach, one of the newspaper’s founders, denied that the paper had made any such request. The Web site resumed its operations at a different domain hosted outside of the country on July 12.

On July 16, the opposition group Charter 97 reported a cyber attack on its Web site after it posted a critical documentary about Lukashenka, implicating him in high-profile disappearances in 1999 and 2000. The Web site also was blocked on June 23, following extensive reports about a dispute over natural gas pricing between the Governments of Belarus and Russia.

On September 7, authorities in Navapolatsk blocked the independent Internet resource ximik.info in compliance with the July 1 presidential edict. According to the Web site’s editor, Andrey Alyksandrau, a number of local educational institutions had eliminated access to the Web site long before the edict’s enforcement. In response to the Government’s interference and Internet restrictions, many opposition groups and independent newspapers switched to Internet domains operating outside the country. The few remaining independent media sites with domestic “.by” domains practiced heavy self-censorship.

On election day, December 19, both before and during the antigovernment demonstration, cyber attacks apparently blocked independent news portals and social networks. The Web sites of Charter 97, Belarusian Partisan, Vyasna, Belarusian Christian Democracy, electroname.com, citizenby.org, Salidarnasc, Twitter, Facebook, and LiveJournal were all unavailable throughout the country. Access to certain news portals, including independent news agency BelaPAN and Radio Liberty, was intermittent.

The Government continued to collect and obtain personally identifiable information on independent journalists and democratic activists. For example, investigators hacked personal passwords to access e-mails, Skype records, and other materials, to read decoded files, and to retrieve deleted information on the computers confiscated from independent journalists Kalinkina, Koktysh, Khalip, and Radzina during raids in February and March.

*Academic Freedom and Cultural Events.*—The Government restricted academic freedom and cultural events. Educational institutions were required to teach an official state ideology that combined reverence for the achievements of the former Soviet Union and of Belarus under the leadership of Lukashenka. Use of the word “academic” was restricted; NGOs were prohibited from including the word “academy” in their titles. Opportunities to receive a higher education in the Belarusian language in the majority of fields of study were scarce. Administrations of higher educational institutions made no effort to accommodate students wishing to study in Belarusian-language classes.

In October 2009 Deputy Education Minister Tatsyana Kavalyova stated that ideology remained “the backbone” of education in the country and gave “special flavor to the educational environment.” She also noted that every educational institution maintained an ideology department.

During the year authorities harassed, intimidated, and dismissed teachers on political grounds. For example, Minsk regional education official Taisa Danilevich warned six local schoolteachers that they would be dismissed if they did not disavow their membership in opposition parties.

In May authorities dismissed Belarusian language teacher Syarhey Salodkin from a school in the village of Koptsi. Salodkin published the bulletin *Poklich Voli*, circulation fewer than 300 copies, which the local education department considered “opposition.” Salodkin also refused to join the state-run trade union.

On June 11, the Belarus State University of Culture and Arts dismissed prominent playwright Andrey Kureychyk for his public support of the Tell the Truth information campaign leaders who were detained and arrested in May. Following extensive criticism in the independent media, Kureychyk was offered his job back on July 18.

Government-mandated textbooks contained a heavily propagandized version of history and other subjects. All schools, including private institutions, were considered political bodies that must follow state orders and could not be led by opposition members. The education minister has the right to appoint and dismiss the heads of private educational institutions.

The BRYU continued its efforts to promote ideological purity among students. University students reportedly were pressured to join the BRYU to receive benefits and rooms in dormitories. Local authorities also pressured BRYU members to campaign on behalf of government candidates. In addition authorities at times pressured students to act as informants for the country’s security services.

According to an education ministry directive, educational institutions may expel students who engage in antigovernment or unsanctioned political activity and are to maintain the proper ideological education of students. During the year at least six students were expelled for political reasons, compared with three or more in 2009, at least 10 in 2008, 20 in 2007, and more than 100 in 2006. Some school officials continued to cite poor academic performance or absence from classes as reasons for the expulsions.

In February the Belarus Science and Technologies University expelled first-year student Syarhey Kuryanovich for his participation in activities of the unregistered European Belarus coalition. Professors told Kuryanovich privately that they were forced to grade him low and expel him for his subsequent academic failures.

On March 5, the private Institute for Parliamentary Studies and Entrepreneurship expelled Marat Abramowski after he announced he would run in local elections.

In March a university in Mahilyou expelled Stanislau Ramanovich, a Malady Front local leader, for his political activities. Two KGB officers interrogated Ramanovich at the university in January and threatened him with expulsion.

On March 24, Iryna Hubsкая, a second-year student and a democratic candidate in local elections, was expelled from a private university in Minsk, allegedly for missing classes.

During the year Franak Vyachorka, a prominent opposition youth leader who was expelled from BSU in 2008 and forcibly drafted in 2009, applied for enrollment to five universities. Four of them denied his application in September, one never responded, and Vyachorka complained to the Education Ministry that he was “denied the right to receive higher education in Belarus.” BSU previously rejected eight application requests from Vyachorka and told him in September that he could be reinstated as a correspondence student of the philology department starting on February 1, 2011.

On November 3, the International Liberal Arts and Economics Institute expelled fifth-year student Uladzimir Kumets for participating in the nomination group of presidential candidate and Tell the Truth campaign leader Uladzimir Nyaklyaeu. During a meeting on November 10, the head of the institute reportedly promised Nyaklyaeu that Kumets would be reinstated in January 2011. Kumets left the country to avoid prosecution after the December 19 crackdown.

The Belarusian State University expelled Malady Front activist Tatsyana Shaputska following her return from the Eastern Partnership Civil Society Forum in Brussels in November 2009. Although the foreign minister claimed that she was expelled for poor attendance, Shaputska reportedly was told that the reason for her expulsion was that she failed to gain permission for the trip from the law faculty dean. On January 28, the Education Ministry turned down her reinstatement request, stating that there were no “legal grounds” for revoking expulsion orders. A Minsk district court dismissed Shaputska’s appeal on March 26.

Human rights advocates announced in November that BSU expelled a fifth-year journalism student for being featured in an anti-Lukashenka video clip posted to YouTube prior to the election.

In December the Committee for the Protection of the Repressed Solidarity reported that opposition youth activist Mikhail Mikulich was expelled from the Belarusian State Pedagogical University for political reasons.

The Government continued to ban teachers and democratic activists from promoting the wider use of the Belarusian language and the preservation of its culture. For example, on September 5, police in Khoyniki briefly detained Maryia Tulzhankova, a member of the young historians' society Talaka, while she was attending the 2010 Belarus Written Language Festival. Officers questioned her about photographing folk bands' performances and looked through her pictures. She was released without charge.

The Government also restricted cultural events. During the year, the Government continued to force opposition theater groups into such venues as bars and private apartments and to suppress unofficial commemorations of historical events. For example, on January 27, organizers of the public release of the compact disc *Belarusian Guitar Poet Hits* had to look for a different venue for the event at the last minute after Minsk city authorities warned the St. Simon and St. Helena Catholic Church against holding the affair. The compact disc was produced by the unregistered Belarusian Christian Democracy Party.

At year's end authorities claimed they were not planning to expel students who took part in the December 19 postelection demonstration in Minsk. BSU administration stated that they would review written explanations submitted by students who were arrested and served short-term sentences before taking further action. On December 28, Viktor Iuchankau, spokesman for the Education Ministry, asserted that students were "not expelled from Belarusian universities for political reasons." According to information released by a state TV channel on December 26, 14 percent of those arrested during the December 19 demonstration were students, and there were credible reports that at least 10 of these students were facing expulsion at the end of the year for their political activities related to the December 19 demonstration.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.—*The constitution provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. Only registered political parties, trade unions, and NGOs could request permission to hold a demonstration of more than 1,000 persons, and denials were common. Security forces frequently forcibly dispersed participants, often causing injuries (see section 1.c.).

The law criminalizes participation in the activities of unregistered NGOs, training of persons to demonstrate, financing of public demonstrations, or solicitation of foreign assistance "to the detriment" of the country. Violations are punishable by up to three years in prison.

During the year authorities employed a variety of means to discourage the holding of demonstrations, to break them up, to minimize their impact, and to punish the participants. Organizers must apply at least 15 days in advance for permission to conduct a public demonstration, rally, or meeting, and government officials are required to respond no later than five days prior to the scheduled event. However, authorities generally refused permits to opposition groups or granted permits only for demonstrations held well away from city centers. Authorities used intimidation and threats to discourage persons from participating in demonstrations, openly videotaped participants, and imposed heavy fines or jail sentences on participants in unsanctioned demonstrations. On dozens of occasions authorities fined opposition activists and members of NGOs for participating in unauthorized protests. On many occasions police and other security officials beat and detained demonstrators before, during, and after unsanctioned peaceful demonstrations (see section 1.c.).

On March 16, 14 opposition supporters who held a rally in front of the Supreme Court to show support for the Vaukavysk activists on trial were detained and charged with holding an unsanctioned event. European Belarus campaign activists Maksim Vinyarski, Palina Kuryanovich, and Palina Dzyakava were held in custody overnight and fined 700,000 rubles (\$235), 1,050,000 rubles (\$350), and 1,325,000 (\$440), respectively. On March 29, a court in Minsk fined youth activist Andrey Kuzminski 1,400,000 rubles (\$465). In April opposition youths Andrey Krechka and Aleh Ladutska were fined 700,000 rubles (\$235) each, and Artur Finkevich and Yauhen Afnahel were fined 17,000 rubles (\$6) each.

On March 23, police arrested three prominent human rights advocates, Ales Byalyatski, Valyantsin Stephanovich, and Iryna Toustik for protesting against two death penalty executions; police also arrested independent journalist Syarhey Sys.

They charged all but Sys with violating mass events regulations. On March 24, a Minsk district court fined the three 17,500 rubles (\$6) each.

Authorities took various measures to deter efforts by prodemocracy activists to celebrate the March 25 anniversary of the country's declaration of independence in 1918, an event the Government does not recognize. Authorities rejected democratic activists' applications to hold the annual March 25 Freedom Day demonstration and to march downtown, as well as one on April 26 commemorating the Chernobyl disaster in central Minsk. Instead they gave permission for the group to gather at the Academy of Sciences building and demonstrate in a secluded park outside central Minsk.

A few hours before the planned demonstration, security forces apprehended Yury Karetnikau, the leader of the NGO Right Alliance, at the Minsk railway station. Police detained a group of Right Alliance activists for an identification and vehicle check on the road from Lida to Minsk. Without a warrant they confiscated 20 unregistered white-red-white opposition flags and 500 Belarusian Popular Front emblems from opposition youth activist Andrey Krechka in Minsk. In Asipovichy, Belarusian Popular Front activist Ihar Simbirau's residence was searched, and police questioned four Belarusian Christian Democracy members at a railroad station in Babruysk, thus preventing them from boarding a train on time. On March 25, in Homyel, security officers took the local For Freedom movement activist Pyotr Kuznyatou off the Minsk-bound train. Police also hampered the delivery of the sound amplifying equipment to the demonstration venue.

Young Belarus member Anton Rusin was detained prior to the March 25, demonstration, along with his associate Tsimafey Dranchuk, who was taken to the emergency room from the police precinct due to high blood pressure. On March 26, a court in Minsk fined Rusin 875,000 rubles (\$290) on minor hooliganism charges.

Despite the Government's actions, on March 25, approximately 1,000 democracy activists demonstrated peacefully at the designated site; however, police in full riot gear blocked a group of 500 of the participants from marching toward downtown Minsk.

On April 26, authorities took heightened security measures at the site of the peaceful demonstration attended by approximately 1,500 persons by fencing off the premises in front of the Academy of Sciences building and installing metal detectors around the perimeter. Alyksandr Lastouski, the Minsk city police spokesperson, noted that similar measures would be taken during any street rallies in which participation was expected to exceed 500 persons, in order "to ensure the safety of Belarusian citizens."

Officials in Brest denied opposition political groups authorization to organize Labor Day marches on May 1, alleging that they could disrupt traffic.

In May, Minsk authorities refused a request from opposition politician Ales Mikhalevich and his associates to hold a rally in front of the National Museum of the History of the Great Patriotic War to protest plans for its demolition.

On May 7, police briefly detained seven opposition activists, including United Civic Party leader Anatol Lyabedzka, for demonstrating in Minsk to mark the 11th anniversary of the 1999 disappearance of Yury Zakharka. On the same day a Minsk district court fined the seven from 350,000 (\$115) to 1,050,000 rubles (\$350). Also on May 7, in Brest two human rights activists were detained for distributing leaflets including information on the Zakharka case.

On May 12, former political prisoner Alyksandr Kazulin was given a 700,000 ruble (\$235) fine, and fines of 525,000 rubles (\$175) each were given to Small Business Council leader Alyksandr Makayeu and to Malady Front activists Mikalay Dzemidzenka and Uladzimir Yaromenka, on charges that they used obscene language during a May 6 protest in front of the Supreme Court.

On June 21, Minsk authorities denied the unregistered Russian National Bolshevik Party representatives permission to protest in the city center against the presidential edict on Internet regulations. Earlier, on June 10, 50 activists peacefully gathered at a remote park for a sanctioned demonstration against the edict.

On June 23, riot police dispersed an unauthorized rally against Edict no. 60 by Russian National Bolshevik Party activists; police detained five activists, who remained in custody overnight. The next day Yauhen Kontush, the leader of the group, was fined 875,000 rubles (\$290), and the four others were fined 175,000 rubles (\$60) each.

On July 12, a Homyel district court turned down an appeal from democratic groups challenging a ban on rallies to mark June 1, International Children's Day. Authorities refused 34 applications for demonstrations related to the occasion.

On July 15, police arrested approximately 70 activists near the national library in Minsk. The young participants planned to stage a pillow fight to mark the 600th anniversary of the 1410 Grunewald battle. All except former political prisoner and

youth leader Andrey Kim were released three hours later without charges. Kim was kept in custody overnight. The next day a court fined Kim 17,500 rubles (\$6) for holding an unsanctioned mass event.

On July 24, police in Mahilyou broke up a protest by Russian National Bolshevik Party representatives against the Internet edict. Party activist Valyantsin Labachou was detained for an hour and taken to a police station for an identification check.

On July 26, police in Homyel detained at least 10 activists, including human rights advocate Anatol Paplauny, who demonstrated to mark the 20th anniversary of the adoption of the Declaration of Belarus' Sovereignty. Police confiscated their printed materials. In separate incidents on the same day, officers briefly detained four other democracy activists.

On July 27, police in Minsk also dispersed opposition activists marking the 20th anniversary of the adoption of the Declaration of Belarus' Sovereignty and briefly detained several participants.

On August 16, eight opposition activists were arrested during an unsanctioned Solidarity Day rally in Minsk; they were released without charges three hours later.

On July 27, police in Salihorsk detained local Malady Front activists Andrey Tychyna and Ryhor Astapenya for attempting to hold a commemoration of the adoption of the Declaration of Belarus' Sovereignty. On August 24, a court fined them 700,000 (\$235) each for disobeying police orders.

In August authorities in Brest, Kamyanets, Malaryta, and Mahilyou denied the request of Tell the Truth campaign activists to demonstrate, to display placards, and to collect signatures in support of campaign leader Uladzimir Nyaklyaeu's nomination to the Fourth All-Belarusian People's Assembly.

On August 5, a district court in Minsk fined opposition activists Mikalay Dzemidzenka and Katsyaryna Davydzik 105,000 rubles (\$35) each, and Vyachaslau Siuchyuk and Andrey Kim 350,000 rubles (\$115) each for participating in an unauthorized demonstration on July 27, the occasion of the 20th anniversary of the adoption of the Declaration of Belarus' Sovereignty. All were detained overnight and released.

On August 12, the Minsk city government denied opposition forces permission to march and rally on August 16 to mark the monthly Solidarity Day and the high-profile disappearances of 1999 and 2000. Their application contained errors, according to officials.

On August 16, police arrested eight opposition activists during an unsanctioned demonstration on the Solidarity Day in northern Minsk. All were required to write written explanations of their activities at a police station and were released three hours later without charge.

On August 17, authorities in Mahilyou denied activists of the unregistered Party of Freedom and Progress permission to hold small demonstrations in the city to call for infrastructure improvements to roads and hospitals. Activists also planned to collect signatures for a petition favoring the construction of two outpatient clinics in remote neighborhoods and for road repairs. Mahilyou authorities designated a site in front of a deserted building in the city outskirts as a venue for demonstrations.

In Brest authorities turned down applications from democracy activists to hold a demonstration in the city center on August 30 to mark the International Day of the Disappeared. Instead, they were instructed to stage it at a remote stadium which remained the only authorized demonstration venue in Brest.

On September 9, more than 50 opposition youths were briefly detained for their attempt to stage another unsanctioned pillow fight in central Minsk. Police questioned them and released without charge.

In September members of the unregistered Belarusian Christian Democracy Party and other democracy activists staged a number of unauthorized protests against Minsk city authorities' plans to convert the former Catholic Bernardine monastery into a hotel and entertainment center. Although most of the demonstrations proceeded peacefully, on September 16 security forces arrested at least 18 activists on their way to the protest, fingerprinted them at a police station, and released them without charges hours later. Opposition activist Vyachaslau Siuchyuk complained that his wife and son were beaten when they attempted to enter the precinct. On September 20, Belarusian Christian Democracy co-chair Paval Sevyarynets, three Malady Front leaders, and two more activists were detained, reportedly battered in a police bus, and harassed at a precinct. The next day on their way to a protest seven activists, including Belarusian Christian Democracy co-chair Vital Rymasheuski, were detained by police for more than two hours and then released without charge.

On September 24, Homyel opposition activists Vasil Palyakou and Valer Repnin were fined 1,050,000 rubles (\$350) each for illegally distributing greeting cards on

the occasion of the 20th anniversary of the adoption of the Declaration of Belarus' Sovereignty on July 26.

On October 2, four Malady Front activists were detained for three hours for disseminating printed materials about demonstrations at the Bernardine monastery. Police threatened the youths with expulsion from their universities and dismissal from their jobs if they continued such political activities.

On October 29, police in Minsk prevented a group of democracy activists from holding an event inside a grocery store to raise awareness about domestic violence, despite an agreement between the activists and store management. Minsk authorities denied a number of activists' applications to stage a similar event in central Minsk.

On November 2, Minsk authorities denied opposition youths permission to organize a demonstration in favor of renaming the Lenin subway station, citing regulations prohibiting mass events within 200 meters of subway stations. On November 16, police blocked opposition activists from marching to the presidential administration building from the Kastychnitskaya Square in downtown Minsk. Although no one was arrested, plainclothes security officers recorded the demonstration and forced the demonstrators to disperse, threatening them with criminal charges for holding an unauthorized protest.

On November 22, police in Vitsyebsk detained civil society activist Yan Dzyarzhautsau and independent media distributor Barys Khamayda for holding an unauthorized picket urging a boycott of the presidential election. A court fined Dzyarzhautsau 350,000 rubles (\$115) and sentenced Khamayda to five days in jail on the same day for having numerous violations of mass events regulations. However, a higher court dropped the charges and released Khamayda after he had served a day in jail.

In late November, Homyel city authorities refused an application from local human rights advocates Leanid Sudalenka and Anatol Paplauny to stage a rally to mark International Human Rights Day on December 10. Officials cited many reasons for the denial, including the applicants' failure to cover police and ambulance expenses. Authorities also claimed that demonstrations were not permitted in central Homyel and would only be authorized for locations on the outskirts of the city.

On the evening of election day, December 19, police forcibly dispersed a crowd estimated to number 20,000-30,000 which assembled on Kastychnitskaya Square and marched to the Independence square in Minsk to protest vote fraud in the presidential elections. Scores of persons were injured, including presidential candidates Uladzimir Nyaklyaeu, Andrey Sannikau, and Vital Rymasheuski. Over 700 persons were detained, according to independent human rights groups. Authorities appeared determined to disrupt the previously planned unauthorized demonstrations. Even before the polls closed, police stopped a group of protesters led by presidential candidate Nyaklyaeu and a van carrying a sound system for the demonstration. While the check was in progress, a group of unidentified men in black uniforms believed to be special forces jumped out of nearby vehicles and tossed stun grenades at the group. Nyaklyaeu was beaten in the attack and authorities seized the group's sound equipment. Supporters took Nyaklyaeu to a hospital for treatment, but unidentified men believed to be secret service officers later abducted him from his hospital bed and roughly handled his wife in the process. After more than 24 hours of denial by police and security services that Nyaklyaeu had been detained, Lukashenka revealed at a press conference in response to a reporter's question that Nyaklyaeu was being detained in a KGB detention center.

At about 10:30 pm, after a small group of individuals, some alleged to be provocateurs, broke windows in one of the principal government buildings housing the parliament, the Central Election Commission, and the council of ministers, riot police charged the main group of demonstrators who had not been involved in any window breaking. As they cleared the square, police trampled upon or indiscriminately beat scores of protesters, journalists, and bystanders with batons and fists. In many cases police chased protesters for blocks in order to arrest them. Other participants were rounded up in the following days. While most of the demonstrators were released after serving administrative sentences of 10 to 15 days, authorities on or about December 29 charged at least 22 opposition leaders and activists, including five presidential candidates with "organizing and participating in mass disturbances," offenses that could carry penalties of up to 15 years' imprisonment, and investigations of a number of other opposition leaders were underway at year's end.

In the wake of December 19 demonstration, security officers continued to harass and jail activists who protested the police actions on that night. For example, on December 27 a Minsk court sentenced opposition youth activists Mikhail Pashkevich to 15 days in jail; Volha Damarad, Mikhail Matskevich, and Ales Kirkevich to 10 days in jail; and Dzmitry Shurkhay to five days in jail for demonstrating in front

of the pretrial detention facility on December 21. Police detained three more opposition youth demonstrators on December 29 and held them at pretrial detention facilities overnight. On December 30, the three were jailed for protesting: Franak Vyachorka and Andrey Krechka were imprisoned for 12 days and Anton Koipish for 10 days.

Police also used preemptive arrests and detentions to prevent democratic activists' participation in protests. For example, on January 11, a court in Navahrudak convicted local Belarusian Christian Democracy member Yury Kazak of malicious hooliganism and fined him 8,750,000 rubles (\$2,915). Police detained Kazak and his associate Darya Bakhur on November 7, 2009, the 92nd anniversary of the October Russian Revolution, which was observed as a holiday, after a bust of Lenin in the city center was splashed with green paint. Bakhur was released without charge.

On December 9, a court in Krupki convicted prominent artist Ales Pushkin of using foul language and resisting police officers, and sentenced him to 13 days in jail. Police had arrested Pushkin at his home the previous day.

On December 17, police arrested Nyaklyaeu campaigner Kiryl Semyanchuk in Hrodna. The next day, Semyanchuk was sentenced to six days in jail. Aleh Kalyankou was sentenced to three days in jail on December 19. Both men were charged with participating in an unauthorized rally against early voting held in Hrodna in December.

On December 18, a court in Homyel jailed Rymasheuski's aide Yury Klimovich for 15 days for allegedly using obscenities in public.

*Freedom of Association.*—The law provides for freedom of association; however, the Government severely restricted it in practice.

The Government enforced laws and registration regulations to restrict the operation of independent associations that might be critical of the Government. All NGOs, political parties, and trade unions must register with the Ministry of Justice. A government commission reviews and approves all registration applications; in practice its decisions were based largely on political and ideological compatibility with the Government's authoritarian philosophy.

Registration procedures required applicants to provide the number and names of founders, along with a physical address in a nonresidential building, an extraordinary burden. Individuals listed as members are vulnerable to retribution. The Government's refusal to rent office space to unregistered organizations and the expense of renting private space forced most organizations to violate the nonresidential address requirement. This allowed authorities to deregister existing organizations and deny their reregistration.

During the year the Government denied registration to numerous NGOs and political parties on a variety of pretexts, including "technical" problems with applications. Authorities frequently harassed and intimidated individuals who identified themselves as founding members of organizations in an effort to induce them to abandon their membership and thus deprive groups of the number of petitioners necessary for registration. Many of the rejected groups had previously sought and been denied registration on multiple occasions. The Government continued deregistering groups during the year.

On February 18, the Supreme Court turned down an appeal challenging the regional justice department's refusal to register the human rights NGO Berastseiskaya Vyasna in the Brest region. Authorities cited the organization's failure to submit a copy of the registration fee receipt as a reason for the refusal. On August 20, the department turned down the NGO's tenth registration request saying that one of the addresses on the form was inaccurate. On November 16, the Supreme Court dismissed Berastseiskaya Vyasna's appeal.

In July 2009 the Supreme Court upheld the Ministry of Justice's April denial of registration of the Belarusian Christian Democracy Party, citing technical flaws in the party's registration documents. The party again attempted to register in December 2009, and the Justice Ministry once again denied registration on the grounds that the party had allegedly provided false information about its founders. On February 18, the Supreme Court upheld the Justice Ministry's denial. The party's co-chairs Pavel Sevyarynets, Vital Rymasheuski, and Dzyanis Sadouski were banned from the courtroom when the judge announced the verdict, although foreign diplomats and journalists were allowed to observe. On October 25, the Justice Ministry denied the party's third registration attempt, claiming other technical problems with the application. Sevyarynets called the refusal "politically motivated" and said authorities continued to exert pressure on members to disavow their affiliation with the party.

On May 5, the Supreme Court turned down an appeal from the Assembly of Democratic NGOs to challenge the ministry's third registration refusal. Despite the

court's recognition of some of the Assembly's arguments as valid, the judge ruled against the appeal.

On May 26, the Supreme Court dismissed an appeal filed by the local office of the Kyiv-based International Helsinki Association for Human Rights to challenge a Justice Ministry's registration denial.

On May 28, the Supreme Court rejected a complaint from the Malady Front challenging its sixth registration denial. The justice ministry refused the application citing lack of a proper legal address and numerous administrative and criminal convictions of its members.

On October 15, the Minsk Economic Court terminated registration of the Right Alliance NGO based on authorities' allegations that the NGO was carrying out illegal political activities.

On November 10, authorities deregistered the Movement Forward NGO, which had supported the Tell the Truth campaign. The Minsk Economic Court ruled that the NGO's lease was invalid and that the NGO subsequently did not secure a legal address for official registration.

On November 18, a prosecutor in Hrodna issued a warning to Malady Front deputy chair Ales Kirkevich that he could be held criminally liable for acting on behalf of an unregistered organization.

In August 2009 the Supreme Court rejected a registration denial appeal by prominent human rights NGO Vyasna. This was the third denial since the Government stripped Vyasna of its registration in 2003. The Justice Ministry stated that the NGO failed to document the precise meaning behind its name and asserted that many of its founders had administrative or criminal records that made them inappropriate advocates for human rights work. During the year Vyasna remained active but did not attempt to register.

During the year the Ministry of Justice indicated that it continued to issue written warnings to NGOs, political parties, and trade unions. Harassment in the form of inspections by security officials and confiscation of political literature continued.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement, including the right to emigrate. However, the Government at times restricted the right of its citizens to foreign travel. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and persons of concern.

The Government maintained a database of persons who were banned from traveling abroad. According to the Ministry of Internal Affairs, the list contained the names of at least 120,000 persons who were prohibited from foreign travel, including those who possessed state secrets, were facing criminal prosecution or civil suits, or had outstanding financial commitments. Opposition politicians and civil society activists criticized the database, saying it restricted freedom of travel. Some persons were informed by letter that their names were in the database; others were informed at border crossings. In some cases opposition activists were either turned away at the border or detained for lengthy searches. For example, on November 2 in Homyel, border guards conducted two separate searches of four Tell the Truth campaign activists from Mahilyou returning to the country on a train from Kyiv. On November 4, officers detained and searched for two hours Hrodna activists Uladzimir Khilmanovich and Viktor Sazonau after they arrived by train from Poland.

Under a presidential decree, any student who wishes to study abroad must obtain permission from the minister of education. The decree, ostensibly intended to counter trafficking in persons, also requires the Ministry of Interior to track citizens working abroad and obliges travel agencies to report individuals who do not return from abroad as scheduled.

The law also requires persons who travel to areas within 15 miles of the border to obtain an entrance pass.

The law does not allow forced exile, but sources assert that security forces threatened opposition leaders with bodily harm or prosecution if they did not leave the country. The law allows internal exile, known as *khimiya*, for persons convicted of crimes, and authorities employed it during the year.

Many university students who had been expelled or were under threat of expulsion for their political activities opted for self-imposed exile. Since 2006 more than 500 students left the country to continue their studies at foreign universities, and at least 44 students were still enrolled in programs in Poland at the end of the year.

Internal passports, a form of national identity card, were required for permanent housing, work, and hotel registration. Police continued to harass individuals who lived at a location other than the legal place of residence indicated in their internal passports.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice the Government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

While all foreigners have the right to apply for asylum, no Russian nationals received either refugee status or complementary protection in the country. Immigration authorities and courts asserted that under the terms of treaties on the union between Belarus and Russia and as a result of the equal rights of citizens in each country, Russians can legally settle and obtain residence permits in the country based on their Russian citizenship and therefore do not need asylum. Nevertheless, immigration authorities did accept 14 asylum applications from Russian citizens during the year.

Asylum seekers have freedom of movement within the country but must reside in the region where they filed their applications for refugee status and in a place known to the authorities. Authorities reportedly often required asylum seekers to settle in rural areas. Change of residence was possible only with notification to authorities. Authorities issue registered asylum seekers certificates that serve as identification documents and protect them from expulsion. In accordance with the law, they must also register with local authorities to obtain internal passports.

*Stateless Persons.*—The UNHCR listed 7,731 stateless persons at year's end, down from a total of 7,799 persons in January.

Citizenship is derived either by birth within the country's territory or from one's parents; if one parent is a citizen, the child is a citizen regardless of place of birth.

Arbitrary detention of, and violence against, stateless persons generally were not problems. However, stateless persons faced discrimination in employment because authorities often required them to settle in rural areas and prohibited them from seeking jobs outside of the regions where they lived. In practice stateless persons could not change their region of residence.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides the right for citizens to change their government peacefully; however, the Government denied citizens this right in practice.

Since his election in 1994 to a five-year term as the country's first president, Lukashenka steadily consolidated power in the executive branch to dominate all branches of government, effectively ending any separation of power among the branches of government. Flawed referenda in 1996 and 2004 amended the constitution to broaden his powers, extend his term in office, and remove presidential term limits. Subsequent presidential elections, including the one held on December 19, continued to deny citizens the right to express their will to choose between opposing candidates in an honest and transparent process with fair access to media and resources. The September 2008 parliamentary elections fell significantly short of international standards for democratic elections, according to the final report by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) observation mission. Despite the president's stated intent to conduct a free and fair election, authorities impeded constitutional rights of expression, association, and assembly. All of the 110 candidates declared winners were supporters of Lukashenka's policies.

*Elections and Political Participation.*—The December 19 presidential election was marred by numerous violations of procedures and an absence of transparency and accountability that led the OSCE/ODIHR mission observation to report that the country still had "a considerable way to go in meeting its international commitments." OSCE/ODIHR observers assessed the vote count as "bad or very bad in almost half of all observed polling stations," with clear instances of ballot stuffing and tampering. Although opposition candidates enjoyed somewhat greater freedom to enter the race and promote their candidacies than in some earlier elections, pre-election campaigning remained extremely limited, and government harassment of independent newspapers, opposition political parties, and independent NGOs throughout the year limited the opposition's ability to mount effective campaigns (see sections 1.f, 2.a, and 4). According to the OSCE/ODIHR mission, broadcasters nationwide devoted 90 percent of their political coverage to the incumbent president. What coverage there was of opposition candidates was overwhelmingly negative. De-

spite a nominal increase in opposition representation, authorities continued to exclude opposition representatives from election commissions at all levels. The Central Election Commission had four opposition members in advisory, nonvoting roles. Local polling places were administered almost exclusively by electoral commissions made up of Lukashenka supporters, sometimes masquerading as progovernment NGOs or pro-Lukashenka political parties, or employees of state-owned enterprises and public sector. The majority of observers at local polling place appeared to be similarly supportive of the regime, and many of them received instructions in advance to report that the proceedings were “in order.”

However, the most serious violations took place after the polls closed, when, as the OSCE mission observed, the situation “deteriorated significantly.” In many precincts ballots from early voting and those cast using mobile ballot boxes, which could not be monitored effectively by independent observers, were mixed together with those cast at the precinct on election day, a violation of the country’s election law. In many instances international observers reported that counting was conducted silently and at a sufficient distance as to make evaluation of the count impossible. There were a number of reports that vote totals changed as the ballot boxes were transported between local precincts and the territorial election commission offices. No genuinely independent organizations were permitted to conduct exit polls, but in the opinion of the independent NGO For Fair Elections, which monitored 250 polling stations across the country, the president failed to gain the 50 percent of the vote necessary to avoid a runoff. The official results gave him 79.65 percent of the vote against nine other candidates. The head of the OSCE/ ODIHR mission observed the next day that “a positive assessment of this election isn’t possible.”

There were instances in which state-owned printing houses refused to produce opposition leaflets. Supporters of opposition candidates also reported harassment by authorities, including seizure of campaign materials. Government-controlled print media, including the newspapers Respublika and Narodnaya Gazeta, required some opposition candidates to censor their election platforms prior to publication to remove criticism of the incumbent and calls for demonstrations on the night of December 19. Political parties continued to receive formal “warnings” for minor offenses under a law that allows authorities to suspend parties for six months after one warning and close them after two. The law also prohibits political parties from receiving support from abroad and requires all political groups and coalitions to register with the Ministry of Justice.

Authorities continued to harass the unrecognized Union of Poles and its members (see section 6).

During the year there were multiple cases of youth members of political opposition groups forcibly conscripted into the military. There were also reports of discrimination and harassment against them while in military service (see section 1.f.).

There were 35 women in the 110-member Chamber of Representatives and 19 women in the 64-member Council of the Republic. A woman chaired one of the Chamber of Representative’s 20 committees and there was one woman in the 40-member Council of Ministers.

No high level members of government or the National Assembly openly identified themselves as members of a minority, although several were ethnic Poles or members of other ethnic groups.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, reports indicated officials continued to engage in corrupt practices. The World Bank’s worldwide governance indicators reflected that corruption was a serious problem in the country. According to Prosecutor General Ryhor Vasilevich, the majority of the corruption cases involved accepting and soliciting bribes, fraud, and abuse of power.

On June 2, Deputy Prosecutor General Viktor Konan asserted that public sector employees should tour prisons as a part of national anticorruption campaign. Soon after, representatives of various ministries reportedly visited a detention center in Minsk. Konan criticized the council of ministers and regional executive authorities for failing to tackle corruption effectively and stated that the ministries of economy and finance were responsible for one-third of all corruption crimes.

The lack of transparency between the president’s personal funds and official government accounts and a heavy reliance on off-budget revenues suggested corruption within the executive branch.

Petty corruption among police was widespread. According to the interior ministry, 140 corruption-related criminal cases were opened against police officers during the year. Military Prosecutor Alyksandr Dranitsa said on June 27 that the number of crimes committed by staff of the armed forces was on decline. Corruption offenses

accounted for 15 percent of all crimes by military personnel, according to Dranitsa. He acknowledged that hazing remained the most widespread crime registered in the military.

A 2008 anticorruption law expanded the list of professions described as vulnerable to corruption, designated the prosecutor general's office as the coordinator of anticorruption efforts, and prohibited government officials from having foreign bank accounts or engaging in nepotism. In April 2009 the president signed a decree extending the authority to investigate corruption cases beyond prosecutors to include also the interior ministry and the KGB.

The prosecutor general reported that during the year authorities registered 3,637 corruption crimes, up 8.1 percent from the previous year. Bribery accounted for 36.4 percent of cases, fraud for 28.8 percent, and embezzlement through abuse of office for 23.7 percent. Vasilevich claimed that corruption offenses often stemmed from the Government's failing to take proper measures to prevent and combat corruption.

There were numerous corruption prosecutions during the year; however, prosecutions remained selective and were in some cases politically motivated.

On February 10, a court in Baranavichy sentenced a former local financial police chief to five years in prison for facilitating illegal business activities and tax evasion.

On March 25, the Military Court convicted Yauhen Kamarnitski, a former deputy head of the State Border Committee, of accepting large bribes and sentenced him to five years of house arrest on account of his poor health. His accomplice in the case, Alyaksandr Aparovich, a former deputy chief of the Smarhon border unit, was sentenced to four years in prison.

On May 7, the Supreme Court sentenced former Minsk regional prosecutor Mikhail Snyahir to seven years in prison following closed-door court proceedings. Snyahir was charged with abuse of authority, accepting bribes, and illegal possession of arms.

On June 22, the Minsk regional court sentenced Mikhail Tsyhan, a former head of a Minsk district, to eight years in prison. He was convicted of bribery, abuse of authority, embezzlement, and illegal activities involving ammunition.

On August 12, a court sentenced Arkadz Karputs, a former chairperson of the Hrodna regional council and a member of the upper chamber of the parliament, to two years in jail on a bribery charge. Karputs reportedly pleaded guilty.

On October 25, prosecutors extended rigid house arrest for Svyatlana Baykova, a former senior investigator with the prosecutor general's office. The KGB arrested Baykova on February 25 and charged her with abuse of office and illegally dropping criminal charges against some suspects in a high-profile smuggling case which involved Hramovich. Baykova wrote a letter to the president seeking her release and pledging to assist him in combating corruption.

On November 3, the Military Court sentenced the chief of the district military recruitment office in Barysau, Dzmitry Pshanko, to four years in prison and property forfeiture for bribery, fraud, and power abuse. Pshanko was arrested in December 2009 when he was accepting a \$450 bribe from a young man for deferring his compulsory military service on medical grounds. The case featured at least four additional instances of bribery.

On November 9, the Hrodna regional prosecutor's office told the press that Henadz Khatsko, the former chief of the Hrodna regional police department, could avoid criminal charge if he reimbursed the Government 11 million rubles (\$3,700). Khatsko, who had fled the country, returned and voluntarily appeared before the police on November 5. He was charged with abuse of office and bribery, and released on his own recognizance. The case was pending at year's end.

On December 24, the Defense Ministry announced that Commander-in-Chief of the Air and Air Defense Forces Ihar Azaronak was arrested and charged on December 30 with abuse of office and accepting large bribes. He remained in custody at year's end.

In January 2009 the prosecutor general announced the arrest of the former chief of the Financial Investigations Department of the State Control Committee, Anatol Hramovich, for abuse of power, bribery, and customs duty evasion. On May 21, the Belarus Military Court commenced hearings against Hramovich behind closed doors. There were no reports of further developments in his case before year's end.

In March 2009 the KGB opened a major corruption case against a number of senior-level interior ministry personnel in Homyel region. Authorities reportedly arrested and charged the officials with bribery and other corruption-related offenses. On February 17, the Supreme Court sentenced three police officials to between three and four years in jail. An additional defendant was convicted, but was found eligible for amnesty and released.

The law, government policies, and a presidential decree severely restricted public access to government information. Citizens had some access to certain categories of information on government databases and Web sites; however, much of the information was neither up-to-date nor complete.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were a number of active domestic human rights NGOs; however, authorities were often hostile to their efforts, did not cooperate with them, and were not responsive to their views. Three prominent human rights NGOs, the Belarusian Helsinki Committee, the Center for Human Rights, and the Center for Legal Transformations, remained registered. A variety of unregistered NGOs, including Vyasna, Charter 97, the Committee for the Protection of the Repressed "Solidarity," the Human Rights Alliance, Legal Assistance to the Population, and For Religious Freedom, continued to operate in spite of systematic harassment from authorities.

Following the flawed December presidential election, authorities raided the offices of some NGOs, seizing computers and other equipment. The president announced that the Minsk office of the OSCE would be closed, and authorities refused to extend the mandate of the OSCE Minsk Office past December 31 despite a clear desire by the OSCE to continue its work in the country.

Authorities harassed both registered and unregistered NGOs, subjected them to frequent inspections and threats of deregistration, and monitored their correspondence and telephone conversations. Authorities harassed family members of NGO leaders and civil society activists (see section 1.f.). The Government ignored reports issued by human rights NGOs and rarely met with them. State-run media did not report on human rights NGOs and their actions; independent media that reported on human rights issues were subject to closure and harassment.

The Government refused to register numerous NGOs and continued to harass them under articles 193 and 193.1 of the criminal code, which criminalizes organizing or participating in any activity by an unregistered organization. The law also prohibits persons from acting on behalf of unregistered NGOs. Between 2006 and 2009 courts convicted 17 persons of crimes under article 193.1. Several domestic and international human rights groups, including Amnesty International, continued to urge the Government to abolish article 193.1 and to remove other legal obstacles that hindered the work of NGOs and allowed official harassment of civil society and youth activists.

Authorities can close an NGO after issuing only one warning that it violated the law. The most common pretexts that prompted a warning or closure were failure to obtain a legal address and technical discrepancies in application documents. The law allows authorities to close an NGO for accepting illegal forms of foreign assistance and permits the Ministry of Justice to participate in any NGO activity and to review all NGO documents. NGOs also must submit detailed reports annually to the ministry about their activities, office locations, officers, and total numbers of members.

In 2008 a presidential order took effect that increased rent tenfold for most NGOs. Prior to the order NGOs paid one euro (\$1.34) per square foot of office space, compared with 10 euro (\$13.40) charged to commercial groups. While some groups, including youth sports groups, charity organizations, and children's arts centers, continued to pay the one euro rate, other NGOs, such as the Belarusian Voluntary Society for Historic and Cultural Heritage Protection, were required to pay the higher rate. Many NGOs stated the higher rent would likely force them to close. On February 8, a senior state property committee member stated that to be eligible for discounted rent rates, an NGO should "actively support the Government's policies."

During the year the BHC continued to experience problems with authorities. In 2008 the Supreme Court allowed the Ministry of Justice to withdraw a petition to suspend the BHC's activities. However, the NGO's bank accounts remained blocked, and alleged tax arrears were unresolved. The case originated in 2005, when authorities seized BHC office equipment as partial payment of 191.5 million rubles (approximately \$63,800) in alleged tax arrears and fines for back taxes on international donor funds dating from 2000-02. In October 2009 the financial intelligence services requested income statements and other information from BHC members. During the year BHC's accounts remained blocked.

The KGB continued to harass NGO and political party members and activists by planting defamatory articles or information about them in the media. For example, in late December all state television channels aired a documentary implicating opposition presidential candidates, European security services, and opposition forces in masterminding a coup d'etat. The 45-minute film featured wiretapped mobile phones conversations, KGB footage of searches and video of the December 19 dem-

onstrator dispersal. It also included alleged financial reports by the candidates to purported foreign sponsors of the opposition. In other printed and broadcast media reports and exposes during the year, state media portrayed the opposition as weak and debilitated, downplayed their activities, and alleged that they operated through foreign grants and sponsorship in order to promote their personal interests.

Authorities were reluctant to engage on human rights problems with international NGOs, whose representatives often had difficulty gaining admission to the country. For example, in December authorities denied a visa to Martin Ugglä, the head of the Ostguppen Swedish Initiative for Democracy and Human Rights. Ugglä last traveled to the country in 2006 and has since been denied visas on four occasions.

Authorities routinely ignored NGOs' recommendations on how to improve the human rights situation in the country and their requests to stop harassing the NGO community.

On December 31, according to press reports, a foreign ministry spokesman announced that there were "no objective reasons" for extending the mandate of the OSCE office in Minsk. The office had been operating in the country since 2003 with a mandate to assist the country in the area of rule of law and with economic and environmental matters. (An earlier office with a broader mandate was terminated in 2001.) The Government claimed that the OSCE mandate "has been fulfilled" and pointed to the earlier closure of OSCE missions in neighboring countries.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status. In practice the Government did not always enforce these prohibitions. Problems included violence against women and children; trafficking in persons; and discrimination against persons with disabilities, Roma, ethnic minorities, and members of the lesbian, gay, bisexual and transgender (LGBT) community.

*Women.*—The law criminalizes rape in general but does not include separate provisions on marital rape. Rape was a problem. However, most women did not report it due to shame or fear that police would blame the victim. Although no statistics on rape were available, the interior ministry stated that the number of registered cases of rape decreased 35 percent during the year.

Domestic violence, including spousal abuse against women, was a significant problem. A 2006 Amnesty International report concluded that measures taken by authorities to protect women against domestic violence were insufficient. The criminal code does not contain a separate article dealing with domestic violence. According to a study released by BSU's Center for Sociological and Political Research on March 2, four out of five women between ages 18 and 60 claimed that they were subjected to psychological violence in their families. One in four women suffered from physical violence, and 13 percent of women reported that their partners sexually abused them. Women remained reluctant to report domestic violence due to fear of reprisal and social stigma. According to the study, only 6 percent of male and 46 percent of female victims of domestic violence sought professional assistance. NGOs operated crisis shelters, primarily in Minsk, but they were poorly funded and received only limited support from the Government.

The prosecutor general announced that the number of domestic crimes increased by 4.4 percent to 3,111 during the year.

Sexual harassment reportedly was widespread, but no specific laws, other than those against physical assault, address the problem.

Couples and individuals had the right to decide the number, spacing, and timing of children, and had the information and means to do so free from discrimination. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections. According to data published jointly by the World Health Organization, the UN Children's Fund, the UN Population Fund, and the World Bank, the country's maternal mortality ratio was 15 maternal deaths per 100,000 live births in 2008.

The law provides for equal treatment of women with regard to property ownership and inheritance, family law, and the judicial system, and it was generally respected in practice. The law also requires equal wages for equal work, although this provision was not always enforced. On December 2, Deputy Minister of Labor and Social Security Ihar Staravoytau said that women's wages were 20 percent less than those of men's despite higher education levels. Employment of women in the private sector remained limited. Staravoytau also noted that it took one month on average for men to find new employment and more than two months for women. Women also accounted for two-thirds of all officially unemployed persons seeking a job for more than a year. The Labor and Social Security Ministry is responsible for ensuring gender equality, although it cannot issue binding instructions to other government

agencies. There were very few women in the upper ranks of management or government, and most women were concentrated in the lower-paid public sector. Women's groups also voiced concerns about the feminization of poverty, particularly among women with more than two children, female-headed households, women taking care of family members with disabilities or older family members, and rural and older women.

The National Statistics Committee reported that as of June 1, 52 percent of the unemployed were women compared to 55.1 percent in June 2009. The law grants women the right to three years of maternity leave with assurance of job availability upon return. However, employers often circumvented employment protections by using short-term contracts, then refusing to renew a woman's contract when she became pregnant. During an inspection of 29 enterprises in the Vitsyebsk region in 2009, the local prosecutor's office found that employed women who were taking care of minor children were at times forced to travel on business and to work overnight and overtime without their prior consent and in violation of laws. A number of women worked in extreme and hazardous conditions.

*Children.*—Citizenship is derived either by birth within the country's territory or from one's parents. A child of a citizen is a citizen regardless of place of birth, even if one of the parents is not a citizen.

In contrast with previous years, there were fewer reports that Romani children were subject to harassment from non-Romani children and teachers. The majority of Romani youth did not finish secondary school and failed to enroll university programs. There were no special school programs for Roma, although there were such programs for Jews, ethnic Lithuanians, and Poles.

The juvenile affairs commission reported that between January and October, 32 children were raped, 34 were victims of other forms of sexual abuse, and 15 were subjected to molestation. Seven underage girls were involved in prostitution-related crimes, four other girls were engaged in prostitution, and nine children were involved in distribution of pornography. During the same period a total of 8,590 crimes were committed against children, up from 6,128 during 2009. Of this total, 6,244 children were parties in cases against their parents for refusing to compensate the Government for maintenance of their children removed from their households and placed in institutional care. Between January and October, 70 children were reportedly killed and 80 were injured. Mothers killed six newborn babies, and six children committed suicide in the same period.

According to data from the interior ministry, 26 minors became victims of trafficking for sexual exploitation. Ten minors were engaged in child pornography as of year's end. The law provides penalties of up to 13 years in jail for production or distribution of pornographic materials depicting a minor. Child prostitution was a problem, and children, along with men and women, were forced into begging and forced labor (see section 7.c.). There were also reports of child trafficking.

Rape or sexual assault of a person known to be a minor is punishable by up to 15 years in jail. Sexual acts between a person older than 18 years of age and a person known to be younger than age 16 carry penalties of up to five years in jail.

There were some reports of child marriage within the Romani community, where girls as young as age 14 and boys as young as age 16 frequently were married with parental consent.

The country was not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

*Anti-Semitism.*—Jewish groups estimated that between 30,000 and 40,000 persons identified themselves as Jews. Most were not active religiously.

During the year anti-Semitic incidents continued but were on decline, and authorities sporadically investigated reports of such acts. Religious sites were vandalized. The Government did not promote anti-bias and tolerance education.

On May 9, during Victory Day celebrations, vandals set fire to wreaths and flowers laid at the memorial to Holocaust victims in Brest. The memorial had been vandalized on numerous occasions since it was erected in 1992, including in each year since 2008. Previous investigations failed to uncover the perpetrators.

On October 8, independent media reported that neo-Nazi graffiti appeared on industrial buildings in Pinsk and local authorities took no steps either to remove the slogans or to identify the vandals.

On December 22, Jewish community leader Yakau Basin submitted an appeal to prosecutors seeking to open an investigation into vandalism and the promotion of Nazism. Basin reported that swastikas and neo-Nazi graffiti appeared near the door to his apartment and said that the act of vandalism was "a direct threat" to him.

Jewish community and civil society activists continued to express concern over the concept of a "greater Slavic union" that was popular among nationalist organiza-

tions, including the neo-Nazi group RNU, which remained active despite its official dissolution in 2000. Neo-Nazis were widely believed to be behind these and numerous other incidents across the country. Anti-Semitic and Russian ultranationalist newspapers and literature, DVDs, and videotapes imported from Russia continued to be sold.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, and other government services, and such discrimination was common in practice.

The Ministry of Labor and Social Security is the main government agency responsible for protecting the rights of persons with disabilities. The law mandates that transport, residences, and businesses be accessible to persons with disabilities. However, in practice few public areas were wheelchair accessible. The National Association of Disabled Wheelchair Users estimated that more than 75 percent of persons with disabilities were unable to leave their own homes without assistance.

Authorities provided minimal, reportedly ineffectual, benefits for persons with disabilities. For example, persons with disabilities who lived alone were entitled to a 50-percent discount on rent and utilities. Since few residences were accessible, persons with disabilities had to live with friends or family and thus were ineligible for the discount. Public transportation was free to persons with disabilities, but neither the subway in Minsk nor the bus system was wheelchair accessible. A government prohibition against workdays longer than seven hours for persons with disabilities reportedly made companies reluctant to hire them.

On March 24, a court in Hrodna upheld a suit filed by wheelchair user Syarhey Feshchanka against local traffic police seeking 7 million rubles (\$2,330) in damages. The court ordered police to pay Feshchanka 1.3 million rubles (\$430). In August 2009 Feshchanka fell down the stairs of the traffic police building and was injured. The building contained no ramp. Police reportedly took no steps to install a ramp and suggested wheelchair users either call officers from their homes or use a stationary phone on the first floor of the building to contact an officer. According to local authorities in Hrodna, no secondary schools and few grocery stores were accessible for wheelchair users.

*National/Racial/Ethnic Minorities.*—Governmental and societal discrimination against the ethnic Polish population and Roma persisted. There were also expressions of societal hostility toward proponents of Belarusian national culture.

During the year authorities continued to harass the independent and unregistered Union of Poles of Belarus (UPB) and its former head, Anzhelika Borys. The UPB split from the Government-controlled Union of Belarusian Poles in 2005. As part of an effort to keep the UPB members from attending a January 21 meeting in Iyvanets, police detained approximately 46 members for several hours. All were released with no charges after a Polish diplomat intervened on their behalf.

In late January in Iyvanets, authorities engineered the replacement of the long-time head of the local Polish House, Teresa Sobal, with a progovernment candidate. In December 2009 police had initiated a criminal case against Sobal over alleged misappropriation of funds in 2004.

On February 5, a court in Hrodna fined Borys and her organization Polonika, the principal source of financial support for the UPB, 4.2 million and 72 million rubles (\$1,400 and \$24,000) for alleged tax law infringements. On October 11, the Hrodna Regional Economic court dropped financial claims against Polonika. The newly elected UPB chair, Anzhelika Orechwo, said she was unaware of the reasons behind the move but noted that authorities could resume prosecution at any moment.

In a separate incident on February 5, Borys' car was vandalized in Hrodna. Borys was fined 1,050,000 rubles (\$350) on February 15 for participating in an unsanctioned demonstration in Hrodna on February 10 in support of Sobal. Borys' three senior associates received five-day jail sentences for participating in the demonstration. On April 6, Hrodna court officers searched Borys' apartment to inventory her property so that it could be seized to cover her fines.

On February 8, police raided and seized the Polish House, citing "illegal property possession." Seizure of the Iyvanets facility left only two of the original 16 UPB-run Polish Houses remaining in the country, one in Barysau and one in Baranavichy. On February 17, a court issued final eviction orders for the UPB to vacate the premises.

The Minsk regional court turned down an appeal on March 11 from Polonika asking for the return of the Polish House in Iyvanets and reinstatement of its ousted manager, Sobal. Although the misappropriation case against Sobal was suspended

in February, police searched her home on June 28. On August 3, police notified Sobal that the investigation against her was being reinstated, and that she was banned from traveling abroad. That investigation was ongoing at year's end.

Official and societal discrimination continued against the country's 10,000 to 20,000 Roma. The Romani community continued to experience high unemployment and low levels of education. In 2005 authorities estimated the unemployment rate among Roma at 80 percent. Roma often were denied access to higher education in state-run universities. In December 2009, however, the office of the plenipotentiary representative for religious and nationality affairs stated that the country's Romani community had no problems that would require the Government's attention.

The Russian and Belarusian languages have equal legal status; however, in practice Russian was the primary language used by the Government. In 2007 the Constitutional Court's chief justice acknowledged that discrimination against the Belarusian language was "not rare" but maintained that such discrimination was usually corrected.

Because the Government viewed proponents of the Belarusian language as political opponents of the regime, authorities continued to harass and intimidate academic and cultural groups seeking to promote use of the Belarusian language. Proposals to widen use of the language were routinely rejected.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexuality is not illegal, but discrimination against members of the LGBT community was widespread, and harassment occurred.

In early May authorities denied the LGBT community permission to hold a pride parade in downtown Minsk on May 15, the International Day against Homophobia and Transphobia. Authorities claimed that the parade would disrupt traffic. According parliament member Nina Mazay, the most effective way to ensure the safety of participants in this instance given "negative sentiments toward gays and lesbians" was to ban the assembly. The activists defied the ban, and riot police violently dispersed approximately 30 demonstrators on May 15. Seven activists, including Alyaksandr Fyodarau, Syarhey Yenin, Aleh Hruvich, and two Russian citizens, were detained, placed in pretrial detention, and each sentenced to 17,500 ruble (\$6) fines on May 17.

On June 21, LGBT activists Syarhey Androsenka and Syarhey Pradzed filed individual communications to the UN Human Rights Committee complaining about earlier fines. In December 2009 a court in Minsk fined LGBT community activist Alyaksandr Haharyn 105,000 rubles (\$35), Androsenka 875,000 rubles (\$290), and Pradzed 350,000 rubles (\$115) for participating in an unsanctioned protest in front of the Iranian embassy. The activists demonstrated to protest the use of capital punishment of LGBT persons in Iran. The Minsk City Court and the Supreme Court subsequently upheld these fines.

On October 11, police in Minsk arrested Pradzed for staging a one-man protest to mark International Coming-Out Day. He was held in custody overnight and fined 700,000 rubles (\$235) the next day.

In September 2009 the KGB in Homyel informed local gay rights activist Svyataslau Semyantsou that it had opened a criminal case against him for participating in activities of an unregistered group. The KGB also threatened Semyantsou with charges of providing defamatory and discrediting information to a foreign source. No further information on the status of this case was available during the year.

*Other Societal Violence or Discrimination.*—Societal discrimination against persons with HIV/AIDS remained a problem, and the illness carried a heavy stigma. The UN AIDS office reported that there were numerous reports of HIV-infected individuals who faced discrimination, especially at workplaces and during job interviews. However, there were indications of greater awareness and increased tolerance towards persons infected with the virus. For example, maternity wards no longer segregated HIV-positive mothers into separate facilities. As of December 1, the Government reported that 11,661 persons in the country were infected with HIV. Between January and November, 971 new HIV cases were registered. As of December 1, 174 children had tested HIV-positive, and eight died. The chairman of the local Red Cross asserted in September that registered cases reflected only 25 percent of the total number of persons with HIV/AIDS in the country.

There were also frequent reports of family discrimination against HIV-positive members of households. This included preventing HIV-positive parents from seeing their children, or requiring HIV-positive family members to use separate dishware. According to an independent study released by the Belarusian Community of People Living with HIV/AIDS in September, at least 10 percent of HIV-positive women reported suicidal thoughts.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, except state security and military personnel, to form and join independent unions; however, in practice the Government did not respect this right. During the year the Government continued efforts to suppress independent unions, to stop union activities, and to bring all union activity fully under its control. Its efforts included frequent refusals to extend employment contracts for members of independent unions and refusals to register independent unions.

According to Belarusian Congress of Democratic Trade Unions (BCDTU) leader Alyksandr Yarashuk, no independent unions have been established since President Lukashenka's 1999 decree requiring trade unions to register with the Government.

The Government-controlled Federation of Trade Unions of Belarus (FTUB) was the largest union, claiming an estimated four million members; however, that number was likely inflated, since the country's total workforce was approximately four million. The BCDTU, with four constituent unions and approximately ten thousand members of independent trade unions, was the largest independent union umbrella organization.

In December 2009 FTUB chairman Leanid Kozik asserted that "provocations" and "demands" by trade unions not affiliated with the FTUB should be ignored.

Local authorities continued to deny multiple registration applications to the Vitsyeb'sk, Mahilyou, and Homyel chapters of the Belarusian Union of Electronic Industry Workers (REP). According to the REP, authorities refused to reregister the chapter in Mahilyou because the REP office proprietor had not agreed to register the office as its legal address due to harassment from officials. In April 2009 a court in Mahilyou upheld the registration denial. Further attempts to reregister in Mahilyou were also denied.

In May authorities in Hrodna refused an application from local REP activists seeking to organize rallies on International Children's Day on June 1.

On October 21, citing inaccuracies in paperwork and violations of laws, Salihorsk town authorities refused a third registration application from the Belarusian Independent Trade Union at JV Delta-Style. Belarusian Independent Trade Union vice chair Mikalay Novik called authorities' claims "farfetched and groundless," and noted that they would appeal to court. On August 27, the leader of the independent trade union in Salihorsk, Natalya Mikhnyukevich, was fined 17,500 rubles (\$6) for allegedly illegally meeting with the Delta-Style workers on August 4; she was briefly detained by police at that time. In August, Salihorsk authorities denied the independent trade union's application to stage a protest against registration refusals.

In Babruysk on November 17, armed employees of the State Wildlife Inspectorate broke into the home of Mikhail Ustsinovich, the leader of the grassroots independent trade union of the Belshyna tire company, and beat him. Officials broke doors and windows at the house, reportedly looking for illegal fishing equipment. The Inspectorate subsequently charged Ustsinovich with illegal fishing, possession of unregistered arms, and resisting state officials. After Ustsinovich appealed to the prosecutor general, the Inspectorate additionally charged Ustsinovich with assaulting an Inspectorate official.

During the December 19 postelection crackdown, at least nine REP members were arrested and served short-term jail sentences. Belarusian Free Trade Union leader Mikhail Kavalkou was arrested and sentenced to 10 days in jail. Courts convicted Free Trade Union member Alyaksey Koutun, REP member Alyksandr Tysevich, and Free Metalworkers' Union member Uladzimir Syarheyev of participating in an unsanctioned demonstration and sentenced them to jail terms ranging from 10 to 15 days.

In January the Ministry of Justice denied registration to Razam, a trade union of small- and medium-sized businesses, based on insufficient documentation and a failure to demonstrate that the union had the 500 members required for registration. Razam's leader, Iryna Yaskevich, stated that the registration process was "excessively complicated" and insisted that the group had filed correct applications with the ministry. On March 25, the Supreme Court upheld registration denial and the ministry's claims.

The Government continued to target union leaders and activists. For example, the oil refinery Naftan in Navapolatsk pressured Alyksandr Nasedkin to withdraw his membership from the independent trade union a month after he joined it.

In February four members of the independent trade union at the Hrodna Azot nitrogen fertilizer factory unsuccessfully complained to prosecutors of discrimination against them based on their membership in the union. They were threatened with dismissals and cuts in bonus payments, and pressured to withdraw from the union.

In February the Minsk Regional Court denied an appeal from REP member Yury Loban challenging his earlier dismissal from the BelAZ mining trucks producer in Zhodzina.

In May management of the Babruysk tractor parts and components factory did not extend the employment contract of Leanid Haishun, a member of the Free Trade Union.

On May 18 in Brest, police illegally searched the offices of REP and homes of some members, and briefly detained eight activists. They confiscated personal belongings, printed materials, documents, and computer equipment.

Workers who were deemed “natural leaders” or who involved themselves in NGOs or opposition political activities were routinely fired for these activities. For example, in March, Mikalay Rasyuk was dismissed from his job at a construction company for his political and civic activism. KGB officers questioned Rasyuk at work on February 2 and warned him against holding unsanctioned rallies in Mahilyou. Uladzimir Shyla, a prominent opposition activist in Salihorsk, was fired on May 6, just three days after he began his job. Shyla’s employer was reportedly summoned to the KGB and ordered to dismiss him. In June Mazyr-based human rights advocate Uladzimir Tselyapun was dismissed from his job for his political activities and participation in municipal electoral campaign. In July a travel agency dismissed opposition youth activist Yaraslau Hryshchenya for allegedly violating labor regulations.

In November the State TV and Radio Broadcasting Company fired engineer Yauhen Shapchyts for producing an anti-Lukashenka video clip that was posted on YouTube. Paval Bandzich, one of the actors in the video, was dismissed from the International Ecological University, where he led a theater studio.

On December 1, a private company fired human rights advocate Ales Kaputski in Maladzechna. The activist was engaged in monitoring presidential elections. He was also dismissed from a job in 2008 for observing the parliamentary elections. In December Alyksandr Baran in Kirausk was fired for his participation in the election campaign of Uladzimir Nyaklyaeu. Baran organized meetings with voters, collected signatures, and monitored the voting.

Pursuant to a December 2009 court order, the management of a hydropower station in Lukoml was forced to reinstate Alyaksey Habryel, the leader of a local independent trade union. Habryel’s labor contract was not extended in October 2009, and it was widely believed that he was dismissed for his union activities. After the management successfully appealed Habryel’s reinstatement, he was dismissed on May 21.

The law provides for the right to strike; however, tight government control over public demonstrations made it difficult for unions to do so. Management and local authorities also blocked worker attempts to organize strikes on many occasions by declaring them illegal. On June 15 and 16, carpenters at the Lyos factory in Baran went on strike to protest management’s refusal to abide by an earlier agreement to increase pay. On June 17, workers ended the strike after the director promised to raise pay. At year’s end this promise remained unfulfilled.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively; however, government authorities and managers of state-owned enterprises routinely interfered with union activities and hindered workers’ efforts to bargain collectively, in some instances arbitrarily suspending collective bargaining agreements.

In July 2009 the FTUB recommended that employers sign collective bargaining agreements only with the trade union with the largest number of members, irrespective of whether there were members of other trade unions among the personnel. BCDTU leader Yarashuk argued that such a measure violated the rights of trade unions. On September 15, Leanid Kozik, head of the FTUB, said that every employer should conclude a collective bargaining agreement with the staff irrespective of whether the company has a trade union organization. Over 17,500 employers had collective bargaining agreements with their employees, Kozik asserted. He further claimed that only the FTUB was able to ensure employers’ compliance with collective bargaining agreements as it had “several thousand members” at most companies compared to “ten or twenty” members of independent trade unions. He encouraged “small trade unions” to join the FTUB because FTUB local leaders were better able to advocate for their rights.

Since 2000 the Government has required state employees, who constitute approximately 80 percent of the workforce, to sign short-term work contracts. Although such contracts may have terms of up to five years, most expired after one year, which gave the Government the possibility of firing employees by simply declining to renew their contracts. Many members of independent unions, political parties, and civil society groups lost their jobs because of this practice. On March 31, the

president signed an edict providing the possibility for employers to sign open-ended work contracts after five years of good conduct. The edict limited the rights of employers to approve open-ended contracts earlier than five years after the service computation date and made no major changes to the contracting system. The provision did not apply to state employees and other categories of workers who remained subject to mandatory contracts.

During the year the Polatsk chapter of the BFTU continued to negotiate without success with the Polatsk Shklovalakno fiberglass manufacturer over the company's unwillingness to grant the BFTU the same privileges granted to its rival, the progovernment FTUB. In April, Polatsk Shklovalakno management announced a fourfold increase in rent for meeting space for the 30-member Belarusian Free Trade Union, while allowing the progovernment FTUB to meet rent-free. In October management refused to commence talks with the free trade union on pay increases and working conditions, claiming that the organization had no rights to represent interests of workers. According to the collective agreement, management claimed that the trade union of chemical industry workers, part of the FTUB, was the sole representative.

There are no special laws or exemptions from regular labor laws in the country's six free economic zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that women, men, and children were trafficked for commercial sexual exploitation and forced labor. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

During the year the Government approved "subbotniks," which required employees of the Government, state enterprises, and many private businesses to work on Saturday and to donate their earnings to finance government social projects. Workers who refused to take part were subjected to fines and intimidation by employers and authorities.

There were reports that authorities forced men serving mandatory military service to undertake work that was unrelated to their military service.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law forbids the exploitation of children in the workplace, including a prohibition on forced and compulsory labor, and specifies policies for acceptable working conditions. The Government generally implemented these laws in practice.

The minimum age for employment is 16; however, a child as young as age 14 may conclude a labor contract with the written consent of one parent or a legal guardian. The prosecutor general's office reportedly enforced the law effectively. Minors under age 18 were allowed to work in nonhazardous jobs, but were not allowed to work overtime, on weekends, or on government holidays. Work was not to be harmful to the minors' health or hinder their education.

*e. Acceptable Conditions of Work.*—In November the national minimum monthly wage was 400,000 rubles (approximately \$132), which did not provide a decent standard of living for a worker and family. In December the average monthly wage was 1,595,870 rubles (\$530).

The law establishes a standard workweek of 40 hours and provides for at least one 24-hour rest period per week. Although the situation improved during the reporting period, because of the country's difficult economic situation, many workers worked considerably less than 40 hours per week, and factories often required workers to take unpaid furloughs due to lack of demand for the factories' products. The law provides for mandatory overtime and holiday pay, and restricts overtime to four hours every two days, with a maximum of 120 hours of overtime each year. According to sources the Government was believed to enforce these standards effectively.

The law establishes minimum conditions for workplace safety and worker health; however, employers often ignored these standards. Workers at many heavy machinery plants did not wear minimal safety gear. There is a state labor inspectorate, but it lacked authority to enforce employer compliance and often ignored violations.

The Ministry of Labor reported 232 workplace fatalities during the year. The ministry reported that workplace accidents were caused by carelessness, poor conditions, malfunctioning equipment, and poor training and instruction. Worker intoxication was involved in 12 percent of workplace deaths and injuries. The law does not provide workers the right to remove themselves from dangerous and unhealthy work environments without risking loss of employment.

On November 1, the BCDTU expressed serious concerns about occupational safety requirements and their implementation in the manufacturing industry following a deadly blast at the Pinskdreu woodworking plant on October 25. Fourteen workers died and dozens were injured in the explosion that reportedly occurred due to human error. The BCDTU noted that the Government failed to investigate the case

or examine whether outdated equipment at Pinskdreu and other plants played a role in the explosion.

---

## BELGIUM

The Kingdom of Belgium, with a population of approximately 10.7 million, is a parliamentary democracy with a constitutional monarch who plays a mainly symbolic role. The country is a federal state with several levels of government: national, regional (Flanders, Wallonia, and Brussels), language community (Flemish, French, and German), provincial, and local. The council of ministers (cabinet), led by the prime minister, holds office as long as it retains the confidence of the lower house (Chamber of Representatives) of the bicameral parliament. Federal parliamentary elections held during the year were considered free and fair. Security forces reported to civilian authorities.

The following human rights problems were reported: overcrowded prisons, lengthy pretrial detention, poor detention conditions prior to deportation of adults and children whose asylum applications were refused, violence against women, child abuse, trafficking in persons, and racial and ethnic discrimination in the job market.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices. In its July 23 report on the situation in Belgian prisons, the Council of Europe (COE) Council for the Prevention of Torture (CPT) highlighted events that occurred in the Forest Prison on September 22 and on October 30, 2009. Due to the fact that regular prison staff were on strike, the local Forest police took over, resulting in prisoners being beaten, subjected to verbal abuse, and in two instances, hospitalized. Both disciplinary and criminal investigations were ongoing. The two officers in charge of the police squad were temporarily suspended; however, the Council of State cancelled the suspension because of a legal technicality.

*Prison and Detention Center Conditions.*—Prison and detention center conditions met most international standards, but overcrowding remained a problem. The Government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

On March 1, 10,561 inmates occupied prison and detention facilities, 400 more inmates than in March 2009. The facilities have a designed capacity of 9,105.

In its July 23 report, the CPT cited a number of allegations of mistreatment by prison guards. Several inmates from the Ittre Prison claimed to have been beaten by prison guards in the so-called naked cells, while wearing handcuffs (for disciplinary reasons, inmates may be undressed and locked in separate cells). On August 8, 2009, in the Jamioulx Prison, an inmate suffering from a mental disorder refused to go to an isolated cell and allegedly was killed by three guards who tried to subdue him. A police investigation of the incident was ongoing.

In June 2009 the human rights commissioner of the COE issued a report noting that 75 percent of all prisons were overcrowded. He also expressed concern over violence among prisoners and the dilapidated state of some prisons and shortcomings in the supply of health care. While the Government upgraded some older facilities, incarcerations outpaced construction. Inmates on pretrial detention accounted for 34 percent of the prison population.

Prisoners and detainees have reasonable access to visitors and are allowed religious observance. The authorities permitted prisoners and detainees to submit complaints and allegations of inhumane conditions to judicial authorities without censorship. Authorities investigated credible allegations of inhumane conditions and documented these results in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

The Government permitted visits to prisons and detention centers by members of parliament and independent human rights groups during the year, including a CPT visit that focused on prison and detention camp conditions. The federal mediator acts as an ombudsman allowing any citizen to address issues with the administration. In 2009, upon request from inmates from the Merksplas Prison, the federal

mediator recommended the Ministry of Justice not to use a building of the Merksplas Prison, because the cells were small, overcrowded, and without running water. Following the mediator's report, the Ministry of Justice made the necessary improvements to reopen the building.

During the year the Ministry of Justice continued implementing the 2008-12 master plan for building seven new penitentiaries and upgrading existing infrastructure. To ease overcrowding, 500 inmates were sent to serve part of their sentences in prisons in the Netherlands. Forty percent of all inmates were non-Belgian nationals. Prison authorities provided meals that met the dietary requirements of the various religious faiths practiced by inmates. In March there were 420 female inmates, constituting approximately 4 percent of the prison population. There were no specific reports of abuses in the seven prisons where women were held.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The federal police are responsible for internal security and nationwide law and order. Local police operated branches in 196 police districts. The federal police General Inspection Service (AIG) handled 1,153 complaints in 2009, and there were 57 cases handled by its disciplinary commission. An independent oversight committee (Committee P) also monitored police activities. In a report submitted to parliament in January, the committee stated that it had received 2,401 complaints about police behavior in 2009 for the federal and local police forces combined. The complaints concerned discriminatory behavior, brutality, racism, failure to intervene, violations of privacy, and arbitrary detention. The committee pointed out that police officers often fail to observe rules and regulations when dealing with undocumented aliens, prostitutes, and squatters. Civilian authorities maintained effective control over the federal and local police and the armed forces, and the Government has effective mechanisms to investigate and punish abuse and corruption.

*Arrest Procedures and Treatment While in Detention.*—Under the constitution, an individual may be arrested only while committing a crime or by a judge's order carried out within 24 hours. The law provides a person in detention with the right to a prompt judicial determination of the legality of his or her detention, and the authorities generally respected this right. Detainees were promptly informed of charges against them. There is a functioning bail system. Alternatives to incarceration included conditional release, community service, probation, and electronic monitoring. In 2009 the Ministry of Justice handled 10,112 alternative punishment (e.g., community service) cases, compared with 10,131 the previous year. By the end of 2009, an additional 928 convicts were monitored electronically outside of prison premises.

The law provides rights to inmates regarding disciplinary matters, correspondence, telephone conversations, and religious practice. Brochures were handed out to inmates informing them of their rights. Implementation courts are responsible for handling release issues, penitentiary leave, and electronic monitoring. Legislation protects offenders with mental disorders, and the Government implemented plans to treat more of these inmates outside of prisons.

According to 2010 figures, pretrial detainees made up almost 35 percent of the prison population. The average length of pretrial detention was approximately 90 days.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. All defendants are presumed innocent and have the right to be present, to counsel (at public expense if necessary), to confront witnesses, to present evidence, and to appeal.

The law gives domestic courts jurisdiction over war crimes and crimes against humanity that occurred outside the country when the victim or perpetrator is a citizen or legal resident of the country.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—On January 10, the ECHR released its judgment in the Muskhadzhiev case involving five Chechen asylum seekers, a mother and her four children. The family arrived in Belgium on October 11, 2006, and requested asylum on October 12. The request was denied; following the dismissal of their application family members were all detained in a closed center. The family ultimately brought its case to the ECHR in September 2007. The court found

two violations, namely that the children had been detained in a closed center meant only for adults and the health of the children was very poor. These issues have been addressed, through payment by the state of 17,000 euros (\$22,780) to the family for damages and through a regulation that the country will no longer house children in closed centers, even if they are accompanied by adults.

In 2009 the ECHR issued judgments that found five violations of the right to a fair trial, two violations for the length of proceedings, one violation of the right to liberty and safety, one violation for the absence of effective inquiry and one violation for inhuman and degrading treatment as provided under the European Convention on Human Rights. The Government treated all ECHR decisions as binding.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Plaintiffs may seek damages either individually or through specialized organizations for human rights violations under the applicable antidiscrimination legislation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and legal code prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Holocaust denial is a criminal offense, and there was one conviction during the year. On September 15, the Brussels Appeal court confirmed the charge of holocaust denial against Roeland Raes (a member of the Flemish extremist party Vlaams Belang) for his 2001 statements contesting the authenticity of Anne Franks' diary ( see section 6 Anti-Semitism). Individuals could criticize the Government publicly and privately without reprisal.

On March 31, a group of extremist Muslims called "Sharia4Belgium" interrupted a reading organized by Antwerp University. The reading was entitled "The Islam Debate: Long Live God, Down with Allah." Police led approximately 20 shouting protesters out of the building, but there was no violence. No one was detained.

*Internet Freedom.*—There were no government restrictions on access to Internet sites. There were no reports that the Government monitored e-mail or Internet chat rooms, and individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In cooperation with the Government, Child Focus, a government-sponsored center for missing and exploited children, developed programs to warn users of Web sites containing illegal content, especially child pornography.

According to International Telecommunications Union statistics for 2009, approximately 76 percent of the country's inhabitants used the Internet.

There were no reports of the Government attempting to collect any personally identifiable information on internet users.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The law allows authorities to grant "subsidiary protection" to individuals who might not qualify as refugees but who could establish that upon return to their home country, they would face the death penalty, torture, or other inhuman treatment. From January through September, 504 applicants, mostly from Iraq and Afghanistan, qualified for subsidiary protection. During the year 19,941 applications

were filed, compared with 17,186 applications in 2009. Most applicants came from Iraq, Kosovo, Russia, Guinea, and Afghanistan. From January through September, the Commissariat for Refugees awarded refugee status to 1,470 applicants. Most accepted refugees came from Iraq, Guinea, and Afghanistan.

During 2009 scores of asylum seekers who stayed in the country illegally after their applications were refused took refuge in churches and went on hunger strikes to draw public attention to their situation. On the eve of its 2009 summer recess, the Government reached agreement on a new set of criteria for awarding residence permits for undocumented aliens. The latter were allowed to submit applications between September and December. The newly defined criteria covered aliens who had become victims of an unduly long asylum application process and undocumented aliens who were living in a precarious humanitarian situation or who could prove that they were integrated into local society, either by having lived in the country for at least five years or by having been gainfully employed for at least one year.

Regularization of status on the grounds of an unduly long application period, urgent humanitarian reasons, or medical reasons was granted to 14,830 applicants in 2009, compared with 8,369 the previous year. In 2009 FEDASIL, the Government agency providing shelter for refugees, the Red Cross, and local governments provided assistance to an average of 18,164 persons but lacked capacity to deal with the growing demand. Under the law, refugees who spent four months in a collective relief center qualified for independent living and were permitted to leave the centers and provided material assistance to do so.

Following a critical report from a European Parliament commission in 2008, the Government announced that unaccompanied minors stopped at the border would no longer be held in closed centers, but in specialized observation and orientation centers. Minors held with their parents had access to individualized education. In May the European Commission adopted an action plan to harmonize and strengthen the protection of unaccompanied minor migrants. During 2009 FEDASIL provided shelter to 1,074 unaccompanied foreign minors. In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Refused asylum seekers were informed in writing and in person of repatriation scenarios from which they could choose. The Government, in partnership with the International Organization for Migration (IOM), provided relocation assistance to unsuccessful asylum applicants who agreed to return voluntarily to their countries of origin. Unsuccessful applicants who did not leave voluntarily were subject to forced repatriation. A report issued during the year revealed that, between 1984 and 2009, more than 40,000 refused asylum seekers and other immigrants were repatriated under the IOM-sponsored Return and Emigration of Asylum Seekers ex-Belgium (REAB) program, including 2,669 immigrants in 2009. This figure was in line with that of 2008, when 2,446 persons were repatriated under IOM auspices. Refused families with children qualified for temporary individual housing.

In 2009, 6,439 persons were assigned to closed centers, where asylum seekers were not permitted to leave the facility, compared with 6,902 persons in 2008. Their average stay in closed centers was 24 days. Most refugees held at these centers came from Romania, Brazil, Morocco, Bulgaria, or Russia. The COE's human rights commissioner, members of the Belgian parliament, and representatives from the International Federation of Human Rights Organizations visited the closed centers to inspect living conditions.

Nongovernmental organizations (NGOs) complained that living conditions at the closed centers for refused asylum seekers were substandard. The Government started to refurbish the closed centers at the Brussels national airport. In July 2009 the Council of Ministers decided to create additional temporary places for asylum seekers, thus accommodating more than 1,000 asylum seekers in 20 hotels. In November 2009 the Government approved the creation of 1,200 additional reception places. In December 2009 the Belgian Red Cross increased its capacity by approximately 240 places. Through the Public Organization for Social Support and NGOs, nearly 350 individual reception places were opened. By the end of November, an additional 2,600 places were made available.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens ages 18 and older exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. Voting in all elections is compulsory. Failure to vote is punishable by a nominal fine.

*Elections and Political Participation.*—General elections were held on June 13. They were considered free and fair by the media. Political parties could operate without restriction or outside interference. The constitution requires the presence of men and women in federal, regional, and local governments, and the law requires an equal number of male and female candidates on party tickets in European, federal, regional, provincial, and local elections. Failure to meet the requirement would nullify the elections and render any government thereby created illegal.

Following the June 13 elections, there were 60 women in the 150-seat federal Chamber of Representatives and 25 women in the 71-seat Senate; five of the 23 federal cabinet ministers and state secretaries were women.

There were seven members of minorities in the Chamber of Representatives and five in the Senate from Moroccan and Turkish origin.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. Elected officials and high-level civil servants are required to disclose any regular private employment or public jobs they hold and to provide confidential disclosure of their financial situation.

With some exceptions, such as material involving national security, the law provides public access to government information. In practice, the Government respected this law.

The November 2008 and November 2009 reports of the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) presented information indicating that Trademet and Traxys, which were based in Belgium, had indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC through the purchase of conflict minerals.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. The Government-sponsored Center for Equal Opportunity and the Combat Against Racism (CEOOCR) is tasked with promoting equal opportunity and with combating all forms of discrimination, exclusion, or preferential treatment based on race, color of the skin, descent, national or ethnic origin, sexual orientation, marital status, birth, wealth, age, religion or ideology, physical condition, disability, or physical characteristics. The center is charged with ensuring respect for the basic rights of foreigners and informs the authorities on migration issues, including smuggling and trafficking. The center is also expected to promote consultation among public and private players, and it has the authority to start litigation regarding complaints sent to the center. Members of the public are entitled to ask the center for an opinion or report possible cases of discrimination. The center may escalate a case and file a complaint with the police. One example during the year involved the center filing a complaint against Archbishop Mgr. Leonard for his derogatory statements about AIDS victims.

Federal and regional government ombudsmen monitor and publish reports on the workings of the agencies coming under their respective jurisdictions. In 2009 the federal ombudsman released a report on the closed centers for rejected asylum seekers.

The Government cooperated with international tribunals in the prosecution of war crimes. In May 2008 police arrested Jean-Pierre Bemba, the leader of the Movement for the Liberation of Congo and a former Congolese vice president, after an arrest warrant was issued by the International Criminal Court. Bemba was charged with crimes against humanity and war crimes and transferred to The Hague in July 2008. His trial was scheduled for April but was postponed due to the defense's claim of insufficient financial resources. Bemba's trial finally began on November 22.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these prohibitions.

The law identifies 18 grounds of possible discrimination subject to legal penalty: age, sexual orientation, civil status, birth, financial situation, religious belief, philosophical orientation, physical condition, disability, physical characteristics, genetic characteristics, social status, nationality, race, color of skin, descent, national origin, and ethnic origin. A separate law governs gender discrimination in the workplace. Under a directive issued by the Board of Prosecutors General, the police and prosecutors must mention racial motivation when recording offenses. Specifically, police must highlight if there were racial motivations when an offense was reported, and

if so, the case must be escalated by the prosecutor (e.g. if there were a racial motivation in a murder case, the charge would additionally include a hate crime offense.)

*Women.*—Rape, including spousal rape, is illegal, and the Government prosecuted such cases. In 2009 the federal police registered 2,751 rape cases, compared with 2,786 the previous year. A convicted rapist may be imprisoned for a minimum of 10 years to a maximum of 30 years. The length of sentence is based on the age of the victim, the age difference between the offender and the victim, the relationship between the offender and the victim, and the use or absence of violence during the crime.

The minimum age for consensual sex is 16. Statutory rape carries penalties of imprisonment from 15 to 20 years. If the victim is under the age of 10, the imprisonment rises to 20 to 30 years. In May a Brussels court convicted a man of raping his three children.

The law prohibits domestic violence. In 2009 the federal police reported 20,471 such cases of physical violence between partners, compared with 19,768 cases in 2008. In 2009 the federal police registered 138 cases of sexual violence between partners, compared with 131 cases in 2008. In 2009 there were 17,258 cases of psychological violence or mental cruelty between partners, compared with 16,927 cases in 2008. The law defines and criminalizes domestic violence and provides for fines and incarceration. The law allows police to enter a home without the consent of the head of household when investigating a domestic violence complaint; however, there were complaints that the police frequently declined to do this in practice. An action plan for dealing with domestic violence was in force, and the regional governments formally joined the effort. Police forces and prosecuting magistrates registered all complaints and official actions taken in connection with domestic violence.

A number of government-supported shelters and telephone help lines were available across the country for victims of domestic abuse. In addition to providing shelter, many offered assistance on legal matters, job placement, and psychological counseling to both partners.

In a 2008 report to the Senate, the federal police noted 17 honor killings that had taken place over the preceding five-year period. There were no reports of honor killings in the country during the year. During the year the Institute for the Equality of Men and Women claimed damages in the case of a Pakistani woman who died in an honor killing in 2007 resulting from a failed arranged marriage. The brother of the victim was found guilty, with the complicity of many other members of the family.

Reliable statistics on sexual harassment are not easily accessible since formal complaints may be filed with various entities. The law aims to prevent violence and harassment at work, obliging companies to set up internal procedures to handle complaints by employees.

The law prohibits discrimination on the grounds of gender, pregnancy, motherhood, or sex change. It also prohibits sexual intimidation in labor relations and in access to goods, services, social welfare, and health care. A separate law prohibits sexual harassment in the workplace, and the Government generally enforced it.

The constitution provides for complete freedom in the way that persons organize their private lives, including the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning. There are no restrictions on the right to access contraceptives. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. According to estimates compiled by international organizations, there were approximately five maternal deaths per 100,000 live births in country in 2008.

Women have the same legal rights as men, including rights under family law, property law, in the judicial system, in labor relations, and in social welfare protection. The federal government's Institute for the Equality of Men and Women, which is tasked with promoting gender equality, may initiate lawsuits if it finds that equality laws have been violated. Most of the complaints received during the year were work-related and most concerned women whose employment contract was terminated because of pregnancy.

During the year the Government continued implementation of the Gender Mainstreaming Act of 2007, which obliges the authorities to address gender aspects in planning policy, collecting data, drafting budgets, awarding contracts, and drafting reports. As per the Institute for Equality of Men and Women, the authorities were in the process of implementing the decree to establish a gender test (an evaluation of all administrative and legal acts in terms of male-female equality) and an interdepartmental coordination group.

Economic discrimination against women continued. During the year the Institute for the Equality of Men and Women released a survey (based on 2007 data) showing an average gap of 11 percent in the gross wages paid to men and women. The gap was 27 percent for white-collar and 16 percent for blue-collar workers. The gap was smaller in the public sector, where female contract workers earned 7 percent less than their male colleagues. Female statutory civil servants earned 1 percent more than their male colleagues. Taking into account part-time work, the overall wage gap was 25 percent. According to the report, the main factors contributing to the gap were job classification, branch of employment, type of employment contract, and time actually worked. Through legislation and decrees, federal and regional authorities sought to increase the presence of women on the boards of public enterprises and government agencies. Data from the European Professional Women's Network indicated that women filled 11.1 percent of the positions on boards of directors of the country's leading private companies compared with 7 percent in 2008.

*Children.*—The Government registered all live births immediately, and citizenship is conferred to the child through the parents' nationality.

There were reports of child abuse. In 2009 the federal police registered 5,201 cases of child abandonment, abuse, and neglect, compared with 3,971 cases in 2008.

The NGO Child Focus reported that it handled 2,087 missing children and child abuse cases in 2009. There were 1,019 cases of runaways; approximately half of these returned home within 48 hours, although the average time for runaways to be missing increased. Thirty-six cases concerned abduction by a third person. Child Focus handled 467 of the cases (involving 672 children) of abduction to another country.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

The law provides for the protection of youth against sexual exploitation, abduction, and trafficking, and provides severe penalties for child pornography and possession of pedophilic materials. The penalties for producing and disseminating child pornography range from five to 15 years' imprisonment and from one month to one year for possession of such material. The law permits the prosecution of residents who commit such crimes abroad and provides that criminals convicted of the sexual abuse of children must receive specialized treatment before they can be paroled and must continue counseling and treatment after their release from prison. The NGO Child Focus handled 257 sexual abuse cases and continued its Internet-based public awareness campaign. In 2009 the group received 2,131 reports of child pornography on the Internet and forwarded relevant cases to the specialized units of the federal police.

According to official figures, in 2009 the federal police investigated 388 child pornography cases, and international networks operating in several countries were dismantled with the help of Europol and Eurojust. In several court cases judges handed down prison sentences for downloading child pornography. Following a 2007 Europol investigation in Austria and Poland, approximately 40 citizens were identified in child pornography cases. One of them was a former member of parliament from the city of Mons. In May a school director was arrested for viewing and sending child pornography. The trial of a lawyer, who previously worked on the case of the infamous child killer Marc Detroux, also began during the year; he was accused of viewing and sending child pornography.

Rape and forcible sexual assault are criminal offences, and penalties range from five years' to 30 years' imprisonment, with the maximum penalty in effect for cases resulting in the death of the victim.

During the reporting period, the federal prosecutor launched investigations into allegations of child abuse carried out over many years by priests in the Catholic Church. A 10-hour questioning session of high-ranking members of the clergy and intrusive searches of tombs led to complaints from religious freedom advocates.

*Anti-Semitism.*—The size of the Jewish community was estimated at 40,000 to 50,000. During the year there were 47 reports of anti-Semitic acts, including attacks against persons, verbal harassment of Jews, and vandalism of Jewish property, down from the 109 reported incidents in 2009. The law prohibits public statements that incite national, racial, or religious hatred, including denial of the Holocaust. Unidentified vandals threw Molotov cocktails at three different synagogues on separate days: Antwerp synagogue in January, then Charleroi and Brussels synagogues during April. Verbal and cyber hate incidents were also reported. In September two incidents took place in Antwerp between drunken Polish men and members of the Jewish community. The intoxicated men were physically aggressive, insulting all

Jews they encountered. On November 8, three teenagers threw stones at a Jewish man and woman coming out of a shop in Antwerp.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law provides for the protection of persons with physical, sensory, intellectual, and mental disabilities from discrimination in employment, education, and access to health care and other state services. In 2009 the CEOCR received 255 complaints regarding discrimination against persons with disabilities. Most were employment-related and concerned access to private and public buildings and services, including public transport, and access to banks, bars, and restaurants. While the Government mandated that public buildings erected after 1970 must be accessible to such persons, many older buildings were still inaccessible because of preservation orders.

*National/Racial/Ethnic Minorities.*—A survey released in November 2009 on discrimination and intolerance as perceived by ethnic minorities from northern Africa, Turkey, sub-Saharan Africa, and Eastern Europe revealed that skin color and dress associated with Islam were the most important factors contributing to intolerance and discrimination, especially in the areas of housing and employment.

In its 2009 annual report, the CEOCR stated that discrimination against the members of the Muslim community, estimated at 500,000, principally of Moroccan and Turkish origin, greatly exceeded that experienced by other immigrant communities. In 2009 the CEOCR, which investigates complaints of discrimination, racism, and hate instigation, handled 1,692 discrimination and racism complaints, a decrease from the previous year. Most complaints concerned nationality and ethnic descent (49 percent), physical handicaps (15 percent), and discrimination on the ground of religious and philosophical orientation (13 percent). Complaints related to ethnic descent, nationality, race, and skin color accounted for 60 percent of all complaints registered by the CEOCR. Places of work and the Internet were most often cited as the places where the alleged discriminatory acts occurred. Thirty percent of the complaints received by the CEOCR were deemed justified. In 2009 the CEOCR initiated court cases in 1.1 percent of the registered complaints. Courts convicted a number of persons for inciting racial hatred, shouting abuse, denying the Holocaust, and using violence against asylum seekers. Judges convicted employers for discriminating on racial and physical grounds in hiring personnel. Landlords were convicted for discriminating against foreigners and persons with disabilities.

Data released by the Ministry of Justice indicated that in 2008, 61 percent of the cases of alleged discrimination handled by the courts were dismissed.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—According to the CEOCR, 6 percent of the complaints received in 2009 concerned discrimination based on sexual orientation. Most were work-related, with the center receiving several reports on violence against gays and lesbians. On May 15, 35,000 persons attended the Belgian Pride (equivalent of Gay Pride) without reported incidents of violence.

*Other Societal Violence and Discrimination.*—Of the complaints received in 2009 by the CEOCR, 3 percent involved discrimination based on health or medical conditions, including against persons with HIV/AIDS. Most of the complaints were related to workplace incidents.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice, with Belgian and non-Belgian workers enjoying the same rights. Work council elections are mandatory in enterprises employing over 100 employees, and safety and health committee elections are mandatory in companies employing more than 50 employees. Approximately 60 percent of private and public sector workers were members of labor unions. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to strike for all private and all public workers, except for the military. The International Trade Union Confederation (ITUC) noted in its 2010 survey of violations of trade union rights that it was concerned about antiunion discrimination and collective representation in small and medium-sized enterprises.

*b. The Right to Organize and Bargain Collectively.*—The right to bargain collectively is recognized, and the Government protected this right. The law prohibits antiunion discrimination and employer interference in union functions, and the Gov-

ernment protected this right in practice. The ITUC reported one antiunion incident when a union representative was threatened at knife point on May 4.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Women, men, and children from Eastern Europe, sub-Saharan Africa, and Asia were trafficked to the country for commercial sexual exploitation and forced labor. Female victims, including children, worked as prostitutes in massage parlors, as escorts, and through the Internet. Male victims were forced to work in restaurants, bars, sweatshops, horticulture, fruit farms, and construction sites. Police and courts used antitrafficking legislation to combat economic exploitation. In its 2009 report on trafficking, the CEOCR noted several cases of debt bondage, with victims lacking freedom of movement as their documents were retained.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace and the Government generally enforced these laws. The minimum age of employment is 15. Persons between the ages of 15 and 18 can participate in part-time work and study programs and work full time during school vacations. The Ministry of Employment regulates industries that employ juvenile workers to ensure that labor laws are followed, and occasionally grants waivers for children temporarily employed by modeling agencies and by the entertainment business. There is growing concern about children exploited by organized begging gangs in larger cities.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage was 1,387.49 euros (\$1,859) for workers 21 years of age, 1,424.31 euros (\$1,908) for workers 21 1/2 years of age with six months of service, and 1,440.67 euros (\$1,931) for workers 22 years of age with one year of service. When combined with extensive social benefits, this provided a decent standard of living for a worker and family.

The standard workday is eight hours, and the standard workweek is 38 hours. Departure from these norms can occur under the terms of a collective bargaining agreement, but work time may not exceed 11 hours per day and 50 hours per week. An 11-hour rest period is required between two work periods. Overtime is paid at a time-and-a-half premium Monday through Saturday and at double time on Sundays. The Ministry of Labor and the labor courts effectively enforced these laws and regulations.

Workers have the right to remove themselves from situations that endanger their safety or health without jeopardy to their continued employment, and workers exercised this right in practice. Regulations were generally enforced effectively by the Employment and Labor Relations Federal Public Service.

---

## BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina consists of two entities within the state, the Federation of Bosnia and Herzegovina (the federation) and the Republika Srpska, and Brcko District, with an estimated population of four million. The federation has a Bosniak (Bosnian Muslim) and Croat majority, while the Republika Srpska has a Serb majority. The 1995 General Framework Agreement for Peace (the Dayton Accords) provides for a democratic republic with a bicameral parliament but assigns many governmental functions to the two entities. The Dayton Accords also provide for a high representative who has the authority to impose legislation and remove officials. The tripartite presidency consists of Bosnian Croat Zeljko Komsic, Bosnian Serb Nebojsa Radmanovic, and Bosniak Bakir Izetbegovic. During the year the country held general elections that international observers deemed free and fair but noted that the press was biased and that private media tended to favor particular candidates. Security forces reported to civilian authorities.

The following human rights problems were reported: deaths from landmines; mistreatment of prisoners; poor and overcrowded prison conditions with violence among prisoners; police failure to inform detainees of their rights or allow effective access to legal counsel prior to questioning; harassment and intimidation of journalists and civil society; obstruction of the return of internally displaced persons and refugees; government corruption; discrimination and violence against women and ethnic, sexual, and religious minorities; discrimination against persons with disabilities; trafficking in persons; and limits on employment rights. At year's end, Ratko Mladic,

the Bosnian Serb war crimes indictee most wanted by the International Criminal Tribunal for the former Yugoslavia (ICTY), remained at large.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

Domestic courts and the ICTY continued to adjudicate cases arising from killings during the 1992-95 conflict.

During the year there were nine landmine accidents that killed six persons and injured eight. Two of the six persons killed were deminers.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

An estimated 12,000 persons remained missing from the 1992-95 war. During the year the International Committee of the Red Cross (ICRC) reported 22,464 requests to trace relatives missing from the 1992-95 conflict. By year's end, 12,062 persons had been accounted for, including 468 located alive.

The law provides for the state-level Missing Persons Institute (MPI) to account for persons missing from the 1992-95 conflict, but neither entity fully implemented the law in practice. During the year the Republika Srpska continued to support an entity-level Operational Team for the Search for Missing Persons with similar responsibilities to the MPI. Observers characterized the team as an effort to disrupt the MPI's work. Republika Srpska operational teams refused MPI personnel access to archives that were transferred to MPI's ownership in accordance with the law.

During the year both Republika Srpska and federation prosecutors did not cooperate fully in the MPI's exhumation and identification process because of disagreements over jurisdiction but worked with state-level authorities to reach some compromises. On August 25, the chief prosecutor decided that the State Prosecutor's Office would take over competence for exhumations after January 2011. The announcement reflected concern that a lack of reliable information on gravesite locations had resulted in a drop of the case-resolution rate during the year, as well as over disagreements between prosecutors' offices at various levels over which agencies should oversee exhumations. By the end of September, MPI carried out 109 exhumations resulting in the recovery of 280 bodies and 551 sets of partial remains. The majority of remains were recovered from 16 mass graves (15 of them related to the 1995 Srebrenica genocide).

From 2000 through the end of September, the International Commission on Missing Persons (ICMP) generated a total of 29,634 DNA matches relevant to 15,707 missing persons, of which 25,339 DNA matches represented 13,156 individuals related to the country. In all the ICMP collected more than 88,300 blood samples from persons related to 29,045 missing individuals, of which 69,532 blood samples related to 23,359 persons who were still missing.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were credible allegations that police physically mistreated individuals at the time of their arrest and during detention.

On September 24, the Council of Ministers adopted the report of the Council of Europe's Committee for the Prevention of Torture (CPT) regarding its May 2009 visit to the country's prisons. The CPT report noted that authorities had made only limited attempts to address concerns raised in an earlier report on the CPT's 2007 visit as well as authorities' failure to address systematic deficiencies affecting the prison service. The CPT noted that it was obliged to repeat many of its recommendations from 2007 and warned the country that if future visits revealed continued noncompliance with the country's obligations under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, it would use its authority under the convention to make a public statement regarding the conditions.

According to the May 2009 CPT report, there were credible allegations that officers at the Sarajevo Remand Prison abused a group of recaptured escapees in March of that year. The escapees alleged that corrections officers kicked and punched them in a stairwell out of the view of surveillance cameras as punishment for their escape. At Zenica prison, the CPT reported that, although incidents of mistreatment decreased since the 2007 visit, prisoners being transferred to the disciplinary unit reported that corrections officers abused them with kicks, punches, and blows with truncheons, apparently at night when the unit manager was not on duty. The report noted that the "vast majority of prisoners interviewed" made no allegations of ill treatment by prison staff.

In September 2009 parliament enacted a law forming an independent commission to monitor the conditions in prisons, treatment of prisoners, as well as respect for their basic human rights.

In June 2009 the federation Ministry of Justice reported that the management of Zenica prison installed video surveillance to prevent what the CPT characterized in its May 2009 report as the generalized problem of mistreatment of prisoners by prison staff. During the year prison management implemented a detailed plan developed last year to decrease violence between the prisoners including separating the prison's walking area into 10 separate areas, special accommodations for higher-risk prisoners, and hiring 50 additional guards, many of whom were interns who may be hired full-time at a later date.

The CPT delegation also reported meeting several patients at the Sokolac Psychiatric Hospital who alleged that police punched and hit them with batons when they were apprehended. The delegation noted that a doctor working at the hospital confirmed the allegations.

The CPT report also recorded the presence of baseball bats, replica pistols, and metal piping (with wrist straps) in interrogation rooms at a number of police stations and stated that there was no legitimate reason for such items to be present.

During the year the Government began construction of a new criminal psychiatric facility at Sokolac, scheduled to be completed in April 2011, and temporarily transferred prisoners to a renovated psychiatric correctional facility in Tuzla. During the year the Government began funding the independent commission established by last year's amendments to the correctional code to monitor future allegations of abuse and violations.

*Prison and Detention Center Conditions.*—Prison and detention center conditions were below international standards in several areas. The Government permitted independent human rights observers to perform monitoring visits, and such visits occurred during the year. Poor hygiene, and antiquated facilities remained serious problems.

By year's end, there were 2,749 persons incarcerated throughout the country, including 20 persons imprisoned by state-level authorities and 1,671 and 1,058 by the federation and Republika Srpska respectively. By the Government's standards, the total capacity of federation and Republika Srpska prisons was 2,792 persons.

In its May 2009 report, the CPT noted that little had changed since its 2007 visit to address the fundamental weakness permitting interprisoner violence. Prisoners and staff felt that the culture of interprisoner violence and intimidation at Zenica prison threatened them. Fights among prisoners and violence between rival gangs organized around ethnic or regions of origin were common. The CPT reported that Zenica prison was not under the effective control of prison staff and reiterated its recommendation that the country draw up a comprehensive plan to address interprisoner violence that included staffing levels sufficient to control the prison population.

There were reports of corruption among prison officials. There were credible reports that some prisoners in the Sarajevo prison used connections to arrange transfer to the Igman correctional institution, where conditions and recreational facilities were considered better and security more lax.

Lenient rules allowing weekend furloughs for good behavior even to violent felons came under increasing public scrutiny following the disappearance of a high-profile prisoner. The law requires furloughs to be supervised for prisoners serving sentences of 10 years or more, alcoholics, drug addicts, and repeat offenders, and also permits authorities to supervise prisoners whose sentences are less than 10 years.

Adult and juvenile female inmates were held together in separate wings of facilities for adult males. Facilities held male inmates between the ages of 16 to 18 years old with adult male inmates, while male inmates under the age of 16 years old were held separately.

The Government permitted independent human rights observers to visit, and gave international community representatives widespread and unhindered access to detention facilities and prisoners. The law provides for the right of prisoners to communicate, file complaints, and expect expeditious resolution of violations. Authorities generally permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigations of credible allegations of inhumane conditions, although the country's ombudsman documented a few violations of this law at the Sarajevo and Tuzla prisons during the year. The ombudsman also noted common complaints from prisoners that state-level authorities rarely interviewed inmates regarding prison conditions and other alleged violations, despite the creation of a state-level commission for such investigations under a 2009 law.

The law also allows detainees and prisoners to send their requests or complaints to the country's ombudsman, who has authority to advocate for the rights of prisoners, including juveniles, regarding status and circumstances of confinement, bail, overcrowding, and other conditions. However, the ombudsman often lacked sufficient staffing and resources to meet demand in these areas. During the year the ombudsman documented several cases in which prison authorities did not forward requests to the ombudsman, including a letter signed by 25 prisoners at the Sarajevo prison.

The ombudsman can also advocate on behalf of prisoners to improve pretrial conditions and recordkeeping to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. The ombudsman lacked authority to advocate for alternatives to incarceration for nonviolent offenders to alleviate overcrowding.

According to the ombudsman's report this year, detention facilities throughout the country lacked satisfactory sanitation, air and food quality, lighting, and climate control. The report observed that the windows in the jail in Dobož were covered with concrete blocks, preventing adequate ventilation. In Bihać prison, bathrooms lacked doors and stalls were separated by blankets. The report also noted numerous complaints, particularly in Sarajevo prison, that food and juices provided in prison cafeterias frequently passed their expiration dates. The ombudsman noted that prisoners and detainees had reasonable access to visitors and were permitted religious observance. Prisons that previously lacked adequate spaces for religious observances, particularly Sarajevo prison, corrected these inadequacies during the year.

There were numerous reports, especially at Sarajevo and Zenica prisons, of those convicted of murder and criminal traffic violations incarcerated together. The ombudsman criticized prison administrations throughout the country for not taking "risk evaluation" into consideration when colocating prisoners.

The ombudsman's recommendations are not binding, and laws governing prison facilities do not differentiate between violent and nonviolent offenders.

During the year prison authorities did not always fulfill the recommendations of the September 2009 ombudsman's report on the country's prisons and correctional departments. The ombudsman's report for this year also noted several problems, including an inadequate legal framework, and found that mistreatment and violence remained common in prisons and often resulted from serious organizational problems. The report also noted the same concerns regarding Zenica and Sarajevo prisons where little effort had been made to improve conditions.

During the year the ombudsman delegation carried out follow-up visits to its September 2009 visit to the country's prisons. The delegation noted that Foca prison had added 50 new beds and was preparing to add 38 new staff members. In addition the prison began providing employment opportunities for prisoners. The delegation reported that Tuzla prison hired 16 new staff members and formed two new women's sections of the prison. In Kozlovac the prison authorities started to reconstruct the old prison building, which was expected to increase the capacity of the prison by 64 persons. Female prisoners mainly complained about their inability to work and the lack of occupational therapy and other privileges.

The ICRC continued to have access to detention facilities under the jurisdiction of the ministries of justice at both the state and entity levels.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The law extends significant overlapping law enforcement competencies to the state-level government, to each entity, and to the Brčko District, each of which has its own police force. An EU military force continued to support the country's government in maintaining a safe and secure environment for the country's population. NATO offices in Sarajevo continued to assist the country's authorities in the implementation of defense reform, counterterrorism, and cooperation with the ICTY. The EU Police Mission remained in the country to monitor the local police.

The country made limited progress on state-level police reform, although authorities continued to postpone local-level police reform until after the completion of reform in this area. By year's end, the Government formed a number of bodies including agencies for forensics, education, police support, direction for coordination, and foreigners that the law mandated, but some bodies often had insufficient staff. However, the agencies for forensics, police support and education had minimal staff and had not begun operations due to political interference and misunderstandings with entities on mechanisms and procedures for transferring staff, equipment, and competencies to the state level. Entities did not meet the target standards of ethnic representation on police forces that their respective constitutions mandated.

Professional standards units (PSUs) are the internal affairs investigative units in each entity's Interior Ministry and in the Brcko District. There were continued reports of corruption within the entity- and state-level security services.

During the year the Republika Srpska PSU received 543 conduct-related complaints and determined that 50 of these were well founded. During the year authorities pursued 107 disciplinary proceedings against 155 employees of the Ministry of Interior. As a result of proceedings, authorities suspended 22 employees, including three for corruption. The unit forwarded recommendations for disciplinary action to prosecutors in 22 cases that they considered major violations. In addition authorities filed 22 felony reports and misdemeanor reports against Republika Srpska Interior Ministry employees for offenses including narcotics trafficking, forgery, theft, domestic violence, assault, extortion, and traffic violations, indicating a significant decrease from the previous year. During the year the federation PSU investigated 68 cases and forwarded 13 complaints to prosecutors for disciplinary action. During the year the Brcko District PSU investigated 126 cases and concluded that 120 complaints were well founded. The PSU forwarded 13 cases deemed to be major violations of duty to prosecutors for disciplinary action.

*Arrest Procedures and Treatment While in Detention.*—Police generally arrested persons openly with warrants based on sufficient evidence. The law provides that authorities promptly inform detainees of the charges against them, and there was a functioning bail system. The law requires police to bring suspects before a prosecutor within 24 hours of detention. During this period, police may detain individuals for up to six hours at the scene of a crime for investigative purposes. The prosecutor has an additional 24 hours to release the person or to bring the person before a judge who decides whether they should remain in pretrial custody. The law generally limits pretrial detention to one year. The law allows detainees to request a lawyer of their own choosing, requires authorities to inform detainees of the charges against them after an indictment, and provides for the right to a speedy trial. In practice authorities often denied detainees prompt access to an attorney. There were no cases of arbitrary arrest or detention reported during the year.

In its May 2009 report, the CPT delegation reported that the right to access an attorney only became effective some time after detained persons had been deprived of their liberty and that access to an attorney seemed to occur only after authorities brought the detainees before a judge to remand them into custody. Many of the persons interviewed by the delegation claimed that authorities did not permit them to contact an attorney or even inform them of their rights until after the crime police questioned them.

*e. Denial of Fair Public Trial.*—The state constitution does not explicitly provide for an independent judiciary, but the laws of both entities do. The State Court is the highest court in the country for certain criminal cases, including war crimes, organized crime, terrorism, economic crime, and corruption. The country also has a State Constitutional Court and State Prosecutor's Office. Each entity has its own Supreme Court and office of chief prosecutor. The state-level courts do not exercise judicial supremacy over the entity-level courts. Political parties sometimes influenced the judiciary at both the state and entity levels in politically sensitive cases. Judicial reforms reduced the level of intimidation by organized crime figures and political leaders, but intimidation continued.

The absence of extradition treaties with neighboring countries continued to be a major hurdle to bringing suspects to justice, particularly given the relatively small size of the country, the prevalence of dual citizenship, and the ease of movement across borders with former Yugoslav countries.

The state-level High Judicial and Prosecutorial Council (HJPC) acts independently and regulates many of the most important affairs of the judiciary with clear, transparent criteria for judicial and prosecutorial appointments and detailed disciplinary liability for judges and prosecutors.

Inefficiency in the courts undermined the rule of law by making recourse to civil judgments less effective. There was a backlog of nearly two million unresolved civil cases, more than one-half involving utility bills. Authorities estimated that only 10 percent of the cases involved criminal matters.

According to the 2008 report of the Center for Human Rights of Sarajevo University, more than 20 percent of decisions of the State Constitutional Court had not been implemented. The majority of the cases pertained to so-called "systematic failures" of government, such as problems concerning missing persons, old currency savings, and compensation for war damages.

*Trial Procedures.*—The laws of the federation and Republika Srpska provide that defendants enjoy a presumption of innocence, public trials, and the right to counsel at public expense, if charged with a serious crime. However, courts did not always

appoint defense attorneys where the maximum sentence was less than five years. The law provides defendants the right to confront witnesses, to present witnesses and evidence on their own behalf, to access government-held evidence relevant to their case, and to appeal verdicts. The Government observed these rights in practice.

The State Court continued to make progress adjudicating organized crime and war crimes cases and expanded the witness protection program. During the year the State Investigation and Protection Agency (SIPA) Witness Protection Department provided support to more than 140 individuals.

The State Court War Crimes Chamber and entity courts continued conducting war crimes trials during the year. By November the State Prosecutor's Office opened 18 new war crimes investigations involving 28 suspects and secured judgments in nine war crimes cases involving 13 alleged war criminals, 10 of whom were convicted and three acquitted.

The State Prosecutor's Office continued to use plea agreements in some cases. In 2008 the Council of Ministers adopted a national strategy for the prosecution of war crimes that foresaw the prosecution of the most serious war crimes by 2016 and all other war crimes by 2024.

On May 21 and June 23, respectively, the State Court sentenced Cerim Novalic to seven years in prison and confirmed an indictment for Zulfikar Alispago, former commander of the "Zulfikar" special purposes squad with the main headquarters of the country's army, for war crimes against civilians in Konjic.

During the year the country's courts sentenced four individuals to a total of 77 years in prison and confirmed indictments for eight others for war crimes in Srebrenica. An August 13 indictment charged that Franc Kos (also known as "Slovenac" and "Zuti"), Stanko Kojic, Vlastimir Golijan, and Zoran Goronja (known as "Zoka" ) with participating in the July 1995 killings of more than 800 men and boys at the Branjevo military farm in Pilica in the Zvornik municipality.

On August 27, Veselin "Batko" Vlahovic, suspected of committing war crimes in Sarajevo from 1992 to 1995, was extradited from Spain. He was arrested on his arrival at the Sarajevo airport on August 26 and taken to the detention unit of the State Court.

Elsewhere in the country during the year, courts sentenced eight individuals to a total of nearly 175 years in prison and indicted eight others for war crimes against civilians.

In December 2009 the State Court found Ratko Bundalo and Nedo Zeljaja guilty of crimes against humanity in the Kalinovik region. The court sentenced Bundalo and Zeljaja to 19 years and 15 years in prison, respectively. The court acquitted a third defendant, Dordislav Askraba, on all counts.

Despite local and international efforts to prosecute war crimes, many lower-level perpetrators remained unpunished, including those responsible for the approximately 8,000 persons killed in the Srebrenica genocide and those responsible for approximately 13,000 to 15,000 other persons who are missing and presumed to have been killed during the 1992-95 war.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) issued one judgment involving the country. On May 27, ECHR upheld the right of former Yugoslav military officer Branimir Djokic, who had a legally valid purchase contract, to repossess his prewar apartment and to register his title. The Government compensated Djokic in compliance with ECHR's decision. During the previous year, ECHR issued judgements that found 10 violations by the country of various provisions of the European Convention on Human Rights, including one violation of the right to liberty and security, three violations of the right to a fair trial, one violation of the right to an effective remedy, and four violations involving protection of property.

During the year the country complied with ECHR judgments requiring individual measures either through actual remedies or by submitting action plans for compliance to ECHR. The country remained noncompliant with the ECHR's December 2009 Sejdic-Finci judgment that the country's constitutional provisions on ethnic minorities running for certain elected offices violated the European Convention on Human Rights.

*Civil Judicial Procedures and Remedies.*—The law provides for an independent and impartial judiciary in civil matters, and citizens could file civil suits for human rights violations.

*Property Restitution.*—The country's four traditional religious communities had extensive claims for restitution of property that the Government of the former Yugo-

slavia nationalized after World War II. In the absence of state legislation specifically governing restitution of properties that the previous communist regime nationalized, return of former religious properties continued on a case by case basis at the discretion of municipal officials; these officials rarely completed such restitution and usually did so in favor of the majority group in that particular municipality.

Many officials used property restitution cases to provide political patronage. Other unresolved restitution claims were politically and legally complicated. On June 9, the federation government, Sarajevo Canton government, Sarajevo Stari Grad municipality, and the economic faculty in Sarajevo signed an agreement to return the building that housed the University of Sarajevo's economic faculty to the Serb Orthodox Church. According to the agreement, the construction of the new economic faculty building should begin in 2011; however, during the year the Governments did not undertake any activities to fulfill the agreement.

The Jewish and Muslim communities also asserted historic claims to many commercial and residential properties in Sarajevo. The Catholic community maintained a large number of similar claims in Banja Luka.

Roma displaced during the 1992-95 conflict had difficulty repossessing their property as a result of discrimination and because they lacked documents proving ownership or had never registered their property with local authorities.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, some Republika Srpska-based journalists continued to complain of telephone tapping and increased government surveillance.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government did not always respect press freedom in practice. Laws delegated safeguarding freedom of the press to the cantons in the federation and to the entity-level authorities in the Republika Srpska. Defamation laws exist at the entity-level, and freedom of information legislation exists at both the entity- and state-levels. However, the Government, including the courts, did not fully implement these laws in practice, and government respect for freedom of speech and the press did not improve during the year.

The federation criminal code prohibits hate speech. The Republika Srpska criminal code does not specifically proscribe hate speech, although the law prohibits causing ethnic, racial, or religious hatred. The broadcasting code of practice also regulates hate speech by broadcasters. The country's Communications Regulatory Agency (CRA) did not register any cases of hate speech during the year. However, independent analysts noted a tendency by politicians and other leaders to label unwanted criticism as hate speech. Many media outlets used language, often nationalistic, considered incendiary on matters related to ethnicity, religion, sexual orientation, and political affiliation. Both entities have defamation laws which are used in courts. The Press Council registered four cases of hate speech in print media.

Many privately owned newspapers were available and expressed a wide variety of views. A number of independent print media outlets continued to encounter financial problems that endangered their operation.

During the year the Press Council considered 110 complaints related to print media, accepting 36 as valid and rejecting 10 as unfounded. In some cases, the council instructed media outlets to publish a refutation or a retraction, or advised the same, resolving 41 cases in this way. In 26 cases, the council gave instructions for further complaint procedures, or for evaluating cases in court. Most of the complaints accepted by the council involved allegations that print media outlets denied persons the right to respond to reports and articles that they considered false or defamatory. The number of complaints due to breach of children's rights to privacy and protection from discrimination increased during the year. In four cases, the council registered hate speech in articles published in a daily newspaper. The Press Council continued to face pressures and difficulties in preserving its status as a single organization in charge of print self regulation for the entire country.

Political pressures on state-level media institutions continued. Political pressures on the CRA continued, with politicians often alleging a lack of impartiality. Public broadcasters remained vulnerable to political influence as well. Bosnia-Herzegovina Radio Television tried to maintain a neutral editorial policy, but its influence remained limited. Two public broadcasters, Federation Television (FTV) and Radio Television of Republika Srpska (RTRS), remained the largest television broadcasters in the country. RTRS reported predominantly pro-Republika Srpska ruling party views, while there were complaints that FTV continued supporting certain opposition parties.

The problems of the CRA and the undermining of the CRA's independence remained unresolved. Its authority was challenged on political grounds by the ruling political parties. The Council of Ministers failed, for a third year in a row, to appoint a CRA general manager and attempted to influence the selection of a candidate by making it part of a broader political package. In April 2009 the mandate of CRA council members expired. By year's end, the state parliament had not completed procedures for appointing new council members. In 2009, the CRA's status was reduced to that of an administrative body, but an October 19 decision excluded the CRA from the Law on Administrative Bodies. Public broadcasters remained fragmented due to the failure of the steering boards of the public broadcasters to establish a unified public broadcasting system. On September 23, the Organization for Security and Cooperation in Europe (OSCE) issued a report on the country's media which noted that this lack of progress to establish a public broadcasting system undermined the long-term viability of public broadcasting in general.

The few media outlets in the Republika Srpska that retained editorial independence continued to report government interference with their operations. A local commercial network of five stations operated in both entities (Mreza Plus), as did the private television networks OBN and PinkBH. Dozens of small independent television stations broadcast throughout the country. Radio continued to provide a forum for diverse points of view. In many cases, news programs of independent broadcasters reflected opposition perspectives.

The majority of Republika Srpska media showed a distinct bias in favor of the Republika Srpska government. On July 2, the Republika Srpska government, for the second consecutive year, decided to give five million convertible marks (\$3.4 million) to Republika Srpska-based media, stating that the assistance would be distributed to projects "of general social interest" that "improve access to information." Despite an official 90-day application submission deadline, the Republika Srpska government allocated funds to 14 selected media outlets well before that deadline. Media watchdog organizations and opposition groups described the program as a subsidy to organizations sympathetic to the ruling Republika Srpska party preceding the country's general elections during the year. There were also complaints that federation media outlets exhibited political bias demonstrating support for certain political parties or business interests.

While there were continued reports of threats against journalists, recent research by the Bosnia and Herzegovina Association of Journalists revealed widespread popular indifference toward such violence. During the year the Free Media Help Line (a part of the Bosnia and Herzegovina Journalists Association) registered 43 cases involving violations of journalists' rights and freedoms or pressure from government and law enforcement officials. During the year there were nine cases of pressure on and threats to journalists that included one death threat and five physical attacks. Other cases involved assault threats and denial of access to information.

In some instances, media sources reported officials threatened media outlets with loss of advertising or limited their access to official information. Politicians and government officials also accused media outlets of opposing a given ethnic group or betraying their own ethnic group. Some journalists complained of telephone tapping, increased government surveillance, actual or threatened lawsuits, and repeated visits from tax authorities.

There were several incidents reported during the year that involved violence against journalists or possible attempts to intimidate the media:

In August Damir Kaletovic, a journalist with the popular FTV program 60 Minutes, was charged with illegal taping and secret listening after broadcasting a threat made by Vitomir Popovic, the country's human rights ombudsman, against him and FTV news director Bakir Hadziomerovic. The threats were allegedly made after FTV criticized Popovic's reelection as ombudsman, accusing him of corruption and involvement in war crimes. Popovic was recorded as saying that Kaletovic and Hadziomerovic each "deserved a bullet to the head" for broadcasting the story. On September 20, following numerous requests from Kaletovic, the Banja Luka district prosecutor opened an investigation into the threats allegedly made by Popovic. Both the case against Kaletovic and the investigation of Popovic remained open at year's end.

On September 22, a store owner in Stolac kicked and attempted to choke Dnevni List journalist Nevres Dedic after he took photos of a police raid involving the store. The store owner also damaged Dedic's camera. The attack reportedly occurred in front of five or six police officers, who warned but failed to stop the attacker. Dedic filed a complaint with the police. The Association of BiH Journalists strongly criticized the attack and police failure to protect the journalist. The association asked cantonal police to investigate the case and provide a public explanation why they failed to protect a journalist on duty. Dedic's attorney filed criminal charges against

the attacker. Several individuals were arrested during the police operation called "Tax" aimed at breaking the tobacco smuggling chain. However, Dedic's attacker remains released on bail.

In May Ljiljana Kovacevic reported receiving official notification of legal charges filed against the BETA news agency in connection with a slander suit brought by Republika Srpska Prime Minister Dodik. In May 2009 the prime minister filed the suit against the agency and Kovacevic, its Banja Luka correspondent, for reporting that SIPA submitted a report on suspected criminal activity against him and other persons in connection with questionable construction tenders. Dodik asked the court for 15,000 convertible marks (\$10,200) in damages. BETA accepted the notification but reportedly had not received any additional documents clarifying the case's status.

On election day, October 3, the ruling Republika Srepska political party, Alliance of Independent Social Democrats (SNSD), faxed a letter to ATV Banja Luka prohibiting the station from reporting at its election headquarters. The country's journalists association condemned SNSD's action as discriminatory.

By year's end, FTV had not complied with a court order directing FTV to reinstate former news director Duska Jurisic. On January 18, FTV fired Jurisic allegedly for "lacking adequate communication skills which damaged the FTV's reputation." In October labor inspection officials determined that FTV's replacement of Jurisic was illegal. On November 8, the municipal court of Sarajevo also ruled FTV's decision to replace Jurisic to be illegal. On December 15, after FTV appealed the court's ruling, the municipal court of Sarajevo ordered FTV to reinstate Jurisic as news director until the final ruling.

During the year the police did not follow up the reported June 2009 death threat made against Alija Behram, the director of RTV Mostar and host of a political television show. Behram received the threat after a broadcast concerning controversial political issues in Mostar that some believed were anti-Muslim.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for the year, approximately 38 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events; however, ethnic favoritism and politicization of faculty appointments constrained academic freedom. In Sarajevo Serbs and Croats complained that Bosniaks received preferential treatment in appointments and promotions at the University of Sarajevo. The University of Banja Luka and the University of East Sarajevo continued to limit faculty appointments almost exclusively to Serbs. The University of Mostar remained divided into two separate universities, reflecting the continued ethnic divide in the city. Parochial interests influence the remaining five public universities in Bosniak-majority areas. It was widely believed that corruption is common in the university system.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice.

*Freedom of Association.*—The law provides for freedom of association, and the Government, with certain exceptions, generally respected this right in practice. A wide range of social, cultural, and political organizations functioned without interference.

The law allows NGOs to register freely; however, some NGOs and NGO associations experienced difficulties registering, including long delays and inconsistent application of the law. Some NGOs, frustrated by delays at the state level, chose instead to register their organizations at the entity level.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights; however, some limits remained in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons.*—The return of persons displaced by the 1991-95 wars in the former Yugoslavia continued to steadily decrease. According to the UNHCR, 358 persons (of whom, 340 were minorities) returned during the first six months of the year. Government officials and some NGOs, however, believed that the total number of returns was significantly lower, since the UNHCR determined returns based on property restitution rather than physical presence. According to the UNHCR, there were an estimated 113,465 registered displaced persons in the country at the end of 2009 seeking return to their prewar places of residence.

On June 24, the country's parliament adopted the Revised Return Strategy which deals with the issues of property and return of displaced persons and refugees. The strategy treats equally the right to return and the right to assistance for local integration of those who choose not to return. Some of the organizations working on return issues expressed concerns over the strategy, believing it would further slow the return process and encourage local integration.

The high unemployment rate, lack of access to social benefits, inability to transfer social benefits when returning from another entity, lack of available housing, and high municipal administration taxes on documents that were necessary for accessing reconstruction assistance for return continued to inhibit returns.

Minority returnees often faced intimidation and complained of discrimination in hiring. In returnee areas throughout the country, the percentage of minorities holding municipal employment was neither representative of current populations, nor consistent with legally mandated percentages based on the 1991 census, indicating local government failures to implement and enforce the provisions of the law. Minority returnees also faced obstructions in their access to education, health care, and pension benefits, as well as poor infrastructure.

During the year observers continued to note a trend of attacks directed against symbols of minority groups, rather than attacks against individuals. This hostility continued to affect returns. Many returnees cited authorities' failure to apprehend war criminals as a disincentive to return. Many displaced persons created permanent lives away from their prewar homes, and only individuals with few other options (including a large number of elderly pensioners) tended to return.

In the Republika Srpska, the Ministry for Refugees and Displaced Persons provided support to Bosniaks and Croats returning to the entity and to Bosnian Serbs returning to the federation. The federation Ministry for Refugees assisted Croats and Serbs returning to the federation, and Bosniaks and Croats returning to the Republika Srpska. Both entity-level refugee ministries provided limited reconstruction assistance to returnees and also committed part of their budgets towards joint projects that were determined by the State Commission for Refugees.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

Asylum seekers with pending claims, regardless of national origin, may remain in asylum centers until the courts adjudicate their claims, a process which normally took three months, although in some cases longer. Asylum seekers have the right to appeal a negative decision, and the law requires the court to render a decision within two months.

Asylum seekers have the right to education and legal redress for human rights complaints. However, they do not have the right to employment unless the Government grants them asylum. There were no reports of abuse of refugees, and adequate protection was provided to refugees in asylum centers.

During the year the Government did not grant temporary protection to any individuals not considered to qualify as refugees.

*Stateless Persons.*—According to UNHCR, there were between 3,000 and 5,000 persons at risk of statelessness, the large majority of whom were Roma. This figure also includes those lacking birth registration and persons at risk of denaturalization (largely those naturalized during the country's 1992-95 conflict). According to UNHCR, by year's end, approximately 1,300 cases remained for review by the Government. By year's end, more than 50 percent of the cases reviewed resulted in denaturalization, which may render some persons stateless. There were no reported cases during the year. In 2009 one person had been registered as legally stateless, but was subsequently naturalized on the basis of his origin (not on the basis of statelessness). The law provides that a child born to one or two parents who are citizens of the country is also a citizen, regardless of the place of birth. A child born on the territory of the country to parents who are not Bosnian citizens does not gain

citizenship unless both parents are stateless persons. While the law provides no special provisions to expedite naturalization for stateless persons, it provides stateless persons opportunities to gain nationality on a nondiscriminatory basis. Stateless persons apply for naturalization through the same procedures as other foreigners.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic multiparty elections based on universal suffrage.

*Elections and Political Participation.*—Observers from the OSCE concluded that the general election was largely conducted in line with international standards but noted problems, including deficiencies in the registration process, group voting, and irregularities in the counting process. The OSCE identified some biased reporting and noted that private media, particularly print, tended to favor certain candidates. Smaller parties complained about systematic underexposure in the media. Many Republika Srpska print media reported nationalistic parties' rhetoric advocating Republika Srpska's secession and implying connections between segments of the country's Muslim community and international terrorism. Some major outlets in the federation reported parties' use of 1992-95 wartime imagery to intensify ethno-political discord.

Political parties generally operated without restriction or outside influence. Individuals and parties representing a wide spectrum of political views could freely declare their candidacies and run for election. The law provides that Serbs, Croats, Bosniaks, and "others" must be adequately represented in entity, cantonal, and municipal government institutions, based on the 1991 census, until the returns process detailed by the Dayton Accords is completed. However, the Government did not respect this law in practice. Separate from the three constituent peoples, there were 16 recognized national minority groups.

Nationalist rhetoric from leaders of all ethnic groups dominated political exchanges. In particular Serb politicians regularly called into question the validity and existence of the state of Bosnia and Herzegovina and threatened to call a referendum in the Republika Srpska to secede from the state.

The law requires that at least 30 percent of political party candidates be women. During the year the country held general elections. An estimated 37 percent of all candidates were women, while women accounted for 17 percent of those actually elected. A December study by the president of the country's Central Election Commission concluded that women were not appointed to the number of higher level government positions that the law's candidate quota system envisioned because of significant gender prejudice. At year's end, eight of 42 members of the state-level House of Representatives were women. There were no women in the nine-member Council of Ministers, although there was one female deputy minister. At the entity level, women held four of 23 leadership positions in the federation, including the president, one vice president, one minister, and one speaker in parliament. In the Republika Srpska, during most of the year, two of 16 ministers and one speaker in parliament were women. By year's end, following October's general elections, a record five women were appointed as ministers in the Republika Srpska.

Minorities remained severely underrepresented in government. There were no members of a minority group in the parliament and only one member of a minority in the Council of Ministers.

As of year's end, the Government had not complied with the December 2009 ECHR judgment that the constitutional provision that precludes "others" (that is, persons outside the three constituent peoples—Serbs, Croats, and Bosniaks) from becoming president or delegates of the parliament's upper chamber violates the European Convention on Human Rights. The ECHR found that the country's constitution discriminates against minorities other than the "constituent peoples," and required the country to bring its constitution in compliance with the European Convention for Human Rights.

*Section 4. Official Corruption and Government Transparency*

The law provides for criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials frequently engaged in corrupt actions with impunity. According to World Bank governance indicators for 2009, corruption remained a serious problem, although the country's rating improved slightly compared with the previous year.

On January 13, state prosecutors initiated two indictments against the former head of the Foreign Investment Promotion Agency (FIPA), Haris Basic, and a senior FIPA associate on charges of abuse of office, exceeding official authority, providing

material gain to others, and incurring damages to the Government in the amount of 54,000 convertible marks (\$36,720). The case was ongoing at year's end.

In February the state prosecutor ordered an investigation of charges of abuse of power by Damir Hadzic, mayor of the Novi Grad municipality in Sarajevo. The case was in the pretrial phase at year's end.

On April 28, the head of the border police's airport office, Fadil Jaganjac, was sentenced to five months in prison for allowing three persons to enter the country with forged passports.

On April 8, a state court acquitted Edhem Bicakcic and Dragan Covic, the president of the Croatian Democratic Union of Bosnia and Herzegovina party, of corruption charges for alleged offenses committed during the time they served as prime minister and deputy prime minister of the federation.

On July 16, the country's appellate court acquitted Mladen Ivanic, president of the Party for Democratic Progress and a House of Peoples delegate, of charges that he misused public funds when he was Republika Srpska prime minister from 2000-02.

As of year's end, state prosecutors had not filed any charges in connection with the SIPA criminal report, announced in February 2009 that alleged corruption by Republika Srpska officials, including Prime Minister Milorad Dodik, in connection with several illegal construction tenders. The head of SIPA's organized crime unit, Dragan Lukac, who led the investigation, was removed from his position in September 2009.

Candidates for certain public offices, including for seats in parliament at the state and entity levels, and members of the Council of Ministers and entity governments are subject to financial disclosure laws. The Central Election Commission is responsible for ensuring compliance with these laws.

Although the law provides for citizen access to government records, many government agencies did not comply with the law. According to the law, the Government must provide an explanation for any denial of access, and citizens may appeal denials in the court system or to the ombudsman's offices. In practice the Government sometimes failed to provide the required explanation for denial of access unless citizens appealed to the ombudsman, the courts, or legal aid. Public awareness of the law remained low.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of human rights groups and NGOs generally operated without restriction, investigating and publishing their findings. However, government officials were often inefficient and slow to respond to their recommendations.

By year's end, the UN Development Program estimated the number of NGOs registered in the country to be more than 12,000. Financial viability remained the most challenging obstacle to overall civil society as only nonpolitically oriented organizations receive support from local governments. Registration and the procedure to change an organizational statute take significantly longer than prescribed by legislation due to registration authorities' inefficiency. Public support mechanisms and regulations were underdeveloped. Instead of following set guidelines and criteria, the Government commissions that allocated public benefit funds seemed to base many of their decisions on political interest and allocated large percentages of funds to predetermined beneficiaries such as religious communities, sports organizations, and veterans associations. The methods of allocation remain nontransparent and subject to corruption. Additionally there were no monitoring and evaluation mechanisms.

During the year NGO advocacy activities became more diverse, using methods such as policy papers, public announcements, and street actions. NGO participation in decision-making processes was still insufficient and case by case. Both the Government and the NGO sector lack sufficient knowledge about the existing mechanisms for NGO participation. The Council of Ministers has the right to return any legislative draft which did not go through the NGO consultation process, but to date has not used this mechanism. Despite some successful advocacy initiatives during the year, NGOs were largely excluded from decisions of greater political importance or sensitivity. NGOs continued to establish greater cooperation with the Government at lower levels. In addition to the existing Agreement on Cooperation signed by the Council of Ministers, more than 60 municipalities drafted and signed agreements with local NGOs by year's end.

Positive media coverage of NGOs continued to increase during the year. The media showed greater willingness to follow and support the work of the NGO community, although this willingness generally extended only to NGO work that did not threaten government interests. Some media covered more controversial issues, such

as organized crime and corruption in the health, education, and public administration sectors and recognized NGOs' value as watchdogs and sources of information.

The state-level government cooperated fully with international organizations, such as the Office of the High Representative, which has special powers over the Government, as well as other international organizations, such as the ICRC, ICMP, and the OSCE. However, the Republika Srpska government was less responsive and cooperative than were the state-level and federation governments with such organizations.

The entity-level ombudsmen ceased to exist during the year, as mandated by the law, and a single state-level ombudsman institution composed of three members representing the country's three constituent groups became fully functional with the headquarters in Banja Luka and branch offices in Sarajevo, Mostar, Brcko, and Livno. The state-level ombudsman is a functional institution with authority to investigate violations of the country's human rights laws on behalf of individual citizens and to submit recommendations to the Government for remedy. However, the ombudsman's recommendations are not legally binding.

The state parliament has a Joint Commission for Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum, and Ethics, consisting of members of both houses of parliament. The 11-member commission regularly held hearings, proposed legislation, and participated in human rights-related activities with governmental and nongovernmental organizations.

The Government generally cooperated with the International Criminal Tribunal for Former Yugoslavia (ICTY) by complying with investigations and handing over indicted suspects. During an October 18 visit to the country, ICTY Chief Prosecutor Serge Brammertz stated that time was running out and called on countries in the region to help arrest the two remaining ICTY fugitives, Ratko Mladic and Goran Hadzic. Brammertz described their arrest as becoming imperative, particularly because of the damaging effects that delay of justice has on victims. The ICTY trial of Radovan Karadzic, a fugitive for 13 years, for alleged crimes committed in the country was ongoing at year's end.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or other social status; however, the Government did not enforce these prohibitions effectively.

*Women.*—Rape and spousal rape are illegal; the maximum penalty for either crime is 15 years' imprisonment. A sense of shame reportedly prevented some rape victims from complaining to authorities. While police generally responded to reports of sexual assault, they tended not to treat reports of spousal rape with the same seriousness. Violence against women, including domestic violence and sexual assault, remained widespread and underreported. According to NGO estimates, one-third of the women in the country were victims of domestic violence. Both entities have laws that require police to remove an offender from the family home. Experts estimated that only 10 percent of domestic violence victims reported the crime. Police received specialized training in handling cases of domestic violence, and there were two hotlines operating throughout the country that provided assistance to victims. During the year the Republika Srpska domestic violence hotline had received 1,516 reports of domestic violence while the federation hotline received 519. There were several shelters throughout the country for victims of domestic violence, many of which received financial and other material support from the Government during the year. Many of these shelters doubled as shelters for victims of trafficking in persons.

Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of their children, and had the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception and skilled attendance during childbirth. Most women had access to prenatal and postpartum care through employer or government insurance. However, insurance costs for self-employed women were often prohibitive, and the actual amount of benefits provided to unemployed mothers often varied according to canton or municipality. According to estimates compiled by international organizations, there were approximately nine maternal deaths per 100,000 live births in the country in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The law prohibits sexual harassment, but it was a serious problem. Many NGOs reported that women experienced sexual harassment, but victims almost never filed complaints because they did not recognize their experiences as harassment and were not aware of their legal rights. Women have equal legal status to men, and authorities treated women equally in practice. The Government's Agency for Gender Equal-

ity worked to inform women of their rights. The state- and entity-level parliaments had committees for gender equality. Although few women held positions of substantial economic or political power, they were represented in most professions. However, results from a labor force survey released during the year showed that women had no larger share in employment than men in any formal economic sector. The survey indicated that over 62 percent of women of working age were inactive in formal labor markets, although many employers underreported employment to avoid mandatory social security contributions. An October report submitted by six prominent women's rights organizations to the U.N. Committee on the Elimination of Discrimination against Women concluded that the Government had taken no affirmative action measures that would address gender inequality in employment, noting the absence of job-growth programs tailored specifically for women. According to the report, the state- and entity-level government employment strategies recognized the problem of gender-based inequalities in the labor market and structural stereotyping but were not seriously committed to increasing women's competitiveness in the labor market.

Authorities documented a small but increasing number of gender-related discrimination cases. Anecdotal accounts indicated that women and men generally received equal pay for equal work at government-owned enterprises but not always at private businesses. Women in all parts of the country had problems with nonpayment of maternity leave allowances and the unwarranted dismissal of pregnant women and new mothers. Many job announcements openly advertised discriminatory criteria, such as age and physical appearance, for female applicants. Women remained underrepresented in law enforcement agencies, although there was continued progress.

*Children.*—By law a child born to one or two parents who are citizens of the country is also a citizen, regardless of the place of birth. A child born on the territory of the country to parents who are not Bosnian citizens does not gain citizenship unless both parents are stateless persons.

During the year the UNHCR, through a local legal aid NGO, registered the birth of children, mainly Roma, whose parents failed to register them as they were required by the law. The NGO "Vasa Prava" estimated that there were 4,500 unregistered children in the country. Unregistered children experienced significant obstacles in accessing social, educational, and health benefits.

Education is free and compulsory through the age of 15. Schools required parents to pay for books, lunches, and transportation. These expenses caused some children to drop out of school. A lack of reliable monitoring hindered efforts to ensure that children receive an education. The law requires children with special needs to attend regular classes, but schools were often unable to accommodate them.

During the year the country's Roma council estimated that less than 35 percent of Romani children attended school regularly. Poverty prevented many Romani children from attending school. Authorities provided textbooks, meal allowances, and transportation allowances for Romani children. Verbal harassment from other students and language problems also contributed to the exclusion of Roma from schools.

During the year students in areas where they are in the minority frequently faced a hostile environment. Obstruction by nationalist politicians and government officials slowed efforts to abolish school segregation and enact other reforms. During the year Stolac High School operated without accreditation because the Herzegovina Neretva Cantonal Ministry of Education found that the curriculum submitted by the Stolac Municipal Council discriminated against Bosniak students.

In some areas of the country, local officials and parents sought to establish complete physical segregation of Bosniak and Croat students. Many schools effectively entrenched segregation and discrimination. The law provides for administrative and legal unification of the estimated 56 schools with separate classes for Bosnian Croats and Bosniaks; however, implementation of the law did not lead to integrated classrooms. Some of these schools shared extracurricular activities, school entrances, and recreation facilities.

In the Republika Srpska, non-Serbs made up less than 5 percent of the teaching staff in primary and secondary schools. In the federation, minority teachers made up between 5 and 8 percent of all teachers, depending on the canton. Children in primary and secondary schools studied what some NGOs described as "divergent, ethnically specific curricula."

On December 1, following three-days of discussion with state- and entity-level officials, the Council of Europe Commissioner for Human Rights publicly called for ending school segregation, particularly in the federation, because it "reinforces prejudices and intolerance and perpetuates ethnic isolation." The commissioner added that such ethnic-based and divided education systems are not consistent with Coun-

cil of Europe standards and remain an obstacle to sustainable returns of persons displaced by the 1992-95 war.

Family violence against children was a problem. Police investigated and prosecuted individual cases of child abuse. Some NGOs estimated that one family in four experienced domestic violence. Municipal centers for social work protected children's rights, but lacked resources and housing for children fleeing abuse or those whom they needed to remove from abusive homes.

In certain Romani communities, girls married between the ages of 12 and 14 years old. The Government did not have any programs that were aimed specifically at reducing the incidence of child marriage.

Rape is a crime under entity criminal laws. The prescribed sentence for rape is from one to 10 years' imprisonment (if without aggravating circumstances). The minimum age for consensual sex is 18 years old. However, entity-level laws against "enticement to prostitution" permit police to treat minors 14 years and older as "juvenile prostitutes" instead of victims of rape or trafficking in persons. Women's and children's rights NGOs complained that the law allows police to subject children 14 to 17 years old to interrogation and criminal proceedings, although no such prosecutions were documented during the year. Under entity criminal codes, abuse of a child or juvenile for pornography is a crime that carries a sentence of one to five years imprisonment.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic violence against members of the Jewish community, which is estimated to be less than 1,000 persons, and one report of violence against property. On November 18, the secretary of Jewish community in Doboj reported that the walls of the local synagogue were vandalized with Nazi graffiti, a swastika, and "Sieg Heil." Doboj police immediately came to the crime scene to start an investigation, which remained open at year's end.

On November 7, a Bosnian-Croat soccer fan held a Nazi flag during a match in Siroki Brijeg, Sarajevo. The police were said to have stood by and allowed display of the flag and repeated shouting of "Sieg Heil."

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law in both entities prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities; however, there was discrimination against persons with disabilities in employment, education, and access to health care and other state services. Children with disabilities lacked sufficient medical care and educational opportunities. Policies toward persons with similar disabilities differed between entities in part due to structural differences between the entities' institutions. In the federation, the Institute for Medical Disability Status Classification, staffed by medical professionals and overseen by five relevant federation ministries in cooperation with an advisory NGO, determined the severity of each person's specific disability and level of assistance needed. In the Republika Srpska, the Government social workers in the Center for Social Welfare under the entity Ministry of Health and Social Welfare evaluated persons for disabilities and assistance.

In the federation, the law mandates that all public buildings must be retrofitted to provide access to persons with disabilities, and new buildings must also be accessible by the end of the year. However, buildings were rarely accessible to persons with disabilities in practice. Several government buildings, including the federation government and parliament buildings, were not in compliance with the law. The Republika Srpska had comparable laws for public access, but few older public buildings were accessible.

There was clear discrimination between different categories of persons with disabilities, although the vast majority of such persons were unemployed. Persons with disabilities resulting from service during the 1992-95 conflict were given a privileged status above civilian war victims and persons who were born with disabilities. The Republika Srpska government paid 40 convertible marks (\$27) monthly to upwards of 5,000 persons recognized by its Center for Social Welfare as disabled. In the federation, some 35,000 persons, using standards adopted by the Government in 2009, were officially recognized as "90 percent" or "100 percent" disabled and received 440 convertible marks (\$372) in assistance each month. Veterans and civilian war victims with disabilities received an estimated 1,000 convertible marks (\$680).

Many individuals with disabilities lived in institutions, although a growing number of programs for children with disabilities were available in schools. During the

year an estimated 30 percent of persons with disabilities residing in institutions were capable of independent living if housing and resources were available. At year's end, an estimated 1,900 persons with varying degrees of intellectual disabilities were institutionalized. During the year the federation government began a pilot program for assisted living in Tuzla which included 20 persons with intellectual disabilities. As of year's end, no such programs existed in the Republika Srpska.

*National/Racial/Ethnic Minorities.*—Ethnic differences remained a powerful force, although mixed communities existed peacefully in some areas.

Harassment and discrimination against minorities continued throughout the country, often related to property disputes. These problems most often included desecration of graves, graffiti, arson, damage to houses of worship, verbal harassment, dismissal from work, threats, and assaults. Specific incidents reported during the year included the following:

On January 23, unknown individuals threw stones at the building of Croat Cultural Center Petar Ajvazovic in Doboj, damaging the stone tablet with the name of the institution. Police investigated the incident but did not identify the perpetrators.

On February 19, two minors from Sarajevo accosted Orthodox priest Milorad Milinkovic in Sarajevo's suburb of Reljevo. The next day the Sarajevo canton police identified the perpetrators, who confessed to verbally abusing the priest. The police filed an offense report against their parents for negligent parenting.

On April 4, two persons spray-painted swastikas, crosses, and Ustasha insignias on 13 tombstones at a Muslim cemetery in Zepce. The local Muslim community and municipal leaders strongly condemned the act. The perpetrators were taken into custody. The prosecutor ordered them detained for 24 hours.

During the year the investigation continued in the August 2009 case in which a 20-year-old male fired two shots at the Serb Orthodox church building in Sarajevo's suburb of Reljevo.

There were no developments and none were expected in the November 2009 bombing attack at the home of the Serb Orthodox parish priest in Sanski Most (in the federation). Priest Slobodan Visekruna was standing near the explosion but was not injured. Police and the cantonal prosecutor investigated the attack, which was strongly criticized by local officials. The case remained unsolved at year's end.

There were no developments and none were expected in the August 2009 case of two young males who verbally assaulted Trebinje Imam Husein Effendi Hodzic in front of the Osman Pasina Mosque in central Trebinje. The case remained unsolved at year's end.

Ethnic discrimination in employment and education remained key problems. In most cases, employers did not reverse the widespread firing of members of ethnic minorities during and after the 1992-95 conflict, and employers often hired members of the local ethnic majority over minorities. Many smaller enterprises were owned by politically connected individuals, usually members of the majority group in their communities, and did not employ minorities. State- and entity-level officials generally did not act to prevent such discrimination.

There were an estimated 80,000 to 100,000 Roma in the country. Roma experienced serious difficulties in enjoying the full range of fundamental human rights provided to them under the law. The country's Helsinki Committee for Human Rights estimated that only 1 percent of the working-age Romani population were employed and indicated that employers usually downsized Roma first during a reduction in force. Many Roma lacked birth certificates, identification cards, or a registered residence, preventing them from accessing health care and public education services or registering to vote.

In 2008 the country joined the 12-country Decade of Roma Inclusion initiative of central and southeast European countries to raise the socioeconomic status and encourage the social inclusion of Roma over 2005-15. As part of the initiative, the country adopted a national "decade action plan" that established goals and indicators in the initiative's four priority areas: education, employment, health, and housing. In coordination with Romani representatives, the Government tasked the state Ministry of Human Rights and Refugees (MHRR) with overseeing implementation of the action plan. In 2009, the MMHRR began with annual allocation of three million convertible marks (\$2 million) for implementation. Romani representatives complained that the bureaucratic procedure significantly delayed the utilization of funds.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—While the law prohibits discrimination on the basis of sexual orientation, it was not fully enforced in practice, and there was frequent societal discrimination against gay, lesbian, bisexual, and transgender (LGBT) persons.

Gays and lesbians faced frequent harassment and discrimination, including termination from employment. In some cases, dismissal letters explicitly stated that sexual orientation was the cause of termination, making it extremely difficult for them to find another job. The European Commission Progress Report for the year found that physical attacks and harassment of LGBT persons continued and that no government official condemned such acts.

The Q Association, an umbrella organization for the country's LGBT population, operated semipublicly, and the employees of the organization did not openly display their address and contact information, as they were afraid of intimidation and threats. For the same reason, the association did not organize any high-profile public events to promote LGBT rights during the year. In 2008 the association's Queer Sarajevo Festival was harshly criticized by Muslim community leaders and was the scene of threats and physical violence against festival organizers and participants.

*Other Societal Violence or Discrimination.*—According to government statistics, there were 167 officially registered cases of HIV/AIDS in the country at year's end, with slightly more than half registered in the federation. The NGO XY-Association for Sexual and Reproductive Health estimated that the actual number of cases throughout the country was at least 600. There was significant social stigma and employment discrimination against persons with HIV/AIDS, a general lack of awareness of HIV/AIDS, and extremely limited resources to identify and assist those affected.

During the year government-run testing facilities lacked properly trained counselors or a systematic method of referring those diagnosed with HIV/AIDS for outside counseling and often relied on periodic, informal requests from the NGO Apoha to relay the contact information to those who had been recently diagnosed with HIV/AIDS. Government-run clinics and hospitals often used separate silverware and dining facilities for patients with HIV/AIDS, and waiting room staff often ignored HIV/AIDS patients' rights to privacy and confidentiality. While the Government provided HIV-suppressing drugs free of charge to persons diagnosed with HIV/AIDS, it did not fund the treatment of opportunistic infections associated with HIV/AIDS.

Although the entity and Brcko District governments did not directly sponsor HIV/AIDS awareness and antidiscrimination programs for school-age children, authorities permitted the XY-Association to conduct "peer education" training workshops in public schools during school hours in 17 cities throughout the country during the year.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers in both entities (including migrant workers, but excluding members of the military) to form and join independent unions without previous authorization or excessive requirements, and workers did so in practice. However, a cumbersome state-level government NGO registration system was a problem. For example, the International Labor Organization has criticized the Government for not allowing the Trade Union of Bosnia and Herzegovina, representing approximately 260,000 workers primarily from federation government-owned enterprises, to register as a union at the state level since 2002. Lack of formal recognition blocked the union from engaging in social dialogue on problems pertaining to state-level competencies with partners.

The law provides for the right to conduct union activities without interference; however, authorities did not impose sanctions against employers who obstructed workers from organizing. Worker rights violations continued to be a lower priority for ministry inspectors, as state officials instead focused on bolstering state revenues by cracking down on unregistered employees and employers that did not pay taxes. Some unions reported that employers threatened employees with dismissal if they joined a union and have in some cases fired union leaders for their activities.

The law in both entities and the Brcko District provides for the right to strike, and workers exercised this right in practice. However, in the federation, the law has burdensome requirements for workers who wish to conduct a strike. For example, a trade union cannot officially announce a strike without first reaching an agreement with the employer on which "essential" personnel would remain at work. If no agreement is reached, then the strike can be declared illegal. This effectively enables the employer a means to prevent a legitimate strike.

In Republika Srpska, workers, including those in the health sector and public utilities, must provide a minimum level of service in the event of a strike.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to bargain collectively in both entities and the Brcko District. In both entities, general collective agreements, wherein the minimum wage and other conditions of work are fixed, were negotiated by the respective governments and representative organi-

zations of employers and workers. A number of private employers have refused to recognize these agreements. Workers' and employers' organizations were not skilled in collective bargaining. Labor authorities in the federation noted that employers and workers often did not fully analyze whether such agreements were financially sustainable when they were signed.

Antiunion discrimination is prohibited by law but was widespread in both entities and the Brcko District. The labor inspectorates and courts did not deal effectively with complaints of antiunion discrimination by employers although the courts in the federation have often ruled in favor of workers in union-related disputes. In practice the Government did not impose fines on employers who prevented workers from unionizing, a practice that was becoming more prevalent as private sector businesses replaced former state-owned enterprises that had a traditional union culture. There are no legal or technical barriers preventing an employee from bringing a complaint against an employer. However, high unemployment coupled with fear of losing one's job, a backlogged court system, and the lack of legal protection for the approximately 20 percent of the labor force working in the unregistered gray economy, were disincentives to filing complaints.

There are no special laws or exemptions from regular labor laws in the country's four export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that individuals and organized crime syndicates trafficked women and children within and to the country for commercial sexual exploitation and sometimes for begging and forced labor.

Victims of sexual exploitation worked primarily out of private apartments and homes or were driven to clients and forced to perform sexual services. They reported working in conditions akin to slavery, with little or no financial support, where they were intimidated, verbally threatened, and subjected to physical and sexual assault to keep them in a condition of servitude.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Entity-level and Brcko District labor laws restrict child labor, and the entity governments enforced these laws in practice. The minimum age for employment of children in the federation and in Republika Srpska is 15 years old; minors between the ages of 15 to 18 years old must provide a valid health certificate to work. The law prohibits children from performing hazardous labor. In the federation, the law prohibits minors from "night work" except in exceptional circumstances. Although child labor was not generally a problem, children sometimes assisted their families with farm work and odd jobs. Reports indicated that children sometimes worked in small, family-owned shops.

Trafficking in children for sexual exploitation and sometimes for labor and begging was a problem. Organized begging rings exploited Romani children in particular, of which more than half were under the age of 14 and did not attend school.

Entity governments are responsible for enforcing child labor laws. Neither entity had inspectors dedicated to child labor inspections, and authorities investigated violations of child labor laws as part of a general labor inspection. Both entities' labor inspectorates reported that they had not found significant violations of child labor laws in the workplace, although they did not conduct reviews of children working on family farms. The Government did not collect data on child labor.

*e. Acceptable Conditions of Work.*—The monthly minimum wage in the federation was 343 convertible marks (\$233). In the Republika Srpska, the monthly minimum wage was 370 convertible marks (\$252) except in the textiles and footwear sectors where it was 320 convertible marks (\$218). The Brcko District did not have a separate minimum wage or an independent pension fund, and employers typically used the minimum wage rate of whichever entity its workers decided to direct their pension funds towards. None of these levels provided a decent standard of living for a worker and family. Labor inspection agencies at the entity level were responsible for enforcing the minimum wage. In the case of the federation, the entity agency was responsible for large state-owned enterprises, while cantonal inspection agencies were responsible for small, private businesses. The agencies were effective at enforcing the minimum wage, largely because it was low. Many employers did not report actual salaries in an effort to avoid payment of social contributions.

Many workers had outstanding claims for back payment of salaries and pensions. The law requires employers in both entities and the Brcko District to make substantial mandatory contributions to pension and health care funds. To avoid paying high social welfare benefits, employers often did not officially register their employees,

leaving employees without access to public health care and unable to officially transfer to another employer.

Many employers were behind, sometimes for years, in paying salaries or providing health and pension benefits to employees of public works and institutions.

The legal workweek in both entities and the Brcko District is 40 hours; however, seasonal workers may work up to 60 hours per week. The law limits overtime to 10 hours per week in both entities; the federation has no provision for premium pay, while the Republika Srpska requires a 30 percent premium. A recent study, funded by Norwegian trade unions, found that employers routinely denied workers overtime and sick leave in the private commercial sector in both entities and the Brcko District, particularly those employed in large shopping malls. An employee in the Republika Srpska may volunteer for an additional 10 hours in exceptional circumstances. Federation and Republika Srpska laws require a minimum rest period of 30 minutes during the workday. The entities and the Brcko District have little ability to enforce regulations on working hours, daily and weekly rest, or annual leave, and these protections were generally believed to be lacking.

Authorities in both entities and the Brcko District did not adequately enforce regulations related to acceptable work conditions. While labor inspectorates made some effort to enforce registration of employees, they limited most inspections to conditions affecting the officially registered workforce. In the Republika Srpska, the courts were ineffective in providing adequate protections to workers. Union leaders have lobbied for the creation of special labor courts to handle the workload, but the proposal lacks the support of the state's High Judicial and Prosecutorial Council. Republika Srpska law holds employers responsible for improving working conditions.

The law provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment; however, this right was not effectively enforced in practice. Workers' rights extended to all official, that is, registered, workers including migrant and temporary workers. According to informal estimates, approximately 40 percent of the total work force was unregistered.

## BULGARIA

The Republic of Bulgaria is a parliamentary democracy with a population of approximately 7.6 million. The constitution vests legislative authority in the unicameral National Assembly (Narodno Sabranie). A minority government headed by a prime minister ruled the country. Observers generally deemed the July 2009 general elections free and fair. Law enforcement organizations reported to civilian authorities although, in some instances, law enforcement officers acted independently.

Human rights problems reported during the year included police use of force against, and mistreatment of, detained persons and members of minorities and harsh conditions in prisons and detention facilities. There were strong concerns about pressure on and intimidation of journalists; reports of discrimination against religious minority groups; and corruption in the executive, legislative, and judicial branches of government. Other problems included violence against women and children; substandard education for Romani children; harsh conditions in state-run institutions for children; trafficking in persons; and discrimination against persons with disabilities, Roma, other members of minority groups, and lesbian, gay, bisexual, and transgender (LGBT) persons.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces shot and killed one person.

On July 23, the police shot and killed Marian Ivanov during his arrest in Pleven. At year's end, the investigation against the police officer was pending.

At year's end, authorities continued to investigate two officers implicated in the 2009 case of a detainee who suffocated during transfer from one detention center to another.

On November 12, following the January 20 decision of the Supreme Court of Cassation, the Military Appellate Court reduced by half the sentences of the five former Blagoevgrad police officers convicted in the 2005 death of Angel Dimitrov. Thus the highest-ranking officer received nine years, and the rest received eight years each.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The Government acted effectively against ransom kidnappings involving wealthy businessmen and their families. On October 14, the prosecutor indicted nine members of a gang for 11 kidnappings and one attempted kidnapping. At year's end, two gang members were out on bail; the rest remained in custody.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, observers noted increased use of force in connection with the Government's stepped up efforts to address organized crime. In the first six months of the year, the Government investigated 30 cases of police violence. In 2009 the Government investigated 42 cases of police violence and prosecuted 10 police officers; the courts convicted six. Non-governmental organizations (NGOs) claimed that authorities frequently did not properly investigate complaints from persons who alleged police brutality.

Police can detain persons for 24 hours without charging them. Police sometimes arrested suspects for minor offenses and physically abused them to force confessions, especially Romani suspects. NGOs continued to report that Romani victims were more willing to lodge official complaints against the authorities.

Human rights groups continued to claim that medical examinations in cases of police abuse were not properly investigated, and officials rarely punished offending officers.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally did not meet international standards.

Conditions in most prisons were harsh with inadequate toilet facilities and insufficient heating and ventilation. Overcrowding remained a serious problem, especially in pretrial detention centers. During the year there were 9,379 prisoners in the country's 13 prisons with a capacity for 8,740; a slight increase from the previous year. The daily food allowance was approximately 3.20 leva (\$2.17). NGOs received complaints about both the quality and quantity of food. The prison administration received complaints from prisoners about imposed sanctions, medical services, living conditions, and prison guards. Although the Bulgarian Helsinki Committee (BHC) facilitated training for guards, they did not receive sufficient training. There were some reports of mistreatment of inmates. Authorities held foreign prisoners serving longer terms in a separate prison in Sofia to provide them with easier access to consular services.

The 2008 BHC case in the administrative court against the Ministry of Justice for not providing adequate guard supervision and failing to provide physical security to prisoners was pending at year's end.

In September the Council of Europe's Committee for the Prevention of Torture (CPT) released the report of its 2008 visit to the country's prisons and detention facilities. The CPT noted that, despite some improvements, conditions in detention facilities and prisons remained poor, and the police often exceeded the 24-hour detention period. The CPT noted that the police at times would handcuff a prisoner to an immovable object when there was insufficient cell space for an inmate. The CPT also noted that access to medical care was substandard and reiterated its recommendation that authorities improve medical record keeping, including records on an inmate's condition at the beginning of custody, to better identify injuries related to police custody.

Prison authorities acknowledged difficulties diagnosing and treating the increasing numbers of drug-dependent inmates and limiting their access to narcotics. According to the prison administration, an estimated 1,100 prisoners, or nearly 12 percent of the prison population, were drug dependent.

All prisoners have the right to work, and two days of work reduced the prison term by three days. In practice the prison administration offered work to only a limited number of prisoners in low-security prisons. Prisoners alleged that the system for determining the type of regime that a prisoner received was corrupt and lacked oversight.

Only one detention facility met internationally established human rights standards. The Government partially renovated a few other detention centers. During the year 22,029 persons, including 1,108 women and 738 juveniles, went through the country's 42 pretrial detention centers; at year's end, there were 1,283 detainees there. The total capacity of the centers was 1,786 persons.

NGOs reported that the juvenile justice system lacked coordination. Crime reports were not matched with social reports for proper case assessment, which resulted in inefficient assignment of corrective action. At year's end, there were 66 juveniles in corrective schools and 29 in pretrial detention.

While prisoners in principle have the right to receive visitors, in most cases, that was impossible due to a lack of space to accommodate visitors in the facility. Prisoners could hold religious observance without restrictions on the denomination.

Prisoners reported substandard conditions to the prison administration, the ombudsman, and the court system. During the year prisoners filed 785 complaints with the prison administration claiming improper sanctions, improper transfers to other facilities, substandard medical services, poor conditions, and abuse by prison guards. The prison administration found 449 of those complaints unfounded; it investigated the rest of the complaints and imposed sanctions.

During the year the Government generally permitted monitoring of prisons by independent observers, including the CPT's December 2009 visit to the country's detention facilities and the BHC's periodic visits.

During the year the National Assembly allocated 20 million levs (\$13.6 million) to improve living conditions and reduce overcrowding over the three-year period to 2013.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, there were reports that police at times abused their arrest authority.

*Role of the Police and Security Apparatus.*—The Interior Ministry is responsible for law enforcement. The State Agency for National Security (DANS) is responsible for domestic intelligence analysis and corruption. A special parliamentary committee provides oversight of DANS. The Interior Ministry, the Prosecution Service, and DANS cooperate in creating organized crime task forces focused on high-level organized crime and corruption.

The National Intelligence Service and the National Protective Service, which answer to the president, were subject to oversight by a permanent parliamentary committee.

Impunity remained a problem. NGOs claimed that military judges, who were responsible for all military and Ministry of Interior appeals, were vulnerable to influence, as the defense minister had the power to confirm their appointments as well as to promote or demote them in rank. However, there were no specific reports of such pressure during the year.

*Arrest Procedures and Treatment While in Detention.*—While not required, police normally obtained a warrant from a prosecutor prior to apprehending an individual. Authorities generally informed detainees promptly of the charges against them. Police may hold a detainee for 24 hours without charge, and a prosecutor may authorize detention for an additional 72 hours without charge. In general authorities observed these laws in practice. Prosecutors may not arrest military personnel without the defense minister's approval. A court must approve detention for more than 72 hours; such detention can last up to two years for the most serious charges. In general authorities observed these laws in practice.

The law provides for bail, and bail was widely used.

The law provides for the right to counsel from the time of detention; however, police often failed to inform detainees of this right, and detainees often lacked timely access to a lawyer. The law provides state-funded legal aid for low-income defendants, but a lack of coordination hindered this program's implementation.

The report on the CPT visit noted improvement in the legal aid system and further recommended that authorities ensure full effectiveness of the arrangements for access to counsel, and keep strict records on defendants' access to counsel.

Long delays awaiting trial were common, and there was a large backlog of outstanding investigations. Tough, statutorily mandated time limits for investigations often resulted in hasty indictments that judges returned for additional investigation.

The law grants amnesty for crimes committed due to "negligence." The intent of the law was to reduce overcrowding in prisons. However, in 2009 authorities released only 210 prisoners. Prosecutors complained the law granting amnesty effectively blocked many investigations of corruption in public office, since "negligence" was often the only crime for which corrupt public officials could be prosecuted. On January 19, the constitutional court rejected the Government's challenge to the legitimacy of this law.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, corruption, inefficiency, and lack of accountability were pervasive problems.

The Supreme Judicial Council appoints, promotes, disciplines, and dismisses judges, investigators, and prosecutors. It investigates complaints of judicial misconduct and recommends disciplinary action. Observers noted that the council was slow to exercise its authority and implement internal discipline. From January to October, the council dismissed one magistrate and disciplined 23 others for professional misconduct.

Judicial and investigative backlogs remained a problem in some jurisdictions. Despite modest improvements, long delays for criminal trials were common. In July the Government enacted amendments to the penal procedure code to alleviate problems with trial delays; these amendments include the use of reserve defense attorneys who can substitute if illness or the absence of the original attorney delays the process. In several high-profile cases, judges used the new procedures to eliminate delays in court proceedings. As a result of these amendments, observers noted a slight improvement in the efficiency of the trial process.

*Trial Procedures.*—The law presumes defendants innocent until proven guilty and allows them ample time to prepare a defense. All court hearings are public except for cases involving national security, endangerment of public morals, and the privacy of juvenile defendants. Observers often complained that a court would unnecessarily hear cases of high public interest behind closed doors when the prosecution presented wiretap evidence.

Juries are not used. In cases involving serious crimes, two lay judges join a professional judge. If a crime carries a sentence of imprisonment for more than 15 years, two professional judges and three lay judges hear the case. In such circumstances, a majority vote determined verdicts. Defendants have the right to be present at their trial. A defense attorney is mandatory if the alleged crime carries a punishment of 10 or more years in prison for juveniles, foreigners, persons with mental or physical disabilities, or for trials conducted in the absence of the accused. Defendants have the right to confront witnesses, examine evidence, and present their own witnesses and evidence. The law provides for the right of appeal, which was widely used. Trial procedures apply equally to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—As of November, the European Court of Human Rights (ECHR) had issued 60 judgments that found 89 violations by the country of the European Convention on Human Rights. In the judgments, the ECHR ordered the Government to pay 980,148 euros (\$1.3 million) in compensation and court costs. The judgments found 27 violations of the right to a speedy and fair trial; 19 violations of the right to an effective remedy; 11 violations of the right to liberty and security; six violations of the right to respect for private and family life; five violations involving the prohibition against inhuman or degrading treatment; four violations of the right to life; one violation of freedom of thought, conscience, and religion; one case of discrimination; one violation of the right to safeguards against expulsion; and one case of double jeopardy. The Government complied strictly with the judgments.

*Civil Judicial Procedures and Remedies.*—The law provides for an independent and impartial judiciary in civil matters; however, the same long delays as for criminal cases affected court action on civil cases. Individuals may file allegations of human rights abuses with courts and with the Commission for Protection against Discrimination, which may impose sanctions on violators.

*Property Restitution.*—In May 2009 the Jewish community was able to regain possession and physically occupy a formerly state-run hospital in central Sofia. The hospital management's appeal of the court's ruling was denied. On June 14, the Ministry of Regional Development filed a new appeal that the court rejected, but the Government still had the ability to appeal in the Supreme Court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these provisions in practice.

A permanent parliamentary subcommittee oversaw the use of specialized investigative techniques.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, there were reports that individuals with political and economic interests intimidated journalists. NGOs reported that journalists practiced self-censorship or took money from political and business leaders and from organized crime groups to plant positive stories about the leaders and criminal groups. In addition media owners forced journalists to pervert the facts. In many cases, the true owners of media companies could not be identified. On October 22, the National Assembly passed the Print Periodicals Media Bill, which seeks to enforce transparency in media ownership.

Individuals criticized the Government freely without reprisal. However, in rural areas offering fewer employment opportunities, individuals were more hesitant to criticize local governments.

Media organizations and in a few cases political parties freely published a variety of newspapers. Private television and radio stations provided a variety of news and public interest programming. However, the acquisitions in June of a number of media outlets by groups affiliated with business and political interests led to further monopolization of private media and limited the variety of views available in print and on television. Both print and electronic media were susceptible to economic and, to a certain degree, political influence. Although the state-owned electronic media presented opposition views, observers believed that the law was inadequate to protect their programming independence and left these media vulnerable to government pressure.

During the year there was one killing of a journalist reported. On January 5, Boris "Bobbie" Tsankov, the controversial author of tabloid publications on the country's underworld and a former radio show host, was killed by unknown persons. Authorities accused one person of contracting the killing. The investigation was ongoing at year's end.

During the year there were reports of threats or attempts to intimidate journalists.

On February 8, Bulgarian news agency journalist Ivan Yanev was investigating the killing of a police officer in the village of Enina when a police spokesman from the nearby city of Stara Zagora threatened him, stating that Yanev was a "dead man." Authorities accused Yanev of reporting on the killing before the official police version was released and prohibited him from returning to the crime scene.

In July Nova Television reporter Diliانا Gaytandjieva alleged that the deputy speaker of the National Assembly, Lachezar Ivanov, pressured her to stop the broadcast of a program that revealed luxury real estate and vehicles owned by six customs officers. Ivanov's motive for exerting pressure on Gaytandjieva was alleged to be a personal relationship with one of the targets of the program. Under pressure from his party, Citizens for the European Development of Bulgaria, Ivanov stepped down as deputy speaker and committee chair.

During the year the police closed the investigation into the 2008 assault on Frognews editor in chief, Ognian Stefanov, whom authorities suspected of affiliation with [www.opasnite.net](http://www.opasnite.net), a Web site closed for reportedly releasing classified information. Police stated that they were unable to find the attackers.

Libel is legally punishable. Usually the courts interpreted the law in a manner that favored journalistic expression. Many defamation cases were prompted by journalists reporting about corruption or mismanagement; the most frequent plaintiffs were government officials and other persons in public positions.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet Society Bulgaria estimated that approximately 45 percent of the population had access to the Internet on a regular basis. According to the European Commission's 2009 report on the single European electronic communications market, the broadband penetration rate rose to 13 percent in January compared to 11.2 percent in 2009. However, many less-developed rural areas did not have the infrastructure to support Internet services.

In 2008 the Supreme Administrative Court struck down a government decree that allowed security services to gather data on Internet users' activities. On May 10, amendments to the Electronic Communications Act restored security services' access to electronic traffic data. However, the legislation imposed strict judicial control over this authority. There were no reports that the Government attempted to collect the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or beliefs.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. The law requires groups requesting a permit for gatherings to give 48-hours' notice. The law prohibits public gatherings within a security zone (five to 20 meters) around the National Assembly, the Council of Ministers, and presidency buildings. Mayors can prohibit, dismiss, or suggest an alternative site for a gathering that they regard as posing a threat to public order, security, or traffic.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice. The law prohibits groups that

endanger national unity or promote racial, national, or religious hatred, violate the rights of citizens, or seek to achieve their objectives through violent means. The Government generally respected the rights of individuals and groups to establish their own political parties or other political organizations.

Political parties based on religious, ethnic, or racial affiliation are illegal. In practice the prohibition did not appear to weaken the role of some ethnic minorities in the political process; a number of parties in reality represented various ethnic minority groups. NGOs may not engage in political activity.

The law requires a political party to have 5,000 members to register officially.

In December 2009 the Committee of Ministers of the Council of Europe decided to end its monitoring of the 2005 ECHR judgment against the Government for preventing the Macedonian activist group Ilinden from registering as a political party, although the Government continued to deny Ilinden the right to register.

On February 19, the Blagoevgrad District Court upheld a lower court's refusal to register the Society of Repressed Macedonians in Bulgaria.

In 2009 the Sofia Appellate Court upheld the decision of the Blagoevgrad District Court, which had refused to register the Nikola Vaptsarov Macedonian Cultural and Educational Society. The court ruled that there was no separate Macedonian ethnicity in the country and that some of the organization's goals, as outlined in its statute, implied the existence of such an ethnicity.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it in practice.

*Protection of Refugees.*—The law provides for granting asylum or refugee status, and the Government has established a system for protecting refugees. The Government provided some protection against the expulsion or return of refugees to countries where their lives or freedoms would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The UNHCR stated that the risk of genuine refugees being rejected was limited.

The law requires that persons seeking refugee status file an application within “a reasonable time” after entering the country. Observers remained concerned about the institutional capacity of the Government to process requests and transfer applicants to shelters. The authorities sustained the practice of detaining asylum seekers who enter the country illegally in the center in Busmantsi, treating them as illegal immigrants and thus subject to potential deportation. Although the law sets a maximum six-month period of detention, there were numerous reports of detentions exceeding six months as well as of guards mistreating detainees. Detainees also complained of poor living conditions and inadequate access to legal counsel.

On February 16, law enforcement officials arrested the head of the migration directorate on charges of supporting a criminal group supplying foreigners with false citizenship documents. The court ordered the defendant to remain in jail pending trial. The investigation was pending at year's end.

On February 16, in an unrelated case, the head of the state agency for refugees was fired and charged with embezzlement. The defendant remained free on bail, and the investigation was pending at year's end.

On February 18, 25 detainees in Busmantsi went on a hunger strike to highlight the need for more humane treatment. The legal deportation of seven Nigerian citizens, whom authorities notified of their deportation 15 minutes before their flight, inspired the strike. The strikers asserted that the entire system for granting asylum in the country was corrupt and demanded better conditions and expedited release from the center for all first-time asylum applicants. On June 6, an activist committee organized a public rally in support of the persons detained in Busmantsi. An estimated 100 protesters gathered in front of the facility to demand respect for the human dignity of the detainees, improved living conditions, and access to health services and education.

During the year authorities did not continue an investigation of the October 2009 death of Hassun Albaddj, who died in the Busmantsi detention center. The preliminary review found no evidence of physical abuse, although his repeated requests for medical attention apparently went unanswered.

The number of applicants for refugee status has decreased by two-thirds since 2002. As of November the Government granted humanitarian status in 108 cases, accorded asylum in 19 cases, and denied asylum in 318 cases of a total 825 applications. Most applications came from citizens of Iraq, Iran, Afghanistan, Armenia, Syria, Algeria, and stateless persons.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens generally exercised this right in practice through periodic, free, and fair elections based on universal suffrage. However, reports of large-scale vote buying marred the June 2009 European Parliament and July 2009 general elections.

*Elections and Political Participation.*—Despite persistent vote-buying allegations and the previous ruling coalition's late changes to the electoral system, observers widely regarded the July 2009 parliamentary election as free and fair.

According to election observers, 10 to 16 percent of the votes in the European Parliament election were purchased or manipulated, including busing voters to different districts, which had a greater influence on the results than the general elections due to the lower voter turnout. As of July, authorities brought 158 persons to trial, and the courts convicted 97 for election-related violations. The investigations of two cases of vote buying were pending.

The country has a mixed electoral system in which individuals vote for both a political party list and a specific candidate in a single mandate district. The single mandate districts undermined the equality of the vote due to a significant variation in population sizes of the districts.

The law provided immunity for candidates for political office. This resulted in the release of parliamentary candidates whom authorities charged with serious crimes, including leaders of organized-crime groups, from pretrial detention.

In 2009 the National Assembly established a committee with a three-month mandate to investigate numerous accusations of double voting and improper registration of citizen voters living in Turkey. According to the committee, the majority of the irregularities (64.4 percent of reported cases) was unintentional and resulted from officials' incompetence or disregard of procedures in reducing the time of voting and processing the results.

There were 53 women in the 240-seat National Assembly, compared with 51 elected in 2005. A number of women held elective and appointive offices at high levels in the Government, including two ministers. Women held key positions in the National Assembly, including that of speaker of the assembly, one deputy speaker, and chairmanship of seven of the 20 standing committees.

There were 28 members of minority groups (27 ethnic Turks and one Roma) in the National Assembly. There was one ethnic Turkish minister in the cabinet. While the ethnic Turkish minority was well represented, Roma were underrepresented, particularly in appointed leadership positions. Pomaks (ethnic Bulgarians who are Muslims) held elected positions at the local level.

*Section 4. Official Corruption and Government Transparency*

Despite increased efforts to hold public officials accountable, corruption remained a problem in all branches of government. The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. Corrupt practices included bribery, conflict of interest, elaborate embezzlement schemes, and procurement violations. Corruption continued to exist in high civil and administrative courts. In both the executive and judiciary, NGOs reported that corrupt officials were often fired, pressured to quit, or most often reassigned rather than prosecuted on corruption-related charges. The overly formal judicial system made it difficult to prosecute high-profile organized crime and corruption cases effectively.

On March 29, the Government adopted amendments to the criminal procedure code to address some of the weaknesses in the country's legal procedures. The amendments allow police to testify in court and provide for the protection of witness identity. Judges can also assign reserve defense lawyers to prevent attempts by defendants to delay cases on unjustified grounds. The changes also strengthened the role of specialized investigative techniques, making it possible for collateral wiretap information, as well as reports from the EU's European Antifraud Office, to be accepted as evidence.

During the year the Government indicted four former ministers as well as, for the first time, a sitting minister from the current government. While there were few verdicts, since 2009 the number of high-profile corruption cases has steadily in-

creased. During the year the following developments were reported with regard to the Government's efforts to prosecute cases of high-level corruption:

In separate rulings on March 29 and June 30, the Sofia City Court found Mario Nikolov guilty on charges of document fraud and embezzlement of EU funds and sentenced him to 12 years in prison. The court also convicted his wife and six other accomplices, and sentenced them to six years imprisonment. Nikolov and his accomplices were members of a criminal network specializing in the embezzlement of EU funds.

In May an investigative report revealed that three judges from the Supreme Administrative Court, the head judge of the Sofia Appellate Court, and one other high-level magistrate helped their close relatives obtain beach-front real estate on the Black Sea. The three supreme administrative court judges were fired.

On June 30, a court acquitted former deputy minister of interior, Raif Mustafa, and his associate, Rosen Marinov, of attempting to bribe Marin Dimitrov, the former head of the Fisheries Agency. Despite tape recordings of Marinov offering a bribe and Dimitrov's testimony, the court found Mustafa and Marinov not guilty. The Prosecution Service appealed this decision.

In May 2009 the Supreme Judicial Council officially dismissed the chair of Varna administrative court, Anelia Tsvetkova, for undermining the prestige of the judiciary. DANS arrested Tsvetkova in July 2008 for bribery and confiscated 150,000 leva (\$101,710) from her home. Her trial on bribery charges was pending at year's end.

The law mandates that government officials declare any circumstances in which they could be accused of using their position for personal profit. According to the law, high-level public officials who fail to submit a financial disclosure declaration can be fined as much as 1,500 leva (\$1,017). According to the National Audit Office, during the year 16 of 6,546 officials covered by the law did not submit their annual declaration within the statutory deadline, compared with 71 of 6,656 officials in 2009.

The law provides the right of public access to government information; however, NGOs continued to complain the Government did not implement the law effectively. While the courts allowed greater access to government information, the Government rarely implemented these decisions.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Human rights observers reported uneven levels of cooperation from various national and local government officials.

The law provides for an ombudsman to review the complaints of individuals against the Government for violations of rights or freedoms. The ombudsman can request information from state authorities, act as an intermediary in resolving disputes, make proposals for terminating existing practices, and refer information to the prosecution service. During the year the ombudsman received 3,687 complaints of violations of citizens' rights and freedoms compared with 2,686 in 2009. The majority of complaints concerned quality of public services, property issues, and social assistance programs. NGOs continued to criticize the ombudsman for focusing on administrative issues rather than actively engaging on human rights cases.

A permanent parliamentary committee oversees human rights, religious denominations, and citizens' complaints and petitions.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination on the grounds of race, gender, disability, social status, and sexual orientation; however, the law does not prohibit discrimination on the basis of language. Societal discrimination continued, particularly against ethnic minorities, sexual minorities, and persons with disabilities. Trafficking in persons continued to be a problem.

The Government investigated complaints of discrimination, issued rulings, and imposed sanctions against violators. The law allows individuals to pursue a discrimination case through the court system or through the Commission for Protection against Discrimination. During the year the commission received 663 complaints. The majority of the complaints concerned labor discrimination. A little over a quarter of the cases involved complaints of multiple discriminations. The commission found 216 cases of discriminatory practices and imposed nine fines totaling 48,800 leva (\$32,547) on violators.

*Women.*—Rape is illegal but underreported due to the stigma attached to it. Spousal rape can be prosecuted under the general rape statute; however, authorities rarely prosecuted it in practice. Sentences for rape range from two to eight years

in prison (from three to 10 years if the victim is a blood relative). When rape results in serious injury or suicide, sentences range between three and 15 years imprisonment, and when the victim is a minor, between 10 and 20 years. Authorities generally enforced laws against rape when violations came to their attention. According to NGOs, the social taboo experienced by rape victims discouraged them from reporting the crime, and it was a far more serious obstacle to prosecution than police reluctance to investigate. As of July the prosecution service filed 103 rape cases, and the court sentenced 65 persons.

NGOs reported that one in four women was a victim of domestic violence. Although there were no precise statistics, NGO estimates identified an increase in its occurrence.

The law defines domestic violence as any act of, or attempt at, physical, psychological, sexual violence, emotional, or economic pressure against members of one's family or between cohabitating persons. The law requires the Government to adopt an annual action plan to prevent and protect against domestic violence and requires the state to fund it. The law empowers the court to deal with offenders by imposing fines, issuing restraining or eviction orders, or requiring special counseling. NGOs assessed the implementation of the law positively and stated that the courts issued more restraining orders. Failure to adhere to court restraining orders is a criminal offense.

On June 8, the Government passed implementing regulations to the law on protection against domestic violence that provide a framework for partnership between government and NGOs and set out the scope of the national program for prevention of and protection against domestic violence. The regulations give NGOs a mechanism for obtaining government funds for prevention and protection projects.

A local NGO operated a 24-hour, free hotline for women in crisis, and other NGOs provided short-term protection and counseling to victims in 17 crisis centers throughout the country. Police and social workers referred victims of domestic violence to NGO-run shelters, but NGOs complained that local authorities rarely provided financial assistance for operational costs.

Sexual harassment is punishable under prohibitions against coercion, which carry a punishment of up to six years in prison. The law identifies sexual harassment as a specific form of discrimination. During the year the Commission for Protection against Discrimination continued to receive sexual harassment complaints, which accounted for an estimated 5 percent of all complaints. However, sexual harassment remained a widespread problem, and the Government did not effectively enforce the law.

The Government generally respected the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Women generally had good access to contraception and skilled attendance during childbirth, including essential obstetric and postpartum care. However, access to contraception and skilled attendance in childbirth were less available to women in poor rural areas. The National Statistical Institute (NSI) reported the maternal mortality rate was five deaths per 100,000 live births in 2009. However, a report at the National Obstetrics and Gynecology Conference held in May claimed there were no reliable statistics on maternal mortality and estimated an average annual number of 12 deaths per 100,000 live births. Women were treated equally in the diagnosis and treatment of HIV and other sexually transmitted infections.

The law provides women with the same rights as men; however, women faced some discrimination in hiring and pay. According to NSI quadrennial data, women's salaries were 11 percent lower than men's, with some lower-paid sectors, such as education and services, dominated by women. The National Council on Equality between Women and Men, headed by the minister of labor and social policy under the Council of Ministers, is responsible for safeguarding the rights of women. Primarily a consultative body, the council is charged with promoting cooperation and coordination among NGOs and government agencies.

*Children.*—Citizenship is derived from one's parents. Children are immediately registered upon birth in the country.

Public education is compulsory until the age of 16, and free through the 12th grade, but the Government did not effectively enforce attendance requirements. Children were required to pay for books after the fourth grade, which was a problem for poor families.

According to the Ministry of Education and Science, dropout trends affected Romani children disproportionately: in primary school, 23 percent of students were Roma, while by the ninth grade, only 3 percent of students were Roma. The majority of students left school due to social and family reasons.

The education provided to Romani children was generally inferior, and nearly 10 percent of Roma never attended school. In 2009 the Supreme Court of Appeals upheld the 2005 ruling that the city of Sofia was guilty of discrimination for failing to provide equal educational opportunities to Romani children.

Romani activists and NGOs continued to complain that the closure of 450 schools for budgetary reasons resulted in a higher number of Romani children dropping out of school because Romani parents were especially reluctant to allow their children to travel to new schools in other towns, and parents at schools accepting new Romani students often reacted negatively to their arrival.

The Government lacked a policy on children with disabilities, resulting in their receiving inadequate access to education, healthcare, and social services (see section 6).

Violence against children was a problem. According to the National Center for Public Opinion Surveys, during the year, one in five children was a victim of violence or abuse in school. Experts noted the emergence of new forms such as cyber bullying. According to the NSI, 2,009 children were victims of serious crimes in 2009, down from 2,606 juvenile victims in 2008. Experts commented that the cruelty of the acts had increased, noting the number of murders rose from seven to 12. The Government operated a 24-hour free hotline for children, which received over 5,000 calls per month, often removed children from abusive homes, and prosecuted abusive parents.

Although no official statistics were available, NGOs reported that child marriage, which was common in Romani communities, resulted in school dropouts, early child-births, poor parenting, and spreading poverty. In October the Roma NGO Amalipe presented a study showing that the average age for marriage among the Roma was 18 years.

The Government continued to report a declining trend in the number of children detained by police for vagrancy and begging, which as of October was 397 compared with 659 in 2008. Many believed adults exploited these children, who were primarily engaged in begging, prostitution, or washing car windows. When such children were apprehended, police generally placed them in protective custody for up to 24 hours, unless remanded to protective custody by a prosecutor. Subsequently, many children were sent to state-run institutions.

Implementation of child-care policies was decentralized. The Government funded child welfare programs. Some municipalities contracted with NGOs to provide care, but some NGOs remained concerned about the ability of poorer municipalities to manage and administer care effectively.

Problems in state-run institutions for children, including incidents involving the exploitation of children, continued to receive media attention during the year. In September the BHC and the prosecution service conducted a joint inspection of institutions for disabled children that uncovered 238 deaths in the preceding decade as a result of poor treatment, lack of supervision, and unsanitary conditions as well as violence. At the time of inspection, 103 residents suffered from malnutrition and 622 suffered from serious infections. Further findings also revealed cases of sexual abuse, physical violence, and injury. The Prosecution Service opened investigations into 166 cases of death and 27 cases for injury.

During the year the Government began a deinstitutionalization program with the aim of closing all such institutions by 2025 and integrating the children into foster families or family-type homes. To accomplish this objective, the Government took significant steps to enhance family preservation, foster care, and adoption programs.

In 2009 there were 6,920 children, including children with disabilities, in 137 specialized institutions. This was a decrease from 7,466 children in 140 institutions in 2008 and a 45 percent decrease from 12,609 children in 165 institutions in 2001. The majority of children in institutions were Roma. Most children in state institutions were not orphans; courts institutionalized children when they determined that their families were unable to provide adequate care.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—According to the Jewish organization Shalom, anti-Semitism was not widespread, but there were increasing reports of anti-Semitic incidents. In March, a week before Passover, vandals painted the Jewish school in Sofia with anti-Israeli slogans. In May vandals painted the memorial of the Russian soldiers in Sofia with swastikas on the eve of the 65th anniversary of the end of the Holocaust. The media and NGOs gave public support to Shalom's declaration protesting the incidents. Jewish organizations remained concerned over the lack of public sensitivity to the fact that the overwhelming majority of those acts were unpunished.

On June 6, skinhead extremists attacked a group of young persons in a streetcar who were going to a protest rally in support of asylum-seekers in front of the Center for Temporary Accommodation of Foreigners in Busmantsi. On June 8, the police arrested eight persons but subsequently released two of them; the investigation was ongoing at year's end.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas; however, the Government did not effectively enforce these provisions in practice. Societal discrimination against persons with disabilities persisted.

The law requires improved access to buildings for persons with disabilities, and some new public works projects took this requirement into account; however, enforcement of this law lagged in existing, non-renovated buildings. The law promotes the employment of disabled persons; however, enforcement was poor, and most persons with disabilities were unemployed primarily due to lack of access to adequate education and skills. For the most part, employers did not equip workplaces to accommodate persons with disabilities, and many were not able to find accessible transportation.

Persons with mental and physical disabilities, including very young children, were often in institutions separated from the rest of society. The majority of these institutions were located in remote rural areas, which prevented hiring of qualified staff and hampered access to timely medical assistance. Despite some incremental improvements, conditions in institutions for persons with disabilities remained poor. The Government operated 26 institutions for children and youth with disabilities.

The Government continued to lack a policy with regard to children with disabilities, resulting in their receiving inadequate access to education, healthcare, and social services. Children with varying types and degrees of disability were placed in the same institution. In 2009 there were 2,906 children with disabilities in public institutions.

NGOs criticized the Government for continuing to isolate persons with disabilities in a costly parallel system of education, socialization, and health care. Critics maintained that the Government lacked both institutional capacity and the will to move from the old model to an inclusive, community-oriented model.

The constitution provides the right of all citizens to vote, and the law provides specific provisions to ensure that persons with disabilities have access to the polls. However, authorities rarely enforced these provisions in practice, and the majority of polling stations were not wheelchair accessible.

The Interagency Council for Integration of Persons with Disabilities was responsible for developing the policy supporting persons with disabilities. The Ministry of Labor and Social Policy, through its executive agency for persons with disabilities, was responsible for protecting the rights of disabled persons and worked with government-supported national representative organizations for persons with disabilities. However, human rights groups remained concerned about the lack of vision and transparency regarding financial and other support to the national representative organizations as well as the poor capacity of the agency to implement any reforms.

*National/Racial/Ethnic Minorities.*—Societal discrimination against Roma and other minority groups remained a problem that sometimes resulted in incidents of violence between members of different ethnic groups. Authorities estimated that Roma constitute between 6 and 10 percent of the population. According to a 2002 Council of Europe report, there were 600,000 to 800,000 Roma in the country. According to the 2001 census, ethnic Turks made up 9 percent of the population. Ethnic Bulgarian Muslims, often termed Pomaks, are a distinct group of Slavic descent, whose ancestors converted from Orthodox Christianity to Islam; they constitute 2 to 3 percent of the population.

Popular prejudice against Roma remained widespread. There were isolated cases of police harassment, arbitrary arrests, and violence against Roma. However, NGOs reported that, while an increasing percentage of Roma were willing to file complaints against authorities, the overall number of complaints had dropped in recent years.

In September the Yambol municipality demolished a squatter settlement populated by an estimated 100 Roma families. The local government refused to compensate the expelled families, but provided them with free transportation to a location of their choice. Authorities made an individual assessment of each family and placed them on the relevant waiting list for municipally owned apartments. In No-

vember the local court ruled that the demolition had been illegal. Roma NGOs commented that the historical landlessness of Roma was among the main factors for their poor housing situation. NGOs estimated that 50 to 70 percent of Romani housing was illegally constructed and were concerned that more municipalities would initiate legal proceedings to demolish illegally built houses.

There were no further developments reported with regard to the September 2009 destruction of 46 Romani homes in Burgas municipality, during which police used disproportionate force during the demolitions.

Following the 2009 ruling of the European Committee of Social Rights that the country failed to ensure that any person who is without adequate resources have access to social assistance provided by the state, the Government promulgated in February amendments to the Social Assistance Act, which eliminated the time limits for eligibility for assistance.

Workplace discrimination against minorities, especially Roma, continued to be a problem. The unemployment rate among Roma was nearly 65 percent, reaching 80 percent in some regions. General public mistrust of Roma, coupled with their low level of education, made Roma less able to find jobs. Many observers noted the quality of education offered to Romani children was inferior to that afforded most other students. However, there were isolated examples of success, such as the National Assembly internship program which has graduated 10 young Roma professionals each year since 2007.

Under the penal code, inciting racial or national enmity, hatred, or discrimination is a crime punishable by up to three years in prison, and plaintiffs may also file civil claims with the court for damages inflicted by discriminatory statements.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits discrimination on the basis of sexual orientation, but the Government did not effectively enforce this prohibition. While reports of violence against LGBT persons were rare, societal discrimination, particularly discrimination in employment, remained a problem. The gay-rights organization Gemini reported that individuals continued to be reluctant to pursue legal remedies for discrimination due to the stigma of being openly identified as gay.

In May the Antidiscrimination Commission ruled that a November 2009 regulation by the city of Pazardjik prohibiting public expression of sexual orientation violated the country's antidiscrimination laws. In early August in response to a complaint that the commission's ruling was not being enforced, Pazardjik prosecutor Stefan Yanev asserted that the regulation was not discriminatory because homosexuality is a disease. He said also that the regulation would prevent prostitutes from parading their orientation and seeking clients in front of the city hall. On the following day, the Supreme Administrative Prosecution Service abolished the Pazardjik ordinance. At year's end, the Pazardjik city council was challenging the Antidiscrimination Commission's decision in the Supreme Administrative Court.

On June 26, the third annual gay pride parade in downtown Sofia attracted an estimated 300 participants. The parade was held without disruption but under heightened security. Earlier that day, 10 nationalist organizations gathered about 100 protesters to demonstrate against the gay pride parade. The Holy Synod of the Christian Orthodox Church condemned the parade, calling it a glaring, shameful, and sinful demonstration and appealing to the local authorities to prohibit the event. For the first time, the gay pride parade received support from a political party in the National Assembly, the right-wing conservative Democrats for Strong Bulgaria.

*Other Societal Violence or Discrimination.*—According to the Hope against AIDS Foundation, HIV/AIDS patients faced discrimination and inadequate medical care due to doctors refusing to provide treatment from fear of contracting the disease. Patients typically did not contest these situations in court due to the social stigma attached to being identified as having HIV/AIDS. The NGO stated that at least four patients with HIV/AIDS died due to denial of treatment. Patients reported hiding the fact that they were HIV positive to receive medical care. Women also encountered social stigma when being diagnosed and treated for sexually transmitted diseases.

As of September, the Health Ministry reported 1,223 HIV-infected patients in the country, while NGOs estimated the actual number of cases to be around 4,000. During the year the ministry identified 114 new HIV patients—three were pregnant women and 20 were prison inmates. The majority of the newly identified patients contracted the disease through intravenous drug use and homosexual contacts.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of all workers to form or join independent trade unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. The European Trade Union Institute (ETUI) stated that 20 percent of the country's workforce was unionized.

The law allows unions to conduct their activities without interference, and the Government generally protected this right in practice. The law also provides for the right to strike; however, key public sector employees (primarily military and law enforcement personnel) were subject to a blanket prohibition against striking. These employees were able to take the Government to court as a means of ensuring due process in protecting their rights. Although the law prohibits police from striking, police held symbolic protests in 2008 and in January 2009 against low wages and poor working conditions. In March a group of approximately 3,000 police, military, tax employees, and prison guards protested against the Government's announced anti-crisis plan, which would potentially reduce their salaries.

*b. The Right to Organize and Bargain Collectively.*—The law provides a legal structure for collective bargaining, which was practiced nationally. Labor unions alleged that some employers failed to bargain in good faith or to adhere to agreements. According to ETUI, 30 to 35 percent of workers were covered by a collective bargaining agreement.

The law prohibits antiunion discrimination and includes a provision for a six-month salary payment as compensation for illegal dismissal. In addition complaints of discrimination based on union affiliation could be filed with the Commission for Protection against Discrimination, but there were no reports of such complaints during the year.

There are no special laws or exemptions from regular labor laws in the country's six free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. According to the Government's labor inspectorate, the Government effectively enforced those prohibitions. However, there were some reports of children being forced to work for their families or criminal organizations. Women and children were trafficked for commercial sexual exploitation. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, including a prohibition on forced or compulsory labor and policies regarding acceptable working conditions. The Government was generally effective in implementing these laws and policies.

The law sets the minimum age for employment at 16 years old and the minimum age for dangerous work at 18. To employ children, employers must obtain a work permit from the General Labor Inspectorate under the Ministry of Labor and Social Policy to employ workers under the age of 18. Employers can hire children under the age of 16 with special permits in limited types of employment. The General Labor Inspectorate inspects the working conditions at all companies applying for child work permits.

Employment of children without a work permit is a criminal offense and entails a punishment of up to six months in prison. Child labor laws generally were enforced well in the formal sector, but NGOs reported that children were exploited in certain industries (particularly small family-owned shops, textile production, restaurants, construction businesses, and periodical sales) and by organized crime (notably for prostitution, pickpocketing, and the distribution of narcotics). Besides trafficking for commercial sexual exploitation, the worst forms of child labor included heavy physical labor and labor on family tobacco farms, a significant health hazard. The Government continued programs to eliminate the worst forms of child labor, mounted educational campaigns about their effects, and intervened to protect, withdraw, rehabilitate, and reintegrate children engaged in the worst forms of child labor.

The general labor inspectorate continued to report a decline in child employment during the year, which was primarily due to the overall unemployment rise resulting from the financial crisis. As of December the inspectorate granted 1,734 requests for employment of children between the ages of 16 and 18 years old. The inspectorate granted 100 requests for work permits for children under the age of 16. The inspectorate referred 12 cases of unlicensed, underage workers to the Prosecution Service. The inspectorate also found five other violations of child labor laws, primarily involving failure to recognize the different provisions for paid leave and

working hours that apply to minors. According to the inspectorate, once corrected, employers did not repeat the violations.

*e. Acceptable Conditions of Work.*—The national minimum wage remained 240 levs (\$163) per month. While this wage did not provide a decent standard of living for a worker and family, many workers received more wages unofficially to avoid taxes.

The law provides for a standard workweek of 40 hours with at least one 24-hour rest period per week. The Ministry of Labor and Social Policy is responsible for enforcing both the minimum wage and the standard workweek. The law stipulates that premium pay for overtime cannot be less than 150 percent during workdays, 175 percent during weekends, and 200 percent during official holidays. The law prohibits overtime for children under age 18, pregnant women, and women with children up to age six. Enforcement was generally effective in the state sector but weaker in the private sector. During the year the labor inspectorate found 490 violations of overtime pay rules.

A national labor safety program, with standards established by law, gives employees the right to healthy and nonhazardous working conditions. The labor inspectorate is responsible for monitoring and enforcement. In the first nine months of the year, there were exactly the same number of work-related incidents as in 2009, but employers were generally more compliant in observing their obligation to provide healthy working conditions. Conditions in some sectors, particularly construction, mining, chemicals, and transportation, continued to pose risks for workers. As of October there were 60 workplace-related deaths, compared with 48 for the same period in 2009. At least 30 percent of the deaths occurred in the construction sector.

The law gives employees the right to remove themselves from work situations that present a serious or immediate danger to life or health without jeopardy to their continued employment; however, refusal to work in such situations could result in the loss of employment.

---

## CROATIA

The Republic of Croatia is a constitutional parliamentary democracy with a population of 4.4 million. Legislative authority is vested in the unicameral Sabor (parliament). The president serves as head of state and commander of the armed forces, cooperating in the formulation and execution of foreign policy; he also nominates the prime minister, who leads the Government. Domestic and international observers stated that presidential elections held in December 2009-January 2010 were in accordance with international standards. Security forces reported to civilian authorities.

There were reports of prison overcrowding, large backlogs of unresolved criminal and civil cases, ineffective prosecution of some domestic war crimes trials, lack of progress in restoring nationalized property to the Serb Orthodox Church and Coordination of Jewish Communities in Croatia, incidents of societal violence and discrimination against ethnic minorities, particularly Serbs and Roma, violence and discrimination against women, trafficking in persons, violence and discrimination against gays and lesbians, and discrimination against persons with HIV/AIDS.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports the Government or its agents committed arbitrary or unlawful killings. There were no killings of police officers in the line of duty.

*b. Disappearance.*—There were no reports of politically motivated disappearances. In December the Government reported 1,853 persons remained missing from the 1991-95 military conflict, including an estimated 831 ethnic Serbs, the majority of whom went missing in 1995. During the year the Government investigated 39 possible mass and individual gravesites, resulting in the exhumation of the remains of 53 persons, 51 of whom were believed to be ethnic Serbs. The Government identified the remains of 63 persons found earlier, 52 of whom were ethnic Serbs.

The Government continued to cooperate with the International Commission of Missing Persons (ICMP), with which it exchanged 7,039 blood samples. These exchanges led to the identification of the remains of 223 persons since 2004. To date the Government has exhumed 4,589 bodies and identified 3,691 missing persons, including the 223 remains identified through the exchange of blood samples.

The Government handled all exhumations and identifications, while the International Criminal Tribunal for the former Yugoslavia (ICTY) monitored only the sites related to cases it investigated. The ICMP assisted in the identification of remains. The Organization for Security and Cooperation in Europe (OSCE), the International Committee of the Red Cross (ICRC), and experts from Serbia and Bosnia and Herzegovina also monitored certain exhumations.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and the Government generally respected these provisions in practice.

On March 25, three off-duty police officers severely beat and injured a 20-year-old Roma at a gas station in Karlovac (see section 6).

*Prison and Detention Center Conditions.*—Prison and detention centers were overcrowded.

The prison system has a capacity of approximately 3,500 persons, but there were an estimated 5,000 inmates in prisons, penitentiaries, and juvenile detention institutions at the end of the year. Of the 5,000 inmates, 225 were women. There were 107 juvenile prisoners.

The country has an ombudsman for human rights, who regularly visited prisons throughout the country to assess conditions. According to the ombudsman, while treatment of prisoners was generally humane, the Government was unable to meet fully prisoners' needs for healthcare, hygiene, space and fresh air, and access to work opportunities due to overcrowding.

The ombudsman specifically cited poor ventilation and insufficient outdoor time as problems. While prisoners generally had access to medical care, medical personnel do not staff all prisons continuously during the week and during vacation times. Access to sufficient psychiatric services and to specialists was a problem. Prisoners have potable water.

Prisoners and detainees had reasonable access to visitors and were permitted religious observances. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without monitoring. Authorities allowed prisoners to request investigation of credible allegations of inhumane conditions; however, the ombudsman reported that prison staff verbally harassed some prisoners, and in one case subjected a prisoner to disciplinary measures following an oral complaint to the ombudsman. The Central Office of the Prison System Department monitors prison conditions, promptly responds to complaints about prison conditions from the ombudsman's office, and rectifies problems where possible.

The Government permitted visits by independent human rights observers, including the ICRC. The ombudsman has no authority to serve on behalf of prisoners to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. The ombudsman can only intervene in relation to prison conditions. His opinion is not binding. The ombudsman recommended that certain well behaved prisoners be moved to lower security level facilities or to a prison closer to their home to facilitate family visits.

During the year the Government completed construction of a new prison facility in Glina in accordance with a March 2009 Constitutional Court verdict instructing the Government to adjust prison capacity in Zagreb's main prison to meet present needs within five years. The facility was designed to provide room for 420 prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police have primary responsibility for national security; in times of disorder, the prime minister and the president may call upon the military to provide security. The intelligence service is under the authority of the prime minister and the president. An independent oversight board monitors intelligence service performance.

On March 12, the Zagreb County Court sentenced Mladen Slogar to 30 years in prison for the 2008 killing of Ivana Hodak. During the trial prosecutors claimed Slogar, a homeless man, harbored a personal grudge against the Hodak family. Hodak was a young lawyer and the daughter of Zvonimir Hodak, a prominent criminal defense lawyer. Hodak's killing sparked a public outcry and led to the replacement of the interior and justice ministers within days.

*Arrest Procedure and Treatment While in Detention.*—Police obtained arrest warrants by presenting probable cause to an investigative magistrate; however, police can make arrests without a warrant if they believe a suspect might flee, destroy evi-

dence, or commit other crimes. The police have 24 hours to justify an arrest to a magistrate.

Police must provide those arrested with access to an attorney of their choice within 24 hours of arrest. The magistrate appoints an attorney to represent an indigent detainee if the charges carry a potentially lengthy sentence. The Government generally enforced these provisions. For organized crime and corruption cases, prosecutors have the authority to hold suspects for up to 48 hours. In all cases, an investigative judge must decide within 48 hours of an arrest whether to extend detention for further investigation. Investigative detention generally lasts up to 30 days; however, trial courts may extend the period up to 12 months in certain cases. The law allows six months' pretrial detention, but a court may extend it to 12 months in certain cases, primarily war crimes and organized crime cases, at the state prosecutor's request. The courts may release detainees on their own recognizance, but most criminal suspects were held in custody until trial. The option of posting bail after an indictment is available, but detainees did not commonly exercise the right. Detention centers allowed visits by family members.

The law provides that state attorneys have primary investigative responsibilities. The law gives investigative judges the authority to oversee the legality of investigations and detentions, including oversight of human rights issues and supervising relations between prosecutors and defendants. Investigative judges also rule on appeals regarding detention and on the use of such special investigative techniques as surveillance, wiretapping, and raids. The law also provides for a "supervisor for detention," who is responsible for ensuring the constitutional rights of detainees are not violated.

On April 30, the parliament ratified the Agreement on Execution of Court Decisions in Criminal Matters with Bosnia and Herzegovina, which was negotiated in February. The agreement aims to end the effective impunity resulting from the legal prohibition on extradition of Croatian nationals. The prohibition potentially allows persons with dual citizenship who have been convicted in Bosnia and Herzegovina to reside in the country without fear of extradition. Under the agreement, the sentencing state may request that the execution of the original sentence be enforced by the other state. The agreement excludes in absentia and nonfinal convictions, as well as criminal acts of a political, military, or fiscal nature. However, the agreement does not exclude war crimes, crimes against humanity, and genocide.

During the year the country signed new extradition agreements with Serbia and Montenegro, providing for extradition of each country's nationals in organized crime and corruption cases. The June amendment to the Croatian constitution allowing for the extradition of Croatian nationals to EU-member and other states on a bilateral basis made such agreements possible. The agreements took effect upon signing, but had not been formally ratified by parliament before year's end.

On August 24, the country extradited Srećko Kalinic, who held both Croatian and Serbian citizenship, to Serbia. In 2007 a Serbian court sentenced Kalinic to 30 years for his involvement in the assassination of then Serbian prime minister Zoran Djindjic. Kalinic was the first citizen extradited to a foreign country since Croatia's independence in 1991.

*Amnesty.*—The law permits amnesty except in cases of war crimes. During the year prosecutors reviewed all war crimes cases in which there were indictments or ongoing investigations. For 310 of the 1,284 defendants in these cases, prosecutors either downgraded the charges from war crimes to armed rebellion, for which amnesty would apply, or cancelled proceedings for other reasons, such as insufficient evidence.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence. The judiciary continued to suffer from a heavy backlog of cases. In June the Ministry of Justice reported that 778,127 unresolved civil and criminal cases remained before the courts, a decrease of 10 percent from 2009.

*Trial Procedures.*—The constitution and law provide for the right to a public trial, and an independent judiciary generally enforced this right. The legal system uses panels of judges, which in some cases included lay judges, rather than juries to hear cases. Defendants have the right to counsel, to be present at trial, to confront or question witnesses against them, and to present witnesses and evidence on their behalf. Defendants have access to evidence relevant to their cases, enjoy the presumption of innocence, and have the right to appeal.

In January the parliament amended the Law on Legal Aid to simplify the process of attaining free legal assistance. However, nongovernmental organizations (NGOs) and international organizations criticized the law's complex application procedure, strict requirements, and the Government's failure to properly compensate legal aid

providers for their services, stating that the law seriously limits the access of vulnerable individuals to free legal aid.

During the year prosecutors continued to review all pending war crimes cases and in absentia convictions and apply standard measures to ensure uniform practices without regard to the defendant's national origin.

The law provides for reopening of war crimes cases tried in absentia upon the presentation of new evidence by either the defendant or prosecutor, whether or not the defendant is present in the country. During the year according to the Office of the Chief State Prosecutor, prosecutors requested trials be reopened for 94 of the 464 individuals who had been convicted in absentia, and the courts of original jurisdiction granted requests on behalf of 67 defendants. On appeal the Supreme Court approved reopening the cases of an additional 21 defendants.

During the year the OSCE reported that the Supreme Court issued decisions on appeals in 12 cases concerning 26 individuals (17 ethnic Croats, eight ethnic Serbs and one Bosnian). Of the 27 appeals, the court confirmed 11 decisions concerning seven Croats, three Serbs, and one Bosnian and reversed 12 decisions concerning eight Croats and four Serbs.

In January the Supreme Court reduced the charges against 12 persons convicted in February 2009 for their role in the 1991-92 killings in the village of Miklusevi from "genocide" to "war crimes." However, the court confirmed their sentences, which ranged from four to 12 years' imprisonment for war crimes.

On March 11, the Supreme Court upheld the acquittal of former Croatian Army commander Rahim Ademi of war crimes and reduced, from seven years to six, the prison sentence given to former Croatian Army commander Mirko Norac for war crimes.

On July 30, the Supreme Court upheld the May 2009 war crimes conviction of Branimir Glavas and five codefendants, but reduced their sentences. The court reduced Glavas's sentence from 10 years to eight years. In August a parliamentary committee cancelled Glavas's status as a member of parliament, retroactive to the date of the final verdict in his war crimes conviction. On September 29, a court in Bosnia and Herzegovina upheld the eight-year sentence issued by the Croatian court, and Glavas was arrested the same day. On December 14, an appeals court in Bosnia further upheld the sentence. Along with former general Norac, Glavas was the highest-ranking Croatian ever convicted in a domestic war crimes trial in the country.

On December 10, police arrested suspected war criminal Tomislav Mercep in Zagreb. On December 13, an investigative judge opened a formal investigation and ordered his further detention. During the early 1990s war in the country, Mercep served as an advisor in the Ministry of Interior in command of reserve police units in Pakracka Poljana in Eastern Croatia and in Zagreb. Mercep was charged for personally ordering the unlawful detention, torture, and killings of civilians and for failing to prevent illegal activities by his subordinates.

In January the Government established a special committee to monitor and suggest improvements to witness and victim support efforts. Members of the committee come from various ministries, the judiciary, prosecutors' offices, academia, and NGOs. The Government established a new Directorate for Probation and Witness and Victim Support in the Ministry of Justice. In July courts took control of four witness and victim support offices (Zagreb, Osijek, Vukovar, and Zadar) from the UN Development Program (UNDP). In July the UNDP and the Ministry of Justice signed an agreement on a second phase of the program, intended to facilitate the establishment of witness and victim support programs in the Split, Rijeka, and Sisak county courts.

Since the constitutions of most Southeast European countries involved in the 1991-95 conflict prohibit extradition of their citizens, the country's chief state prosecutor has signed agreements with counterparts in Montenegro and Serbia to enable the transfer of evidence in such cases, allowing suspects to be tried where they live rather than where the alleged crime was committed. During the year the country transferred evidence in two cases covering six defendants to Serbia. There were no transfers of evidence to Montenegro.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—In 2009 the European Court of Human Rights (ECHR) issued 19 judgments involving the country, 16 of which found at least one violation by the state of the European Convention on Human Rights. The court found seven violations by the country of the right to a fair trial, six violations regarding the length of legal proceedings, three violations each of the right to respect for privacy and family life and protection of property, two violations of the

right to an effective remedy, and one violation each of convention provisions concerning the right to life, inhuman or degrading treatment, lack of effective investigation, and the right not to be tried or punished twice.

During the year there were 30 decisions on admissibility of cases involving the country before the ECHR, of which the court found four partially admissible.

In March the ECHR Grand Chamber ruled the state had violated its obligations under the European convention in a case involving school discrimination against 15 Romani children (see section 6).

On December 9, the ECHR ruled the country discriminated against three Christian religious communities by not affording them some of the rights that they would be entitled to if they qualified for a special agreement with the state. Communities with more than 6,000 members or that existed in the country before 1941 are entitled to state agreements that provide some funding for salaries and pensions of religious officials, recognition of marriages conducted within the faith, and regulation of public school catechisms among other things. The ECHR ruled that the country should compensate each of the three communities 9,000 euros (\$11,926).

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, although continuing case backlogs raised concerns about judicial effectiveness and efficiency. In March the human rights ombudsman reported that his office received 1,655 complaints in 2009 related to administrative and judicial proceedings, 334 of which dealt with the judiciary. Unlike in previous years, when the majority of complaints concerned lengthy proceedings, most of the complaints in 2009 involved verdicts perceived to have been unjust. The ombudsman noted there was an increase in the number of groundless complaints during the year.

*Property Restitution.*—During the year the Government endeavored to return private properties to their rightful owners. However, the property law gives precedence to the rights of temporary occupants, mainly ethnic Croats, over those of the original owners, who were predominantly ethnic Serbs. In nine cases owners could not repossess their homes and were waiting for completion of administrative procedures.

Restitution of property seized during World War II and the Communist era remained a problem. The law on restitution of and compensation for property taken during the Communist era permits the restitution of property only to individuals who were citizens at the time parliament passed the law. As a result, the law does not apply to persons who had property expropriated but left the country and became citizens of other countries. Many claimants subsequently acquired Croatian citizenship but were blocked by law from filing claims.

Restitution of communal property remained a problem for the Serb Orthodox Church and the Coordination of Jewish Communities in Croatia, the umbrella organization representing the main Jewish Community of Zagreb and smaller communities throughout the country. In addition, representatives of the Jewish community complained about a Ministry of Justice decision in March that denied the community the right to the title for property previously restituted.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law generally provide for freedom of speech and the press; however, growing economic pressures led journalists to practice self censorship. Direct government efforts to influence the media were rarely reported except at the local level.

There were reports that local officials influenced media coverage. There were also reports of commercial interests using advertising revenue to influence press coverage and prevent the publication of negative articles, and that the media in turn threatened to publish negative stories about businesses to extort money from them.

Journalists reported practicing self-censorship. They expressed the fear of being singled out for staffing cuts if they were to write articles critical of advertisers.

The law provides for no less than six months' and no more than five years' imprisonment for hate speech. Hate speech committed over the Internet is punishable by six months' to three years' imprisonment.

Individuals may freely criticize the Government publicly or privately without reprisal.

A wide range of private newspapers and magazines was published without government interference. Media ownership was not fully transparent, enabling political or other interests to conceal their influence on media outlets.

The law regulates the national television and radio networks separately from other electronic media. Independent television and radio stations operated in the country, and two of the four national television channels were private and independent. There were no reports of the Government influencing them with advertising revenue.

Local governments partly or fully owned approximately 70 percent of the local media, making local broadcast media particularly vulnerable to political pressure. Approximately 46 percent of local radio stations depended on the financial support of local authorities.

On August 5, a group of neo-fascists attacked a Croatian Television (HRT) crew at the annual celebration in Cavoglave, Dalmatia of the 1995 military operation that defeated separatist ethnic Serb forces in the country. The Croatian Journalists Association released a statement the following day criticizing the police reaction for being slow and unresponsive. Following broadcast of HRT footage of the attack, police identified several of the alleged attackers and filed criminal charges against one of them and misdemeanor charges against several others. As of year's end, the individual who was criminally charged was still awaiting a court hearing.

On December 22, authorities arrested four persons suspected in the June 2008 beating of investigative journalist Dusan Miljus. The four were arrested as part of a wider sting operation aimed against organized crime. One has been charged with the attack on Miljus and was awaiting a court hearing.

The trial of Joca Amsterdam for the 2008 killing of Ivo Pukanic, a publisher and co-owner of the NCL Media Group, began in April. The trial was held in Serbia because of Serbian government restrictions on the extradition of its nationals. The trial continued at year's end. On November 3, six accomplices on trial in the country were convicted on charges of aiding, abetting, and committing murder. Their sentences ranged from 15 to 40 years' imprisonment.

On December 20, the Split Municipal Court, on appeal, sentenced former Makarska municipal court judge Predrag Trutin, to six months in prison for the 2006 beating of Andjelko Erceg, the editor in chief of the local weekly Makarska Kronika. This appeal followed a March local court ruling in which Trutin was acquitted of the charges.

There was intense public debate after the Serbian minority newspaper Novosti published in its October 8 weekly edition a controversial cover for a story regarding the September 23 crash of two Croatian MiG-21 fighter planes in the central part of the country during training. The headline, "Both of them, both are down," was an echo of a famous phrase spoken by a Croatian soldier in 1991 during the war with Serbia after Croatian forces shot down two Yugoslav fighter jets. Minister of Defense Branko Vukelic strongly condemned the cover as "an insult to all Croatian veterans and well-meaning citizens of the Republic of Croatia." Following his statement Novosti received threatening phone calls. President Josipovic condemned the threats but also stated that he did not like the cover and thought the publisher should reconsider its editorial policy. Media reports questioned whether Vukelic and Josipovic's statements undercut freedom of expression. As a minority paper, Novosti receives some government financing. Over a month later, the board of Novosti replaced the editor-in-chief.

Libel is a criminal offense. During the year there were no reports of politically motivated libel cases. A large number of libel cases from previous years remained unresolved due to judicial backlogs. Courts may fine, but not imprison, persons convicted of slander and libel.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports the Government monitored e-mail or Internet chat rooms. In general individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available and used by citizens throughout the country. During the year there were no reports that the Government collected, requested, or obtained the personally identifiable information of persons in connection with peaceful expression of political, religious, or ideological opinion or belief. An estimated 51 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—*Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice; however, the law gives the Ministry of Justice authority over the establishment and internal gov-

ernance of foundations. While authorities applied the law equally to all organizations, the law itself was seen by observers as restrictive and controlling. For example, the law provides that organizations may not register if their statutory goals are deemed trivial or if their property is not deemed sufficient to carry out their statutory activities. The law also permits the Government to influence the appointment of an organization's management body.

On July 10, police arrested and detained an estimated 140 persons who were reportedly peacefully protesting the destruction of a historic part of Zagreb to construct an entrance ramp for a shopping center. The international NGO Amnesty International (AI) stated that the arrests and detentions were an unnecessary restriction of the right to freedom of peaceful assembly. AI called on the authorities to guarantee the right of freedom of assembly.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

Refugees returning to the country as citizens of another former Yugoslav republic, rather than as Croatian citizens, encountered obstacles obtaining permanent residency status. The law permits former habitual residents who returned and applied by June 2005 to be reinstated to their prewar status as habitual residents without further requirements, and they could subsequently apply for citizenship. However, the Government did not consistently apply this provision, resulting in uncertainty and delaying the integration of returnees. The law exempts refugees from the republics of the former Yugoslavia from the rigid citizenship requirements of the previous law. However, the UNHCR criticized the Government's implementation of the law and maintained that returning refugees faced undue hardship and delay in obtaining citizenship. NGOs reported positive feedback concerning the law from returnees who were able to acquire citizenship.

The Government took steps to recognize or "convalidate" legal and administrative documents issued by entities not under the country's control during the 1991-95 conflict. In November the Government reported receiving an estimated 23,000 applications for "convalidation" and issuing decisions in approximately 89 percent of the cases. The Government approved documents in approximately 56 percent of the cases that it decided during the year, rejecting 44 percent of the applications for convalidation. International observers noted there were wide discrepancies between regional offices with average approval rates varying by as much as 50 percent, bringing into question the equity of the approval system. The Government stated the discrepancy was due to the lack of documentation in some regions and took steps during the year to obtain this documentation, with limited success.

As of September the UNHCR had registered the return of 389,185 refugees and internally displaced persons (IDPs), of which 132,707 were minority Serbs. The total included 302 persons who returned in the first nine months of the year. The UNHCR reported that 54 percent of total returns were sustainable, while the remainder were either one-time or "commuter" returns. International organizations listed the poor state of the regional economy, lack of employment, and delays in access to permanent housing for the former tenants of socially owned apartments as the main obstacles to return. In addition, many refugees chose to settle in their countries of refuge.

Repossession by Serbs of housing that once belonged to them was almost complete. There were instances in which persons were discovered attempting to use the courts to recover alleged investments made while illegally occupying the property, and 19 such cases were pending in the courts. The Government remained reluctant to offer settlements before the cases reached a court.

During the year the Government program to resolve the claims of persons, mainly ethnic Serbs, who held tenancy rights in socially owned apartments prior to the war, but who lost these rights during or just after the war, continued slowly. As of November individuals submitted 14,006 claims for government-provided housing under the program, 4,590 of which were in urban areas. According to the UNHCR, from 1995 through the end of November, the Government allocated 6,538 housing units, mainly in war-affected areas. During the year the Ministry of Regional Develop-

ment, Forestry, and Water Management delivered 798 housing units to returnees, approximately 38.5 percent of its 2009 target of 2,070 housing units.

On June 22, the European Committee of Social Rights found that the question of restitution or compensation of occupancy and tenancy rights does not fall within the scope of Article 16 of the European Social Charter (the right of the family to social, legal, and economic protection, which includes housing) and that the country does not have an obligation to reconstitute or compensate for loss of dwelling former occupants or tenants who do not return to the country. At the same time the European Committee of Social Rights found the country to be in violation of two other areas covered by the same article: failure to implement the housing program within a reasonable timeframe and failure to take into account the heightened vulnerabilities of many displaced families and of ethnic Serb families in particular.

In response to a March 2009 decision by the UN Human Rights Committee against the country regarding the lost occupancy and tenancy rights of a former refugee who fled the country during the 1990s Balkan wars, the Government offered an apartment as compensation. The returnee turned down this offer and one other due to the size and location of the apartments; the Government subsequently offered him a third apartment.

*Internally Displaced Persons (IDPs).*—Authorities took an inconsistent approach in their treatment of minority IDPs. As of September 2, there were 146 IDPs registered with the Government; of these 1,638 were ethnic Serbs. Since this number has not changed since 2008, the UNHCR questioned the accuracy of government figures. The Serbs were either waiting to be recognized as integrated in their current places of displacement or to receive reconstruction assistance from the state.

The Government allowed free access to all displaced persons by domestic and international humanitarian organizations and permitted them to provide assistance.

*Protection of Refugees.*—The country's laws provide for granting asylum or refugee status, and the Government has a system to provide protection for refugees. Persons seeking protection generally considered the country a place of transit, and a significant number of asylum seekers left the country before the courts decided their claims. International observers criticized the Government for delays in making initial decisions for asylum seekers.

In law and practice the country provided effective protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government reported 182 persons applied for asylum through November of this year; of these, five persons were granted refugee status, and eight received subsidiary protection (protection granted to an applicant whose situation is not covered by the 1951 Convention relating to the Status of Refugees). There was a reception center for asylum seekers in Kutina, near Zagreb.

On July 2, the parliament amended the law on asylum, a necessary step in the country's EU accession bid. The amendments extended the length of subsidiary protection from one year to three and extended the right to accommodation for persons granted protection from one year to two. The law expanded access of persons granted protection to public health care, education, and employment. The law also expanded the role of the appeals commission, making it more independent; the commission is scheduled to be replaced in 2012 by an administrative court that oversees asylum appeals. The UNHCR closely followed cases of individuals whom the Government deported or whom authorities returned to their country of origin.

There were no reports of persons requesting temporary protection during the year.

*Stateless Persons.*—Citizenship is derived by birth in the country's territory or from one of the parents. According to UNHCR statistics, there were 237 stateless persons in the country as of the end of 2009. However, according to the UNHCR and Roma NGO estimates, there were 1,000 stateless Roma in the country and an additional 2,000 of unidentified citizenship. Most stateless Roma were from other areas of the former Yugoslavia and had difficulty providing documents needed to register as Croatian citizens. Stateless Roma had problems accessing state services. In October 2009 the UNHCR, supported by EU funding, entered into a joint project with the human rights ombudsman's office that sought to regularize the legal status of Roma in the country. During the year 242 people were assisted either with civil registration or access to basic rights. One person obtained citizenship through the help of the program.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections on the basis of universal suffrage.

*Elections and Political Participation.*—Political parties could operate without restriction or outside interference.

In presidential runoff elections held on January 10, Ivo Josipovic, candidate of the center-left Social Democratic Party (SDP), defeated Milan Bandic, the independent mayor of Zagreb, to become the country's third president. While noting progress in the work of most institutions involved, Citizens Organized to Observe Elections (GONG), the country's leading election-monitoring NGO, observed that the electoral process had not been fully transparent, primarily due to inadequate regulation of campaign financing and outdated lists of out-of-country voters.

In June the parliament fixed the number of representatives elected by the estimated 400,000 registered voters living abroad to three, thus changing the previously stipulated nonfixed quota, which had typically resulted in four to six "diaspora" representatives. This number was a result of a political compromise between the governing party and the main opposition party. The opposition party wanted the diaspora to have less influence in elections.

There were 39 women in the 153-seat parliament. There were two women in the 19-seat cabinet, including the prime minister. There were five women among the 13 Constitutional Court justices, including the president of the court, and 19 women among the 40 Supreme Court justices.

Ethnic minority groups including Serbs, Bosniaks, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ruthenians, Ukrainians, Slovenes, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks, Vlachs, and Albanians are guaranteed a minimum of eight representatives in the parliament. In June the parliament adopted amendments to the Constitutional Law on National Minorities that would allow members of the ethnic Serb minority, the largest in the country, to vote only in the general elections although the minority is guaranteed a minimum of three parliamentary representatives. These new provisions allow ethnic Serb parties to win a possible fourth seat in the parliament, although implementation will require changes to the Election Law. Voters from smaller minority ethnic groups have the right to vote both for a representative in the general elections as well as for a minority representative. Previously all members of minority groups had to choose either to vote in the general parliamentary elections or to vote for one of the minority representative seats.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not always implement the laws effectively, and corruption remained a serious problem.

Corruption cases in the country involved nearly all segments of society, the economy, and government, with a nexus of institutions—primarily in health care, university faculties, the judiciary, and public-sector and commercial enterprises—often at the center of corruption cases.

During the year the Office for Suppression of Corruption and Organized Crime (USKOK) reported that 137 persons were indicted for corruption compared with 160 from the previous year and concluded several cases against high-profile government officials, university professors, judges, public servants, and other professionals.

On December 10, former prime minister Ivo Sanader was arrested in Austria based on an international arrest warrant issued after parliament on December 9 stripped his immunity from detention at the state prosecutor's request. Following parliament's decision, a Croatian judge ordered Sanaders arrest and 30 days of pre-trial detention to facilitate the state prosecutor's investigation of Sanader for possible corruption. Sanader was awaiting extradition at year's end. No formal indictment was issued, as investigations continued.

On December 6, a Zagreb court found former minister of defense and current member of parliament Berislav Roncevic and his former assistant, Ivo Bacic, guilty of abuse of authority and position for alleged misuse of funds in a 2004 deal to buy 39 trucks for the Ministry of Defense. Roncevic was sentenced to four years in prison and Bacic to two years. They were also ordered to pay 10.2 million kunas (\$1.8 million) in damages to the state budget.

On October 16, Damir Polancec, former deputy prime minister and minister of the economy, was sentenced to 15 months in prison for corruption related to the commissioning of an unnecessary study while he was minister of the economy. On October 19, he pled guilty to a separate charge of abuse of office relating to the installa-

tion of lighting for a soccer stadium in his home town. He received a one year suspended sentence for this charge and will serve no time if he does not commit another crime in the next four years. There were two other corruption cases pending against Polancec at year's end. The first involved Polancec and members of the former management board of Croatian food manufacturer Podravka and focused on Polancec's and the board's role in official corruption between 2007 and 2009. The second case centered on potential illegal activities involving the country's power company HEP while Polancec was deputy prime minister from 2005 to 2009. Authorities alleged that Polancec helped a Sibenik-based light metal factory defraud HEP of approximately 600 million kunas (\$107 million). Both of these investigations against Polancec continued at year's end.

On September 29, authorities arrested Mladen Barisic, Chief of the Customs Administration, in connection with allegedly fake tenders amounting to a reported 40 million kunas (\$7.1 million). An investigation continued at year's end.

During the year the Supreme Court ruled on appeals related to the multiyear USKOK anticorruption operation and subsequent trials codenamed "Maestro." On February 17, the court upheld the May 2009 corruption conviction and sentencing to 11 years in prison of Josip Matanovic, a former vice president of the Croatian Privatization Fund. The court also upheld one defendant's sentence of three years' imprisonment and ordered a retrial for several defendants who were convicted in the original May 2009 trial. On May 25, the court ordered a retrial of two individuals acquitted in a March 2009 trial involving corruption in the Privatization Fund. This trial continued at year's end.

On February 1, the Zagreb County Court convicted 19 of 21 defendants of abuse of office, bribes, and brokering illegal deals in connection with the "Index III" corruption case at the University of Zagreb School of Economics. Five defendants, including all of those convicted of taking bribes, received sentences of from 14 to 30 months in prison. Among those sentenced to prison was the highest-profile defendant, economics professor Desa Mlikotin Tomic, who resigned as chair of the parliament's Committee for the Prevention of Conflict of Interest following the initial police raids at the Economics Faculty in 2008. All students accused in the case received suspended sentences, while several professors were prohibited from serving in academic positions for two to five years. At year's end, an appeal was pending in the Supreme Court.

Appeals of two cases decided in 2009 dealing with corruption at the Transportation Faculty at the University of Zagreb, "Index I" and "Index II," were pending at the Supreme Court.

On March 17, the Ministry of Justice sent a request to authorities in Bosnia and Herzegovina for the detention and imprisonment of Ognjen Simic, based on the agreement reached in February between Bosnia and Herzegovina and Croatia that provides for persons convicted in one country to be imprisoned in the other, should they flee there. Simic, a heart surgeon, fled to Bosnia and Herzegovina in 2008 at the conclusion of his corruption trial. In June a court in Bosnia and Herzegovina, which was deciding on Simic's detention under the agreement, reduced his sentence to two-and-a-half years from the five years imposed under the Croatian Supreme Court's final verdict in 2009. On December 1, the same court upheld this reduced sentence in a retrial after the Supreme Court of the Federation of Bosnia and Herzegovina threw out the June verdict.

During the year the Government gave special attention to the legal and institutional framework used to combat corruption, including investigations, prosecution, and interagency and international cooperation. The Government worked closely with civil society and the private sector to promote the rule of law in society.

The law requires public officials to declare their assets. Most government officials complied, although there were questions as to the thoroughness and effectiveness of the system and imprecision as to the types of assets covered.

Within the Government, the public prosecutor's and police's Offices for Suppression of Corruption and Organized Crime (USKOK and PN-USKOK, respectively) were the main law enforcement bodies responsible for fighting corruption. Specialized panels of judges at the four largest courts in the country heard organized crime and corruption cases. The Ministry of Justice's Anticorruption Sector monitored the implementation of anticorruption measures throughout the Government.

The law provides the right of public access to government information; however, NGOs complained that the Government did not implement the law efficiently or effectively.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

The Government cooperated with the International Tribunal for the former Yugoslavia (ICTY), based in The Hague. On June 18, ICTY Chief Prosecutor Serge Brammertz stated during his semiannual presentation to the UN Security Council that the country had been "generally responsive to the needs of the Office of the Prosecutor (OTP)" in the first half of the year but that "the issue of the missing important documents related to Operation Storm in 1995 remains outstanding." On July 26, the ICTY Trial Chamber rejected the prosecution's motion for an order compelling the country to turn over missing documents in the Gotovina case after more than two years of litigation. Judge Orić wrote that "the Croatian government in recent years has taken a proactive approach and made substantial efforts to intensify the search for the documents." The Trial Chamber stated that the OTP would be able to renew an application for these documents "if new circumstances arise."

In his next written report delivered to the UNSC in November, the chief prosecutor noted that the task force, established by the country's government to investigate the fate of the missing military documents sought by the OTP, had begun to explore important new avenues in the investigation, in line with previous OTP recommendations. The prosecutor acknowledged the commitment of the Government to resolve the inconsistencies contained in previous task force reports, urging the authorities to continue the investigation and account for the missing military documents.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on gender, age, race, disability, language, or social status; and the Government generally enforced these prohibitions.

*Women.*—Rape, including spousal rape, is a crime punishable by one to 10 years' imprisonment; however, according to NGOs many women did not report rape or spousal rape. The law provides longer sentences for sexual violence against persons with disabilities. In cases of rape under aggravated circumstances resulting in death or pregnancy, or if the victim is a minor, sentences may be between three and 15 years. Due to social pressure and stigmatization, rape and sexual violence were underreported. NGOs criticized the Government for allowing only police and not hospitals to have rape kits, resulting in victims having to be examined twice. The availability of victim assistance services, such as rape crisis centers, varied widely from community to community.

In the first 11 months of the year, 75 rapes and 20 attempted rapes were reported to police. NGO officials estimated that for every reported rape, there were 15 unreported cases; on average, 100 to 140 cases of sexual violence and rape were reported annually. The NGO Women's Room stated that women frequently did not report rape and spousal rape because they lacked information about available legal protections, felt ashamed, feared reprisal, or, in cases of spousal rape, were concerned about economic consequences. Victims also were reluctant to report rape, particularly spousal rape, because it was difficult to prove in court and because medical staff, police, and judicial officials were not trained to treat victims. Women's NGOs asserted that sentences for spousal rape tended to be lenient.

Violence against women, including spousal abuse, remained a problem. Through August, 16 women and two minor girls were killed as a result of domestic violence, including Mirela Srsić-Smith, a local Croatian Television (HRT) news reporter in September. Her death followed the August killing of a woman by her husband in front of a safe house for victims of domestic violence. The killings received widespread media attention and immediate calls for government action.

The law provides that persons other than the victim, including police, may initiate a complaint of domestic violence, which is treated as a misdemeanor, but could be deemed a criminal offense depending on the severity of the act. Penalties range from fines of 1,000 to 50,000 kunas (\$180 to \$9,000) or up to 90 days in prison for misdemeanor offenses. Under the law, perpetrators may face up to five years in prison for the same acts if they are treated as a criminal offense. Police officials tended to classify domestic violence against women as misdemeanors, resulting in minimal sentences, particularly in cases of spousal rape. Police officers in most urban areas were trained to handle family violence and provide quick intervention, secure victims' safety, and remove perpetrators from families; in rural areas, police officers were generally less well trained in handling such cases.

According to a survey published on November 23 by the NGO Women's Room and the Government's Gender Equality Office, the majority of female victims of domestic violence criticized the police, courts, and centers for social care as insufficiently helpful. The police, courts, and centers for social care cited a heavy workload and lack of training and space as the main obstacles to assisting victims.

On November 8, the Ministry of Interior and the UNDP launched a "Living Life Free of Violence" campaign with the goal of raising public awareness of domestic violence and encouraging citizens to report domestic violence. The campaign included video statements by President Josipovic and other government officials as well as the country's most famous sports and entertainment celebrities. The videos were screened throughout the country's schools and placed on social networking Web sites. As part of the campaign, 52,000 students and 4,000 parents attended 1,300 lectures organized in schools throughout the country.

On November 29, the ministries of interior, health, justice, education, family, and administration signed an agreement to improve cooperation to fight more effectively against domestic violence.

Support for victims of domestic violence was limited. In general private donations financed most services. NGOs and local governments operated 18 shelters, all but three of which were permanent. The central government in conjunction with county, city, and civic organizations financed shelters and counseling centers for victims of domestic violence. The ombudsman for human rights reported that 2.5 million kunas (\$450,000) were paid during the year to NGOs running shelters for victims of domestic violence. Hotlines, counseling, and legal assistance were available to domestic violence victims.

The law prohibits sexual harassment in the workplace; however, it remained a problem. According to trade unions, the problem was most pronounced in the textile, leather, trade, and catering industries. The ombudsman for gender equality and unions reported that her office worked on sexual harassment cases, although many women were reluctant to take action for fear of reprisal. On March 3, a court handed down the country's first conviction for sexual harassment at a workplace, sentencing one defendant to six months in prison for making sexual comments over a three-year period. A second defendant was given a four-month suspended sentence for harassing a female employee. Local union representatives believed the verdict would set an important precedent.

The Government generally respected the right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Citizens generally had the information and means to do so free from discrimination, coercion, or violence. However, only couples of the opposite sex can receive artificial insemination. Individuals and same-sex couples are prohibited. There was no recent data on the percentage of the population with access to contraception, although condoms were widely available, and oral contraception was available with a prescription. According to a Croatian Bureau of Public Health July report, the maternal mortality rate in 2009 was 13.46 deaths per 100,000 live births, an increase from 6.86 in 2008. Access to maternal health services was generally good, although 5 percent of new mothers in 2009 reportedly had little or no prenatal care. However, according to the World Health Organization's World Health Statistics 2010, 100 percent of births in the country were attended by skilled health professionals.

According to the UNDP, the number of women reported to have HIV infections was significantly lower than that of men, but women and men were diagnosed and treated equally. However, women living in rural areas and working out of the home were believed to be less aware of the need and location for testing as their male counterparts. Men and women were equally diagnosed and treated for sexually transmitted infections.

Women generally held lower paying positions in the work force. In June the Croatian Statistics Bureau released its annual report Women and Men in Croatia. The report noted that women earned less than men in most sectors, both private and public. On average women earned 12 percent less than men. Women were also more likely to be unemployed. These disparities were present despite the fact that women generally achieved a higher level of education than men. On March 11, the Government presented its 2010-13 strategy for the development of female enterprise, aimed at increasing the number of women launching businesses. Prime Minister Kosor said that the goal was to increase the ratio of female beneficiaries of enterprise stimulation programs from the current 16 percent to at least 40 percent over the next years.

The Office for Gender Equality was responsible for implementing the law on gender equality that came into effect in 2008 and formulating the Government's gender policy; the ombudsman for gender equality monitored implementation of the law, including the submission of mandatory action plans for state institutions and public

companies. In May the ombudsman for gender equality issued her annual report, which noted that women were underrepresented in the management structure of public companies and at state secretary positions in the state administration. The ombudswoman noted that almost 89 percent of persons on management boards were men.

The law provides for quotas to secure increased political representation for women. It requires that women make up at least 40 percent of the voting list for each political party by the third round of local and national elections as well as in elections for seats in the European Parliament. Political parties, state bodies, local authorities, employers, and the media can be fined for violating the law. Local NGOs criticized the law on the grounds that the fines were too small to be a deterrent and that the Government rarely enforced previous laws with quotas.

On May 7, at a round-table event on gender equality in the media, the ombudsman for gender equality noted that women were generally underrepresented in the country's media. She noted that the media mentioned women mainly in the context of scandals and entertainment rather than the economy and politics. On June 30, the Office for Gender Equality provided 180,000 kunas (\$32,000) in support of several NGO projects aimed at the suppression of gender stereotypes in printed and audiovisual media.

*Children.*—Citizenship is derived by birth in the country's territory or from one of the parents. Authorities register all births at the time of birth within the country or upon registration for births abroad. There were few reports that failure to register births resulted in denial of public services, including education and health care for children.

Igor Lakic, Adviser for Human Rights at the Ombudsman's Office who cooperated with the UNHCR on their project related to Roma status issues, explained that registration of births was not a problem; rather children's problems were related to a lack of citizenship and the inability to access rights derived from citizenship. Many Romani parents, particularly in settlements close to the Serbian and Bosnian and Herzegovinian borders, including Slavonski Brod and Beli Manastir, were citizens of another former Yugoslav republic, and the process to acquire Croatian citizenship often took years. Such parents and their foreign-born children, therefore, had no rights to free health care or social assistance (although they generally did not face problems in enrolling in schools). Although statistics were unavailable, the scope of the problem was believed to be widespread.

While education is free and compulsory through grade eight, Romani children faced serious obstacles in continuing their education, including discrimination in schools and a lack of family support. The number of Romani children enrolled in preschool education for the 2009-10 school year was 588, a slight decrease from 595 in 2008. According to the Ministry of Science, Education, and Sports, the number of new Romani students increased to 4,186 from 3,940 in 2009.

The reimbursement of kindergarten fees to Romani parents, introduced in the previous year, was expanded to include preschool education. The payments made for the current academic year totaled 508,000 kunas (\$91,000) for 660 children in 49 schools and kindergartens. The Government distributed more than 350 scholarships to Romani students in high school, an increase of 50 compared with the previous school year. The number of Romani students receiving scholarships for university-level studies increased to 26 from 20 in the previous school year.

In March the ECHR Grand Chamber ruled that the state had discriminated against 15 Romani students from Medjimurje who were placed in separate Roma-only classes. The ECHR ordered the Government to pay 4,500 euros (\$5,963) to each pupil and 10,000 euros (\$13,251) in court expenses. The ruling superseded the July 2009 ECHR ruling that rejected the complaint of discrimination and found the schools separated Roma children only until their language skills improved sufficiently so as to join a regular classroom.

On July 15, the parliament amended the Law on Primary and Secondary Education to provide additional language classes to children who do not speak Croatian.

Child abuse, including sexual abuse, was a problem.

The ombudsman for children reported 1,930 new complaints of individual violations of children's rights through December. The office has seen annual increases in the number of complaints, due in part to the greater visibility and presence of the ombudsman. The office continued its campaign, launched in 2008 in cooperation with the Council of Europe, to prevent corporal punishment. The campaign targeted families, schools, children's homes, and penitentiaries. During the year the ombudsman also led a campaign focused on the rights of children from families of divorced parents and lobbied for faster rulings by family courts on issues affecting the lives of these children. In December an 18-month EU-funded program to curb the sexual exploitation and abuse of children began. The 800,000 euro (\$1.06 million) project

included extensive training for police officers on investigation techniques, questioning methods, prevention of secondary victimization of children who had been subjected to sexual abuse, and capacity building at social care centers to better assist victims.

During the year the Government established an additional four family centers, bringing the total number to 17. The county-level centers are a community resource where families could seek the advice of experts including lawyers, psychologists, and social workers.

While statistics were unavailable, child marriage was believed to be a problem in the Romani community. Common law marriages between persons 16 years of age and older were customary, often prompted by pregnancies. These marriages were in some cases made official when partners reached adulthood.

Statutory rape is included in the penal code, with the minimum age for consensual sex set at 14 years. Penalties for statutory rape range between one and eight years, but in aggravated circumstances, such as rape resulting in pregnancy or repeated sexual acts, the penalties range from five to 40 years. Filming or photographing children for pornographic material can be punished with a sentence of between one and five years of prison, while exposure of children to pornography may result in fines or a sentence of up to one year in prison.

In February the Office of the Chief State Prosecutor provided the following data on sexual acts committed against minors and children for the year 2009, the last year for which data was available. In 2009 the Office of Chief State Prosecutor received 60 reports of sexual intercourse with minors and children and won 28 convictions for the crime. Prosecutors also had 136 reports and 52 convictions for lewd behavior involving a child or a minor, 11 reports and five convictions of abusing children for pornography, and 29 reported cases of child pornography on the Internet with 14 convictions for crimes committed earlier.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The country's Jewish community numbered approximately 2,300. Anti-Semitic vandalism and acts with anti-Semitic overtones were reported during the year.

On August 14, a photograph was placed on the social networking Web site Facebook of a male making a Nazi salute and a female wearing a Hitler mask; the photograph was taken in front of the Jewish community building in Osijek. The suspected perpetrators were identified, but authorities could not provide information about further legal action.

On November 17, anti-Semitic graffiti appeared near the site of a planned golf course in Dubrovnik. There has been public opposition to the building of the course. The director of the company in charge of the course said the act was a "gross provocation against the investors, most of whom are Israeli citizens and Jews." The mayor of Dubrovnik condemned the act and called on police to find the perpetrators.

On April 27, unknown persons damaged 12 tombstones at the Jewish cemetery in Osijek. The head of the Jewish community in Osijek attributed the act to young delinquents. Prime Minister Jadranka Kosor condemned the act and called for an urgent investigation, which continued at yearend.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services; however, discrimination occurred.

The Government maintained 10 counseling centers offering assistance to persons with physical, sensory, intellectual, and mental disabilities and their families. A total of 943 persons with disabilities were employed during the year, while there were 6,207 disabled persons who were unemployed. An estimated 68 percent of unemployed persons with disabilities were unemployed for more than a year.

In a report covering the second half of 2009, the ombudsman for disabilities noted the majority of complaints received by her office involved welfare and pension payments, followed by complaints involving accessibility and legal matters. The office actively cooperated with NGOs dealing with persons with disabilities.

During the year there were several legal changes affecting the lives of persons with disabilities. On June 16, the constitution was changed to remove the word "invalid" and replace it with "persons with disabilities." In July a new law on checks and bonds was passed that allows blind persons to sign their own checks without a lengthy bureaucratic procedure, as had previously been the case.

During the year the ombudsman criticized a new law on public roads that limited free-of-charge use of the highway for persons with disabilities; under the previous law, the definition of disability was broadly construed, resulting in overuse of the benefit. While intended to correct the overuse, the tougher standards of the new law, according to some observers, disadvantaged many who should have benefited from the provision.

The number of persons with mental disabilities in institutions did not decrease, despite some efforts to develop community-based alternatives to institutionalization. On September 23, Human Rights Watch released a report criticizing the country for doing little to deinstitutionalize persons with intellectual or mental disabilities. According to the report, more than 4,000 persons with mental disabilities and 5,000 persons with intellectual disabilities remained in institutions, while only 16 from the former group and 250 from the latter moved to alternative community living programs allowing for a better quality of life. The law provides that unemployed parents of children with disabilities be granted 2,200 kunas (\$390) in monthly compensation. The law also provides compensation to foster-care families.

The law mandates access to buildings for persons with disabilities; however, the Government did not always enforce this provision, and the law did not mandate that existing facilities be retrofitted. As a result, access to public facilities for persons with disabilities remained limited.

*National/Racial/Ethnic Minorities.*—While constitutional protections against discrimination applied to all minorities, open discrimination and harassment continued against ethnic Serbs and Roma.

Incidents, including looting, physical threats, verbal abuse, and spraying graffiti on Serb property, continued in the Dalmatian hinterland and the central part of the country.

On April 23, a wooden cross marking the gravesite of nine ethnic Serb civilians killed during the Balkan wars of the 1990s was toppled in Varivode in the coastal interior of the country. Prime Minister Kosor criticized the vandalism, and authorities arrested one person. On October 5, President Josipovic inaugurated a new monument to the victims of Varivode and stated that those who had committed war crimes should be punished.

On July 9, in the coastal city of Split, a sign reading “Serbs should hang—never forget, never forgive,” appeared on an overpass. The Davis Cup tennis tournament was taking place at the time, and Serbia and Croatia were scheduled to compete against each other. The sign was removed after an hour, although police did not identify perpetrators.

On August 15, a number of vehicles owned by ethnic Croats were vandalized with pro-Serb graffiti (four ‘S’ letters symbolizing greater Serbia) in the majority Croatian village of Aljmas in the eastern part of the country. The vandalism occurred during a Catholic mass celebrating the Assumption of Mary. No suspects were identified.

In May 2008 authorities indicted one of the eight persons arrested for the 2008 abuse of the local Serb population in the village of Bukovic. At year’s end his trial was pending. The seven others accused were minors, and information about the proceedings against them was confidential.

On October 27, a Knin court sentenced two men who had broken into a Serb returnee house and physically assaulted the owner in July 2009 to five months in prison and two years’ probation.

At year’s end the trial of three persons indicted in July 2009 for smashing the windows and slashing the tires of a car with Serbian plates in front of the Hotel Plat in Dubrovnik had not begun.

On January 25, the venue for the appeals of two young men arrested for verbally and physically abusing two Serb returnees in 2007 and attempting to set fire to their home was changed from Pozega to Slavonski Brod county court. In 2009 the two perpetrators were sentenced to two years in prison with parole, but the prosecution appealed the sentence. A decision on the appeal was pending at year’s end.

Discrimination continued against ethnic Serbs in several areas, including the administration of justice, employment, and housing. Ethnic Serbs in war-affected regions were subject to societal harassment and discrimination. Local authorities sometimes refused to hire qualified Serbs even when no Croats applied for a position.

The law provides for proportional minority employment in the public sector in areas where a minority constitutes at least 15 percent of the population; however, the Government for the most part did not observe the law in practice. Ethnic Serbs, the largest minority, were most affected by the slow implementation of the law. In May the Serbian National Council, an elected self-governing body representing Croatia’s ethnic Serbs, issued a survey showing that the number of Serbs employed in state administration and justice has been slowly declining since 2008. The council

was most concerned with discrepancies in areas with high rates of ethnic-Serb refugee returnees. They cited the example of Lika-Senj County, where ethnic Serbs made up more than 11 percent of the population but only 0.5 percent of the police force. NGOs representing the ethnic Serb minority also complained about the lack of credible data on minority employment in state ministries.

The National Minority Council received approximately 41.3 million kunas (\$7.4 million) for minority associations' cultural programs during the year.

Societal violence, harassment, and discrimination against Roma continued to be a problem. While only 9,463 persons declared themselves to be Roma in the 2001 census, officials and NGOs estimated that the Romani population was between 30,000 and 40,000.

On March 25, three off-duty police officers severely beat a 20-year-old Roma at a gas station in Karlovac. The victim suffered multiple bone fractures on his head and was hospitalized. Initially police filed charges against the victim and another Romani person for attacking police officers and disturbing public order. Subsequently, and following critical media reports, the three officers involved were suspended, and criminal charges were brought against them. An additional three officers were suspended for misreporting facts. In June prosecutors in Karlovac indicted one police officer for causing heavy bodily injury to the victim. The case is pending at the Karlovac Municipal Court, and a hearing had not been scheduled at year's end.

On September 5, approximately 100 ethnic Serbs and Croats from the small village of Zemunik organized a protest against air pollution allegedly caused by the burning of garbage and other materials by the Romani community there. The group, which included the village mayor, also protested the Roma use of vacant houses owned by Serb refugees. The protest was criticized by the press and President Josipovic strongly criticized discrimination of any kind against Roma.

Roma faced many obstacles, including lack of knowledge of the Croatian language, lack of education, lack of citizenship and identity documents, high unemployment, and widespread discrimination. Many Romani women, in particular, had only limited Croatian language skills. According to the Council of Europe, only 6.5 percent of Roma had permanent jobs, while the Government estimated 20,000 to 30,000 Roma were receiving some form of social assistance. The Government estimated more than 90 percent of registered Roma lived on social aid.

On a national level, the Government worked to increase the employment rate of Roma by providing two years' worth of salary payments to employers who hired Romani workers. Government spending on programs for Roma increased from 17 million kunas (\$3 million) in 2008 to 27 million kunas in 2009 (\$4.8 million).

On June 4, the Government allocated 4 million kunas (\$716,000) to help legalize a Roma settlement in the town of Parag, in the northern part of the country. The Government made similar efforts in other parts of the country including finishing infrastructure projects in Darda, the largest Roma settlement in the eastern part of the country.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was some societal violence and discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons.

On June 19, for the second year in a row, an antigay protest was staged during the annual Gay Pride Parade. Members of the protest carried banners with abusive language such as "kill the faggots" and raised their arms in Nazi salutes. Organizers of the parade considered the protest a hate crime and criticized authorities for allowing it to take place. Police arrested three persons who tried to break through police lines and attack parade participants. Police were later criticized for using excessive force against one of the attackers. Two parade participants were attacked after the parade, but the attackers remain unidentified.

During the year LGBT NGOs requested the removal of a public school catechism textbook containing homophobic language. In July the Ministry of Science, Education, and Sports replied in a letter that the book had been approved by a commission of experts in line with the law and refused to remove the book.

In the spring, newspapers reported that a primary school teacher had referred in class to homosexuality as a disease. The mothers of two children in the class reported the case to the Ministry of Science, Education, and Sports, and a group of human rights NGOs later charged the teacher with a breach of the Antidiscrimination Act. The Zagreb Municipal Court held three hearings on the matter; the NGOs involved requested a new judge on the grounds that the old judge was biased and verbally abusive towards witnesses. In November a Zagreb court refused to dismiss the current judge. No new hearings were scheduled at year's end.

LGBT organizations reported several incidents against LGBT persons during the year and criticized police for failure to provide adequate protection.

On January 3, a transsexual woman was physically attacked in a town in eastern Croatia by three men who threatened to kill her. When the victim tried to report the case, the police officer in charge used offensive language and ridiculed her during questioning.

On April 4, a group of young men stalked and beat a young gay man in Zagreb. The victim sustained light injuries. Police were unable to identify the perpetrators.

On November 2, two gay men were attacked with wooden bats, tear gas, and broken glass outside a Zagreb nightclub. Police identified and detained two suspects. The Minister of Interior condemned the incident proclaiming zero tolerance for hate crimes and crimes motivated by homophobia. Local LGBT NGOs issued a statement requesting tougher sanctions for such attacks and permanent training for police officers dealing with similar hate crime cases. Prosecutors charged the two perpetrators under criminal law with an act intended to degrade a person in a public place. The first hearing took place on December 28, when the two suspects were released from detention. The next hearing was scheduled for mid-January 2011.

On November 6, a gay man was beaten and his nose broken in Zagreb. Police were still searching for the perpetrators at year's end.

Societal discrimination against LGBT persons was frequently manifested by insults, stereotypical jokes, and societal prejudices.

*Other Societal Violence or Discrimination.*—Societal discrimination against persons with HIV/AIDS remained a problem. The Croatian Association for HIV (HUHIV) reported dentists and general practitioners at times refused to treat HIV-positive patients, and some hospitals postponed surgery because doctors were reluctant to operate on them. If an HIV patient did not go through the infectious disease hospital, he or she often waited for treatment, and doctors sometimes delayed surgery indefinitely. There were allegations transplant centers refused to put HIV patients on their lists of potential organ recipients. Additionally, the NGO stated that many patients' right to privacy had been violated while other patients feared their HIV status would be shared without their consent.

The NGO also criticized discriminatory regulations regarding employment, such as legislation forbidding persons with HIV from working as police officers.

According to HUHIV representatives, the lack of public assistance, such as hotlines, for HIV-positive patients was a problem. According to the UN theme group on HIV/AIDS, an analysis of the country's laws indicated they contain discriminatory provisions regarding HIV. The group cited legal provisions requiring testing under medical supervision for certain professions and, in certain cases, restricted employment for prisoners and HIV-positive persons. According to the analysis, most cases of discrimination occurred outside the scope of the law or were due to insufficient enforcement of privacy laws, lack of consistent, adequate medical care, and discrimination in school or the workplace. HUHIV also specifically criticized regulations forbidding HIV-positive persons from working as police officers and lack of appropriate sex education in schools. This lack of knowledge leads to discrimination and stigmatization of people with HIV/AIDS, and children often have wrong perceptions about risk of contraction.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—Workers are entitled by law to form or join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. Unions generally were independent of the Government and political parties. According to a 2009 tripartite study by the Government, unions, and employers, approximately 35 percent of the work force was unionized. There are no restrictions on unionization for any type of worker. The law provides all workers the possibility of unionization, regardless of position (including police), except for active military personnel.

The law provides for the right to strike, with some limitations, and workers exercised these rights during the year. The law does not permit members of the armed forces, police, government administration, or public services to strike. Workers may strike only at the end of a contract or in specific circumstances cited in the contract after they have gone through mediation. When negotiating a new contract, workers are also required to go through mediation before striking. Labor and management must jointly agree on a mediator if a dispute goes to mediation. If a strike is found to be illegal, any participant may be dismissed and the union held liable for damages.

*b. The Right to Organize and Bargain Collectively.*—The constitution and law protect collective bargaining and the right to organize, and workers exercised these rights in practice; however, some international observers reported that small firms did not always uphold this right.

Approximately 12 percent of the country's workers were on fixed-term contracts with employers. Manual labor and retail employees were primarily affected and many employers hired new workers for a trial period of typically three months. A recent amendment to the labor code limits temporary work contracts to no more than three years.

The law prohibits antiunion discrimination and expressly allows unions to challenge firings in court; however, incidents of union-related harassment and firing of employees occurred, and in general the inefficiency of the court system seriously delayed and discouraged citizens' attempts to seek redress through the legal system.

There are 15 free trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, but there were incidents in which adults and children were trafficked for prostitution and labor. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace and provide for acceptable working conditions. Labor law amendments that went into effect on January 1 further impose strict regulations on the employment of minors, forbidding employment in work environments that could pose health threats to minors.

The minimum age for employment of children is 15 years. The Ministry of Economy, Labor, and Entrepreneurship, in conjunction with the ombudsman for children and the state inspectorate, is responsible for enforcing this regulation. Minors under the age of 15 may work if they receive prior approval from the state labor inspectorate and if it is determined that the child is not expected to suffer physically or mentally from the work. Approval is usually requested for filming movie scenes or for play rehearsals. The law prohibits workers under the age of 18 from working overtime, at night, or under dangerous conditions.

In 2009 the last year for which data were available, the State Labor Inspectorate recorded 153 violations of labor-related laws involving 73 children under the age of 17. Of these violations, four involved children under the age of 15. Violations occurred mainly in the hospitality, tourism, retail, food, industrial, services, and construction sectors and were related to working overtime or past curfew and wage miscalculations.

The law proscribes the worst forms of child labor, including trafficking in children for purposes of sexual exploitation and labor. The national ombudsman for children coordinated the country's efforts to prevent the exploitation of children and assist in removing children from exploitative situations. The labor inspectorate has 111 inspectors whose duties include inspection for illegal employment of minors. The inspectorate forwarded all cases of violations involving minors to the Office of the Ombudsman for Children. Criminal cases were prosecuted by the State Prosecutor's Office and often resulted in convictions.

*e. Acceptable Conditions of Work.*—The minimum wage as determined by the Government is 2,814 kunas (\$504) per month; the net minimum monthly wage is between 2,000 and 2,200 kunas (\$358-\$394), depending on exemptions, and did not provide a decent standard of living for a worker and family. Government statistics from July indicated the average net wage per month was 5,277 kunas (\$945), and the minimum monthly cost of living for a family of four in rented housing was 6,631 kunas (\$1,188). The Government enforced the minimum wage.

Nonpayment and late payment of wages continued to be a problem, as was nonpayment for overtime and holiday work. According to the labor inspectorate, the law no longer requires that records be kept of the number of persons who did not receive payment of their salaries. However, workers have the right to bring court proceedings against employers who did not issue pay slips to their employees. Based on data received through various reports, the inspectorate concluded that in 2009 there were at least 3,975 violations of established payment procedures and practices.

The inspectorate reported that it shut down 707 employers for periods of at least 30 days during 2009 for labor law violations. Violations included employing local and foreign workers without work permits, employing workers not registered with the pension fund, and employing workers not registered with a health insurance agency. The labor inspectorate noted that although its officers continued to increase their inspections and reporting of violations, the courts did not hand down punishment commensurate with the seriousness of the violations, and therefore the inspectorate's actions were not effective. The inspectorate pointed to the large number of violations that were not tried in court due to the expiration of the statute of limitations. For 2009 out of 5,286 court decisions involving 11,932 violations of

both terms of employment and work safety, 4,351 such violations were thrown out due to expiration of the statute of limitations.

The law provides for a standard workweek of 40 hours. Workers are entitled to a 30-minute break daily, one day off out of seven, and a minimum of four weeks of paid vacation annually. The law provides that workers are entitled to time-and-a-half pay for overtime and limits overtime to eight hours per week. The labor inspectorate must be notified if overtime work by an employee continues for more than four consecutive weeks, for more than 12 weeks during a calendar year, or if the combined overtime of employees of an employer exceeds 10 percent of the total working hours in a particular month. Pregnant women, mothers of children under three years of age, and single parents of children under six years of age may work overtime only if they freely give written consent to perform such work. An amendment to the labor law that went into effect on January 1 further requires pregnant women to obtain a note from a doctor indicating their fitness to work overtime and that such work would not adversely affect their health or that of the fetus. In 2009 the inspectorate processed 16,294 violations of the labor law. After processing, the inspectorate sent 6,127 violations to misdemeanor courts for proceedings. Infractions included violations related to labor contracts, payment for work, annual leave, and unpaid and unreported overtime. In 2009 authorities sent 31 criminal proceedings against employers to municipal state attorneys' offices.

The Government set health and safety standards, which the Health Ministry enforced; its inspectorate has jurisdiction over enforcement of health and safety laws at the workplace. In practice many industries often did not meet worker protection standards. In 2009 the inspectorate initiated 3,316 requests for misdemeanor proceedings covering 6,635 violations of safety standards. During 2009 courts handed down 5,286 decisions for misdemeanor acts involving work safety, a great number of which concerned cases from 2007 and 2008. The inspectorate expressed concern that of the 11,932 misdemeanor cases reported over the past few years, 4,351 have been thrown out of court due to the statute of limitations.

Under the law workers may remove themselves from hazardous conditions and have recourse through the courts if they believe that they have been dismissed wrongfully for doing so; however, according to the labor inspectorate, workers did not exercise this right in practice and normally reported employers only after they had left their job.

---

## CYPRUS

Since 1974 the southern part of Cyprus has been under the control of the Government of the Republic of Cyprus, while the northern part, administered by Turkish Cypriots, proclaimed itself the "Turkish Republic of Northern Cyprus" ("TRNC") in 1983. The United States does not recognize the "TRNC," nor does any country other than Turkey. A substantial number of Turkish troops remained on the island. A buffer zone, or "green line," patrolled by the UN Peacekeeping Force in Cyprus (UNFICYP), separates the two parts.

### REPUBLIC OF CYPRUS

The Republic of Cyprus is a constitutional republic and multiparty presidential democracy. The area under control of the Government has approximately 803,200 inhabitants. In 2006, 56 representatives were elected to the 80-seat Vouli Antiprosopon (House of Representatives) in free and fair elections, and in 2008 President Demetris Christofias was elected in free and fair elections. Security forces reported to civilian authorities.

Problems were reported in some areas. There were reports of police abuse and degrading treatment of persons in custody and asylum seekers. Violence against women, including spousal abuse, and several incidents of violence against children were reported. There were instances of discrimination and violence against members of minority ethnic and national groups. Trafficking of women to the island, particularly for sexual exploitation, continued to be a problem, and labor trafficking was also reported.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

The Government participated in the autonomous, tripartite (UN, Greek Cypriot, Turkish Cypriot) UN Committee on Missing Persons (CMP) as part of its efforts since 1996 to account for persons missing as a result of the intercommunal violence in 1963-64 and the conflict in 1974. By year's end, the CMP had exhumed the remains of 767 individuals and had returned the remains of 209 Greek Cypriots to their families. Exhumations continued in different parts of the island. According to the CMP, 1,392 Greek Cypriots and 440 Turkish Cypriots remained missing.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; there were reports, however, that police abused detainees. There continued to be reports that police engaged in heavy-handed tactics and degrading treatment of suspects. The Independent Authority, an independent committee appointed by the Council of Ministers, investigated complaints of police bribery, corruption, unlawful financial gain, violation of human rights, abuse of power, preferential treatment, and conduct unbecoming of police officers.

There were several allegations of police abuse reported during the year:

On February 23, a police sergeant allegedly beat a foreign detainee in Nicosia Central Prison Block 10. The Ombudsman's Office investigated the case following a complaint submitted by the nongovernmental organization (NGO) KISA (Movement for Equality, Support, Antiracism) and concluded that police had used excessive violence against the detainee. The ombudsman asked the police leadership to investigate the case further. The detainee was deported on March 11. The Independent Authority investigated the complaint and concluded that no offense was committed. The attorney general endorsed the conclusion.

On April 15, the press reported that a 70-year-old Cypriot complained that he was beaten at the Anthoupoli police station in Nicosia, where he was transferred following his arrest for drunk driving. The Independent Authority investigated the complaint and concluded that the police officers involved had not committed an offense.

During the year a trial was ongoing of police officers from the Strovolos police station who, in March 2009, allegedly beat and used racist comments against 19-year-old Henry Taylor, a Zimbabwean national, after accusing him of stealing a moped. Taylor contended he was a victim of mistaken identity, and he was later released without charge. The attorney general ordered the summary trial of the officers involved. The hearing of the case was pending at year's end.

During the year the Appellate Court ordered the retrial of nine of 11 police officers charged in 2005 with beating two students and acquitted by a court in March 2009. The Appellate Court acquitted the remaining two officers. The Appellate Court hearing of the case started on December 8. Eight of the officers pleaded guilty to the charge of causing actual bodily harm while the ninth pleaded guilty to the charge of misconduct. The trial was ongoing at year's end.

In May 2009 the press reported the alleged beating of a young man who was arrested by police in Limassol in 2007 for allegedly making an indecent hand gesture to police. The man claimed that he was taken to the Limassol police station, handcuffed, and beaten by an officer while five or six other officers looked on. As a result of the beating, he allegedly suffered a concussion and other head and neck injuries and was hospitalized for five days. According to police, disciplinary charges were brought against an officer after an investigation by the Independent Authority; the officer's hearing on charges of misconduct and illegal exercise of authority had not been completed at year's end.

*Prison and Detention Center Conditions.*—Conditions in prisons, detention centers, and other government institutions generally met international standards, although there have been reports of overcrowding.

During the year the ombudsman and NGOs received complaints that police subjected inmates to physical abuse and discriminatory treatment. The ombudsman reported that during the year her office received five complaints from prisoners concerning physical violence allegedly committed by prison officials and eight complaints of physical violence allegedly committed by police officers in detention centers. The ombudsman was preparing a report on systemic violence against prisoners by prison officials while the complaints against police officers were being investigated. The ombudsman's investigation of complaints submitted in previous years could not establish whether physical violence had actually occurred against prisoners, and the investigations were terminated.

The ombudsman reported discriminatory treatment of women and Turkish Cypriot inmates regarding their access to facilities at the Central Prison. Inmates in the Central Prison during the year included 296 women, including one juvenile, and 25 male juveniles; juveniles were held separately from adults. The ombudsman re-

ported in April that her office examined a complaint that female inmates were treated unequally because they were not given the option to serve their prison sentences or portions of them in the Open Prison or the Out of Prison Employment Center as is the case with male inmates. The problem was attributed to the lack of separate facilities and overcrowding. The ombudsman recommended that the prison director take immediate measures to safeguard the equal treatment of male and female detainees. A 2008 investigation by the ombudsman showed that prison authorities denied requests by Turkish Cypriot inmates for access to the Open Prison and Out of Prison Employment Center. The ombudsman recommended that the security reasons cited for the rejections be explicitly stated and fully justified on a case-by-case basis.

The ombudsman received two complaints in 2009 from Turkish Cypriots alleging discriminatory treatment in the Central Prison. Both complaints were under investigation at year's end. Prison authorities reported that Turkish Cypriots who lived in the area under government control were granted all rights concerning access to the Open Prison and the Out of Prison Employment Center. Turkish Cypriots who lived in the area under Turkish Cypriot administration were admitted to the Open Prison but were granted exit permits only with an escort. An NGO reported that foreign detainees complained of physical violence in detention centers located in police stations and discrimination in the Central Prison. An NGO reported that foreign inmates were tasked with heavier work and had more restricted visitation rights than local prisoners.

Following the completion of the Independent Authority's investigation, the attorney general ordered a postmortem examination into the March 2009 death of a young Moldovan man who was arrested for drunk driving and a series of traffic violations and found dead in his cell at the Lycavitos police station in Nicosia. The state coroner found no evidence of a crime.

During the year overcrowding remained the Nicosia Central Prison's greatest problem, despite renovation and expansion. Prison authorities acknowledged that many of the prison buildings, constructed prior to 1960, needed renovation. Construction work was underway to increase capacity and improve sanitary conditions. In September 2009 the ombudsman complained via the media that overcrowding created problems for prisoners' health and welfare. The prison's capacity was 350, but at times it housed up to 737 inmates. Approximately 70 percent of the prisoners were foreigners imprisoned for illegal entry, stay, and employment, as well as theft, burglary, false pretenses, and other offenses.

The ombudsman reported that, due to overcrowding, convicted criminals were not separated from pretrial detainees and that both long- and short-term prisoners were held together. In a 2009 report on drug use in the Central Prison, the ombudsman recommended separate detention for drug users. Prison authorities confirmed that overcrowding prevented separation of prisoners by health condition. In September 2009 the ombudsman also complained via the media that the prison lacked a health center even though her office had requested the creation of one 10 years earlier; at year's end, the Central Prison still lacked a health center.

The Government permitted prison visits by independent human rights observers, and such visits, unrestricted and unannounced, occurred during the year. The ombudsman and the prison board visited Central Prison on a regular basis. The Human Rights Committee of the House of Representatives also visited the prison and examined the living conditions of the detainees.

In 2008 the Council of Europe's Committee for the Prevention of Torture (CPT) conducted one of its periodic spot checks; representatives visited several sites, including the Central Prison, the psychiatric unit in Athalassa, and several police stations, and privately interviewed detainees and prisoners. The CPT's report on the visit was not released by year's end.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The police enforce the law and combat criminal activity. The Greek Cypriot National Guard (GCNG), backed by a contingent of Greek military forces, the Elliniki Dhinami Kyprou (Hellenic Force in Cyprus), protects national security. The GCNG reports to the Ministry of Defense, which reports to the president. The police report to the Ministry of Justice and Public Order. The president appoints the chief of police. The police force is composed of a headquarters with six functional departments, six geographic district divisions, including one inactive district for the area administered by Turkish Cypriots, and seven police units that provide specialized services. One case alleging serious police corruption was before the court.

The Independent Authority appoints independent investigators from a list submitted by the attorney general. From January 1 to September 30, the committee received 92 complaints and appointed investigators for 41 of those cases. The investigators completed 15 cases; in 12 of these they concluded that no criminal offenses had been committed. The attorney general concurred in eight of those cases and his opinion was pending on the remaining four. In three other completed cases, the investigators proposed that the attorney general bring criminal charges against the police officers involved; the attorney general's decision was pending at year's end. Investigators continued to work on 24 cases, suspending their investigation on one case because the complainant failed to respond and on a second after the complaint was withdrawn. Of the 51 cases for which an investigator was not appointed, seven were deemed outside the scope of the committee's responsibility, seven were deemed of minor importance and were referred to the chief of the police for handling, 22 complaints remain pending due to insufficient evidence, and two complaints were withdrawn. The committee conducted preliminary investigations of 13 of the cases and concluded that 12 of them did not merit further investigation, while the remaining one was referred to the chief of police because the committee established negligence on the part of members of the police force. In 2009 the committee received 112 complaints compared with 110 in 2008. Of these, 14 were deemed outside the scope of the committee's responsibility, one was withdrawn by the complainant, seven were sent to the police chief for further investigation, and 13 were pending at the end of 2009, awaiting further evidence from the complainants and other sources. The investigation on one complaint was suspended because the complainant did not show interest in pursuing it. The committee appointed investigators on 41 cases and carried out preliminary investigations of 35 cases.

In January 2009 two Paphos police officers were suspended on suspicion of extorting and blackmailing illegal immigrants. The hearing of their case was ongoing at year's end.

The attorney general suspended the prosecution of three police officers and a civilian whom authorities arrested in February 2009 after a Sri Lankan man complained to Limassol police that the officers had blackmailed him and his two Sri Lankan roommates, who were residing illegally in the country, into paying 700 euros (approximately \$940) each. The alleged victim had identified the three officers, who were arrested together with a 35-year-old mechanic.

In June 2009 the killing of police officer Stavros Stavrou attracted media attention due to Stavrou's alleged involvement in illegal dealings. Prior to his death, police had reportedly investigated Stavrou for involvement in cabarets, drugs, electronic gambling, and an arson attack, although they were reportedly unable to gather enough evidence to make a case against him. An administrative investigation into possible illegal dealings of the deceased officer did not reveal any incriminating evidence. His killing remained under police investigation at year's end.

During the year police investigated 19 criminal cases against members of the force. Of those cases, 11 were still under investigation, seven were pending trial, and one case was withdrawn at the instruction of the attorney general. Also during the year the attorney general ordered the criminal prosecution of one police officer in one of four cases pending from 2008. Court hearings for two other 2008 cases were completed, and the defendants were found to have caused actual bodily harm and injury and fined 1,800 and 850 euros (approximately \$2,400 and \$1,140), respectively. The attorney general suspended the prosecution of the fourth case from 2008 in which a member of the police was investigated for allegedly assaulting a civilian; the investigation concluded that there was no evidence of a criminal offense.

*Arrest Procedures and Treatment While in Detention.*—The law requires judicially issued arrest warrants, and authorities respected this requirement in practice. Persons may not be detained for more than one day without referral of the case to a court for extension of detention. Most periods of investigative detention did not exceed 10 days before formal charges were filed. The attorney general generally made efforts to minimize pretrial detention, especially in cases of serious crimes. Attorneys generally had access to detainees. Bail was permitted. The Government claimed the right to deport foreign nationals for reasons of public interest, regardless of whether they had been charged with, or convicted of, a crime.

While authorities detained aliens without identity documents when they did not know where to deport them, the Government's policy was not to hold such persons long term in detention centers. Instead, if deportations could not be executed in a reasonable amount of time—generally six months—the Government's policy was to release undocumented migrants and rejected asylum seekers and give them residence permits for a limited period of time, provided they had not been found guilty of a crime. An NGO reported, however, that undocumented aliens were only released provided they signed a document consenting to the issuance of travel docu-

ments by their home country. The NGO reported that at least one undocumented foreigner remained in detention for more than three years. The NGO also reported released detainees did not have access to health care or social benefits and were not entitled to permanent residency permits unless they had a job.

*e. Denial of Fair Public Trial.*—The law and constitution provide for an independent judiciary, and the Government generally respected this provision in practice.

Most criminal and civil cases begin in district courts, from which appeals may be made to the Supreme Court. There are no special courts for security or political offenses. There are military tribunals that have jurisdiction over members of the GCNG.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The constitution provides for public trials, and defendants have the right to be present and to consult with an attorney in a timely manner. Jury trials are not used. An attorney is provided for those who cannot afford one, and defendants have the right to question witnesses against them and present evidence or witnesses on their behalf. The law also provides that defendants and their attorneys have access to government-held evidence related to their cases. Defendants enjoy a presumption of innocence and have a right of appeal. The Government generally respected these rights in practice.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) issued three judgments that found the country in violation of various provisions of the European Convention on Human Rights.

On January 7, the ECHR ruled in *Rantsev v. Cyprus and Russia* that Cyprus failed to protect 20-year-old Russian cabaret artist Oxana Rantseva from human trafficking and failed to conduct an effective investigation into the circumstances of her death in 2001. The court found Cyprus in violation of Article 2 (right to life), Article 4 (prohibition of slavery and forced labor), and Article 5 (right to liberty and security) of the European Convention on Human Rights. The ECHR held that Cyprus had to pay the applicant 40,000 euros (\$53,600) in nonpecuniary damages and 3,150 euros (\$4,220) for costs and expenses. The Government made a unilateral declaration before the court acknowledging that it had violated the convention and offered to pay pecuniary and nonpecuniary damages to the applicant. The Government informed the court that in February 2009 it appointed three independent experts to investigate the circumstances of Rantseva's death, employment, and stay in Cyprus as well as the possible commission of any unlawful acts against her. The investigators questioned a number of witnesses in Cyprus and, on July 2, applied to Russian authorities for permission to receive testimony from witnesses in Russia. The investigators were waiting for a reply from the Russian authorities at year's end.

In 2009 the ECHR issued three judgments that found a violation by the state of the European Convention on Human Rights; all three violations concerned the length of legal proceedings.

There were no reports that the Government failed to comply with ECHR decisions.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, permitting claimants to bring lawsuits seeking damages for or cessation of human rights violations, and citizens successfully availed themselves of it.

*Property Restitution.*—Turkish Cypriots have filed a total of 84 court cases, 15 of them during the year, to reclaim property located in the Government-controlled area, and the Supreme Court issued judgments in one case concerning Turkish Cypriot properties that are under the guardianship of the Ministry of Interior. Amendments to the law governing these types of properties, enacted in May, give the minister of interior, as the guardian of Turkish Cypriot properties, authority to return properties to Turkish Cypriot applicants after examining the circumstances of each case. In one case during the year, the Supreme Court upheld the trial court's decision that the property in question fell within the competence of the guardian of the Turkish Cypriot properties and rejected the appeal of the Turkish Cypriot applicant to be appointed as trustee of some property belonging to the Vakif, the Muslim institution that regulates religious activity for Turkish Cypriots.

On January 19, the British Court of Appeal ruled in favor of the plaintiff in the case of *Apostolides v. Orams* in which the Greek Cypriot plaintiff sought to enforce a Cyprus court order regarding property located in the area administered by Turk-

ish Cypriots by applying the court order against the defendants' assets in the United Kingdom. The Orams asked for permission to appeal, but permission was denied on March 26 by the British Supreme Court of Appeal Panel. In April 2009 the European Court of Justice, to which the British Court of Appeal had referred the case for a ruling on some issues, had also ruled in favor of the plaintiff.

On March 1, the Grand Chamber of the ECHR declared inadmissible eight property cases filed against Turkey by Greek Cypriot applicants. The chamber ruled that the applicants had not pursued their cases through an effective domestic remedy established specifically to deal with such cases, the Immovable Property Commission (IPC).

In September the ombudsman, in her capacity as the authority with oversight in matters involving racism and discrimination, reported that the examination of two complaints submitted by Turkish Cypriots revealed that the state was discriminating against Turkish Cypriot property owners and was restricting their property rights. Both Turkish Cypriots had applied to the Land Registry Department to secure title deeds for their properties in the Government-controlled area and were told that they needed the prior approval of the Ministry of Interior. The ombudsman recommended abolition of the 1963 law that restricts the property rights of Turkish Cypriot for reasons of public safety.

In 2008 the ECHR endorsed a friendly settlement brokered by the IPC in 2007 between Greek Cypriot Michael Tymvios and Turkey. The settlement would exchange Tymvios's property in the northern part of the island for Turkish Cypriot property in the Government-controlled area plus a payment of one million dollars. Later in 2008 Tymvios complained that the Government, citing the guardianship law, refused to transfer ownership of the Turkish Cypriot property in the Government-controlled area to him despite the ECHR action. In November 2009 Tymvios filed two actions against the attorney general and the Ministry of Interior, asking the court to order the defendants to turn over to him the Turkish Cypriot property awarded to him by the IPC, to prohibit the defendants from using the property in question, and to pay him damages. The application was scheduled to be heard by the District Court of Larnaca on December 14.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede criticism.

Independent newspapers and periodicals proliferated. Several private television and radio stations competed effectively with government-controlled stations; government-owned stations accounted for approximately 18-20 percent of the viewership for television news and 30 percent of the general radio audience. International broadcasts, including telecasts from Turkey and Greece, were available without interference throughout the island.

As of year's end, the Supreme Court had not ruled on the Attorney General Office's appeal of its 2008 decision that the Government should appoint Christoforos Christoforou to head the Cyprus News Agency. In 2006 the Council of Ministers rejected a decision by the board of the Cyprus News Agency to appoint Christoforos Christoforou as its new director. Some newspapers and opposition parties attributed the rejection to Christoforou's authorship of articles criticizing government policies regarding the UN efforts in 2004 to reunify the island. The Cyprus Journalists' Union called on the Government to reverse its decision and approve the appointment.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including e-mail. The Internet was easily accessible and widely available to the public. According to International Telecommunication Union statistics for 2009, nearly 50 percent of the country's inhabitants were users of the Internet.

*Academic Freedom and Cultural Events.*—There were generally no government restrictions on academic freedom or cultural events, but certain oversight efforts threatened academic independence and activities.

The Government continued to exert political pressure on universities to refrain from any contact with universities in the Turkish Cypriot community because the Government considered them illegal.

*b. Freedom of Peaceful Assembly and Association.*—The law and constitution provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within government-controlled areas, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The Government did not restrict Greek Cypriots from traveling to the area administered by Turkish Cypriots, but it generally advised them against spending the night at Greek Cypriot properties, gambling in the area administered by Turkish Cypriots, or buying or developing property there.

The Government allowed EU citizens and citizens of other countries not subject to a visa requirement, who entered from ports of entry in the area administered by Turkish Cypriots, to cross the green line into the Government-controlled area; the Government maintained, however, that all ports of entry in the area administered by Turkish Cypriots are illegal.

Greek Cypriots and Turkish Cypriots were required to show identification cards when crossing the green line. Members of each community were required to obtain insurance coverage in the community where they planned to drive their vehicles. Turkish Cypriots flew in and out of Larnaca and Paphos airports without obstruction. The Government issued 575 passports to Turkish Cypriots during the year.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—Although Greek Cypriots displaced as a result of the 1974 division of the island fall under the UN definition of IDPs, the Government considered them refugees. At year's end, these individuals and their descendants numbered 208,304. Depending on their income, IDPs and their descendants are eligible for financial assistance from the Government. They have been resettled, have access to humanitarian organizations, and are not subject to attack, targeting, or mandatory return under dangerous conditions.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

NGOs and refugees reported that the Asylum Service was better staffed and processed applications more quickly than in previous years. Of the 44,287 applicants who filed from 2002 to the end of 2010, 288 were granted full refugee status and 2,408 were granted subsidiary protection status and humanitarian status. During the year the Government did not deport any refugees, and authorities granted full refugee status to 31 persons. The law forbids the detention of minor asylum seekers.

In contrast to previous years, refugees and NGOs did not report that any asylum cases were closed without consideration or receiving a government response. NGOs and asylum seekers alleged that the Nicosia District Welfare Office continued to be inconsistent in the delivery of benefits to eligible asylum seekers. The ombudsman examined many such complaints and reported that in many cases the allegations were well founded, in which case her office made suggestions for remedial action.

In practice, the Government provided protection against the expulsion or return of refugees and beneficiaries of subsidiary protection to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

KISA claimed that authorities detained and deported asylum seekers whose applications were rejected before the Supreme Court undertook a final adjudication of their applications. Moreover, KISA and the ombudsman reported complaints from asylum seekers concerning difficulties in accessing the asylum application procedure and delays in the examination of their applications. The ombudsman reported that she did not receive any complaints from asylum seekers that police physically or psychologically abused them.

The Government granted individuals determined to be refugees permission to stay and gave them temporary work permits, but it did not grant permanent resettlement rights. The law allows asylum seekers to be employed in fisheries, the production of animal feed, waste management, gas stations and car washes, freight handling in the wholesale trade, building and outdoor cleaning, distribution of advertising and informational materials, and food delivery. However, KISA reported that

the Labor Office refused to approve and renew labor contracts for asylum seekers outside the farming and agriculture sector. Asylum seekers whose cases were awaiting adjudication were allowed to work after residing six months in the country, but they were limited to the areas permitted by law. During the six-month period, asylum seekers had access to a subsistence allowance and could live in the reception center for refugees located in Kofinou, the sole reception center for asylum seekers. There were complaints regarding the remoteness, limited capacity, and lack of facilities at Kofinou; conditions reportedly improved, however, after the Government entered a private-public partnership with a university in 2008 to operate the center. Asylum seekers who refused an available job could be cut off from state benefits. To obtain welfare benefits, asylum seekers had to have a valid address, which was impossible for many who were homeless. KISA reported delays in the delivery of checks to asylum seekers who were eligible for benefits. According to NGOs, asylum seekers reported discrimination in the provision of state medical care.

On September 14, the press reported that a diabetic Congolese asylum seeker died in his Nicosia hostel room after the welfare services cut his benefits, denying him regular meals vital to his health. An autopsy found that the asylum seeker died of a heart attack. The coroner could not conclusively confirm that the heart attack was caused by an irregular diet. The asylum seeker arrived in the country in 2005; although he was able to apply for asylum and received medical treatment, his benefits were cut off three months before his death, allegedly due to bureaucratic red tape. The Ministry of Labor ordered an inquiry, which revealed that the deceased had presented the welfare services with a letter from his doctor stating that he was able to perform only light work, but his benefits were discontinued after he refused to take a suitable job offered by the Labor Department. As a result of this investigation, the Ministry of Labor changed the procedure for handling similar cases. Asylum seekers with a medical condition rendering them unable to work or able to perform only light work are referred to a medical board for assessment and are entitled for public assistance while awaiting a decision.

In January 2009 a 28-year-old asylum seeker died after allegedly waiting two days for treatment, first at a private clinic in Nicosia and later at the Nicosia general hospital, following an accident at the horse farm where he was working. According to press reports, the private clinic did not offer the man treatment during the first 24 hours he was there, despite his having suffered a head injury. Police opened a case against the employer for illegal employment and a second case relating to the death of the asylum seeker. Both cases were presented to court and were pending trial at year's end.

In August 2009 the UNHCR complained through the media that a Kurdish child suffering from a terminal congenital condition was denied government funding to travel abroad for medical treatment because of his refugee status, in contravention of the country's refugee law, which provides refugees access to the same medical treatment as Cypriots and other EU citizens. Although the Health Ministry subsequently agreed to cover the travel costs on humanitarian grounds, the child was never taken for treatment abroad. The child died in November 2009, a week after an operation was performed at a state hospital. KISA reported that asylum seekers, recognized refugees, and migrant workers were denied government funding for treatment abroad when treatment was not available in the country.

The Government provided funding to two local colleges for educational services aimed at helping recognized refugees integrate into society and also to a local NGO to help torture victims.

During the year the Government provided temporary protection to 395 individuals who may not qualify as refugees.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law and constitution provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. In national elections, only those Turkish Cypriots who reside permanently in the Government-controlled area are permitted to vote and run for office. In elections for the European Parliament, all Cypriot citizens have a right to vote and run for office, including Turkish Cypriots who live in the area administered by the Turkish Cypriots.

*Elections and Political Participation.*—In 2006 free and fair elections were held for the 56 seats assigned to Greek Cypriots in the 80-seat House of Representatives. Political parties operated without restriction or outside interference.

Women held seven of the 56 seats filled in the House of Representatives and two of 11 ministerial posts. They also held senior positions in the judicial branch.

There were no members of minorities in the House of Representatives, and the 24 seats assigned to Turkish Cypriots went unfilled. The small Armenian Orthodox, Maronite Christian, and Roman Catholic communities elected special nonvoting observer representatives from their respective communities to the House of Representatives.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, which vary depending on the charges, and the Government generally implemented these laws effectively. There were isolated reports of government corruption.

While the Government generally investigated and prosecuted cases of corruption, cases usually moved at a slow pace, and the evidence law, which prohibits wiretapping and electronic surveillance, made obtaining convictions difficult.

On May 11, the police charged two employees of the Public Works Department of the Ministry of Communications and Works with abusing their position by using public materials and labor for private purposes.

During the year the attorney general ordered the criminal prosecution of two senior officers of the Ministry of Agriculture following an investigation into allegations that the minister of agriculture had attempted to influence the procedure to appoint personnel in one of the ministry's departments. The complaints were made by a senior agriculture ministry inspector. The case was pending before the court.

In January the attorney general filed two criminal cases against six police officers and the director of the central prison in connection with the 2008 escape of double murderer and rapist Antonis Procopiou Kitas from a Nicosia private hospital where he had stayed for seven months while serving a life sentence. The minister of justice and public order resigned over the escape, and the Government appointed independent criminal investigators to investigate the possible involvement of police and government officials. Separate investigations were also ordered into how Kitas acquired a new passport and why he was allowed to stay at the hospital for such an extended period of time. A hearing of the case against the former director of the central prison began in October 2009 and was still in process. The case against the police officers was scheduled for hearing on November 29.

State and public officials are required by law to declare their assets, but asset declarations are not public documents. Officials who fail to submit declarations are subject to a fine. In June 2009 the Supreme Court ruled unconstitutional the law requiring public officials to declare their assets. The attorney general appealed the decision; the appeal was pending at year's end.

The constitution provides citizens the right of access to government information, but there were no specific laws to ensure public access. Civil servants were not allowed to provide access to government documents without first obtaining permission from the relevant minister. During the year there were no reported cases of the Government denying individuals access to government information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. There is a government ombudsman, whose portfolio includes human rights, and a legislative committee on human rights.

The UN, through the CMP, continued its efforts to account for persons missing after the intercommunal violence in 1963-64 and the conflict of 1974.

During the year the ombudsman received complaints from citizens and foreigners living on the island who believed their rights had been violated by the Government. During her independent investigations, the ombudsman generally enjoyed good cooperation with other government bodies. The ombudsman's annual reports focused on police misconduct, treatment of patients at state hospitals, treatment of asylum seekers and foreign workers, and gender equality in the workplace. The Office of the Ombudsman was well respected and considered effective. In 2008 the ombudsman stated that the Government had complied with 80 percent of her office's recommendations.

The legislative Committee on Human Rights, which most local NGOs considered effective, is made up of 10 members of the House of Representatives, who serve five-year terms. The committee discussed wide-ranging human rights problems, including trafficking in persons, prison conditions, and the rights of foreign workers. The executive branch did not exercise control over the committee.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government effectively enforced these prohibitions.

*Women.*—The law criminalizes rape, including spousal rape, with a maximum sentence of life in prison. Most convicted offenders received considerably less than the maximum sentence. Police indicated that 31 cases of sexual assault were reported during the year.

Violence against women, including spousal abuse, was reported, and there has been a sharp increase in recent years in the number of reported cases. The law establishes clear mechanisms for reporting and prosecuting family violence and provides that the testimony of minors and experts, such as psychologists, may be used as evidence to prosecute abusers. The law provides for prison terms for the abuse of family members. Doctors, hospital workers, and education professionals are required to report all suspected cases of domestic violence to police. Many victims refused to testify in court, however, and by law spouses cannot be compelled to testify against each other. Courts were obliged to drop cases of domestic violence if the spousal victim was the only witness and refused to testify.

During the year police received 619 cases of domestic violence. They initiated criminal investigations in 460 of these and filed 197 criminal cases in court. In 78 percent of the cases, the victims were female.

An NGO working with domestic abuse victims reported a slight decrease in the number of telephone calls to its hotline from 2009 to 2010. The NGO reported that 1,151 callers, of whom 77.5 percent were women, 14.4 percent children, and 8.1 percent men, claimed to be victims of domestic violence. The NGO also operated a shelter in Nicosia that served 72 victims of domestic violence during the year.

In September 2009 the media reported that five NGOs accused the Government of deliberately minimizing the number of domestic violence victims by failing to collect accurate data using EU definitions. By the NGOs' estimates, 80,000 Greek Cypriot women were directly subjected to domestic violence, and an estimated 4,000 foreign housemaids suffered violence at the hands of their employers.

The law prohibits sexual harassment in the workplace, but there were reports that it was a widespread problem, with most incidents unreported to authorities. In September 2009 a Cyprus University of Technology (TEPAK) report showed that 6 percent of employees in the country had experienced sexual harassment in their workplace and that one in two persons believed that some victims deserved the harassment. During the year the Labor Office received 22 complaints regarding sexual harassment, 21 by foreign housekeepers. The Labor Office's investigation found only two complaints to be valid. The Labor Office reported that 15 of the complaints were either withdrawn or could not be further investigated because the complainants failed to appear at the scheduled interview. A complaint investigated in 2009 was also found to be valid.

In April the ombudsman issued a report concluding that the career of a female bank employee was put on hold by the bank's management because she had reported the deputy general manager of the bank for sexually harassing her. The ombudsman ruled that the actions of the bank management constituted discrimination in violation of the relevant legislation and invited the bank's chief executive officer to consultations before issuing her final adjudication. In her final recommendation, the ombudsman stated the bank should abolish the current discriminatory treatment of the complainant and ensure that her future professional development would be treated objectively while taking into consideration the difficulties she had encountered.

Couples and individuals were generally able to freely decide the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception, skilled attendance during childbirth, and women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men. According to estimates compiled by international organizations, there were approximately 10 maternal deaths per 100,000 live births in the country in 2008.

Women generally have the same legal status as men under family and property law and in the judicial system. The National Mechanism for Women's Rights under the Ministry of Justice and Public Order is tasked with the promotion, protection, and coordination of women's rights. Laws requiring equal pay for men and women performing the same work were enforced effectively at the white-collar level. Despite a strong legal framework, the Ministry of Labor and Social Insurance's enforcement was ineffective at the blue-collar level. Research by one NGO suggested that remuneration for female blue-collar workers was 25 to 30 percent less than for their male counterparts.

During the year an NGO representing divorced mothers worked with police to encourage efforts to collect delinquent child support payments. The courts may garnish wages and assets and ultimately imprison persons to enforce child support payments.

*Children.*—Citizenship is derived from one's parents, and there is universal birth registration at the time of birth.

During 2008 the Ombudsman's Office received a complaint regarding discriminatory treatment of Romani children in public education. The ombudsman's investigation was ongoing at year's end.

Child abuse was a problem. The Welfare Department reported an 8.8 percent increase in cases of child abuse in 2009 compared with 2008. The Welfare Department stated that most cases of abuse were linked to domestic violence. During the year police conducted 155 criminal investigations of child abuse compared with 200 the previous year. Of those cases, 69 were filed in court in 2010 and 139 in 2009.

In 2008 there were two reports that girls were trafficked for commercial sexual exploitation; there were no reports of such trafficking in 2009 or 2010.

The minimum age for consensual sex is 17, and sexual intercourse with a person under the age of 17 is a criminal offense. The penalty for sexual intercourse with a person between 13 and 17 is a maximum of three years' imprisonment. For sexual intercourse with a person under 13, the penalty is up to life in prison. Possession of child pornography is a criminal offense punishable by a maximum of 10 years' imprisonment.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were approximately 2,000 persons in the Jewish community, which consists of a very small number of native Jewish Cypriots and a greater number of expatriate Israeli, British, and other European Jews.

On November 30 and December 1, the Jewish community's Hanukkah display in Larnaca was vandalized. Vandals spray-painted the light bulbs of a menorah representation placed at a public location near the community's center and painted targets, swastikas, and the stylized letters "SS" on and near the display. The community notified police, who collected evidence and opened an investigation. No arrests were made by year's end. There were continued reports of verbal harassment of members of the Jewish community.

*Trafficking in Persons.*—For information on trafficking in persons, please see the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or in the provision of other state services, and in practice the Government generally enforced these provisions. The law mandates that public buildings and tourist facilities built after 1999 be accessible to all; government enforcement of the law was ineffective, however, and older buildings frequently lacked access for persons with disabilities. There were no appropriate institutions for adults suffering from mental disabilities who were in need of long-term care.

The amended People with Disabilities Law, which extended the ombudsman's authority to cover discrimination based on disabilities in both the private and public sectors, had not been fully implemented by year's end. Problems facing persons with disabilities included narrow or nonexistent sidewalks and lack of transport, parking spaces, accessible toilets, and elevators. During the year the ombudsman examined 26 complaints of discrimination against persons with disabilities. While many of the cases were still under investigation, the ombudsman reported full compliance of private and government organizations with her recommendations in the cases that were completed.

There were no long-term care facilities specifically for persons with mental disabilities, but many such persons were housed at the Athalassa Psychiatric Hospital. In 2007 an association representing approximately 300 families with children with Down syndrome complained that the Government did not respond to its repeated calls for the creation of a specialized center for the treatment of such children, particularly those in need of temporary hospitalization. Some were housed at the hospital, where they allegedly received inadequate care. The parents claimed that the children were left naked, locked in their wards for excessive amounts of time, and placed under the influence of sedative medication. In December 2009 the same association complained that the Government rejected its request for a subsidy to cover its operating expenses, and as a result it had to close its office.

According to a study presented at a meeting of the House Committee on Human Rights in May, one in three patients discharged from Athalassa Psychiatric Hospital were living in retirement homes and were experiencing difficulties integrating into society. Ten percent of these former patients were under the age of 30. Members of the committee noted that there is no infrastructure to support mental health pa-

tients with the result that, when they leave the psychiatric hospital, their medication is stopped and there are no programs for their social integration or aftercare in general, a situation that could lead to serious problems.

On August 27, the Paraplegics Association complained that the new public buses, introduced in June as part of the overhaul of the public transport system, did not meet the needs of wheelchair users as they only had space for one wheelchair instead of two. After a meeting with the minister of communications and works on September 2, the Paraplegics Association said that the Government agreed to satisfy the demand for two wheelchair spaces in all buses ordered from now on. The Government also agreed to modify current buses if demand showed that there was a need for two wheelchair spaces.

In 2008 the president of the Cyprus Mental Health Commission, Christodoulos Messis, stated that, in order to reduce numbers, patients in the Athalassa psychiatric unit were being released into nursing homes for the elderly regardless of their age, with no plan for their rehabilitation within the community. He criticized the mental health services for not creating appropriate halfway houses and boarding schools to host psychiatric patients wishing to reintegrate into society and return to active employment.

The Ministry of Labor and Social Insurance's Service for the Care and Rehabilitation of the Disabled was responsible for protecting the rights of persons with disabilities. In addition the minister of labor and social insurance chaired the Pancyprian Council for Persons with Disabilities, which included representatives of government services, organizations representing persons with disabilities, and employer and employee organizations. The council monitored actions that affected the protection of the rights of persons with disabilities and served as a forum for persons with disabilities to contribute to public policy.

*National/Racial/Ethnic Minorities.*—There were reported incidents of government and societal discrimination against members of minority national and ethnic groups.

On November 5, clashes broke out in Larnaca between participants in an antiracism NGO event and demonstrators marching against the presence of undocumented migrants. One Turkish Cypriot, a member of a music group participating in the NGO event, was stabbed and several police officers and demonstrators were injured. The mosque in Larnaca was vandalized following the events. Police were investigating the attack on the mosque at year's end.

On November 12, small groups of young persons wearing hoods and holding sticks attacked seven persons in different parts of Nicosia. Victims included a man from Mali, a German student, a 16-year-old British Armenian Cypriot, and four Greek Cypriots, whom the attackers apparently perceived to be foreigners. The police arrested and questioned six persons between the ages of 16 and 18; all were charged. Some were remanded for six days and others released pending the hearing of the case. According to a police report, some of the persons arrested admitted that their motives were racist and that their targets were foreigners. The attacks were condemned by senior government officials and all political parties. A similar incident occurred on November 17, when four young men attacked an Indian student in Nicosia. The four men were arrested, charged, and then released.

During the year there were several reports of violent attacks in the Government-controlled area against Turkish Cypriots:

On March 30, according to press reports, a group of about 200 Greek Cypriot fans of the APOEL soccer club attacked two Turkish Cypriots, lawyer Baris Mamali and businessman Tekin Birinci, in their car after they crossed to the south to watch a soccer match. The attackers pounded on the car with their hands, threw rocks, and shouted that they were going to kill the two Turkish Cypriots. They were saved by a small group of Greek Cypriots who shielded the car until the police arrived and dispersed the crowd. A police investigation did not produce evidence against a specific person, and the case was classified as "undetected."

On May 4, the Turkish Cypriot press reported that two fans of the same football club attacked Turkish Cypriot Hasan Atik while he was driving from Larnaca to Nicosia. The attackers were riding motorcycles. They reportedly broke the lights and mirrors of Atik's car and hit his arms with sticks. Atik told the media that he reported the incident to the Cypriot police at the checkpoint in Nicosia without results. Police stated that Atik reported the incident only for insurance purposes but did not file a complaint.

On September 11, the Turkish Cypriot press reported that a group of five Greek Cypriot men attacked a Turkish Cypriot couple, Nermin Arnavut, 61, and Altay Arnavut, 69, on a visit to Larnaca. They had pulled over to the side of the street when the Greek Cypriots approached them and reportedly called them "filthy Turks" and "dogs." The assailants hit the woman on the arm; when she rolled up

the window and locked the door, they then went to the driver's side and hit the husband on the neck and face until he lost consciousness. The couple crossed back to the northern part of the island without reporting the incident to the Republic of Cyprus officials, but made a complaint to the Turkish Cypriot police.

There was also one report of an attack on an African student. On July 20, a group of youth in black T-shirts bearing the logo of the far-right organization ELAM (National Popular Front) beat a 25-year-old Nigerian student in a main Nicosia street. In his effort to escape, the student was nearly hit by a car. The attackers damaged the car as well. The Nigerian was transferred to Nicosia General Hospital and was treated for scratches and bruises. A police investigation did not produce evidence against specific persons, and the case was classified as undetected. An ELAM spokesman denied that the attackers were members of that organization and condemned the incident. The Government, political parties, and several youth and human rights organizations issued statements criticizing the attack.

The 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Turkish Cypriots living in the Government-controlled area. The Government generally effectively enforced the agreement, which provides for the voluntary transfer of populations, free and unhindered access by the UNFICYP to Turkish Cypriots living in the south, and facilities for education, medical care, and religious activities.

In January 2009 the ombudsman complained through the media that foreigners were being subjected to humiliating and discriminatory treatment by authorities at passport control at Larnaca Airport. At the end of 2010, the ombudsman reported that she was not aware of any changes to these practices. However, no new complaints were submitted during the year. The Independent Authority investigated the 2009 complaint and concluded that no offense had been committed by passport control officers. Police reported that, during the year, police officers of the Aliens and Immigration Unit participated in two seminars on multiculturalism and immigration in addition to the annual training they received as part of the country's cooperation with the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX).

In August the ombudsman issued a report supporting the Maronite religious group's request that the state increase the amount allocated to members of the Maronite, Armenian, and Latin religious groups for tuition at private secondary schools. In 2009 the Maronite religious community complained to the ombudsman that the Government failed to take effective measures to protect the use of the Maronite language. The ombudsman found the complaint to be justified and made recommendations to the Government.

On September 13, experts of the European Commission against Racism and Intolerance arrived in the country to evaluate its performance on matters of racism and discrimination and assess progress since the previous report was issued in 2006; the report on their findings had not been released by year's end.

In October 2009 the European Network against Racism Cyprus issued its 2008 "shadow report" on racism in the country. The report noted a significant rise in racist violence and called for the Government to adopt and implement an action plan covering all areas where discrimination and racism persist. It also called on the Government to develop and enact a comprehensive migration policy that would include an integration policy for migrants.

During a police operation in September 2009, police took 150 individuals to police stations, reportedly to confirm their immigration status. Authorities arrested 36 for "illegal residence" and 12 for involvement in violence that took place earlier at Nicosia's only functioning mosque. The minister of interior was critical of the operation, noting that his ministry was responsible for implementation of immigration policy; the minister of justice defended the operation, stating that police were simply doing their job. The ombudsman, acting as head of the Authority against Racism and Discrimination, stated that such practices fed xenophobic attitudes and racist stereotypes and had nothing to do with the country's immigration policy. The ombudsman opened an investigation which found that the police had violated the detainees' constitutional right to personal freedom and security and that their arrest was based on their ethnic origin rather than evidence that a crime had been committed. The ombudsman's report made a number of recommendations to police for adjusting their practices to safeguard human rights regardless of a person's race or ethnic origin.

Many foreign workers reported that they almost always faced delays in the renewal of work visas despite the fact that they followed proper and timely procedures. In many cases the delays left them vulnerable to detention and deportation by immigration police.

Some Turkish Cypriots living in the Government-controlled area reportedly faced difficulties obtaining identification cards and other government documents, particularly if they were born after 1974. Turkish Cypriots made few formal complaints to the UNFICYP about their living conditions in the south. Complaints most often concerned the lack of affordable accommodation.

The ombudsman received complaints that the Government denied automatic citizenship to children of Turkish Cypriots married to Turkish citizens who resided in the area administered by Turkish Cypriots. Instead of granting citizenship automatically to such children, the Ministry of Interior routinely sought approval from the Council of Ministers before confirming their citizenship. During the year the Council of Ministers approved 634 cases. The ombudsman's office had no authority to examine the complaints because the Council of Ministers' decision to apply different criteria for granting citizenship to children born to one Turkish parent was a political one. Children of Turkish Cypriots married to Turkish citizens and living outside of Cyprus were automatically granted citizenship, however.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Despite legal protections, gays and lesbians faced significant societal discrimination, and few lesbian, gay, bisexual, or transgender (LGBT) persons were open about their sexual orientation. On May 19, the first LGBT movement, Accept LGBT Cyprus, announced its operation and organized a series of events. The events were covered by the media and there was no negative public reaction.

A 2009 report by the Gay Liberation Movement of Cyprus (AKOK) and the International Lesbian, Gay, Bisexual, Trans- and Intersex Association (ILGA) noted that there was no significant LGBT movement in the country, and a general stigma against homosexuality was present in society. The organization reported that some local religious figures and politicians frequently stated in public that gays and lesbians were “immoral persons, bodily and mentally perverted.” The groups also noted that there was no specific LGBT antidiscrimination law and that the lack of awareness-raising efforts and education about LGBT issues significantly contributed to the stigmatization of LGBT persons.

On June 17, a spokesperson for Accept LGBT Cyprus criticized a decision of the state-controlled Cyprus Broadcasting Corporation (CyBC) management to ban a radio advertisement featuring a lesbian woman discussing her relationship with another woman. The advertisement was part of a European Commission-funded tolerance campaign run by the ombudsman's office. The campaign was aired by private stations and did not prompt a negative public reaction.

In January 2009 the ombudsman publicly claimed that authorities at passport control at Larnaca Airport asked some foreign nationals about their sexual orientation.

*Other Societal Violence or Discrimination.*—An NGO reported complaints of discrimination toward persons with HIV/AIDS and asserted that HIV-positive persons faced social exclusion and termination from employment. During the year the ombudsman issued reports on two complaints submitted by HIV-positive persons. In a report issued in June the ombudsman concluded that the deportation order issued against an HIV-positive British citizen, who was arrested and jailed for drunk driving, violated his right as an EU citizen to free movement and settlement in any EU country. The Ministry of Interior had informed the complainant that he would be deported because his personal conduct represented a serious threat to public and legal order and to public health. The ombudsman recommended revocation of the deportation order.

*Incitement to Acts of Discrimination.*—Government-approved textbooks used at the primary and secondary school levels included language that was biased against Turkish Cypriots and Turks or refrained from mentioning the Turkish Cypriot community altogether. In addition, there were anecdotal reports of teachers using hand-outs or leading classroom discussions that included inflammatory language.

In March the minister of education announced that a special government committee established in 2008 to examine the question of education reform had completed work on a set of curricula on all subjects, including history. Implementation of the history curriculum was scheduled to begin in September 2011. As part of a series of training programs in the new curricula, the Ministry of Education extended the Christmas vacation to allow teachers to attend four days of obligatory training that included a session on avoiding language that might offend the Turkish Cypriot community and contribute towards the division of the island. In addition, the ministry developed supplementary material for use by teachers that used a factual approach to historical events and excluded language biased against Turkey and the Turkish Cypriots.

*Section 7. Worker Rights*

*a. The Right of Association.*—All workers, except members of the police and military forces, have the legal right to form and join independent unions of their own choosing without prior authorization, and workers did so in practice. Police officers could form associations that had the right to bargain collectively. More than 70 percent of the workforce belonged to independent unions. The law allows unions to conduct their activities without interference, and the Government generally protected this right in practice. With the exception of members of the armed forces, police, and gendarmerie, all workers, including migrant and foreign workers, have the right to strike; authorities have the power to curtail strikes in “essential services,” but this power was used rarely in practice. An agreement between the Government and essential services personnel provides for dispute resolution and protects workers in the sector.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and workers exercised this right in practice. Although collective bargaining agreements are not legally binding, their terms were effectively observed by employers and employees. Collective bargaining agreements covered approximately 60 percent of workers, both citizen and foreign. Workers covered by such agreements were predominantly in the larger sectors of the economy, including construction, tourism, the health industry, and manufacturing.

Antiunion discrimination is illegal, but union leaders contended that private sector employers were able to discourage union activity because the enforcement of labor regulations prohibiting antiunion discrimination was sporadic and penalties for antiunion practices were minimal.

There are no special laws for or exemptions from regular labor laws in the export processing zone at the port of Larnaca.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced or compulsory labor, including by children; however, there were reports that women and children were trafficked for domestic labor, and NGOs reported isolated cases of asylum seekers trafficked for forced labor in agriculture. Also, please see the State Department’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The Ministry of Labor and Social Insurance experienced a substantial increase in the number of complaints of labor exploitation. Foreign workers, primarily from Eastern Europe and East and South Asia, were reportedly forced to work up to 13 hours a day, seven days a week, for very low wages. NGOs and the ombudsman confirmed that employers often retained a portion of foreign workers’ salaries as payment for accommodations.

Many domestic workers were reluctant to report contract violations by their employers out of fear of losing their jobs and consequently their work and residency permits. An NGO reported that there were cases of domestic workers whose travel documents were withheld by their employers. On December 4, a Vietnamese housekeeper reported to the police that her employer hit her and then two other men transferred her to another location where they tied her up and beat her. The employer and the two men were arrested and charged with abducting the woman and causing her serious bodily harm. In November a Chinese domestic worker reported to the police that her employer threw her in the swimming pool and ridiculed her because she did not know how to swim. At year’s end, police were investigating a possible case of assault and humiliating treatment against the employer; the woman was transferred to the shelter for victims of trafficking.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the employment of children, defined as persons under 15, except in specified circumstances, such as combined work-training programs for children who have attained the age of 14 or employment in cultural, artistic, sports, or advertising activities, subject to certain rules limiting work hours. Nighttime work and engagement of children in street trading is prohibited. The law also permits the employment of adolescents, defined as persons between the ages of 15 and 18, provided it is not harmful, damaging, or dangerous, and also subject to rules limiting hours of employment. Employment of adolescents between midnight and 4:00 a.m. is not permitted. The minimum age for employment in an “industrial undertaking” is 16.

The Government effectively enforced laws and policies to protect children from exploitation in the workplace. Ministry of Labor and Social Insurance inspectors are responsible for enforcing the child labor laws and did so effectively. There were isolated examples of children under 16 working for family businesses.

*e. Acceptable Conditions of Work.*—Although there is no national minimum wage, there is a minimum wage for certain groups that are deemed vulnerable to exploitation. The minimum wage for shop assistants, nurses’ assistants, clerks, hair-

dressers, and nursery assistants was 835 euros (approximately \$1,120) per month for the first six months and 887 euros (\$1,190) per month thereafter. This amount did not provide a decent standard of living for a worker and family. For asylum seekers working in the agricultural sector, the minimum monthly wage was either 425 euros (\$570) with accommodation and food provided or 767 euros (\$1,030) without accommodation and food. Neither amount provided a decent standard of living for a worker and family.

The minimum starting salary for foreign nationals working as housekeepers was 290 euros (approximately \$390) per month, plus a minimum of 120 euros (\$160) for lodging if the worker was not a live-in and an additional 16 percent for social insurance, which employers were required to pay directly to the Government. Medical insurance, visa fees, travel, and repatriation expenses are covered by the employers. Cabaret performers' contracts typically stipulated that they receive at least 205 euros (\$275) per week for 36 hours of work. These wages did not provide a decent standard of living for a worker and family.

Workers in almost all other occupations, including unskilled labor, were covered under collective bargaining agreements. The wages set in these agreements were significantly higher than the minimum wage.

Foreign workers were allowed to claim pensions, and in some cases there were bilateral agreements that allowed workers to claim credit in their home countries. Unions and labor confederations were generally effective in enforcing negotiated wage rates (collectively bargained rates), which were generally much higher than the minimum wage. The Migration Service was responsible for enforcing the minimum wage for foreign workers but did not actively do so.

The legal maximum workweek was 48 hours, including overtime. Unions and employers within the same economic sector collectively determined the actual working hours. In the private sector, white-collar employees typically worked 39 hours a week, and blue-collar employees worked 38 hours a week. In the public sector, the workweek was 38 hours in the winter and 35 hours in the summer. The law does not require premium pay for overtime or mandatory rest periods; however, these benefits were sometimes stipulated in contracts and collective agreements. The law provides that foreign and local workers receive equal treatment. Labor ministry inspectors are responsible for enforcing these laws. Labor unions, however, reported enforcement problems in sectors not covered by collective agreements. They also reported that certain employers, mainly in the building industry, exploited illegal foreign workers by paying them very low wages.

There were reports that foreign domestic workers, primarily from East or South Asia, were mistreated by their employers or fired without cause in violation of their contracts. Some domestic workers, particularly live-in maids, reported working excess hours for employer families at all times, night and day, without additional compensation or time off. Although the law protects domestic workers who file a complaint with the Ministry of Labor and Social Insurance from being deported until their cases have been adjudicated, NGOs reported that many domestic workers did not complain to authorities about mistreatment due to fear of deportation.

Government inspectors of the Ministry of Labor were responsible for enforcing health and safety laws. The Ministry of Labor and labor unions reported that health and safety laws were satisfactorily enforced but there was an increase in work-related accidents during the year. Factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed. Their inspections were supported by close government cooperation with employer and employee organizations. However, inspections did not occur in private households where persons were employed as domestic servants.

Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and authorities effectively enforced this right.

#### THE AREA ADMINISTERED BY TURKISH CYPRIOTS

Since 1974 the northern part of Cyprus, with a population of approximately 265,000 persons according to 2006 data, has been run by a Turkish Cypriot administration that proclaimed itself the "Turkish Republic of Northern Cyprus" ("TRNC") in 1983. The United States does not recognize the "TRNC," nor does any country other than Turkey. Dervish Eroglu was elected "president" in 2010 in free and fair elections. Elections to the "Assembly of the Republic" in April 2009 were also free and fair and resulted in the formation of a single-party "government" of the UBP (National Unity Party). The 2010 municipal elections were generally free and fair. The "TRNC constitution" is the basis for the "laws" that govern the area administered by Turkish Cypriots. Police and security forces were ultimately under the

operational command of the Turkish military, per transitional article 10 of the “TRNC constitution,” which cedes responsibility for public security and defense “temporarily” to Turkey.

There were problems in some areas, particularly police abuse of detainees and prison conditions. There were restrictions on the rights of asylum seekers and no regulatory infrastructure to handle asylum applications or to protect the rights of asylum seekers. Trafficking in persons continued to be a problem.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that authorities or their agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances. Authorities participated in the autonomous, tripartite (UN, Greek Cypriot, Turkish Cypriot) UN Committee on Missing Persons (CMP) in Cyprus as part of their continuing efforts to account for persons who remained missing after the intercommunal violence in 1963-64 and the conflict of 1974. In 2006 the CMP began its project to exhume, identify, and return remains. As of year’s end, the CMP had exhumed the remains of 767 missing persons and returned the remains of 54 Turkish Cypriots to their families. Exhumations continued in different parts of the island. According to the CMP, 1,392 Greek Cypriots and 440 Turkish Cypriots remained missing.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The “law” prohibits such practices; however, there were reports that police abused detainees. The “law” does not refer to “torture,” which falls under the section of the criminal code that deals with assault, violence, and battery.

*Prison and Detention Center Conditions.*—Prison conditions did not meet international standards. Inmates complained of overcrowding at the prison, but the authorities claimed that they addressed the problem.

During the year inmates also raised complaints via the media of unsanitary living conditions, brutality, and prison authorities’ negligence, while wardens complained about intimidation and unruliness by certain inmates. In the prison, which had a former capacity of 291 inmates, the introduction of a bunk-bed system in 2009 raised official bed capacity to 427; of the 250 prisoners held there at year’s end, 59 percent were foreigners, mostly Turkish citizens. Nine women prisoners and seven juveniles were incarcerated. Approximately 34 percent of the prisoners were awaiting trial.

Some former inmates complained to the press that sanitary conditions were inadequate.

According to the authorities, prisoners and detainees were permitted to both submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities reported they did not receive any complaints. They stated that all prisoners were allowed religious observance.

Prisoners were permitted access to visitors either once every 10 days or once every 30 days, depending on the prisoner’s sentence type. (Detainees and prisoners with light punishment could receive visitors every 30 days while prisoners with “stern penalties” could receive visitors every 10 days). Visits are limited to 30 minutes except during holidays. Convicted inmates are allowed a maximum of 40 minutes of phone calls four days a week; detainees are given access to phones three days a week.

In August a Cameroonian asylum seeker, who had been arrested and jailed in July for possessing fraudulent travel documents, claimed in a media interview that he was beaten by the police and subjected to racial slurs by other inmates and prison officials. He said he was visited by UNHCR officials both while in prison and afterwards. The Turkish Cypriot Human Rights Foundation filed complaints with the prison authority, but no results were reported. During his detention, the UNHCR’s local implementing partner, the Refugee Rights Association (RRA), prevailed upon a court to reverse the individual’s deportation order.

On June 4, a Turkish inmate attempted suicide in the Central Prison and died in the Nicosia hospital the next morning. The press alleged that the inmate had complained about brutality by wardens. The head of the Wardens Union strongly denied the allegations and stated that the inmate had psychological problems and had attempted suicide several times before.

On February 25, the human rights NGO Platform for the Prevention of Torture complained via the media that authorities did not permit visits to investigate allegations of mistreatment and violence against prisoners.

In October 2009 inmates went on a hunger strike to protest poor living conditions, corruption, and mistreatment by custodial staff, as well as negligence by the authorities.

In October 2009 an opposition “member of parliament” visited the prison and told the press afterward that prison conditions were unsatisfactory.

In November 2009 a riot broke out in the prison. The media reported that inmates set a section of the prison on fire to protest the failure of the warden and the “government” to improve conditions. One inmate allegedly told his lawyer that the riot police who raided the prison set the mattresses on fire.

In November 2009 the head of the Prison Wardens Union alleged that visitors, lawyers, and civilian workers often entered the prison unchecked and supplied inmates with drugs and cell phones.

In 2008 the media reported that a number of inmates were on a hunger strike to protest poor living conditions. Later in 2008 a group of inmates set their beds on fire to protest what they considered to be severe punishment in the prison.

In September 2009 an anonymous 17-year-old former prisoner, who had been convicted of theft and was recently released from the Nicosia prison, told the media that custodial staff and inmates mistreated and physically intimidated inmates convicted of rape. The youth also claimed that police beat him when he was arrested and forced him to sign false police-drafted testimony.

In response to a 2007 riot, prison authorities summoned the special riot police to restore order; the riot police, however, allegedly targeted not only rioters but the general prison population, beating scores of prisoners with truncheons. After obtaining permission from the “Ministry of Interior,” the Turkish Cypriot Doctors Association examined prison inmates in 2008; of a random sample of 60 prisoners, 54 had heavy bruising on their legs consistent with blows from truncheons. The “prime minister” subsequently announced that the police intervention would be investigated; however, at year’s end, there had been no effective investigation of the events.

Juveniles were not held separately from adults.

During the year authorities permitted prison visits by local journalists. In September a group of journalists from the daily newspaper *Kıbrıs* visited the prison and met with prisoners, subsequently publishing a feature on their lives. In 2007 a group from the Turkish Cypriot Doctors Association visited the prison to observe and investigate. A group from the Turkish Cypriot Bar Association and another from the Turkish Cypriot Human Rights Association visited the prison in 2008. According to authorities, a number of foreign diplomats visited the prison in 2009 to inspect prison conditions and to evaluate the situation of some foreign prisoners.

The scope of the ombudsman’s duties does not include advocating for reduced or alternative sentences or addressing the status of juvenile prisoners or improving detention/bail conditions.

*d. Arbitrary Arrest or Detention.*—The “law” prohibits arbitrary arrest and detention, and authorities generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Police are responsible for law enforcement. The chief of police reports to a Turkish Cypriot general, who is nominally under the supervision of the “Prime Ministry,” holding the “security portfolio.” The police and security forces are ultimately under the operational command of the Turkish military, however, per transitional article 10 of the “TRNC constitution,” which “temporarily” cedes responsibility for public security and defense to Turkey. Security forces were generally cooperative with civilian authorities and effective in matters of law enforcement. The police are divided into eight functional divisions and five geographic divisions.

The “Office of the Attorney General” continued to work with the inspection division (or occasionally the criminal investigative division) to investigate allegations of police misconduct. In contrast to previous years, there were investigations of five officers concerning the abuse of detainees during 2009. Following the investigations, prosecutors dropped two of the cases; three cases were still pending investigation because witnesses in each case were abroad. In 2010, three cases of police misconduct/brutality were filed; one was dropped after the investigation showed the claims were unfounded; investigations in the other two cases were ongoing.

*Arrest Procedures and Treatment While in Detention.*—Judicially issued arrest warrants are required for arrests. No person may be detained longer than 24 hours without referral of the case to the courts for a longer period of detention. Authorities generally respected this right in practice. Detainees were usually informed promptly

of charges against them, although individuals believed to have committed a violent offense were often held for longer periods of time without being charged. Judges could order that suspects be held for investigative detention for up to 10 days before formal charges are filed, or up to three months for those accused of serious crimes. According to "legislation," any detained person must be brought before a judge within 24 hours. The person can then be detained in police custody for a period of up to three months, but a judge reviews the detention every eight days. Bail was permitted and routinely used. Detainees were usually allowed prompt access to family members and a lawyer of their choice. The authorities provided lawyers to the destitute for violent offenses only. Particularly at the time of arrest, police sometimes did not observe legal protections. Some suspects were not permitted to have their lawyers present when giving testimony, in contravention of the "law." Suspects who demanded the presence of a lawyer were sometimes threatened with stiffer charges or physically intimidated.

In September a citizen named Osman Kalkan told the press that he was beaten in front of his son by officers at the Alaykoy police station, where he had gone to make a complaint. Kalkan alleged that he was hospitalized but that the police confiscated the medical report produced by the doctor.

In February the chairwoman of the Turkish Cypriot Human Rights Foundation asserted that there had been several cases of torture in police custody. A lawyer with the organization opined in September that allegations should be investigated by an independent body rather than by police.

In February the lawyer of murder suspect Ferhat Beyoglu repeated his claim that his client continued to be tortured in prison.

In June 2009 the chair of the Turkish Cypriot Bar Association told the media that police commonly mistreated suspects and used violence to coerce suspects to provide testimony.

In June 2009 the lawyer for three defendants in the Yucel Erol murder case alleged that police repeatedly tortured his clients in order to obtain confessions. The lawyer maintained that the defendants, Mustafa Cavga, Hasan Nur, and Emin Ozbeyit, were subjected to severe beating and threats while in detention. The judge ordered the suspects to undergo a medical examination to substantiate the claim. The NGO Torture Prevention Platform lobbied the "attorney general" to investigate the claims but reported at year's end that no effective investigation was conducted. In December 2009 there were media reports that a former detainee claimed to have witnessed Hasan Nur being tortured.

In April the lawyer for the defendants in the Erol case repeated his claim that his clients were tortured in detention. Defendant Mustafa Cavga claimed in court that police examiner Aslan Coskun tortured him at police headquarters four times until he completed and signed his initial statement. His claims were supported by a witness, Rusen Yavuz, a former inmate who said that Cavga had been in the cell next to his and was tied and suspended by his hands. In late April, following statements by his lawyer and two witnesses, the court decided that Cavga was neither tortured nor pressured. In September the case was finalized and Hasan Nur was sentenced to 25 years' imprisonment, while Cavga and Ozbeyit were each sentenced to 30 years.

In 2008 three Iranians arrested in Famagusta for possession of opium complained in court that narcotics police tortured them to force a guilty plea. Lawyers for two of the three suspects complained that their clients were stripped naked and beaten in detention and pressured to sign a statement. The judge ordered the suspects to undergo a medical examination, which did not substantiate the defendants' claims, and the trials proceeded. In June the "Torture Prevention Platform," associated with the Turkish Cypriot Human Rights Foundation, filed an official complaint with authorities related to the case. As of year's end, no results had been reported.

In 2008 the lawyer representing Ferhat Beyoglu and Metin Taskin, both accused murder suspects, claimed in court that police were using torture to pressure his clients to plead guilty. The judge ordered a medical examination, which did not substantiate the defendants' claims, and the trials proceeded.

*e. Denial of Fair Public Trial.*—The "law" provides for an independent judiciary, and authorities generally respected judicial independence in practice.

Most criminal and civil cases begin in district courts, from which appeals are made to the "Supreme Court." There were no special courts for political offenses. In 2007 "legislation" was passed transferring jurisdiction from military to civilian courts in cases where civilians are accused of violating military restrictions, such as filming or photographing military zones.

In January 2009 the ECHR ruled against Turkey and in favor of an applicant, Yasir Amer, who claimed that he had not been provided with a translator and, therefore, had been denied the right to a fair trial as provided under the European

Convention on Human Rights. Amer had been sentenced to life in prison for murdering a businessman in the northern part of Cyprus. The ECHR ruled that there had been a violation of the convention on account of the excessive length of the criminal proceedings; the court awarded Amer 5,000 euros (\$6,700) in nonpecuniary damages and 2,000 euros (\$2,680) for costs and expenses.

*Trial Procedures.*—The “law” provides for the right to a fair trial, and an independent judiciary generally enforced this right. The “TRNC constitution” provides for public trials, the defendant’s right to be present at those trials, and the defendant’s right to consult with an attorney in a timely manner. Authorities provide lawyers to indigent defendants only in cases involving violent offenses. Defendants are allowed to question witnesses against them and present evidence and witnesses on their behalf. The “law” also requires that defendants and their attorneys have access to evidence held by the “government” related to their cases. Defendants enjoy a presumption of innocence and have a right to appeal. Authorities generally respected these rights in practice.

In 2008 the head of the Nicosia Bar, Baris Mamali, complained via the media that protections of detainees’ rights were not sufficiently implemented, contravening articles 16-18 of the “TRNC constitution.” Mamali confirmed that legally granted rights, such as the right to remain silent and the right to a lawyer, were not uniformly respected. Mamali also stated that arbitrary and unjust arrests took place at times.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There was generally an independent and impartial judiciary for civil matters, permitting claimants to bring lawsuits seeking damages for human rights violations. There were generally no problems enforcing domestic court orders.

*Property Restitution.*—During the year Greek Cypriots continued to pursue property suits against the Turkish government for the loss since 1974 of property located in the area administered by Turkish Cypriots. Turkish Cypriots pursued claims against the Republic of Cyprus as well. Under ECHR rules, as long as adequate local remedies exist, an appellant does not have standing to bring a case before the ECHR until that appellant exhausts all local remedies. In response to the ECHR’s 2005 ruling, in the *Xenides-Arestis* case, that Turkey’s “subordinate local authorities” in Cyprus had not provided an adequate local remedy, a property commission was established to handle claims by Greek Cypriots; in 2006 the ECHR ruled that the commission had satisfied “in principle” the ECHR’s requirement for an effective local remedy. In a March 2010 ruling, the ECHR recognized the property commission as a domestic remedy. The Immoveable Property Commission (IPC) reportedly received 840 applications by year’s end and completed 202. Five applicants received restitution of their properties outright (plus compensation), one received restitution pending a future settlement of the Cyprus problem, one accepted partial restitution, another received full restitution, and 130 accepted compensation in lieu of restitution. Two property exchange (plus compensation) decisions were also issued. Two applications were rejected and 60 were revoked. As of year’s end, the commission had paid more than \$75 million in compensation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The “law” prohibits such actions; there were reports, however, that police subjected Greek Cypriots and Maronites living in the area administered by Turkish Cypriots to surveillance. Although the authorities reported otherwise, a Maronite representative asserted that 13 houses in the village of Karpasia were occupied by the Turkish military during the year.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The “law” provides for freedom of speech and of the press, and the authorities generally respected these rights in practice, but journalists were at times obstructed in their reporting, fined, and threatened with more serious charges.

Individuals were generally able to publicly criticize the authorities without reprisal. In 2008, however, two youths were arrested for forming a group on Facebook that involved “gross personal insults” against then “TRNC president” Mehmet Ali Talat. The youths were detained for three days and released pending trial. They were tried on defamation charges and in April 2010 were sentenced to two years of probation.

The independent media were active and expressed a wide variety of views without restriction. International media were generally allowed to operate freely. Bayrak Radyo Televizyon Kurumu (BRT) is the only “government”-owned television and radio station.

In February a BRT program featuring an opposition Republican Turkish Party (CTP) member who worked for another television channel was taken off the air by the management. The BRT director claimed to have acted in this manner because the program host had not informed him about the guest; he asserted that it was an issue of internal management and hierarchy.

In August 2009 a well-known Nicosia independent bookstore, Isik Kitabevi, was damaged by an apparent arson attack. Then “president” Talat, then “prime minister” Dervis Eroglu, several “members of parliament,” and NGOs criticized the attack. The bookstore moved shortly after the attack to a new location and continued to operate. At year’s end, the bookstore had moved back to its original location, but the case was dropped because no perpetrator was identified, and the investigation did not yield any results.

In March 2009, in the run-up to the April 19 general elections, the “Ministry of Finance,” then controlled by the ruling CTP, demanded that the highest-circulation newspaper, Kibris, immediately pay its tax debt of 11 million Turkish lira (\$7.3 million) to the “government.” According to the Kibris editor in chief, Resat Akar, the “government” also demanded that he resign or take a leave of absence until after the elections. After negotiations with the “ministry,” the management of Kibris agreed to pay the debt in several installments. Eventually, Akar did leave his position during the elections; it is unclear whether this was in response to the “government’s” alleged demands.

*Internet Freedom.*—The authorities did not restrict access to the Internet, and there were no reports that they monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was easily accessible and widely available to the public. According to a study conducted by the KADEM polling and research company in November, 58 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—The authorities did not restrict academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The “law” provides for freedom of assembly and association, and the authorities generally respected this right in practice.

In November 2009 riot police used pepper spray to disperse a group of trade unionists protesting against the “government” and arrested 16 of the demonstrators. The Turkish Cypriot Human Rights Foundation issued a statement condemning the “government” and the police for using brutality to suppress the demonstration, for wrongful arrests, and for subsequent abuse of some of those arrested. At year’s end, the trials were ongoing, and the number of defendants had fallen to eight. Prosecutors reviewed investigations of police use of disproportional or extreme force and found them to be groundless.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2009 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The “law” provides for freedom of movement within the area administered by Turkish Cypriots, foreign travel, emigration, and repatriation, and authorities generally respected these rights in practice.

Cooperation between the Office of the UN High Commissioner for Refugees (UNHCR) and the Turkish Cypriot authorities was handled through an intermediary NGO, due at least in part to complications arising from the unrecognized status of the “TRNC.” No law exists regarding the handling of asylum applications; therefore, the UNHCR representative in Cyprus adjudicated asylum claims.

Greek Cypriots and Turkish Cypriots were required to show identification cards when crossing the green line. Greek Cypriots and foreigners crossing into the area administered by Turkish Cypriots were also required to fill out a “visa” form.

In September 2009 confusion surrounding procedures to allow worshippers to pass through the normally unused Limnitis/Yesilirmak crossing to attend a mass at St. Mamas Church in the Turkish Cypriot-administered area prevented some Greek Cypriot worshippers from attending. Nevertheless, the mass took place, and hundreds of Greek Cypriots who had entered through other crossing points participated.

In 2006 the immigration “law” was amended, and authorities reported that all illegal immigrant workers were registered. According to the new “law,” all employers who wish to import foreign workers need official permission from the “Department of Labor” to register them. As a result of the new “law,” the number of illegal workers, and thus illegal immigrants, in the area administered by Turkish Cypriots decreased dramatically. Authorities deported illegal immigrants found without work permits. All illegal immigrants without work permits were prohibited from entering

the “TRNC” at the ports of entry. Asylum seekers were generally treated as illegal immigrants and were either deported or denied entry.

In March the “labor minister” announced that 2,000 illegal workers had been deported in the previous four months.

Turkish Cypriots had difficulty traveling to most countries because only Turkey recognizes travel documents issued by the “TRNC.” Some Turkish Cypriots used Turkish travel documents, but many obtained travel documents issued by the Republic of Cyprus. Turkish Cypriots born after 1974 to parents who were both Republic of Cyprus citizens before 1974 obtained passports relatively easily, compared with Turkish Cypriots born after 1974 to only one Cypriot parent. Children of Turkish Cypriot mothers and Turkish fathers were reportedly usually denied citizenship by Republic of Cyprus authorities. Children of Turkish Cypriot fathers and Turkish mothers reportedly also faced some obstacles. According to a 2008 interview with the *Kıbrıs* newspaper, a Republic of Cyprus official stated that non-Cypriot spouses of Turkish Cypriots would not be eligible for passports if their marriage ceremony took place in the “TRNC” and that any children resulting from such marriages would also be ineligible to receive Republic of Cyprus passports.

The “law” prohibits forced exile, and the authorities did not employ it.

*Internally Displaced Persons (IDPs).*—Although they would fall under the UN definition of IDPs, Turkish Cypriots considered persons displaced as a result of the division of the island to be refugees. These persons and their descendants numbered approximately 90,000 to 100,000 in the north. They were resettled, had access to humanitarian organizations, and were not subject to attack, targeting, or return under dangerous conditions.

*Protection of Refugees.*—The 1951 Convention relating to the Status of Refugees is incorporated into Turkish Cypriot domestic “law,” as were all other laws adopted during pre-1963 British colonial rule and later “ratified” by the Turkish Cypriot administration. Authorities admitted that they had no “law” or system in place for dealing with asylum seekers or the protection of refugees and stated that asylum applications were systematically rejected. Potential asylum seekers who attempted to enter the area administered by Turkish Cypriots illegally were almost always arrested, taken to court, and deported after serving their sentence. During the year, however, authorities facilitated the access of 33 asylum seekers and five refugees to the UNHCR representatives in the UN-buffer zone.

In practice authorities did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. Individuals who requested asylum were supposed to be directed to the UNHCR or its local implementing partner, the Refugee Rights Association (RRA). However, authorities often refused to grant asylum seekers access to the RRA, refused their entry, treated them as illegal immigrants, and denied them the opportunity to apply for asylum through the UNHCR.

The RRA was affiliated with the Turkish Cypriot Human Rights Foundation in the area administered by Turkish Cypriots. Only the UNHCR representative can consider applicability of the 1951 convention; the RRA’s mission was to monitor and identify individuals who want to apply for asylum, to refer them to the UNHCR, to advocate to the Turkish Cypriot administration not to deport such individuals but instead to provide protection for the prospective applicants, and to facilitate their accommodation and employment. According to the RRA, at year’s end, 24 asylum seekers and five refugees were residing and working (for below-minimum wages and sometimes in exchange for food) or attending school in the area administered by Turkish Cypriots. They could not travel abroad because they would be unable to return due to their lack of status, which rendered them illegal according to Turkish Cypriot immigration rules. The UNHCR did not provide financial assistance to asylum seekers except in exceptional cases. There were no reliable estimates of the number of asylum seekers crossing into the Government-controlled areas, since irregular crossings go unrecorded.

In February the chairwoman of the Turkish Cypriot Human Rights Foundation asserted to the media that several immigrants had been given jail sentences although the “law” clearly stated that immigrants should not be imprisoned.

In August a number of asylum seekers and refugees interviewed by a local daily recounted stories of mistreatment and poor living conditions in the north. According to the article, five refugees and 11 asylum seekers present in the north at time of reporting were neglected, some of them jailed for “illegal entry” and at times separated from their children.

In February 2009 Kivanc Aktug, the head of the NGO Human Relief Mission, the former implementing partner of the UNHCR in the area administered by the Turkish Cypriots, was arrested by Turkish Cypriot “police” for smuggling asylum seekers

into the Government-controlled area. According to media reports, Aktug was working as part of a ring of human smugglers. Following the arrest, the UNHCR Representative's Office publicly stated that it had stopped working with the NGO as its implementing partner at the end of 2008. Aktug was detained for three days and released on bail pending trial. The investigation has been completed, and a number of cases against Aktug were still pending in the Nicosia court.

The RRA stated that, despite its efforts, authorities at ports often denied entry to asylum seekers, and those trying to enter the "TRNC" illegally were usually detained and subsequently deported. The RRA complained that authorities usually denied asylum seekers access to the RRA's lawyers and vice versa.

During the year several Iraqis and Palestinians were denied entry and deported. However, the RRA reported that several deportation orders were successfully canceled. Five women—four Palestinian and one Nigerian—sought asylum during the year, but authorities in the area administered by Turkish Cypriots declared them prohibited migrants due to migration offenses and issued deportation orders. The women were subsequently assisted by the RRA and the UNHCR and permitted to seek asylum with the Republic of Cyprus. The cases of eight other Iraqi asylum seekers were still pending in the "TRNC courts" at year's end.

Four asylum seekers were deported during the year despite their status. At year's end, 24 asylum seekers (eight Palestinians, three Nigerians, one Cameroonian, one Iranian, nine Iraqi, one Turkmen and one Bangladeshi) continued to reside in the north, working or attending school. At year's end, there were one Afghan and four Palestinian refugees present in the area administered by Turkish Cypriots.

In September 2009 the chair of the Turkish Cypriot Human Rights Foundation complained through the media about systematic deportation of asylum seekers and refugees despite laws against such treatment in the Turkish Cypriot "legislation" and accused authorities of negligence and using the unrecognized status of the "TRNC" as an excuse for not abiding by international rules and practices.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The "law" provides Turkish Cypriots the right to change their "government" peacefully, and they exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Turkish Cypriots choose a leader and a representative body every five years or less. The 2009 "parliamentary" elections, which were free and fair, resulted in the formation of a single-party "government" of the National Unity Party (UBP).

Greek Cypriots and Maronite residents were prohibited from participating in Turkish Cypriot "national" elections; they were eligible to vote in Greek Cypriot elections but had to travel to the Government-controlled area to exercise that right. Greek Cypriot and Maronite enclave communities in the area administered by Turkish Cypriots directly elected municipal officials. Turkish Cypriot authorities did not recognize these officials.

Authorities did not restrict the political opposition, and membership or nonmembership in the dominant party did not confer formal advantages or disadvantages; there were widespread allegations, however, of societal cronyism and nepotism.

There were four women in the 50-seat "parliament." There were no minorities represented in the "parliament."

### *Section 4. Official Corruption and Government Transparency*

The "law" provides criminal penalties for official corruption; however, authorities did not implement the "law" effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption, cronyism, and lack of transparency were generally perceived to be serious problems in the legislative and executive branches.

The "government" stated several times since April 2009 that once it formed a regulatory board for corruption matters, it would investigate corruption allegations regarding the Evkaf Foundation, the Electricity Authority, the "ministries" of finance and health, and the cooperative central bank. In August 2009 the "government" drafted and passed "legislation" to create a "regulatory commission" to investigate corruption allegations; in October 2009 the law was referred to the "Constitutional Court" by then "president" Talat and found "unconstitutional." Some lawyers criticized the "government" through the media for stalling necessary investigations and waiting for the board to be established instead of tasking the "Attorney General's Office" to investigate corruption allegations.

In 2008, after a lengthy trial, a public servant was sentenced to four years in prison for defrauding the state electricity authority in 1998-2000. During the year, six additional public servants from the Electricity Authority were convicted and sen-

tenced to various prison terms in the same case. Several of them appealed, and in September 2009 the appeals court overturned the conviction of Senel Ortan, who had been sentenced to six years in prison.

Also in 2008 the media reported that 116 corruption and abuse cases documented by the Court of the Exchequer since 1986 were still awaiting review by the “parliament.”

Opposition parties continued to claim that the “government” primarily hired supporters of the ruling party for public sector jobs during the year. In September several newspapers received and published complaints from villagers in Iskele and Karpaz who accused the ruling UBP “government” of firing members or supporters of opposition parties from local public jobs and replacing them with UBP members and supporters and relatives of local UBP “members of parliament,” mayors, and branch chiefs.

The “constitution” provides for the right of free access to “government” information, and the “Right of Access to Information Law” provides for public access. In practice, however, civil servants were not allowed to provide access to “government” documents without first obtaining permission from their directors or “minister.” There were some complaints by NGO representatives about being denied access to “government” information during the year. “Member of parliament” Mehmet Cakici unsuccessfully attempted to follow the steps prescribed by the “law” to gain access to information and statistics regarding alleged mismanagement of the public employees’ retirement fund. In 2009, he took the case to the “Attorney General’s Office,” where it was pending at year’s end.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups operated in the area administered by Turkish Cypriots; one NGO asserted that it faced restrictions when investigating human rights cases. The international NGO Minority Rights Group International was also active in the area administered by Turkish Cypriots, conducting research, capacity-building, and implementing advocacy campaigns under an EU grant. Authorities’ cooperation with NGOs was inconsistent.

Many local human rights groups were concerned with improving human rights conditions in the area administered by Turkish Cypriots. NGOs included groups promoting awareness of domestic violence; women’s rights; rights of asylum seekers, refugees, and immigrants; trafficking in persons; torture; and lesbian, gay, bisexual, and transgender persons’ rights. These groups were numerous but had little impact on specific “legislation.” A few international NGOs were active in the area administered by Turkish Cypriots, but many were hesitant to operate there due to political sensitivities related to working in an unrecognized area.

The UN, through the CMP, continued its efforts to account for persons missing after the intercommunal violence beginning in 1963-64 and the conflict of 1974.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The “law” prohibits discrimination based on race, gender, disability, language, or social status. Authorities generally enforced these prohibitions.

*Women.*—The “law” provides no minimum sentence for individuals convicted of rape, including spousal rape; the maximum sentence is life imprisonment. The authorities and police effectively handled and prosecuted rape cases, including cases of spousal rape. There were no NGOs whose specific mission was to support rape victims.

Violence against women, including spousal abuse, was a problem. The “law” prohibits domestic violence under a general assault/violence/battery clause in the criminal code. Even though allegations of domestic violence were usually considered a family matter and settled out of court, 29 domestic violence cases were tried during 2009; all of these were completed during the year and all resulted in various fines and bail but no prison sentences. During the year prosecutors brought nine cases of domestic violence, and all were in the trial process at year’s end. Authorities considered a case more credible if there was at least one witness in addition to the victim.

In December 2009 an academic expert complained that domestic violence was not defined specifically in the “law” and that certain requirements for the protection of women’s rights—such as rights to education, rehabilitation services, and special units in police and health departments—were not met.

The “law” does not specifically prohibit sexual harassment, but victims could pursue such cases under other sections of the “law.” Sexual harassment was not discussed widely, and any such incidents largely went unreported.

Couples and individuals were able to freely decide the number, spacing, and timing of their children, and had access to contraception, skilled attendance during childbirth, and obstetric and postpartum care.

Women generally have the same legal status as men under property “law,” family “law,” and in the “judicial system.” “Laws” requiring equal pay for men and women performing the same work were generally enforced at the white-collar level; however, women working in the agricultural and textile sectors were routinely paid less than their male counterparts. Several NGOs worked to protect women’s rights but there was no specific “government” agency that had this responsibility.

*Children.*—“Citizenship” is derived from one’s parents, and there is universal birth registration at the time of birth.

Turkish Cypriot “authorities” continued to screen all textbooks sent to the Rizokarpasso Gymnasium, a Greek Cypriot school, but did not send textbooks deemed derogatory back to the Government-controlled area.

One NGO and the media reported that child labor was a growing problem. According to reports, exploited children were mostly from mainland Turkey.

There were some media reports of child abuse, most commonly in the form of sexual battery or rape. As with domestic violence, there were social and cultural disincentives to seek legal remedies for such problems, which observers believe were underreported.

In December the NGO Social Risks Prevention Foundation established a 24-hour hotline for reporting child abuse.

The “criminal code” penalizes sexual relations with underage girls. The maximum penalty for sex with a girl under the age of 13 is life imprisonment. The maximum penalty for sex with girls older than 13 but younger than 16 is three years’ imprisonment. There are no “laws” regarding child pornography.

*Anti-Semitism.*—The Jewish community was very small and composed primarily of nonresident businesspersons. A synagogue that opened in 2008 in Kyrenia held services regularly. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the State Department’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The “law” prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or in the provision of other “state” services, and in practice the authorities effectively enforced these provisions. The “government” employed 605 persons with disabilities and provided financial aid to the other 3,444 of the 4,049 known persons with disabilities in the area administered by Turkish Cypriots. The “law” does not mandate access to public buildings and other facilities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The “law” prohibits discrimination, and the 1975 Vienna III Agreement remains the legal source of authority regarding the treatment of Greek Cypriots and Maronites; however, authorities’ noncompliance with some of the agreement’s provisions made life difficult for the 342 Greek Cypriot and 110 Maronite residents.

Under the Vienna III Agreement, the UNFICYP visited the Greek Cypriot residents of the enclave weekly and the Maronites twice a month; any additional visits had to be preapproved by the authorities. Although the Vienna III Agreement provides for medical care by a doctor from the Greek Cypriot community, the authorities only permitted such care by registered Turkish Cypriot doctors; enclaved persons also traveled to the Government-controlled area for medical care.

Greek Cypriots and Maronites were able to take possession of some of their properties but were unable to leave any of their properties to heirs residing in the Government-controlled area. A Maronite representative asserted that Maronites were not allowed to bequeath property to their heirs who do not reside in the area administered by Turkish Cypriots and possess “TRNC” identification cards. The authorities allowed the enclaved residents to make improvements to their homes and to apply for permission to build new structures on their properties. Maronites living in the Government-controlled area could use their properties only if those properties were not under the control of the Turkish military or allocated to Turkish Cypriots.

A majority of foreign workers in the area administered by Turkish Cypriots were Turkish. One NGO reported that Turkish workers were often targeted by police investigations during the year. The same NGO also reported that many Turkish workers lived in derelict buildings in Nicosia, with up to 20 persons sleeping in one room. Those working in the agricultural and construction sectors were reportedly forced to sleep on the ground, and those working in restaurants were seen sleeping after hours on chairs in the establishments where they worked.

During the year many Turkish women were employed as cleaners without being registered for social insurance. A growing number of families employed women from Turkmenistan and the Philippines as domestic workers and for child care.

In February three sisters of Kurdish origin who were working at a duty-free shop at Ercan Airport were fired. The media reported that the young women were fired because they were Kurdish. The airport security manager claimed that the police did not approve the renewal of the women's airport identity credentials.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Male homosexual activity is criminalized in the area administered by Turkish Cypriots under a general sodomy statute that excludes female homosexual activity. The maximum penalty is 14 years' imprisonment. Homosexuality remained highly proscribed socially and rarely discussed. Very few lesbian, gay, bisexual, or transgender (LGBT) persons were publicly open about their sexual orientation.

In 2008 members of the LGBT community, including some NGOs, started a group, the Initiative Against Homophobia, aimed at legal reform and reducing homophobia. There were no reported impediments to its operation or free association, and it was officially accepted and registered as an association in March 2009. An informal LGBT group, the Short Bus Movement, organized cultural activities, such as film screenings. During the year neither police nor "government" representatives engaged in or condoned violence against the LGBT community.

While there were no recorded cases of official or societal discrimination based on sexual orientation in employment, housing, statelessness, access to education, or health care, some members of the LGBT community explained that an overwhelming majority of LGBT persons hide their sexual orientation to avoid such problems. They also complained that there is no specific antidiscrimination law for LGBT persons.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—All workers except members of the police and military forces have the legal right to form and join independent unions of their own choosing without prior authorization, and workers did so in practice. Fewer than 10 percent of private sector workers and more than 65 percent of semipublic and public sector workers belonged to labor unions. The "law" allows unions to conduct their activities without interference, and the authorities generally protected this right in practice.

Although the "law" provides for the right to strike, employers have an unrestricted right to hire replacement workers in the event of a strike, which limited the effectiveness of this right in practice. The "law" does not permit essential service workers, namely judges and members of the police and armed forces, to strike. Authorities have the power to curtail strikes in "essential services."

In June the "government" prohibited a strike by the "parliament's" employees union (Mec-Sen), postponing it for 60 days. In February the "government" also prohibited a strike by Cyprus Turkish Airlines employees, postponing it for 60 days. The strikes did not take place 60 days later.

Some companies pressured workers to join unions led or approved by the company. Officials of independent unions claimed that the authorities created rival public sector unions to weaken the independent unions.

*b. The Right to Organize and Bargain Collectively.*—The "law" provides for collective bargaining, and workers exercised this right in practice. The 26,000 public and semipublic employees who made up approximately 30 percent of the work force benefited from collective bargaining agreements.

The "law" does not prohibit antiunion discrimination, and union leaders claimed that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic and penalties for antiunion practices were nominal.

There are no special "laws" for or exemptions from regular labor "laws" in the export processing zone at the port of Famagusta.

*c. Prohibition of Forced or Compulsory Labor.*—The authorities prohibited forced or compulsory labor, including by children, but there were reports that such practices occurred. Migrant workers in the construction and agricultural sectors were subjected to reduced wages and nonpayment of wages, beatings, and threats of deportation. One NGO asserted that there were cases of forced labor in the agricultural and domestic service sectors.

Also, please see the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The “laws” generally provide protection for children from exploitation in the workplace. In contrast to previous years, NGOs alleged that authorities did not always effectively enforce these “laws” and that children, mainly from Turkey, were being used for labor, primarily in the agricultural sector along with their families and in manufacturing.

According to accounts by the Turkish Cypriot Human Rights Foundation, child labor in the urban informal economy was also a problem, albeit to a lesser extent than in the agriculture and in manufacturing sectors.

The minimum age for employment in an “industrial undertaking” is 15, the last year for which education is compulsory, and children may be employed in apprentice positions between the ages of 15 and 18 under a special status. Labor inspectors generally enforced the “law” effectively. It was common in family-run shops for children to work after school, and children as young as 11 worked in orchards during school holidays.

The “Ministry of Labor” is responsible for enforcing child labor “laws” and policies, and they were generally enforced in practice. The “ministry” held monthly inspections and kept statistics of its findings. In 2009 inspectors identified 425 workers without work permits. The authorities fined 182 employers and companies for failures to comply with the “law,” but their enforcement of the rules and requirements was generally perceived to be inadequate.

In August the “Ministry of Labor” established a “street support team” to prevent child labor and other abuse of children. The team is responsible for identifying child abuse; it urged the public to report any such abuse.

*e. Acceptable Conditions of Work.*—In December the minimum wage was raised to 1,300 lira (\$837) per month, which did not provide a decent standard of living for a worker and family. Migrant workers often were offered substandard accommodations as part of their compensation or were made to pay for accommodation. The “Ministry of Labor and Social Security” is responsible for enforcing the minimum wage; however, it was widely reported that illegal foreign workers were generally paid below the minimum wage.

In July the “government” changed the legal maximum workweek from 38 hours in the winter and 36 hours in the summer to 39 hours at all times of the year as part of an austerity measures package. The new workweek went into effect in November despite trade union protests asserting that according to the ILO, the maximum workweek cannot exceed 37.5 hours. Labor inspectors generally enforced these “laws,” except in the case of migrant workers, who worked irregular hours and at times were reportedly required by their employers to work up to 14 hours per day, seven days a week. The “law” requires overtime pay, but it was not uniformly enforced.

Authorities sporadically enforced occupational safety and health regulations. Although factory inspectors processed complaints and inspected businesses to ensure that occupational safety “laws” were observed, workers who filed complaints did not receive satisfactory legal protection and could face dismissal. Workers did not have the legal right to remove themselves from situations that endangered health or safety without risking their continued employment.

---

## CZECH REPUBLIC

The Czech Republic is a multiparty parliamentary democracy with a population of approximately 10.2 million. Legislative authority is vested in the bicameral parliament, consisting of a Chamber of Deputies (Poslanecka snemovna) and Senate (Senat). The president, elected every five years by parliament, is head of state and appoints a prime minister from the majority party or coalition. In 2008 the bicameral parliament elected Vaclav Klaus as president for a second term. The elections for the Chamber of Deputies on May 28-29 were considered to be free and fair, as were elections on October 22-23 for one-third of the seats in the Senate. A coalition government, consisting of three center-right parties—the Civic Democratic Party (ODS), the Tradition Responsibility Prosperity party (TOP 09), and Public Affairs (VV)—is led by Prime Minister Petr Necas (ODS). Security forces reported to civilian authorities.

Notable human rights problems included official corruption, trafficking of persons for commercial sexual exploitation and labor, neo-Nazi and nationalist extremism directed at Roma and other minorities, and societal discrimination against Roma.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

In January 2009 a Vietnamese man died in police custody in Brno. Police beat the man, a suspected heroin dealer, in his apartment. In August three police officers were convicted of abuse of power; one received a prison sentence of three and a half years, while the other two received a suspended sentence of three years and were prohibited from serving as public officials for five years. In December the police officers appealed the verdict citing new evidence.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports during the year that government officials employed them; however, coerced sterilization of women and surgical castration of male prisoners convicted of sexual offenses were reported in previous years.

In 2008 the nongovernmental organization (NGO) Group of Women Harmed by Sterilization (WHS) reported that its field research uncovered two cases of coerced sterilization in 2007 and 2008. The WHS has reported no new cases after 2008. The alleged case in 2008 involved a 19-year-old Romani woman from Karvina. After a detailed joint investigation with the Karvina hospital, the WHS concluded that the woman had not been sterilized. In the 2007 case, a social worker allegedly warned the victim that, if she did not undergo sterilization, two of her children would be placed in state care. Police began investigating the case in August 2009. That same month the Budapest-based European Roma Rights Center (ERRC) provided legal representation for the victim. The WHS reported that the police closed the investigation in November 2009 after interviewing the woman, the social worker, representatives from WHS, and others finding no evidence of a crime. The woman has since formally withdrawn her accusation.

In November the UN Committee on Elimination of Discrimination against Women urged the Czech Republic to adopt legislative changes to prevent future coercive sterilizations and to address those that have already occurred. Specifically the committee urged the Government to extend the three-year statute of limitations for bringing compensation claims in these cases and ensure that any time limit starts from the time of discovery of the consequences of the sterilization by the victim rather than from the time of injury. Furthermore, the committee recommended that the Czech Republic consider establishing an ex-gratia compensation procedure for victims of coercive sterilization whose claims have lapsed.

In 2009 the WHS also identified 20 previously unreported cases of women, both Roma and non-Roma, who alleged they had been sterilized without informed consent, some before 1989 and others in the 1990s. The WHS, in cooperation with the ERRC, sent formal complaints to the regional health authorities on behalf of the alleged victims to determine whether the hospitals performed sterilizations and, if so, whether they occurred without informed consent. Health authorities rejected 17 of the complaints because the clinics in question were operated directly at the national level by the Ministry of Health and not the regional authorities or because information was lacking. Three other cases were still pending at year's end.

The Ostrava Regional Court ruled in 2008 that a local hospital was liable for a wrongful sterilization performed on a Romani woman, Iveta Cervenakova, 11 years prior and recognized her right to financial compensation of 500,000 korunas (approximately \$27,600) and an apology. The hospital appealed to the Olomouc High Court, which ruled in 2008 that Cervenakova was not entitled to financial damages because the deadline for making such claims had passed. However, the high court upheld the requirement that the hospital apologize, which it did. In December 2009 the Supreme Court in Brno rejected Cervenakova's appeal, and in July she filed an appeal with the European Court of Human Rights (ECHR) in Strasbourg, which was pending at year's end.

In October 2009 the Supreme Court dismissed a claim by Romani Helena Ferencikova, who demanded financial compensation from a hospital that performed an unwanted sterilization on her. In November 2009 the interim government officially expressed regret over unauthorized sterilizations of women, mostly Romani women.

In October 2009 a delegation from the Council of Europe's Committee for the Prevention of Torture (CPT) visited the country to follow up on concerns over the Government's program of surgical castration of sex offenders. According to the Health Ministry, 94 sex offenders underwent surgical castration in the 10 years prior to

April 2008. The CPT assessed that patients did not give free and informed consent to surgical castration and found the practice to be “degrading.” The CPT reported that in 50 percent of cases it reviewed, surgical castration was carried out on non-violent offenders. The Government denied that surgical castrations are “degrading” and did not end the practice; it did, however, publish guidelines for judiciary and healthcare officials outlining clear and strict requirements for the castration procedure and ensuring informed consent of sex offenders. In its report on the 2009 visit, the CPT discussed again concerns related to its inspection team members’ access to medical documentation without prior patient agreement. Czech privacy laws prohibit the release of an individual’s medical information without consent. The CPT called on the Government to end immediately the use of surgical castration for the treatment of sex offenders and criticized the Government for withholding medical records and providing inaccurate information on a number of occasions before, during, and after the visit.

The CPT also criticized the context in which prisoners were offered the choice of castration or imprisonment, noting in its 2008-09 General Report that it was questionable whether consent to surgical castration will always be truly free and informed. Reporting on its findings during a separate visit to the country in 2008, the CPT noted that “a situation can easily arise whereby patients or prisoners acquiesce rather than consent, believing that it is the only available option to them to avoid indefinite confinement.” In response the Government stated that according to the law all patients must request the castration in writing and have their cases approved by an independent expert commission. It did not, however, address whether these laws were respected in practice. The Government did not consider the CPT’s findings sufficient reason to abandon the sterilization program.

*Prison and Detention Center Conditions.*—Prison and detention center conditions met most international standards. The Government permitted visits by independent human rights observers, and such visits occurred during the year. However, prison overcrowding remained a problem.

The report by the CPT regarding its 2008-09 visit to the country identified several problems in Valdice Prison, which accommodated persons sentenced to life imprisonment as well as troublesome or dangerous high-security prisoners. It found that the treatment and conditions of detention of these prisoners continued to raise serious problems. These included concerns about physical and sexual abuse of vulnerable prisoners; failure to integrate prisoners sentenced to life imprisonment with the general prison population; the lack of a process for prisoners to appeal their placement in Section E, which holds the more violent criminals; and unresponsive staff. In response, the Government replaced a substantial part of its prison staff.

In September the prison population was 111 percent of the intended capacity of the facilities. The number of prisoners has increased steadily since 2002. As of August there were 21,979 prisoners in the country’s prisons, of which 1,424 were women, 16 were juveniles, and 2,500 were pretrial detainees of both sexes. Of convicted prisoners, 61 percent had some type of employment in the prison to earn money.

Prisoners and detainees had reasonable access to visitors (three hours per week) and are permitted religious observance of their choosing. Authorities permitted prisoners and detainees to submit complaints to the Office of the Ombudsman without censorship, and the ombudsman investigated credible allegations of inhumane conditions in addition to his systematic prison control visits. In the first nine months of the year, the ombudsman received approximately 190 complaints regarding the prison service, including the high price of goods in the prison shop, inability to receive non-Czech cigarettes, and the use of shackles on prisoners considered to be extremely dangerous. In addition to prison visits, the ombudsman began monitoring cell conditions in police stations. In the first nine months, he visited 184 cells in 52 police stations.

The Government permitted independent monitoring of prison conditions by local and international human rights groups and the media. According to the Czech Prisons Service, there were numerous media visits to prisons during the year. All requests for visits were granted.

The Government was in the process of building additional prison cells with the goal of increasing the average prison cell size from 43 to 65 square feet per prisoner and to decrease prison overcrowding.

The Czech Helsinki Committee also found continued prison overcrowding to be a problem and reported an increased number of complaints regarding health care in prisons. During their visits they found that hygienic conditions worsened in several prisons in late 2010, and the number of tuberculosis cases increased.

On January 1, the Government amended the criminal code to allow house arrest as a measure designed to alleviate to prison overcrowding.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police are responsible for enforcing the law and maintaining public order. Salary cuts at the Ministry of the Interior following government-wide fiscal austerity measures resulted in a lowered rate of retention among the national police force, especially among experienced detectives, which hampered the effectiveness of their work. Corruption remained a problem among law enforcement bodies. The Ministry of the Interior oversees police actions and is responsible for investigating allegations of police misconduct. Observers believed that the ministry sometimes whitewashed wrongdoing or prematurely terminated investigations of units under its control.

On October 5, the Ministry of the Interior announced the reorganization of the Foreigners' Police, an independent police force that handled all applications for and problems with long-term residency. Their responsibilities and some personnel will be distributed to regional police offices, effective January 1, 2011, in an effort to improve the quality of immigration and residency procedures. The change responded to numerous allegations made by the Government and NGOs of corruption and inefficiency within the Foreigners' Police.

*Arrest Procedures and Treatment While in Detention.*—Police arrest persons accused of criminal acts using warrants issued by a judge. The accused person must be turned over to a court within 24 hours, and a judge must question and decide whether to hold the individual further within 24 hours.

Police may arrest a person without a warrant under a number of circumstances: when they believe a prosecutable offense has been committed; when they consider it necessary to prevent further offenses or destruction of evidence; when they need to protect a suspect; or when a person refuses to obey police orders to move. Suspects arrested without a warrant must be informed promptly of the reason for their arrest, questioned, and either released within 48 hours or turned over to a court. If turned over to a court, a judge must decide whether to charge the individual within 24 hours. Only a person who has been charged with a crime may be held in custody.

A defendant in a criminal case has the right to choose a lawyer or have one provided by the state. The court determines whether attorneys' fees will be partially or fully covered by the state. The law provides for bail except for serious crimes or to prevent witness tampering. The authorities respected these rights in practice.

The Ministry of Justice, which oversees the prison system, also inspected prisons throughout the year. However, investigations into complaints by prisoners are conducted by the Ombudsman's office. NGOs, such as the Helsinki Commission, also monitored prison conditions.

Lengthy pretrial detention was a problem; however, the situation was reportedly improving. Under the law, pretrial detention may last no longer than two years except for "exceptionally grave" offenses. According to prison service data for the first six months of the year, the average length of pretrial detention was 94 days. A suspect may petition investigating authorities at any time for release from detention.

*Amnesty.*—The president granted amnesty to 69 persons for humanitarian reasons in 2009 and 38 in the first nine months of 2010.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice; however, political pressure occurred in some instances and judicial effectiveness was hampered by complicated procedural rules that at times delayed judgments for years. Structural deficiencies and a lack of sufficient specialized judicial training also contributed to delays and undermined effectiveness.

*Trial Procedures.*—The laws provide for the right to a fair trial, and the independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. Trials are public. Juries are not used. In serious cases a panel of three judges rules on the guilt or innocence of the defendant, while a single judge hears less serious cases. In trial courts (on the district level) the panel of judges is composed of one professional judge, who is the chair, and two lay judges identified from the public. Appeals and cases originating in regional courts have only professional judges. Defendants have the right to be present at trial and to consult an attorney; the Government provides an attorney without charge to defendants who cannot afford one. Defendants may confront adversarial witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys are entitled to access government-held evidence relevant to their cases. Convicted persons have a right of appeal. The law extends these rights to all persons.

The length of trial procedures decreased, and case backlogs throughout the judicial system have been reduced by fully staffing judicial positions at the local level at the expense of regional and high courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the ECHR entered 11 judgments against the Czech Republic. The ECHR found several violations of the right to liberty and security, to a fair trial, to undisturbed use of property, and respect of family rights. During 2009 the ECHR accepted for review 726 of 2,074 complaints against the Czech Republic (a comparable number to 2008). The ECHR asked the Government to provide further information concerning 15 complaints, and judgments were delivered in six cases (compared with 16 in 2008). The ECHR found two violations by the country of the right to liberty and security and one violation of the right to a fair trial.

The Government complied with ECHR decisions; however, it only took limited action in the areas of compensation for forcibly sterilized women and inclusive education for Romani children. In November the European Roma Rights Center filed a complaint with the Committee of Ministers in Strasbourg, which is charged with overseeing implementation of ECHR rulings, stating that the Czech Republic failed to comply with European law by not integrating Romani children into mainstream schools.

*Civil Judicial Procedures and Remedies.*—The constitution provides for a separate, independent judiciary in civil matters, and there is access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations. Available remedies include monetary damages, equitable relief, and cessation of harmful conduct. Administrative remedies are also available.

*Property Restitution.*—The law provides for restitution of properties confiscated under the Communist regime as well as restitution of, or compensation for, Jewish property wrongfully seized during the Nazi era. Although it was still possible to file claims for artwork, the claims period for other types of property has expired. Two claims for Jewish communal property in Brno remained before the courts at year's end. In 2009 the Liberec regional government refused without explanation to return one property in Turnov.

Parliament failed to ratify before the May general elections the comprehensive compromise settlement reached in 2007 between the Government and the churches over restitution of properties of religious orders and financial compensation to churches for loss of properties. The legislative process now must start over. On May 25, the Government and the Catholic Church resolved protracted litigation over the ownership of St. Vitus Cathedral when the president and Archbishop Duka signed an agreement providing that the state is the sole owner of the property. The agreement provides that the church will administer the cathedral as the metropolitan church, while the state will secure necessary material assistance. Under the agreement the church dropped its appeal at the Constitutional Court against earlier court rulings.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Independent media were active and expressed a wide variety of views without restriction.

The law mandates prison sentences of six months to three years for persons who deny Communist-era crimes or the Nazi Holocaust. Speech inciting hatred based on race, religion, class, nationality, or other group affiliation is also illegal and carries a sentence of up to three years in prison.

In June eight members of National Resistance, a neo-Nazi group, were indicted in Prague on charges of supporting and promoting Nazism. The individuals posted propaganda materials in public places and organized neo-Nazi events. The defendants each faced multiple counts with a possible total of eight years in prison if convicted. The trial was postponed, and two defendants, who had been held without bail since October 2009, were released on bail in December.

In April 2009 parliament passed a law that criminalizes the publication of information obtained from police sources such as wiretaps. The law also criminalizes the publication of names of victims of serious crimes and the names of all crime victims

younger than age 18. Journalists violating the law face fines of up to five million korunas (approximately \$276,000) and prison sentences of up to five years.

In June an administrator of iDNES.cz news server filed criminal charges against a contributor nicknamed "Kraxna" for threats against his life and family. Kraxna had frequently cursed and threatened the administrator for removing racist comments from group boards. The administrator filed the charges after the contributor threatened to kill his son and mentioned the son by name, heightening concern over the threat. Police investigated the case and arrested Kraxna for committing violence against a group or individual members of a group. The offender confessed to the crime and promised not to commit the crime again in the future. As a result, Kraxna received a six-month suspended sentence.

In September 2009 the Prague Municipal State Attorney's Office filed charges against a member of the ultranationalist, unregistered National Party for speech inciting hatred based on race for a televised election advertisement that referred to a "final solution of the Gypsy question." In November 2009 a Prague district court handed a National Party representative a one-year suspended sentence and three years' probation for the advertisement.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could and did engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 63.5 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice.

The Government may legally restrict or prohibit gatherings, including marches, demonstrations, and concerts that promote hatred or intolerance, advocate suppressing individual rights, or jeopardize the safety of participants. Protesters are required to have permits for demonstrations, but police generally did not interfere with spontaneous, peaceful demonstrations.

In August 2009 parliament amended the law on assembly to provide local governments additional time (three working days instead of three calendar days) to review demonstration applications. The Government distributed a handbook to local governments designed to help local officials accurately apply the law regarding public gatherings.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice. The law, however, requires organizations, associations, foundations, and political parties to register with local officials or the Ministry of the Interior.

On February 17, a Supreme Administrative Court ruling dissolved the far-right Workers Party (DS), which had mostly neo-Nazi membership. The court ruled that party's program contained xenophobia, chauvinism, homophobia, as well as a racist subtext. Members of the DS reorganized into the Workers' Social Justice Party (DSSS) and unsuccessfully ran in local and Senate elections, receiving less than 1 percent of the vote.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the Government did not employ this practice.

On October 5, the minister of the interior announced the dissolution of the Foreigners' Police, which had handled all applications for and problems with long-term residency and transfer of those responsibilities to the ministry's Department of Asylum and Migration Policy (see section 1.d.).

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status and the Government has established a system for providing protection to refugees. Temporary protection for individuals who may not qualify as refugees is available based on EU laws. However, no such protection has yet been granted.

Because the law defines “safe countries of origin” from which applicants are unlikely to be granted refugee status, the Ministry of the Interior no longer receives asylum applications from “safe” countries. “Safe country of transit” laws do apply to asylum seekers who transit through Canada, the United States, or Switzerland. The applications of these individuals can be denied. However, each case is reviewed individually.

In practice the Government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Ministry of the Interior makes the initial determination on granting international protection. Applicants whose cases are denied may appeal to a single-judge regional court. Appeals of regional court decisions are reviewed by a five-judge panel composed of judges serving on the Supreme Administrative Court. The five-judge panel first determines if the case presents new problems or if the regional court made a grave error. If so, the panel reviews the substance of the claim.

The law provides that the Government must conduct asylum hearings in a language comprehensible to applicants or provide them with an interpreter.

The Ministry of the Interior requires medical proof of homosexuality from individuals seeking asylum for reasons of fear of persecution in their home country due to their sexual orientation. The Ministry of Health, which oversees the process, conducts a “phallometric test” on these asylum seekers. Asylees are connected to a machine that monitors blood flow to sexual organs while viewing heterosexual pornographic images. If the machine detects a response to the images, the Ministry of the Interior denies the application for asylum. The European Union Fundamental Rights Agency has criticized the use of the test as a violation of the European Convention on Human Rights. The Ministry of the Interior contended that the test has been conducted in fewer than 10 cases and with the full written consent of the individual.

The law allows the Government to detain asylum applicants who attempt to enter the country via an international airport for up to 120 days. This provision particularly affected applicants lacking identity documents.

Refugees are considered to have equal legal status with permanent residents and may work without restrictions. In addition, refugees are entitled to special integration assistance based on the State Integration Program, which provides access to Czech language courses, assistance with employment, and access to accommodations. Access to the public health care system is automatic once refugee status is granted. The children of refugees are subject to the laws regulating the education of minors residing in the country. Asylum applicants must wait one year in order to work without restrictions.

According to Ministry of the Interior statistics, there were 626 asylum claims submitted in the first eight months of the year. Almost half of the requests (47.2 percent) were repeat submissions from asylum seekers whose applications were previously rejected by the relevant authorities. The ministry granted refugee status to 62 asylum seekers and granted subsidiary protection, de facto refugee status for those who do not qualify for asylum, to 54 persons.

In April 2009 a resettlement agreement between the Government and the UNHCR formalizing the country’s resettlement program went into effect. A pilot resettlement program was established in 2008. In 2009 the first group of 19 Burmese refugees was brought from Malaysia to the country. The Government resettled an additional 39 Burmese refugees during the year. Due to financial constraints, plans for continued participation in the resettlement program have been postponed indefinitely.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—On May 28-29, the country held elections for seats in the Chamber of Deputies, the lower chamber of parliament. The center-right Civic Democratic Party (ODS) formed a coalition with two new parties, the right-of-center Tradition Responsibility Prosperity Party (TOP 09) and centrist Public Affairs (VV). On October 22-23, elections were held for one-third of the seats in

the Senate and for municipal governments. Both elections were considered free and fair.

Individuals and parties freely declared their candidacies and stood for election, and political parties operated without restriction or outside interference.

There were 44 women in the 200-seat Chamber of Deputies, including the speaker and two of three deputy speakers, and 15 women in the 81-seat Senate. There were no women in the 15-member cabinet and five women on the 15-member Constitutional Court. One of the country's 13 regional governors was a woman.

One justice on the Constitutional Court was an ethnic Slovak. Few of the country's estimated 200,000 Roma were integrated into political life. No Roma were members of parliament, had cabinet portfolios, or sat on the Supreme Court. Some Roma were appointed to national and regional advisory councils dealing with Romani affairs. Four Roma served in leadership roles in the Commission for Human Rights and National Minorities, which the new government downgraded from ministry status.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. According to World Bank governance indicators, corruption was a problem in the country.

Corruption in public procurement was a major problem. Political pressure; insufficient or ineffective legislation requiring disclosure of origin of assets, regulating public procurement, and lobbying; ineffective police investigative tools; and a limited number of experienced investigators at regional levels contributed to the infrequent prosecution of high-level corruption. According to the police anticorruption unit, a major barrier was the lack of an adequate government witness process through which immunity from prosecution could be offered to persons willing to testify against coconspirators. Also, a lack of a specialized prosecutorial body limited effective prosecution of complex corruption cases. The current system requires multiple parts of a case to be handled by various responsible bodies. This often created obstacles in linking all existing evidence collected by law enforcement bodies. Although public figures must disclose the state of their finances each year, disclosure of the origin of financial assets is voluntary.

Law enforcement agencies are responsible for combating government and private corruption. The police anticorruption unit investigated corruption allegations concerning high-level officials and major regional and local cases. It also investigated some private individuals and companies accused of corruption. Other regular police units investigated lower-level cases. According to the Ministry of the Interior, police conducted 86 bribery investigations in 2010, handed over 37 cases of bribery for prosecution, twice as many as in 2009, and investigated 57 public officials for abuse of authority. In the first half of the year, records of the Ministry of Justice indicated that courts convicted 35 public officials of crimes relating to abuse of power, of which two were sentenced to prison, 24 were released on probation, and eight received fines. Of the 43 public officials convicted of bribery-related offenses (19 for receiving a bribe and 25 for offering a bribe), six were sentenced to prison, 27 were released on probation, and nine received fines. As of October 1, the anticorruption unit investigated 66 cases of public corruption, one of which involved a judge. Eight investigations were completed and handed over to the courts. The trials did not begin by year's end. In 2009 the police anticorruption unit investigated six cases involving judges, of whom two were cleared for lack of evidence; the remaining four were under prosecution at the regional prosecutors' office in Prague.

In October 2009 the Government eliminated the anticorruption unit of the military police and redistributed the unit's responsibilities to other offices. The Government cited budgetary reasons for the cuts, but allegations persisted that the unit was disbanded because it was successfully fighting military corruption. The police anticorruption unit stated that it continued to work well with military police anticorruption officials, despite the disbanding of the military anticorruption unit.

The press continued to report allegations of corruption.

In February allegations appeared in the press based on conversations recorded in a cafe by journalists posing as businessmen that government officials and political parties had received kickbacks during the negotiation of contracts sometime between 2004 and 2008 for the purchase of Pandur military vehicles manufactured by the Austrian company Steyr. Then prime minister Jan Fischer called for an investigation, and a joint Czech-Austrian investigation was pending at year's end.

On September 1, Mlada Fronta Daily (MFD), a national newspaper, printed a transcript of conversations between then deputy defense minister Jaroslav Kopriva and lobbyists. The tapes indicated that they were negotiating a no-bid contract for

hundreds of millions of korunas for mortars. During two conversations, the deputy minister and the lobbyists detailed what they allegedly knew about how similar corrupt procurements occurred in the past and described how it was possible to launder money. The minister of defense immediately fired Kopriva and created a subcommittee to investigate all procurements in the ministry. The results were pending at year's end. Police were also investigating the case.

In November MFD printed allegations by a U.S. businessman and former ambassador to the Czech Republic that in February 2008 then deputy defense minister Martin Bartak solicited a multimillion-dollar bribe. The former ambassador stated that the minister requested the bribe in exchange for assistance in resolving a dispute involving the former ambassador's company and one of its key suppliers. Bartak was placed on administrative leave from his duties pending the results of an investigation.

On December 14, MFD published allegations by Libor Michalek, chief of the State Environmental Fund, that he was asked by Martin Knetig, an advisor to the minister of environmental affairs, to manipulate a public tender to provide funds for his party, the Civic Democrats, as well as to finance the political career of Minister Pavel Drobil. Michalek recorded the conversations, including one with the minister, in which he allegedly offered Michalek a senior position in the ministry in exchange for destroying the taped conversations. Immediately after the publication of the story, Minister Drobil fired Knetig and Michalek. Minister Drobil tendered his own resignation shortly afterwards. The police are investigating the allegations.

In September 2009 MFD reported that one of their journalists posed with a hidden camera as a casino owner and purportedly offered one million korunas (approximately \$55,200) to several members of major political parties in exchange for opposing a proposal to introduce a new fee on gambling machines. Three politicians accepted the offer but did not receive any money. After a police investigation, it was determined that no crime had been committed, and the case was closed. One of the politicians remains in parliament.

On September 7, a Brno court sentenced former mayor Ales Kvapil and lobbyist Radovan Novotny to seven years in prison for seeking a four million koruna (\$220,000) bribe from a developer to allow a building project to go forward. The key evidence in the case was the developer's secret taping of his meetings with the convicted individuals.

On September 17, police announced two corruption investigations in Kolin and Znojmo. Anticorruption police in Znojmo were investigating the mayor and deputy mayor for manipulation of public tenders. The Kolin deputy mayor was recorded demanding a one million koruna (approximately \$55,000) bribe for providing land to a businessman at a reduced price.

In October 2009 the media reported that the law school at the University of Western Bohemia in Plzen awarded numerous degrees in recent years to persons who did not earn them, including politicians, law faculty, police officers, customs agents, other state officials, and family members of mafia figures. The head of the country's accreditation commission, Vladimira Dvorakova, alleged that organized crime established the system with the goal of controlling these officials once in office. The report led to the firing of several school administrators. After a year of investigations, 200 diplomas were found to be suspicious.

An investigation by the United Kingdom's Serious Fraud Office into overseas bribery allegations against BAE Systems, including allegations that the British-Swedish aerospace joint venture BAE Systems/Saab bribed several members of the Czech parliament and ministry officials in 2002 to gain their approval for a multi-million dollar contract to lease jet fighters, concluded with a fine to BAE Systems/Saab. The suspended Czech investigation has been reopened and continued at year's end.

Several ministries have anticorruption hotlines for citizens to report allegations. The Ministry of the Interior's anticorruption hotline, administered by the country branch of the NGO Transparency International (TI), received 4,653 calls in the first six months of the year. TI registered 400 new clients (i.e. callers who ask for advice or guidance) and identified 290 corruption complaints, 67 concerning the judiciary, 41 concerning police, 79 concerning property rights and construction permits, and 43 concerning public procurement. Almost one-third of the complaints (122) concerned municipal officials.

Credible allegations of corruption persisted throughout the judiciary, as did allegations of high-level political interference in sensitive public corruption cases. In the first nine months of 2009, the Justice Ministry received 18 calls on its anticorruption hotline, 120 e-mail complaints, and 572 written complaints. Of this total, 10 communications alleged corruption on the part of judges, and three alleged corruption on the part of prosecutors. One case concerning a judge was submitted to the police for investigation.

There were a number of court cases involving judicial misconduct during the year. On April 6, Jiri Berka, a bankruptcy judge in the town Usti nad Labem, was found guilty of criminal conspiracy for his part in a bankruptcy fraud scheme involving 11 other individuals. He and eight other defendants were each sentenced to nine years' imprisonment. An appeal was pending at year's end.

On September 7, the Prague High Court stripped Supreme Court deputy chair Pavel Kucera of his judgeship, the harshest possible administrative penalty, for influencing the investigation into corruption allegations surrounding former deputy prime minister Jiri Cunek. The court found that Kucera had violated his duties as judge and undermined trust in the judiciary. Kucera appealed the verdict. In November the minister of justice suspended him from serving as an active judge, and Kucera resigned the following day, effectively closing the disciplinary proceedings against him.

The law provides for public access to government information, and the Government usually provided such access in practice to citizens and noncitizens, including foreign media. NGOs reported an increasing number of denials over the past two years, especially at the local level and on the use of public finances. Applicants whose requests are denied have 15 days to appeal. They may also appeal if authorities exceed the time limit for processing a request.

According to the Government, several cases involving public access to information from local governments reached the courts during 2009. Courts were reportedly receptive to the requests for information by plaintiffs. In one case, the Regional Court in Usti nad Labem held that the regional governor's office must cover expenses for refusing to provide information to the NGO Children of the Earth about the office's rising budget. In another case, the Supreme Administrative Court held that the Czech energy company CEZ is a public institution that must provide information upon request.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

After the May 10 death of ombudsman Otakar Motejl, the office was vacant for several months due to the parliament's failure to agree on a replacement. On September 7, the parliament elected Pavel Varvarovsky, a former constitutional judge, to the position. Representatives from the Office of the Ombudsman made regular visits to government facilities, examining the treatment of individuals and monitoring respect for fundamental rights. They issued quarterly and annual reports on the office's activities in addition to reports on topics of special concern. The office operated without government or party interference, had adequate resources, and was considered effective. In the first nine months of the year, the ombudsman received 4,320 complaints. In 2009 the ombudsman received 7,321 complaints, 53 percent of which fell within his mandate; 5,433 calls were made to the information hotline requesting simple advice. The ombudsman opened 702 inquiries in 2009.

In July the Government decided to return the Ministry of Human Rights to the level of a commission, decreasing its authority. The body had been elevated to a ministry in 2007. On September 15, the cabinet voted to dismiss former minister Michal Kocab from the position of commissioner. Although the Government stated at the time that a replacement would be named within a week, the position remained vacant at year's end. NGOs criticized the decision to make the ministry a commission and the failure to name a permanent commissioner, claiming these indicated a lack of government concern over human rights issues.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on gender, age, disability, race, ethnic origin, nationality, sexual orientation, religious faith, or personal belief. However, the Government did not effectively enforce these provisions, and significant societal discrimination against Roma and women persisted. Trafficking in persons also remained a problem.

In June 2009 parliament overrode the president's 2008 veto of antidiscrimination legislation and adopted a comprehensive antidiscrimination act that harmonized the country's law with EU requirements.

*Women.*—The law prohibits rape, including spousal rape, and the Government effectively enforced these provisions in practice. The law provides penalties of two to 15 years in prison. Although experts considered rape to be underreported, they noted an upward trend in the number of rape convictions since 2001. They attrib-

uted this trend to improved police training, public awareness campaigns, and greater interaction between police and NGOs. In the first eight months of the year, 432 rapes were reported, 250 of which were investigated. In the first six months of the year, courts convicted 92 offenders, giving prison sentences to 54 offenders and suspended sentences to 35 individuals.

On January 1, an amendment to the penal code criminalizing stalking went into effect. Offenders convicted of stalking can be sentenced to up to three years in prison. The law broadens the criminal offenses under which law enforcement may arrest and prosecute perpetrators of domestic violence. In connection with implementation of the new law, the Ministry of the Interior provided training to counselors, social workers, and law enforcement officials who work with these persons.

Experts believed that violence against women was more widespread than suggested by the number of cases reported to authorities due to the stigma associated with reporting such abuses.

Domestic violence is punishable by up to three years in prison with longer sentences under aggravated circumstances. In 2008 police obtained authority to remove violent abusers from their homes for 10 days. In the first eight months of the year, NGO Bily Kruh Bezpeci reported that 723 offenders, including women, were removed from the home. In 2009 a total of 778 offenders were removed.

In the first eight months of the year, interior ministry statistics indicated that 407 cases of domestic violence were reported, and police investigated 295 cases. In the first six months of the year, authorities prosecuted 220 cases of domestic violence. Justice ministry statistics indicated that, in the first six months of the year, 141 individuals were convicted of domestic violence: 28 individuals were sentenced to prison, and 113 were given suspended sentences. Alcohol played a major role in many domestic violence cases, along with drugs, work-related stress, and gambling. The NGO Bily Kruh Bezpeci reported that, in the first eight months of the year, 638 children witnessed acts of domestic violence. In 2009, 911 children reportedly witnessed such acts.

Police continued to train personnel selected to handle domestic violence cases and to work with social service agencies. However, due to high turnover, many personnel lack practical experience in dealing with these problems. Several hotlines and crisis centers offered psychological counseling to victims of rape and domestic abuse. In the first eight months of the year, for example, the Dona hotline received 3,140 calls related to domestic violence compared with 4,090 calls in 2009.

Sex tourism in border areas and major urban areas declined due to the economic slowdown and a crackdown by local governments. The Ministry of the Interior also noted a general decline in demand for commercial sexual services in 2009 and the first eight months of the year, especially in the regions bordering Germany and Austria. Cities in the interior also made progress reducing sex tourism. Prague, Brno, Plzen, and other cities adopted by-laws prohibiting prostitution in public places. The number of erotic nightclubs decreased, and many were reportedly on the brink of closure.

The law prohibits sexual harassment; however, the Government did not effectively enforce it, and sexual harassment remained a problem. Czech law, in compliance with the EU, places the burden of proof on the defendant. Those convicted can be fined up to 70,000 korunas (approximately \$3,860), dismissed from work, or sentenced to prison. According to a study conducted by the Gender and Sociology Section of the Czech Academy of Sciences in February 2009, 25 percent of female respondents experienced sexual harassment at work.

Couples and individuals generally had the right to decide freely and responsibly the number, spacing, and timing of their children and had the information and means to do so without discrimination, coercion, or violence. Involuntary sterilization of Romani women was a problem in past years but not reported this year; in 2007 and 2008, there were reports that doctors had coerced two Romani women to be sterilized (see section 1.c.).

Access to contraception was widespread, and the prevailing practice was to have skilled attendance at childbirth, including obstetric and postpartum care. Estimates compiled by international organizations indicated that there were approximately 8 maternal deaths per 100,000 live births in the country in 2008. According to NGOs, women and men were equally diagnosed and treated for sexually transmitted diseases, including HIV.

The law grants men and women equal rights, including in family and property law matters. According to Eurostat data for the second quarter of the year, the employment rate of women was 56.1 percent, and women constituted 42.7 percent of the workforce. Women's salaries for similar work lagged behind men's by just over 26 percent, and women were more likely to work in professions with lower median salaries than those chosen by men. It was unclear whether the salary gap was the

result of discrimination against women, lack of access to proper professional training and preparation, or a possible preference among women for more flexible, family-friendly jobs. The Council for Equal Opportunities for Men and Women monitored gender issues and advised the Government on enforcing equal gender rights.

*Children.*—Citizenship is derived from one's parents.

While the Government provided free, compulsory education through age 15, Romani children were often subject to discriminatory treatment. Romani children were enrolled at disproportionately high rates in remedial school systems, known as "practical" schools, which effectively segregated them into a substandard education. According to the Ministry of Education, approximately 27 percent of Romani children attended "practical" schools during the year, compared with 2 percent of non-Romani children. During the year 7,800 students attended practical schools, two-thirds of whom were Romani. In regular schools Romani children were often segregated from the majority population due both to their place of residence (often in a Romani-majority neighborhood) and because school officials in regular schools at times separated Romani children for remedial instruction. The Government continued to address discrimination in the education of children during the year. However, the decision to place a child in a practical school is made by a judge based on a social worker's recommendation. Judges are obliged to follow legal criteria in determining that a student be placed outside the regular education system. The Ministry of Education introduced recommended changes to the placement system to reduce the number of children placed in "practical" schools; these recommendations were not legally binding, however. In November following a country visit, Council of Europe's Commissioner for Human Rights Thomas Hammarberg stated, "There has been virtually no change on the ground in the Czech Republic since the European Court of Human Rights found three years ago that the country had discriminated against Roma children by educating them in schools for children with mental disabilities."

In 2009 the Ministry of Education finalized two studies, one on education opportunities of children from excluded communities and the other analyzing teachers' individual approaches to students with special educational needs. Both studies pointed to unequal educational opportunities for Romani children. Approximately 65 percent of Romani children from "practical" schools enrolled in vocational high schools, many of which did not have final examinations in their curricula, and only 0.93 percent enrolled in regular high schools. Since the examinations offered at the completion of regular high school are required in order to enter a university, the large majority of Romani students who were in vocational schools without final examinations were effectively precluded from a university education. In 2009 the Ministry of Education created a new Department for Equal Opportunities in Education and in March 2010 approved the Plan for Inclusive Education to address these problems. However, in October the new minister of education halted all work on the plan. Two employees of the ministry charged with implementing changes to "practical" schools resigned due to reservations over the new direction taken by the ministry. The minister of education stated that he would present new decrees for the inclusion of Romani students in February 2011.

Local governments offered free preschool education to children who may be unprepared to enter or perform well in the school system for social or economic reasons. In order to increase school attendance, some local governments linked school attendance by children with welfare payments to parents. Other localities funded teaching assistants in basic schools who worked closely with families to ensure regular attendance, often going to homes before school to collect students.

Although the law permits Romani curricula, no elementary school in the country used the curricula. The Romani language was taught as a foreign language at two secondary schools and several universities.

While the law prohibits family violence, sexual abuse, and other forms of mistreatment of minors, child abuse remained a problem. As of January 1, a minor is defined as any child under the age of 18. According to an ongoing 15-year study conducted by sexologists at the medical school of Charles University in Prague, 10 percent of children in the country have experienced sexual abuse; 7 percent were sexually abused at least once, while 3 percent were sexually abused repeatedly.

Under the lead of the Ministry for Human Rights (since downgraded to a commission), the Government in 2008 adopted a 10-year national strategy for preventing violence against children. The document identified several priorities, including adopting a policy of zero tolerance for violence against children, support for preventive measures, further education for experts, and increasing the accessibility of services for endangered children. In April 2009 the ministry led a conference on promoting children's rights during the country's EU presidency. A second conference in

June 2009 focused on child violence, injury prevention, and child mental health promotion.

In May 2009 the Government introduced the National Coordination Mechanism for Locating Missing Children. The project combined existing tools to locate quickly missing children. Since its inception, the project recorded a 95 percent success rate in locating missing children through close cooperation between mobile telephone operators, the media, and the public.

According to a report by the Ministry of Labor and Social Affairs in 2009, as many as 22,000 children were living in institutions, including over 8,000 placed in care pursuant to a court decision. Efforts to provide care to children were hampered by a lack of coordination among agencies and across regions. In 2009 the Government implemented a three-year national action plan for the care of foster children to provide preventive care to families and thereby reduce institutionalization.

The 2010 penal code introduces protections of children in accordance with the Convention on the Rights of the Child. Prison sentences for those found guilty of child abuse were increased up to 12 years or 18 years in case of the death of a child. The Ministries of the Interior and Justice have implemented use of special interviewing rooms for child victims and witnesses. A child victim is not required to give additional testimony in any future court proceedings when specially trained police follow the special interview requirements (presence of psychologists, and, in some cases, judges and defense attorneys).

Although some members of the Romani community married before reaching the legal age of 18, underage marriage was not a significant problem.

Some children were engaged in prostitution for survival without apparent third-party involvement. NGOs reported that many teenagers in prostitution were run-aways or products of orphanages and the foster care system. NGOs working with high-risk children attributed the problem largely to deficiencies in the foster care system, which often failed to provide adequate job skills and promote the adoption of unwanted children by capable parents. According to Ministry of the Interior statistics, police investigated 30 cases of commercial sexual exploitation of children in the first six months of the year, compared with 46 cases in all of 2009.

The minimum age of consensual sex is 15. Sexual relations with a child younger than age 15 is punishable by a prison term up to eight years or, in the case of the death of the child, up to 18 years. The law prohibits the possession, manufacture, and distribution of child pornography, which is punishable by imprisonment for up to eight years.

In October 2009 police broke up the largest network of distributors of child pornography in the country's history. The distributors operated in Prague and parts of southern and northern Moravia. Of the 160 suspects involved, 32 were detained. One-quarter of the suspects were women. In November 2009 three civilian employees of the Ministry of Defense were detained. The operation involved approximately 1,000 police throughout the country. More than 300 computers containing pictures and videos with child pornography were confiscated. The perpetrators ranged in age from 20 to 80. At year's end the investigation was ongoing, with additional arrests possible.

In the first six months of the year, the Ministry of Justice reported that seven persons were convicted for production or other handling of child pornography. One person received a prison sentence and six received suspended sentences.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—Although estimates varied, the country's Jewish population was believed to be approximately 10,000. Public expressions of anti-Semitism were rare, but small, fairly well organized ultranationalist groups with anti-Semitic views were active around the country. The Ministry of the Interior continued to counter such groups, monitoring their activities, increasing cooperation with police from neighboring countries, and shutting down unauthorized rallies. In 2009 according to the Ministry of Interior, police recorded 48 criminal offenses with an anti-Semitic motive, representing an increase of 78 percent over 2008. The Federation of Jewish Communities reported 28 anti-Semitic incidents, none of which was an attack on a person. Attacks included damage to property and spray painting of anti-Semitic remarks and Nazi symbols.

Several groups advocating violence against Jews and other minorities were active. The number of rallies and demonstrations of extreme-right groups declined during the year.

In January 2009 vandals damaged the monument to Holocaust victims in Teplice. Police investigated the case but closed it for lack of evidence. However, Teplice mu-

nicipal officials, local police, and representatives of the local Jewish community introduced quarterly meetings to monitor and evaluate the overall situation.

In November 2009 the Ministry of Defense discharged, without severance pay or pension, two military officers, based on reports that they had worn symbols of German SS units on their helmets while serving in Afghanistan. Their immediate supervisors retired.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services, and the Government generally enforced these provisions. However, persons with disabilities faced a shortage of public accommodations and were unemployed at disproportionately high rates.

The ombudsman is required to make regular visits to all governmental and private workplaces of persons with physical restrictions to examine conditions, ensure that fundamental rights are respected, and advocate for improved protection against mistreatment. His office made these visits throughout the year.

In 2009 through its program to aid persons with disabilities, Mobility for All, the Government provided 112.5 million korunas (approximately \$6.25 million) to cosponsor 56 projects in towns and cities throughout the country, building barrier-free sidewalks, crossings, crossroads, and handicapped elevators in government institutions; purchasing barrier-free buses; and providing barrier-free access to government institutions, schools, libraries, galleries, and museums.

Approximately 60 percent of Prague's metro stations were accessible to persons with disabilities, and most buses and new tramcars were configured to accommodate them. However, of 15 major metro stations in the city center, only five were barrier free. There were 294 barrier-free high schools in the country as well as 50 barrier-free institutions of higher learning, including universities.

In prior years, media reports and the UN Human Rights Council sharply criticized the use in several social care homes of "cage beds" for young persons with severe mental and physical disabilities. During unannounced visits in 2009 to 25 psychiatric institutions, the ombudsman found that restraint beds were used in most geriatric psychiatric units. He found that net beds, enclosed areas, and sedatives administered without a physician present were often used to restrict patients' freedom of movement. In his report the ombudsman cited the lack of personnel as a major cause for the use of these beds.

*National/Racial/Ethnic Minorities.*—Minority groups in the country included Roma, Ukrainians, Slovaks, Vietnamese, Poles, Russians, and Germans. Roma faced high levels of poverty, unemployment, and illiteracy as well as varying levels of discrimination in education, employment, and housing.

Societal prejudice against the country's Romani population occasionally manifested itself in violence. Members and sympathizers of neo-Nazi organizations were the most frequent perpetrators of acts of interethnic violence, particularly against Roma. Ultranationalists were also active. During the year neo-Nazi and skinhead rallies or marches took place in several cities. Although the organizations operated separately, both the Workers Party and the National Party periodically announced they would be "patrolling" Romani neighborhoods or gatherings to ensure that no laws were being broken.

On March 14, a Molotov cocktail was thrown into a bedroom of a Romani home in the settlement of Bedriska. A 14-year-old girl was asleep in the room at the time. The cocktail failed to explode upon impact, resulting in no injuries and little damage to the home. Local police arrested a neighbor and her minor son on charges of attempted murder. Although police determined that the attack was not racially motivated, activists said it could not be ruled out. On December 10, the regional court in Ostrava sentenced the boy to a three-year suspended sentence for attempted reckless endangerment and his mother to an 18-month suspended sentence for not stopping her son from throwing the cocktail.

On May 12, the regional court in Ostrava opened the trial against Jaromir Lukes, David Vaculik, Ivo Mueller, and Vaclav Cojocar, who were accused of throwing Molotov cocktails into the home of a Romani family in the town of Vitkov in April 2009. Three persons, including a two-year-old girl who was treated for second- and third-degree burns over 80 percent of her body, were injured in the resulting fire. On October 20, the court found all four guilty of attempted murder and property damage. The judge found the crime to involve extraordinary circumstances that allowed for more stringent sentencing. Vaculik, Mueller, and Lukes received 22-year sentences, and Cojocar received a 20-year sentence. These are the longest sentences ever handed down for a racially motivated crime. The four were also required to pay

seven million korunas (\$389,000) for the child's medical expenses and a further 10.072 million korunas (\$560,000) to the child and her family for pain and suffering. The convicted persons immediately appealed. The appeals court will hear the case in 2011.

On November 27, Pavel Louda, mayor of Novy Bydzov, posted a statement on the city's official Web site declaring a "war on gypsies." In the statement he collectively blamed all Roma for rapes and thefts in the town and declared that the citizens wanted the Roma to "disappear." He threatened to undertake repressive measures in order to bring the Roma under control. The prime minister and other government officials released statements condemning the mayor's actions. Neo-Nazi groups immediately began Internet discussions on ways to exploit the situation and how to organize "Janov 2," a reference to the violent patrols of neo-Nazi groups culminating in a violent clash with police in Janov in 2008. They officially offered to send "monitoring teams" to patrol the city. At the close of the year, no patrols had been conducted.

In December police opened an investigation of a young Czech man for promoting Nazism on Facebook. The man placed photos, video, music, and personal opinions supporting Nazi and neo-Nazi actions.

In May 2009 unknown persons attempted an arson attack against a Romani home in the village of Zdiby. No one in the home was injured. Police investigated the case but have made no arrests.

Police arrested a number of right-wing extremists during 2009. In October 2009 UOOZ, the police Unit for Combating Organized Crime, arrested 24 individuals and charged 18 with supporting and promoting movements aimed at suppressing the rights and freedoms of the individual. Police president Oldrich Martinu stated that several of those arrested were linked to the neo-Nazi organization White Justice and had been trained by Lukas Sedlacek, a member of the Czech military. The Ministry of Defense discharged Sedlacek from the military without severance pay or pension. Other arrestees were linked to the National Resistance, the Workers Party, and the Resistance Women Unity group. In June the district court of Benesov found 11 of the defendants guilty, sentencing two individuals to 30 months' imprisonment, one individual to two years' imprisonment, two teenagers to one year in a juvenile detention center, and the others to a 30-month suspended sentence.

In 2008 an estimated 1,000 police officers used force to prevent an estimated 500 well armed, right-wing rioters in Litvinov from attacking Roma. Approximately 300 Romani men who gathered to defend their community were also involved in the melee. In January 2009 the state prosecutor dropped rioting and assault charges against 15 protesters. The only persons convicted in the confrontation were two Roma sentenced to 400 hours of community service for physically and verbally assaulting members of the Workers Party. As a direct result of the incident, the Government stepped up the police presence in Romani neighborhoods, including increasing the police presence in Janov, the Litvinov Romani neighborhood, from 21 to 31 officers.

During the year eight men stood trial for a series of attacks on Roma in 2008 in Sumbark, a neighborhood in Havirov with a large Romani population. Some of the alleged attackers were described as members of the group Thugs Havirov and one as a member of the group National Resistance. One attack victim was severely beaten. On December 17, the regional court in Ostrava found the defendants guilty; sentencing was deferred until the sentence for one of the defendants in an unrelated assault case was processed.

In its 2009 annual report on hate crimes, the Organization for Security and Cooperation in Europe (OSCE) reported that 188 persons were prosecuted and 103 persons were sentenced for crimes motivated by racial or similar hatred.

Over the previous two years, police focused greater attention on combating promoters of extremism. The Security Information Service (BIS), the country's civilian domestic intelligence agency, reported at the start of May that right-wing extremist activity decreased in the country during the first six months of the year. BIS stated that developments involving neo-Nazis were particularly influenced by police raids in 2009 against members of extremist parties and the prohibition of the Workers' Party. The service believed that extremist groups were less unified than in the past.

The Government completed construction work on a memorial for Romani victims of the Holocaust near the site of a World War II concentration camp for Roma in Lety. A new information center about the Romani Holocaust is also complete. In 2009 the Government allocated 21.5 million korunas (approximately \$1.2 million) for the memorial and purchased property from three nearby municipalities. Because the actual site of the concentration camp is currently a pig farm, Romani Holocaust survivors and activists rejected the Government's plan and insisted that the pig farm

be removed. The Government rejected acquiring the pig farm as prohibitively expensive.

The law prohibits employment discrimination based on ethnicity; however, Roma continued to face discrimination in employment. Some employers refused to hire Roma and requested that local labor offices not send them Romani applicants. According to a 2008 joint study by the Government and the World Bank, 55.8 percent of Roma of working age did not participate in the labor market (neither employed nor actively seeking employment), 5.2 percent were unemployed, and 12.2 percent did not have a job but reported income during the survey period.

Roma faced widespread discrimination in access to housing and other accommodations. While housing discrimination based on ethnicity is prohibited by law, NGOs stated that some municipalities still applied municipal regulations in a way that discriminated against certain socially disadvantaged groups, primarily Roma, including basing housing decisions on the reputation of the applicant and family at previous residences.

A 2006 Ministry of Labor and Social Affairs study found that more than 330 “excluded” localities or ghettos in the country were almost exclusively inhabited by Roma. Some ghettos consisted only of several houses on the outskirts of towns and some were just individual houses in towns and cities. The study estimated the combined population in these ghettos at 80,000, or more than one-third of the country’s Romani population. The study found that the ghettos were blighted by substandard housing and poor health conditions. The author of the study, Ivan Gabal of the Gabal Analysis & Consulting research firm, believed the size of the ghettos was continuing to grow. Beyond housing discrimination, reasons for the growth in Romani-dominated ghettos included unaffordable rents elsewhere and urban gentrification.

Restaurants, bars, and other public places at times refused to serve Roma.

The Government continued implementing a long-term integration plan for Roma coordinated by the Agency for Social Inclusion in Roma Localities. The agency was created in 2008 to synchronize and evaluate social integration efforts by ministries and municipalities. One of the most successful programs was Usvit, piloted in 2009 in the town of Most and the socially excluded area of Chanov. The Ministry of the Interior, the local government, the police force, and NGOs in the town of Most and neighborhood of Chanov collaborated to provide improved housing, train Romani mentors to ensure that Romani offenders complete probation to avoid incarceration, hire police assistants to prevent crime, provide inclusion training to teachers, offer debt education training to young girls, and ensure media coverage of successful Roma. The program was expanded to seven additional excluded areas and encompassed 28 ongoing projects.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Lesbian, gay, bisexual, and transgender (LGBT) organizations operated freely in the country.

On June 26, gay rights advocates held the third annual gay pride march in Brno. Members of the National Resistance protested the event but were kept away from the marchers by police. In June 2009 when the parade was held in Tabor, members of the Workers Party attempted to disrupt the march, but a police anticonflict team mostly separated them from marchers.

The Government did not keep statistics regarding incidents of violence directed at individuals based on their sexual orientation or gender identity. A report by a government working group on issues involving sexual minorities indicated that physical and verbal attacks occurred, although they often were not reported.

There were some reported cases of discrimination against persons based on sexual orientation. A gay registered partner of a parent may not adopt the partner’s child, although a LGBT person not in a registered partnership may adopt.

*Other Societal Violence or Discrimination.*—As of June 2009 the country required citizens of certain countries who request long-term resident status to provide a medical record proving they are not HIV positive.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law protects workers’ right to form and join unions of their choice without authorization or excessive requirements, and workers, including foreign and migrant workers, generally exercised this right in practice. Although the law applies equally to Czech and foreign workers, the latter generally did not join unions due to the short-term nature of their work or the lack of social interaction with Czech employees. An estimated 10 percent of the workforce was unionized, a decrease of approximately 7 percent from 2009, according to the Czech-Moravian Confederation of Trade Unions (CMKOS), a national umbrella organization. Approximately 90 percent of nonagricultural union members were affiliated

with CMKOS. Agricultural workers made up 2.9 percent of the workforce; 42 percent of agricultural workers were members of the Trade Union of Agricultural Workers.

The law allows unions to conduct their activities without interference. While regulations entitle union members to conduct some union activities during work hours, the amount of time to which workers are entitled is not specified, leaving room for wide interpretation on the part of employers. CMKOS reported cases in which employers did not allow union members sufficient paid time to fulfill union responsibilities.

Workers generally have the legal right to strike if mediation efforts fail. However, unionized workers in certain professions may not strike. These professions include judges, prosecutors, police, and members of the military and other security forces. The law limits the right to strike for workers involved in health care, nuclear energy, oil and gas pipelines, air traffic control, firefighting, and telecommunications. Workers in these sectors do, however, have access to mediation. The law requires unions to provide employers, in writing, with the total number of strikers and a list of the members of the strike committee or contact persons for negotiation purposes at least three days before a strike.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, which generally was carried out by unions and employers on a company level. The scope for collective bargaining was more limited for civil servants, whose wages are regulated by law. Under the law trade unions are the only bodies that may legally represent workers, including nonmembers of trade unions. During the year trade unions affiliated with CMKOS negotiated collective agreements that covered 25 to 30 percent of the workforce.

The law prohibits antiunion discrimination; nonetheless, CMKOS reported that in 2008 and 2009 some employers pressured workers to give up their trade union activities by threatening either to fire them or to reduce their wages. In 2008 a leading hotel group, CPI Hotels, indicated to all members and officers of the CMKOS-affiliated Trade Union of Catering, Hotel, and Tourism Workers (OSPHCR) that employment at the newly acquired Cernigov Hotel in Hradec Kralove would be conditional on their leaving the union. The local OSPHCR organization subsequently terminated its activities in March 2009. The OSPHCR reported that, as of September 2010, the Cernigov Hotel trade union chapter had not been reconstituted. During 2009 individual members of the OSPHCR working at Gomel Hotel in Ceske Budejovice, the other hotel recently acquired by CPI Hotels, reportedly also yielded to pressure to either terminate their union membership or their employment. The union has not filed a formal complaint against CPI. The OSPHCR reported that some employees of another hotel owned by the CPI chain, the Clarion Congress Hotel in Prague, expressed general interest in organizing a trade union chapter.

According to CMKOS, the number of violations of labor law and trade union rules increased during the year. CMKOS attributed the increase to the impact of the global economic downturn. However, union and nonunion employees were often not willing to file formal complaints or to testify against their employers due to fears of job loss, reduced wages, or degraded labor conditions. CMKOS-affiliated trade unions did not report many of the violations to CMKOS. Only eight of 32 unions responded to the questionnaire on antiunion discrimination distributed by CMKOS, and some of these requested to remain anonymous in all reporting. The questionnaire did find examples of violations including administrative obstacles to the collective bargaining process, unauthorized unilateral changes in wages, and threats to terminate union activities or face dismissal.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that men and women, including migrant workers, were subject to conditions of forced labor in the country. For more information, see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

In June two men were found guilty of trafficking for the purpose of labor exploitation by the regional court in Usti nad Labem. It was the first successfully prosecuted case of forced labor in the country. The men operated a temporary employment agency, which was hired to provide seasonal workers for a meat factory and asparagus farm. The factory and farm paid the employment agency for their services. However, the agency did not pay the Romanian workers any salary and used coercion and threats to force them to work without pay. Although the prosecutor won the case, she appealed the sentencing as too lenient. According to several NGO sources, the Government, in an effort to address the high unemployment of third

country nationals, developed a plan to employ foreign workers at the Government-owned forestry company Lesy CR. A temporary employment agency was hired to provide workers from this target group. Reportedly the company signed contracts, written only in Czech, with approximately 500 Vietnamese. Unbeknownst to the workers, the contract stated that the first three months of employment constituted a “training period,” during which the “trainees” would not be paid. At the end of the initial three months, the agency fired the “trainees” and hired a new group of workers using the same contracts. Lesy CR remained unaware of the exploitation as the foreign workers feared if they complained they would be subject to deportation. Eventually word spread throughout the Vietnamese community, and the temporary employment agency began recruiting Mongolians. The agency reportedly exploited almost 2,000 workers before Lesy CR and government officials became aware of the situation. Government officials have not charged the owners of the agency with any criminal violations. Each worker signed a valid contract, and it is legal to provide unpaid training to prospective employees. NGOs, however, were working with the OSCE to find legal redress for the exploited workers. In 2008 the Government established an interministerial group to coordinate government efforts against trafficking and forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace. The minimum legal working age is 15. Employment conditions for children ages 15 to 18 were subject to strict safety standards. Children may obtain a permit from the Labor Office to work up to 12 months in artistic, cultural, sports, or advertising activities, subject to the conditions that the work must be age appropriate, safe, and compatible with full-time school attendance. The work cannot hinder the child’s development. Such activities cannot take place between 10:00 p.m. and 6:00 a.m. The State Bureau for Labor Inspections (SBLI) effectively enforced these regulations in practice. Infringement of child labor rules is subject to fines of up to two million korunas (approximately \$110,000). During the year the SBLI did not report any cases of child labor law violations involving children less than 15 years old. With respect to children ages 15 to 18, the SBLI reported 14 cases of administrative violations of child labor law during the year. However, no fines were imposed due to the minor nature of the offenses.

*e. Acceptable Conditions of Work.*—The Ministry of Labor and Social Affairs establishes and enforces minimum wage standards. During the year the national minimum wage was 8,000 korunas (approximately \$420) per month and provided a decent standard of living for a worker and family when combined with social benefits for low-paid workers. The last update to the minimum wage occurred in 2007. The minimum wage is enforced by the SBLI and was one of the main targets of SBLI inspections.

The law provides for a 40-hour workweek, two days of rest, and a break of at least 30 minutes during the standard eight-hour workday. Employers may require up to eight hours per week of overtime when work needs demand but may not require more than 150 hours of overtime in a calendar year. Additional overtime is subject to the consent of the employee. Premium pay for overtime, equal to at least 125 percent of the average earnings, is governed by the provisions of the labor code.

During the year SBLI inspectors conducted 5,472 labor code enforcement checks. The SBLI imposed fines totaling 23 million korunas (approximately \$1.2 million) for substantial violations of the labor code involving contracts, wages, overtime pay, and rest periods.

According to the International Organization for Migration, the standard conditions of work were not always observed in situations involving migrant workers. Low-qualified foreign workers coming from less developed countries were sometimes dependent on temporary employment agencies to find and retain work. According to trade unions and NGOs, migrants sometimes worked under substandard conditions and were subject to inhumane treatment by these agencies. Most commonly, salaries were paid to the agencies, which then garnished wages, resulting in workers receiving subminimum wages, working overtime without proper compensation, or working without any compensation at all. Since migrant workers seldom filed formal complaints of such abuses, authorities had few tools with which to intervene. The SBLI undertook regular inspections and dealt with accusations of labor infringements. During the year the SBLI inspected 89 work agencies employing migrant workers. According to the SBLI, the inspections revealed inconsistencies in work agreements, denials of salary bonus payments, and inconsistencies involving working hours and overtime. Although the SBLI did not establish any cases of systematic discrimination based on citizenship, gender, age, or health status, labor law

violations were most frequently reported in cases where equal labor and wage conditions differed for permanent staff and temporary workers hired by agencies.

In accordance with the labor code, an employer is obliged to provide safety and health protection in the workplace, maintain a safe and healthy work environment, and prevent health and safety risks. The SBLI effectively enforced health and safety standards. During the year 12,012 checks focused on health and safety standards and occurred primarily (but not exclusively) in the construction industry and in the manufacturing, transport, agricultural, and forestry sectors. The inspections occurred both proactively and reactively during the year. Fines in excess of 20 million korunas (approximately \$1.1 million) were imposed for cases of substantial infringement of the law. Workers have the right to refuse work endangering their life or health without risking the loss of their employment, and they exercised this right in practice. Workers have both the right and obligation to strengthen the efforts for protecting safety and health in the workplace by complying with health and safety standards. The number of registered injuries in the workplace decreased 9 percent from 2009, while the number of fatal accidents increased by 3 percent over 2009.

## DENMARK

Denmark, with a population of approximately 5.5 million, is a constitutional monarchy with democratic parliamentary rule. Queen Margrethe II is head of state. A prime minister, usually the leader of the majority party or coalition, is head of government and presides over the cabinet, which is accountable to the unicameral Folketing (parliament). The minority, center-right coalition government led by the Liberal Party (Venstre) won a plurality of seats in the 2007 elections, which were deemed free and fair. Security forces reported to civilian authorities.

Authorities often held pretrial detainees together with convicted criminals, and there were instances in which they held children together with adults. During the year there were three cases of persons imprisoned for public speech or dissemination of statements that courts found constituted racism, while two similar cases were pending at year's end. Incidents of religious and ethnic discrimination against minority groups continued to be reported, and Romani rights advocates criticized the deportation of 37 Roma in July and August as discriminatory. Domestic violence against women and trafficking in women and children continued to be reported.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on April 24, police shot and killed an individual during an attempted robbery. A preliminary investigation indicated that the killing was neither arbitrary nor unlawful.

On June 13, the Office of the National Prosecutor reopened a November 2009 case in which police shot and killed a man who was armed with a knife.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers, such as the Institute for Human Rights and Rehabilitation, in accordance with the UN's Optional Protocol to the Convention against Torture. Such visits occurred during the year. However, authorities often held pretrial detainees together with convicted criminals, and there were instances in which authorities detained children together with adults. A law passed in June reduced to 14 years the age at which authorities could place children in police custody.

According to government statistics, 14,244 new inmates entered prisons in 2009 (the most recent year for which statistics were available), of whom 1,199 were women and 783 were juveniles. On average, 3,715 prisoners (including 179 women and 24 juveniles) were incarcerated on a given day during 2009, which represented approximately 92 percent of the total prison capacity of 4,019 persons.

Prisoners have access to visitors and religious counsel. They may adjust their work schedules to permit observance of their religion. Prisoners are able to make complaints without censorship directly to the Prison and Probation Service or via

the parliamentary ombudsman. The investigations of these complaints are kept in a public register.

The Government monitored prison and detention center conditions. The parliamentary ombudsman is responsible for inspecting these institutions. The ombudsman can serve on behalf of prisoners and detainees to consider such matters as advocating for alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense. The ombudsman may not change a decision by the Danish Prison and Probation Service but may act on behalf of the prisoner to request reconsideration of a case. During the year there were no known credible complaints to the ombudsman regarding human rights violations or inhuman conditions at the state's prisons.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law allows police to begin investigations and make arrests either on their own initiative based upon visual evidence, or based on a court order following an indictment filed by public prosecutors with the courts. Apprehended persons are brought before an independent judiciary.

If authorities take an individual into custody, the law mandates that he or she be brought before a judge within 24 hours; however, police are required by law to make every effort to limit this time to less than 12 hours. Statistics were not available regarding the average time prisoners were held prior to first appearance before a judge. After coming before a judge, individuals may be detained for a further period of up to 72 hours while the judge makes a decision on their status. A foreigner arrested in connection with immigration proceedings (i.e., deportation) may be held up to 72 hours before the initial appearance before a judge. Authorities generally respected the right to a prompt judicial determination and informed detainees quickly of charges against them.

The country does not have a bail system; rather, a judge decides either to release the detainee on his or her recognizance or to keep the detainee in jail until trial. Pretrial detention is authorized only if: the violation could incur a sentence longer than 18 months, there is reason to believe the person is a flight risk, there is reason to believe the person may intend to commit a new offense, or the person's release would impede the investigation of the case. The period of pretrial custody should not exceed four weeks. However, a court order may further extend custody in four-week increments. According to the Office of the Director of Public Prosecutions and the Ministry of Justice, 89.4 percent of detainees served less than three months in pretrial custody in 2008.

The minister of justice is responsible for the rules regarding the treatment of pretrial detainees. A document circulated to police by the Danish Prison and Probation Service outlines detainees' rights to inform next of kin of their arrest, to contact a lawyer, and to have access to medical treatment. The circular specifies that arrested persons always have the right to unsupervised visits with an attorney from the time they are brought to a police station. The Government provided counsel for those who could not afford legal representation. The police may deny other forms of visitation to those in custody, subject to a court appeal. However, police generally did not restrict visitor access in practice.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent until proven guilty. Trials are public. Juries must hear criminal cases in which the maximum penalty is greater than four years' imprisonment. The law gives defendants the right to timely consultation with an attorney, at public expense if needed. Defendants have the right to question witnesses against them and to present their own witnesses. Defendants and their attorneys have access to government evidence relevant to their cases. The right of appeal is automatic and encompasses both procedural matters and sentences imposed. The law provides that courts may increase criminal sentences through additional charges when bias is proved as a motive. Bias can be based on race, ethnicity, gender, sexual orientation, or religion. The law extends the above rights to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—The country is subject to legal decisions of the European Court for Human Rights (ECHR). The ECHR did not issue any negative decisions related to the country during the year. In 2009 the ECHR issued decisions against the country that found three violations with respect to the length of legal proceedings, two violations of the right to an effective remedy, and one violation of the right to protection of property as provided under the European Convention on Human Rights. The Government generally complied with the ECHR's judgments against it, for example by providing compensation to claimants.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to the court system to bring lawsuits seeking damages for, or cessation of, a human rights violation. There were no reported problems enforcing domestic court orders. In addition to judicial remedies, administrative remedies are also available.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Individuals were able to criticize the Government publicly and privately without reprisal. The independent media were active and expressed a wide variety of views with few restrictions.

The law prohibits any public speech or dissemination of statements or other pronouncements by which a group of persons is threatened, derided, or degraded because of their race, skin color, national or ethnic background, faith, or sexual orientation; offenders may be fined or imprisoned for up to two years. The law also prohibits "blasphemy" and provides that a person who publicly mocks or insults a legally existing religious community's tenets of faith or worship may be fined or imprisoned for up to four months. During the year, in addition to prosecuting racially motivated crimes (see section 6), courts found five individuals guilty of racism under the criminal code section which makes racist behavior, including speech, directly punishable by law. Three defendants served sentences ranging between 10 to 40 days in prison, one was fined 1,000 kroner (\$178), and one was put on probation. Courts acquitted two other defendants tried during the year under the same section of law.

In June parliament voted to lift the parliamentary immunity of Jesper Langballe, a member of the Danish People's Party, so he could be prosecuted for racism. A newspaper column in January quoted Langballe as saying that "Muslims kill their daughters [over crimes of honor] and turn a blind eye while they are raped by their uncles." Langballe himself supported the lifting of his immunity, asserting that he wanted a court to hear the case. Langballe was writing in support of the views of Lars Hedegaard, a freedom-of-the-press activist who made even stronger remarks in 2009. A court fined Langballe 5,000 kroner (\$890) on December 3, after he pled guilty. Langballe argued that the law as written made it impossible for a defendant to prove his innocence, and as a member of parliament he attempted unsuccessfully to have the law repealed. In August the public prosecutor charged Hedegaard with a similar offense. The Hedegaard case was pending trial as of year's end.

Cartoonist Kurt Westergaard continued to receive security protection due to threats on his life because of his controversial cartoon depictions of the Prophet Mohammed, first published in 2005. On January 1, authorities arrested a 28-year-old Somali man with a Danish residence permit after, armed with an axe and a knife, he forced his way into Westergaard's home in Aarhus. Police responded to the home invasion, shot the intruder in the knee and the hand, and arrested him; he was charged with attempted murder of the cartoonist and of a police officer on duty. The Security and Intelligence Service (PET) considered the attempted killing of Westergaard to be terrorism related. According to PET's information, the arrested man had close relations to the Somali terror organization al-Shabaab and to al-Qaida leaders in East Africa.

On August 31, after a five-year investigation into Roj-TV, a television network licensed in the country, for suspected links to the Kurdish terrorist organization PKK/Kongra Gel, authorities charged the network and its parent company with promoting the activities of a group that commits or intends to commit acts of terrorism.

The director of public prosecutions stated that Roj-TV persistently broadcast television programs with a content aimed at promoting and supporting the activities of the PKK. The trial was scheduled to begin in August 2011. In December the Eastern High Court upheld a lower-court ruling ordering police to unfreeze the station's bank accounts and return funds seized at the time of the August indictment.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. However, authorities continued to employ an Internet filter, designed to block child pornography, which operates on computers used by 98 percent of the country's Internet users. During the year there were no known cases in which the filter mistakenly affected legitimate sites. Government statistics released in November indicated that approximately 88 percent of the country's inhabitants use the Internet regularly, and 89 percent of the population had some form of Internet access in their homes.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. During the year, 262 individuals sued the Copenhagen police force, alleging mistreatment during and after their detention in December 2009 in connection with the UN Climate Change Conference in Copenhagen. The Copenhagen City Court ruled in favor of the plaintiffs and ordered the police to pay compensation.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the first two quarters of the year, authorities received 2,223 applications for asylum, began processing 1,316, and approved 929.

In May 2009 the Government concluded an agreement with the Iraqi government under which Iraq would take back those of its citizens who had been denied asylum based on safe country of origin. In April the Ministry of Immigration and Integration Affairs reported that 272 rejected Iraqi asylum seekers had been in the country at the time of the agreement, 88 of whom were still awaiting deportation.

The Government also provided temporary humanitarian protection to individuals who may not qualify as refugees, providing such protection to 274 persons in the first five months of the year and to 413 persons in 2009.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

The territories of Greenland and the Faroe Islands have democratically elected governments whose powers may encompass all matters except the constitution, nationality, the Supreme Court, foreign and national security affairs, and monetary matters. Greenlanders and Faroese have the same rights as other citizens. Each territory elects two representatives to the parliament. In June 2009 Greenland's new Self Governance Agreement, which further expanded the area of competency of Greenland's government, entered into force.

*Elections and Political Participation.*—Free and fair parliamentary elections took place in 2007 and resulted in the continuation of a center-right coalition. In April

2009 Lars Loekke Rasmussen was named prime minister, replacing Anders Fogh Rasmussen (no relation), who resigned to become secretary general of NATO.

Political parties could operate without restriction or outside interference.

In parliamentary elections in 2007, 67 women were elected to the 179-seat parliament, and after a cabinet reshuffle in February, there were nine women in the 19-seat cabinet. Following municipal and regional elections in November 2009, 32.1 percent of the members of municipal councils and 35.1 percent of the members of regional councils were women.

Four citizens of other than Danish, Greenlandic, or Faroese origin were elected to the parliament in the 2007 elections. There were no ethnic minorities in the 19-seat cabinet. There were 65 persons of non-Danish ethnic origin among those elected to municipal councils in the November 2009 municipal elections.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for corruption by officials, and the Government generally implemented the law effectively. There were isolated reports of government corruption during the year. One involved an accusation that a police chief on the island of Funen had regularly accepted free VIP tickets to a local event center since 2007, allegedly in exchange for assurances that police would give permission for performances to be held at the center.

Public officials are not subject to financial disclosure laws, but government officials may not work on cases in which they have a personal or economic interest or represent a person, or have close relations to a person, who has a special interest in a specific matter. Officials must inform their superiors of any possible issues that might disqualify them. The Ministry of Justice and the State Employer's Authority in the Ministry of Finance are responsible for combating government corruption.

The law provides for public access to government information, and the Government granted access to citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

A parliamentary ombudsman investigated complaints regarding national and local public authorities and any decisions they made regarding the treatment of citizens and their cases. The ombudsman could independently inspect, at his initiative, any facility within his authority, such as prisons, detention centers, and psychiatric hospitals. There was also a European ombudsman, who ensured compliance with EU basic rights, and a consumers' ombudsman, who investigated complaints related to discriminatory marketing. These ombudsmen enjoyed the Government's cooperation, operated without government or political interference, had adequate resources, and was considered effective.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, and the Government generally enforced the law effectively. However, there were incidents of violence against women, child abuse, and trafficking in persons.

*Women.*—Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted persons accused of such crimes. In 2009 authorities received 431 reports of rape; charges were brought in 297 cases, resulting in 51 convictions. As of October 25, there were 301 reports of rape. Penalties for rape include up to eight years' imprisonment or up to 12 years' imprisonment in aggravating circumstances.

Violence against women, including spousal abuse, remained a problem. According to the Ministry for Gender Equality, an estimated 28,000 women and 21,000 children experienced domestic violence annually. The National Organization of Shelters for Battered Women reported that in 2009, 36 crisis centers in Denmark proper (excluding Greenland and the Faroe Islands) received 14,821 applications for assistance. Of these, 7,430 were inquiries about available rooms at a shelter; in 2,991 cases, shelter space was available. Authorities estimated that 1,858 women moved into shelters in 2009. Under the law, any assault on another person is illegal. This also applies to domestic violence and rape. Penalties include imprisonment for up to 12 years, depending on the seriousness of the offense. The Government and nongovernmental organizations (NGOs) operated 24-hour hotlines, counseling centers,

and shelters for female victims of violence and embarked on nationwide information campaigns and police training on gender-based violence.

Honor killings were a relatively new phenomenon. In 2007 the national police force formally published a strategy to identify and combat such crimes. In 2009 police reported 185 separate cases involving honor-related crimes such as forced marriage and threats. They did not officially identify any honor-related killings during the year.

The law prohibits sexual harassment and provides for monetary compensation for victims, paid by the perpetrator and/or the employer who allowed or failed to prevent the incident. The Government effectively enforced the law. Few cases were reported during the year.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health. There were no restrictions on access to contraceptives, and the Government provided free childbirth services. Women have unfettered access to maternal health services including skilled attendance during childbirth. Women also used nurses and midwives for prenatal and postnatal care unless the mother or child suffered more serious health complications. The maternal mortality rate is low, with only one known case during the year. According to a 2008 estimate of the UN Population Fund, maternal mortality was five deaths per 100,000 live births. Men and women had equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have the same legal status as men, including under family law, property law, and in the judicial system. The law requires equal pay for equal work. However, the Women's Council in Denmark reported that men, on average, earn as much as 18 percent more per hour than women. In the public sector, the difference was reported to be 20 percent. Women held positions of authority throughout society, although they were notably underrepresented in senior business positions and as university professors.

In January the Office of the Prime Minister instructed that all public-sector workplaces "must be made aware of existing rules so that burqas and niqabs are not worn in central government, regional, or municipal work places" because the Government "is determined to fight the views about ... women which the burqa and the niqab symbolize."

In August 2009 the UN Committee on the Elimination of Discrimination against Women released a report indicating that women occupied 13 percent of the management positions in the labor market. The report noted that aside from the difference in pay, women generally did not experience economic discrimination in access to employment, credit, or owning or managing businesses.

*Children.*—Citizenship is primarily derived from one's parents. Citizenship is automatically given to children of married parents, provided one parent is a citizen, and to children of unwed citizen mothers. The child of an unmarried citizen father and a foreign mother can only become a citizen if the child is born in the country. Anyone born in the country who would otherwise be stateless has the right to obtain citizenship either at birth or by application at a later date. The law requires that all persons practicing medicine in the country register the births of the children they deliver.

During the first half of the year, police received 85 reports of the sexual abuse of children, compared with 131 reports for 2009.

Female genital mutilation (FGM)—with or without consent of the victim or her parents—is illegal and carries a maximum penalty of six to 10 years in prison. The law applies to nationals and residents, regardless of whether the act was committed within the country or abroad and regardless of whether the act was a criminal offense under the law of the country where it was committed. The first case of FGM to be prosecuted in the country was tried in 2009. A court convicted a 49-year-old woman of Eritrean background of performing FGM on her two daughters. The court sentenced her to two years in prison, of which 18 months were suspended and the remaining six months corresponded to time served. The husband was acquitted. The Government conducted information campaigns targeting the problem of FGM.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish population was estimated at 6,000 persons. There were isolated incidents of anti-Semitism. According to victims' reports, the perpetrators were mainly immigrants, many of them from Arab and other Muslim countries. Most incidents involved vandalism, such as graffiti, and nonviolent verbal assaults.

In December PET released its annual report on religious- and race-related crime reported in 2009. The report included 21 incidents attributed specifically to religious motivation, up from nine incidents in 2008, but did not distinguish between anti-Semitic and other forms of religious motivation. The increase was attributed to a broadened definition of religiously motivated crime and a campaign to encourage local police precincts to report such crimes more reliably. Only one of the 21 incidents was involved violence; the others included harassment, graffiti and other vandalism, propaganda, and threats of violence. The Mosaic Religious Society, which represents one-third of the country's Jewish population, claimed that there were seven incidents of anti-Semitism in the first half of the year and 22 in 2009.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care or other state services, and other areas, and the Government effectively enforced these provisions in practice. The law mandates access to buildings, education, information, and communications for persons with disabilities, and the Government generally enforced these provisions in practice.

The Ministry of Social Affairs has responsibility for protecting the rights of persons with disabilities, and implementation is the responsibility of municipal governments. The Danish Disability Council, a government-funded organization, monitored the status of persons with disabilities and advised the Government and the parliament on issues relating to disability policy. The Equal Opportunities Center for Disabled Persons is a government-funded entity that documented and alerted the Government to inequalities in society that affected persons with disabilities. The Danish Institute for Human Rights and the parliamentary ombudsman were also involved in monitoring the treatment of disabled persons. Each year, the ombudsman receives a significant number of complaints related to discrimination against persons with disabilities.

In April 2009 the Government reported that more than 16,000 adults were in state-sponsored, long-term or temporary, special-care facilities for the persons with physical or mental disabilities. The state also provided protected employment for approximately 9,000 persons with disabilities and offered 22,500 such individuals special state-sponsored activities to assist in their well-being. This was a part of the state's effort to move care for persons with disabilities from institutions to a home environment to promote greater individual self-reliance and reduced dependence on the public sector.

*National/Racial/Ethnic Minorities.*—In December 2009 PET reported 175 recorded hate crimes for 2008, the most recent year for which figures were available. This represented roughly a five-fold increase compared to 2007. Police attributed the increase to a new definition used by PET of what constitutes a hate crime broadened to include crimes motivated by political issues, skin color, nationality, ethnic origin, religious beliefs, and sexual orientation. For the first time, PET combined its hate crime cases with those from the various regional and national police registries. According to police, hate-crime victims included "Jews and people of an ethnic origin other than Danish" (mostly African or Middle Eastern ethnic groups). Members of minority groups were sometimes the perpetrators of incidents against other minority groups. Reported cases included such hostile actions as graffiti, vandalism, theft, and racist Internet and written messages. The Government effectively investigated and dealt with cases of racially motivated violence.

The presence of ethnically and racially diverse refugees and immigrants (mostly Turks, Iraqis, Lebanese, Pakistanis, Somalis, Afghans and refugees from the former Yugoslavia) caused some tension between citizens and immigrants, which were documented in press reports. A report released by the EU Human Rights Agency in December 2009 stated that every third Somali in the country had experienced some form of racial harassment. During the year a local police department fined an individual 1,000 kroner (\$178) for refusing to pay a fare to a taxi driver because the driver was of an ethnic origin other than Danish and for using language derisive of the driver's ethnic origin in the ensuing argument.

During July and August, the Government expelled 37 Roma to Romania after arresting them for illegal camping and trespassing in an abandoned building. The European Roma Rights Center (ERRC) criticized this action, asserting that the authorities failed to conduct individual assessments of the persons concerned and was

discriminatory in singling out Roma. The ERRC charged the authorities with violating the European Convention on Human Rights, and on September 3, the ERRC filed an appeal against the deportations with the Danish Ministry of Refugees, Immigration, and Integration Affairs. The case was pending at year's end.

In August the UN Committee on the Elimination of Racial Discrimination (CERD) reviewed the country's periodic report to that body. While the committee observed some positive developments, CERD disapproved of the wide breadth of power given to the director of public prosecutions, especially related to the handling and discontinuance of cases involving racism.

During the year a steering group of experts from the Copenhagen police department, the City of Copenhagen, the Danish Institute for Human Rights, and the City of Frederiksberg initiated a campaign to discourage hate crimes, including those motivated by ethnic and racial hostility (see Section 6, Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity).

*Indigenous People.*—The law protects the rights of the indigenous Inuit inhabitants of Greenland. Greenland's legal system seeks to accommodate their customs, provides for the use of laypersons as judges, and sentences most prisoners to holding centers (rather than prisons), where they are encouraged to work, hunt, or fish during the day.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The annual Copenhagen Pride parade was held August 18-22 and was followed by a "pride show" in Copenhagen's main town square.

During the year the Danish Institute for Human Rights joined with local governments and the Copenhagen police department to launch a campaign to discourage hate crimes. The stated goals of the campaign were to persuade victims and witnesses of hate crimes to report them to the police; prevent and combat hate crime; create a safe public environment in Copenhagen and Frederiksberg, especially for minority groups at risk of being victimized by hate crime; increase the general public's understanding of hate crime; and inform the public on places where victims of hate crimes can get help. It was too early to assess the effectiveness of the campaign.

There were no reports of official or systematic societal discrimination based on sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of societal discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law states that all workers, including military and police personnel, may form or join independent unions of their choosing without previous authorization or excessive requirements. These laws were effectively enforced. Approximately 76 percent of wage earners belonged to unions. Unions could conduct their activities without government interference. The law provides for the right to strike, and workers exercised this right during the year by conducting legal strikes. In some cases, when a strike occurs, not all union members may strike.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law and was freely practiced. Members of the workforce associated with unions were covered by annual collective bargaining agreements. These agreements also indirectly influenced wages and working conditions for the rest of the workforce. The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits the exploitation of children in the workplace, and the Government effectively enforced this prohibition in practice. No instances of child labor were reported.

The minimum legal age for full-time employment is 15 years. The law sets a minimum age for part-time employment of 13 years; however, school-age children are limited to less strenuous tasks. The law limits work hours and sets occupational health and safety restrictions for children.

Child labor law is enforced by the Danish Working Environment Authority (DWEA), an autonomous arm of the Ministry of Labor.

*e. Acceptable Conditions of Work.*—The law does not mandate a national minimum wage; minimum wages are negotiated between unions and employer associations.

According to statistics released on March 1, the average minimum wage for all private and public sector collective bargaining agreements was 106 kroner (\$19) per hour, exclusive of pension benefits. The wage provided a decent standard of living for a worker and family. Migrant workers are entitled to the same minimum wages and must adhere to the same employment regulations as citizens.

Workers generally enjoyed a 37-hour workweek that was established by contract rather than by law. Workers received premium pay for overtime and were not subjected to compulsory overtime. Working hours were determined by collective bargaining agreements that adhered to the EU directive that an average workweek not exceed 48 hours.

The law prescribes conditions of work, including safety and health; the DWEA ensured compliance with labor legislation. The same laws protect legal migrants and foreign workers, and this was enforced in practice.

During the first 10 months of the year, the DWEA conducted 19,489 company screenings, visits, and inspections and made 8,554 requirements for additional information or improvements concerning working-environment problems, compared with 10,917 such requests out of 25,623 inspections in 2009. If required improvements are not carried out within a specified time, the DWEA has the authority to take the case to police or the courts. Workers may remove themselves from hazardous situations without jeopardizing their employment, and authorities effectively enforced this right in practice. Greenland and the Faroe Islands have similar work conditions, except that their standard workweek was established by collective bargaining at 40 hours.

---

## ESTONIA

With a population of 1.34 million, Estonia is a multiparty constitutional parliamentary democracy with a unicameral parliament, a prime minister as head of government, and a president as head of state. Parliamentary elections held in 2007 were generally free and fair. Security forces reported to civilian authorities.

There were problems in some areas. There were allegations that police used excessive force during the arrest of suspects; authorities investigated and brought charges against alleged offenders. Some shortcomings remained in detention center conditions; lengthy pretrial detention continued to be a problem; domestic violence, inequality of women's salaries, child abuse, and trafficking of women were also reported.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police used excessive physical force and verbal abuse during the arrest and questioning of suspects.

During the year authorities processed 37 criminal cases related to police officers' excessive use of force. They dropped charges in 27 cases and sent two to the prosecutor's office for further action. At year's end, eight cases were pending.

*Prison and Detention Center Conditions.*—The legal chancellor (the country's ombudsman) found a number of deficiencies in prison and detention center conditions, particularly in detention centers, where detainees are kept for short periods. The Government sought to correct some of these deficiencies. The Government permitted visits by independent human rights observers.

In September the country's prisons and detention centers held 3,436 persons, including 2,682 convicted prisoners and 754 pretrial detainees. Women made up 5.7 percent of the prisoners, and persons under the age of 18 accounted for 1.3 percent.

Following visits in 2009 to detention centers in Rakvere, Kuressaare, and Haapsalu, the legal chancellor reported deficiencies in detainees' ability to take care of personal hygiene; deficient living conditions were a problem also in Voru and Valga police prefectures, although small renovations had improved the facilities. Some detention facilities lacked any possibilities for exercise. The legal chancellor reported insufficient access by detainees to legal information and incorrect registration of official documents, including the personal files of detainees.

During 2009 the chancellor also visited Murru and Tartu prisons, the former dating from the Soviet era. With regard to prisons, the chancellor noted that some shortcomings in physical facilities remained, including inadequate washrooms, primarily in Murru prison, which housed fewer than 500 prisoners. The chancellor also noted that more than half of all prisoners serve time in contemporary prisons.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. However, the chancellor reported that information available to prisoners about their rights and about measures they could take to improve their circumstances was inadequate. Authorities investigated all complaints and documented the results of their investigations in a publicly accessible manner. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. However, the chancellor criticized a serious shortage of telephones that limited the ability of prisoners to make contacts outside. He also noted that in Murru prison, the staff possessed inadequate knowledge of Russian to communicate properly with Russian-speaking prisoners.

In September the Harju County Court announced the results of a trial in which a former acting director of Murru Prison, a former security chief, and a former warden were charged with negligence that led to the deaths of two inmates at the hands of other prisoners in 2006. The court acquitted the former acting prison director on all charges but convicted the former security chief of covering up the first-degree crime and fined him 58,200 kroon (\$4,900). On October 13, the court convicted the former warden as an accessory to murder and was sentenced him to three years in prison. At year's end the sentence was being appealed to the district court.

The Government permitted local and international human rights groups and the media to monitor prison conditions, and such monitoring occurred during the year. The Council of Europe's Committee for the Prevention of Torture last visited the country in 2007. Authorities had not released the report on that visit by year's end. The legal chancellor may not act on behalf of individual prisoners but can make recommendations to ministries to improve such matters as detention conditions and record-keeping procedures.

The chancellor noted that the Government continued to make improvements in prison facilities. For example, in Murru Prison rooms for the provision of health care services were refurbished and, according to the prison administration, other parts of the facility that were in particularly poor sanitary condition were being refurbished step by step.

*d. Arbitrary Arrest or Detention.*—The constitution and laws prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national police, the border guard board, the security police board, and the tax and customs board, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—By law authorities must in most cases possess warrants issued by a court to make arrests. They must inform detainees promptly of the grounds for their arrest. There is a functioning bail system. Authorities may hold a person for 48 hours without charge; further detention requires a court order. Police rarely violated these requirements. Detainees are entitled to immediate access to legal counsel, and the Government pays for legal counsel for indigent persons. The legal chancellor reported cases of insufficient access to legal documentation in prisons and detention centers and insufficient telephones to contact family members.

Lengthy pretrial detention was a problem. By law authorities may hold a person in pretrial detention for six months. In a particularly complex criminal case, the judge responsible for the preliminary investigation may extend the length of detention at the request of a chief public prosecutor. Approximately 24 percent of the incarcerated population was in pretrial detention; the average length of pretrial detention was seven months.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—Defendants enjoy a presumption of innocence and have the right of appeal. Trials are public. Juries are not used. Cases may be heard by a single judge, a judge together with public assessors, or a committee of judges. Defendants have the right to be present and to consult with an attorney in a timely manner. In criminal proceedings, an attorney is available to all defendants at public expense, although individuals often preferred to hire their own attorneys. In civil proceedings, an attorney is provided for indigents. Defendants may confront or question

witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. The law extends these rights to all residents, whether or not they are citizens.

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—In 2009 the European Court of Human Rights delivered four judgments in which it found violations of the provisions of the European Convention on Human Rights or its protocols. When the cases involved individuals, authorities made the necessary awards within the required three months. In a finding related to policies and laws, the Ministry of Justice prepared corrective legislation, which was with parliament at the end of the year.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There is access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative as well as judicial remedies are available for alleged wrongs. There were no problems with enforcing civil court orders.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet and no reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. During the year approximately 75.1 percent of the population used the Internet, and 68 percent of households had Internet access in the home.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for this right, and the Government generally respected it in practice.

*Freedom of Association.*—The constitution provides for this right for citizens, and the Government generally respected it in practice. The law specifies that only citizens may join political parties, but noncitizens are free to join other civil groups.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The Government has a “safe country of origin or transit” policy; it regarded countries that were parties to the 1951 refugee convention as safe countries, but authorities reported that they granted interviews to all individual asylum seekers. In practice the Government provided some protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year, 33 persons applied for asylum. The Government granted refugee status or asylum to 11 individuals. Government officials indicated that it made decisions on asylum claims after soliciting the UNHCR’s views. A negative de-

cision on an asylum claim may be appealed to the courts and such appeals have been made. The applicant may remain in the country during the procedure.

The UNHCR, in its Universal Periodic Review of the country's refugee practices, released in July, referred to "the remarkably low number" of registered asylum seekers at the border, and suggested a "possible lack of access to the asylum procedure for persons in need of international protection who are being turned away at the border." In particular the UNHCR criticized the authority that the border guards have to conduct the initial examination of asylum claims submitted at the border with "the power to refuse entry, if there is a manifestly unfounded case. In such situations, the asylum seeker is immediately sent away from the Estonian border." Government representatives indicated that border guards underwent thorough training in the asylum process as part of the process of the country's joining the Schengen Area. Observers have noted that the small number of applicants may be due to the comparatively low level of asylee benefits compared with some neighboring countries.

During the year the Government provided temporary protection to six individuals who did not qualify as refugees.

*Stateless Persons.*—Citizenship derives from one's parents. According to government statistics, at the end of the year, 100,942 persons, or 7.5 percent of the population, were of undetermined citizenship or de facto stateless. A large majority of the stateless were ethnic Russians, Ukrainians, Belarusians, or other Russian speakers who became stateless due to state succession. The UNHCR recorded 104,813 stateless persons as of the end of 2009.

Nearly all stateless persons were long-term residents and, as such, could vote in local, but not parliamentary, elections. There are statutory procedures that offer opportunities to gain legal residence status or citizenship. Individuals of undetermined citizenship were eligible to apply for naturalization, but must pass language and civics tests before acquiring citizenship. In 2009, 55 percent of those taking the test at the level required to acquire citizenship passed. Authorities have adopted policies, such as funding citizenship and language courses and simplifying the process for persons with disabilities, to facilitate acquisition of citizenship by those stateless persons who wish it. Children under 15 years of age whose parents are residents of undetermined citizenship and have lived in the country for five years are eligible to acquire citizenship at their parents' request.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2007 the country held parliamentary elections, considered free and fair, that led to the formation of a coalition government. Political parties could operate without restriction or outside interference.

In June 2009 the country held elections to the European Parliament, and in October 2009 there were nationwide municipal elections. Both were considered free and fair.

Only citizens may vote in parliamentary elections or be members of political parties. Noncitizens who reach the age of 18 by election day, whose address in their rural municipality or city is entered in the population register, and who reside in the country on the basis of a long-term residence permit, may vote in local elections. Resident noncitizens may not run for office.

Citizens of the European Union (EU) who have established permanent residency may also vote in local elections, and those EU citizens who are registered in the country's population register may vote in elections to the European Parliament.

There were 24 women in the 101-seat parliament. The speaker and deputy speaker of the parliament were women. There was one female minister in the 13-member cabinet.

Nine members of ethnic minorities served in the 101-seat parliament.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. As demonstrated in the World Bank's broad-based corruption indicators, the Government has effective mechanisms to investigate and punish abuse and corruption. There were several reports of government corruption during the year.

There were reports of corruption among the judiciary. In January a former Viru County court judge was jailed for two years for claiming and accepting a bribe to release a murder suspect. In March a Parnu County court sentenced another former

Viru County court judge to two years and eight months in jail for taking a bribe and leaking details to criminals of a surveillance operation he had himself authorized. Some of the leaked information was considered highly confidential. On November 19, a former Voru County court judge sentenced Vambola Oll to six months in prison and three-and-a-half years' probation for knowingly making an illegal decision to favour one of his acquaintances in a misdemeanour case and for accepting a bribe.

On May 26, the Supreme Court let stand the Harju County court's May 2009 conviction of businessman Aivo Parn, lawyer Tarmo Sild, and former minister of environment Villu Reiljan of attempted bribery in connection with the sale of a building belonging to the Ministry of the Environment. The former minister received a suspended jail sentence of two years and three months for demanding a bribe, while the court fined the lawyer and the businessman, the former for acting as intermediary and the latter for promising a bribe.

No verdict was announced by year's end in the trial of former environment minister and former head of the People's Union political party, Villu Reiljan, who was charged with illegally approving the exchange of protected land in nature preserves for other state properties. The trial began in the Harju County court in November 2009. State prosecutors also charged two well-known politicians, the head of a state agency, and a group of businessmen with involvement in the illegal exchange.

Public officials are subject to financial disclosure laws. The Justice Ministry is responsible for coordinating anticorruption activities.

The law provides for public access to government information and allows for monitoring of the public sector's performance. The Government provided access to citizens and noncitizens in practice, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views.

The legal chancellor, an independent official with a staff of 30 persons, performs the role of human rights ombudsman. The legal chancellor reviews legislation for compliance with the constitution and oversees observance by authorities of fundamental rights and freedoms and the principles of good governance. The legal chancellor also helps resolve accusations of discrimination based on gender, race, nationality (ethnic origin), color, language, religion, social status, age, disability, and sexual orientation. The legal chancellor makes recommendations to ministries and local governments, requests responses, and has the authority to appeal to the Supreme Court. The legal chancellor compiles an annual report for parliament. Public trust in the office was high, and the Government was responsive to the reports and decisions issued by this office.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced the prohibitions. However, violence against women and child abuse were problems.

*Women.*—Rape, including spousal rape, is illegal, and authorities prosecuted rape cases. The penalty for rape is up to 15 years' imprisonment. In 2009 police reported 124 rapes, 40 percent of all sexual crimes. In 2009 courts convicted 52 persons of sexual assault, including 32 for sexual assault of minors.

Violence against women, including spousal abuse, was a problem. NGOs reported that one woman in four has suffered physical, sexual, or emotional domestic violence, and NGOs considered domestic violence a serious problem. The law prohibits physical abuse; it does not differentiate between acts committed against men and women. Such abuse is punishable by a fine or imprisonment of up to three years, up to five in instances of longstanding and unremitting violence. In 2009 police reported 4,518 cases of physical abuse, including domestic violence and physical abuse of minors, 59 percent of all violent crimes. In the same year courts convicted 1,160 individuals of physical abuse, including 15 who abused minors. A total of 39 individuals, including one whose victim was a minor, were convicted of longstanding and unremitting violence. Victims of domestic violence may obtain help, including counseling and legal assistance, from social workers employed by local governments and from specialized NGOs.

The law prohibits sexual harassment; however, some incidents of sexual harassment in the workplace occurred. According to the law, disputes over sexual harassment may be resolved in court, by an administrative hearing by the legal chancellor,

or by the gender equality and equal treatment commissioner. An injured party may demand compensation for damages and termination of the harmful activity. During 2008 one local branch of the Labor Inspectorate handled five harassment cases involving four women and a man who filed complaints against their supervisors. In 2009 the maximum compensation for damages was 50,000 kroon (\$4,490). During the year the gender equality and equal treatment commissioner received three complaints regarding sexual harassment; all were from women. Of women participating in a government survey, 4.4 percent had experienced sexual harassment.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning. There are no restrictions on access to contraceptives. The incidence of maternal mortality is low. According to 2008 UN estimates, the maternal mortality rate was 12 deaths per 100,000 live births. Access to maternal health services, including skilled attendance during childbirth, prenatal care, essential obstetric care, and postpartum care is available free of charge. Women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Although women have the same legal rights as men under the law and are entitled to equal pay for equal work, these rights were not always observed in practice. While the average educational level of women was higher than that of men, women's average pay was generally lower, and there continued to be female- and male-dominated professions. According to government statistics, women earned on average 30.3 percent less than men in 2007. The 2004 Gender Equality Act established the position of Gender Equality and Equal Treatment Commissioner, an independent and impartial expert who monitors compliance with that law. The Gender Equality Department of the Ministry of Social Affairs, established in 1996, is responsible for coordinating the Government's efforts to eliminate gender inequality, drafting legislation to this end, and promoting gender equality.

*Children.*—Citizenship derives from one's parents. One citizen parent may pass citizenship to a child regardless of the other parent's citizenship status. Children born to members of the country's large population of stateless persons were automatically stateless unless a long-term resident parent applied to obtain citizenship for the child before the child reached the age of 15.

Child abuse continued to be a problem. In 2008 police reported 762 cases of violence against children, including domestic and school violence. The police and the Border Guard Board worked to combat child abuse, including sexual abuse of children.

In 2009 police registered 49 cases of rape of minors. Police registered 200 cases of sexual abuse of persons under 18 years of age, including 34 cases involving victims under the age of 14. In 2009 courts convicted 32 persons of sexual assault of minors. There is no legal minimum age for consensual sex. The law prohibits child pornography; punishment ranges from a fine to as much as three years in prison.

In September 2009 in a report issued following a 2008 visit to the country, the UN special rapporteur on the sale of children, children in prostitution, and child pornography emphasized that the age of consent for children should not be younger than 18. The rapporteur recommended assigning the role of ombudsman for children's rights to the legal chancellor.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish community was estimated to number approximately 2,500 persons.

There was one report of anti-Semitic vandalism. On September 20, the Israel-based Coordination Forum for Countering Anti-Semitism reported that unknown persons spray painted swastikas on trees at the entrance to a Holocaust memorial at Klooga.

On July 31, a march was held in Sinimae to honor veterans who had been part of the 20th Estonian Waffen SS Grenadier Division. The event has been a source of controversy in the past due to the connection between non-Baltic Waffen SS units and Nazi war crimes. There were no additional reports of anti-Semitic statements or actions associated with the event.

The Government took a number of steps to associate itself with commemoration of the Holocaust and to encourage best practices in teaching about it in schools.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. The Government generally enforced these provisions. The law does not mandate access to buildings for persons with disabilities; most older buildings were inaccessible, although new or renovated buildings generally were. The Ministry of Social Affairs is responsible for protecting the rights of persons with disabilities, and local governments are responsible for the provision of social welfare services to persons with disabilities. The Government focused on developing rehabilitation services to improve the ability of persons with disabilities to cope independently and increase their social inclusion. Children, adults, and elderly persons with disabilities necessitating prosthetics and orthopedic or other technical aids are compensated by the state for 50 to 90 percent of the cost of the device.

*National/Racial/Ethnic Minorities.*—While there is no specific law prohibiting hate crimes, the law prohibits incitement to hatred, violence, or discrimination on a variety of grounds, including nationality, race, skin color, language, and social origin.

In August the UN Committee on the Elimination of Racial Discrimination (CERD) recommended that the country prohibit racist organizations and that it make incitement of hatred on racial grounds a punishable offense. The existing law limits the prosecution of hate speech to acts that result in serious consequences. The report called for the state to redouble its efforts to address various forms of discrimination and further the integration of minorities, especially where language is an issue. The committee emphasized the importance of transforming the existing human rights institutions into an independent national human rights institution that would comply with the Paris Principles.

The Government provides for the protection of the cultures of minority groups. However, some observers alleged that a law related to minority cultural autonomy is discriminatory because it has not been successfully used to support the large Russian population. In order for a minority group to receive the status of cultural autonomy, there must be an organization that represents a significant fraction of that minority's population; however, no single NGO represented the required fraction of the 343,000 ethnic Russians, so they did not enjoy this status. Ingrian Finns and Coastal Swedes were the only two groups to achieve recognition as culturally autonomous. The Government funds language and cultural programs for a number of other minority groups, including Russians. In districts where more than half of the population speaks a language other than Estonian, the law entitles inhabitants to receive official information in that language, and the law was respected in practice. The August UN CERD report recommended that the Government extend this entitlement to all districts regardless of the number of non-Estonian speakers. In practice the Government has already made attempts to do so.

Russians, Ukrainians, and Belarusians are the largest ethnic minorities, together making up 29 percent of the population. The Government encouraged social integration through a policy that promotes naturalization and learning Estonian. Knowledge of Estonian is required to obtain citizenship, and all public servants and public sector employees, service personnel, medical professionals, and sole proprietors must possess a minimum competence in the language. A Language Inspectorate enforces language skills among these sectors through referrals to language classes and small fines. Proficiency is usually determined through examination; however, citizenship applicants who already passed the basic-level language proficiency examination or the basic school final examination for Estonian as a second language do not have to take the citizenship language examination.

Largely for historical reasons, Russian speakers work disproportionately in blue-collar industries and continued to experience higher unemployment than ethnic Estonians.

Some noncitizen residents, particularly ethnic Russians, alleged that the language requirement resulted in job and salary discrimination. Many Russian speakers believed they would face job discrimination even if they possessed adequate Estonian. The country's Human Development Report for 2008, prepared by a local NGO, noted that Russian speakers who possess equal human capital (fluent Estonian, higher education, and Estonian citizenship) faced greater difficulty finding positions as managers and professionals than did ethnic Estonians.

More than 100 schools, 58 of them high schools, employed the Russian language for their instruction. The Government continued to implement its plan to provide 60 percent of all instruction in the “Russian-language” high schools in the Estonian language by the 2011-12 school year. Many of these high schools have implemented this transition more rapidly than required by the Governmental plan.

Roma, who numbered fewer than 1,000, were primarily located in three areas in the country. Roma communities reportedly faced discrimination in employment and other areas. The Government took steps to emphasize the importance of education for Romani children, but a December 2009 report of the European Commission against Racism and Intolerance recorded the persistence of a high dropout rate and late entry into school among Romani children. The report also noted complaints that Romani children were being placed in schools for disabled children even though they were not disabled. A social worker explained that this was the only available mechanism to prepare the children for school, and one head of the Romani community told the press that the Roma themselves were to blame for not preparing their children for school. There were 15 students officially registered as Roma in the school system, but the Ministry of Education and Research estimated that there were approximately 90 students of Romani ancestry who identified themselves as Estonian- or Russian-speakers. With funding from the Ministry of Education and Research, the University of Tartu was conducting research, in cooperation with representatives of the Romani community, to devise strategies to boost educational performance and reduce the dropout rate among Romani youth.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—By law no person may be discriminated against on the basis of gender, sexual orientation, or other personal characteristics, and the Government generally respected these rights. There were no reports of official discrimination based on sexual orientation in employment and occupation, housing, statelessness, or access to education or health care. Human rights NGOs and lesbian, gay, bisexual, and transgender groups, as well as private individuals, actively participated in public discussions dealing with issues connected to the rights of the LGBT community, but some activists expressed concern with the authorities’ unwillingness to pursue more aggressively possible misdemeanors under the penal code involving incitement to hatred. While there were no reports of violence or human rights abuses specifically targeting individuals based on their sexual orientation or gender identity during the year, activists contended that the society was not very accepting of LGBT persons. Most LGBT persons do not reveal their sexual identities and would avoid reporting incidents to police. Anti-LGBT messages do not appear in mainstream media, but there were instances of performances in private clubs with anti-LGBT themes and recordings of music videos posted to social networking sites with lyrics and actions that encourage violence against gays and lesbians.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers to form and join independent unions of their choice without previous authorization or excessive requirements; however, some workers found it difficult to exercise this right in practice. The Confederation of Estonian Trade Unions (EAKL) continued to report frequent violations of trade union rights in the private sector. Less than 8 percent of the total workforce belonged to trade unions; unions were present in the energy, transportation, teaching, public service, media, and services sectors, among others. The law allows unions to conduct their activities without interference, and the Government generally respected this right in practice.

The law provides for the right to strike, and workers exercised this right in practice. Public servants at the state and municipal levels do not have the right to strike; there is a practice in place by which they may negotiate directly with their employers.

*b. The Right to Organize and Bargain Collectively.*—According to government statistics, collectively bargained contracts covered approximately 32.7 percent of workers, including workers in enterprises with at least five workers. Collectively bargained contracts also cover nonunion members. The law provides for collective bargaining and collective dispute resolution, and collective bargaining was freely practiced.

The law prohibits antiunion discrimination; however, the EAKL continued to report that antiunion behavior was widespread in the private sector. According to the EAKL, labor inspectorates did not efficiently enforce the law. Some enterprises advised workers against forming trade unions, threatened them with dismissal or a

reduction in wages if they did so, or promised them benefits if they did not join unions. Both employees and employers have the right to request that labor dispute committees or the courts resolve individual labor disputes, and these mechanisms functioned effectively throughout the year.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace.

The law sets the minimum age for employment at 18, with some exceptions. Children 15 to 17 years old may work with the consent of a parent or guardian. With the consent of the Labor Inspectorate, minors seven to 12 years old may do light work in the areas of culture, art, sports, or advertising; minors 13 to 14 years old may work in some additional capacities.

Children under the age of 18 may not perform hazardous or dangerous work. The law limits the hours that children may work and prohibits overtime or night work. The Labor Inspectorate was responsible for enforcing these laws and did so in practice. There were no separate inspections regarding the age of child workers.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of 4,350 kroon (\$391) did not provide a decent standard of living for a worker and family; however, 87.4 percent of the workforce earned more than the minimum wage. The minimum wage has remained the same for the past three years despite rising heat and electricity costs.

The standard workweek is 40 hours. The law requires a rest period of at least 11 hours in sequence for every 24-hour period. Reduced working time is required for minors and for employees who perform underground work, work that poses a health hazard, or work of an otherwise special nature. The law requires overtime pay of not less than 150 percent of the hourly wage of the employee. These requirements were effectively enforced.

The Government set occupational health and safety standards. The labor inspectorate, health protection inspectorate, and technical inspectorate were responsible for enforcement of these standards and made efforts to enforce them. Workers have the right to remove themselves from situations that endanger their health or safety without jeopardizing their continued employment, and they exercised this right in practice. In 2009 there were 2,927 occupational accidents, a ratio of 491.3 occupational accidents per 100,000 employees.

---

## FINLAND

Finland is a constitutional republic of 5.3 million persons with a directly elected president and a unicameral parliament (Eduskunta). The prime minister is head of a four-party coalition government. Parliamentary elections in 2007 were free and fair. Security forces reported to civilian authorities.

Human rights problems included police failure to provide detainees timely access to legal counsel, questionable contributions to political campaigns, violence against women, trafficking in persons, societal discrimination against foreign-born residents and Roma, and violence against lesbian, gay, bisexual, and transgender (LGBT) persons and property.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers.

The Government's report on human rights policy stated that in January 2009, 510 cells in five penitentiaries had inadequate sanitary facilities. During the year the media reported that closures and renovations of selected prisons reduced the total number of inadequate cells to 200 in two penitentiaries.

During the year prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. There were no such complaints during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the military and the national police force, which are under the centralized control of the Ministry of Defense and the Ministry of the Interior, respectively. The Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law requires police to have a warrant issued by a prosecutor to make an arrest. If an individual is arrested while committing a crime, a warrant must be obtained within three days; arrested persons must receive a court hearing within three days. Authorities usually respected these rights in practice. Detainees must be promptly informed of the charges against them, and lawyers must be provided for the indigent. There were no developments or reports of government action in response to the finding in 2009 by the Council of Europe's Committee for the Prevention of Torture (CPT) that detainees' access to legal counsel was often significantly delayed.

There is no system of bail, but most defendants awaiting trial were eligible for conditional release based on personal recognizance. There were no reports of preventive detention, which the law allows only in exceptional circumstances such as during a declared state of war or for narrowly defined offenses including treason, mutiny, and large-scale arms trafficking.

The law permits police to carry out a simplified pretrial investigation in cases such as endangering traffic, petty theft, and unlawful use of narcotics where the statutory punishment for the alleged offense is limited to a fine. In these simplified pretrial investigations police may often conduct the questioning and other aspects of the investigation soon after the offense at the place where it was allegedly committed.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution and law provide for the right to a fair public trial, and an independent judiciary generally enforced this right.

Defendants are presumed innocent until proven guilty. Trials in courts of the first instance are usually public. The law does not provide for trial by jury. Defendants have a right to be present at trial. They also have a right to consult an attorney in a timely manner, although in 2009 the CPT reported many cases in which detainees were denied prompt access to an attorney of their choice (see section 1.e.). Attorneys are to be provided at public expense if defendants face serious criminal charges that can result in imprisonment or significant fines. Defendants can confront and question witnesses against them and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal.

The law extends these rights to all citizens and legal residents. Irregular migrants have the same rights as citizens except that they may be removed from the country or deported for legal cause. An alien residing in the country has the right to be heard in a matter relating to the refusal of his or her entry, deportation, or prohibition of entry. If the matter is taken to court, the Supreme Administrative Court makes the final decision. The alien is allowed to stay in the country until the legal procedure is concluded.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) issued 17 judgments against the Government, some of them involving multiple infractions. In nine cases the court found excessive lengths of legal proceedings; in eight, violations of the freedom of expression; in two, violations of the right for a fair trial; and in two, violations of the right for the respect

of family and private lives. When a breach of the ECHR is found, the Government's policy is to take action in the specific case in which the breach was found and enact legislative and administrative changes to avoid a repeat of the infraction.

In June a study for the Ministry of Justice found that the country's laws and regulations were adequate for the protection of freedom of expression but that authorities did not take ECHR decisions into sufficient account when applying them. It recommended training for officials on those decisions. The ministry commissioned the study because the Government had lost many cases in the ECHR related to freedom of expression.

*Civil Judicial Procedures and Remedies.*—The constitution provides all persons in the country with a fundamental right to live under the rule of law and to have the law applied equally and without discrimination. The country has an independent and impartial judiciary in civil matters, and there was access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and the law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Publishing hate material and public speech intended to incite discrimination or violence against any national, racial, religious, or ethnic group are crimes.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the Finnish Communications Regulatory Authority, 86 percent of the country's residents used the Internet in the period from August to October, and 81 percent of households had an Internet connection. Supplementing private use, approximately 91 percent of enterprises are connected with broadband.

In the beginning of July access to a broadband connection of at least one-megabit became a legally "guaranteed right" for all residents. Telecommunications service providers must be able to offer every permanent residence or business affordable and high-quality broadband access to the Internet. The new measure provides equally high-standard access to the Internet to all residents and to support services in sparsely populated areas of the country. According to the law, the broadband subscription's price and delivery time must be reasonable.

Courts can fine persons found guilty of inciting racial hatred on the Internet, and during the year there were reports of court decisions fining individuals for publishing and distributing hate material via the Internet.

On September 9, the prosecutor general's office charged a man who threatened Minister of Migration and Europe Astrid Thors by creating a group on the social networking Web site Facebook with the heading "I am prepared to do a few years for killing Astrid Thors." He was charged with illegal threats, aggravated defamation, public encouragement of crime, and incitement against a national group. He was convicted on December 8 and fined 640 euros (\$858); in addition his computer was confiscated. This was the country's first prosecution of a threat made on Facebook.

On April 16, the Helsinki Court of Appeals upheld the fine of 615 euros (\$824) against Olavi Maenpaa, a member of the Turku city council from the True Finns Party, for making derogatory and slanderous remarks against immigrants in an election debate held in 2007 and broadcast on national television and the Internet.

On June 3, the district court in Kymenlaakso found a 43-year-old man guilty of incitement of an ethnic group after he sold extremist white-power music on the Internet. The man was fined 420 euros (\$563), but did not receive a jail sentence.

On October 29, the Helsinki Court of Appeals upheld the district court's conviction of Jussi Halla-aho, a local politician and parliamentary candidate from the True Finns Party, for defaming religion and affirmed his fine of 330 euros (\$442). However, the appeals court found that Halla-aho's Internet writings on Somalis were within the bounds of lawful exaggeration and provocation and dismissed charges of inciting racial hatred.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

On March 11, the Ministerial Working Group on Immigration Policy left the national quota allocation for the year at 750 refugees, unchanged from previous years. The ministerial group agreed to receive 200 Iraqi refugees from Syria, 150 Burmese refugees from Thailand, 150 Congolese refugees from Rwanda, 150 Afghan refugees from Iran, and 100 refugees on an emergency basis. Afghan refugees were allocated a quota for the first time in five years. The Government selected quota refugees individually and gave preference to vulnerable refugee women. Authorities expected that approximately 2,000 fewer persons would seek asylum during the year than in 2009, when 5,988 applications were filed.

The continuing deportation case of an Egyptian grandmother, Eveline Fadayer, received widespread media attention. The 65-year-old woman lived in the country since 2007. The Finnish Immigration Service previously denied her a residence permit because grandparents are not considered immediate family members. Authorities ordered her to leave the country by mid-June, but her relatives hid her. On August 31, the ECHR extended her temporary stay in the country, and the Government responded to the ruling on December 21 by issuing her a one-year residence permit. Fadayer subsequently died.

On July 1, legislation entered into force to provide for faster adjudication of the claims of asylum seekers from other EU countries and reduce their monetary benefits. In practice a citizen from another EU country cannot be granted asylum in the country.

In practice the Government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

There were reports of societal discrimination against foreign-born residents, including refugees and asylum seekers, and there was violence directed at asylum applicants.

According to statistics for 2009 from the UN High Commission for Refugees, 2,407 stateless persons lived in the country at the end of 2009. A child may obtain citizenship from either his mother or father regardless of the place of birth and may also acquire citizenship if he is born in Finland and would otherwise be stateless. Involuntarily stateless persons and certain other special groups (such as refugees) have a shorter residency requirement than typical applicants before gaining citizenship—four years as opposed to six.

All asylum applicants are granted temporary residency while they await the decision regarding their applications, but to discourage asylum seekers from destroying their identification documents, only those applicants who crossed the border with proper identification documentation may without discrimination seek employment, education, healthcare, property ownership, and other services after three months. Otherwise, the right to work may be granted after six months of residence.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—Parliamentary elections in 2007 were considered free and fair. Political parties could operate without restriction or outside interference.

There were 84 women in the 200-seat parliament and 12 women in the 20-member Council of State (cabinet). The president, the prime minister, and the president of the Supreme Court were women.

There were 13 members of minority groups in the parliament and two in the cabinet. The autonomous region of the Åland Islands elects one representative and has its own parliament. The indigenous Sami minority enjoys semiautonomous status and has its own parliament.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively.

Public debate on election-financing ambiguities continued during the year. Effective September 1, the law requires parties, candidates, and candidates' supporters to report every donation above 800 euros (\$1,072) in municipal elections or above 1,500 euros (\$2,010) in other elections. This reporting requirement also applies to other forms of electoral support, such as funding seminars or donating goods and services for political purposes. The National Audit Office, the country's supreme audit institution, is responsible for collecting the reports and maintaining a public register on the Internet.

During the year the National Bureau of Investigation continued investigating suspected instances of bribery and abuse of trust involving members of parliament from the Center and National Coalition parties.

On September 16, Chancellor of Justice Jaakko Jonkka urged the parliamentary Constitutional Committee to investigate an alleged conflict of interest involving Matti Vanhanen (Center Party) while he was prime minister. Vanhanen left the prime minister's office on June 22 because of this scandal. The alleged conflict of interest related to cabinet decisions about whether the state-run Slot Machine Association should aid the nongovernmental organization (NGO) Youth Foundation (a Center party-led housing charity). The Youth Foundation had funded Vanhanen's presidential election campaign in 2006. Vanhanen did not recuse himself from participating in these cabinet decisions. On October 12, the parliamentary Constitutional Law Committee requested a police inquiry into Vanhanen's role in his government's decisions.

On October 27, prosecutors brought charges against seven former executives of the now-insolvent property developer Nova Corporation, including two CEOs, Arto Merisalo and Tapani Yli-Saunamaki, for aggravated debtor fraud and aggravated bookkeeping offenses. According to a police inquiry, the corporation's spending included giving more than 100,000 euros (\$134,000) to the political fundraising body Kehittyvien Maakuntien Suomi. Nova also allegedly funded a birthday party for former foreign minister Ilkka Kanerva (National Coalition Party).

In June the state prosecutor charged Markku Murto, the former CEO of Patria Vammats, a subsidiary of the majority-state-owned defense contractor Patria, and four other persons with the bribery of Egyptian officials and bookkeeping crimes. Investigators reviewed three separate allegations of bribery by Patria. The oldest of the cases involved possible bribery by Patria of high-ranking officials in Slovenia to help secure a contract for armored vehicles. The company's former CEO Jorma Wiitakorpi resigned in 2008 as the investigation into this matter intensified, and several other employees were arrested on charges of bribery related to this case in the same year. Of the two other cases being investigated by Finnish authorities, one involved allegations of bribery to secure contracts in Croatia, and the other involved possible violations of the country's corporate secrecy laws.

All citizens, including public officials, are subject to public disclosure laws. By law income and asset information from all tax forms must be made public each year. The Office of the Chancellor of Justice oversees government activities and prosecutes cases of possible corruption.

The law provides for public access to government information, with the exception of national security information and documents covered by privacy laws, and the Government provided such access in practice.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Parliamentary Ombudsman enjoyed the Government's cooperation, operated without government or party interference, and had adequate resources. In 2009, the last year for which data are available, 4,806 new matters were referred to the om-

budsman, and the ombudsman issued a decision in 4,903 cases. The main targets of the complaints received were the social welfare authorities, law enforcement authorities, health care, municipal affairs, education, and taxation. The average length of time taken to deal with an oversight-of-legality case at the end of the year was 6.1 months.

The parliamentary Constitutional Law Committee issued statements on bills submitted to it regarding their consonance with international human rights agreements. The parliamentary Legal Affairs Committee dealt with legislation relating to criminal and procedural law, the courts, and the prison system.

On June 11, the Ita-Uusimaa district court found Francois Bazaramba, a Rwandan living in the country, guilty of committing genocide in Rwanda in 1994 and sentenced him to life in prison. The court found that Bazaramba, an ethnic Hutu, led attacks against Tutsis in southern Rwanda and gave orders and instructions that led to killings. In addition he was found to have disseminated anti-Tutsi propaganda, organized roadblocks, and distributed seized property. Bazaramba applied for asylum in the country in 2003. The Justice Ministry denied the Rwandan government's extradition request and tried Bazaramba because it feared Rwanda would not be able to provide a fair trial.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, and the Government effectively enforced these prohibitions. However, there were reports of violence against women and children, trafficking in persons, and societal discrimination against foreign-born residents and Roma.

*Women.*—The law criminalizes rape, including spousal rape, and the Government enforced the law effectively. The maximum prison sentence for rape is six years, but can be as much as 10 years in cases of aggravated rape. Between January and September, 648 cases of rape were reported to police. In 2009, 660 cases of rape were reported to police. The number of reported rapes during the year included cases reported to the Finnish Border Guards and Customs that were not included in 2009 data. In 2009, the most recent period for which government figures were available, 153 persons were convicted of rape.

On March 8, Amnesty International stated in two reports that victims of sexual abuse and domestic violence seeking justice in the country faced many obstacles, such as inadequate, negative, or dismissive responses by police, medical, and judicial personnel. On February 5, Allan Rosas, the country's judge in the European Court of Justice, stated to the Finnish Broadcasting Company that sentences by the country's courts for rape were light compared to those of other EU countries. During the year other legal scholars also criticized the variations among sentences by different courts for the same crimes.

Police and other government officials actively encouraged victims to report rapes through various public awareness campaigns.

Societal violence against women, including spousal abuse, continued to be a problem. According to the 2009 National Research Institute of Legal Policy survey, 12 percent of violence reported to the police qualified as domestic violence, 75 percent of victims of domestic violence were women, and 25 percent were men.

Domestic abuse may be prosecuted under various criminal laws, including laws prohibiting rape, assault and battery, harassment, and disturbing the peace. The penalty for physical domestic violence ranges from a minimum of six months to a maximum of 10 years in prison.

The NGO Federation of Mother and Child Homes and Shelters stated domestic violence is a problem in all age and social groups regardless of level of education. Violent behavior within a family often remained unreported to the police. A report by the Ministry of Social Affairs and Health highlighted three trends in violence against women. Sexual violence (including harassment) seemed to be more frequent. With approximately 100,000 women involved in domestic or sexual violence in 2008, crimes involving serious domestic violence did not decrease significantly, since the number of women in relationships killed in violent deaths remained stable. In 2003-08, the period covered by the report, an average of 23 women were killed annually in partnerships. The number of women who experienced violence by their former husband or partner increased.

Police may refer potential perpetrators or victims of domestic violence to government social welfare agencies that have programs designed to reduce domestic violence. These programs promoted cooperation between cohabiting partners by providing support to victims and anger management counseling and other advisory services to perpetrators.

The Government encouraged women to report domestic violence and abuse and provided counseling, shelters, and other support services to victims of domestic violence and rape. The Government also funded NGOs that provided additional services, including a telephone hotline and crisis center. According to regional and municipal officials who operated shelters, most women who sought shelter from violence were between the ages of 25 and 35 and were married or in a cohabiting relationship; nearly one-fourth of those seeking shelter were reported to be immigrants, although shelter records often omitted victims' origins to protect them. Foreign-born residents who were not proficient in Finnish, Swedish, Sami, or English experienced some difficulty accessing domestic violence services.

Sexual harassment is prohibited by law, and the Government generally enforced the law in practice. The prosecutor general is responsible for investigating sexual harassment cases. Employers who fail to protect employees from harassment are subject to fines or a maximum of six months' imprisonment. The Office of the Ombudsman for Minorities, one of the authorities that track gender-related problems in the country, noted an increase of inappropriate treatment in the workplace in 2009 related to working conditions (ambiguities in working hours and pay) or other unsatisfactory treatment such as name-calling or isolation in the work community.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and have the information and means to do so free of discrimination, coercion, and violence. Women have access to contraception and skilled attendance during childbirth, including obstetric and postpartum care. Women and men are equally diagnosed and treated for sexually transmitted infections. According to UN estimates for 2008, the maternal mortality rate in the country was 8 deaths per 100,000 live births, and all the births were assisted by skilled attendants.

Women have the same rights as men under family and property laws and in the judicial system. The Government maintained three entities devoted to gender equality problems: the ombudsman for equality, the Gender Equality Unit, and the Council for Equality.

The law stipulates that men and women must receive equal pay for equal work. However, allegations of wage discrimination against women continued. In 2009 the equality ombudsman's office received 540 complaints (59 percent of all cases) alleging discrimination and unequal treatment.

On average women earned 19 percent less than men for substantially similar work. According to Statistics Finland data from November, the most recent information available, the average monthly wage in the private sector for men was 3,297 euros (\$4,418) but only 2,669 euros (\$3,576) for women. This disparity was attributed to the tendency of men to work in more senior or skilled positions than women, with the exception of the fields of medicine and education. Men tended to dominate the upper ranks in industry, finance, and some government ministries, while women remained overrepresented in lower-paying occupations. This pay gap narrowed slightly from 2008 to 2009 because women's earnings in the public sector rose faster than men's. The law provides that individuals may receive compensation for lost wages in cases where gender-based discrimination is proven.

The conflict between the leadership of the Evangelical Lutheran Church (ELC), the larger of the country's two state churches, and members of its clergy who refused to cooperate with female pastors continued during the year. The recalcitrant clergy were in the minority, and on September 12, Irja Askola became the country's first female ELC bishop.

The Supreme Court ruled on October 24 that a pastor who refused to work with a woman colleague was guilty of discrimination. The court's ruling brought to a close the first case in the country's legal history involving discrimination against woman clergy. The court heard that Ari Norro had refused to work with a woman, citing his convictions against female clergy. The Supreme Court ruled that religious freedoms do not supersede antidiscrimination laws. A district court had fined Norro 320 euros (\$429), and the appeals court and the Supreme Court upheld the fine.

*Children.*—Citizenship at birth is generally derived through either or both of the child's parents. A child can also acquire citizenship at birth if he or she is born in the country and meets certain other criteria, such as if the parents have refugee status in the country or if the child is not eligible for any other country's citizenship. A local registration office records all births in the Population Information System.

Between January and September, 840 cases of suspected child sexual abuse were reported to police, 55 percent more than in 2009. The minister of justice declared on both February 4 and May 4 that sentences for sex crimes against children were being toughened.

According to the National Research Institute of Legal Policy, victimization is more prevalent among youths than it is among adults. A national victimization survey

found that 20 percent of 15 to 19 year olds reported having been victims of violence or threats of violence in 2009. Four percent reported violent victimization resulting in physical injury. Recent years have seen new types of victimization emerging through technology including harassment and threats by e-mail and SMS (text) messages.

Children were subjected to violence at home, school, and during leisure activities. Girls tended to experience violence at home, while boys were subjected to violence outside the home, usually by another boy. Violence against children outside of the home by adults was limited, with less than 5 percent of children reporting physical violence by a teacher, and only isolated instances of violence and sexual abuse by recreational instructors. Psychological violence was more common; approximately 9 percent of students surveyed reported psychological violence from a teacher.

The country has laws against statutory rape, with the age of sexual consent set at 16 years of age. The minimum age for a sex worker is 18 years of age. A person whose age cannot be determined but who can justifiably be assumed to be under the age of 18 is regarded as a child. Sexual abuse of a child has a maximum sentence of four years' incarceration while aggravated sexual abuse of a child carries a maximum sentence of 10 years' imprisonment. Manufacturing, selling, renting, importing, or exporting sexually obscene pictures or recordings of a child carries a maximum prison sentence of two years, and aggravated distribution of sexually obscene pictures of children has a minimum sentence of four months and a maximum sentence of six years' imprisonment.

There were no reports that child sex tourism was a problem in the country. If a resident engages in child sex tourism abroad, the country's laws provide for extraterritorial prosecution for such acts, and the citizen could be investigated and prosecuted by local law enforcement.

There is a government ombudsman for children's problems under the Ministry for Social Affairs and Health. During the year the ombudsman continued to work to raise public awareness of child abuse and promote the Government's child, youth, and family policy program.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—According to Statistics Finland, the country's Jewish community numbered approximately 1,500. There were no reports of anti-Semitic acts.

The Ministry of Education continued to integrate tolerance and antibias courses and material into the public-school curriculum. Students begin studying the Holocaust and the phenomenon of anti-Semitism in the eighth grade.

On August 1, the country's National Board of Education amended the national core curricula for basic and general upper secondary education levels to underscore the historic importance of the Holocaust and other historical human rights crimes.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. The Government effectively enforced these provisions.

Laws mandating access to buildings for persons with disabilities were generally enforced, although many older buildings remained inaccessible. Most forms of public transportation were accessible, but problems continued in some geographically isolated areas. The Ministry for Social Affairs and Health and the Ministry of Employment and the Economy are responsible for protecting the rights of persons with disabilities, and do so effectively.

*National/Racial/Ethnic Minorities.*—There was some societal tension between ethnic Finns and minority groups, and there were reports of racist or xenophobic incidents. The most common reported race-related crime was assault. In 2009, the most recent year for which data are available, police received 1,007 reports of hate-crime-related crimes and misdemeanors. Approximately 85 percent of those reported crimes had indications of racist motives related to the victims' ethnic or national background. Religious and sexual motives counted for 11.5 percent of reported cases.

There were occasional reports of fighting between ethnic Finns and foreign-born youths of African and Middle Eastern descent, as well as fighting between rival ethnic immigrant groups. The law does not have a specific category for "race-related crimes" or "hate crimes." However, racism as a motive or party to another motive to any other criminalized act is a cause for aggravating the sentence. Nine persons were under investigation following a fight at Helsinki's Linnanmaki amusement

park that led to its early closure during the park's 60th anniversary celebrations on June 6. Six of the suspects were women, and three were men. They were all between the ages of 16 and 27. According to police, the fight began after a heated exchange between Somalis and Kurds in a line for one of the rides. According to media reports, dozens of young persons with immigrant backgrounds took part in the incident.

On September 11, a fire almost destroyed a Buddhist temple under construction in Turku. Police investigated and stated that the fire was set deliberately. The media reported that the same temple was vandalized a week earlier, and there was an attempt to burn sheets that had been hung on the walls. It is to be the first purpose-built Buddhist temple in the country.

According to the minority ombudsman, discrimination against the approximately 10,000 to 12,000 Roma in the country extended to all areas of life, resulting in their effective exclusion from society. Roma are classified as a "traditional ethnic minority" in the ombudsman's report. The Romani minority was the most frequent target of racially motivated discrimination, followed by Russian-speakers, Somalis, Turks, Iraqis, Sami, and Thais. Ethnic Finns were also occasionally victims of racially motivated crimes for associating with members of minority communities.

On November 20, a group of approximately 15 persons wearing swastikas and brandishing Nazi symbols heckled an antiracism demonstration of 100 persons in Turku. Police held one of the hecklers overnight but did not arrest him.

As of April, 52,200 Russian-speaking persons lived in the country, principally in Helsinki and areas along the Russian border. They were by far the largest minority not speaking Finnish or Swedish, the country's two official languages. In April 2009, the latest date for which data was available, unemployment among immigrants from the former Soviet Union (excluding Estonia) was 31 percent, compared to 17.6 percent for all immigrants and 8.8 percent in the country overall. As causes for this discrepancy, a report by the minority ombudsman identified the lack of Finnish-language ability, the lack of education or recognition of training, personal cultural differences, lack of employers' confidence in Russian-speakers, discrimination, and the lack of local social networks. Russian-origin persons have the highest number of requests for assistance of any immigrant group and nearly double that of Somalis (the immigrant group with the second highest number of requests).

On October 25, Eva Biaudet, the current ombudsman, proposed that the country institute an anonymous job application system for public sector jobs to counter discrimination against Russian-speakers. According to the ombudsman's office, the unemployment rate among Russian-speakers greatly exceeded the average rate among all foreigners even though many Russian-speakers are highly trained and have a good command of Finnish.

The Government strongly encouraged tolerance and respect for minority groups and sought to address racial discrimination. All government ministries included antiracism provisions in their educational information, personnel policy, and training programs. The Government also monitored the treatment of national, racial, and ethnic minorities by police, border guards, and teachers. The Government's minority ombudsman monitored and assisted victims of discrimination. The ombudsman for minorities supervises compliance with the prohibition of ethnic discrimination.

*Indigenous People.*—The constitution provides for the protection of the Sami language and culture, and the Government financially supported these protections. The Sami, who constitute less than 0.1 percent of the population, have full political and civil rights as citizens as well as a measure of autonomy in their civil and administrative affairs. A 21-member Sami parliament (Samediggi), popularly elected by the Sami, is responsible for the group's language, culture, and matters concerning their status as an indigenous people. The Sami parliament can adopt legally binding resolutions, propose initiatives, and provide policy guidance. It is an independent body but operates under the purview of the Interior Ministry. Despite constitutional protections, members of the Sami community continued to protest the lack of explicit legislation to safeguard Sami land, resources, and economic livelihood. The Government owns 90 percent of the land in the Sami home region, much of it in the form of national parks. Sami have alleged for decades that the Government used their land for logging and other purposes without consulting them.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—No person may be discriminated against on the basis of gender, sexual orientation, or other personal characteristics. The Government generally respected these rights, and law enforcement authorities investigated and punished violations of these rights. Gays in legal partnerships were not allowed to donate blood or organs for use in the country.

On July 2, three men between the ages of 19 and 21 were accused of staging a preplanned attack on Helsinki's annual gay pride parade. After throwing smoke bombs to cause confusion, they assaulted more than 30 persons, including children, with pepper spray. No one was seriously injured. Some 3,000 to 5,000 persons took part in the parade. The country's political leadership, including the president, condemned the attack. At year's end, police continued the pretrial investigation.

On July 10, the media reported that the Helsinki office of the Association for Sexual Equality (SETA) was vandalized. The police stated that windows had been broken and a swastika painted on the Seta office door. The office was empty at the time. The police could not say whether the incident was linked to the attack on the Helsinki Pride parade. On the night of December 25-26, a similar attack occurred in Jyväskylä in which windows of the local Seta office were broken, but no other vandalism occurred. Police and the landlords considered these incidents to be vandalism.

On March 18, the Helsinki regional court of appeals awarded Johanna Korhonen 80,500 euros (\$107,870) in damages and legal expenses in a case of wrongful dismissal. She was fired as editor in chief of the newspaper *Lapin Kansa* in 2008 prior to taking up her post. She alleged her new employers, Alma Media Group, abruptly fired her when they discovered her life partner was a woman. The award included compensation for violating the equality laws, as well as for wrongful dismissal. Alma Media Group CEO Kai Telanne also faced a criminal charge over the dismissal, and the Occupational Safety and Health Administration considered the company's action a case of illegal discrimination.

On October 12, Tampere Bishop Matti Repo and Member of Parliament Paivi Rasanen from the Christian-Democratic Party questioned the need to protect the rights of LGBT persons in a televised program. In reaction to some of Repo's comments against LGBT persons, the media reported over 40,000 persons formally left the Evangelical Lutheran Church by November 3. This compared to the normal number of 44,000 persons in an entire year. In contrast the Christian Democratic Party, which had some 12,000 registered members before the incident, reportedly gained 1,000 new members during the same period.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for the freedom to form trade unions and to organize. The statute regulating work agreements extends these rights to both the employee and the employer. Any restriction or obstruction of these rights is prohibited. According to statistics from the Ministry of Employment and the Economy, approximately 71 percent of the workforce belonged to unions during the year. In January 2009 a survey by the University of Turku reported that approximately 30 percent of the foreign labor force in the country was unionized. On June 16, the largest labor federation, the Central Organization of Finnish Trade Unions, stated that roughly one-third of immigrant workers had joined labor unions.

The law grants employees the right to strike, with some exceptions for public sector employees who provide essential services. Workers exercised this right in practice. An official dispute board can make nonbinding recommendations to the cabinet on ending or limiting the duration of strikes when national security is threatened.

Employees prohibited from striking can use arbitration to provide for due process in the resolution of their concerns. The national conciliator assists the negotiating partners in settling labor disputes if a collective agreement cannot be reached without outside help. The national conciliator can also assist central labor market organizations in drawing up comprehensive income policy agreements. A strike is legal when an employment contract is not in effect and the action is pursuant to new contract negotiations. If a contract agreed by all parties is in effect, a strike is considered illegal. Fines may be imposed for illegal strikes.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, and the Government protected this right in practice. The country's labor market system is characterized by an extensive tripartite cooperation between the Government, employers groups, and trade unions. The Occupational Safety and Health authorities monitor unorganized employers' adherence to generally applicable collective agreements. The regulation of the labor market is based on labor legislation and, primarily, on collective agreements. Any trade union and employers' association may make collective agreements. Nearly all collective agreements are branch-specific. The Ministry of Labor and Economy decides on the universal validity of the agreement. The parties to collective agreements are trade unions and the central organizations of employers' associations. The

role of the Government has been, when needed, to support the conclusion of collective agreements by making the appropriate economic policy decisions, such as in cases involving taxes.

Employers of nonunionized workers are required to compensate employees at a wage equal to that stipulated by existing collective bargaining agreements.

The law prohibits antiunion discrimination, and there were no reports that it occurred during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such incidents occurred. Men and women were subjected to forced labor in the construction industry, restaurants, and as domestic servants.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

On April 30, the district court in Pietarsaari rejected charges of human trafficking against two men of Vietnamese origin who ran an ethnic restaurant. The prosecutor alleged the victim was forced to work in his relative's restaurant for too many hours per week and for too little pay.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace.

The law allows children older than the age of 15 to enter a valid employment contract as long as work does not interrupt compulsory education. Such employment is restricted to no more than nine hours per day and 48 hours per week with mandatory minimum daily rest of 12 hours. Additionally young workers may not work at night after 10:00 p.m. or in certain conditions that risk health and safety. Children as young as the age of 14 may work under more limited circumstances.

Children younger than 15 years old may be employed for summer work, school-related events, modeling, and other similar purposes, but the approval of their guardians is required. Even with guardian approval, the Occupational Safety and Health office must approve the precise employment terms of every young worker, and the working hours are limited in all cases. Employers are required to provide work insurance, social payments, and a letter of reference for all young workers. The law applies to work done by all persons under 18 years of age, whether in the private or public sector. In addition to employment relationships, the provisions of the act on occupational safety and health apply to the practical training of under-18-year-old pupils or practical work done at school.

The Ministry of Employment and the Economy enforces child labor regulations; there were no reports of children engaged in work outside the parameters established by law.

*e. Acceptable Conditions of Work.*—There is no national minimum wage law; however, the law requires all employers, including nonunionized employers, to pay minimum wages agreed to in collective bargaining agreements. The Ministry of Employment and the Economy is responsible for labor policy strategy and implementation, improving the viability of working life and its quality, and promoting employment.

The standard workweek established by law is eight hours per day with no more than 40 hours of work per week. The Confederation of Finnish Industries conducted a study in 2009, which showed that an industrial worker had, on average, a 33-hour workweek. Certain occupations, such as seamen, household workers, road-transport workers, and workers in bakeries, are subject to separate workweek regulations. Employees working shifts or during the weekend are entitled to one 24-hour rest period per week. Workers are entitled to premium pay for overtime work. The law limits a worker to 250 hours of overtime per year and 138 overtime hours in any four-month period.

The Government sets occupational health and safety standards, and the Ministry of Social Affairs and Health enforced them effectively. The Occupational Safety and Health Administration monitors compliance with occupational safety and health legislation, including overseeing the employment terms for young workers. The Occupational Safety and Health Administration has the right to enter workplaces and to carry out health and safety inspections. They receive information and analyses necessary for inspection purposes from the employer. The administration informs the employer of an inspection in advance, unless a surprise inspection is necessary for enforcement purposes. A subsequent inspection report gives the employer written advice on how to remedy minor defects. In the case of serious violations, the inspector issues an improvement notice and monitors the employer's compliance with it. When necessary the Occupational Safety and Health Administration may issue a binding decision and impose a fine. If the hazardous situation involves a risk to life, the inspector may halt work on the site or issue a prohibition notice con-

cerning the source of risk. Workers have the right to refuse dangerous work situations without penalty, and the Government enforced this right in practice.

The labor and occupational safety laws cover all employees in the country, regardless of their nationality. If an employer's response to an employee complaint is not satisfactory, unionized employees may forward the matter to the relevant trade union. Nonunion employees may contact the Occupational Safety and Health Administration for advice and guidance.

---

## FRANCE

France is a multiparty constitutional democracy with a population of approximately 64.7 million.<sup>1</sup> The president of the republic is elected by popular vote for a five-year term, and Nicolas Sarkozy is the incumbent. The upper house (Senate) of the bicameral parliament is indirectly elected through an electoral college, while the lower house (National Assembly) is directly elected. Parliamentary and presidential elections took place in 2007 and were free and fair. The Union for a Popular Movement (UMP) is the majority party in parliament. Security forces reported to civilian authorities.

The following human rights problems were reported: overcrowded and dilapidated prisons; lengthy pretrial detention; protracted investigation and trial proceedings; restrictions on religious wear in public institutions; societal violence against women; child marriage in minority communities; anti-Semitic incidents; trafficking in persons; and hostility towards immigrants, Roma, and Travellers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, on July 16, security forces killed Karim Boudouda in an exchange of gunfire after he allegedly robbed a casino. The inspector general of the national police (IGPN) absolved the police involved because Boudouda opened fire first on the police. On July 17, police killed the driver of a car who refused to stop at a police checkpoint. According to police, the driver hit a police officer at the first checkpoint, carrying him on the hood of his car for several hundred yards. At the second checkpoint, the driver again refused to stop and drove straight at two other police officers, who shot and killed the driver. At the end of the year authorities continued to investigate the incident.

During the year authorities continued investigations into the 2009 deaths of two detainees while in police custody:

In June 2009, 69-year-old Ali Ziri died of a heart attack while under arrest in Argenteuil. On May 17, the National Commission on Security Ethics (CNDS) recommended that the police officers involved be sanctioned for their role in his death. The prosecutor's investigation continued at year's end.

In November 2009 Mohamed Boukrourou, a 41-year-old Moroccan citizen, died during a police arrest in Valentigney. The case remained under investigation at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were occasional accusations of police discrimination and degrading treatment.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards for men and women, and the Government permitted monitoring visits by independent human rights observers. Both credible nongovernmental organizations (NGOs) and government officials, however, reported overcrowding and unacceptable hygienic conditions.

---

<sup>1</sup>The country includes 11 overseas administrative divisions that are also covered in this report. Four overseas territories in French Guiana, Guadeloupe, Martinique, and Reunion, have the same political status as the 22 metropolitan regions and 100 departments on the mainland. Six divisions are overseas "collectivities": French Polynesia, Mayotte, Saint-Barthelemy, Saint-Martin, Saint-Pierre and Miquelon, and Wallis and Futuna. New Caledonia is a special overseas collectivity with a unique status between an independent country and an overseas department. Following a March 2009 referendum, Mayotte will become the 101st department in 2011. Citizens of these territories periodically elect deputies and senators to represent them in parliament, like the other overseas regions and departments.

Prison overcrowding was a problem. At the end of the year the Ministry of Justice and Liberties reported that 60,544 persons were incarcerated in the country's 191 prisons, exceeding prison capacity by approximately 4,000. However, overcrowding improved compared with 2009, when overcapacity reached nearly 7,500.

Although there were no known deaths in prison due to mistreatment or adverse conditions during the year, prison suicides continued to be a problem. According to penitentiary officials, there were 72 prison suicides between January 1 and August 27, while credible sources in NGOs reported 118 prison suicides as of December 31.

On May 26, a Caen administrative court ordered the Government to compensate six plaintiffs 500 to 3,000 euros (\$670 to \$4,020) each for failure to respect human dignity while in prison. On June 11, a Rouen administrative court ordered the Government to compensate 38 prisoners and former prisoners of Rouen's prison 350 euros to 4,000 euros (\$469 to \$5,360) each for lack of basic hygiene in the prison. The Ministry of Justice and Liberties appealed the decision. On December 9, a Douai administrative court confirmed the judgment against the prison.

Authorities maintained administrative holding centers for foreigners whom they could not immediately deport. There were 24 holding centers on the mainland and three in the overseas territories.

On September 29, a judge ruled that the presence of a seven-month-old baby in the Metz detention center was illegal because it was "inhumane and degrading treatment." The baby was detained along with her parents, who were Albanian citizens living illegally in the country. The family was released from the detention center, but the deportation order remained in place.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

The Inspector General for Places of Detention, an independent authority, assures that detainees' fundamental rights are respected. In addition detainees may address issues about the prison or justice system to the state mediator or his delegate.

The Government permitted prison visits by independent, local, and foreign human rights observers. The UN Committee against Torture (CAT) examined the country's prisons during the year. The Council of Europe Committee for the Prevention of Torture also conducted an inspection of prisons. The reports of these visits were not yet published at year's end.

At the end of the year, 5,767 prisoners were under electronic surveillance, a 19.5 percent increase compared with 2009. New prisons have gymnasiums, outdoor recreation areas, and family spaces. The Ministry of Justice and Liberties increased prisoner access to work, sports, libraries, worship, cultural services, education, and training programs during the year. On October 28, the Ministries of Justice and Liberties, and of Labor, Employment, and Health launched a strategic action plan for the period 2010-14 to improve the physical and mental health of prisoners and to strengthen the suicide prevention policy.

To reduce overcrowding, the Government opened four new prisons with an additional 1,230 places during the year, with a long-term goal of gradually reaching national capacity of 80,000 beds by 2017. The Government increased the budget for the prison system by 10 percent, to 2.1 billion euros (\$2.8 billion) during the year. In August 2009 the Ministry of Justice and Liberties instituted an action plan to combat suicides that included such preventative measures as increasing prison guard training, "humanizing" inmate living conditions, providing at-risk inmates with "protective kits" of tearable sheets and blankets and flame-retardant mattresses, and implementing a solidarity and alert policy among prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions. However, lengthy pretrial detention was a problem. The Government provided financial compensation in 47 cases of wrongful incarceration in 2009, the last year for which data is available.

*Role of the Police and Security Apparatus.*—Under the direction of the Ministry of the Interior, Overseas France, Local Authorities, and Immigration, a civilian force of 144,000 national police and a quasi-military national gendarmes force of 98,000 maintained internal security. In conjunction with specific gendarmes units used for military operations, the army is responsible for external security under the Ministry of Defense. Police and gendarmes were generally considered effective.

During the year, 60 neighborhood police (police de proximite) units worked to curb juvenile delinquency and petty crime in neighborhoods with high levels of youth crimes.

Official impunity was not widespread. The IGPN, the inspector general of police services (IGS), and the Office of Judicial Police investigated and prosecuted allegations of civil law enforcement brutality by all police forces and the gendarmes. The CNDS investigated allegations of misconduct by municipal police, gendarmes, and private security forces and reported its findings to the prime minister and parliament. According to the 2009 CNDS report, the most recent year for which data was available, the number of complaints increased by 4 percent during 2008 to 153 cases, compared with 147 in 2007.

The CNDS investigates allegations of improper conduct by law enforcement officers and helps assure that all persons responsible for law enforcement comply with ethical standards. While individuals who allege that they have been subjected to police mistreatment do not have direct access to the CNDS, their complaints may be referred to the CNDS through a member of parliament or other intermediary. In its annual global report released on May 27, Amnesty International (AI) highlighted cases of excessive force and other abuses by police in the country.

On November 29, police in Colombes used a Taser to subdue a man, who died shortly thereafter. Initial autopsy results were inconclusive as to the cause of death. On December 12, police in Marseille fired a "flash-ball" at a man to break-up a violent altercation. The flash-ball hit the man in the thorax, and he later died from his injuries. The IGS continued to investigate both incidents at the end of the year.

During the year there were occasional reports that police used violence during counterdemonstration operations. On March 19, police fired a flash-ball close to a crowd during a demonstration in Toulouse, causing a student to lose an eye. Prosecutors filed charges against the police officer involved for voluntary aggravated assault. The date of the trial was not set at the end of the year. On May 1, police fired a flash-ball close to a crowd during a violent demonstration in Neuilly-sur-Marne, causing a protester to feel dizzy for several days. At year's end the IGS and IGPN were still investigating the incidents.

On March 24, Marseille's criminal court sentenced a police officer to nine years in prison for the rape and sexual assault of five women while they were in police custody.

*Arrest Procedures and Treatment While in Detention.*—The law requires police to obtain warrants based on sufficient evidence prior to detaining suspects, but police can immediately arrest suspects caught in the act. Individuals have the right to a judicial ruling on the legality of their detention during the first hour, and authorities generally respected this right in practice. Authorities must inform detainees of charges against them once they are in police custody. A system of bail exists and was utilized. Detainees generally had access to a lawyer, and the state provides legal counsel if the detainee is indigent.

In cases involving terrorism or drug trafficking, the law allows longer periods of detention before notification to counsel. Authorities may hold such suspects for up to 96 hours without charge or access to a lawyer and may petition a judge to extend detention by an additional 48 hours. Suspects must be either charged or released, after a maximum of six days.

During the year police invoked the antiterrorism law to prolong the detention of more than 30 suspected members of the terrorist organization Basque Fatherland and Liberty (ETA). At year's end the suspected ETA members remained in detention and under investigation. The dates of their trials were not set.

In January, in an unprecedented decision, a criminal court in Paris rejected five separate police requests to keep suspects in custody without charge on the grounds that defense lawyers could not appropriately exercise the defendants' rights while in custody.

AI criticized the country's system of allowing multiple, successive periods of detention during the investigation of an alleged crime and accused authorities of inadequate investigations of complaints. During the year authorities held suspects in custody without charge in 700,000 instances. On July 30, the Constitutional Council found that the laws regulating custody without charge are unconstitutional. The council stated that the custody without charge rules could remain in place until July 1, 2011, but need to be abolished thereafter. The law allows police to hold anyone suspected of having committed a crime in detention for up to 24 hours, which can be extended for an additional 24 hours regardless of the seriousness of the crime. In very limited circumstances involving the most serious crimes, detainees are not informed of their right to remain silent or allowed access to a lawyer.

Long delays in bringing cases to trial and lengthy pretrial detention were problems. Pretrial detention was generally allowed only if the suspect could be sentenced

to more than three years in prison for crimes against property. However, a few suspects spent many years in detention before trial. According to government statistics for 2007, the most recent year for which they were available, the average length of pretrial detention was 5.7 months, an increase of 10 percent since 2001.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. However, delays in bringing cases to trial were a problem.

The Tribunal of the Armies is a military court for acts committed outside of the country. The court tries only military personnel. In July parliament closed the Tribunal of the Armies effective January 1, 2011. The Magistrate Court of Paris will assume responsibility for the cases of the Tribunal of the Armies.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Except for those involving minors, trials are public and usually held before a judge or tribunal of judges. In cases where the potential punishment exceeds 10 years' imprisonment, a panel of professional and lay judges hears the case. Defendants have the right to be present and to consult with an attorney in a timely manner. An attorney is provided at public expense if needed when defendants face serious criminal charges. Defendants are able to question the testimony of prosecution witnesses against them and present witnesses and evidence in their defense. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court for Human Rights (ECHR) found 27 violations by the Government of the European Convention on Human Rights. On October 14, the ECHR ruled that the country's custody without charge procedures did not provide for due process. The court stated that persons held in custody must have access to a lawyer from the beginning and during all interrogations and had the right to remain silent. However, the Constitutional Council had previously ruled on July 30 that the country's custody without charge rules were unconstitutional and must be abolished by July 1, 2011.

In general the Government complied with ECHR decisions.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters and access to a court to bring lawsuits seeking damages for, or cessation of, human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. A 2009 report by the independent government agency, the CNDS, described a quasi-systematic practice of strip searches during secondary inspection by the national police. The practice continued during the year. However, detainees were no longer searched a second time if they were transferred from the national police to the gendarmerie.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

There were some limitations of freedom of speech and of the press. Strict antidefamation laws prohibit racially or religiously motivated verbal and physical abuse. Written or oral speech that incites racial or ethnic hatred as well as denial of the Holocaust and crimes against humanity are illegal. Authorities may deport a noncitizen for publicly using "hate speech" or constituting a threat of terrorism. On November 9, the Government for the second time deported a "radical" imam, Ali Ibrahim el-Soudany, to Egypt for his hostile comments about the West. Interior Minister Hortefeux stated that government authorities had been following el-Soudany's increasingly "dangerous" preaching since 2008. He was previously deported in January but managed to reenter the country.

On October 21, the NGO SOS Racism filed a lawsuit against perfumer Jean-Paul Guerlain following an October 15 national television interview about a new perfume he produced. During the interview he used a racial epithet for ethnic Africans. A trial date was not set at the end of the year.

On December 15, the Fort-de-France criminal court convicted businessman Alain Huygues-Despointes for praising crimes against humanity. The conviction stemmed from a February 2009 television interview he gave where he said there were "posi-

tive aspects” of slavery and criticized mixed-race marriages because he said he wanted to “preserve” his race. The judge ordered him to pay a 7,500-euro (\$10,050) fine. His lawyers said that he would appeal the ruling.

Individuals could criticize the Government publicly or privately without reprisal. The independent media were active and generally expressed a wide variety of views without restriction. The law prohibits primetime advertising from state-funded television networks and authorizes the president to name the head of public broadcasting.

On August 23, the president named Remy Pfmilin as the head of public broadcasting. The same day, Pfmilin fired journalist Arlette Chabot, who served as news director for France 2 television. Chabot had previously broadcast news pieces critical of the president, and the president had complained openly about public broadcasting’s treatment of government policy in its news reports.

On January 4, parliament passed a law that provides additional protections to journalists and limits the instances where the Government can compel them to reveal their sources. Under the law journalists can only be compelled to reveal sources in cases where serious crimes have taken place and access to the sources is required to complete the investigation.

On September 13, the newspaper *Le Monde* filed a lawsuit against the president’s office, alleging that it violated the law providing for the secrecy of journalistic sources by ordering counterintelligence services to find the source of a leak in its investigation of a government corruption scandal. The case continued at year’s end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 72 percent of the country’s inhabitants used the Internet. There were no reports that the Government attempted to collect the personally identifiable information of a person in connection with that person’s peaceful expression of political, religious, or ideological opinions or beliefs.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at <http://www.state.gov/g/drl/irf/rpt>

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

The law requires persons engaged in itinerant activities with a fixed domicile to sign a declaration that must be renewed periodically. Itinerant persons without a fixed abode must possess travel documents, which are renewed every three months, and must choose a city of residence for administrative purposes.

On July 28, President Sarkozy made a speech linking increased crime rates with the Romani and Traveller communities. He announced that the Government planned to dismantle 300 unauthorized camps within three months and to repatriate Roma living illegally in the country to their countries of origin. According to EU and the country’s regulations, Romanian and Bulgarian citizens (who comprised the bulk of the Romani migrants) may remain in the country for a maximum of three months unless they are employed or enrolled in school.

The Government offered Roma living illegally in the country voluntary repatriation. It provided each person who accepted voluntary repatriation with a plane ticket and 300 euros (\$402) per adult and 100 euros (\$134) per child. Those who did not accept voluntary repatriation were processed for deportation. While immigration judges approved most deportation orders, they refused some. According to government officials, authorities deported 977 Romanian and Bulgarian Roma from the country between July 28 and August 29. NGOs reported that many Roma who accepted voluntary repatriation returned to the country by the end of the year.

Although the Government had been conducting similar deportations for several years with very little media attention, the publicity surrounding the dismantling of

unauthorized settlements and subsequent deportations created significant public debate over the policy. NGOs, including AI, Human Rights Watch, and the European Roma Rights Center, accused the Government of engaging in actions that served to stigmatize a minority group. The UN Committee on the Elimination of Racial Discrimination, the European Parliament, and other intergovernmental bodies also lodged concerns over the policy. In mid-September, European Commission Vice President Viviane Reding announced the initiation of legal proceedings against the country. The Government maintained that it was only enforcing EU and national law and called on the EU to do more to promote Romani integration throughout Europe. On October 19, the EU announced that it had suspended its legal actions against the Government because authorities had made sufficient commitment to assure that procedural safeguards affecting the free movement of EU citizens were in place.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The system for granting refugee status was active and accessible.

Although asylum application forms submitted to the Office for the Protection of Refugees and Stateless Refugees (OFPRA) must be completed in French, application instructions were available in English, Albanian, Russian, Serbo-Croatian, Turkish, Tamil, and Arabic.

In practice the Government provided protection against the expulsion or return of persons to countries where their lives or freedom would be threatened because of race, religion, nationality, membership in a particular social group, or political opinion. Authorities take into account the ability of the state concerned to offer protection to the person in danger from persecution by nonstate agents. However, in May human rights groups criticized the Government's expulsion practices, pointing out that the Government was deporting illegal Afghan immigrants back to a war-torn country. As of December 1, the Government had deported 25,511 illegal immigrants according to Interior Ministry statistics.

During the year the CAT criticized the country's treatment procedures to expedite the cases of asylum seekers and to expel those rejected to countries where they risked torture, cruel sentences, or inhumane or degrading treatment. The CAT also expressed concerns about persistent allegations of poor treatment of asylum seekers by police.

In 2009 Prime Minister Francois Fillon promised to aid the city of Paris in providing lodging and medical care for up to 700 unaccompanied foreign minors and identified 70 Afghan exiles for lodging at the Welcome Center for Asylum Seekers. Nevertheless, NGOs reported the continuing presence of dozens of homeless Afghan youths near the Canal Saint-Martin in the 10th district of Paris at year's end.

The Government also provided temporary protection to individuals who may not qualify as refugees but who may be exposed to certain serious risks if they returned to their country of origin. The Government granted temporary protection to 10,373 persons in 2009, according to OFPRA. Individuals may renew their status for a period of one year.

*Stateless Persons.*—According to OFPRA statistics, there were 1,078 stateless persons in the country at the end of 2009. Stateless persons receive benefits from OFPRA, which is charged with the implementation of international conventions on refugees and stateless persons. Citizenship is derived both from one's parents and from one's place of birth. A child born in the country to foreign parents may acquire citizenship at birth if stateless.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Political parties generally operated without restriction or outside interference.

Travellers (an itinerant group of individuals that may also include Roma if they do not have fixed abodes) were permitted to vote in municipal elections only after a three-year period of "attachment" to a municipality. Romani and Traveller groups asserted that this requirement, which is based on special legislation applying only to itinerant groups, was discriminatory, since other French and EU citizens, including homeless persons, were able to vote after only a six-month attachment period.

*Elections and Political Participation.*—The 2007 national parliamentary and presidential elections were considered free and fair. On March 14 and 21, the country held regional elections that independent observers considered free and fair.

As a result of the September 2008 senatorial elections, 182 women sat in the two chambers of the 920-seat parliament, 107 in the National Assembly and 75 in the Senate. At the end of the year there were 11 female ministers in the 31-member ministerial cabinet. Women made up 48 percent of regional council members, 13 percent of departmental council members, and 35 percent of municipal council members. They held two presidencies of the 22 regional councils, five presidencies of the 96 mainland departmental councils, and 14 percent of mayoral positions. The law requires political parties to present candidate lists containing equal numbers of male and female candidates or face fines. Following the 2007 legislative elections, the UMP was fined four million euros (\$5.4 million), and the Socialist Party was fined 500,000 euros (\$670,000) for not including equal numbers of female candidates on their candidate lists.

Because the law prohibits the Government from collecting information on the racial or ethnic background of residents of the country, no statistics on minority participation in the Government were available. With the exception of parliamentary representatives from some of the overseas territories where the populations were predominantly of non-European origin, minorities appeared to be significantly underrepresented in the Government. As of year's end there was only one black member of the National Assembly. During his tenure President Sarkozy has appointed six female minority officials to his cabinet.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were some reports of government corruption during the year.

On April 30, Senator and former interior minister Charles Pasqua was convicted of corruption when he was interior minister during the 1990s. The judge gave him a one-year suspended sentence.

On August 24, former president Jacques Chirac and Paris mayor Bertrand Delanoë reached a settlement in Paris magistrate court for alleged corruption when Chirac was mayor of Paris from 1977 to 1995. According to media reports, Chirac will pay the city 550,000 euros (\$737,000) in exchange for the city's withdrawing a civil complaint. The Government was pursuing criminal charges at year's end.

The IGS, IGPN, and the Inspectorate of the National Gendarmerie actively investigated and prosecuted allegations of police and gendarme corruption. The IGPN reported that 3,109 police officers were punished for misconduct in 2009, the last year for which data was available. However, AI accused the Government of failing to punish properly all cases of police misconduct and corruption.

On December 10, Bobigny's criminal court sentenced seven police officers to terms of from six months to one year in prison for falsifying a police report. The convictions stem from an incident on September 9 in which a police car involved in a chase injured an officer, but in the police report the officers involved stated that the driver of the car being pursued was responsible for the injury.

The president, parliamentarians, members of the European Parliament, ministers, regional and departmental council heads, mayors of larger communities, and directors of state-owned companies (post office, railway, and telephone) are required to declare their personal assets to the Commission for the Financing Transparency of Political Life at the beginning and the end of their terms. The commission issued periodic reports on officials' financial holdings on a discretionary basis at least once every three years.

The law provides for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated, investigated, and published their findings on human rights cases without government restrictions. Government officials were cooperative and responsive to their views.

The High Authority for the Struggle against Discrimination and for Equality (HALDE) is the independent administrative authority that judges all discrimination, direct or indirect, that is prohibited by law or an international agreement to which the country is a party.

The National Consultative Commission on Human Rights serves in an advisory role to the Government on human rights and produces an annual report on racism and xenophobia in the country.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these prohibitions.

*Women.*—The law criminalizes rape, including spousal rape, and the Government generally enforced the law effectively. The penalty for rape is 15-years' imprisonment and may be increased due to the age of the victim or the nature of the relationship of the rapist to the victim. The Government and NGOs provided shelters, counseling, and hotlines for rape victims. The Ministry of the Interior, Overseas France, Local Authorities, and Immigration reported that the number of reported rapes decreased by 4.2 percent from 10,277 in 2008 to 9,842 in 2009, the last year for which data was available. A report published by three NGOs estimated that there are 75,000 victims of rape each year. The Ministry of Justice and Liberties reported that 2,151 persons were convicted of rape in 2008, the last year for which data was available. On November 24, three NGOs launched a national campaign to raise awareness about rape.

Violence against women was a problem. The law prohibits domestic violence against women, including spousal abuse, and the Government generally enforced it. The penalty for domestic violence varies according to the type of crime and ranges from three years in prison and a fine of 45,000 euros (\$60,300) to 20 years' imprisonment. The Government sponsored and funded programs for female victims of violence, including shelters, counseling, hotlines, and free mobile phones. The Government also supported the work of 25 associations and NGOs dedicated to fighting domestic violence by labeling them a "great national cause" for the year. The Government funded a media campaign to combat domestic violence. The Government reported that 140 women were killed by their spouses in domestic violence in 2009, an 18 percent decrease from 2008, when 165 women were killed. According to estimates by the National Institute for Statistics and Economic Studies (INSEE), 675,000 women were victims of domestic violence during 2008 and 2009.

On July 9, parliament passed a law combating violence against women. It strengthened protection for victims by providing a provisional "protection order" for at-risk women, especially those threatened by forced marriage or female genital mutilation (FGM), who have filed a complaint against their spouses or abusers. It also provides for increased legal protection for foreign nationals and undocumented immigrants who are victims of abuse.

The law prohibits FGM as "violence involving mutilation or permanent infirmity." It is punishable by up to 10 years in prison and a fine of 150,000 euros (\$201,000). The sentence increases to 20 years if the crime involves a minor under 16 years of age. The statute of limitations for FGM is 20 years after the victim turns 18 years old.

According to the Group for the Abolition of Sexual Mutilations, 65,000 female adults and minor women were either victims of FGM or under threat of it, while the National Institute for Demographic Studies reported that 53,000 women were under threat of FGM during the year. Government estimates concurred with NGO estimates.

The majority of FGM victims were recent sub-Saharan African immigrants or their children. One study concluded that FGM had become less prevalent due to awareness campaigns, but prevention and information efforts were needed to cover children at risk during family visits to their countries of origin. The Government provided reconstructive surgery and counseling for FGM victims.

Sex tourism to other countries remained a problem. The Government created a Web site where individuals could report cases. It also funded campaigns on child prostitution on all major television channels and worked with Air France to raise tourists' awareness. The Ministry of Economy, Industry, and Employment mandated that all tourism students complete courses designed to develop awareness of the problem of sex tourism. The Ministry of Foreign and European Affairs researched indicators of child sex tourism abroad in order to warn tourists of child sex tourism sites and monitored sex tourism data. The law includes extraterritorial provisions that apply domestic law to sexual offenses committed abroad by citizens or residents of the country.

On January 21, a joint sting operation by the country's police and Cambodian police against a pedophilia ring operating in Phnom Penh led to the arrest of two Cambodian citizens charged with child prostitution and one U.S. citizen charged with indecent acts with three minors.

On April 2, the Central Office for the Repression of Violence against People arrested for pedophilia and sex tourism a French citizen returning from Cambodia. The suspect remained in protective custody awaiting trial at the end of the year.

On September 10, a Paris court found Jean-Claude Chamoux guilty of raping more than 10 girls in Thailand in 2005. The court sentenced Chamoux to 15 years in prison.

The law prohibits gender-based job discrimination and harassment of subordinates by superiors, but it does not apply to relationships between peers. Sexual harassment was not widely considered a problem in the workplace. Both the Government and NGOs widely publicized the laws, and the Government enforced them effectively. According to the Ministry of the Interior, Overseas France, Local Authorities, and Immigration, the number of reported sexual harassment cases dropped by 12 percent from 2006 to 2007, the most recent year for which data was available; the statistics did not specify the gender of the victims. The new law to combat violence against women adopted on July 9 increases the penalty for sexual harassment to 15,000 euros (\$20,100) and one year in prison.

There was easy access to contraception, skilled attendance during childbirth, and women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men. Couples and individuals were able to decide freely and responsibly the number, spacing, and timing of their children and had both the information and means to do so free from discrimination, coercion, and violence. According to data compiled by international organizations, the maternal mortality rate in the country in 2008 was eight deaths per 100,000 live births.

Under the constitution and law, women have the same rights as men in family law, property law, and the judicial system. The secretary of state for solidarity is responsible for the legal rights of women. The constitution and law provide for equal access to professional and social positions. The law requires that women receive equal pay for equal work. However, various governmental organizations and NGOs estimated that there was a gender-based pay discrepancy of approximately 27 percent in practice. Although they made up 58.5 percent of the public sector's workforce, women were underrepresented in managerial jobs and continued to face difficulties attaining positions of responsibility. According to a survey of the top 500 companies in the country released during the year, 8 percent of executive-board members were women.

Women were generally underrepresented in the legislature and other levels of government leadership. According to the Observatory for Parity between Men and Women, in May the unemployment rate was 9.6 percent for women compared to 8.1 percent for men.

*Children.*—Citizenship is derived both from one's parents and the place of one's birth. Children born within the country's territory to at least one French citizen parent automatically acquire citizenship at birth. A child born in the country to foreign parents may acquire citizenship at birth if stateless or acquire the right at the age of 18 with five years of residence.

There are strict laws against child abuse by parents or guardians, and the Government generally enforced the law effectively and prosecuted abusers. On January 26, parliament passed a law making incest a crime. Previously authorities prosecuted incest under laws that prohibit rape and sexual assault.

The law provides for a government children's advocate, a position charged with defending and promoting children's rights as defined by law. Child abuse was generally not considered a problem.

The Government provided counseling, financial aid, foster homes, and orphanages for abuse victims. Various NGOs also helped minors seek justice in cases of mistreatment by parents.

The minimum legal age of marriage is 18 years old. Child marriage was a problem, particularly in communities of African or Asian origin. Although such marriage ceremonies took place primarily outside of the country, authorities took steps to address the problem. Parents may be prosecuted in these cases. Women and girls could seek refuge at shelters if their parents or guardians threatened them with a forced marriage. The Government offered some educational programs to inform young women of their rights. The High Council for Integration stated it was important to distinguish between arranged and forced marriage. According to human rights observers, 70,000 children between the ages of 10 and 18 were at risk of being forced into a marriage.

The law criminalizes statutory rape of minors under the age of 16, the minimum age of consensual sex, and the Government generally enforced the law effectively. The penalty for statutory rape is 15 years' imprisonment and may be increased due to the age of the victim or the nature of the relationship of the rapist to the victim. The Government and NGOs provided shelters, counseling, and hotlines for statutory rape victims. The law prohibits child pornography, and the maximum penalty for its use and distribution is five years' imprisonment and a 75,000-euro (\$100,500) fine.

Three members of the national soccer team were under investigation for soliciting sex from an underage prostitute. Police questioned the players involved, and the investigation continued at the end of the year.

On May 20, police dismantled a child prostitution ring in Bordeaux. They arrested nine Bulgarian nationals, accusing them of aggravated pimping. They face 15 years' imprisonment and a fine of three million euros (\$4 million). Authorities placed the victims in foster care. The trial date was not set at year's end.

On November 30, police dismantled a child forced begging ring in Montpellier. They arrested 19 persons from the former Yugoslavia, accusing them of organized theft and human trafficking. The trial date was not set at year's end.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>. as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish community was estimated to number 600,000 persons. There were reports of a number of anti-Semitic incidents during the year, including slurs against Jews and attacks on synagogues and cemeteries. According to the Ministry of Interior, Overseas France, Local Authorities, and Immigration, during the year there were 466 anti-Semitic incidents. During the year the Protection Service of the Jewish Community (SPCJ) also reported 131 anti-Semitic acts and 335 threats. There was a 46 percent reduction in anti-Semitic incidents in the year compared with 2009. The SPCJ, the Anti-Defamation League, and NGO National Center for Vigilance Against Anti-Semitism, however, each reported an increase in anti-Semitic acts following the May 31 Gaza flotilla incident. A representative from the French Council for the Jewish Faith expressed satisfaction with the Government's response in the wake of the flotilla incident, noting that places of worship were secured, police cordons prevented protests from turning violent, and local officials remained in contact with Jewish community leaders.

During the year violent attacks were reported. On September 3, eight adolescents attacked a 30-year-old Russian citizen with a knife following a verbal dispute in a Paris park. According to the victim's lawyer, the adolescents only began to attack him after they noticed he was wearing a Star of David around his neck. The police arrested three minors, whom they later released. The public prosecutor's office immediately appealed the decision to release the minors. The judge in charge of the judicial investigation stated that he would prosecute the case as a religious hate crime. A trial date was not set at the end of the year. On April 30, two assailants attacked David Pariente, a Jewish man wearing a yarmulke, with a knife and an iron rod in Strasbourg. Police immediately apprehended two suspects. Police released an individual identified as a witness in the attack and on May 2 charged the assailant, a 38-year-old Algerian national, with attempted aggravated murder. A trial date was not set at the end of the year.

In July 2009 a Paris court sentenced Youssef Fofana to life in prison with no possibility of parole for 22 years and convicted 26 members of the "gang of barbarians" for the 2006 kidnapping, torture, and killing of a Jewish man, Ilan Halimi. Two of Fofana's most active accomplices received sentences of 15 and 18 years in prison, and others received prison sentences ranging from six months to nine years. Prosecutors appealed the relatively light sentences given to 17 of his 26 accomplices, asking that the judge increase them. On December 17, the judge increased the sentences for Fofana's two primary accomplices to 18 years and confirmed the sentences for the other accomplices.

During the year there were a number of attacks against Jewish property and cemeteries reported, including the following examples:

On January 27 and again in late July, graves in a Jewish cemetery in Strasbourg were desecrated with swastikas. President Sarkozy criticized the January incident as "intolerable" and a demonstration of the "the hideous face of racism." Police continued to investigate the incident at the end of the year.

On May 2, a 78-year-old Jewish man was attacked in Nimes with tear gas in front of the synagogue, which was then vandalized with anti-Semitic slurs, according to press reports. Police arrested a suspect, but a trial date was not set at the end of the year.

On June 7, in Metz, a Molotov cocktail was thrown at a Jewish nursing home, although no damage was reported. Following an investigation, one person confessed to the crime. A judge gave him a 10-month suspended sentence and ordered him to pay a fine of 500 euros (\$670) and complete 210 hours of community service.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other government services. The Government generally enforced these provisions effectively.

During the year according to the Observatory for Inequalities, 19 percent of persons with disabilities were unemployed, twice the national unemployment rate. The law requires companies with more than 20 employees to provide that persons with disabilities make up 6 percent of the company work force. Noncompliant companies could face criminal fines that benefit the National Association for the Professional Integration of the Disabled, an organization of workers and employers unions that funds training for professionals with disabilities. However, many companies admitted to being unaware of their legal obligations. On average persons with disabilities made up approximately 5 percent of the work force of companies that were subject to the law.

The law provides for government compensation to persons for the consequences of a disability and requires that buildings, education, and employment be accessible to them. The law requires that any new building with public or community space and any existing public building be accessible for persons with disabilities. Many existing buildings as well as transportation systems did not yet meet these requirements. The law also requires the establishment of centers in each administrative department to assist disabled persons with receiving compensation and employment assistance.

On September 13, the president announced that social security payments to adults with disabilities would continue to increase by 5 percent per year until 2012. The increases, which began in 2007, would total 25 percent by 2012. During the year the Government paid adults with disabilities 696.63 euros (\$933.48) per month.

*National/Racial/Ethnic Minorities.*—Societal violence and discrimination against the country's large immigrant population remained a problem. The problem continued to be particularly severe on the island of Corsica, where attacks caused some families to move to the mainland or to return to their countries of origin. During the year authorities reported 81 bombings or attempted bombings as well as 16 murders and 14 attempted murders in Corsica. The Government publicly criticized and addressed incidents of violence against immigrants.

On June 4, a magistrate court in Paris found Minister of the Interior, Overseas France, Local Authorities, and Immigration Brice Hortefeux guilty of racial slander. The charges were related to racist remarks that he made on camera at a political party event in September 2009. The court fined him 750 euros (\$1,005) and ordered him to pay 2,000 euros (\$2,680) to an antiracism organization. Both sides filed an appeal. The NGO Movement against Racism and for Friendship between Peoples continued to call for the minister's resignation.

On June 29, the criminal court of Creteil fined the former prefect and local coordinator for Reunion, Paul Girot de Langlade, 5,000 euros (\$6,700) for racial slander. The penalty stemmed from a July 2009 complaint filed by a security employee of Caribbean origin at Orly Airport.

On October 28, a group of armed and masked assailants attacked a Romani settlement in the Parisian suburb of Triel-sur-Seine, home to an estimated 30 families. Witnesses reported that the attackers arrived around 2:00 a.m. in a car with a siren and were dressed as police officers. Carrying nightsticks and pistols, they broke down the doors of several caravans and began harassing the occupants. The attackers allegedly forced one woman to strip naked and robbed the residents of their identification documents. Authorities continued to investigate the incident at year's end.

Many observers expressed concern that discriminatory hiring practices in both the public and the private sectors prevented minorities from sub-Saharan Africa, the Maghreb, the Middle East, and Asia from equal access to employment.

According to a 2009 survey by INSEE, the unemployment rate of immigrants was nearly twice as high as that of nonimmigrants (16 percent versus 8.4 percent). A survey by INSEE showed that children of immigrants also had higher unemployment rates than did the children of two French parents. According to the report, lower levels of education and experience for the children of immigrants were only partly responsible for the higher unemployment rate.

Travellers' organizations alleged that both itinerant Travellers and those with fixed abodes faced discrimination in education, housing, and access to government services. Housing and other discrimination problems were particularly acute for Travellers, as some mayors denied school registration to children whose parents

lived in illegal campsites. Travellers benefited from a special status that authorizes children discontinuous school attendance without justification. School registration rates for Travellers were 66.7 percent in kindergarten, 81.8 percent in primary schools, and 78.8 percent in high school, but absenteeism and breaks within the education system were frequent. According to a survey conducted by the NGO collective Romeurope that it released in February, between 5,000 and 7,000 Romani children living in the country were not enrolled in school.

Travellers were subject to laws that did not apply to residents with permanent residences. Individuals over the age of 16 not settled in one place must have a periodically renewed travel permit. Any delay in renewal entails a maximum fine of 1,500 euros (\$2,010). Authorities did not consider Traveller caravans to be housing. As a result, they were not entitled to housing assistance.

The law requires municipalities with more than 5,000 inhabitants to provide a camping site with facilities and access to water and electricity. As of year's end, more than half of the municipal authorities had established 16,000 campsites. However, there was still a shortage estimated at over 20,000 sites (according to authorities) or up to 60,000 sites (according to NGOs). At the end of the year, approximately 5,000 additional campsites were under construction or slated for construction.

Citizens may report cases of discrimination based on national origin and ethnicity to HALDE. During the year HALDE received 12,000 discrimination claims, half of which regarded employment. HALDE issued opinions on approximately 300 cases per year and offered mediation for hundreds more.

The Government attempted to combat racism and discrimination through programs that promoted public awareness and that brought together local officials, police, and citizen's groups. Some public school systems also managed antidiscrimination educational programs. The 2008 plan, Hope for the Suburbs, combined security, employment, housing, and education measures into a package of initiatives to improve living conditions and opportunities for the citizens, particularly youth, of the country's multiracial suburbs.

In September the Government opened 13 boarding schools for promising high school students from poor and immigrant families. On May 25, Prime Minister Fillon launched a new consultative body, the National Council for Urban Zones. He also announced plans to rezone underprivileged suburbs and to redistribute government money to target areas with the greatest need. Nevertheless, implementation of Hope for the Suburbs plan continued to be slow.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits discrimination on the basis of sexual orientation. Authorities pursued and punished perpetrators of violence against lesbians, gays, bisexuals, and transgender persons (LGBT). The NGO SOS Homophobia reported 1,259 homophobic acts in 2009. It reported that there were 88 instances of physical assault, a 33 percent decrease compared with 2008. After the NGO Inter-LGBT claimed that gay and lesbian minors were frequently targeted for violence, the Ministry of National Education, Youth, and Community Life responded by asking schools to introduce lessons on tolerance and diversity.

During the year LGBT organizations held at least eight gay pride marches. The Government authorized them and provided sufficient protection to marchers.

*Other Societal Violence or Discrimination.*—There was no societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution and law provides workers, including migrant workers, the right to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice on the mainland as well as in the overseas territories. Approximately 9 percent of the workforce maintained formal union membership. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Workers, with the exception of certain essential service workers such as police and armed forces, have the right to strike except when a strike threatens public safety. Workers exercised this right by conducting legal strikes during the year. Healthcare and public transport workers are required to provide a minimum level of service even during strikes. Laws and regulations prohibit retaliation against strikers, and these laws were effectively enforced.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to bargain collectively, and workers exercised this right freely. Approximately 90 percent of workers in the formal economy operated under collective bargaining agreements negotiated by trade union representatives.

Although the law prohibits antiunion discrimination, union representatives noted occasional reports of antiunion discrimination, particularly in small companies.

There are no special laws or exceptions from regular labor laws in the country's three export-processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. However, there were reports that such practices occurred. Also see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

Men, women, and children, mainly from Eastern Europe, West Africa, and Asia, continued to be trafficked for the purpose of forced labor, including domestic servitude.

Although there are strict laws against trafficking in persons for domestic labor, the press reported cases of forced child labor in households, but no government statistics were available. The press reported that some African boys were victims of trafficking and lured into forced labor within the professional soccer industry. During the year the Committee against Modern Slavery received 239 complaints and provided assistance to 127 victims, the majority of whom were women working in domestic labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits most forms of child employment, and the Government generally implemented laws and policies to protect children in the workplace effectively. The minimum age for employment is 16 years old. There are exceptions for those enrolled in certain apprenticeship programs or working in the entertainment industry; however, these industries are subject to further regulation of conditions and work hours and for minors. Persons under the age of 18 are generally prohibited from performing work considered arduous or working between 10:00 p.m. and 6:00 a.m. Labor inspectors from the Ministry of Labor, Employment, and Health investigated workplaces and generally enforced compliance with child labor laws.

*e. Acceptable Conditions of Work.*—On January 1, the Council of Ministers raised the national minimum wage to 8.86 euros (\$11.87) per hour. The Ministry of the Economy, Industry, and Employment enforced the new wage. The minimum wage provided a decent standard of living for a worker and family. Salaries below the minimum wage were permitted for certain categories of employment, such as persons in subsidized jobs and internships, which must conform to separate, clearly defined standards. Employers, except those in the informal economy, generally adhered to the minimum wage requirement.

The official workweek is 35 hours. Companies may negotiate opt outs with employees. The maximum number of working days for white-collar workers is 235 days per year. Maximum hours of work are fixed at 10 hours per day, 48 hours per week, and an average of 44 hours per week over a 12-week work period. Employees are entitled to a daily rest of at least 11 hours and a weekly break of at least 24 hours total, not including the daily rest period. Employers are required to give workers a 20-minute break during a six-hour workday. Premium pay of 25 percent is mandatory for overtime and on weekends and holidays. These standards were effectively enforced.

The law sets basic occupational health and safety standards. The Ministry of Labor, Solidarity, and Public Sector is responsible for enforcing the law and did so effectively. Workers have the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment, and the Government effectively enforced this right.

There were press reports that undetermined numbers of undocumented immigrants experienced substandard pay and working conditions, particularly in the textile and agriculture sectors. Undocumented immigrants held several demonstrations during the year to try to obtain work permits.

During the year the Government launched a Health in the Workplace plan to address workplace stress and to reduce the number of workplace accidents by 25 percent by 2014.

---

## GEORGIA

The constitution of Georgia<sup>1</sup> provides for an executive branch that reports to the President, a unicameral Parliament, and an independent judiciary. The country has

<sup>1</sup> Except where otherwise noted, figures and other data do not include the separatist, occupied regions of South Ossetia and Abkhazia.

a population of approximately 4.6 million. President Mikheil Saakashvili was re-elected in January 2008 in an election that international observers found consistent with most Organization of Security and Cooperation in Europe (OSCE) democratic election commitments; however, the OSCE also highlighted significant problems, including widespread allegations of intimidation and pressure, flawed vote-counting and tabulation processes, and shortcomings in the complaints and appeals process. These and other problems continued into the parliamentary elections in May 2008, which international observers concluded were uneven and incomplete in their adherence to international standards. Although a significant number of opposition parties existed, the country was dominated by a single party. Security forces reported to civilian authorities.

The main human rights abuses reported during the year included abuse of prisoners and detainees, poor prison conditions, and arbitrary arrest and detention. There were reports of selective application of the law—crimes allegedly involving government officials or supporters were slowly investigated and often remained pending, while crimes allegedly involving persons or organizations linked to the opposition were investigated quickly and prosecuted to the full extent of the law. This imbalance led to allegations of impunity for government officials. There continued to be allegations of a lack of due process, government pressure on the judiciary, and that individuals remained in prison for politically motivated reasons. There were reports of pressure on businesses to suppress potential support for the opposition and independent media. There were reports of curbs on media freedom. There were some cases of restrictions on religious freedom and a lack of progress on religious issues. There were also reported cases of violations of the rights of internally displaced persons (IDPs) during some evictions in Tbilisi, and senior-level corruption in the Government. Harassment of opposition and NGO members, prejudice against persons based on their sexual orientation and government interference with labor associations also were reported.

Significant human rights achievements included: the implementation of a new Criminal Procedure Code with increased evidentiary standards and rights of the accused; amendments strengthening the Public Defender's Office (human rights ombudsman/PDO); the construction of new prisons that met international standards; and the first direct election of the Tbilisi mayor.

De facto authorities in the separatist regions of Abkhazia and South Ossetia, supported by several thousand occupying Russian troops since the 2008 armed conflict between Russia and Georgia, remained outside the control of the central government. Russian border guards restricted the movement of the local population. A cease-fire remained in effect in both Abkhazia and South Ossetia, although incidents of violence occurred in both areas.

The de facto authorities in Abkhazia continued to restrict the rights, primarily of ethnic Georgians, to vote, to participate in the political process, and to exercise basic rights such as property ownership, business registration, and travel. Ethnic Georgians also suffered harassment by Abkhaz and Russian forces, including a lack of funding for basic infrastructure maintenance and limitations on Georgian-language instruction in the Gali district schools.

Since 2008 the de facto authorities in South Ossetia have refused to permit most ethnic Georgians driven out during and after the conflict to return to South Ossetia unless they renounced their Georgian citizenship and took the "citizenship" of the "Republic of South Ossetia"; in practical terms, this often meant accepting a Russian passport. With the exception of the International Committee of the Red Cross (ICRC), international organizations were not allowed regular access to South Ossetia to assess the condition of the local population or to provide humanitarian assistance.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports that the Government or its agents committed arbitrary or unlawful killings during the year. Georgian government officials and de facto authorities accused one another of committing attacks that resulted in arbitrary and unlawful killings in the occupied regions of South Ossetia and Abkhazia during the year. Georgian and Russian officials also traded such accusations (see section 1.g.).

The Ministry of Internal Affairs reported that there were two cases of police officers fatally using their weapons in the line of duty during the year. In one April 17 case, a court found the officer guilty of manslaughter and sentenced him to two years and six months in prison. The other incident occurred on August 18, and the

ministry reported the police returned fire after the suspect in question shot at police officers and persons on the street.

There were no further developments, and none are expected, in the case of Roin Shavadze, whom police allegedly shot and killed in 2008. According to the Ministry of Justice, in 2008 authorities transferred the criminal case to the Investigative Division of the Prosecution of Ajara; at year's end, the investigation continued.

There were seven killings during the year connected to the conflict in Abkhazia (see section 1.g.).

A number of deaths occurred from unexploded ordnance. On January 14, in Ajara, a person collecting scrap metal from a former military firing range picked up a piece of unexploded ordnance and took it to his home where it exploded, killing three persons. NGO Halo Trust reported two injuries from unexploded ordnance in Tbilisi. Limited information about events in Abkhazia and South Ossetia made it difficult to confirm reports of incidents in those regions. However, Halo Trust reported one death from a mine and three injuries from unexploded ordnance in Abkhazia during the year.

*b. Disappearance.*—There was a report during the year of a politically motivated disappearance connected to the conflict in Abkhazia. The Government made little effort to investigate the 2009 reported kidnappings and beatings of a number of members of some nonparliamentary opposition parties by unknown assailants.

Ethnic Abkhaz Garri Jopua reportedly disappeared on October 9 and reappeared in Abkhazia on November 8. He alleged that he was detained and tortured by Georgian law enforcement officials, and credible sources found evidence that Georgian officials had detained him.

Reliable information from the separatist regions, which remained outside of government control, remained difficult to obtain. In some case missing individuals were detained by Russian or regional de facto authorities (see section 1.d.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that government officials continued to employ them with limited accountability. The PDO's 2009 annual National Preventive Mechanism Report (released in June) noted that allegations of mistreatment increased compared with previous monitoring. In a June 26 speech, the public defender stated that accountability for torture and other inhuman treatment remained a problem.

On December 15, the PDO released a statement describing the National Preventive Mechanism's (NPM) monitoring for the first half of the year, which reported that instances of prison employees and police officers mistreating detained and imprisoned individuals continued. The PDO also noted that police quite frequently used excessive force when detaining persons. The PDO stated that investigations into allegations of mistreatment were inadequate and ineffective. However, the statement also noted that, unlike in penitentiaries and police stations, there were almost no cases of mistreatment in pretrial detention facilities.

The NGO Empathy reported that on April 6, police officers in Telavi beat a minor in their custody, denied him access to water, food, or washroom facilities, and refused to allow him to contact his family or a lawyer. Empathy reported that the Telavi prosecutor's office initiated a criminal investigation, but the only information about its progress at year's end was that the case had been transferred to the Isani-Samgori prosecutor's office.

During the year an Armenian NGO reported that Vahagn Chakhalian, an ethnic Armenian serving a 10-year sentence in the Rustavi prison for an attempted 2006 break-in at the Akhalkalaki municipal building (see section 6), complained to the PDO that on April 30, prison guards beat him. The Ministry of Justice asserted on June 15 that medical experts found no evidence of mistreatment and that his cellmate denied seeing any signs of physical abuse. On June 23, during a visit with PDO representatives, Chakhalian signed a statement denying any complaints against the prison administration and refusing any PDO assistance. The NGO claimed that the PDO was biased on this issue.

The PDO investigated the possible mistreatment of Neli Naveriani during her arrest in Mestia on July 7. The PDO representative who visited her at the Zugdidi penitentiary noted bruising on her arm, and Naveriani confirmed that she received the bruises from police officials. The deputy prosecutor in Zugdidi stated that Naveriani received the bruises while resisting arrest. On July 21 and November 17, the PDO requested that the Chief Prosecutor open an investigation into the case; however, by year's end no response was received.

On August 17, the PDO called on the chief prosecutor to investigate the observed injuries on Irakli Kakabadze's, arms and shoulders after his arrest on August 14. According to the PDO, Kakabadze, a dual U.S.-Georgian citizen, stated he received

the injuries from the chief of the Tbilisi patrol police and his deputy. The PDO noted that the injuries were reported in the detention center's protocol. The Ministry of Internal Affairs claimed their investigation found no signs of mistreatment or disciplinary or criminal violations; that Kakabadze could not identify the perpetrators; and that his further questioning was hampered since he left Georgia on August 18. On October 27, the PDO made another request to the chief prosecutor; however, by year's end no response was received (see sections 1.d. and 2.b.).

The NGO Human Rights Priority reported that, on August 19, prison guards severely beat prisoners at Prison No. Seven in Ksani with sticks. According to Human Rights Priority, prison authorities singled out prisoner Archil Sakhvadze during the beatings and told him to withdraw the application he had filed with the European Court of Human Rights (ECHR). On August 31, Sakhvadze was transferred to Prison No. Six in Rustavi. Human Rights Priority reported that a PDO representative visited Sakhvadze and noted his injuries. According to Human Rights Priority, the ECHR sent a letter requesting information on the status of both Sakhvadze's health and the investigation into the allegations. On October 7, a reply was received giving details of Sakhvadze's health and indicating that an investigation into the allegations continued at year's end. According to the PDO and the Ministry of Correction and Legal Assistance, the case was still ongoing at year's end.

On August 27, Dimitri Lortkipanidze from the parliamentary minority reported that the lawyer of Vakhtang Maisaia, who was serving a 29-year sentence for espionage at Tbilisi Prison No. Eight, informed him that prison guards beat Maisaia to force him to end his hunger strike against his detention. Lortkipanidze called on the PDO to investigate the allegation. According to the PDO, the chief prosecutor's office informed them on December 10 that an investigation continued.

An incarcerated non-Georgian citizen reported that guards physically assaulted him during a prison transfer on August 8. The Ministry of Correction and Legal Assistance asserted that it investigated the report of assault against the non-Georgian citizen, which included interrogating witnesses and conducting medical examinations, and concluded that the allegations could not be corroborated. He also reported that during the year he witnessed prison guards randomly choosing inmates for beatings.

There were no developments in the reported May 2009 beating of Nugzar Otanadze. The PDO reported that it never received a response to a request for an investigation from the chief prosecutor's office. According to the Ministry of Justice, the investigation was terminated at Otanadze's request in September 2009.

There were no developments, and none were expected, in the investigation of the allegation that unidentified, masked officers in the Kutaisi Jail and Strict Regime Institution No. Two, beat 12 juvenile prisoners in July 2009. The investigation department of the Ministry of Corrections and Legal Assistance continued its investigation of the allegation of use of excessive force at year's end.

According to the PDO and human rights monitors, the incidence of abuse in police stations remained low, due to continued, unannounced, random monitoring of stations. However, the PDO reported in June that physical injuries were observed very frequently on persons upon admission to police detention facilities, and the number of such cases had increased. The public defender stated in a June 26 speech that officials who conducted investigations into allegations of torture often mischaracterized such acts as abuse of official power, which carried a far lighter sanction.

The PDO reported that it received three complaints during the year that police officers physically abused persons in detention, and that its last monitoring of pre-trial detention facilities, conducted in December, found no cases of physical injuries. However, the PDO stated that accurate statistics do not exist given that an investigation is only launched upon a victim's request. The PDO reported that investigations into allegations made during the year were either dismissed or ongoing at year's end.

In a September 21 report on its February 5-15 visit to the country, the Council of Europe's Committee for the Prevention of Torture (CPT) reported receiving a few allegations of police physically mistreating persons in their custody. Most involved excessive use of force (for example, punches and kicks) at the time of apprehension, but there were also allegations of mistreatment during questioning. For example, one person alleged that following his apprehension in early February, he spent a night in an office at a district police station in Tbilisi where police officers repeatedly hit and kicked him to compel him to confess to a crime. Another person alleged that following his apprehension, officers took him to the Department of Constitutional Security of the Ministry of Internal Affairs, where he was hit with clubs and kicked. However, the CPT report concluded that "the situation as regards the treat-

ment of persons detained by police in Georgia has considerably improved in recent years.”

During protests in spring 2009, the PDO received 32 complaints of police mistreatment from protest activists (see section 2. b.). Most cases involving violence against opposition activists during the 2009 spring protests remained unsolved at year’s end.

According to the Ministry of Justice, authorities initiated 19 investigations into allegations of torture and 15 into inhuman treatment during the year, compared with 17 allegations of torture, six of inhuman or degrading treatment, one of use of duress to compel evidence, and one less-grave injury to health in 2009. During the year the Ministry of Justice reported that 11 cases were terminated and judgments were rendered against four persons (two for torture and two for inhuman treatment).

NGOs and the PDO reported that victims often failed to report abuse due to fear of retribution by police or prison authorities against them or their families. NGOs also continued to claim that close ties between the Prosecutor General’s Office and police hindered the ability of NGOs to substantiate police misconduct. NGOs alleged that the judiciary’s lack of professionalism and independence made it unresponsive to allegations of mistreatment. As a result, despite implementation of positive reforms, NGOs claimed law enforcement officials could still mistreat persons with limited risk of exposure or punishment. NGOs also believed a lack of adequate training for law enforcement officers, as well as low public awareness of the protections afforded citizens, impeded improvements.

The PDO noted that monitoring groups found no instances in which police officers incorrectly registered a detainee when they brought him to the police station, which previously had been a means for police officers to conceal abuse. All law enforcement officers and representatives of the Prosecutor’s Office, with the exception of officers of the Ministry of Internal Affairs’ special units (including the Special Operatives Department, the Constitutional Protection Department, and the counterterrorism center), were required to wear identity badges during meetings with detainees and prisoners. Special police units were exempt to protect members’ anonymity. NGOs asserted that this protected the personnel of these units from accountability for abuse.

There were reports of indiscriminate military force by the parties to the August 2008 conflict in South Ossetia resulting in civilian injuries (see section 1.g.).

In 2008 Zugdidi police officers Data Gvinjilia and Davit Nadaraia arrested Gocha Ekhvaia near Engurkalakkombinad in Zugdidi. Ekhvaia alleged that they forcibly took him from his home after questioning him on the whereabouts of a missing person, beat him, and drove him around before testing him for drugs. Ekhvaia was placed in isolation for seven days of court-ordered administrative detention, during which he lost consciousness and was hospitalized. The Zugdidi regional prosecutor’s investigation into allegations of police torture of Ekhvaia continued at year’s end.

In September the Government’s Interagency Coordinating Council against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment adopted a new strategy. The new strategy prioritizes the following areas of needed reform: development of an effective complaints procedure for inmates; development of prompt, impartial, and effective investigations of all allegations of ill-treatment; protection, compensation, and rehabilitation of victims of mistreatment; improvement of internal and external monitoring systems for early detection and prevention of mistreatment in detention facilities; and improvement in the capacity of relevant institutions.

The Government’s action plan to address torture, mistreatment, and medical care included the PDO as the country’s NPM, an institution required under the UN Optional Protocol to the Convention against Torture and intended to be the lead government agency for monitoring allegations of torture and mistreatment of detainees. It published its first National Preventive Mechanism Report, covering 2009, in June.

In July 2009 parliament amended the law to give the PDO greater responsibility for monitoring prisons and other closed facilities and allow it to draw on outside experts in its monitoring efforts. However, the PDO noted that the Law on the Public Defender does not explicitly state that the NPM can use audio and video equipment. The mechanism follows the regulations established by each institution.

*Prison and Detention Center Conditions.*—Conditions in many prison and pretrial detention facilities remained poor and did not meet international standards. The PDO, the CPT, and many NGOs including Human Rights Watch (HRW) continued to report that while newly constructed facilities met international standards, old facilities still in use were inhuman and exposed detained persons to life-threatening conditions, including poor facilities, overcrowding, and inadequate health care. Most prison and pretrial detention facilities lacked adequate sanitary facilities.

In its September 21 report on conditions found during its February 5 to 15 visit to the country, the CPT noted that, although there were no allegations of mistreatment of patients by staff, the “ever deteriorating” state of the Asatiani Psychiatric Institute in Tbilisi created conditions “easily described as inhuman and degrading.” While the CPT noted that the Government had taken action to prevent mistreatment of prisoners, it cited mistreatment at Prison No. 8 in Tbilisi (Gldani), Penitentiary Establishment No. 7 in Ksani, and Penitentiary Establishment No. 8 in Geguti as particular problems. In its 2009 National Preventive Mechanism Report, the PDO noted that in some penitentiaries sanitary-hygienic conditions and overcrowding were poor enough to amount to inhuman and degrading treatment.

According to Ministry of Corrections and Legal Assistance data, during the year 75 convicts died in prison compared with 92 in 2009 and 94 in 2008. Of the 75 deaths, five were suicides, one resulted from carbon monoxide inhalation from a fire in Ksani Prison No. 15, and the others were due to illness.

The 2009 National Preventive Mechanism Report recounted the case of a prisoner who committed suicide in December 2009 in Kutaisi Prison No. 2. The PDO called for a special investigation into the suicide because there was evidence of physical abuse inflicted on the body before the suicide. According to the PDO, on May 31, the investigation into the criminal case was suspended.

Many prisons were severely short of medical facilities, including equipment and medicine. The 2009 National Preventive Mechanism Report noted that inequality between the national healthcare system and healthcare in the penitentiary system violated international standards. Medical care was also provided unequally in penitentiaries in different geographical areas. Prisons administrators were not able to provide comprehensive emergency services. The PDO reported that during the year many prison doctors were terminated from their positions for not providing adequate service to inmates, and most prisoner deaths during the year were due to tuberculosis. The PDO criticized the Ministry of Corrections and Legal Assistance for a lack of adequate healthcare.

Since 2008 the Penitentiary Department has been overseen by the Ministry of Corrections and Legal Assistance, and the unit responsible for monitoring penitentiary establishments has been located in the General Inspection Department of that ministry.

According to Ministry of Corrections and Legal Assistance, the inmate population continued to grow, increasing overcrowding. During the year inmate population was 23,511 as compared with 21,239 in 2009 and 18,528 in 2008. The law defines three categories of penitentiaries: common regime, strict regime, and prison. Inmates were assigned to facilities depending on their crimes, with first-time offenders and persons convicted of less serious crimes assigned to common regime establishments; recidivists and those who committed graver crimes were assigned to strict regime establishments or prisons.

The law sets the standard living space per prisoner as 22 square feet in common and strict regime establishments, 27 square feet in prisons, 32 square feet in the women’s colony, 37 square feet for juveniles, and 32 square feet in medical facilities. According to the NPM 2009 report, overcrowding remained a problem, and eight facilities were overcrowded.

International organizations that monitor prison conditions pointed out that the country’s space standards for prisoners did not meet international standards. The CPT found that overcrowding was “rife” in several of the prisons that it visited.

NGO Empathy reported that in September the Ministry of Corrections and Legal Assistance moved some juvenile offenders to Prison Facility No. Eight and that this facility did not meet international standards for juvenile justice including an adequate courtyard for exercise. The Ministry of Corrections and Legal Assistance reported that a new facility for female inmates, including female juveniles, opened during the year and a new administrative building was constructed to improve prison conditions at Juvenile Facility No. 11. During the year 70 juveniles participated in new rehabilitation programs including computer classes. Since its merger with the Ministry of Justice, the Prosecutor’s Office appeared more flexible in following more progressive criminal justice practices, including piloting a juvenile diversion program during the year.

The presidential administration sought to use early release of certain convicts to reduce the size of the prison population. According to the Ministry of Corrections and Legal Assistance, the president pardoned 1,299 convicts during the year. In 1,115 cases, the prisoners were released from prison; in 154 the sentences were halved; in 18 the convict was released from a conditional sentence; and in 12 instances, prison sentences were shortened. In 2009 990 persons received pardons and in 2008 the number was 2,804.

Plea bargains were also used as a tool to try to alleviate prison overcrowding (see section 1.e.). During the year test cases began in the implementation of alternative sentencing for juvenile offenders. On October 1, a new code of imprisonment went into effect and councils for early release, akin to parole boards, were created. Three new prisons opened during the year that met European standards for living conditions.

A working unit of the Ministry of Corrections and Legal Assistance continued to oversee implementation of a code of conduct for penitentiary employees modeled after European practices. According to the ministry, during the year there were 156 cases of violation of discipline by officers in various penitentiaries compared with 263 in 2009 and 179 in 2008. Violations resulted in various degrees of punishment including notices (18 cases), reprimand (108), severe reprimand (27), demotion (two), and dismissal (one). The ministry reported that the most common reason for disciplinary action was abuse of authority.

On July 21, parliament amended the law to grant the public defender the right to make nonbinding recommendations to law enforcement agencies that they investigate allegations of human rights violations, including those involving abuse of prisoners. Government agencies have 10 days to respond to the public defender's recommendation. Agencies that decide not to open an investigation as recommended by the public defender are required to submit a written justification of their decision to the PDO within 15 days. The amendment was intended to force government agencies to justify publicly any failure to investigate allegations and to improve response times to the PDO. The PDO reported that its communications with most governmental institutions improved; however, there continued to be cases of late or inadequate responses, and the PDO was doubtful if the improvement was directly related to the amendment.

On December 30, the Ministry of Corrections and Legal Assistance eliminated its requirement that members of the clergy from confessions other than the Georgian Orthodox Church seek that church's permission to counsel or visit prisoners. Members of the Muslim and Baptist communities had reported having trouble obtaining the Georgian Orthodox Church's permission for such visits during the year.

While there were Georgian Orthodox chapels in most prisons, there were no specific nondenominational areas for worship; some minority religious leaders complained that members of their communities were unable to worship in the prisons during their holidays due to a lack of appropriate space. However, a new order issued on December 10 under article 2 of the Code of Imprisonment explicitly provides for the religious worship of prisoners and detainees, including worship space, the right to meet with clergy of any confession, and the right to have religious items.

Authorities permitted prisoners to submit complaints to judicial authorities, such as PDO representatives, as well as NGOs, international organizations, and lawyers, without censorship and request investigations of inhuman conditions. Authorities opened investigations into such allegations; however, in many cases they never officially completed their investigations, filed charges, or took other disciplinary action against officials alleged to have committed abuses.

The Government permitted independent monitoring of prison conditions by international organizations, local and international human rights groups, and the media. Such monitoring occurred during the year. The ICRC had full access to prisons and detention facilities in undisputed Georgia and some access to facilities operated by the de facto authorities in Abkhazia and South Ossetia to monitor conditions of incarceration and treatment of all prisoners and detainees. The ICRC also supported health programs in prisons and detention centers.

Prison conditions in the two separatist regions were chronically substandard, although overcrowding reportedly was not a problem. According to press reports, in February a Georgian prisoner, Demur Gogokhia, died in Dranda prison. Abkhazian de facto officials reported that the cause of death was an infectious disease, but the Georgian media reported allegations that he had died from the effects of repeated torture. On June 25, an ethnic Georgian, Besik Anjaparidze, reportedly died in an Abkhaz jail four days after his arrest by de facto officials who cited a heart attack as the cause of death, but the Georgian government alleged he died as the result of physical abuse while in custody.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention; however, the Government's observance of these prohibitions was uneven.

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs has primary responsibility for law enforcement. During times of internal disorder, the Government may also call on the armed forces. The ministry controls the police,

which are divided into functional departments and a separate, independently funded, Police Protection Department that provides security and protection to both infrastructure sites and private businesses. The Ministry of Finance has its own investigative service.

On October 1, provisions of the reformed criminal procedure code (CPC) entered into force. The code encourages accountability and professionalism in the police by barring the use of illegally seized evidence and legally seized evidence stemming from an initial illegal action by police (see section 1.e.).

During the period leading up to the May municipal elections, there were reports that law enforcement officials intimidated opposition representatives (see section 3). There were also reports that law enforcement officials selectively enforced laws against those aligned with the opposition (see section 2.b.).

During nonparliamentary opposition protests between April and July 2009, police reportedly used excessive force against protesters on several occasions (see section 2.b.); in most cases the absence of accountability resulted in allegations of police impunity.

Also unresolved at year's end were allegations made in 2009 by the then public defender and by NGOs that police planted evidence, engaged in inhuman and degrading treatment, abused official authority, and exceeded the limits of official authority. Nonparliamentary opposition activists claimed that police especially targeted them with such actions (see section 1.e.).

According to the Ministry of Internal Affairs, its General Inspection Service imposed more disciplinary actions on law enforcement officers during the year than in previous years. Forms of punishment included reprimands, demotions, and dismissals. There were 861 such actions compared with 566 in 2009. The ministry also reported that during the year more police officers were arrested for committing various crimes, 46 as compared with 29 in 2009. Crimes during the year included corruption (18 cases), carrying or using narcotics (two), fraud or excessive use of authority (12), abuse of authority (12), and misappropriation of state property (two).

The Human Rights Protection Unit in the Office of the Prosecutor General issued regular updates on the status of cases, trials, and investigations of human rights violations. However, NGOs maintained that the incidence of abuse was higher than the number of cases investigated by the prosecutor general, and failure to conduct systematic investigations and pursue convictions of all alleged abusers contributed to a culture of impunity. Human rights NGOs also asserted that many instances of abuse went unreported by victims due to fear of reprisals or lack of confidence in the judicial system.

The Prosecutor General's Office was in charge of all criminal investigations into allegations of torture and mistreatment. Prosecutors were required to investigate the use of force by police when a detainee with injuries sustained during arrest was registered. The law requires the office to open an investigation when it receives information about a possible violation, even if from an anonymous source. If prosecutors conclude after investigation that charges are not warranted, the decision can be appealed to a higher level within the office. Any person subjected to abuse was able to pursue a civil action against the abuser. In some cases the Prosecutor General's Office continued investigations indefinitely without issuing any findings. In most cases that were completed, the office concluded that the use of force by police was reasonable.

The law obliges police officers to uphold the human rights of all persons and to use force only when strictly necessary for the performance of their duties; the Ministry of Internal Affairs and Prosecutor General's Office are responsible for implementing the law. The General Inspection Service is responsible for investigating suspected infractions on duty by police officers, receiving complaints from citizens on the ministry's hotline, via the public defender, or from the main unit of the ministry's Human Rights and Monitoring Department. Infractions may be addressed to the police officer's supervisor, who can also initiate an inquiry. There are seven categories of disciplinary measures: reproach, condemnation, severe condemnation, deprivation of the ministry badge, demotion, demotion by one grade, or dismissal. If there is suspicion that a police officer committed a criminal act, the officer is suspended and, if the allegations are confirmed, the inquiry materials are transferred to the Prosecutor's Office for criminal investigation.

During the year the Police Academy included training on human rights in the basic course for patrol police and conducted specialized training on human rights in cooperation with international partners, such as the Council of Europe. The Police Academy curriculum for 7,000 patrol, regional inspectors, and junior police officers included training on the legal basis for the use of coercive force, proper crowd control, hate crime investigations, tactical training on negotiation skills for man-

aging critical situations with the goal of using coercive force as a last resort, police ethics, and role playing to illustrate these points.

*Arrest Procedures and Treatment While in Detention.*—The reformed CPC which took effect during the year includes better-defined rights and due process protections for those arrested and measures intended to increase the speediness of trials, thus potentially reducing time in detention (see section 1.e.). The code provides that the term of the defendant's initial arrest shall not exceed 72 hours without judicial review and that the arrested person shall be presented with the indictment within 48 hours from the moment of arrest. Upon arrest the defendant is to be advised of all legal rights, and any statements made after arrest but before the defendant is advised of his rights are inadmissible and excluded from evidence in the criminal case. Court observers found that judges adhered to these time frames strictly.

Police are also required to provide detainees a copy of the arrest and search form, signed by police and detainees. The PDO and NGOs reported that police often failed to inform detainees fully of their rights and that, if informed of their rights, detainees often did not understand them. However, the PDO reported that such instances could not be verified because detainees signed that they had been provided with information on their rights at the time of their arrest. On November 4, the PDO recommended that the Ministry of Internal Affairs use a form during detention that explicitly states the rights of those arrested.

The CPC permits law enforcement officers to arrest a person without a warrant only in exceptional cases. There was no indication that the code was violated in this regard during the year.

The law provides safeguards for a speedy trial through strict time frames. A pretrial hearing must occur within 60 days of arrest; if no pretrial hearing has commenced within 60 days, the defendant must be released. A trial should begin within 14 days of the pretrial hearing. The total time allowed under the CPC for detention of a defendant is nine months, within which the main trial proceedings must be initiated. Extensions of these timeframes are permitted at the request of the defendant; the prosecution has only limited ability to alter these time frames.

After multiple surveys, the judiciary established that the average trial length for cases to go through the court system was 12 to 13 months for criminal cases; 18 to 19 months for civil cases; and 15 to 18 months for administrative cases. The duration of trials at the trial-court stage did not exceed three to five months. A high number of judicial vacancies at the trial-court level may have contributed to some delays in scheduling trials. Thirty-three new judges completed training during the year. The speed at which the judiciary could add new judges was affected by a 12-month training program that each candidate was required to pass.

A second cause of delays in scheduling trials was the failure of prosecutors and defense lawyers to appear for hearings. Both prosecutors and defense lawyers used this tactic if they were not prepared to conduct their case on the day in question. The CPC permits courts to impose sanctions on trial lawyers for such misconduct. During the year judges imposed financial sanctions for such lawyer misconduct as confirmed by court monitors.

The Judicial Administration and Management Reform Project September survey, conducted by the Institute for Polling and Marketing, found that the main reasons for delay in the regional courts and the Tbilisi City Courts were: parties asked for postponement to negotiate plea agreement (12 percent); prosecutors requested postponement (9 percent); defense lawyers requested postponement because of conflict with another trial (8 percent); defense requested more time to prepare case (7 percent); witness did not attend trial (7 percent); health reasons (6 percent); absence of defense lawyer (5 percent); absence of prosecutor (2 percent); and absence of defendant.

There is a system of bail. The new CPC shifted the presumption toward releasing detainees, with conditions (including posting of bail or other surety), away from the previous practice where pretrial detention was presumed and bail or other alternatives used only marginally. There was an increase in the judiciary's use of bail instead of pretrial detention during the year. NGOs noted that, due to economic hardship, some defendants were not able to pay bail even when it was granted and ended in pretrial detention. In many case prosecutors used standardized and stereotypical formulations in seeking to detain defendants and did not refer to the individual facts of the case, thus failing to provide an explanation of how the specific circumstances calls for application of coercive measures (detention).

According to Ministry of Justice data, detention was used in 7,802 cases (54.4 percent) during the year, bail in 3,977 (27.8 percent), bail secured by remand order in 2,465 (17.2 percent), personal guarantees in 79 (0.6 percent), and other coercive measures in six (0.04 percent). In the first 11 months of 2009, bail was used in

4,727 cases, custodial bail in 2,031, pretrial detention in 6,957, release under supervision in 174, and other measures of restraint in 35.

A property bond is also permitted. In addition to bail and pretrial detention, the law permits obligating a defendant to appear in court at a set time or upon summons; prohibiting a defendant from undertaking certain activities or pursuing a certain profession; obligating a defendant to report to the court, police, or other state agency daily or periodically; supervision by an agency appointed by the court; electronic monitoring; prohibiting a defendant from leaving or entering a certain location; prohibiting a defendant from meeting certain persons without special authorization; and ordering a defendant to surrender a passport or other identification documents. During the year test cases began in the use of alternative sentencing for juvenile offenders.

A detainee has the right to request immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. An indigent defendant or a defendant charged in a criminal case has the right to counsel at public expense. The ministry in charge of the proceedings appoints counsel upon the defendant's request. If a defendant requests an attorney after arrest, the investigator or prosecutor who is handling the case is responsible for contacting and engaging the attorney. While exact reasons varied (that is, insufficient time to retain a lawyer or lack of information on basic legal rights), many defendants were unrepresented at the bail or detention hearing stage. The proportion was 37 percent at Tbilisi City Court, based on data compiled by the court's monitors. The courts and Legal Aid Services sponsored public service announcements on access to free legal aid throughout the year.

Defense counsel has the right to meet persons accused of a crime without hindrance, supervision, or undue restriction; however, NGOs and lawyer associations complained that long lines and cumbersome entry checks at penitentiary institutions (that they must go through for each client they meet) hindered their ability to prepare cases. They blamed the problem on a shortage of interviewing rooms for lawyers and their clients at detention facilities.

Officers must notify detainees' families of their location within five hours of their arrest and record the circumstances of the notification in the case record. PDO representatives regularly reviewed these records during their visits to police stations and found that, in most cases, officers adhered to these requirements.

The constitution and the law stipulate that detainees must be brought before a magistrate judge within 72 hours. Those not brought before a judge by the prosecutor within this period must be released. The Prosecutor General's Office is the only body authorized to engage directly with the courts. There were no reports during the year of officials holding detainees longer than 72 hours without charging them.

In the case of Irakli Kakabadze and two others who painted over a street sign as part of a protest to call for its renaming, the PDO concluded that Kakabadze's detention on the charge of disobeying police orders was not warranted because video shot at the scene showed Kakabadze and the others obeyed orders (see sections 1.c. and 2.b.). Georgian Young Lawyers' Association (GYLA) representatives noted that the only wrongdoing committed by the protesters was defacing the street sign, a crime that envisages a 50 lari (\$28) fine, not arrest.

In May 2009 authorities arrested three members of the nonparliamentary opposition on charges of hooliganism after the opposition members allegedly slapped and punched Georgian Public Broadcaster (GPB) journalist Nika Avaliani. At a press conference, the three protesters alleged that during their detention, police beat them, verbally abused them, and threatened them with death and rape. The Ministry of Internal Affairs opened an investigation into the allegations which continued at year's end.

In contrast with 2009, there were no reports that law enforcement officers planted drugs or weapons on persons during the year to arrest or charge them in criminal cases. In 2009 this practice was reported, and many such cases were considered politically motivated (see section 1.e.). In most of the 2009 cases, individuals accepted plea bargains or were found guilty.

In 2009 there were reports that authorities detained individuals solely because they were family members of a criminal suspect, despite the lack of evidence of any ties to an alleged crime. The public defender and NGOs reported that in May 2009, police officers from the Ministry of Internal Affairs detained at least 11 relatives of Koba Otanadze, accused of being one of the leaders of the Mukhrovani mutiny (see sections 1.g. and 1.c.). Authorities did not formally register these individuals as detained, and the public defender could not determine their whereabouts. They were released 21 hours later, after the arrest of Otanadze. The Ministry of Internal Affairs confirmed the detention of some family members under the status of "suspects"

or “witnesses.” Authorities filed charges of resisting arrest against family member Nugzar Otanadze (see section 1.c.). No other formal charges had been filed at year’s end, either against family members who had been detained or against those responsible for the detentions.

A February 23 amendment to article 80 of the Criminal Code of Georgia increased the minimum age of criminal responsibility to 14 years of age (from 12 years old). The amended article 80 provided state that, “[f]or purposes of criminal responsibility, juvenile is the person from 14 to 18 years of age at the time of commission of crime.”

During the year de facto officials of the separatist territories and Russian officials continued to detain many individuals in the separatist regions of Abkhazia and South Ossetia on charges related to their “illegal” crossing of the administrative boundary line. Russian border guards, who began administering the boundary lines in 2009, carried out many of those detentions by enforcing boundary-crossing rules imposed by the de facto authorities, but they usually handed custody of the individuals over to the de facto authorities. In most case the individuals were released within a few hours or days; in some case the individuals were held considerably longer. In Abkhazia the detainees were often fined; in South Ossetia they sometimes were. Georgian authorities also detained a number of individuals near the administrative boundary lines on various charges, including illegal entry into the country. Such individuals often carried only Russian passports with no evidence of authorization to be present in Georgia.

On June 3, Russian border guards detained two herders who crossed the South Ossetian administrative boundary near Karbala while trying to round up their herd; one was released immediately because of ill health, while the other was released later that day. In mid-August, a resident of the South Ossetian village of Sinaguri tried to cross the administrative boundary into her village from undisputed Georgia, but Russian border guards stopped her because it was after the curfew of 8:00 p.m.; she eventually reached her home by another route, but her husband was later arrested by de facto officials reportedly for assisting her “illegal” crossing.

On July 5, a Russian helicopter landed in Khurcha, outside the Abkhaz administrative boundary, and detained three men who were apparently engaged in cross-boundary trade; Russian officials claimed they had landed inside Abkhazia, but EU monitors determined the location was outside the administrative boundary line. On October 2, Russian border guards detained a woman attempting to enter Abkhazia near Orsantia; she was reportedly accused of “smuggling” blankets and mattresses into Abkhazia. In mid-November, Russian border guards detained dozens of individuals in a series of incidents, many of which were likely related to the transport of hazelnuts across the boundary during the harvest season. On November 22, approximately 20 individuals, including some women and children, were held overnight in Barghebi; the next day, approximately 12 men from the group were brought to Gali and fined.

On September 10, after the intercession of EU officials, Abkhaz de facto officials released Malkhaz Kordzaia, who had been held for two years on charges of “illegally” crossing the administrative boundary.

In May the de facto authorities released six individuals whom they detained in August 2009 in the Akhagori region of South Ossetia for attempting to smuggle wood.

*Amnesty.*—During the year according to statistics of the Ministry of Corrections and Legal Assistance, presidential orders pardoned 1,299 convicts, compared with 687 in 2009.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary. However, reports persisted that the executive branch and some senior judges exerted pressure on the judiciary.

According to the PDO’s report for the second half of 2009, problems continued within the judicial system including court independence, quality of investigations, parity of the sides, and substantiation of court decisions at various stages of consideration.

Many NGOs complained that judicial authorities continued to act in favor of the ruling party, in some cases even without an actual directive to do so, particularly if there was a perceived government interest in the case. Some NGOs and nonparliamentary opposition alleged that in cases involving opposition activists, the courts tended to rule in favor of the Government. NGOs also expressed concern that recent judicial appointees lacked the experience and training to act independently.

Much of the public viewed the judiciary as one of the country’s most corrupt institutions. However, the most recent comprehensive survey of court user satisfaction with court effectiveness indicated that 63 percent of court users agreed that the

courts were reliable, with 60 percent indicating that the courts were impartial. The Institute for Polling and Marketing conducted the survey in August.

On May 18, GYLA released a report, *Justice in Georgia*, which asserted that individual judges sometimes received “directives” on specific cases from other higher-ranking judges. Because of the subjectivity of determining the grounds for bonuses, as well as disciplinary punishments (and possibly criminal punishments) for violations of internal investigations, judges not following such instructions were subject to repercussions, most notably assignment to an undesired court.

In a December 13 paper, the International Crisis Group (ICG) stated that many Georgians still perceived the judiciary as dependent on the executive branch and deferential to the prosecution, especially given the 1 percent acquittal rate in criminal cases. In a December 15 report, Transparency International (TI)/Georgia also raised concerns about the implications of the low acquittal rate for a fair trial. According to the Ministry of Justice, during the year the acquittal rate was 6 percent compared with 12 percent in 2009.

During the year according to statistical data provided by the Supreme Court of Georgia, 21 defense attorneys were charged with crimes and 17 defense lawyers were charged with fraud. Sufficient information was not available to demonstrate that all these lawyers were objects of undue pressure by the Government. However, the December Report on the Georgian Mission of the International Observatory for Lawyers described cases of lawyer intimidation where the defense lawyers were arrested and sentenced on fraud charges. The Georgian Bar Association argued that these lawyers were working on “sensitive” cases or were considered “opposition” lawyers and were targeted as such. The December Report on the Georgian Mission of the International Observatory for Lawyers described two cases of government intimidation of attorneys. The PDO stated that some lawyers encountered difficulties in their ability to serve their clients properly. The PDO documented several “problematic issues” regarding the limited access of lawyers to their incarcerated clients.

On October 15, parliament approved a package of constitutional amendments, including provisions governing the judiciary, that were scheduled to take effect in 2013. Under these amendments, common court judges are to be given lifetime appointments after a three-year probationary period. The Venice Commission and Georgian experts had criticized this probation period as potentially undermining judicial independence due to a lack of clear guidelines or criteria governing the decision-making process as to how judges will be retained or removed.

The High Council of Justice appoints and dismisses judges. Chairman and members of the Supreme Court are nominated by the president and approved by parliament. The chairman of the Supreme Court sits as chairman of the council.

During the year NGOs and observers continued to criticize the lack of transparency in the selection, appointment, and disciplining of judges. Despite the use of objective written examinations to create a pool of potential qualified appointees and publication of the names of all potential candidates for public comment, the judicial appointment process was not sufficiently transparent. Oral interviews of appointees were held behind closed doors with no public knowledge of what criteria were used for selection.

During the year the Supreme Court and the High School of Justice reduced their training program for judges to 12 months to streamline the training program. Judicial candidates, who have served as lawyers for at least 10 years prior to being selected for the judicial training program, can now complete the High School of Justice course in six months. The program was intended to promote a merit-based selection and vetting process for judges and help eliminate unqualified appointees. The program included examinations and performance measures to provide objective criteria for ranking the performance of the judicial candidates.

A law on ex parte communications prohibits prosecutors, defendants, investigators, and any interested third parties from contacting judges outside the courtroom during cases to influence their decisions. According to the judiciary, during the year there were no disciplinary actions taken against sitting judges or other public officials for such violations; this also was the case in 2009. The disciplinary process against judges was primarily initiated for violations of an in-custody defendant’s term of detention or for other types of procedural violations that infringed upon the legal rights of defendants.

During the year 10 judges reportedly left office on personal resignation requests, and four new judges were appointed after graduating from the judicial training program. The reformed CPC removed the judge from the investigative process, thus reducing the opportunity for ex parte communication and undue influence from the prosecution.

During the year the High Council of Justice’s Judicial Ethics and Disciplinary Procedure Department received 1,053 complaints. They reported that the majority

of complaints were unsubstantiated or faulty. The High Council started disciplinary proceedings against 30 judges and referred these cases to the Disciplinary Board of the Common Courts. As a result of the board's decisions, one judge was dismissed, one received a reprimand, and one received a notice. Other cases awaited a decision from the board at year's end. In 2009 the Disciplinary Board of the Common Courts discussed 44 disciplinary cases involving 32 judges, 19 of which were new cases and 25 held over from 2008. Of these cases, the board imposed disciplinary sanctions on 18 judges, three of whom were dismissed.

Some members of the courts were arrested on corruption charges during the year. On May 31, the Ministry of Justice's Inspector General's Office conducted a large scale anticorruption operation and arrested a judge of the Tbilisi Court of Appeals. Dimitri Mchedlishvili, an appellate judge, was arrested for allegedly accepting a bribe of 5,000 lari (\$2,825) in exchange for assisting a defendant on a criminal case. During 2005-07, he was the High School of Justice's Chief of the Judicial Disciplinary Proceedings Department. In July he was found guilty and sentenced to three years' imprisonment, one-year conditional sentence with two years of probation. In addition he was fined 10,000 lari (\$5,650).

Prosecutor Levan Bochorishvili was arrested during the year for allegedly accepting bribes in the amount of 1,000 and 1,500 lari (\$565 and \$847) in exchange for fashioning favorable plea agreements for defendants. In July he was found guilty and sentenced to three years of imprisonment, one-year conditional sentence with two years of probation. In addition he was fined 30,000 lari (\$16,949). During this investigation, defense attorney Nana Tkheldidze was arrested for allegedly accepting payments in the amount of 6,500, 4,000, 1,500, and 1,000 lari (\$3,672, \$2,260, \$847, and \$565) to use in securing favorable plea agreements for defendants.

The Prosecutor's Office is responsible for disciplinary action for violations of the ethics code for prosecutors. The Office of the Prosecutor General conducts an inquiry into such facts and presents this information to the prosecutor general with a recommendation for disciplinary action. The Ministry of Justice, actively implemented the code during the year with 23 employees of the Chief Prosecutor's Office receiving disciplinary actions ranging from notice to reprimand. Three prosecutors were reprimanded specifically for a violation of the code of ethics.

In December 2009 officials arrested a prosecutor and accused him of accepting a 2,000 lari (\$1,087) bribe to secure a favorable sentence for a defendant. Officials also arrested the defense attorney for his alleged role in the incident. In May the prosecutor was found guilty and sentenced to nine months' imprisonment, four years and three months' conditional sentence, and five years and three months of probation. In addition he was deprived of the right to hold a government position for three years.

The OSCE's September 13 report on the May 30 municipal elections raised concerns about the handling of election grievances by the courts, noting that "most appeals were dismissed by the courts, even when during the hearings substantial evidence and testimonies on violations were presented."

*Trial Procedures.*—The constitution and the law provide for the right to a fair trial; however, in spite of continued reforms, concerns continued about the fairness of trials.

Human rights activists were concerned that the Prosecutor's Office is not independent from the Ministry of Justice and that there is no direct parliamentary vote on the chief prosecutor's nomination. Concerns also remained that under the reformed CPC, part of the criminal justice internal guidelines was not public information. Such lack of public access potentially made it difficult for lawyers to raise procedural points in criminal cases.

By law defendants are presumed innocent. Under the CPC, the prosecution must demonstrate a "high probability" of guilt at the pretrial stage. If the prosecutor cannot meet this burden, the court must dismiss the prosecution's case and release any detained defendant.

On September 24, parliament further amended the CPC. These amendments include changes to the jury deliberation and unanimity standards that mirror European legal traditions that do not require a unanimous jury verdict. The CPC requires a unanimous jury verdict; however, if a unanimous verdict cannot be reached with the first three hours of deliberation, a verdict by a two-thirds majority is now allowed in the next six hours of deliberation. If after this six hours of deliberation a verdict cannot be reached by a two-thirds majority, the judge will inquire whether any juror is refusing to participate in deliberations or has a private interest in the case that was not disclosed during jury selection. If satisfied that neither of these circumstances exists, the court will then allow three more hours of deliberation. If after that time no verdict is rendered, the court may either dismiss the jury and declare a mistrial, or allow the jury further time to deliberate. If a second jury trial

also results in a hung jury and no verdict, then the defendant may not be tried a third time and will be deemed acquitted.

By law a court must certify that a plea bargain was reached without violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. Under the reformed CPC, either prosecutors or defendants may initiate plea agreements. Prosecutors are under an obligation to inform the victim of the terms of the plea agreement. The victim can also seek a review of the plea bargain by a senior prosecutor. According to Ministry of Justice statistics, during the year the use of plea bargaining increased significantly. During the year the number of plea agreements was 80.8 percent (15,614) of all judgments as compared with 58.9 percent (10,400) in 2009 and 52 percent (10,608) in 2008.

The majority of plea agreements (which included a proposed sentence) contained a financial penalty along with either a prison term or a suspended sentence. Even proper and viable plea agreements were often perceived as a way for defendants to buy their way out of prison. According to the ICG, critics of the plea bargaining system asserted that the system had “become a revenue source rather than an instrument of justice.” Some NGOs reported that the Government coerced defendants into accepting plea bargains.

In a December 15 report, TI/Georgia evaluated the strengths and weaknesses of plea bargaining in the country. The report identified a number of benefits of plea bargaining to the country’s criminal justice system: Plea bargaining brought greater efficiency and cost-savings to the court process and was a successful tool in fighting corruption, especially in the context of addressing organized crime. TI also noted that fewer persons were sent to prison during the year because plea bargain agreements allowed them to serve suspended sentences. This procedure alleviated overcrowded correctional facilities. However, TI raised significant concerns about the fairness of the plea bargaining system, highlighting the imbalance between the powers of the prosecution and the judiciary and the system’s lack of transparency in the application and collection of fines. TI also reported a consensus among interviewed experts that the core problem was not in the law but in the court and justice system.

The reformed CPC enhanced the provisions for due process. Detainees and defendants have the right to be presumed innocent until proven guilty and to receive a speedy, fair, and continuous trial. The code protects the privilege against self-incrimination. The reformed code provided that a defendant may ask that a pretrial investigative confession be suppressed and excluded from the main trial without providing a rationale or requiring any showing of prejudice or any wrongdoing by police. If the defendant does not seek to exclude the confession, no conviction stands if it is based solely on the confession of the defendant. Initial reports by court observers suggested uneven implementation of the reformed CPC as it applies to the protection of defendant rights.

Defendants have the right to a public trial, except where national security, privacy, or protection of a juvenile is involved. On February 23, parliament amended the criminal code and increased the minimum age of criminal responsibility to 14 years of age (from 12 years old). However, the law makes a distinction between criminally responsible adults and juveniles (who are between the ages of 14 and 18 years old).

The reformed CPC provides for the right to a jury trial for aggravated murder cases in Tbilisi the first year and provides for expansion of the trials use for all types of murders and rape in all cities in subsequent years. The law providing for such jury trials under Tbilisi City Court jurisdiction entered into force on October 1. No jury trial had been scheduled at year’s end. However, on September 30, a successful mock jury trial was held including a call for jurors and jury selection. Courts are required to instruct juries that guilt must be established by the prosecutor alone beyond a reasonable doubt. The prosecutor’s offices engaged in raising public awareness on criminal justice legislative reforms, including a well-publicized campaign on the introduction of jury trials.

Defendants have the right to be present at their trial and to consult an attorney from the time of their arrest. Nevertheless, for reasons discussed earlier, many defendants in criminal pretrial hearings, where decisions are made on arrest or bail, did not enjoy the benefit of counsel.

Defendants may question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. The reformed CPC made the rights of the prosecution and defense to collect and present evidence more equal. By law, defendants and their attorneys have access to the prosecution’s evidence relevant to their cases at any point during the investigation and may make copies at their own expense. The prosecution must disclose all evidence to the defendant no later than five days prior to the pretrial hearing. If the prosecution does offer evidence

at trial that has not been previously disclosed to the defense, the court is obligated to exclude such evidence. Court observers reported that the prosecution complied with the new discovery rules.

In exigent circumstances (that is, evidence about to be destroyed or tampered with), prosecutors may seize evidence without court approval but, within 12 hours of the warrantless seizure, they must explain the underlying urgency to the court's satisfaction.

A convicted defendant has the right of appeal. The prosecution cannot appeal an acquittal. Once a verdict is rendered, if a prison sentence is given, then it begins immediately regardless of any pending appeals. The reformed CPC establishes a time limit within which all appeals must be resolved. In cases in which the appellant is incarcerated, the time limit for all appeals to be completed is nine months and 12 months for cases in which the appellant is not incarcerated.

The law provides that a verbatim record must be prepared and signed by the secretary and the presiding judge within five days of the conclusion of the court hearing or trial. Only then can the parties receive it. Under the reformed CPC, regardless of whether an arrested person is ultimately convicted, the state must fully reimburse from the state budget the damage caused from an illegal or groundless arrest, as determined by civil legal proceedings.

By law persons charged with crimes can be tried in their absence if they are absent to avoid trial. If persons convicted in their absence appeal their conviction within one month of their arrest or surrender, the law provides for a new trial. Human rights NGOs criticized these provisions because they apply to all crimes; the Government's position has been in favor of timely commencement of trial and presentation of evidence and witnesses to prosecute criminal behavior successfully and not to reward those who abscond from their prosecution.

*Political Prisoners and Detainees.*—Several nonparliamentary opposition parties and NGOs alleged that the Government continued to hold political prisoners and detainees. Estimates of the number varied; reasonable estimates were in the dozens. The Government, NGOs, and opposition leaders disagreed on the definition of a political prisoner. The public defender did not name any political prisoners or detainees in his report for the second half of 2009. According to the PDO, the office did not receive requests for assistance regarding political prisoners during the year. The parliamentary Human Rights Committee, which included a member from the opposition, disagreed with assertions that the Government held political prisoners.

According to observers, a majority of cases alleged to have been politically motivated in connection with the spring 2009 opposition protests involved charges of illegal possession of weapons or drugs against opposition activists. In the majority of such cases, procedural shortcomings were reported. In August 2009 nonparliamentary opposition party representatives gave the Minister of Internal Affairs a list of 48 activists from various opposition parties that they considered to have been arrested on fabricated charges during the April to July 2009 protests. These charges were mainly related to drug and arms possession. The Ministry of Internal Affairs opened an investigation into the allegations and began discussions with the nonparliamentary opposition. Reportedly 10 individuals were released after the initial talks in August 2009, and 16 were released in November 2009. Many of these individuals were released on bail or released after serving short administrative sentences. It was not clear how many of the individuals from the original list of 48 had been released at year's end. In August 2009 two Republican Party opposition activists on the list were sentenced to prison terms by the Gori City Court.

In his report for the first half of 2008, the then public defender identified five political prisoners and, in his report for the second half of 2008, he identified one. Of these individuals, three remain incarcerated, including Merab Ratishvili, Joni Jikia, and Maia Topuria.

The Government permitted international human rights and domestic organizations to visit persons claiming to be political prisoners or detainees, and some organizations did so during the year.

*Regional Human Rights Court Decisions.*—During the year the ECHR ruled against the Government in four cases involving alleged violations of the European Convention on Human Rights, and supported it in 13 cases. The violations occurred from 1997 to 2006. The violations pertained to the right to a fair hearing, property rights, the right to a speedy trial, and the right to life. According to the Ministry of Justice, authorities paid compensation in three of the cases by year's end.

For example, on May 27, the ECHR ruled that the Ministry of Internal Affairs unlawfully deprived former ministry official Batalbi Saghinadze of the right to use a cottage by evicting him in 2004. An IDP, Saghinadze had been living in the cottage since 1994. The ECHR also ruled that the Government's decision extending

Saghinadze's pretrial detention in 2006 was unlawful because the decision consisted of a template with prewritten findings. The court ordered the Government to return the cottage or equivalent lodging to Saghinadze or pay 15,000 euros (\$19,600) in damages.

On June 8, in the case of Khaindrava and Dzamashvili versus Georgia, the ECHR concluded that the state had failed in its obligations to carry out an effective investigation of an alleged assault on the applicant's life (in 1997), and that there had therefore been a violation of article 2 (right to life) of the European Convention in its procedural aspect (the investigation). The court ordered the state to pay 12,000 euros (\$15,700) in damages.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent and impartial judiciary in civil matters, but there were concerns about the professionalism of judges and transparency in their adjudication. The constitution and law stipulate that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts, including unlawful human rights violations, is entitled to bring a civil action.

*Property Restitution.*—GYLA reported several cases in which it offered legal assistance during the year to groups that claimed the Government improperly used imminent domain to seize at unfair prices their property in Tbilisi for public works. In addition GYLA reported that the Government was exerting pressure on these groups to accept the offered compensation.

In Abkhazia the de facto law banned de facto courts from considering any property claims filed by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby effectively depriving IDPs of their property in Abkhazia. During the year de facto courts in Abkhazia reportedly did not make efforts to establish facts or administer justice but acted at the direction of prosecutors and law enforcement.

In December South Ossetian de facto authorities issued a decree that invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property held in the Akhagori region. The same decree declared that all property in Akhagori belonged to the de facto authorities until a "citizen's" right to that property was established in accordance with de facto legislation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions without court approval or legal necessity and prohibit police from searching a residence or conducting undercover or monitoring operations without a warrant; however, these prohibitions were not always respected.

NGOs continued to report that police conducted searches and monitored private telephone conversations without first obtaining court orders; the CPC permits such searches only under limited circumstances. NGOs reported that police often obtained warrants after the fact and many citizens were unaware of their right to delay a search of their home by one hour to summon two objective third-party witnesses to the search. Under the CPC, if authorities conduct a search or seizure without a warrant because of urgency, a court must later approve the warrantless seizure; otherwise, the evidence collected is considered invalid.

During the year some opposition figures reported concerns about government surveillance. An opposition leader alleged that such surveillance included monitoring of the e-mails and cell phones of national and regional opposition leaders by officials of the Ministry of Internal Affairs Constitutional Protection Department.

NGOs and some opposition members contended that tax authorities targeted certain companies and persons for searches for political reasons; they viewed the subsequent fines as a form of "legal extortion" by the Government. They asserted that the authorities in some cases used the threat of tax audits as a tool to dissuade businesses from contributing to opposition-linked persons and organizations. Businesses and persons across the political spectrum reported this practice. In a May report, TI/Georgia noted that the tax administration, while improved, failed to apply risk analysis or other auditing mechanisms in selecting businesses to audit. The report noted that this omission allowed for excesses by the financial police who, motivated by budgetary shortfalls and political considerations, used tax audits, as one commentator noted, as a political club.

There were concerns about the lack of due process and respect for the rule of law in a number of developments related to property rights. During the year there were reports that the Government sold state-owned land in the municipality of Mestia in the region of Samegrelo-Zemo Svaneti without notifying local residents who had been using it in accordance with customary practice (see section 2.b.).

IDPs and IDP advocates expressed concern that authorities did not fully respect property rights as they removed IDPs from temporary shelters in Tbilisi during the

year. The Office of the UN High Commissioner for Refugees (UNHCR) observed that in most cases the evicted IDPs occupied these buildings without the consent of the Government or the buildings' rightful owners (see section 2.d.).

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—On January 11, the Tbilisi City Court rendered a verdict in the case of a reported mutiny at the Mukhrovani military base in May 2009. The court acquitted one high-ranking official, Koba Kobaladze, of mutiny charges. It sentenced Koba Otanadze to 29 years in prison, Levan Amiridze to 28 years, and Shota Gorgiashvili, who at the time was a tank battalion commander, to 19 years. The court handed down other guilty verdicts on lesser charges ranging from the illegal possession of firearms to disobedience, and sentences ranged from three to 15 years. Most of the 41 accused accepted plea bargains from the prosecution. Otanadze, Gorgiashvili, Amiridze, and 14 others appealed their convictions. On October 21, a three-judge panel upheld the prison sentences for all 17 defendants. Otanadze appealed to the Supreme Court, where the proceedings were pending at year's end. Some NGOs had raised concerns about aspects of this case.

Separatist conflicts in the regions of Abkhazia and South Ossetia remained unresolved, but the security situation stabilized to the point that no overt use of military force was reported in the conflict areas. According to the European Union Monitoring Mission (EUMM), the Georgian Ministries of Defense and Internal Affairs remained in compliance with their Memoranda of Understanding, which limited the Government's presence, movements, and armaments in the conflict areas. Russian occupying forces in Abkhazia and South Ossetia and de facto militias refused access to international monitors and conducted numerous unannounced exercises. No international party was able to monitor the extent of their military presence.

In an October 7 report, the Council of Europe's commissioner for human rights, Thomas Hammarberg, highlighted a number of human rights problems following the August 2008 armed conflict in Georgia, including the inability of the majority of ethnic Georgians from South Ossetia and Abkhazia to return to their homes and the failure of the Government to grant some persons displaced by the 2008 conflict status as internally displaced persons. Hammarberg also noted progress in removing explosives and other remnants of war of danger to the public and the release of detainees on both sides, although de facto authorities continued to hold six persons in detention in South Ossetia.

HRW reported that despite the passage of more than two years, the Government had not effectively investigated international human rights and humanitarian law violations committed during the August 2008 conflict.

While there was little official information on the human rights and humanitarian situation in Abkhazia and South Ossetia due to limited access to these regions, many allegations of abuses persisted.

The UNHCR maintained a presence in the region of Abkhazia. During the year de facto authorities allowed the UN Secretary General's Representative, who represents the UN in the Geneva Discussions on the conflict in Georgia, to visit Abkhazia periodically and to send staff members there on a rotating, nonpermanent basis. UNICEF and UNDP representatives also periodically visited Abkhazia. None of these missions had a specific human rights mandate.

The mandate of the OSCE's military monitoring mission in South Ossetia ended in 2009, when Russia's refusal to join consensus in a new mandate led to the closure of the mission after 17 years of work. Subsequent efforts to negotiate an arrangement for a new OSCE presence in South Ossetia and the rest of Georgia were unsuccessful as of year's end.

The Gali region of Abkhazia, where many ethnic Georgians live, remained tense because of limitations on freedom of movement, kidnapping, arbitrary arrests, and deaths in custody. There were numerous reports of looting and robbery by Russian forces, Abkhaz de facto forces, and criminal gangs, especially during the harvest season when local farmers were extorted for a portion of their income. Systemic problems in the criminal justice system of the de facto authorities, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a climate of impunity. Abuse by de facto law enforcement authorities included arbitrary arrests and detention as well as possible mistreatment of detainees. De facto law enforcement authorities rarely wore uniforms or carried badges or credentials, allowing them to act with impunity. Russian military forces and de facto militias limited the ability of international observers to travel in Abkhazia to investigate claims of abuses.

*Killings.*—Attacks in the conflict areas, some lethal, continued during the year; Georgian government officials and de facto authorities accused one another of com-

mitting some of these attacks, which occurred in or near South Ossetia and Abkhazia. No suspects or arrests were announced in any of the following cases.

On January 29, one police officer and two villagers were reportedly killed by mines placed near a private home in Chuburkhinji, in Abkhazia; seven others were reportedly injured. De facto authorities speculated that Georgian government forces could have been behind the attack; press reports suggested the incident resulted from tension between Russian and Abkhaz de facto forces.

On May 20, a villager was injured by a grenade reportedly rigged as a booby trap in his yard in Takhtisdziri, a village in undisputed Georgia close to the South Ossetian administrative boundary.

On June 1, an Abkhaz de facto customs official, Gennadiy Kvitsinia, and a colleague were shot and killed in an a reported ambush in Dikhazurga, a village in Abkhazia close to the administrative boundary; one other person was wounded. Two days later a local de facto Abkhaz administrative official in the nearby village of Repi, Dima Katsia, was shot and killed. De facto officials accused Georgian authorities of responsibility for both attacks, but later admitted that the June 1 incident was more likely a criminal affair; they did not offer any evidence for their accusation. Press reports suggested that the attacks were connected to criminal activity related to the extortion of villagers, and the Katsia attack may have been retaliation for the Kvitsinia attack.

On June 15, Anatoliy Kisiev reportedly suffered three gunshots and his 15-year-old son was reportedly beaten in Disevi, a village in South Ossetia and close to the administrative boundary. De facto authorities accused Georgian police of the attack; Georgian officials said any attack would have involved only Ossetians.

On June 23, the Georgian media reported that de facto officials from the Abkhaz "antiterrorist center" arrested three ethnic Georgian brothers in retaliation for the June 1 and 3 killings of de facto administration officials. One brother, Gogita Anjaparidze, died while in custody; de facto officials reported that he died of a heart attack, but Georgian officials alleged he was tortured for three hours and then beaten to death. The other two brothers were also reportedly beaten and then taken to area hospitals. They reportedly were being held in an Abkhaz prison at year's end.

On July 22, five or six Abkhaz police officers were reportedly injured in a roadside bombing in the Gali district of Abkhazia, although other reports suggested no one was seriously injured. De facto officials accused Georgian government of responsibility for the attack; press reports suggested the Abkhaz may have been involved in a dispute with Russian officials or had criminal links.

On December 7, police arrested six men in connection with three explosions that took place in Tbilisi on September 22, October 21, and November 28 (which killed a woman). The Ministry of Internal Affairs publicly alleged that the leader of the suspects, an ethnic Georgian from the occupied region of Abkhazia, was working under the orders of a Russian officer stationed in Abkhazia.

No developments were reported during the year in the following conflict-related killings that occurred in 2009: The January 2009 shooting and killing of a Georgian police officer in Knolevi, near the South Ossetian administrative boundary, in what appeared to be a sniper attack; the March 2009 attack, involving an improvised explosive device that killed a Georgian police officer in Dvani, near the South Ossetian administrative boundary; the April 2009 killing of Elguja Beraia, a Georgian resident of the Abkhaz village of Nabakevi; the June 2009 attack involving an improvised explosive device that killed the driver of an ambulance in a convoy led by EU monitors in Eritskali, near the Abkhaz administrative boundary line; the July 2009 explosive attack that killed a Georgian resident of Akhagori in South Ossetia in his car as he drove from Akhagori to an IDP settlement in government-controlled territory; and the August 2009 attack, involving an improvised explosive device, that killed two civilians in Gagra in Abkhazia.

*Abductions.*—During the year there continued to be reports of abductions along the administrative boundaries of both occupied regions.

Government and Abkhaz commissions on missing persons reported that nearly 2,000 Georgians and Abkhaz remained missing as a result of the 1992-93 war in Abkhazia. The South Ossetian de facto authorities reported 116 persons still missing from conflicts in 1991 and 2004. The ICRC continued its efforts to assist authorities concerned to fulfill their obligation to inform the families of the missing persons about their whereabouts. Most of the missing persons from the 1992-93 war were believed to have disappeared in the region of Abkhazia. During the year there were no exhumations of persons thought to have been killed during the 1992-93 conflict, according to the ICRC.

The ICRC was unable to close approximately 100 of the 1,100 tracking requests from families and authorities it received during the 2008 conflict. There were no de-

velopments, and none were expected, in the 2008 abduction and killing of an elderly woman near Nabakevi.

South Ossetian de facto authorities claimed that several South Ossetians disappeared while in Georgian custody, including in particular Alan Khachirov, Soltan Pliyev, and Alan Khugayev, who were allegedly detained in 2008. The de facto authorities claimed to have evidence, including eyewitness accounts, that these three were held in Georgian facilities; they sought outside assistance in investigating the cases, and the EUMM and Council of Europe became involved. On September 29, Council of Europe Commissioner for Human Rights, Thomas Hammarberg, reported that there were indications that Georgian law enforcement officials had detained the three. He criticized the Georgian investigators for their ineffectiveness and lack of independence. The cases remained unresolved at year's end.

*Physical Abuse, Punishment, and Torture.*—During the year there were no developments, and none were expected, in the reported killing of nine ethnic Georgian women and the rape of two others by South Ossetian irregulars. Investigation of reported rapes was difficult due to chaotic conditions and lack of police in locations where they reportedly occurred, often behind Russian checkpoints where Georgian officials had no access.

There were no further developments, and none were expected, in the investigation into an attack by unknown perpetrators in 2008 on the village of Khurcha on the Abkhaz administrative border. A 2009 UN investigation found that grenades were fired from the Georgian-controlled side of the cease-fire line. Four civilians were injured.

There were no developments, and none were expected, in the looting and burning by South Ossetian militias of five ethnic Georgian villages near Tskhinvali-Tamarasheni, Kekhvi, Kvemo Achabeti, Zemo Achabeti, and Kurt during the 2008 conflict. At the time, the Russian online news agency Regnum quoted Eduard Kokoity, South Ossetia's de facto leader, as stating that the Georgian enclaves of Kekhvi and Tamarasheni were "liquidated" as a result of military operations.

There were also no developments, and none expected, in the reported mistreatment of at least five of 32 Ossetians reportedly detained by Georgian forces in 2008 during the armed conflict and the arbitrary detention by South Ossetian forces (sometimes together with Russian forces) of at least 159 ethnic Georgians. Four of the ethnic Georgians were killed, at least four reportedly tortured, and almost all reportedly exposed to inhuman and degrading treatment and detention conditions prior to their release. In a September 29 report, the Council of Europe's commissioner for human rights, Thomas Hammarberg, reported that the de facto authorities did not cooperate in the investigation of two Georgian soldiers who were captured alive during the conflict, but were reportedly beaten and died while in captivity. Their remains were returned to Georgian authorities.

*Other Conflict-Related Abuses.*—Russian border guards began controlling the administrative boundaries of the two regions in 2009 and continued during the year to restrict the free movement of the local population across the administrative boundary line for medical care, pension services, religious services, and school.

During the year working groups at the Geneva talks on the occupied territories focused on such problems as freedom of movement, the supply of water from South Ossetia to other parts of Georgia, and the supply of gas from undisputed Georgia to the South Ossetian region of Akhagori. None of these issues was resolved by year's end.

There are well over 350,000 IDPs as a consequence of the conflicts in Abkhazia and South Ossetia (see section 2.d.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, there were credible reports that the Government restricted freedom of speech and the press.

Individuals were generally free to criticize the Government publicly and privately without reprisal, although there were some notable exceptions. Some individuals told foreign monitors they were reluctant to discuss, or had stopped discussing, sensitive topics by telephone due to concerns about government eavesdropping. NGOs reported that a climate of widespread impunity for attacks and harassment of human rights defenders had a chilling effect on dissenting voices and watchdog groups, especially outside of Tbilisi. They also asserted that the Government used the legal process to silence critical voices. An opposition leader alleged that Ministry of Internal Affairs' Constitutional Protection Department officials filmed some opposition political meetings outside of Tbilisi. There were reports that unknown persons photographed participants at opposition rallies.

Opposition supporters alleged that individuals who had participated in opposition demonstrations had been fired from their jobs. In November 2009 there were reports that representatives of the ruling party in Tbilisi informed a number of individuals that they had evidence of their participation in the spring opposition demonstrations and that they would suffer consequences for their participation. However, NGOs reported no cases of retribution specifically tied to the spring protest participation.

Opposition figures and representatives of the Government regularly appeared on the same shows, thereby providing a plurality of views. During the year programming more frequently utilized a debate format. During the municipal elections period in May, the GPB aired various candidate debates including all major candidates for Tbilisi mayor.

The GPB broadcast public policy debates on the weekly television talk show *Accents*, anchored by Eka Kvesitadze. *Maestro* and *Kavkasia* also ran political talk shows in a debate format. GPB aired a separate political talk show, *Dialogue*, twice a week. On February 22, the public broadcaster launched Channel 2, a public affairs channel aimed at airing daily nonedited coverage of political parties and parliamentary plenary and committee sessions. The channel provided access to the media market to representatives from across the political spectrum including airing unedited footage from press events of the nonparliamentary opposition parties. Channel 2 did not have nationwide coverage. Its signal covered about 60 percent of the population, including the country's major cities.

Throughout the year NGOs, independent analysts, and journalists accused high-ranking government officials and opposition politicians of influencing editorial and programming decisions through their personal connections with news directors and media executives and by directing advertising (and through it, advertising income) using their personal connections with business owners. There were reports that business owners were intimidated into not advertising with opposition-leaning media outlets through the threat of lengthy financial audits by government authorities. *Kavkasia* TV reported that on November 15 that a company cancelled a signed advertising contract after the business owner allegedly received a threat from a government official that his business would be closed should he proceed with the contract.

There were approximately 200 independent newspapers, although most were local and extremely limited in circulation and influence. During the year print media frequently criticized senior government officials. However, some individuals affiliated with these papers reported facing pressure, intimidation, and violence for doing so. Few newspapers were commercially viable. Patrons in politics and business typically subsidized newspapers, which were subject to their influence.

The three largest television broadcasters in the country were the state-owned GPB and the privately owned *Rustavi 2* and *Imedi TV*, the country's two most popular television stations. All three were generally considered to have a progovernment editorial policy. An international NGO estimated that there were more than 45 regional television stations outside of Tbilisi, 17 of which offered local daily news, although most were at a very low professional level.

On January 21, a report by HRW noted a lack of transparency in media ownership and a mixed environment "with diverse print media, but nationwide television broadcasting limited to the state-owned public broadcaster and progovernment *Rustavi 2* and *Imedi* stations." On April 27, Freedom House described the press as "partly free." On May 3, HRW accused government authorities of intimidating journalists and denying them access to public information. Investigative journalists and NGOs particularly complained about access to court information.

In its final report on the May 30 municipal elections issued on September 13, the OSCE's Office of Democratic Institutions and Human Rights (ODIHR) concluded that the GPB, which broadcast two debates, provided the public with balanced coverage of the campaign. However, all other television stations ODIHR monitored lacked such balance, supporting either the Government or opposition. The report noted that major broadcasters covered authorities' activities widely and positively, indirectly benefiting progovernment candidates. The report described the main television stations as charging artificially high prices for paid advertisements to limit media use by poorly financed opposition candidates.

The International Research and Exchanges (IREX) Board's media sustainability index report for the year stated that "the ruling elite" exercised significant influence over the primary news companies to "shape the national narrative" and again raised concerns that the majority of media outlets remained split along political fault lines.

On March 13, *Imedi TV*, a broadcast channel headed by a former senior member of the Saakashvili administration, aired a "mockumentary" of a Russian invasion on Georgia. The program's failure to clarify that the events being portrayed were a dramatization and not real resulted in short-lived panic throughout the country.

There were allegations that government officials were directly involved in the production of the program. Audio tapes, posted by an anonymous source on a previously unknown Russian Web site and picked up by pro-opposition journalists and political activists, purportedly demonstrated that the Government was in talks with the Imedi director. On March 15, the Georgian National Communications Commission (GNCC) ordered Imedi to make a primetime apology for the broadcast.

The continued lack of transparency regarding media ownership fueled concerns over the ownership of the country's television stations, which served as the main source of information for most of the public. Throughout the year the PDO and others called for changes in the law on broadcasting to increase the transparency of media outlet ownership, including requiring information to be made publicly available regarding the shareholder structure of license holders and their owners. In its report for the year, IREX raised concerns about a "nested doll"-style media ownership system. However, the ownership of many media outlets, including Imedi and Rustavi-2, remained unclear at year's end.

The IREX Board's Media Sustainability Index for the year noted that national television stations rarely broadcast investigative stories. TI/Georgia's November 2009 report raised similar concerns. Rustavi 2, Imedi, and the GPB did not produce investigative reports.

As noted in TI/Georgia's November 2009 report, the GNCC was not perceived to be a truly independent regulatory body, in that it made politically motivated decisions. The GNCC denied the allegations, claiming it treated all broadcasting channels the same. Since 2008 the GNCC prevented the establishment of any new television and radio stations by delaying the issuance of broadcasting licenses, citing the continuing need to complete a survey. In November it stated that the survey was complete; nevertheless, it had not issued any licenses by year's end.

The GNCC exercised some control over programming by issuing stations content-based licenses rather than all-purpose broadcast licenses. There is a "general license," which allows for news and political programming, and licenses strictly limiting content to "entertainment only." On July 2, parliament approved an amnesty for tax obligations accumulated before March 1, applicable to all television stations, including regional broadcaster Channel 25, which had previously lost a court case challenging a tax levy. Some NGOs, including the GYLA, criticized the Government for not including a breakdown of how much of the reported 36 million lari (\$20.3 million) liabilities belonged to each station. Observers believed that the progovernment stations, Imedi and Rustavi 2, were the major beneficiaries of the amnesty. The Government justified its refusal to release details by citing the tax code, which categorizes such information as a commercial secret.

There were reports of direct physical attacks, harassment, and intimidation of journalists by government officials.

On January 22, a regional correspondent for the Human Rights Center and editor of a regional newspaper in Shida Kartli was reportedly physically and verbally assaulted by security guards at the regional government administrative building. The journalist was attempting to obtain public financial information about the regional administration for an investigative report when the incident occurred. According to the Human Rights Center, authorities had taken no further action on this case by year's end. According to the Ministry of Justice, an investigation determined that the journalist attempted to enter the building without a proper pass and verbally assaulted security officers when they asked him to follow proper procedures. The ministry also reported that forensic examination revealed no signs of physical injury.

In February an investigative journalist, Vakhtang Komakhidze, sought asylum in Switzerland, citing aggressive threats from government officials against him and his family. Komakhidze claimed that such threats intensified and included death threats after he visited South Ossetia in December 2009 to research a report on the 2008 conflict. The author of many investigative reports critical of the Government, Komakhidze headed investigative reporting production studio Reportiori (Reporter). On July 27, Switzerland granted Komakhidze asylum.

On June 25, police officers in Gori (in the Shida Kartli region) allegedly seized the camera of a journalist from Trialeti radio and television station in Gori and erased footage that showed authorities dismantling a controversial statue of Stalin. The journalist alleged that when they seized the camera, the officers pulled him to the ground and kicked him. The journalist's camera was returned later, and he was able to continue filming; however, he claimed that after he publicly reported the incident, a regional police official threatened him by telephone. The journalist filed complaints with the Ministry of Internal Affairs and the PDO. The PDO appealed to the main prosecutor to investigate the case. The PDO had no updated information on the case at year's end. However, according to the Ministry of Justice, authorities

terminated the investigation when they determined that police officers had found the camera unattended and had returned the camera to the journalist intact, including the controversial footage. The ministry reported that neither the journalist nor the cameraman had reported any physical assault.

Trialeti reported several other cases of police harassment during the year. The owner of the company alleged that it began after the company signed an agreement with pro-opposition Maestro TV. Trialeti representatives reported that they faced unequal access to government buildings, received anonymous phone threats, were disproportionately stopped for traffic violations, and were under surveillance by unknown persons while covering stories. They also reported that businesses advertising on Trialeti were threatened with financial audits.

On October 7, Trialeti's news director reported that police officers assaulted him when they pulled him over for a traffic violation and then detained him for disobeying police orders. He was fined 400 lari (\$226) by the local court. The PDO requested that the Office of the Chief Prosecutor open an investigation into the police assault allegations, but had no update on the case at year's end. According to the Ministry of Justice, authorities terminated an investigation into the case; a forensic examination determined that the news director had minor injuries on his arms and shoulder, and, while the arm injuries could have been inflicted at the time of arrest, the shoulder injury occurred earlier.

On October 21, private security guards reportedly assaulted Kavkasia Television reporters filming a protest at Lilo Market, and police on the scene took no action. Kavkasia reported that they did not press charges or request an investigation. The PDO issued a statement on November 10 reporting that on November 3 it sent a letter to the prosecutor general demanding a response to the assault allegation. According to the Ministry of Justice, a journalist was questioned; neither the journalist nor anyone else reported any interference into the work of the journalists.

According to a PDO statement issued on November 16, in October and November, an individual named Gela Chvritidze physically assaulted Enri Kobakhidze, the president of the Tanamgzavri television station. The statement indicated that Chvritidze appeared to have a police affiliation. On November 23, the OSCE representative on freedom of the media requested additional information about this case from the foreign minister. According to the PDO, the chief prosecutor launched an investigation on November 15; the investigation was pending at year's end. According to the Ministry of Justice, an investigation determined that the two persons in question got into a fight at a wedding ceremony, the cause of the fight was a private matter, and it had no connection to Kobakhidze's media ownership. Chvritidze was dismissed from the police.

According to the PDO, there was no update in the investigation into the April 2009 alleged physical assault by police on Versia newspaper journalists, Ana Khavtasi and Nino Komakhidze, at an opposition protest rally in front of the Public Broadcaster's building.

There were no developments, and none were expected, in the Ministry of Internal Affairs' investigations of November 2009 allegation by Mzia Amaglobeli, publisher of the Batumi newspaper Batumelebi, that the local unit of the ministry in Batumi tried to blackmail the head of the newspaper's investigative reporting team into cooperating with it. According to the Ministry of Internal Affairs, the investigation continued at year's end.

There were no developments, and none were expected, in the investigation by the Ministry of Internal Affairs of death threats reportedly made in 2008 against editor in chief Eter Turadze and a staff member of the Batumelebi newspaper, or allegations by two independent journalists, Maka Tsiklauri and Irakli Gogvadze, that the Government pressured them on matters related directly to their work in 2008.

There also were reports of attacks on journalists by nongovernmental actors. On May 7, a discussion on Kavkasia Television's program Barieri (Barrier) with leaders of two fundamentalist Georgian Orthodox groups and supporters turned into a fist-fight. Representatives of the fundamentalist groups, Union of Orthodox Parents and the Public Orthodox Christian Movement, verbally and physically assaulted some of the program's guests and the station's staff, including journalists and the station's director general. Police detained at least eight persons. On August 12, the Tbilisi City Court found eight persons guilty of hooliganism and obstructing the work of journalists and sentenced them to four and one half years in prison.

In April 2009 a journalist and a cameraman from Rustavi 2 alleged that three young persons assaulted them outside of parliament while they were covering non-parliamentary opposition protests. The cameraman, Levan Kalandia, stated that three young persons approached and started to insult journalist Natia Lekishvili, in a confrontation that escalated into a brawl. Video footage, broadcast on television,

showed a young man punching the cameraman. According to the PDO, an investigation was launched and continued at year's end.

According to the PDO, the assault on Prime News Agency journalist Teona Managadze by opposition protesters in April 2009 did not amount to a crime, and the PDO did not request an investigation.

Media in the separatist regions of South Ossetia and Abkhazia remained tightly restricted by the de facto authorities and Russian occupying forces.

HRW and Amnesty International reported that on July 24, in Tskhinvali, South Ossetia, as many as 10 assailants, including three members of the de facto South Ossetian "parliament" allegedly attacked an independent journalist and civil society activist, and threatened his colleague. The journalist suffered injuries from punches to his head, face, and body, and required hospitalization. The attack was allegedly in retaliation for his participation in a Georgian-Ossetian civil forum where humanitarian problems were discussed; de facto Ossetian authorities reportedly denounced participants in the forum as traitors. Both victims reportedly left South Ossetia after the attack.

On September 22, Russian and de facto authorities in Abkhazia reportedly dismantled radio and television transmitters located in the Inguri power station. Without the transmitters, ethnic Georgian populations in the Gali region were no longer able to receive Georgian language programming.

Often journalists worked without contracts, which in effect encouraged them to practice self-censorship. Journalists were hesitant to report material that did not reflect the owners' views, since they were afraid of losing their jobs. There were reports of authorities influencing journalists—sometimes through intimidation—into practicing self-censorship. Opposition party representatives and media advocates reported that they believed journalists either did not cover or lightly covered events that showed the Government in a negative light on their own volition out of concern that critical pieces would not be aired or could potentially cost them their jobs. An example was a discussion on media freedom hosted on December 22 by the pro-opposition Trialeti television and radio station. Pro-opposition media outlets Maestro and Kavkasia covered this discussion; however, progovernment outlets Rustavi and Imedi did not.

*Internet Freedom.*—Outside of Abkhazia and South Ossetia, there were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. However, according to November amendments to the Law on the Operative-Investigative Activity, communication companies are obligated to provide for the availability of private information for investigations; therefore, law enforcement officials conducting an investigation will have access to private e-mails, chats, open, and closed conversations on the Internet.

Individuals and groups could engage in the expression of views via the Internet, including by e-mail. E-mail access rose slightly during the year but remained centered in Tbilisi and other metropolitan areas. According to International Telecommunication Union statistics for 2009, approximately 31 percent of the country's inhabitants regularly used the Internet.

Insufficient information was available about the situation in the occupied territories.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly; however, there were concerns about provisions in the law. During the year authorities permitted demonstrations; of the few large protests, most, but not all, were held without incident.

The law requires political parties and other organizations to give prior notice and to obtain permission from local authorities to assemble on a public thoroughfare. Permits for assemblies were routinely granted during the year. The law governing administrative offenses prohibits the blocking of streets "artificially" and "deliberately," either by protesters themselves or with "various types of constructions and/or objects." The amended law on police allows the use of nonlethal projectiles, including for riot control. The maximum prison term for a number of administrative offenses increased from 30 to 90 days. In contrast under the CPC, pretrial detention for criminal charges is 60 days.

In October 2009 legal experts of the Venice Commission expressed concern over provisions in the Law on Assembly and Manifestations that restrict freedom of assembly, which they recommended that parliament amend. The experts and some NGOs also expressed concern that parliament enacted the law before receiving the commission's opinion and expressed a desire to comment on two other laws affecting

freedom of assembly. At year's end parliament was in discussions with the commission to address their areas of concern.

On September 2, the public defender submitted a constitutional complaint regarding a number of articles in three laws affecting freedom of assembly including, a ban on demonstrations by one person or by a person without Georgian citizenship; a prohibition on demonstrations within 20 meters of certain designated locations; a ban on blocking traffic under certain circumstances; the requirement to notify local officials five days in advance, thereby eliminating the possibility of a spontaneous demonstration; and a ban on defacing public property.

The head of the Tolerance Center within the PDO reported that on May 4, he was hit on the head by a member of a fundamentalist Georgian Orthodox Church group during a rally in support of the publication of a book critical of the church. The rally was reportedly disrupted by extreme Orthodox Christian groups, some of whose members physically assaulted demonstrators. Police reportedly tried to part the conflicting sides but failed to respond adequately during the rally and failed to bring charges against those involved.

On May 6, police and protesters reportedly suffered some minor injuries during a protest against Police Day. According to reports, a scuffle broke out when protestors tried to cross a police blockade to disrupt a police parade. Protesters threw stones and injured police officers, and police used batons in self-defense. There were no confirmed reports of arrests or excessive use of force by police. Except for this incident, the protest was reportedly conducted peacefully.

The PDO requested an investigation into two aspects of the arrest of Irakli Kakabadze and two others who assembled to advocate the renaming of a Tbilisi street (see sections 1.c. and 1.d.).

On August 19, police arrested two activists for allegedly resisting police orders during a protest of IDP evictions (see section 2.d.). The two were fined 400 lari (\$217) and released the same day. The scuffle with protesters reportedly occurred when police attempted to arrest the protest organizer. However, there was no reported violence on the part of police, and police did not arrest the organizer.

On October 21, vendors at one of Tbilisi's largest outdoor markets, Lilo, went on strike to protest the enforcement of tax regulations. Opposition politicians, accompanied by journalists, decided to enter the market to see the shops and protest their closure but were barred entry by nonuniformed police and private security providers, leading to a scuffle. Journalists said that during the incident security guards assaulted them (see section 2.a.). Police arrested opposition party member Zaza Chakvetadze (National Forum). On October 25, a judge denied bail to Chakvetadze and sent him to pretrial detention pending an investigation. Chakvetadze was charged with resisting arrest. National Forum denied any wrongdoing and stated that the arrest was politically motivated. According to the Ministry of Justice, Chakvetadze attempted to use a firearm. Chakvetadze pled guilty and was sentenced to a two-year suspended sentence and fined 2,000 lari (\$1,130).

Some school directors claimed that the Ministry of Education and Science forced them to resign after students at their schools protested reforms to the national university entrance exams on November 9. Eight directors resigned.

The nonparliamentary opposition organized several large protests in 2009 during which police or nonuniformed assailants reportedly clashed with protesters with little accountability. The nonparliamentary opposition groups held a sustained protest from April to July 2009. Throughout this protest, the opposition parties called for President Saakashvili's resignation. For the most part, authorities allowed the unauthorized rallies (which included prolonged disruptions of traffic and public thoroughfares) to take place unimpeded. However, NGOs and the PDO reported dozens of cases of attacks on participants as they were leaving these protests by unknown assailants wearing masks and carrying blunt instruments.

In May 2009 police detained three young activists, who subsequently asserted that they had been beaten and threatened while in custody. Later during the day of their detention at Tbilisi police headquarters, several nonparliamentary opposition activists and police officers were injured in a confrontation outside the headquarters. According to the PDO, an investigation was launched, but there was no update by year's end.

In June 2009 police and protesters clashed outside a Tbilisi police station. Police reportedly attacked the protesters, journalists, and the PDO representative on the scene, injuring some of them. Police arrested 39 protesters for resisting police orders. Five activists were sentenced to 30 days in prison. The Tbilisi City Court fined the others 400 lari (\$237) and released them. The PDO stated that their requests for information on investigations into allegations of misbehavior against police officers on this occasion remained unanswered at year's end.

In July 2009 police arrested seven activists from a pro-opposition youth group that was rallying outside of parliament. The Ministry of Internal Affairs stated that all of the activists were charged with petty hooliganism, resisting police orders, and blocking the parliament building's entrance. One of the activists was fined 400 lari (\$237); the others received either 12- or 14-day prison sentences for administrative offenses.

According to a Web site, police arrested three opposition youth activists in November 2009, claiming that they had violated the amended law on rallies and resisted arrest. The Tbilisi City Court found the three guilty, despite the reported existence of film footage indicating that they had not violated the law or resisted arrest. GYLA criticized the arrest and the court ruling as a "rough violation" of freedom of assembly. The PDO reported that the three activists did not break any laws, stating that "the constitutionally provided freedom of assembly of Dachi Tsaguria, Jaba Jishkariani, and Irakli Kordzaia has been violated."

In 2007 the Old Tbilisi District Prosecution Office initiated a preliminary investigation into injuries sustained by individuals during demonstrations in November 2007. The Office of the Chief Prosecutor's investigation into the incidents continued at year's end. NGOs, including HRW, continued to report that the Prosecutor's Office had not brought charges against attackers. The PDO had no update at year's end. The Ministry of Internal Affairs stated in 2007 that 11 police officers were dismissed because of inappropriate behavior during the demonstrations.

*Freedom of Association.*—The constitution and law provide for freedom of association; however, the Government did not always respect this right in practice. There were some allegations during the year that members of opposition parties not represented in parliament (the nonparliamentary opposition) and their families and associates were selectively targeted for prosecution by law enforcement agencies and were subjected to stricter penalties than other citizens upon conviction. There also were allegations of pressure on opposition figures including surveillance and actual or threatened job loss. The lack of criminal accountability for physical assaults on opposition activists or supporters over the previous five years remained a problem.

On August 31, the president pardoned the son and brother of opposition activist Eka Beselia, as part of a pardon of 240 prisoners. Police arrested them in August 2009 for hooliganism and disobeying police orders. In December 2009 the Batumi City Court sentenced them to 1.5- and 2.5-year prison terms, respectively. Many legal analysts viewed these sentences as particularly harsh in view nature of the charges, although they were within sentencing guidelines. Beselia claimed that the arrests and convictions were due to her political activities.

Regional police arrested opposition and Mestia city council member Neli Naveriani and three of her nephews on July 7 for allegedly extorting money from a Canadian investor building a tourist resort in Mestia. The investigation took five days. Naveriani admitted entering into negotiations with the investor because her family had used the land he was to build on for generations, but denied making any threats. Her family had not legally registered their claim to the land. NGOs, including GYLA, stated that Naveriani was targeted for prosecution because of her opposition role in Mestia and because she made public allegations of election violations by the governor of the Samegrelo-Zemo Svaneti region and the Mestia district executive chief (see section 3). The Zugdidi District Court found Naveriani guilty on November 9 and sentenced her to four years in prison. GYLA reported that she pled guilty on the expectation of a plea bargain, but the prosecutor's office turned down the motion. GYLA lawyers appealed the sentence, and the case was pending at year's end.

Some opposition party figures, and the OSCE/ODIHR in its final report on the May municipal elections, noted that "a pervasive climate of fear exists, such that state employees and their family members are reluctant to associate with the opposition, for fear of losing their jobs."

The Ministry of Internal Affairs made no arrests and did not conclude any investigations into cases reported during the spring 2009 protests, including the assault on four members of the Ratom (Why) movement by 10 to 15 masked assailants who warned them not to attend any more rallies on pain of physical retribution; the reported physical and verbal assault on Shmagi Gelbakhiani, Ivane Gobejishvili, and other members of the youth organization of the nonparliamentary opposition group Alliance for Georgia as they were going to a protest rally outside parliament; and the reported beating of Gocha Sakhltkhutsishvili, a member of the organizational committee of the protest actions, and theft of his car.

In 2009 the PDO published a report with 32 suspected politically motivated assaults on nonparliamentary opposition activists during the protests in April to July 2009. According to the PDO, it forwarded all the information gathered in these cases

to the Prosecutor's Office for further investigation. Investigations were continuing at year's end.

There were developments related to 2008 physical assaults reported by the PDO on opposition supporters Mamuka Kvaratskhelia, Ramin Abuladze, Davit Sazanishvili, Amiran Iobashvili, Nugzar Khutsurauli, Giorgi Tavdgiridze, Giorgi Shervashidze, Boris Dzanashvili, Levan Jgarkava, Levan Gvarjaladze, Davit Metreveli, Ioseb Bortsvadze, Zurab Giguashvili, and Nona Sagareishvili. According to the PDO, in the case of Gvarjaladze, a criminal suspect was found; Jgarkava requested the termination of his case himself in 2008; Dzanashvili's case was also terminated in 2008. According to the PDO, the other cases were not investigated. According to the Ministry of Justice, there was not enough evidence in the case of Dzanashvili to continue the investigation. According to the Ministry of Justice, the investigations regarding Kvaratskhelia, Abuladze, Sazanishvili, Iobashvili, Khutsurauli, Tavdgiridze, Shervashidze, Metreveli, Bortsvadze, Giguashvili, and Sagareishvil were still pending at year's end.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for full freedom of movement within the country, foreign travel, emigration, and repatriation for Georgian citizens, but this freedom was limited in practice by de facto authorities and Russian occupying forces. The Government cooperated with UNHCR and other humanitarian organizations in protecting and assisting IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Georgian law imposes limitations on foreigners moving into and out of Abkhazia and South Ossetia. It also imposes special requirements on persons conducting economic activities in the occupied regions. There were no reports the Georgian authorities unduly restricted any international humanitarian organizations in practice. Russian and Abkhaz de facto authorities limited international organizations' ability to operate in Abkhazia; Russian and South Ossetian de facto authorities blocked virtually all international organizations, including humanitarian organizations, from regular access to South Ossetia.

De facto authorities and Russian forces in the occupied regions of Abkhazia and South Ossetia restricted freedom of movement. Checkpoints operated by Russian border guards and de facto militia often obstructed citizens' movement within these regions and between these regions and areas controlled by the Georgian government. Although Abkhaz de facto authorities maintained that the administrative boundary with the rest of Georgia was officially closed, they allowed limited crossings at the Rukhi Bridge; in July they introduced a permit system that formalized a process of granting permission to cross the boundary for 100 Russian rubles (about \$3) for a single trip. South Ossetian de facto authorities allowed limited crossings in and out of the Akhagori region, which is populated predominantly by ethnic Georgians. International observers were able to gain limited access to Abkhazia, but only a small number gained occasional and extremely restricted access to South Ossetia.

Following the 2008 hostilities, Russian and South Ossetian forces occupied villages outside of the South Ossetian and Abkhazian administrative boundaries. By October 2008 Russian and irregular forces had, to some extent, pulled back to preconflict positions. Major exceptions included an increase in the scale of the Russian presence and expansions into previously unoccupied areas, including a significant new Russian and Ossetian presence in the Akhagori valley and the Upper Kodori Valley in Abkhazia. In October Russian forces withdrew from their checkpoint near Perevi, outside the South Ossetian administrative boundary, which they had maintained since the war.

South Ossetian de facto authorities reportedly exerted pressure on local residents, especially younger residents, to accept South Ossetian authority. On September 24, the media reported that the de facto authorities announced that ethnic Georgians would face restrictions, such as a fee to cross the administrative boundary, unless they obtained South Ossetian "passports." This requirement had not taken effect by year's end.

An Abkhaz "citizenship" law allows dual Russian-Abkhaz, but not dual Georgian-Abkhaz, "citizenship." Ethnic Georgians living in Abkhazia were required to acquire Abkhaz "citizenship" to open businesses, establish bank accounts, vote in elections, travel freely, or own property. While ethnic Georgians in the region could legally apply for Abkhaz "passports," the processing of their applications met with long delays and, in most cases, was never completed. In late December, a de facto Abkhaz and a Russian member of a property rights commission stated that the com-

mission would not consider claims to property in Abkhazia made by ethnic Georgians.

Abkhaz de facto militia conducted searches of local populations. They extorted money and valuables from ethnic Georgians accused of violating the identity document requirements. International organizations reported that Gali residents faced serious threats of extortion, especially at harvest time, but generally refused to make public or specific allegations of such abuse for fear of retribution.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons.*—According to the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations, before the 2008 armed conflict there were approximately 235,000 IDPs from the conflicts of 1992 and 1993; the UNHCR estimated this number at 359,716 during the year. The UNHCR estimated that of the approximately 127,000 individuals displaced as a result of the 2008 conflict, 3,472 remained displaced as of January. They had not received a durable solution in undisputed Georgia. In addition as of January, the UNHCR counted 105,715 persons as being in an “IDP-like” situation needing protection and humanitarian assistance; this number included individuals who returned to Abkhazia, South Ossetia, and areas adjacent to the Administrative Boundary Line with both South Ossetia and Abkhazia, as well as those displaced in the 2008 conflict who were subsequently relocated.

By year's end most IDPs displaced in 2008 had received formal IDP status under national legislation; however, IDP status was not established for some individuals who were displaced or claimed to have been displaced in the 2008 conflict. These individuals, described by the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations as “IDP status seekers,” include persons who had never been registered with Georgian authorities, such as persons who never underwent birth registration or who were displaced from regions which prior to 2008 were not under Georgian control; persons whose departure from South Ossetia cannot be established as indeed having been caused by the conflict; or persons who cannot prove their former residence in the occupied territories. These include in particular persons who may own property in the Akhagori region of South Ossetia, but may have moved for economic, educational, or other reasons prior to the conflict. As there was some seasonal movement of persons to and from Akhagori, it was at times difficult to establish where an individual was settled at the time of the conflict. Various agencies including the Government, the UNHCR, and NGOs employed different methods in estimating the total number of IDPs.

During the year IDPs from the 2008 conflict continued to receive assistance, including a monthly status-linked cash payment from the Government, as well as some benefit from assistance activities of the international donor community. The Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations continued to implement the action plan for the implementation of the State Strategy on IDPs adopted in 2008. The main objectives of the plan were to provide decent living conditions for IDPs and promote their socioeconomic integration while they are displaced and to create conditions for the return of IDPs in safety and dignity. The Government took steps during the year to rehabilitate existing collective centers, purchase or build new housing, or offer cash payments in lieu of providing housing to IDPs from the early 1990s and 2008 conflicts. The Government made substantial progress on providing housing to IDPs and moved from a reactive approach (getting as much housing built as quickly as possible) to a long-term solution approach (providing durable solutions to IDPs from both conflicts). Most IDPs, primarily those displaced in conflicts in the 1990s, nonetheless continued to endure inadequate living conditions. These were often in dilapidated collective centers occupied in irregular fashion at the time of displacement, which often fail to meet minimum standards for shelter and sanitation, and with insufficient access to services and economic opportunity.

NGOs and international organizations such as the UNHCR and the UN criticized a series of IDP evictions from Tbilisi between June and August. On August 20, the UNHCR and others raised concerns about the transparency of the process. The PDO raised concerns about the conditions of the alternative housing provided. On September 17, the representative of the UN secretary general for the human rights of IDPs, Walter Kaelin, said that while the action plan for IDPs was generally sound, more needed to be done to provide for livelihoods and social support, especially for IDPs relocated from temporary accommodations. He cited the summer's IDP evictions as a matter of particular concern but welcomed the Government's willingness to work with the UNHCR and the international community to create eviction procedures that would provide for sufficient notice and support before removals took place. Authorities completed eviction procedures at the end of September, and they

were approved by the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodation and by the UNHCR.

In November the PDO released Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia. The report found that the country's laws and regulations on IDPs "do not contradict" international standards, and praised the State Strategy as consistent with international norms. However, the report noted problems in the implementation of the strategy, including lack of sufficient communication between the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations and the IDPs, insufficient participation of civil society, and inadequate coordination within the Government in providing housing solutions for IDPs.

On May 27, the ECHR ruled that former ministry of internal affairs official, Batalbi Saghinadze, an IDP from Abkhazia living outside of Tbilisi since 1994, had been unlawfully deprived of the right to use the residence from which he was evicted in 2004 by the Ministry of Internal Affairs, which previously owned it (see section 1.e.).

Abkhaz de facto authorities continued to prevent repatriation of the approximately 235,000 persons displaced by the 1992-93 war, despite their 1994 agreement with Georgia, Russia, and the UNHCR, which called for the safe, secure, and voluntary return of IDPs who fled during the war. Approximately 45,000 IDPs, many working as seasonal laborers, have returned to the Gali region of Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions of Abkhazia. A property law prevented IDPs living elsewhere in Georgia from reclaiming homes in Abkhazia, especially outside Gali.

On September 7, the UN General Assembly passed a resolution calling for the voluntary, safe, and dignified return of IDPs to and from Abkhazia and South Ossetia; the right of IDPs to the property they left behind in the occupied territories; and the prohibition of a forced demographic change in the regions.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

UNHCR reported that in June the permanent Martkopi Reception Center for Asylum Seekers officially opened on the outskirts of Tbilisi to improve the overall asylum system and to bring it closer to international standards of protection for asylum seekers. On June 15, the European Commission against Racism and Intolerance (ECRI) reported the Government granted two refugees residence permits and travel documents for travel outside the country. The UNHCR reported that the refugee population during the year was 693; 44 persons sought asylum during the year.

In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were no reports of such returns during the year.

In a 2008 report, the UNHCR expressed concern that law did not fully provide for such rights and recommended additional legislation and procedural safeguards, training for border guards, and a mechanism to speed referral of asylum seekers. During the year the UNHCR observed cases in which asylum seekers were referred to the Ministry for IDPs from the Occupied Territories, Refugees, and Accommodations by border guards, and noted improved cooperation on training issues.

On June 15, ECRI reported an improvement in relations between police and Chechen refugees in the Pankisi valley area. During the year the UNHCR declared its mandate fulfilled with respect to the permanent settlement of the Chechen refugee population in the Pankisi valley and closed its suboffice for the region on December 31.

The Russian soldiers who defected to Georgia from South Ossetia in June and December 2009 remained in the country with protected status as asylum seekers at year's end. In both case the Government assisted the asylum applicants with temporary protection while they initiated the process of applying for asylum in the country. Neither asylum case was resolved by year's end.

*Stateless Persons.*—The law provides citizenship at birth if one or both parents are citizens. It also gives citizenship to children of stateless individuals born on the country's territory. Article 26 of the Law on Citizenship provides that an adult may become a citizen by satisfying the following requirements: (a) has been permanently residing on the country's territory during the previous five years; (b) knows the state language; (c) is familiar with its history and laws; (d) has a job or owns real estate on the country's territory, realizes business or owns shares in a Georgian company or industry. However, a person seeking naturalization is expected first to give up any previous citizenship.

According to December government statistics, a total of 1,987 legally stateless persons were identified and registered by the authorities. The UNHCR recorded 1,826. Nevertheless, due to delays in issuing birth certificates and other documentation problems (especially among minority communities), the actual number of stateless persons in the country was likely higher. Among those registered as stateless, documentation was poor. The number of registered stateless persons may include Chechens, who volunteered for repatriation to Russia but were rejected because they were never registered in Russia and did not have documented Georgian citizenship. This confusion was compounded for persons who lived in the occupied territories.

Children lacking birth certificates were unable to participate in social aid or educational programs. Often children were not registered because their parents had no documentation. In 2008 the Civil Registry Agency (CRA) launched an intensive registration project in Kvemo Kartli to register juveniles and family members who lacked identification documents. Since 2008 approximately 11,000 persons, living in 10 regions throughout the country, were identified through a UNHCR program (implemented by an NGO, the Legal Development and Consultation Group, in close collaboration with the CRA) as lacking necessary documentation. To date over 60 percent of these have received free legal aid, assistance in obtaining documentation to establish their birth, confirmation of their right to Georgian citizenship, and finally receipt of identity papers.

In May 2009 the CRA opened new offices in Khvelvachauri and Poti. Two agency offices in Senaki and Gori were restored and refurbished, which (as with all the other agency territorial offices) provided for IDP registration as well as registration and documentation of IDPs lacking documentation due to the destruction of the national archives on the South Ossetian side of the administrative boundary. In 2008 the CRA counted 2,500 IDPs without documentation, out of which approximately 1,700 were assisted through the NGO Legal Development and Consultations Group and the agency. The 2002 census, the latest, reported the number of Roma at 472. Many Romani IDPs from Abkhazia were not entitled to IDP social assistance because they had no documentation to prove their status. CRA officials stated that Roma with out-of-date Soviet passports had no difficulty applying for and receiving Georgian documents but noted that Roma were often reluctant to file official applications for documents.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully; however, the Government's record in the most recent national elections was mixed. The OSCE/ODHIR noted progress but also significant shortcomings in the May 30 municipal elections.

On October 15, parliament approved a number of amendments to the constitution including provisions that shift some political powers from the president to the prime minister in 2013. The Council of Europe's Venice Commission considered the October 15 constitutional amendments to contain "several important improvements" but concluded that it would be desirable to strengthen the powers of parliament further. The commission also viewed the no confidence procedures as a potential source of instability due to the time frame and potentially cumbersome process. Some civil society activists, opposition leaders, and others had urged the parliament to extend the period for public debate and for parliament's consideration of Venice Commission recommendations.

*Elections and Political Participation.*—According to the OSCE/ODIHR election observation mission, the May 30 municipal elections marked evident progress towards meeting OSCE and Council of Europe commitments. However, significant remaining shortcomings included deficiencies in the legal framework, its implementation, an uneven playing field for candidates, and isolated cases of election-day fraud.

The May elections included the first direct elections of the Tbilisi mayor. In its final report on the election released on September 13, the OSCE/ODIHR mission noted improvements, including in the management of the election administration and in efforts to enhance the quality of voters' lists. The ODIHR assessed voting positively in 96 percent of polling stations visited by observers; however, regional variations pointed to systemic problems in some areas. Observers also reported a variety of procedural violations including 13 instances of likely ballot box stuffing as well as cases of multiple voting, proxy voting, and a series of seemingly identical signatures of voters on voters' lists. The observers also noted procedural violations in one-fifth of the vote counts and one-fourth of the vote tabulations they monitored. The most widely observed procedural violations related to inking.

Despite reforms enacted in 2009, the OSCE/ODIHR final report also found that inadequacies remained in the electoral code including: limitations on candidacy and

voting rights; an election system that does not guarantee the equality of the vote; provisions that allow unlimited campaigning by certain public officials and the use of administrative resources for campaign purposes; and a number of gaps, inconsistencies, and contradictions.

The OSCE/ODIHR mission received allegations of violations from opposition parties and nongovernmental organizations, including reports of pressure on opposition candidates to withdraw. The mission found that 4.5 percent of candidates running for majoritarian seats withdrew after registering, although the reasons for their withdrawals were not reported.

One case reported by NGOs, including GYLA and TI/Georgia, involved the governor of Samegrelo-Zemo Svaneti and the district chief executive of Mestia. On the night of May 3, the governor and the district chief reportedly ordered police to assemble opposition candidates forcibly and bring them to the city administration building. Once inside the building, the governor allegedly pressed the opposition candidates to withdraw from the elections. Four candidates reportedly signed withdrawal documents that night. The Government's Interagency Task Force for the elections recommended that the governor take a leave of absence from his office, which he did, but he returned soon after the May 30 elections. As of year's end the local prosecutor's office had not filed criminal charges, and an investigation by the office remained underway. In late October the district chief executive resigned from his position.

An observer from the NGO Public Movement Multinational Georgia (PMMG) took a video of precinct election commission officials stuffing the ballot box in the city of Akhalkalaki; the Central Election Commission annulled the results from the precinct. The chairman of the precinct was charged with election fraud on July 10 and pled guilty.

On June 18, a precinct chairman in Sagarejo, Asan Isakhan Ogli Abdulaev, was charged with breach of ballot secrecy; he pled guilty. Also on June 18, two members of Precinct No. Three in Batumi were charged with illegal interference in an election using violence or threat of violence; they allegedly physically assaulted an election observer; the case continued at year's end. On June 23, Nanuli Chkhikvishvili was charged with election fraud for changing an election protocol; Chkhikvishvili pled guilty. On July 11, Bukhuti Chkhaidze, a police officer in Guria, was charged with illegal interference in an election and suspended from his position. He allegedly pressured a local opposition candidate to withdraw on April 7.

The OSCE/ODIHR election observation report also noted that the distinction between the state and the ruling party was sometimes blurred and that there was not always a clear distinction between the official and party functions of public officials. Previous OSCE/ODIHR election reports also highlighted these concerns.

NGOs reported that government employees were pressured by their supervisors to vote for, and donate to, the ruling party with the implied understanding that failure to do so might result in a loss of employment. The OSCE's final report noted that opposition parties made the same allegation. The OSCE also reported a number of allegations that businesses were reluctant to donate to some opposition parties due to fear of negative consequences.

According to TI/Georgia's final report on the use of administrative resources during the municipal elections (released July 14), in the 31 municipalities that provided information, over 1,300 employees were on leave in April and May, presumably to work on the Government's election campaign. The OSCE reported allegations that municipal offices in several places were understaffed during the month before the elections due to "mass leave-taking."

Presidential and parliamentary elections were held in January 2008 and in May 2008, respectively. The OSCE's final report on the presidential election concluded that authorities and other political stakeholders made significant efforts to conduct the 2008 parliamentary elections in a way that was consistent with OSCE and Council of Europe commitments; it noted that, while the election was consistent with most OSCE and Council of Europe standards and presented the first genuinely competitive post independence presidential election, implementation was uneven and incomplete. The campaign was overshadowed by allegations of intimidation and pressure. The distinction between state activities and the ruling party campaign of the ruling party incumbent candidate Mikheil Saakashvili was blurred. The election was marred by other shortcomings in the election process, most notably in the counting and tabulation of the results, the appeals procedures, and management of election complaints.

The OSCE assessed that authorities and other political stakeholders made significant efforts to conduct the 2008 parliamentary elections in line with OSCE and Council of Europe commitments; however, according to the OSCE, a number of problems made this implementation uneven and incomplete. The OSCE report again

noted shortcomings in vote counting, tabulation, and election complaints management. The OSCE also reported widespread allegations of intimidation and pressure on opposition activists, public-sector employees, and others, in the presidential and parliamentary elections. There also were credible allegations that businesses were pressured to contribute to the ruling party.

The OSCE's report noted that the election campaign was conducted in a highly polarized environment, compounded by reports of widespread intimidation. The OSCE examined a series of postelection beatings and other violence involving masked men, who attacked a total of 13 opposition activists, many of whom were in the process of taking legal action against alleged election-related irregularities. The OSCE visited seven of the 13 individuals and confirmed that they had been attacked. It noted that some opposition leaders accused the authorities and the ruling party of responsibility for the postelection attacks. The public defender also issued a statement criticizing the attacks and noted that a number of individuals who had been attacked refused to identify themselves due to fear of reprisal.

At year's end no progress was reported, and none was expected, in investigating alleged attacks by unknown assailants on members of the political opposition before and after the 2008 presidential and parliamentary elections. Opposition members accused the Government of failing to make a genuine effort to identify, arrest, and try the attackers, many of whom wore masks.

There were no government restrictions on political party formation beyond registration requirements. However, an individual could not run for office without party affiliation. According to the Ministry of Justice's Registration and Licensing Department, there were 206 registered political parties during the year compared with 200 in 2009; however, only approximately 10 parties were regularly active. During the year persons and members of organizations linked to the opposition asserted that they were unduly singled out for prosecution (see sections I.d. and I.e.).

There were no developments in the Ministry of Internal Affairs investigation into the August 2009 kidnapping and wounding of well-known karate and wrestling champion Amiran Bitsadze by unknown assailants. Bitsadze, a member of the non-parliamentary opposition party Democratic Movement-United Georgia (DMUG), was found alive with two bullet-like wounds on his back, a broken leg, and a broken arm. The DMUG claimed that the motivation for the attack was Bitsadze's affiliation with the party. According to the Ministry of Internal Affairs, an investigation continued at year's end.

There were eight women in the 150-seat parliament. One of the seven vice speakers was a woman, as was the chair of the parliament's procedural committee. There were three women in the cabinet and six on the Supreme Court.

There were five members of ethnic minority groups in parliament: two ethnic Armenians and three ethnic Azeris. There were two members of minorities in the cabinet. There were no members of minorities in the Supreme Court. By law the number of seats held by ethnic minorities in municipal councils was commensurate with the ethnic population in each region of the country. Higher-level city managers included ethnic minority leaders among their ranks.

According to the final OSCE/ODIHR report on the May elections, women were underrepresented in leadership positions in the election administration as well as among the candidates for and members of city councils. However, they were well represented in lower-level election commissions. The OSCE/ODIHR mission found that many parties put forward candidates belonging to national minorities and that election materials were made available in minority languages, but not in all areas inhabited by minorities.

The de facto authorities in Abkhazia continued to restrict the rights of citizens to vote and to participate in the political process through a "citizenship" law that forced ethnic Georgians to give up their Georgian citizenship to vote in regional elections. Even those ethnic Georgians willing to apply for Abkhaz "passports" generally did not receive them because of extensive delays and were, therefore, unable to participate. Ethnic Georgians in South Ossetia were also required to accept a South Ossetian "passport" and "citizenship" to participate fully in political life.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. The Government implemented these laws effectively against low-level corruption, which decreased because of high-profile reforms led by the president. Additionally, some internationally respected organizations indicated that Georgia made progress in this regard, but some NGOs alleged that senior-level officials engaged in corruption with impunity. The World Bank's worldwide governance indicators reflected that corruption was a problem.

There was a general consensus among public officials and civil society organizations that levels of petty corruption fell after the 2003 Rose Revolution. Observers attributed the improvement to the detention of corrupt public officials, increases in public servants' salaries, and the simplification of administrative procedures.

Several high-ranking officials were indicted on corruption charges during the year.

Police corruption was low at the patrol police level. The relatively high salaries for police officers provided an incentive to refrain from using their positions to extort money from citizens.

High-level corruption remained a concern. Observers considered the official anticorruption campaign too heavily focused on prosecution as opposed to prevention and unstructured rather than systemic and participatory. Areas of concern included democratic institutions, civil society involvement in the planning and execution of public policy, property rights, and elite corruption. NGOs also raised concerns about the Government's connection to business and, in particular, corruption in the conduct of bids. There were such cases during the year.

On June 4, the president approved a new national anticorruption strategy. TI/Georgia's report Monitoring Georgia's Anti-Corruption Commitments noted that the weakest governance link was the insufficient independence of the judiciary and the civil service. Judicial independence was rated at 71 percent, although its rating was significantly higher when discussing the legal framework than when addressing its practical enforcement and public attitudes toward the system. It also noted deficiencies in terms of the independence, accountability and transparency of civil servants, which received a low overall rating of 50 percent. This was mainly due to the lack of effective mechanisms for enhancing civil service independence and accountability (rated at 38 percent) and the lack of proper training of civil servants (rated at 50 percent).

The Ministry of Justice took some action during the year to curb bribery. According to the ministry, 146 investigations of passive bribery were initiated, (146 persons were prosecuted and 117 convicted; there were 43 investigations of active bribery (87 prosecuted and 67 convicted) and seven cases of trading in influence (three persons prosecuted and convicted.) This compares with 2009's convictions: accepting bribes, 40; giving bribes 47; and trading with influence, three.

Two judges and one prosecutor were convicted during the year of corruption-related charges. The Inspector General's Office of the Ministry of Justice actively enforced internal ethics and disciplinary rules in the Prosecution Service.

For the judiciary, addressing corruption and ensuring a cadre of independent judges involved training, salary adjustments, pensions, benefits, and improving basic work conditions. However, a May GYLA report on the judiciary noted that there were no objective, transparent criteria for determining bonuses for judges.

The law requires public officials to submit yearly declarations of their own and family members' financial incomes and property for tax inspection. The Bureau of Declarations received the financial declarations, and the Prosecutor's Office under the Ministry of Justice investigated government corruption cases.

On May 31, the Ministry of Justice's Inspector General Office conducted a large scale anticorruption operation and arrested a judge of the Tbilisi Court of Appeals, Dimitri Mchedlishvili, for allegedly accepting a bribe of 5,000 lari (\$2,825) in exchange for assisting a defendant on a criminal case. During 2005-07, Mchedlishvili was the Chief of the Judicial Disciplinary Proceedings Department at the High Council of Justice. Also arrested was prosecutor Levan Bochorishvili, who allegedly accepted bribes in the amount of 1,000 and 1,500 lari (\$565 and \$847) for entering into favorable plea agreements for defendants.

On June 11, the Prosecutor General's Office arrested Elizbar Lominadze, the general director of JSC Energy XXI, and Teimuraz Zurmukhtashvili, the history archive director of the Central Archive of Georgia. According to the Prosecutor's Office statement, a preliminary investigation alleged that Lominadze accepted 180,000 lari (\$101,695) in bribes from various companies for concluding contracts with them in the execution of a government-funded project. Zurmukhtashvili allegedly acted as the contact person in arranging the bribes.

On September 16, Koka Pruidze, a former deputy minister of labor, health, and social affairs, was arrested and charged with abuse of official position and bribery. The Prosecutor's Office stated that in 2009 Pruidze used his official position to influence the ministry's decision on a tender for the procurement of vaccine for a state-funded vaccination program. The prosecution stated Pruidze received 25,000 lari (\$14,124) in exchange for the tender in which the company offered the vaccine for three times the regular price. The trial continued at year's end.

In May a court convicted a prosecutor arrested in December 2009 and charged with accepting a 2,000 lari (\$1,130) bribe to secure a favorable sentence for a defendant (see section 1.e.).

In 2007 Mikheil Kareli, the former governor of Shida Kartli region, was charged with bribery and illegal business practices. He fled to France to escape prosecution. The Government decided to try Kareli in his absence, and the trial continued at year's end. In 2008 French authorities arrested Kareli and continued reviewing the Government's extradition request.

The law provides for public access to government meetings and documents; however, the Government sometimes did not provide access. Although the law states that a public agency shall release public information immediately or no later than 10 days after it is requested, the release of requested information could be delayed indefinitely, and requests were sometimes ignored in practice. NGOs noted that a 100 lari (\$56) fee for court information was restrictive and limited the ability to request information. On May 3, many regional newspapers printed blank front pages to raise awareness about problems in obtaining information from government agencies.

On June 22, TI/Georgia reported the results of field tests of 52 Freedom of Information requests sent to 10 public agencies by four different sets of volunteers between February and May. In 78.8 percent of cases, public agencies provided satisfactory responses. Unsatisfactory responses (21.2 percent) included the absence of any response, oral or written refusals without an acceptable reason, incorrect referrals, and incomplete answers. None of the five requests sent to various institutions for information about public officials' bonuses received a satisfactory reply. The most responsive institutions were the Chamber of Control, the Central Election Commission, the Supreme Court, and parliament. The Prosecutor's Office was the least responsive, replying to only one of four requests. Low response rates were also observed at the Ministry of Defense (50 percent), Ministry of Internal Affairs (50 percent), and Ministry of Justice (25 percent). The type of requester (NGO, journalist, minority citizen, or unaffiliated citizen) had no significant effect on the chances of receiving an adequate response. There were violations of the maximum timeframes within which the information should be provided according to the law.

On July 21, parliament passed an amendment to the freedom of information law restricting third-party access to information about cases involving the Government in international courts. NGO Human Rights Center reported that this was the first time the Government restricted the country's freedom of information legislation since the 2003 Rose Revolution.

In Abkhazia criminals paid bribes to de facto police, prosecutors, and judges to avoid prosecution.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups in most cases operated without government restriction, investigating and publishing their findings on human rights cases. Some NGOs enjoyed close cooperation with the Government, and officials were cooperative and responsive to their views; others complained of not having sufficient access to government officials and the Government's failure to take into account civil society views. Some NGOs also reported instances in which authorities harassed their organization and staff.

The major human rights problems that caused tensions between the Government and NGOs during the year were the alleged mistreatment of prisoners, intimidation and use of government resources during the May municipal elections, harassment of human rights defenders and journalists, the conduct of IDP evictions, and a lack of investigatory conclusions in reported cases against journalists, civil society activists, and nonparliamentary opposition members.

In a January 15 statement, a coalition of 13 NGOs raised concerns about a smear campaign allegedly being conducted against human rights defenders. They reported that several negative stories about them were broadcast in December 2009, including a report by the Georgian Public Broadcaster about the activities of the NGO Human Rights Priority in relation to IDPs conflict victims; a claim broadcast on Rustavi 2 that the release of prisoners detained in South Ossetia was "spoiled" by the Georgian Young Lawyer's Association; and a broadcast on Real Television in which former ombudsman Sozar Subari was accused of protecting only the rights of religious minorities during his time in office.

The NGO Human Rights Center reported that on February 22, the newspaper Versia (Version) accused the chairman of the PMMG, Arnold Stepanian, of working with Russian intelligence services. The tax inspection division of the Ministry of Finance closed Stepanian's father's shop twice during the year for inspections, the sec-

ond time for more than six months. At a March 10 meeting with members of the diplomatic community, NGOs raised concerns that the closures were part of an effort to discredit and pressure human rights defenders, particularly those working in ethnic minority areas, in the period immediately prior to the May 30 municipal elections.

NGOs continued to view the PDO as the most objective of the Government's human rights bodies. The constitutionally mandated office monitored human rights conditions and investigated allegations of abuse. The office generally operated without government interference and was considered effective. The Government funded the PDO, which received 1.5 million lari (\$847,458) during the year.

On July 21, parliament granted the public defender the right to make nonbinding recommendations to law enforcement agencies that they investigate particular cases. Parliament also clarified the public defender's obligation to submit an annual report to it on the human rights situation for the calendar year instead of semi-annually and required government offices to respond to all requests for information from the PDO within 10 days, rather than 15. The July 21 amendments also permit the PDO to act as an *amicus curiae*, a professional person or organization not a party to a particular case but permitted by the court advise it on some matter of law that directly affects the case in question. However, the PDO may no longer report on torture unless the victim gives clear consent.

The *de facto* authorities in the occupied territories did not grant the PDO access to those territories.

The public defender's most recent semiannual report, which covered the second half of 2009, focused mainly on the mistreatment of inmates, poor prison conditions, and other shortcomings in the criminal justice system; these were problems which continued during the year. The report noted that judges continued to fail to provide justifications for their rulings and indicated that instances of police mistreatment of detainees increased during the year.

During the year the PDO published several special reports, including the 2009 National Preventive Mechanism Report and a report on IDPs (see sections 1.c., 1.d., and 2.d.). The public defender also submitted a constitutional complaint regarding legislation governing freedom of assembly (see section 2.a.).

The public defender's authority does not include the power to initiate prosecution or other legal actions, but he can recommend action, and the Government must respond. The PDO noted that the Law on the Public Defender does not explicitly authorize the NPM to use audio and video equipment. Instead the NPM follows the regulations established by each institution. The PDO noted that prisons and police stations place certain restrictions on this activity.

In June 2009 police assaulted a representative from the PDO while he was monitoring a nonparliamentary opposition protest (see section 2.b.). There were no developments in this case.

The parliamentary Committee on Human Rights and Civil Integration, the Ministry of Internal Affairs' Human Rights Division, and the National Security Council's human rights advisor had mandates to investigate claims of abuse.

By law the prosecutor general is charged with protection of human rights and fundamental freedoms. The Human Rights Unit at the Office of Chief Prosecutor monitored overall prosecution and supervision of compliance with national and international human rights standards. The unit reviewed statistical and analytical activities within the prosecution system and was responsible for considering and responding to human rights recommendations of national and international human rights institutions.

*De facto* authorities in Abkhazia allowed some international organizations, including several UN agencies, to operate there on a limited basis, but only the ICRC had a specific human rights mandate. *De facto* authorities in South Ossetia allowed no international organization except the ICRC to operate there on a regular basis, but a few organizations, including the Council of Europe and the OSCE, gained extremely restricted access on an occasional basis, also without a human rights mandate.

The EUMM facilitated conflict resolution (including conflicts involving human rights problems) among Georgian, Russian, and *de facto* authorities in the occupied regions by regularly patrolling near the conflict areas and facilitating informal contacts among the sides. However, despite the 2008 ceasefire agreement's provisions, the EUMM was denied access to the occupied regions. Patrols could be conducted only on the undisputed Georgian side of the administrative boundary lines.

On October 28, South Ossetian *de facto* authorities participated in a meeting on incident prevention and response mechanisms (IPRM) for the first time after a one-year boycott. The Abkhazia IPRM met throughout the year. The Geneva Discussions, which were mandated by the 2008 ceasefire, established one IPRM meeting

for each conflict area to facilitate practical and depoliticized discussions of the situation on the ground.

*Section 6 Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not always enforce these prohibitions effectively.

*Women.*—Rape is illegal, but spousal rape is not specifically addressed by criminal law. Criminal cases of rape generally could be initiated only after a complaint by the victim. A first-time offender may be imprisoned for up to seven years; a repeat offender or perpetrator against multiple victims may receive up to 10 years' imprisonment. If the victim is, or becomes, pregnant, contracts HIV/AIDS, or is subjected to extreme violence, the sentence may be increased to 15 years or, if the victim is a minor, up to 20 years. During the year investigations were initiated in 118 rape cases compared with 136 in the first 11 months of 2009. Observers believed many instances of rape were unreported due to the social stigma for victims and because police did not always investigate reports of rape.

Domestic and other violence against women was a problem. Cases were underreported. According to statistics from the Ministry of Internal Affairs, 2,991 domestic violence cases were reported to the police during the year compared with 1,331 cases in 2009 and 2,576 in 2008.

Domestic violence is an administrative crime legally defined as a violation of the constitutional rights and liberties of one member of a family by another through physical, psychological, economic, or sexual violence or coercion; however, domestic violence is not specifically criminalized. Authorities prosecuted perpetrators of domestic violence under existing criminal provisions, such as battery or rape.

The law allows victims to seek immediate protective orders from courts against abusers, and it authorizes police to issue temporary restrictive orders against persons suspected of abusing a family member. However, restrictive orders were issued in only 182 cases of domestic violence during the year, compared with 176 cases in 2009, and 141 in 2008. The NGO GYLA reported that police did not use restrictive orders during domestic violence calls. A court should approve a restrictive order within 24 hours of a victim's application. It prohibits the abuser from coming within 100 meters (310 feet) of the victim and forbids the perpetrator to use common property, such as a residence or vehicle, for six months. The victim may request an unlimited number of extensions of the protective order. A violation of a restrictive order results in an administrative fine.

The Ministry of Internal Affairs developed a legally required form for police use when issuing restrictive orders; however, some NGOs reported that many police officials did not respond correctly to domestic violence calls and were poorly trained in the use of the national referral system for victims. During the year Tbilisi police patrol inspectors, regional police officers, and prosecutors received domestic violence-related training as did police officers in eight other cities.

The law exempts the payment of state duty on court cases related to protection of and assistance to domestic violence victims; allows a court, either on its own initiative or by request of a party, to hold closed sessions in domestic violence cases; allows a court to consider separation of a child from a violent parent; and limits access to firearms by a domestic violence offender.

Local NGOs and the Government jointly operated a hotline and shelters for abused women, although space in shelters was limited. In October the Government opened two new state-funded shelters and launched a new national, state-funded domestic violence hotline. Shelters also include crisis centers which also offer domestic violence victims psychological, medical, and legal assistance. The State Fund, an interagency government department that works with NGOs on gender-based issues, reported that during the year 112 consultations were conducted by telephone or in person. The State Fund reported that the shelters hosted 18 women and 16 minor children during the year.

During the year the Interagency Council on gender-based issues, including government agencies and NGOs, initiated a public awareness campaign, including the publicizing of the new domestic violence hotline; coordinated domestic violence training in partnership with the Prosecution Service and Police; and opened two state-run domestic violence shelters.

Kidnapping of women for marriage occurred but was not widespread. It occurred predominantly in ethnic minority areas and communities. Such kidnappings reportedly often were arranged elopements. Police rarely took action in these cases, although the law criminalizes kidnapping.

Sexual harassment and violence against women in the workplace were problems. NGOs stated that discrimination against women in the workplace existed, but in-

stances were not reported. The law prohibits sexual harassment; however, the Government did not effectively enforce the law, and authorities rarely investigated complaints. During the year investigations were initiated in 25 cases related to sexual harassment.

Couples and individuals have the legal right to decide freely the number, spacing, and timing of their children. Information was accessible so families and individuals could make reproductive decisions free from discrimination, coercion, or violence. According to data from the UN Population Fund (UNFPA) for 2008, the latest available, 47 percent of women used some form of contraception.

The maternal mortality ratio, according to UNFPA statistics, was 48 deaths per 100,000 live births in 2008. According to data from the World Bank and the Population Reference Bureau, 98 percent of births were attended by skilled professionals. In 94 percent of cases, women had at least one prenatal visit. Indicators noted 16 percent of women reported an unmet need for family planning, but there was no further detail. Women and men were equally treated and diagnosed for transmitted infections, including HIV. However, patriarchal norms, based on cultural, historical, and socioeconomic factors, in some cases limited women's reproductive rights.

The law provides for the equality of men and women; however, the law was not always implemented in practice. On March 27, parliament passed a Gender Equality Law that went into effect immediately. According to the UN Development Fund for Women, the legislation provides for the establishment of a national women's council, enhancement of women's security, equality in the labor market, and strengthening of women's political participation. The law also introduces gender-responsive planning and budgeting on the part of the Government. NGOs complained about the lack of implementation since the law's passage in March. During the year the Government released the law's definition guidelines.

The speaker of parliament continued to chair a Gender Equity Advisory Council, which included members of parliament as well as representatives from the executive branch, the PDO, and NGOs. The State Commission on Gender Equity, chaired at the deputy state minister level, prepared recommendations on the implementation of international agreements and conventions on gender equity. The PDO monitored gender equality cases.

The labor code does not protect pregnant women from being dismissed from work while they are on maternity leave. According to the UN Development Program, employers frequently withheld benefits for pregnancy and childbirth.

Although some observers noted continuing improvement in women's access to the labor market, women remained primarily confined to low-paying and low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men. According to the World Economic Forum's Global Gender Gap Report for the year, women in the country earned 78 percent as much as men engaged in similar work. As a result, many women sought employment abroad.

According to World Bank statistics, the ratio of female to male enrollment in primary, secondary, and tertiary schools was nearly equal. The share of women employed in the nonagricultural was almost 49 percent.

*Children.*—The law provides for acquisition of citizenship by birth on the country's territory. It applies to children of stateless individuals. According to statistics from the UN Children's Fund (UNICEF), 92 percent of births were registered.

The 2002 census, the latest, put the Romani population in Georgia at approximately 472 (less than 1 percent of the population). Romani children were usually born at home, and their parents frequently did not register their births with the Government. Since official identification is required to receive medical treatment and other public services, the lack of identification and the reluctance of parents to apply for such services could deprive Romani children of access to medical and other services.

Education was officially free through high school, but in practice, particularly in rural areas, many parents were obliged to contribute to the schools financially to keep them functioning. The quality of education fluctuated greatly between urban and rural areas and between Tbilisi and the regions. The quality of education in the occupied regions of Abkhazia and South Ossetia, outside of the Government's control, was reportedly poor. In rural areas, school facilities were often inadequate and lacked heating, libraries, and blackboards.

Despite legal prohibitions, local residents and international organizations reported that schools in the ethnic Georgian region of Gali in Abkhazia were generally allowed to provide instruction in the Georgian language, except for certain subjects, such as history and geography, which had to be taught in Russian or Abkhaz. However, the de facto authorities did not provide funding for teachers of Georgian, and local communities had either to pay for teachers themselves, make arrangements for

teachers to cross from undisputed Georgia to teach, or send their children from Abkhazia for Georgian-language lessons. An increasingly strict boundary imposed by Russian border guards made the latter two alternatives more and more difficult. There were reports of Russian border guards detaining children attempting to cross the boundary for language lessons.

There were some reports of child abuse, particularly of street children, although there was no societal pattern of such abuse. Incidents of sexual exploitation of children, particularly girls, were reported. According to the Ministry of Justice, 11 cases of rape, five cases of sexual abuse involving violence, and one case of coercion into sexual acts involving minors were reported during the year.

On May 31, the Child Referral Mechanism was initiated with the purpose of providing that children suffering from abuse are referred to the relevant community and state services by coordinating the work of multiple interested parties, including the police, schools, and social services agencies. According to the PDO, 33 cases of physical abuse of children, 14 cases of neglect, and 38 cases of emotional abuse were reported during the year.

Commercial sexual exploitation of children and child pornography are punishable by up to three years' imprisonment. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation. According to the Ministry of Internal Affairs, the number of cases was very small.

There is an explicit statutory rape provision that makes rape a criminal offense if the victim is a juvenile. Other sexual crimes carry increased levels of punishment if the victim is a juvenile. Another article in the criminal code prohibits sexual intercourse with juveniles under the age of 16, provided the perpetrator is shown to be aware of the age of the victim. In such cases the penalty is a fine and/or incarceration for up to three years.

The number of street children was not considered to be high and has been decreasing yearly. Difficult economic conditions contributed to the problem. A study covering the period 2007-08 by the NGO Save the Children indicated that approximately 1,500 children lived and worked in the streets. The Ministry of Labor, Health, and Social Affairs operated a shelter in Tbilisi and, according to the PDO, hosted 70 children during the year; but the Government took little other action to assist street children. The PDO reported a lack of information about street children and inadequate resources were devoted to them. The NGO Child and Environment operated a night center and three day centers during the year and provided support to 350 street children per day countrywide. Nevertheless, the two shelters could accommodate only a small number of the street children.

There were unconfirmed reports that police harassed street children, but the patrol police routinely transferred street children to 24-hour care centers. These centers lacked resources for treatment and rehabilitation of children, many of whom were substance abusers or suffered from mental disorders.

The conflicts in Abkhazia and South Ossetia displaced thousands of children; the numbers increased further because of the 2008 conflict with Russia (see section 2.d.). Even before the conflict, UNICEF reported that health services in both regions were scant, immunization rates were lower than elsewhere in the country, schools were deteriorating, and malnutrition was a serious problem.

Many orphanages were unable to provide adequate food, clothing, education, medical care, or facilities. They often lacked heat, water, and electricity. Staff members reportedly often diverted money and supplies to their personal use. The Government approved a policy of deinstitutionalizing children, and, according to government statistics, the number of institutionalized children decreased from 5,000 in 2000 to 1,102 during the year. In February the Ministry of Labor, Health, and Social Affairs began rehabilitating the remaining 24 orphanages. During the year this process included completing assessments of staff and conducting staff training on proper childcare.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community did not report any acts of anti-Semitism during the year.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas; however, the Government was not effective in enforcing these provi-

sions. Enforcement was a low priority for the Government. Discrimination, including social discrimination, against persons with disabilities was a problem.

During the year 138,614 persons with disabilities were registered compared with 139,354 in 2009. This number included 10,134 children, compared with 8,034 in 2009. These numbers included only those officially registered; the actual number could be higher.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. However, very few public facilities or buildings were accessible, although notably the newly constructed presidential residence and the Ministry of Internal Affairs building were. During the May 30 elections, ballots in Braille were available for voters with visual disabilities.

The CPT noted in a September 21 report that at the institution for persons with mental and physical disabilities in Dzevri, there were no allegations of mistreatment of residents by staff, and that it had a generally positive impression of residents' living conditions.

In the 2009 National Preventive Mechanism Report (released during the year), the PDO drew the same conclusions as the CPT. The PDO noted, however, that living conditions were poor, including poor ventilation; lack of heat; lack of access to hygiene products, and poor nutrition. Patients who were admitted voluntarily were not allowed to leave of their own free will.

The Ministry of Labor, Health, and Social Affairs was the lead government agency responsible for policy regarding persons with disabilities. Other ministries were also involved, including the Ministry of Education and Science, which has an inclusive education program, and the Ministry of Sport and Youth Affairs, which runs the Special Olympics program. The PDO monitors the treatment of persons with disabilities through its Center for Disability Rights.

The Government took some steps to address the needs of persons with disabilities. On December 3, the International Day of Persons with Disabilities, a forum was held in Tbilisi to raise public awareness on the problems and needs of persons with disabilities. In December 2009 the Government approved a national action plan for activities for persons with disabilities, mandating clearly increased budgets and diversified activities across many ministries. The national action plan prioritizes disability classification, access to information, healthcare, access to buildings, education, habilitation and rehabilitation, employment, culture and sports, social protection, data, and legislative improvement. During the year work on the following elements of the action began, including revision of disability classification, creation of a new data system for persons with disabilities, and creation of an inclusive education program. State agencies provided protected work places for persons with disabilities, including the civil registry that employs dozens of persons with disabilities who work from home.

There were nine major committees in the country that evaluated children and assisted with their inclusion, or integration, in schools; approximately 200 schools became inclusive during the year by providing access ramps and other facilities and specialized teachers with individual approaches to teaching and assessment. During the year standards for day care centers for children with disabilities were developed. All existing day care centers were evaluated based on these standards, and state vouchers were granted to individuals with disabilities, permitting them to be enrolled in quality daycare facilities.

*National/Racial/Ethnic Minorities.*—The law requires that all government officials speak Georgian, the state language; some minorities claimed this excluded them from participating in government. Some government materials distributed to the public were only available in the Georgian language. Authorities asserted the Government was not obliged to provide all official materials in minority languages. However, ballots and election materials were available in minority languages during the May 30 municipal elections and the 2008 presidential and parliamentary elections. According to the Ministry of Reintegration, it translated all major legislative acts into Armenian, Azeri, and Russian. The Ministry of Education reported that it provided textbooks translated into Armenian, Azeri, and Russian in schools in minority regions and Tbilisi.

The Ministry of Education provided university textbooks in minority languages. Students were able to take university entrance exams in minority languages. Students were also able to take advantage of a new "one-plus-four program," in which the Government offered and funded one year of intensive Georgian language instruction and four years of university education to students who passed the entrance examinations in minority languages. A quota system required that a minimum of 10 percent of all national university seats be allocated to Armenian and Azeri-speaking students who passed the entrance exams. According to government statistics issued during the year, 124 Armenian and 175 Azeri speakers were admit-

ted to the public universities through the quota system. This only represented 1.3 percent of the seats available.

Ethnic Georgians living in the Gali region of Abkhazia had no legal access to education in the Georgian language. In practice, however, instruction in Georgian did occur, but with limitations (see section 5). Teachers who did not speak Abkhaz instructed students in Georgian; however, such teachers were often subjected to harassment and prosecution by Abkhaz de facto authorities.

On February 4, the Ministry of Internal Affairs and the PDO signed a memorandum of cooperation under the Government's National Concept and Action Plan and Civil Integration. Under this memorandum on February 11, the PDO gave a lecture at the police academy on ethnic and religious minorities.

Many inhabitants of the municipalities of Akhalkalaki and Ninotsminda, whose populations are predominately ethnic Armenians, complained about government unwillingness to give provincial-language status to the Armenian language, since very few persons there spoke Georgian or were able to conduct daily affairs in Georgian. However, many NGOs in the region stated that they saw an improvement during the year in the number of opportunities for Georgian-language instruction and in the quality of the classes. Ethnic Azeris in the predominately Azeri-speaking region of Kvemo Kartli made similar complaints.

An NGO in Armenia raised concerns that Vahagn Chakhalian and his relatives had been targeted for prosecution because of his political activity in the country's ethnic Armenian community. The NGO highlighted the timing of the arrest (two years after the alleged incident) and asserted that violations had occurred during the trial. There was also an allegation that Chakhalian was beaten in prison during the year (see section 1.c.). In 2008 Vahagn Chakhalian, Armen Chakhalian, and Ruben Chakhalian, at least one of whom was a member of United Javakh, a local NGO that called for autonomy for ethnic Armenians in the country, were arrested and charged with violating public order, resisting arrest, threatening law enforcement officers, and illegally possessing firearms during an alleged 2006 break-in. In April 2009 Vahagn Chakhalian was found guilty by the Akhalkalaki District Court on six of 12 charges brought by the public prosecutor. He was convicted of organizing a riot directed against the public order, hooliganism, and the illegal purchase and possession of firearms and sentenced to 10 years in prison. Ruben Chakhalian was convicted of two of four charges, organizing a riot directed against public order and the illegal purchase and possession of firearms. He was fined 5,000 lari (\$2,960). Armen Chakhalian was found guilty of the illegal purchase and possession of firearms and was fined 2,000 lari (\$1,180). A fourth person, Aram Batoian, was charged with organizing group activities that violated public order and the illegal purchase and possession of firearms; there was no update at year's end.

Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetians, and Russians usually communicate in their native languages or in Russian in the areas where they are the dominant ethnic groups. The law requires that ethnic minority students learn Georgian as a second language, and the Government funded more than 200 primary and secondary Russian-, Azeri-, and Armenian-language schools for persons whose first language was not Georgian. The Zurab Zhvania School of Public Administration in Kutaisi provided courses specifically for students from minority areas. It also facilitated integration of future public servants from minority areas into Georgian society. In Tbilisi a large majority of ethnic minority groups were able to communicate in Georgian in their daily interaction with members of other linguistic groups.

The Government took several steps to integrate ethnic minority communities through Georgian-language instruction, education, involvement in political dialogue, and improved access to information. The Government continued to provide Georgian-language instruction to members of ethnic minorities serving in the armed forces and police, an effort which ECRI noted in its report on June 15.

However, ECRI observed that the challenge persisted of integrating these persons while allowing them to be educated in their mother tongue. It also noted that the Government had developed projects to teach tolerance and respect for other ethnic and religious groups among students.

The law permits the repatriation of the Muslim Meskhetian population, a national minority group that Stalin deported in 1944. The legislation was a response to a 1999 commitment the country made to the Council of Europe to provide for the resettlement of the Meskhetians by 2011. Passage of the law allowed the Government in 2008 to begin accepting applications for repatriation from Meskhetians with documents that confirmed their deportation. Passage of the law came under heavy criticism from opposition members of parliament and the media, which pointed to the delicate ethnic and demographic balance in areas once inhabited by Meskhetians, but subsequently populated by a sizeable ethnic Armenian community. On June 15, ECRI reported that Meskhetian Turks still suffered from a certain level of hostility

among some segments of the country's population, especially those living in the region once inhabited by the Meskhetians. More than 1,700 Meskhetians had filed for repatriation by 2009. More than 150 returned unofficially over the previous three years, quietly settling in Akhaltsikhe and Abastumani. As of year's end, however, there were no official repatriations.

ECRI reported that Roma appeared to suffer from widespread societal prejudice and marginalization. While commending the CRA for registering some ethnic minorities, including Roma, to provide them with identification documents, ECRI noted that the Government needed to do more to integrate fully all Roma. During the year the European Center for Minority Issues estimated the Romani population at 1,500, with no more than 300 in any one location. The 2002 census, the latest, reported the number of Roma at 472. Roma were found principally in the Tbilisi, Kutaisi, Kobuleti, Kakheti, and Sukhumi regions. Large numbers of Roma migrated to Zugdidi and Tbilisi from Abkhazia, while additional Muslim Roma arrived from Armenia and Azerbaijan. Internal seasonal migration to the Black Sea coast was noted during the summer.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws that criminalize sexual orientation, male-to-male sex, or female-to-female sex. However, social prejudices against lesbian, gay, bisexual, and transgender (LGBT) behavior were strong. The Georgian Orthodox Church strongly denounced such behavior. Cases during the year included death threats against an LGBT activist and the use of antihomosexual slogans by a candidate in the municipal elections.

There were a few LGBT organizations. However, they could not work exclusively on LGBT issues or work openly as LGBT organizations because of the extensive societal stigma against homosexuality; instead they promoted tolerance more broadly.

On April 8, threats were made against an LGBT activist by an anonymous administrator of a Georgian language Facebook Web page entitled "Death to Homosexuals." The threats were of sufficient concern that the Ministry of Internal Affairs and the Prosecutor's Office opened an investigation. According to the Ministry of Justice, the investigation continued at year's end. Facebook closed the Web page of its own volition.

On May 25, the GYLA filed suit to suspend the candidacy of an opposition candidate in the municipal elections for posting antihomosexual messages on his Facebook Web pages. The NGO claimed that the messages violated the election code which prohibits fostering hatred and enmity. The Tbilisi City Court ruled against GYLA.

In August false rumors of a gay pride parade in Batumi sparked the condemnation of the Georgian Orthodox Church, including a statement from the patriarch on August 20, and led to protests in front of a hotel where organizers were reportedly staying on August 25 and 26.

In December 2009 police searched the office of an NGO that promotes LGBT equality. Reportedly, they used antihomosexual slurs, made unnecessary strip searches, unnecessarily damaged organizational posters, and unnecessarily ransacked offices. The Ministry of Internal Affairs denied that any procedural violations took place and maintained that the profile of the organization was irrelevant in terms of the law. The ministry reported that its General Inspection Office gave one officer a reprimand at the "severe" level in accordance with the police code of ethics, as his actions were determined to be unethical and inappropriate for police officers. Two other officers were also given a reprimand at the "severe" level for not preventing the above-mentioned officer from making the unethical statements.

The public defender stated his priorities included protection of LGBT groups and individuals.

*Other Societal Violence or Discrimination.*—The law prohibits discrimination against persons with HIV/AIDS; however, there is no penalty for violating this prohibition. NGOs reported that social stigma resulted in individuals avoiding testing and treatment. Some health-care providers, particularly dentists, refused to provide services to HIV-positive persons. Individuals often concealed their HIV-positive status from employers for fear of losing their jobs.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows all workers, including government employees, to form and join independent unions of their choice without previous authorization or excessive requirements, and they did so in practice. However, the law restricts the right of employees of law enforcement agencies, medical doctors, firemen, personnel of the Prosecutor General's Office, and the employees of certain ministries (for example, defense) to form and join unions and to strike. Between 12 and

13 percent of the employed population was unionized, a proportion that rose to more than 46 percent if persons categorized as self-employed are excluded.

The principal association of unions is the Georgian Trade Union Confederation (GTUC), which represents unions in 22 sectors with more than 206,345 unionized workers. There were a few small unions for civil servants, agricultural workers, and artists, but they did not participate in the GTUC. Although many employees in large-scale enterprises were unionized, they did not exercise power commensurate with their large membership. Only a minority of the members were active in the labor movement.

Government interference in union activity was reported in at least one area. Some union representatives reported instances of government harassment and intimidation. On June 8, according to the AFL-CIO, Minister of Education Dimitri Shashkini met with regional heads for schools and reportedly issued verbal orders that all school principals refrain from transferring the trade union membership dues of their teachers to their trade union, the Educators and Scientists Free Trade Union of Georgia (ESFTUG). Subsequently, ESFTUG local presidents began to collect trade union dues directly from union members. When the minister learned of this action, he reportedly stated that any school principal who allowed the collection of dues would be held legally responsible. According to a November 30 ministry statement, school administrations were required to have teachers' written consent, as well as a contract signed between schools and trade unions, to transfer membership fees to the union. The ESFTUG reported that it was not able to collect dues consistently even when they have these forms.

The ESFTUG reported that Shashkini refused to meet and enter into dialogue with the ESFTUG's new president, who was elected on October 30. The union also reported that so-called "mandators," whom the ministry hired directly during the year ostensibly to maintain school security, far exceeded their stated mandate, and the ministry was using them to assure that union dues were not collected. The mandators, who were responsible only to the ministry, were reportedly filing official incident reports following their investigations of complaints, that ministry officials were then using as pretexts to dismiss teachers for cause.

Labor unions asserted that certain provisions of the labor code limited the mechanisms available to workers for the exercise of their rights. At least 100 members are needed for a trade union to be registered, a requirement considered unreasonable by the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations.

The AFL-CIO noted that the law permits a court to suspend the activity of a trade union if the union stimulates social conflict, a provision susceptible to being misapplied to suspend legitimate trade union activity.

The law provides for the right to strike; however, according to trade unions, it did not establish a coherent process for undertaking strikes. Strikes were limited to 90 days in duration and were permissible only in cases of conflict of rights, not conflict of interests. Workers generally exercised their right to strike in accordance with the labor code, but strikes were rare. The GTUC asserted that the rarity of strikes was due to restrictive rules and workers' fear of losing their jobs.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is recognized by law, and the law provides punishment for those who refuse to take part in negotiations; however, the Government did not always protect this right in practice. There were 104 collective agreements that covered approximately 50,000 members. The PDO stated that one of the major deficiencies of the labor code was the absence of a requirement that employers provide a reason to employees in the event of termination of their employment.

The practice of collective bargaining was not widespread. Employers are not obliged to engage in collective bargaining even if a trade union or a group of employees wishes to do so.

The law prohibits employers from discriminating against union members or union-organizing activities, and employers may be prosecuted for violations and forced to reinstate employees and pay back wages. However, the labor code allows employers to terminate employment at will and without providing a reason, giving them the right to fire employees on discriminatory grounds (that is, gender, political affiliation, or other reasons) or for union activism. The GTUC and its national unions continued to report some cases of management warning staff not to organize trade unions, and the GTUC cited several instances during the year in which employers allegedly threatened union members with dismissal for union activity.

There were continuing reports in both the private and public sectors of employers threatening or intimidating workers engaged in union organizing activities. Affected workers included teachers, employees of various mining, pipeline, and port facilities, and the Tbilisi municipal government. However, the GTUC could not identify any

dismissals clearly tied to union affiliation during the year. One reason for this inability was that the duration of workers' contracts in most industries was so short (at times as short as one month) that employers could cite the expiration of a contract as the reason for terminating a particular worker.

In August the management of the state-owned Georgian State Railway unilaterally decreed that it would terminate the collective agreement between the railway and the trade union. The trade union immediately appealed the decree to the Tbilisi City Court. Railway management responded by offering to negotiate and nominating five members to a proposed joint commission. On August 10, the union agreed to negotiate and nominated five union representatives. In November the court ruled against the railroad workers union. The union continued to exist but had many problems with the collection of union dues.

According to the GTUC, none of the nine workers dismissed in 2008 by the management of BEM Textile in Ajara for reasons apparently related to their participation in the creation of a trade union was reinstated as of year's end.

The GTUC reported instances in which employers failed to transfer compulsory union dues they deducted from wages to union bank accounts. In one such case, the company Georgian Post systematically blocked the transfer to the union of dues totaling 38,000 lari (\$22,485) during the year. However, the GTUC reported that, by year's end the Georgian Post had covered all but the last two months of the year's arrears.

In 2007 port authorities in Poti fired union members and sealed their union office because of union activity. After negotiations the port authorities reinstated most workers. A court ruled against the union in a lawsuit filed on behalf of 11 workers who were not reinstated. In May 2009 the GTUC appealed to the ECHR, which accepted the GTUC's application but had not reviewed the case by year's end.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. However, there were reports that men and women were trafficked from and through, but not to, the country for labor. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

NGOs and trade unions objected to a provision in the labor code that permits compulsory labor in instances of emergency and natural disaster but does not require remuneration to persons who are conscripted.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, although the PDO noted that one of the major deficiencies of the labor code was insufficient attention to the rights of minors. However, with high unemployment resulting in a large pool of adult workers willing to work for low wages, child labor was uncommon. Although official data were not available, a 2007 survey estimated that 77.4 percent of working children were employed intermittently on family farms, while 18.4 percent worked in family enterprises. The International Trade Union Confederation reported that children living in rural areas were slightly more involved in child labor. Children in urban areas were susceptible to trafficking, work in the streets, begging, or selling small items.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The most visible form of child labor was street begging in Tbilisi. A 2007-08 study by the NGO Save the Children indicated that the number of street children decreased to approximately 1,500 from 2,500 in 1999. Some experts reported that the number decreased further since that date. Many minors under the age of 16 worked and performed chores on small family-owned farms in rural areas. In most cases this work was not abusive and not categorized as child labor. However, in some ethnic minority areas, family farm obligations were reported to disrupt the ability to attend school. Some observations have suggested that school participation of ethnic minority children was especially low. Many families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there is also a significant ethnic Azeri population) worked on distant pastures for six to nine months a year, meaning that their children seldom attended school. Statistics on such situations were not available through the education or social protection systems.

In most situations, the minimum legal age for employment is 16 years old. In exceptional cases, children may work with parental consent at the ages of 14 and 15. Children under the age of 18 may not engage in unhealthy or underground work, and children between the ages of 16 to 18 are subject to reduced working hours and prohibited from working at night. The labor code permits employment agreements

with persons under the age of 14 in sports, arts, cultural activities, and for performing advertising services.

The Ministry of Labor, Health, and Social Affairs is responsible for enforcing laws regulating child labor. The ministry's Department of Social Protection is responsible for determining compliance with labor laws and regulations. It receives complaints and identifies labor violations. There is a subdepartment for Child Protection and Social Programs, whose 12 specialists are responsible for policy issues, including the protection of children from illegal child labor. The subdepartment forwards any information it uncovers to law enforcement agencies for investigation and possible prosecution. The subdepartment reported that during the year it received no complaints about child employment. The policies that are developed by the subdepartment are implemented by social workers in the Social Service Agency under the same ministry. In the event of a violation of child labor laws, the courts have the authority to sanction the employer.

*e. Acceptable Conditions of Work.*—Neither the minimum wage for public employees, 115 lari (\$68) per month, nor the statutory minimum wage for private sector workers, approximately 20 lari (\$12) per month, provided a decent standard of living for a worker and family. The minimum wage was below the average monthly wage in both the private and the Government sectors. The official minimum subsistence levels were 149.5 lari (\$88) for a single person and 265 lari (\$151) for a family of four. Income from unreported trade activities, assistance from family and friends, and the sale of homegrown agricultural products often supplemented salaries. The Ministry of Labor, Health, and Social Affairs is responsible for enforcing the minimum wage. Minimum wage levels had not changed since 2005 (public sector) and the 1990s (private sector); the minimum wage was not enforced and was little known among the public.

The labor code provides for a 41-hour workweek and for a weekly 24-hour rest period unless otherwise provided by a labor contract. The PDO described inadequate attention to the rights of pregnant women as one of the major deficiencies of the labor code; it does not protect them from being dismissed from work while they are on maternity leave. According to the code, shifts must be at least 12 hours apart. Pregnant women, or women who have recently given birth, are prohibited from working overtime without their consent. Overtime is defined as work that exceeds the work hours addressed in the employment agreement. If the employment agreement does not specify business hours, then overtime is considered to be performance exceeding 41 work hours per week. Terms of overtime labor are defined by agreement between the parties. The employer, as a rule, is not obligated to remunerate for overtime work or to remunerate at an increased rate. The labor code also permits an employer to change the hours of work by 90 minutes without renegotiating the terms of any labor contract. NGOs contended that this provision would effectively require employees to work overtime without compensation, a violation of the constitutional prohibition against compulsory labor.

Two explosions in mines in Tkibuli raised concerns about possible failures in adherence to safety standards. On March 3, four miners were killed and one injured; and on August 27, four miners were killed and six injured.

The Government set occupational health and safety standards, but the PDO listed the failure to ensure safe conditions for workers as one of the major deficiencies of labor code implementation. The Ministry of Labor, Health, and Social Affairs monitors adherence to accepted labor standards and drafts proposals for changes as necessary. The parliamentary Committee on Health and Social Welfare has general oversight regarding labor policy and considers labor-related proposals submitted by the ministry.

The Government body previously in charge of workplace monitoring, the State Department for Engineering Supervision, was abolished by the prime minister in 2009 due to alleged corruption, leaving no government organization in charge of this task. The Technical and Oversight Inspection Agency had inspection responsibility, but only for occupations codified as hazardous. The law permits higher wages for hazardous work and provides workers the right to remove themselves from situations that endanger health or safety without jeopardizing their continued employment. In practice employees rarely, if ever, took advantage of these protections due to fear of dismissal.

## GERMANY

Germany is a constitutional, parliamentary, democracy with a population of approximately 82 million. Citizens choose their representatives periodically in free and fair multiparty elections. The head of the federal government, the chancellor, is elected by the Federal Parliament (Bundestag). The second legislative chamber, the Federal Council (Bundesrat), represents the 16 states at the federal level and is composed of members of the state governments. The constitution (Basic Law) sets forth the powers of the chancellor and the legislative branch. The most recent national elections for the parliament took place in 2009. Security forces reported to civilian authorities.

The law provides fundamental rights for citizens; however, the Government limited the freedoms of speech, press, assembly, and association of neo-Nazi and other groups it deemed extremist. There was governmental and societal discrimination against some minority religious groups. There were instances of anti-Semitic attacks and vandalism; violence against women; trafficking in women, men, and children for sexual exploitation and forced labor; and right-wing extremist violence against and harassment of racial minorities, foreigners, and sexual minorities.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

In October the Nuremberg Higher Regional Court upheld on appeal lower-court findings that police officers acted in self defense in the 2009 shooting death of Tennessee Eisenberg. On November 22, Eisenberg's family filed a complaint with the Federal Constitutional Court in Karlsruhe, which was pending at year's end. The shooting took place in Regensburg, Bavaria, where two police officers killed the 24-year-old man after he allegedly refused police demands to drop a knife. Eisenberg's corpse had 12 bullet wounds. Both the public prosecuting office and the Nuremberg higher district court had reached findings of self defense.

The trial of former concentration camp guard John Demjanjuk continued during the year in the Munich Regional Court. Prosecutors accused Demjanjuk of being a guard at the Sobibor extermination camp in 1943 in German-occupied Poland and charged him as an accessory to the killing of 29,000 persons. Medical officials deemed Demjanjuk fit for trial. Demjanjuk was deported from the United States in May 2009.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices, and there were no reports that government officials employed them.

As of year's end, the Muenster Regional Court had not initiated its review of the cases of three Bundeswehr staff sergeants charged with hazing subordinates at a training site in Coesfeld in 2004. The sergeants were acquitted by the regional court in 2008, but in October 2009 the Federal Court of Justice reversed the decision and returned the case to the regional court for review.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers.

On January 7, the Federal Court of Justice returned to the Magdeburg regional court for retrial the regional court's 2008 acquittal of one of two police officers charged with causing the death of Oury Jalloh from Sierra Leone, who died in 2005 when his cell in a Dessau police station caught fire. The new trial, originally scheduled for October 25, was postponed due to the illness of the defendant. The 2008 acquittal of a second police officer in the case was not appealed.

According to the Federal Statistics Office, the country's prison population at the end of November was 69,385, including 3,755 women and 10,781 pretrial detainees. Of the latter, 374 were juveniles (under 18 years of age). The prison system had a capacity of 77,944 inmates.

Prisoners and detainees had reasonable access to visitors and could engage in religious observance. Authorities permitted convicts and detainees to submit complaints to judicial authorities without censorship. Authorities investigated credible allegations of inhumane conditions. The Government investigated and monitored prison and detention center conditions.

The National Agency for the Prevention of Torture is the country's independent institution for preventing torture and other cruel, inhuman, or degrading treatment

or punishment. Only institutions under federal jurisdiction, i.e., the Federal Police (Bundespolizei) and Federal German Defense Forces (Bundeswehr) fall under the mandate of this agency. It reports annually to the parliament and government. In the 12 months ending in April, the agency conducted four official inspections at Federal Police installations and two at Bundeswehr installations. These found no evidence of inhuman treatment of detained persons. In some cases, the agency proposed improvements, including the installation of fire detectors, improved daylight access, and the provision of equipment for a medical treatment room.

Most institutions for the incarceration of detainees, including police stations, detention centers, and prisons, are the responsibility of the states (Laender). In November the federal authorities informed the UN high commissioner for the prevention of torture that a Joint Laender Commission had been established to inspect such facilities, including those operated by police, the judiciary, detention facilities in psychiatric clinics, persons held pending deportation, nursing homes, and youth-welfare establishments. The joint commission began its operations on September 24; it conducted two visits to inspect facilities during the year. It was too early to evaluate the effectiveness of the commission. Together, the National Agency for the Prevention of Torture and the Joint Laender Commission for the Prevention of Torture make up the national preventive mechanism required by under the Optional Protocol to the UN Convention against Torture.

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the country from November 25 to December 7. It reviewed measures taken by authorities to address earlier CPT recommendations, in particular those concerning instituting fundamental safeguards against mistreatment of persons in police custody and improving conditions in the units in various prisons holding persons involved in immigration matters. The delegation also examined in detail the situation of persons subject to preventive detention (Sicherungsverwahrung) and juvenile offenders held in penitentiary establishments. For the first time, the delegation visited a women's prison. In one of the states visited, Berlin, the delegation collected information on the surgical castration of sexual offenders. No report by the delegation was available by year's end.

There is no ombudsman for prisons or prisoner affairs.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police and the Federal Criminal Investigative Service, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

On July 8, Amnesty International (AI) released a report covering 2004-08 that found investigations of police officers who killed, injured, or mistreated persons in custody to have been at times half-hearted, partisan, and lacking in thoroughness. While AI found no evidence of systematic, unlawful police violence, the organization called for the creation of an independent special commission for investigations of police officers. Hamburg already had such an institution.

*Arrest Procedures and Treatment While in Detention.*—Authorities may arrest an individual only on the basis of a warrant issued by a competent judicial authority unless police apprehend a suspect in the act of committing a crime or have strong reason to believe that the individual intends to commit a crime. The constitution provides that authorities must bring a person detained on suspicion of having committed a criminal offense before a judge no later than the day after his arrest. At that time, the judge must inform him of the reasons for the arrest and give him an opportunity to raise objections. The law entitles a detainee to prompt access to an attorney, either one of his choosing or, if he does not select one, one appointed by the court. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. To continue holding a detainee, police must bring the detainee before a judge, and the court must charge the individual at the latest by the end of the day following the arrest. The court must then issue an arrest warrant stating the grounds for detention; otherwise, the court must order the individual's release. Authorities generally respected these rights in practice.

Bail exists but is infrequently granted. Authorities usually released persons awaiting trial unless a court decided that there was a clear risk that they might flee. In such cases, authorities could hold detainees for the duration of the investigation and subsequent trial, subject to judicial review. Time spent in investigative custody applies towards any eventual sentence. If a court acquits a defendant who was

incarcerated, the Government must compensate the defendant for financial losses as well as for “moral prejudice” due to the incarceration.

The law does not allow courts to punish persons twice for the same crime; however, in cases involving rape, homicide, or manslaughter, a court may order an offender to spend additional time in “subsequent preventive detention” after he completes his sentence if it determines that the offender represents a continuing danger. Until 1998 “subsequent preventive detention” was limited to 10 years, but in that year, a new law removed the limit, permitting the imposition of subsequent preventive detention for an indefinite period. Legislation that took effect on January 1 limited this form of detention to serious crimes. The 1998 law has also been applied retroactively to some prisoners who were originally sentenced while the 10-year limit was still in place. In ruling on such a case, the European Court of Human Rights (ECHR) on May 11, reaffirmed on appeal its December 2009 judgement that the Government must compensate a man whom it had held in “subsequent preventive detention” since 1991, when he completed a five-year sentence for attempted murder and robbery. The ECHR held that the country’s use of this form of detention violated the European Convention on Human Rights.

On June 1, the ECHR ruled that the trial of Magnus Gaefgen on charges of kidnapping, and later killing, an 11-year-old boy in Frankfurt had been fair, and he had no justifiable claim of a human rights violation against the Justice Ministry or police. Gaefgen was found guilty but contended that he confessed only after the vice president of Hesse’s police threatened to torture him. Gaefgen’s case and the alleged torture threat were widely publicized, since the child he killed was the son of a well-known Frankfurt banker. The accused police officer eventually resigned over the incident. Gaefgen was serving a life sentence for the crime.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

*Trial Procedures.*—The constitution provides for the right to a fair, public trial, and an independent judiciary generally enforced this right. Juries are not used. Either one judge, a panel of professional judges, or a mixed panel of professional and lay judges try cases, depending on the severity of the charges. Defendants enjoy a presumption of innocence and have a right of appeal. The law requires defendants to be present at their trials. Defendants have the right to consult with an attorney. According to the law, before any interrogation begins, authorities must inform a suspect, arrested or not, of his or her right to consult an attorney before the interview. The Government provides an attorney at public expense if defendants demonstrate financial need. Defendants may confront and question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to all court-held evidence relevant to their cases.

For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local-court level. These procedures are limited to cases for which the maximum sentence is one year or less. Courts generally suspended one-year sentences and placed the convicted individuals on probation. Heavy case-loads at times delayed court proceedings.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Courts Decisions.*—During the year three new suits were brought against the country in the ECHR. Also during the year, the ECHR issued decisions in earlier suits that found 19 violations related to the length of court proceedings. In 2009 the ECHR issued judgments on 10 cases that included five violations regarding the length of court proceedings, one violation of the right to a fair trial, and one violation of the right to an effective remedy.

On September 2, the court set a precedent by ruling in *Rumpf v. Germany* that the Government must introduce, at the latest within one year, an effective domestic remedy against excessively long court proceedings.

There were no reports of failure of authorities to comply with ECHR court decisions.

*Civil Judicial Procedures and Remedies.*—An independent and impartial judiciary in civil matters provides access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative remedies for alleged wrongs are available as well.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and, in most respects, authorities respected these prohibitions in practice. However, members of organizations monitored by the Federal Office for the Protection of the Constitution (FOPC) and the various state

offices for the protection of the constitution (OPCs) in the states charged that these agencies violated their privacy.

The state OPCs in Hesse, Baden-Wuerttemberg, Lower Saxony, North Rhine-Westphalia, and Bavaria continued to keep the Left Party under observation. The State OPC in North Rhine-Westphalia publicly confirmed in November that it continued this practice, arguing that the party tolerated groups within its ranks that are extremist, and it did not sufficiently distance itself from left-wing extremist violence. In November 2009 the interior minister of Lower Saxony stated that the state OPC only monitored the Left Party and not individual Left Party members.

In September 2009 the federal government confirmed that the FOPC collected information on all 53 members of the federal parliament from the Left Party. The Government asserted that the North Rhine-Westphalia Higher Administrative Court's February 2009 decision authorized surveillance of the party.

On August 22, the president of the FOPC stated that continued observation of the Left Party was necessary because the party maintained contacts with communist organizations abroad and left-wing extremist groups in the country.

In investigations of certain serious crimes, law enforcement officials may monitor the telecommunications of suspects, but only with court approval. In intelligence-related cases, such as suspected involvement in terrorism, the law permits intelligence services to engage in surveillance activities, for example, monitoring telecommunications, without court approval; however, an independent commission elected by a parliamentary control body has to approve such activities.

On March 2, the Federal Constitutional Court ruled that the law requiring the mass storage of telephone and Internet communications data (Vorratsdatenspeicherung) was unconstitutional because it violated telecommunications secrecy. The court called for all the information saved under the law to be deleted "without delay." Although the court ruled that data storage is not in itself unconstitutional, the law was disproportionate and did not provide sufficient data protection measures. The companies that held the data in question subsequently announced that they had complied with the decision.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; while the Government generally respected these rights in practice, it imposed limits aimed at groups it deemed extremist. In November 2009 the Federal Constitutional Court limited free speech that specifically endorses neo-Nazi doctrines, claiming this was "an exceptional circumstance."

Individuals could criticize the Government publicly or privately without reprisal, and an active independent media expressed a wide variety of views without government restriction. However, making or disseminating oral statements or propaganda inciting racial hatred, endorsing Nazism, or denying the Holocaust is prohibited. In August 2009 the Federal Court of Justice ruled that persons can be prosecuted for displaying Nazi slogans only if the slogans are in the German language. The court argued that translations of Nazi slogans were not Nazi symbols, since Nazi slogans are inseparably connected with the use of the German language.

During the year courts convicted persons for speech that denied the Holocaust or was deemed offensive to Jews (see section 6, Anti-Semitism).

On May 6, the municipal court of Amtsgericht, Saarbruecken, found Udo Pastoers, a member of the National Democratic Party of Germany (NPD), guilty of sedition. The court gave Pastoers a suspended, 10-month sentence and fined him 6,000 euros (\$7,980). According to the court, Pastoers "went beyond the right of freedom of expression" when he insulted persons of Turkish and Jewish descent in a February 2009 speech. On October 19, Pastoers appealed to the regional court.

The independent media were active and expressed a wide variety of views with few restrictions.

On July 7, the Gera Administrative Court in Thuringia ruled that the mayor of Gera did not have the right to call for a demonstration against an NPD-organized neo-Nazi rock concert scheduled for July 10. The court ruled that the call for the demonstration violated the mayor's duty to be neutral. State parliament representatives from the Left Party criticized the decision, saying that there should not be any neutrality regarding Nazi ideology.

*Internet Freedom.*—There were no government restrictions on access to the Internet; however, government agencies may monitor e-mail or Internet chat rooms in certain circumstances. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics approximately 79 percent of the country's inhabitants used the Internet.

Federal and state laws permitted the FOPC and state OPCs to monitor the private e-mails and chat room postings of individuals and groups under FOPC and OPC surveillance; an independent commission elected by a parliamentary control body was responsible for oversight of such activities. The law prohibits access to material such as child pornography and Nazi propaganda.

*Academic Freedom and Cultural Events.*—There were few government restrictions on academic or cultural events; however, the law bans Nazi propaganda, material denying the Holocaust, and pornography.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government usually respected this right in practice. However, the Government prevented certain prohibited organizations, mainly right-wing extremist groups, from holding public assemblies.

Permits must be obtained for open-air public rallies and marches, and state and local officials have authority to deny permits when public safety concerns arise or when the applicant is a prohibited organization. Denials were rare but did occur.

Once a demonstration is officially registered, it is illegal to block it, even when it is organized by neo-Nazi groups. During the year the Saxony prosecutor successfully sought to have parliamentary immunity lifted from one of two Left Party leaders who participated in the February 13 blockade by anti-Nazi demonstrators of a neo-Nazi demonstration in Dresden. The outcome of the ensuing prosecution was pending at year's end.

Police may detain known or suspected criminals, usually right- or left-wing extremists, for brief periods when they believe such individuals intend to participate in illegal or unauthorized demonstrations. The length of time varies from state to state and can range from one to 14 days.

In April Bavaria amended its assembly law to meet the requirements of the Federal Constitutional Court, primarily with regard to the duties of organizers, police performance, and penalties. On June 1, the Bavarian state parliament amended the law on the right of assembly with the primary intention of controlling right-wing extremist demonstrations. The amendment was in response to a February 2009 ruling by the Federal Constitutional Court that the state's law was unconstitutional because it could be used inappropriately to restrict any type of public demonstration.

In August the Schaumburg county administration in Lower Saxony prohibited both a neo-Nazi demonstration and a counter-demonstration by trade unions and left-wing groups scheduled for August 14, in Bad Nenndorf. The administration asserted that the demonstrations might result in violence, and it could not provide the required number of police to secure the marches. In reaction organizers of both demonstrations filed a suit. Initially, on August 12, the Hannover Administrative Court decided to permit the Nazi march but barred the counter demonstration, since the police could only handle one demonstration and the right-wing group had registered earliest. However, on August 13, after an appeal by the German Trade Unions Federation, the Lueneburg Higher Administrative Court permitted the left-wing demonstration as well.

*Freedom of Association.*—The constitution provides for freedom of association, and the Government generally respected this right in practice. However, the law permits the prohibition of organizations whose activities have been judged illegal or opposed to the constitutional democratic order (see section 2.a.). While only the Federal Constitutional Court may prohibit political parties on these grounds, federal or state governments may prohibit or restrict other organizations, including groups that authorities classify as extremist or criminal in nature. Organizations have the right to appeal prohibition or restrictions.

The FOPC and state OPCs responsible for examining possible threats to the constitutional democratic system monitored several hundred organizations. Monitoring generally consisted of collecting information from written materials and firsthand accounts; however, the FOPC and OPCs could also employ more intrusive methods, including the use of undercover agents, who were subject to legal checks. The FOPC and OPCs published lists of monitored organizations, including left-wing political parties. Although the law stipulates that OPC surveillance must not interfere with an organization's activities, representatives of monitored groups complained that the publication of the organizations' names contributed to prejudice against them. On June 10, the Berlin-Brandenburg Higher Administrative Court confirmed a 2009 decision by the Berlin senator of the interior to ban the right-wing extremist group Frontbann 24, which had been active in Berlin since 2008. The senator stated that the group was positioned against the constitutional order and had shown affinity to National Socialism. The police simultaneously raided apartments of the groups' members in Berlin.

On September 1, the Leipzig Federal Court of Justice (as a court of last instance), rejected a revision and confirmed a ban on the Kiel-based right-wing extremist group German Youth Faithful to the Homeland (HDJ), on the grounds that the organization was similar to the Nazi-era Hitler Youth and was directed against democracy and the country's constitution. The ban was imposed on HDJ in March 2009 by then federal interior minister Wolfgang Schaeuble for distributing racist and Nazi propaganda. Searches were carried out in Berlin, Brandenburg, Lower Saxony, and Saxony in an effort to confiscate the HDJ's assets.

On December 21, police raided the homes of suspected neo-Nazis in five cities (Hohen Neuendorf in Brandenburg, Ludwigshafen and Bad Dirckheim in Rhineland-Palatinate, and Heidelberg in Baden-Wuerttemberg) in an effort to prevent the holding of a "national year-end camp" for children. The homes in question belonged to members of the IG Fahrt and Lager, the successor organization to the HDJ, an organization banned in 2009 because the group ran camps modeled on those of the Hitler Youth, teaching children as young as six years old that foreigners and Jews were a threat to the nation. According to police, after the HDJ was banned, former members continued their work in the guise of the Young National Democrats, the NPD youth organization. The police seized right-wing extremist propaganda that members of the group allegedly planned to distribute to minors at the upcoming youth camp.

On September 7, Rhineland Palatinate police forces searched offices and apartments of the neo-Nazi group Hilfsorganisation fuer nationale politische Gefangene (HNG). With approximately 600 members, the HNG is the country's largest neo-Nazi group. Police officers raided four apartments in Mainz, including the garden shop of Ursula Mueller, the chairperson and, along with her husband Curt Mueller, central figures of the HNG.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The constitution extends to foreigners persecuted on political grounds the right to apply for asylum in the country. The Asylum Procedure Act regulates the asylum procedure. The Residence Act also allows the granting of refugee status when the persecutors are not representatives of the state.

As a rule an applicant for asylum has the right to appeal a denial within two weeks. Once an appeal is filed, authorities may not deport the applicant until and unless the court has completed its deliberations and upheld the denial. In that case the applicant is obliged to leave the country. An applicant who does not comply is subject to deportation.

The Government processes the asylum applications of individuals it finds to have adjudicable asylum claims at an international airport prior to their entry into the country (individuals seeking to enter the country by land do so from countries already judged to be safe countries that bear responsibility for adjudicating their asylum claims). The same applies to applicants without passports or with invalid passports. The Federal Office for Migration and Refugees must either make a decision on an asylum application within 48 hours or allow the person to enter the country. An applicant who is rejected has three days to appeal to an administrative court, which must rule within 14 days or permit the individual to enter the country. Local nongovernmental organizations (NGOs) continued to criticize these periods of time as insufficient to allow applicants to prepare for hearings.

Persons whose asylum claims are rejected may not enter the country but must remain in the airport reception center until their departure. A judicial order is required to continue to hold individuals beyond 30 days of their arrival if authorities are unable to return them to their home countries within that period of time. The federal government claimed not to maintain statistics about detention in airport facilities.

In May 2009 the human rights NGO Pro Asyl sharply criticized the Government's "fast" procedure, whereby a person can apply for asylum at the airport and the Fed-

eral Office for Migration makes a decision within two days. Based on its examination of 32 cases from 2006 and 2007, the organization asserted that the minimum requirements for a fair procedure were not met, since the decision was made so rapidly. According to Pro Asyl's analysis, several decisions were incorrect and resulted in unjustified deportations. Pro Asyl also asserted that during the two days they were awaiting an asylum determination, asylum seekers were detained in the transit portion of the airport under "inhumane" conditions.

In the period 2004-09, 4,234 persons sought asylum upon their arrival at Frankfurt's international airport. The transit area of the Frankfurt airport, under the authority of the Federal Administration for Migration, has also been subject to criticism by human rights organizations, including AI in 2009 and during the year. According to Pro Asyl, authorities detained women with children, pregnant women, and children without parents in circumstances very similar to prison. According to the Hesse Ministry for Justice, some minors without parents remained more than 100 days in prison-like circumstances.

According to the constitution, individuals who attempted to enter the country through a "safe country of transit," i.e., a member state of the EU or a country adhering to the 1951 Convention relating to the Status of Refugees, were ineligible for asylum and could be turned back at the border or, if they had entered the country, be deported to that safe country of transit. Several NGOs questioned this regulation. During the year several courts in the country stopped planned deportations to Greece.

On July 20, the Frankfurt administrative court ruled that the federal government had to allow an Iranian citizen to file his asylum application in the country, although he entered the country via another EU country. On September 8, the Federal Constitutional Court suspended, for similar reasons, the deportation of an Iraqi asylum seeker to another EU country, where he had originally filed a first asylum application.

In practice the Government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In December 2009 the Federal Ministry of Interior instructed the federal states to suspend the deportation of Syrians, who faced immediate deportation due to uncertainty about their treatment upon return to Syria.

The Government processed refugee and asylum cases according to existing law; the approval rate was low. During the year authorities processed 48,187 asylum applications and granted 7,704 persons (16.0 percent) refugee protection under the 1951 convention and its 1967 protocol. In addition they granted 2,691 persons (5.6 percent) temporary suspension of expulsion due to the situation in their countries of origin or based on other humanitarian grounds. The country rejected 27,255 applications (56.5 percent) and "resolved otherwise" (for example, applications withdrawn or procedures closed) another 10,537 (21.9 percent). All cases in which asylum was granted must be reviewed after three years to determine whether the grounds for asylum still apply.

In December 2009 the interior ministers of the country's 16 federal states extended the residence permits of "long-term" asylum seekers for an additional two years for those who otherwise would have had to leave during the year. This ruling affected approximately 30,000 rejected asylum seekers whom authorities could not return to their countries of origin. In order for these persons to remain in the country as residents, they are required to prove that they have "made a concerted effort" to find employment and can be expected to support themselves in the future. Some human rights organizations criticized the ministers' failure to grant the asylum seekers' residency outright.

During the year there were more than 14,000 officially registered refugees from Kosovo, including approximately 10,000 Roma, living in the country. All of them were required by law to leave the country once the Government determined they would no longer face any risks of oppression upon return. In April 2009 the German and Kosovo Interior Ministries concluded an agreement that provides for the return of Kosovar refugees. The federal Interior Ministry pledged to repatriate a maximum of 2,500 persons per year to ensure that Kosovo was not overburdened by a sudden influx of returnees. During the year 918 repatriation orders were issued, including 556 concerning Roma. Between January and April, 313 persons were deported, including 53 Roma. As an incentive the Government provided special support to those refugees who returned voluntarily to Kosovo.

During the year human rights organizations questioned whether the agreement with Kosovo provided adequate safeguards for the refugees being repatriated there. In a report released in October, Human Rights Watch noted that Roma, Egyptians, and Ashkali deported from Western Europe to Kosovo faced numerous obstacles to

enjoyment of their basic human rights, including lack of access to personal documents; statelessness; problems repossessing their property or obtaining housing; difficulties accessing education, health, employment, and social welfare; and separation from family members.

*Stateless Persons.*—Citizenship is derived primarily by birth from one citizen parent. However, citizenship may also be granted to children based on their birth in the country, provided one parent has been living there for at least eight years or one parent has a permanent residence permit and has had that status for at least three years.

According to UNHCR statistics, there were 8,226 stateless persons at the end of 2009. Data on the number of stateless persons who were also refugees was incomplete. The Government generally implemented laws and policies to provide stateless persons the opportunity to gain nationality on a nondiscriminatory basis. Citizenship may be acquired by naturalization by those with permanent residence who have lived in the country for eight years. However, refugees and stateless persons may apply after six years' residence. It can be difficult for an applicant to produce sufficient evidence or documentation for the establishment of statelessness status—the burden of proof is on the applicant. In general the country protected stateless persons from deportation to their country of origin or usual residence where they could be threatened with political persecution.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In September 2009 the country held parliamentary elections that were considered free and fair. Political parties generally operated without restriction or outside interference unless they are deemed a threat to the federal constitution. Even when the federal authorities perceive such a threat, they have no authority to ban a party; they can only petition to the Federal Constitutional Court to do so.

A total of thirty-one splinter parties were denied approval to participate in the 2009 federal parliamentary elections. The federal election supervisor based his decisions on formal mistakes made by the parties in the approval process and their allegedly inadequate “manifestations of the characteristics of a political party.” A report on the parliamentary elections released in December 2009 by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) criticized certain provisions of the law regarding the admission of new parties. The observers noted that the federal election committee, which decides on such admissions, is composed of those parties already represented in parliament, and this circumstance could lead to a conflict of interest. The report also noted that the law does not provide for judicial review of election administration decisions before Election Day, thus diminishing access of citizens to a timely remedy.

The federal chancellor and five of the 16 cabinet members were women. There were 207 women in the 622-seat Federal Parliament (about 32 percent). Four judges on the the 16-member Federal Constitutional Court were women.

There were at least 16 members of ethnic minorities or members with an immigrant background in the parliament, one on the Federal Constitutional Court, and one in the cabinet. On April 27, the first state-level Muslim minister was appointed, in Lower Saxony.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. Nevertheless there continued to be reports of corruption. The construction sector and public contracting, where there were indications of inappropriate political party influence in the awarding of contracts, were areas of particular concern.

Most state governments and local authorities have contact points for whistle-blowers and provisions for rotating personnel in areas prone to corruption. Government officials are forbidden to accept gifts linked to their jobs. There were serious penalties for bribing officials, for corrupt practices between companies, and for price-fixing by companies competing for public contracts. Authorities have strengthened anticorruption provisions that apply to support extended by the official export credit agency and have tightened the rules for public tenders. Authorities have prosecuted domestic firms for paying bribes to foreign officials to secure contracts.

Parliamentarians are subject to financial disclosure laws that require them to publish earnings from outside employment. State prosecutors generally are responsible for investigating corruption cases. In December 2009 the Council of Europe criticized the country's anticorruption efforts and recommended tightening the criminal code with regard to bribery of parliamentarians. In its October 26 report, Transparency International criticized the dearth of legal measures to prosecute corruption among parliamentarians. It also recommended a ceiling for donations to political parties.

Federal law provides for public access to government information. Four federal states (Berlin, Brandenburg, Schleswig-Holstein, and North Rhine-Westphalia) also have freedom of information laws that provide an appeals process.

A November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) presented information indicating that Cronimet Mining GmbH, which is based in Germany, directly or indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

There is no federal human rights ombudsman and no parliamentary committee with specific responsibilities for overseeing the country's human rights performance. The courts were the main resource for individuals seeking protection of individual human rights. Under the country's legal system, persons who believe that their rights have been violated are entitled to take their cases to court. In addition to the courts, the country has a wide range of governmental and nongovernmental bodies and organizations working to protect human rights. Petitions committees and commissioners for citizens' affairs provide individuals with contact points where they can lodge their complaints. Such points of contact are usually referred to as "ombudspersons."

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits the denial of access to housing, health care, or education on the basis of race, ethnicity, gender, religious affiliation, age, sexual orientation, disability, language, or social status, and the Government effectively enforced these provisions in practice.

*Women.*—The law criminalizes rape, including spousal rape, and provides penalties of up to 15 years in prison. The Government effectively enforced the law. According to national police criminal statistics, there were 7,314 cases of rape or serious sexual coercion in 2009. The federal government supported numerous projects in conjunction with the federal states and NGOs to deal with violence against women, both to prevent violence and to give victims greater access to medical care and legal assistance.

The law prohibits violence against women, including spousal abuse; the law may temporarily deny perpetrators access to the household, put them under a restraining order, or in severe cases prosecute them for assault or rape and require them to pay damages. Penalties varied depending on the nature of the case. The law did not require a civil court decision for a temporary denial. The Government enforced the law; nevertheless, authorities believed that violence against women was widespread. Organizations that aid victims estimated that between 20 and 25 percent of women have been victims of physical or sexual violence. There were about 360 women's shelters in the country with approximately 7,000 rooms for women and children. According to the Federal Ministry for Family, Senior Citizens, Women, and Youth, approximately 400,000 women per year sought refuge from abusive situations. Many NGOs on the local level provided hotlines, assistance, advice, and shelter.

Forced marriages are illegal and invalid and may be punished by up to five years' imprisonment. While there were no reliable statistics on the number of forced marriages, evidence indicated that the problem occurred more often in the immigrant Muslim community than in the general population. Forced marriages reportedly often led to violence. Victims included women and, in some cases, young men living in the country for whom the family brought a spouse from abroad. In addition some women were sent by their families to other countries to marry against their will.

Honor killings were also reported. On September 20, the the Federal Court of Justice approved the life imprisonment of a 47-year-old father who killed his daughter in Schweinfurt, Bavaria, stabbing her 68 times.

Sexual harassment of women was a recognized problem. The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. A variety of disciplinary measures against offenders are available, including dismissal. The law considers an employer's failure to take measures to protect employees from sexual harassment to be a breach of contract, and an affected employee has the right to paid leave until the employer rectifies the problem. There were press reports of sexual harassment in the workplace and in public facilities, but no statistics were available. Unions, churches, government agencies, and NGOs operated a variety of support programs for women who experienced sexual harassment and sponsored seminars and training to prevent it. No reliable data on the extent of this problem was available.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception, skilled attendance during childbirth, and women and men were diagnosed and treated equally for sexually transmitted infections, including HIV. According to data compiled by international organizations, there were approximately seven maternal deaths per 100,000 live births in 2008.

Men and women enjoy equal rights under the constitution. The Federal Ministry for Family, Senior Citizens, Women, and Youth was the primary federal agency responsible for protecting women's rights. The law provides for equal pay for equal work. Employers generally did not pay women less than men for equivalent work, although women were underrepresented in well-paid managerial positions and overrepresented in some lower-wage occupations. According to current information from the Federal Ministry for Family, Senior Citizens, Women and Youth, women earn an estimated 23 percent less than men for the same work. This is largely because more women in the country tended to be part-time workers.

*Children.*—In most cases, citizenship is derived by birth from one's parents. Citizenship may also be granted to children born in the country provided one parent was resident for at least eight years or one parent has a permanent residence permit and has had that status for at least three years. Dual nationality is not recognized; and, upon reaching the age of 23, a dual national must choose one citizenship or the other. Civil registration offices record births.

The law criminalizes rape and provides penalties of up to 15 years in prison. Consensual sex is legal from the age of 14 in most cases. An exception is if the older partner is over 18 years old and is "exploiting a coercive situation" or offering compensation, in which case the younger partner must be over 16 years old. In addition it is illegal for someone older than 21 years old to have sex with someone under 16 years old if the older person "exploits the victim's lack of capacity for sexual self-determination." According to one estimate, 3 to 11 percent of all prostitutes were 16 years old or younger.

Under the law, possession of child pornography is a criminal offense. A child is defined as a person younger than 14 years of age. According to the law, the mere possession of, or attempt to acquire, any material reflecting a true or realistic incident of child pornography is punishable by a prison sentence of three months to five years. The country's legal system also applies extraterritorial jurisdiction, so that any act of child pornography is prosecuted domestically, according to domestic law, even if it was committed elsewhere.

According to the Federal Criminal Office (FCO), in 2009 there were 11,319 reported incidents of sexual abuse of children up to 14 years of age compared with 12,052 incidents in 2008. Between 2008 and 2009, the number of cases involving the distribution of child pornography (photographs and videos) declined to 11,597, a decrease of 36.5 percent. The number of reported cases of ownership and procurement of child pornography declined by 43.0 percent, from 6,707 cases in 2008 to 3,823 in 2009.

In March the community of Schiffweiler voted their mayor, Wolfgang Stengel, out of office after a Saarbruecken court found him guilty of procuring and possessing child pornography and fined him 7,500 euros (\$9,975).

On May 28, the Karlsruhe regional court gave Joerg Tauss, the former secretary-general of Baden-Wuerttemberg's Social Democratic Party (SPD) and a member of the federal parliament, a 15 month suspended sentence for possessing child pornography. On August 31, the Federal Court of Justice rejected an appeal by Tauss as unfounded. When authorities first accused him in March 2009, Tauss left the SPD parliamentary caucus under pressure. The federal parliament lifted his immunity the following September, and the Karlsruhe prosecutor's office then filed formal charges.

The Coalition for Street Children estimated there were as many as 11,000 street children in the country. Authorities believed that these children were often sub-

jected to violence and abuse and were frequently fleeing violent and abusive homes. Street children often turned to prostitution for income.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish population was estimated to be more than 200,000 persons in 2009. The 2009 FOPC report listed a total of 1,502 right-wing, politically motivated crimes with extremist and anti-Semitic background in 2009 compared with 1,477 in 2008 (an increase of 1.7 percent). Federal authorities generally took action against the perpetrators of anti-Semitic offenses.

While most anti-Semitic acts were attributed to neo-Nazi or other right-wing extremist groups or persons, a number of high-profile anti-Semitic incidents indicated that Muslim youths were increasingly involved in attacks on, and harassment of, Jews. Annual statistics were not available; however, among the violent anti-Semitic attacks that occurred during the year were the following:

On January 23, two teenage (ages 15 and 16) right-wing extremists committed an arson attack against the House of Democracy in Zossen, Brandenburg, which was hosting an exhibition on Jewish life in the city. Proceedings against them were ultimately dismissed on the grounds that they were too young to understand the gravity of their crimes. The 24-year-old head of one of the largest right-wing extremist groups in Brandenburg, Freie Kraefte Teltow Flaeming, also stood trial at the Zossen local court, for instigating the arson attack. He confessed to doing so, as well as to other offenses, including the use of Nazi symbols and incitement of hatred. Authorities suspected his group of involvement in an earlier attack on the House of Democracy in 2009. No information was available by year's end as to the outcome of his trial.

On March 26, a man verbally attacked two 10-year-old girls at a local train station in Berlin-Wannsee using anti-Semitic remarks. When a bystander intervened to assist the girls, the attacker grabbed a beer bottle and threatened the girls and the bystander. Police were called, and the perpetrator was charged with incitement of racial hatred. The case was pending at year's end.

On March 27, a man and two women were beaten on a subway station platform in Berlin. The three were approached by a man who asked if they were Jewish. He reportedly returned with a group of youths who attacked the three, beating and kicking them and hitting them over the head with beer bottles.

On April 16, a neo-Nazi physically attacked a 17-year-old Israeli in Laucha, Saxony-Anhalt. The Israeli was only slightly injured and was able to escape with the help of a passerby. The offender, a 20-year-old neo-Nazi, was sentenced to eight months in prison and a 360 euro (\$479) fine by the Naumburg regional court on August 31.

On June 19, a group of children and teenagers threw stones at members of a Jewish dance troupe and used a bullhorn to scream anti-Semitic remarks at them, forcing them off stage during a neighborhood street festival in Hanover, Lower Saxony. One of the dancers was injured, and the dance group subsequently ended their performance. The assailants were reportedly of Lebanese, Palestinian, Iraqi, Iranian, and Turkish origin. Politicians and local associations responded in outrage and disbelief to the incident. The police identified nine suspects shortly after the incident.

On June 27, neo-Nazis attacked a 23-year-old man in Berlin-Oberschoeneweide and injured him seriously. On October 13, the state police searched four apartments in Berlin Marzahn-Hellersdorf and Pankow and arrested four young men suspected of having committed the attack. The police found clothing they wore during the attack and neo-Nazi CDs. Arrest warrants were issued for the two suspects.

On October 13, a group of juveniles insulted three Jewish teenagers using anti-Semitic slogans on a public bus in Cologne-Pesch (North Rhine-Westphalia). When the Jewish teenagers left the bus, they were spit on and kicked. Police were investigating four suspects, ages 11 to 15.

The most widespread anti-Semitic acts were the desecration of Jewish cemeteries or other monuments with graffiti that included the use of swastikas. Incidents during the year included the following:

On May 2, unknown persons damaged a majority of the gravestones at a Jewish cemetery in Gangelt, North Rhine-Westphalia.

On June 15, unknown persons spray-painted five gravestones and a wall at a Jewish cemetery in Babenhausen, Hesse, with swastikas.

On August 29, unknown persons set fire to the door of the funeral hall of the Jewish cemetery in Dresden. Firefighters were able to extinguish the fire. The police had no suspects but did not rule out neo-Nazi involvement.

On November 19, vandals damaged the historic Jewish cemetery in Wattenscheid (North Rhine-Westphalia). More than 25 gravestones were pulled down and smeared with paint, swastikas, other Nazi symbols, and Anti-Jewish slogans. The vandals also painted swastikas on a commemorative plaque of the former synagogue and on a glass stele commemorating the Shoa victims in other parts of the city. A police investigation was underway.

Other Jewish properties were also subject to anti-Semitic vandalism during the year:

On the night of May 16, unknown persons doused a synagogue in Worms with flammable liquid and set it on fire, leaving a blackened exterior but no major damage. Forensics experts later identified eight sources of fire at the crime scene. The perpetrators also threw a Molotov cocktail through the window of the synagogue's library. Police found eight copies of a note that stated, "As long as you do not give the Palestinians peace, we are not going to give you peace." Rhineland-Palatinate's Minister-President Kurt Beck condemned the attack.

On July 28, visitors to the Web site of the Buchenwald/Mittelbau-Dora Concentration Camp Memorial foundation were redirected to a Web site denying the Holocaust. Another foundation Web site was deleted. According to the foundation, the attackers left behind messages such as "brown is beautiful" and "We will be back." The Federal Office of Criminal Investigation began an investigation that continued at year's end.

On August 29, there was an arson attack against the funeral hall of the Jewish cemetery in Dresden- Johannstadt (Saxony). The unknown perpetrators also set fire to the entrance door. An investigation was pending.

On October 30, unknown perpetrators attacked the new synagogue in Mainz (Rhineland-Palatinate). The perpetrator threw a Molotov cocktail at the synagogue, but missed the building. There were no injuries and no damages. An investigation was pending at year's end. The synagogue had been inaugurated on September 3 with a ceremony that included numerous high-level figures, including President Christian Wulff, Cardinal Lehman of Mainz, and Rhineland-Palatinate Minister-President Beck.

On December 7, unknown perpetrators defaced a memorial for the former Jewish synagogue in Magdeburg (Saxony-Anhalt) and the wall of the Israeli cemetery with Nazi slogans and symbols. The memorial for the synagogue had been subjected to a similar attack on November 14. A police investigation was pending at year's end.

During the year courts convicted persons for speech that denied the Holocaust or was deemed offensive to Jews (see section 2.a.). On April 16, a court in Regensburg, Bavaria, upheld a lower court's conviction of Richard Williamson, a bishop of the Saint Pius X Fraternity, for inciting racial hatred after he denied the Holocaust during a 2008 interview with Swedish television while he was in Germany. The court reduced his earlier fine of 12,000 euros (\$16,080) to 10,000 euros (\$13,400).

On November 3, it was reported that police arrested 22 persons suspected of spreading neo-Nazi ideology in a major action against the far-right Internet radio station Widerstand-Radio (Resistance Radio). In an operation involving 270 officers, police raided 22 premises across 10 of the country's 16 states, confiscating numerous computers and telephones.

During the year the prosecutor general in Gera, Thuringia, opened investigations against Karl-Heinz Hoffmann (founder of the Wehrsportgruppe Hoffman, which was banned in 1980) and five neo-Nazis in Thuringia suspected of having illegally procured explosives. On October 6, police searched Hoffmann's apartment and two other locations in Nuremberg (as well as 16 sites in Thuringia, Saxony, and Bavaria) and confiscated computers and other material. According to victims' advocacy groups, crimes committed by far-right extremists in Thuringia almost doubled over the five years ending in 2009. The advocacy groups contended that authorities appeared prepared to look the other way.

In August 2009 then interior minister Thomas Schaeuble appointed a group of experts on anti-Semitism to provide a regular report on anti-Semitism in the country, to coordinate government activities to combat anti-Semitism, and to submit an action plan to combat the problem. The group's report had not been released at year's end.

On August 18, the city, the church, and most local social associations, including sports clubs, of Laucha (Saxony-Anhalt) countered a neo-Nazi demonstration held on the same day by organizing "a day of humanity." More than 100 persons, among them Saxony-Anhalt's Interior Minister Holger Hovelmann (SPD), attended discussions and music performances in the church of Laucha. The neo-Nazi demonstration

was held to protest the dismissal of the coach of the town's youth soccer team, Lutz Battke, a member of the town council and the NPD. Concern about the influence of Battke's views on the children he coached increased with the attack on an Israeli by a man who had trained with Battke for many years (see above).

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with physical, or mental disabilities in employment, education, access to health care, and the provision of other federal state services, and the Government effectively enforced these provisions. The relevant law, enacted in 2006, makes no specific mention of persons with sensory or intellectual disabilities but these are believed to be subsumed under the other headings. However, the federal states of Bavaria, Baden-Wuerttemberg, North Rhine-Westphalia, and Saxony limited the number of children with disabilities attending secondary schools. For example, in Baden-Wuerttemberg 54,200 students with disabilities were required to go to special schools, which often prevented them from attending secondary school. During the year only 15.7 percent of children with disabilities attended regular schools together with children without disabilities. While special schools are often better equipped to take special care of students with disabilities, critics argued that such separation prevented the full integration of children with disabilities into the professional world and society as a whole.

The number of schools and day care facilities that accommodated both children with disabilities and children without disabilities increased from 7,789 in 1998 to 14,143 in 2008, while the number of day care centers and schools exclusively for children with disabilities decreased from 691 in 1998 to 378 by mid-2008.

In July 2009 the Government released a report on the status of persons with disabilities which indicated that unemployment among persons with disabilities decreased by more than 14 percent between 2005 and 2008. The proportion of employees with disabilities in the workforce increased from 7.3 percent in 2005 to 8.5 percent in 2006. In 2007-08, 72 percent of all juveniles with disabilities, who were eligible to do so, started professional training.

The Government promoted the employment of handicapped persons through a number of measures. For example, employers with a minimum of 20 employees must hire persons with disabilities to fill at least 5 percent of all positions, facing a fine if they do not comply.

The federal government has developed guidelines for barrier-free public buildings and for modifying streets and pedestrian zones to accommodate persons with disabilities. All 16 federal states have incorporated these guidelines into their building codes. Almost all federal buildings (98 percent) complied with the guidelines for a barrier-free environment. The federal government provided payments of 518.2 million euros (\$689 million) per year through 2019 to the states to support barrier-free buildings. Efforts were continuing to improve further barrier-free access in public transportation.

By law the federal government is required to provide barrier-free access to communications, especially in the field of administrative Internet sites and official forms and notifications.

In 2008 there were eight violent right-wing extremist crimes against persons with disabilities; there were 45 such crimes between 2001-08.

Under the law, the federal commissioner for matters relating to persons with disabilities is the principal government contact in all matters related to persons with disabilities and has specific responsibility for protecting the rights of persons with disabilities. The Ministry of Labor and Social Affairs; the Ministry of Family, Senior Citizens, Women, and Youth; and the Ministry of Transport, Building, and Urban Affairs also have responsibility for addressing the needs of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Beatings and harassment of foreigners and members of racial minorities remained a problem throughout the country.

The FCO defined "politically motivated crimes" as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, world view, ancestry, sexual orientation, disability status, appearance, or social status. The FOPC report listed 156 right-wing extremist organizations and groups. Authorities estimated that, as of the end of 2008, there were approximately 30,000 persons who either belonged to one or more of these groups or were right-wing extremists without an organizational affiliation.

The FOPC report for 2009 recorded 18,750 right-wing "politically motivated crimes" by extremists (a decrease of 5.8 percent compared with 19,894 in 2008). These included 891 violent crimes (a decrease of 14.5 percent compared with 1,042 in 2008). Of these crimes, 351 were xenophobic acts and 31 were anti-Semitic. The

Federal Criminal Investigation Office defines politically motivated crimes as offenses related to the victims' ideology, nationality, ethnicity, race, skin color, religion, worldview, ancestry, sexual orientation, disability status, parents, or social status. The 2009 FOPC report included 4,734 left-wing politically motivated crimes, 707 committed by foreigners, and 761 other types. The report listed 195 right-wing extremist organizations and groups (156 in 2008). Authorities estimated membership in these groups, plus right-wing extremists who remained unorganized, to be approximately 26,600 (30,000 in 2008). For example:

On February 29, three neo-Nazis attacked a foreigner in Frankfurt. The police arrested three suspects that belong to the right-wing group Freie-Kreefte Schwalm-Eder, a neo-Nazi group in the north of Hesse.

On August 7, a man from Niger was brutally beaten and kicked by two drunken persons in a pub in Weissenfels, Saxony Anhalt. The victim was treated in a hospital and released. Police suspected xenophobic motivations for the attack as both the victim and a woman who wanted to help were verbally attacked with racist remarks. A police investigation was pending at year's end.

On December 9, the Islamic Cultural Center of Iranians in Berlin-Brandenburg, located in Berlin-Tempelhof, was subject to an arson attack. The center's facade was damaged, but no one was injured. Berlin police have created a special working group to investigate a series of attempted arson attacks against six Muslim religious institutions, most of whose worshippers were immigrants or offspring of immigrants, during the year.

To address right-wing extremism, authorities conducted a variety of educational programs to promote tolerance, many focusing on anti-Semitism and xenophobia. The Federal Ministry of Family, Senior Citizens, Women, and Youth implemented three complementary federal programs to combat right-wing extremism: Diversity is Good, a 19-million-euro (\$25.3 million) per year program designed to train youth, educators, and immigrants about right-wing extremism, anti-Semitism, and xenophobia; Competent for Democracy, a five-million-euro (\$6.7 million) per year network to provide counseling in conflict situations; and Places of Diversity, a network of organizations, including political parties, media outlets, churches, and businesses to promote tolerance and democracy.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Many lesbian, gay, bisexual, and transvestite (LGBT) rights groups reported no impediments to their operation or free association. During the year several gay pride marches occurred around the country without hindrance. However, the Government reported 164 crimes motivated by a bias against sexual orientation, of which 45 were violent crimes, in 2009 in the OSCE's report, Hate Crimes in the OSCE Region, and media and other reports indicated that societal and job-related discrimination against LGBT persons occurred but was rare.

According to a study by the Berlin antiviolence project MANEO, more than 35 percent of LGBT persons surveyed nationwide experienced some form of violence between April 2008 and April 2009 because of their sexual orientation. The survey indicated that only approximately 11.9 percent of cases were registered with the police.

The number of reported attacks against LGBT persons in Berlin decreased during the year to 80, compared with 98 in 2009, although the number of violent attacks increased from 33 to 35. Police assumed, and other evidence indicated that many other cases went unreported. The Berlin antiviolence project MANEO maintained an emergency hotline for victims, which was used by 186 persons in 2008 and by 225 persons in 2009.

On June 27, a group of four young men committed separate attacks against four LGBT persons in a park in Berlin-Friedrichshain. The four LGBT persons were asked whether they were gay, and before they could answer, they were slapped and kicked. All victims were slightly injured, but none required hospital treatment. A police investigation was initiated.

*Other Societal Violence or Discrimination.*—There was discrimination against persons with HIV/AIDS. The Government worked with NGOs, religious groups, and businesses to educate the public about HIV/AIDS and its prevention.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right of employees to form and join unions of their choice without excessive requirements or previous authorization. During the year approximately 21 percent of the workforce was unionized. The overwhelming majority of organized workers belonged to eight unions largely grouped by industry or service sector and affiliated with the German Trade Union Federation, the country's main trade union umbrella organization. The

constitution permits unions to conduct their activities without interference, and the Government generally respected this right in practice.

The constitution provides for the right to strike for all workers except civil servants (including teachers) and staff in sensitive or essential positions, such as members of the armed forces. Workers not allowed to strike had legal recourse through the courts to protect their rights. The law prohibits retaliation against strikers, and the Government generally enforced this law.

*b. The Right to Organize and Bargain Collectively.*—The constitution protects the right to collective bargaining, and agreements are governed by law. The Government generally respected this right in practice. Collective bargaining agreements covered approximately 65 percent of the labor force in the western part of the country and approximately 51 percent in the east. Collective agreements are only binding for trade union members and their respective employer associations; however, many employers of nonunion labor also made use of the agreements to determine part or all employment conditions of their employees. Collective bargaining agreements negotiated with public service employees are usually extended to civil servants via legislation, although such extensions did not always include all of the provisions of those agreements.

Antiunion discrimination and other forms of employer interference in union functions are prohibited by law and were not widespread. However, the International Trade Union Confederation reported that discriminatory tactics of some employers included targeted dismissals, demotions, transfers, and discrimination in recruitment.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and federal statutes prohibit forced or compulsory labor, including by children; however, there were reports that forced labor occurred. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Comprehensive legislation protects children from exploitation in the workplace, and the Government enforced these laws.

The law prohibits the employment of children younger than 15 with a few exceptions: children 13 or 14 years of age may do farmwork for up to three hours per day or deliver newspapers for up to two hours per day, and children three to 14 years of age may take part in cultural performances under strict limits on the kinds of activity, number of hours, and times of the day. Exploitative child labor was not a serious problem, although violations did occur mainly in small, often family-owned businesses such as bars, restaurants, and grocery stores.

The Federal Ministry of Labor and Social Affairs enforced the law effectively through its Factory Inspection Bureau.

*e. Acceptable Conditions of Work.*—The country does not have a statutory minimum wage; however, binding minimum wages have been established in 16 sectors of the economy, including construction, electrical trades, painting, postal service, waste management, large-scale laundries, and special mining services. In August new national minimum wages for some 800,000 nursing care workers came into force. The regulation applies to all employees regardless of the country of origin of their employers. The minimum wages in the various sectors generally provided an adequate livelihood for a worker and his family. Minimum wage rates set by collective bargaining agreements are enforceable by law and covered an estimated 60 percent of all wage earners. Individual contracts or company-level contracts negotiated by worker representatives who were not necessarily members of unions covered the remaining 40 percent of the workforce.

The law provides for equal treatment of foreign workers, who generally worked in conditions equal to those of citizens; however, such workers faced some wage discrimination. For example, some schools paid foreign teachers less than their citizen counterparts. Employers also often paid lower wages to seasonal workers from Eastern Europe who came to the country on temporary work permits. At times employers paid workers from other EU countries the same wages they would receive in their home country, even if the corresponding citizen worker would receive a higher wage.

Federal regulations limit the workweek to 48 hours, but collective bargaining agreements may stipulate lower maximums. Contracts that directly or indirectly affected 80 percent of the working population regulated the number of hours of work per week. According to the European Labor Force Survey, the average full-time employee's workweek was 39.8 hours for women and 41.0 hours for men in 2009; rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

An extensive set of laws and regulations governs occupational safety and health. In practice a comprehensive system of worker insurance carriers enforced safety requirements in the workplace. The Federal Ministry of Labor and Social Affairs and its counterparts in the federal states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Occupational Safety and Health. At the local level, professional and trade associations—self-governing public corporations with delegates representing both employers and unions—oversee worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

---

## GREECE

Greece is a constitutional republic and multiparty parliamentary democracy with an estimated population of 11 million. In October 2009 the Pan-Hellenic Socialist Movement (PASOK) won a 10-seat majority in the unicameral Vouli (parliament) in elections regarded as free and fair, and George Papandreou became prime minister. Security forces reported to civilian authorities.

Human rights problems reported during the year included: alleged abuse by security forces, particularly of undocumented immigrants; overcrowding and harsh conditions in some prisons; detention of undocumented migrants in squalid and overcrowded conditions; some legal restrictions on freedom of speech; restrictions on religious freedom; detention and deportation of unaccompanied or separated immigrant minors, including asylum seekers; inadequate reception capacity or legal aid for asylum seekers and refugees; domestic violence; trafficking in persons; discrimination against Roma and exploitation of Romani children; limits on the freedom of some ethnic minority groups to self-identify; and discrimination against and social exclusion of ethnic minorities, along with incidents of anti-Semitism.

Parliament passed legislation early in the year that permits legal immigrants to vote in municipal elections; a relatively small percentage of legal immigrants took advantage of the legislation and voted in the November local elections.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

Amnesty International alleged that in April 2009, in the port of Igoumenitsa (western Greece), a coast guard officer severely beat a Kurdish Iraqi migrant, who died four months later because of his injuries. An investigation was ongoing at year's end.

Amnesty International asserted that in October 2009 a Pakistani migrant died 14 days after being subjected to torture during his arrest and detention in a police station in Piraeus (port city adjoining Athens). The police opened a criminal investigation, which was ongoing.

In October a Fokida (central Greece) court announced its decision in the trial of two police officers charged with intentional homicide and complicity in homicide in the 2008 killing of 15-year-old Alexandros Grigoropoulos in Athens. The killing had set off weeks of riots and demonstrations by youths and self-styled anarchists in cities across the country. The court sentenced one officer to life imprisonment and his partner to ten years in prison; both appealed the ruling, arguing they received an unfair trial, but the appeal date has not been set.

In June an unnamed group claimed responsibility for killing a 52-year-old police officer in a bomb attack against the Ministry of Citizen Protection. An investigation was ongoing at year's end.

On May 8, a group of protestors who opposed the country's economic reform program firebombed a bank in central Athens and reportedly prevented occupants from leaving the building, resulting in the death of three persons—including one pregnant woman—trapped inside. A criminal investigation of the killings was ongoing, but there were no arrests by year's end.

No minefield-related deaths were reported during the year. On February 4, the Council of Europe's commissioner for human rights published a report stating that since 1995, mines had killed at least 108 persons and severely injured 187 others attempting to cross the border through marked minefields in the Evros area along the Greek-Turkish border.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices and provides safeguards for criminal suspects and undocumented immigrants in detention. However, during the year several international organizations and nongovernmental organizations (NGOs) reported abuse by police personnel and the coast guard, particularly of undocumented immigrants, asylum seekers, and Roma.

In October 2009 police guards reportedly severely beat several asylum seekers and immigrants, including a 17-year-old Palestinian, who were protesting detention conditions and length of detention in the Paghani (Lesvos) detention center. During the investigation, some witnesses reported intimidation by the police.

In January witnesses alleged that a coast guard officer struck an immigrant with a club and severely injured his finger.

On May 9, according to Amnesty International, local NGOs, and the media, a group of vigilantes that included members of the far-right group Golden Dawn attempted to storm an abandoned courthouse in the center of Athens occupied by illegal immigrants. Human rights activists were injured in the ensuing fighting.

NGOs working to support immigrants' rights accused the police of physical and verbal abuse as well as the destruction of personal property and documents during sweeps and identity checks. The deputy ombudsman for human rights stated that police continued to conduct identity checks and body and vehicle searches based on racial profiling, targeting specific neighborhoods where immigrants were known to reside.

In November the Council of Europe's Committee for the Prevention of Torture (CPT) released a report on its September 2009 visit to the country's prisons and detention centers noting numerous complaints from detained suspected criminals of alleged police abuse, such as kicks, punches, and blows with batons, mainly during questioning by the police but also during apprehension. Many inmates complained about the lack of food and water, as well as bathroom facilities, during the transfer between prisons. The report also stated that several illegal immigrants complained about the physical force used by the police during deportations. The report noted that effective access to a lawyer or doctor was not consistently provided to detainees and stated that "insufficient effort has been made to date to effectively investigate, prosecute, and punish perpetrators of ill treatment." In particular, the report emphasized that the Government continued to lack systematic approaches to preventing abuses, such as an "adequately resourced police inspectorate" or a "credible, independent and effective police complaints mechanism." On the other hand, the report noted the CPT delegation "did not receive allegations of deliberate physical mistreatment of prisoners by prison staff."

In contrast with years past, while Romani representatives complained about the lack of response by the police officers to assist in domestic disputes, they did not report any violence perpetrated by police officers during the year.

*Prison and Detention Center Conditions.*—Conditions in prisons and detention facilities did not meet international standards. According to the CPT's November 17 report, "the provisions in the 1999 Prison Law, setting down the standards of accommodation and the norms for a safe environment, including health and hygiene, to be provided to each prisoner, were still not complied with," and the measures undertaken to improve conditions of detention were limited in scope and not proactive.

In his annual report in May, the deputy ombudsman for human rights noted that the situation in prisons had become "explosive" and that problems of the prison system, mainly caused by overcrowding, were chronic. The ombudsman noted, as an example, the conditions at the Ioannina prison (northwestern Greece), which he described as "inhuman and degrading." Due to the lack of space, the inmates did not have adequate hygienic facilities and were either isolated or slept in bunk beds in the hallways. The UN special rapporteur echoed the observations in October and stated that some prisons he visited were severely overcrowded, with inadequate ventilation and "despicable" sanitary conditions.

The Ministry of Justice reported that as of June, the total prison population was 11,674 (an increase of 310 from June 2009), while the official capacity of the prison system was 9,103.

Poor prison conditions led to multiple prison protests during the year at the Korydallos (Piraeus) prison hospital and at the Trikala (Thessaly region) and Diavata (Thessaloniki) prisons.

The deputy ombudsman for human rights, NGOs, and media reported that female prisoners continued to be subjected to systematic, invasive body cavity searches. The CPT report stated that body cavity searches on women are carried out not "based upon a proper risk assessment but as a routine measure."

During the year the Office of the UN High Commissioner for Refugees (UNHCR), the UN special rapporteur, the CPT, and NGOs asserted that conditions in deten-

tion centers for undocumented aliens were unacceptable and amounted to serious violations of human rights. International organizations, the UN special rapporteur on torture, and the local deputy ombudsman for human rights cited “asphyxiating overcrowding at certain detention centers and police stations, unhygienic facilities, a lack of outdoor and exercise space, and the intermingling of unaccompanied minors with adults and female with male detainees. NGOs and international entities reported that certain smaller police and border guard stations had especially poor conditions.

The CPT report further observed that the length of lawful detention in many facilities had increased from 2008, with the number of staff at the facilities visited remaining “totally insufficient.” For example, the Fylakio and (the now-closed) Paghani centers had only six police officers on duty during the day for 201 and 548 migrants being held at that time in the respective institutions.

While a brochure on detainee rights was reportedly distributed in multiple languages, some authorities reportedly failed to advise detainees of their rights.

In an April 2009 statement, the Ministry of Justice stated that the death of Katerina Goulioni, a female prisoner and prisoners’ rights activist (who died during transportation from Thiva women’s prison to another prison on Crete) was the consequence of a drug overdose. The statement was based upon toxicology analysis reports by the Coroner’s Laboratory of the Medical University of Crete and the Patras General Public Hospital that found the cause of death to be abuse of illegal substances, specifically heroin.

There were a number of other specific reports during the year of overcrowding and degrading and unhealthful conditions at detention centers:

In February the Police Association of Achaia, Peloponnese, reported that the conditions in the Patras police detention center were inhumane and degrading, with up to 60 persons held in a cell intended for a maximum of 14.

In July the deputy ombudsman for human rights noted in a report that treatment of aliens at the detention center of the Athens airport was inhumane and degrading and requested the authorities to take immediate measures to alleviate the situation. Authorities committed to disinfect the center, to replace filthy mattresses, and to expedite construction of a new detention center.

According to a series of September press reports, overcrowding remained a serious problem in many police detention centers, including several in Athens, which held detainees beyond their capacity. In one case the media reported severe overcrowding in detention centers at the five border stations in the Evros region near the Greek-Turkish border that received 250-300 undocumented migrants per day. Over 600 migrants were held in Fylakio (capacity 300); and 400 in Venna (capacity 250). The deputy ombudsman for human rights made a fact-finding visit to the Venna detention center a month after an inmates’ riot in February to protest detention conditions; the results of the visit had not been published as of year’s end.

On December 6, Human Rights Watch (HRW) stated that conditions in the detention centers visited in northern Greece “clearly risk the health and safety of detainees, and constitute inhuman and degrading treatment.” The organization alleged that the detainees could not lie down to sleep due to overcrowding; the women and children were held in the same cells with men; and the toilet facilities were so limited that guards sometimes escorted detainees to “defecate and urinate in nearby fields.” According to the HRW, at the beginning of December 120 unaccompanied migrant children (nine of them girls) were held among the detainees in the Fylakio-Kyprinou detention facilities for periods ranging from weeks to months. Officials reportedly told the HRW that children had to be detained until a place in a reception center was found.

The Government permitted monitoring of conditions at prisons and detention centers by local and international humanitarian organizations, such as the UNHCR, the CPT, Doctors without Borders, the International Committee of the Red Cross, the Greek Council of Refugees, Medical Intervention, and the deputy ombudsman for human rights. The ombudsman for human rights conducted frequent short-notice visits to prisons throughout the country. During the CPT’s September 2009 visit, it gained unfettered “rapid access to the places of detention visited, was able to speak in private with those persons with whom it wanted to meet, and was provided with access to the information it required to carry out its task.”

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention. However, police continued to conduct large-scale sweeps and temporarily detained large numbers of immigrants, sometimes in crowded and squalid conditions, while determining their residency status.

*Role of the Police and Security Apparatus.*—The police are responsible for law enforcement and the maintenance of order within the country, and the coast guard is

responsible for law enforcement in territorial waters. Both agencies are under the authority of the Ministry of Citizen Protection. The police and the army jointly shared law enforcement duties in certain border areas. Civilian authorities generally maintained effective control over the police and coast guard, but corruption and police impunity continued to be problems.

Based on a law that prohibits expression of racist ideas, human rights NGOs filed in late March a protest letter with the Athens prosecutor regarding a coast guard special operations unit (36 members) that chanted racist slogans during the March 25 Independence Day parade in Athens.

During the year police and coast guard personnel received training from government ministries, regional and international organizations, NGOs, and service academies. Subjects included antiracism, antitrafficking and victim identification, asylum seeker recognition, witness protection and interviewing, and crowd control.

*Arrest Procedures and Treatment While in Detention.*—The law requires judicial warrants for arrests, except when made during the commission of a crime, and prohibits arbitrary arrest. In practice police did not always follow these provisions. Police are required to bring detainees before an examining magistrate within 24 hours. The magistrate has a maximum of 24 hours to issue a detention warrant or order the detainee's release, and these provisions were observed in practice. Pretrial detention may last up to 18 months, depending on the severity of the crime. A panel of judges may release detainees pending trial. Pretrial detainees made up approximately 30 percent of those incarcerated and contributed to prison overcrowding, according to figures provided by the Ministry of Justice. Some defense lawyers and legal activists asserted that pretrial detention was supposed to be reserved for exceptional cases but had become the norm. They also asserted that the detention period was excessively long. Bail is available for defendants detained on felony charges and for lesser charges unless a judicial officer determines that the defendant is a flight risk. The law provides detainees the right to contact a close relative or third party, consult with a lawyer, and access medical services. In felony cases the bar association provides lawyers to indigent defendants. While detainees were generally informed promptly of charges against them, foreign detainees on occasion did not have access to a court-appointed interpreter. According to the CPT's report, foreign detainees were given a packet informing them of their rights as detainees in multiple languages, although this was not always done promptly.

Individuals accused of misdemeanors could be tried under expedited procedures that at times undermined defendants' basic rights due to the brevity and swiftness of the trial. Although such defendants enjoyed the right to counsel, the short time period limited defendants' ability to present an adequate defense. Defendants may request a delay to prepare a defense, but the court is not obliged to grant their requests. Expedited procedures were used in less than 10 percent of applicable cases.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice; however, observers reported that the judiciary was inefficient and sometimes subject to influence and corruption. The judiciary sometimes acted more leniently toward those claiming a political motivation for their acts of property destruction (professed anarchists) than it did for others. For example, anarchists frequently received suspended sentences in lieu of prison time or fines.

The ECHR has on several occasions criticized the country, including twice during the year, for unreasonable length of litigation and inefficiency of the court system.

During the year the UN independent expert on minority issues as well as legal and human rights groups, including the GHM, reported that Roma experienced difficulty accessing justice and faced excessive delays in civil cases. Legal observers and NGOs reported discriminatory attitudes and language directed towards Roma in court.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are public in most instances, and juries are used in all first and second-degree felony cases. The law permits denial of the right to a jury trial in cases of violent terrorism. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. An attorney is provided to indigent defendants facing serious charges. Defendants may question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. They have the right to appeal. Defendants who do not speak Greek have the right to a court-appointed interpreter.

Some NGOs reported during the year that the quality and availability of court interpreters for non-Greek speakers varied from trial to trial.

The Government recognizes Sharia (Islamic law) as the law regulating family and civic issues of the Muslim minority in Thrace. Muslims married by a government-appointed mufti are subject to Sharia family law. Many NGO and media reports characterized Sharia as discriminatory against women, especially in child custody, divorce, or inheritance cases. Members of the Muslim minority also have the right to have a civil marriage and take their cases to civil court.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—In January the European Court of Human Rights (ECHR) found that the country had violated the provisions of the European Convention on Human Rights prohibiting torture and excessively long legal proceedings in the case of a man who alleged he was subjected to police violence during his arrest and detention in 2001. On July 22, the ECHR ruled that the country had violated the European convention's prohibition of inhuman or degrading treatment and the right to liberty in its detention of a Palestinian asylum seeker (see section 2.d., Refugees).

In 2009 the ECHR issued 69 judgments that found at least one violation by the country of the European Convention on Human Rights. The largest number of violations (41) involved the length of legal proceedings. Other decisions involved the right to a fair trial (16 violations); the right to liberty and security (10 violations); the right to an effective remedy (eight violations); the protection of property (six violations); inhuman or degrading treatment (five violations); the right to respect for private and family life (three violations); and right to life/deprivation of life, freedom of expression, and prohibition of discrimination (one violation each).

The country paid the fines levied by the ECHR.

*Civil Judicial Procedures and Remedies.*—There is a generally independent and impartial judiciary in civil matters. The law provides citizens with the ability to sue the Government for compensation for alleged violations of rights.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit arbitrary interference with privacy, family, home, or correspondence; however, in practice these provisions were not always respected.

According to NGOs, the police and prosecutors conducted raids and searches of Romani and immigrant neighborhoods, frequently entering homes in search of criminal suspects, drugs, and weapons without authorization. Local authorities allegedly threatened to evict Roma from camps and tent dwellings during the course of the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law generally provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, the law prohibits speech that endangers the country's foreign relations; spreads false information or rumors causing fear, rivalry, or division among citizens; or incites citizens to disturb the peace or commit acts of violence. In practice these legal prohibitions were seldom invoked. In most criminal defamation cases, defendants were released on bail pending trial without serving time in jail.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not impede criticism.

The independent media were active and expressed a wide variety of views without restriction.

The law provides for the Government to exercise "immediate control" over radio and television stations in case of national emergency and establishes ownership limits on media frequencies. State-operated stations emphasized the Government's views but also reported objectively on other parties' positions.

The law requires that radio and television stations broadcast primarily in Greek and that radio stations broadcast 24 hours a day. It sets minimum capitalization requirements and numbers of employees. Members of the Muslim minority in Thrace stated that the law discriminated against smaller, independent, Turkish-language stations. In 2009 the Western Thrace Minority University Graduates Association reported that the Government had begun to enforce the law, with one Turkish-language radio station receiving a violation notice for broadcasting in Turkish only.

The law allows any prosecutor to order the seizure of publications that insult the president, offend any religion, contain obscenity, advocate the violent overthrow of the political system, or disclose military secrets. The Government did not enforce this law during the year.

The law also provides for punishment of individuals who "intentionally incite others to actions that could provoke discrimination, hatred, or violence against persons

or groups of persons on the basis of their race or ethnic origin or who express ideas insulting to persons or to groups of persons because of their race or ethnic origin.”

In a July 28 proclamation, the Sect of Revolutionaries cell claimed credit for the July killing of Sokratis Giolias, a popular blogger journalist.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Internet was available throughout the country and widely used. According to International Telecommunication Union statistics for 2010, approximately 50 percent of the country’s inhabitants used the Internet.

There were no reports of the Government attempting to collect personally identifiable information on individuals from the Internet.

The libel and defamation trial of an Internet blog administrator who, on one of his Web sites, allegedly called a Greek Orthodox televangelist “stupid” was rescheduled until October 2011.

*Academic Freedom and Cultural Events.*—In general there were no government restrictions on academic freedom or cultural events. There were no reports of interference with cultural events of various ethnic groups.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government generally respected this right in practice.

*Freedom of Association.*—The law provides for freedom of association; however, the Government continued to place legal restrictions on the names of associations of nationals who claimed to be of “Macedonian” ethnic origin or that included the term “Turkish” (see section 6, National/Racial/Ethnic Minorities).

During the year international organizations and NGOs expressed concern that the Government’s practice with regard to association names violated freedom of association. The ECHR ruled in October 2008 against the Government’s 1998 denial of registration to the organization “Home of Macedonian Culture.” However, despite this ruling the Supreme Court in June 2009 upheld an earlier appeals court decision that denied the group registration; the group had not been registered by year’s end.

In September 2009, the Appeals Court of Thrace rejected the application of the “Turkish Union of Xanthi” for legal recognition despite a March 2008 ECHR ruling that the country was violating the freedom of association of the Muslim minority by refusing to recognize the organization. The ECHR had also ruled against the Government’s refusal to register the “Cultural Association of Turkish Women of Rodopi.” The ECHR upheld its decision in October 2008 following the Government’s appeal. In December 2008 the “Turkish Union of Xanthi” returned to court to seek recognition in line with the ECHR decision. Upon rejecting the petition, the Appeals Court of Thrace stated that the ECHR’s ruling was not binding, the ECHR had neglected to consider “political” factors in its decision, Article 12 of the Union’s statute, which deals with “Monitoring of Members’ National and Social Beliefs” was in violation of Article 5 of the Greek constitution (an issue not addressed in the ECHR ruling). The case was awaiting Supreme Court’s decision at yearend.

*c. Freedom of Religion.*—For complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for free movement within the country, foreign travel, emigration, and repatriation for all citizens, and the Government generally respected these rights in practice. However, immigrants with temporary residence permits faced prolonged delays in renewing their permits and were, therefore, sometimes denied the right to return to the country, thus facing practical limits on their foreign travel.

The law prohibits forced exile, and the Government did not employ it.

The law permits the Government to deprive a person of citizenship for committing acts contrary to the country’s interests for the benefit of a foreign state. The historical number of such cases was reportedly low, and there were no reports of new cases during the year.

Many of the estimated one million immigrants in the country were in a semi-legal status, holding expired residency permits while going through the process of renewal. Immigrants encountered difficulty accessing government services if they did not carry current residency permits. In addition, immigrants holding certain types of temporary residency permits were given limited periods of time during which they could leave the country and still return, effectively restricting their ability to travel outside the country. During the year NGOs reported multiple instances of immigrants subjected to summary deportation without legal due process. The law pro-

vides for legalization of undocumented immigrants who can prove by a visa stamp or possession of a tax roll number that they entered the country before 2005. However, the ombudsman noted that this system of legalization remained disorganized and that there was no database of residence permit holders.

*Protection of Refugees.*—The country's laws provide for the granting of asylum and humanitarian protection. While the Government has established a system for providing protection for refugees, it was widely seen as inadequate, given the large numbers of illegal immigrants entering the country.

In November 2009 the Government announced its decision to reform the asylum process and create a committee of experts to propose recommendations for overhauling the country's asylum process and for setting up a new independent agency for processing asylum claims. The committee produced a report at the end of 2009, and new legislation on refugees was signed in late September. The new legislation requires that asylum decisions be issued within three months in an accelerated process, and within six months for regular applications.

Despite the new legislation, problems persisted. In September the UNHCR, noting the absence of a functioning asylum system called on the country to accelerate the implementation of asylum reform. The UNHCR stated that conditions for asylum seekers in the country, which is one of the principal entry points to the EU, were "notoriously difficult." Most asylum seekers were not identified as such and received no assistance, resorting to living on the streets. On September 21, the UNHCR stated that the situation for asylum seekers constituted "a humanitarian crisis which should not exist in the European Union."

In September Council of Europe Commissioner for Human Rights Thomas Hammarberg stated that the country faced the challenge of dealing with numbers of asylum applications beyond its capacities and that asylum seekers continued to experience enormous difficulties in gaining access to the asylum procedure, without the assistance of interpretation and legal aid. He further observed that asylum seekers faced extremely harsh conditions in the country, where the asylum law and practice did not comply with international and European human rights standards. The commissioner expressed his particular concern that asylum seekers transferred to the country risked being returned to another country where their life and health would be in danger. He also stressed that detention facilities in the country were far from satisfactory.

In his May report, the deputy ombudsman for human rights echoed the aforementioned concerns and also described the plight of unattended minors who did not apply for asylum or who were refused asylum and not granted protective status, thereby becoming subject to repeated detention or to deportation.

Amnesty International, together with various NGOs, alleged in a July report that in some instances authorities deported asylum seekers without due process.

The country adheres to the Dublin II Regulation, under which a signatory country—all signatories are European—may return asylum seekers to the initial Dublin II country of entry. In September the Council of Europe Commissioner for Human Rights called for revision of the Dublin II Regulation on the grounds that countries such as Greece were unable to provide adequate protection due to numbers of asylum seekers that exceeded their capacity. The commissioner stated that the "gravely dysfunctional asylum procedures in Greece have brought the Dublin system to a genuine collapse."

In January UN High Commissioner for Refugees Antonio Gutierrez advised other European states not to return asylum seekers to the country under the Dublin II Regulation pending the implementation of asylum reforms. In September the UNHCR asked the EU to help the country comply with international and European obligations with respect to asylum.

The UNHCR reported that from January to October, asylum seekers filed 6,576 first-instance applications; in the same period, the Government reviewed 9,195 applications and appeals and accorded refugee status to 24 applicants (0.26 percent) and special humanitarian status to 30 (0.32 percent); 2,548 applications were rejected.

The UNHCR reported that in October the Government had a backlog of 5,929 unprocessed initial claims for asylum and approximately 46,500 appeals.

In practice the Government provided only limited protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Many NGOs and international organizations reported that authorities summarily deported illegal immigrants, including asylum seekers, across Greek-Turkish land and maritime borders.

The UNHCR, Amnesty International, the UN special rapporteur on torture, the European Commission against Racism and Intolerance (ECRI), the deputy ombuds-

man for human rights, and Doctors without Borders all expressed concern over the country's asylum policy and practices. Specific problems included unacceptable living conditions; lack of permanent reception facilities with decent living conditions; the use of ad hoc facilities (primarily on islands where a boatload of refugees arrived); underdeveloped systems to provide for refugee welfare; insufficient counseling to assist in the integration of refugees and asylum seekers; a lack of appropriate facilities for unaccompanied minors who were potential asylum seekers; and deficient interpretation and legal counseling for asylum seekers, especially at entry points.

Conditions for illegal immigrants and asylum seekers detained by authorities were generally unsatisfactory. NGOs and international organizations continued to criticize detention procedures and facilities for refugees and asylum seekers as inadequate. All new arrivals, without exception, were placed under a deportation order without having the chance to first file for asylum, and detention was continued even if an asylum application had been submitted.

Conditions for undocumented immigrants and asylum-seeking children were particularly difficult. During the year local and international NGOs, including Amnesty International, Doctors without Borders and the UNHCR on several occasions, found unaccompanied minors incarcerated along with adults in detention centers in the Aegean islands under degrading, inhumane, and unsanitary conditions. The UNHCR reported that an estimated 4,000 to 5,000 unaccompanied minors arrived in the country each year. Unaccompanied immigrant children lacked safe accommodations and legal guardians and were vulnerable to homelessness and labor exploitation. In September 2009 the ECRI noted with concern that the law allows for the deportation of unaccompanied minors and that unaccompanied minors were served deportation orders with no specific date of deportation and no interim accommodation centers for housing them pending deportation. The deputy ombudsman for children's rights informed the ECRI that social workers were responsible for the guardianship of unaccompanied minors, but in practice this duty was not carried out due to a lack of funds and guidelines.

On July 22, the ECHR unanimously held that the country had violated Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights by holding an asylum seeker in squalid conditions in a detention center. In 2008 the coast guard detained a Palestinian national and placed him in a detention center. He alleged that he had been mistreated by the coast guard during his detention and also complained about detention center conditions. He alleged that he had not been informed of the possibility of appeal and did not have the assistance of a lawyer or an interpreter. The ECHR based its finding of a violation of Article 3 on living conditions in the detention center where the applicant was held, the degrading treatment accorded him, and the lack of diligence on the part of the authorities in providing him with appropriate medical assistance. The court also found that the treatment of the detainee violated convention Article 5 (right to liberty and security).

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The country held parliamentary elections in October 2009; the elections were considered free and fair. Opposition parties functioned freely and had broad access to the media.

Approximately one-third of the Roma were not registered to vote. Some Roma reported that local authorities deprived them of the right to vote by refusing to register them.

According to the law, voting is mandatory for citizens over the age of 18; however, there are many conditions under which citizens may be exempted, and there was no penalty for not voting.

There were 51 women in the 300-seat parliament and three women in the 17-member cabinet. A quota system requires 30 percent of all local government candidates to be women. At the three highest courts, 14 of 61 Council of State justices, 28 of 59 Supreme Administrative Court justices, and three of 62 Supreme Court justices were women.

There were two members of the Muslim minority of Thrace in the 300-seat parliament; there were no minority members in the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. In the past the Government had not been diligent in implementing the law, and significant official corruption occurred with impunity. The 2009 Transparency International (TI) annual report noted that in 2008 more than 13 percent of citizens bribed officials, primarily in health care, tax, and urban planning agencies. The 2009 World Bank governance indicators suggested that corruption is a serious problem.

The current government entered office in October 2009 with the goal of increasing transparency and reducing official corruption. While the Government has taken some concrete actions, the media, international organizations, and NGOs continued to voice concerns about corruption. In September the public prosecutor's office set up a new unit to facilitate prosecution of economic/financial crimes in the public sector. The unit was designed to work closely with the Financial and Economic Crime Unit of the Ministry of Finance and the Internal Affairs Division of the State Police, which was responsible for cases of corruption across the public sector. The office's caseload included alleged tax violations by a former minister, the Vatopedi monastery land swap scandal, reports of financial mismanagement at a large Athens hospital, and reports of bribery and the issuance of suspect "winning" lottery tickets.

The Government also continued to pursue an in-depth investigation into judicial corruption and took steps to trace and apprehend corrupt government procurement officials, tax collectors, and police officers.

Parliament conducted an investigation into the alleged land-swap-and-sale scandal involving the "Vatopedi" Greek Orthodox monastery and government officials. The Parliament decided in November to refer three former ministers involved in the case to a special judicial council that would determine whether they should be tried by a Special Tribune.

Parliament also conducted an investigation involving alleged malfeasance by government officials in financial dealing with the German company Siemens. Parliament did not release the results of the investigations during the year, and the cases remained open. The country's largest opposition party contended that these cases were highly politicized.

Police corruption continued to exist. During the year the police Bureau of Internal Affairs took multiple disciplinary measures, including dismissal and suspension, against officers involved in corruption. The cases primarily involved forging documents, taking bribes, illegal actions involving arms and explosives, illegally releasing persons from custody, procuring, and violations related to alien registration.

A number of cases were pending at year's end, including that of the director and chief warden of prisons in Crete, suspended from duty in July for alleged corruption and violations of the prison code, and an Aliens Division police officer arrested in June 2009 for allegedly taking bribes in order to accept asylum applications. Pending cases from 2008 included corruption investigations against several judges, a ring dismantled by the police's Bureau of Internal Affairs that included law enforcement and intelligence officials, and the appeal of a case involving eight Thessaloniki police officers convicted of beating a Cypriot student in 2006.

There are income disclosure laws for high-ranking public officials and members of parliament.

The constitution provides for the right of access to government-held information. However, NGOs and media observers noted that access to information was sometimes difficult in practice due to bureaucratic delays.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Several NGOs reported harassment or threats during the year. A leader of the antitrafficking organization European Network of Women (ENOW) reported multiple threats and media harassment related to a continuing appeals court case involving an ENOW-supported witness and a convicted trafficker.

The law provides for an independent ombudsman. The Office of the Ombudsman provided an effective means for citizens to report human rights and religious freedom problems. The office received adequate resources to perform its other functions, which included mediating between private individuals and public administration and defending and promoting children's rights.

There were five deputy ombudsmen who dealt, respectively, with human rights, children's rights, citizen-state relations, health and social welfare, and quality of life. The deputy ombudsman for human rights received complaints during the year regarding the Government's handling of residence and work provisions for immigrants; overcrowding in prisons and detention centers for illegal aliens; unjustified

procedural difficulties in acquiring citizenship; excessive and unjustified delays in processing applications by Muslims from Thrace to recover citizenship lost under pre-1998 laws; arbitrary acceptance or denial of asylum seekers' applications; discrimination against aliens; and police brutality. Personnel of the ombudsman's office gained access to several prisons during the year for unannounced inspections. The volume of such problems has remained steady in recent years.

The Government-funded National Commission for Human Rights (NCHR) is an autonomous human rights body. It is the Government's advisory body on the protection of human rights and is composed of representatives of the Government, labor unions, political parties, organizations of civil society, independent authorities, and academics. During the year it produced public reports (available on the Internet in English) on citizenship, discrimination, and employment, as well as camera surveillance in public areas, image and sound recording, DNA analysis in criminal proceedings, and the national database of DNA profiles. Regarding migrants and refugees, the NCHR noted progress towards the effective integration of regular migrants and their children in Greece via the new law on "Greek Citizenship and the Political Participation of Aliens of Greek Origin and of Regular Migrants" and stated that it would monitor the ongoing changes in the asylum system.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and the law prohibit discrimination based on race, gender, disability, language, or social status; however, the Government did not protect these rights consistently in practice.

*Women.*—Rape, including spousal rape, is a crime. Conviction rates for rape were low for first-time offenders, but sentences were robust for repeat offenders. According to police statistics, 298 rape or attempted rape cases were reported in 2009, and police arrested 252 rape suspects, 128 of whom were noncitizens. In 2008 police reported 287 rapes and attempted rapes. Medical, psychological, social, and legal support was usually available to rape victims from the Government and NGOs.

Domestic violence, including spousal abuse, continued to be a problem. The General Secretariat for Gender Equality (GSGE), an independent government agency, the UN Committee on the Elimination of Discrimination against Women, and NGOs reported that domestic violence was common. The law provides for prosecution by force of law, without the need for a victim to press charges, for all domestic violence crimes. Penalties range from two to 10 years' imprisonment, depending on the gravity of the crime. The GSGE estimated that only 6 to 10 percent of domestic violence victims contacted the police and only a small fraction of those cases reached trial.

The GSGE, in cooperation with the Ministry of Citizen Protection, trained police on working with domestic violence victims. Despite training efforts, the GSGE reported that police tended to discourage women from pursuing domestic violence charges, encouraging them instead to undertake reconciliation. NGOs reported that courts were lenient on male offenders in domestic violence cases. Police stations generally had a manual on how police should treat victims of domestic violence.

The GSGE provided counseling and assistance to domestic violence victims. Two GSGE shelters for battered women and their children, in Athens and Piraeus, offered services including legal and psychological help. The GSGE operated a 24-hour emergency telephone hotline for abused women, and the Ministry of Health and Social Solidarity operated a hotline providing referrals and psychological counseling for victims of domestic violence. The municipality of Athens, the Greek Orthodox Church, and a variety of NGOs operated shelters and walk-in centers for victims of domestic violence.

Government statistics on the extent of rape, domestic violence, and spousal abuse were either unavailable or outdated. Data on prosecutions, convictions, and prison sentences for rape and domestic violence crimes were unavailable.

The law prohibits sexual harassment and provides for penalties ranging from two months to five years in prison. However, in 2009 labor unions reported that lawsuits for sexual harassment were very rare, with only five cases since 2000. Government enforcement was generally ineffective due to a lack of punishment for offenders.

In its annual study, the Center for Research on Gender Equality Issues reported that the vast majority of women who experienced sexual harassment in the workplace quit their jobs and did not file charges. The center estimated that 30 to 50 percent of working women and 10 percent of working men experienced sexual harassment at their workplaces during the year.

The Government generally respects the reproductive rights of couples and individuals. Contraception was widely available in stores and in hospitals, and the Government respected the rights of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Public hospitals provide services free of charge; consequently, any health issues typically surface only after a woman

returns to her community, which may have substandard facilities. Both public and private hospitals provided modern skilled attendance during childbirth. Women and men have equal access to diagnostic services and treatment for sexually transmitted diseases. According to data compiled by international organizations, the estimated maternal mortality rate in 2008 was two deaths per 100,000 live births.

Muslim women in Thrace are subject to Sharia law as interpreted by official muftis; their rights under family law, property law, and in the judicial system are inferior to those of men. The Government recognizes Sharia as the law regulating the family and civic issues of the Muslim minority in Thrace, with trial courts in Thrace routinely ratifying the muftis' decisions. The UN independent expert on minority issues highlighted in February 2009 that the application of Sharia in some instances subjected Muslim women to norms incompatible with the constitution, legislation, and international standards, particularly with respect to underage marriages (see section 6, Children). The UN independent expert on minority issues noted in 2009 that the situation of women in Romani and Muslim communities was of particular concern. According to the UN report, Muslim women experienced severe inequalities in access to education and consequently suffered disproportionately high levels of illiteracy and unemployment.

In a February 2009 case, a Muslim woman sued the local mufti of Xanthi for breach of duty for refusing to honor a custody agreement she had previously signed with her husband. The agreement stipulated that custody of the couple's only child would go to the mother. The woman claimed that the mufti arbitrarily changed the terms of the agreement by giving custody to the father. The case was pending at year's end.

In an unprecedented 2008 case, a trial court in Rodopi Prefecture refused to ratify a mufti's decision that awarded a woman only a small share of her parental inheritance, instead of the one-half share provided by civil law. The court held that the law of the country and European law should prevail over Sharia. The court stated that the application of Sharia should not deprive the country's Muslim women of their rights and should not be applied if it violated the basic principles of the constitution regarding the equality of the sexes and equality before the law. A final court decision regarding the division of property between the woman and her brother had not been delivered by year's end.

The National Commission for Human Rights advised the Government to limit the powers of the muftis to religious duties and to stop recognizing Sharia because it could restrict the civic rights of citizens. Muslim female activists claimed that, because all Muslim women in Thrace were married under Sharia, they were obliged to acquire mufti consent to obtain a divorce. These decisions were based on interpretations of Sharia that do not exist in written form and therefore could not be appealed. Nevertheless, the courts routinely ratified such mufti decisions.

Apart from the Muslim minority in Thrace, women have rights equal to those of men, and the constitution stipulates gender equality.

The law provides for equal pay for equal work; however, according to the European Commission, the gap between the salaries of men and women in the country was 22 percent in favor of men. Although relatively few women occupied senior private sector positions, women continued to enter traditionally male-dominated professions, such as law and medicine, in larger numbers. Women were underrepresented in labor union leadership.

*Children.*—Citizenship is derived from one's parents at birth. A single parent can confer citizenship to a child and Greece allows for dual citizenship.

A new citizenship law passed in March gives citizenship rights to alien children born in the country whose parents have lived legally and permanently in the country for five years. Alien children born abroad whose parents have lived legally and permanently in the country for five years become citizens upon successful completion of elementary education (six years). Foreigners arriving in the country after the new law takes effect will have to fulfill a seven-year legal residency requirement before they can apply for citizenship, which, together with consideration procedures, may stretch the wait to a decade. The fee for applying for citizenship was recently reduced to 700 euros (\$1,000) from 1,500 euros (\$2,150).

The law gives immigrant children born in the country the right to apply for long-term residence permits. NGOs estimated that of the 200,000 foreign children living in the country, only 30,000 could meet the requirements of the law, which include a fee of 900 euros (\$1,290), a certificate of completion of the mandatory nine years of education in the country, and two parents with legal residence permits.

Romani children continued to face social exclusion and discrimination in education and lack of access to social services (see section 6. National/Racial/Ethnic Minorities).

Violence against children, particularly against street children, Romani children, and undocumented immigrants, was a problem. The law prohibits corporal punishment and mistreatment of children, but government enforcement was generally ineffective. Welfare laws provide for treatment and prevention programs for abused and neglected children as well as alternative family care or institutional placement for those in need of it. However, government-run institutions were understaffed, and NGOs complained that they did not have places for all children who needed alternative placement. In 2008 the deputy ombudsman for children's rights reported that the system of children's welfare and protection was deficient overall and did not cover increasing needs. In particular, social services were not appropriately staffed to handle serious family problems, and welfare allowances and support for single parent families were insufficient. In addition, the deputy ombudsman noted that prosecutors for minors, who should by law take measures to protect children in difficult situations, were overloaded with other duties. Child protection institutions were understaffed and lacked certification and sufficient qualified staff to provide care to abused, refugee, or drug-abusing children.

After visits to the Children's Chronic Illnesses Institution in Skaramangas (Attica), the Center for Care of Children of Lechaina (Peloponnese), the Center of Rehabilitation of Children in Voula (Athens suburb), the Institution for Chronic Illnesses of Children "Saint Andreas" of Rhodes, and the Asylum of Chronic Illnesses of Children of Patras, the deputy ombudsman for children's rights reported that, due to a lack of staff, children were sedated, tied to their beds, or even confined in wooden cages to limit their movement.

Foster care systems were not adequately implemented, and the process of adoption continued to take several years.

The legal age for marriage is 18. However, child marriage was common within the Romani community, and there were a limited numbers of marriages of persons under 18 among the Muslim minority in Thrace and Athens, performed with the permission of the prosecutor. NGOs reported that Romani women typically marry and have children at a very early age, reportedly as young as 13. Child marriage was considered a tradition in the Romani community but also resulted from a lack of education and work opportunities. The state-appointed muftis, who may apply Sharia in family matters, noted that they did not allow the marriage of children under age of 15 and, in order to protect children, required a prosecutor's decision to allow marriages involving a minor between the ages of 16 and 18. However, in February 2009 the UN independent expert on minority issues reported that child marriages, which carried serious implications for the health, wellbeing, and life choices of Muslim women, regularly took place unchallenged by the national authorities.

According to law, the age of consent is 15 years of age for heterosexual sex and 17 years for male homosexual sex. The law does not specify an age of consent for female homosexual sex. The country criminalizes sex with children under the age of 15.

The law prohibits the possession and circulation of child pornography, treating this as a felony punishable by five to 10 years' imprisonment.

According to the UN Children's Fund (UNICEF) and local NGOs, the majority of street children (often indigenous Roma or Albanian Roma) were exploited by family members, who forced them to work in the streets, begging or selling small items. The Government took insufficient steps to prevent this form of child exploitation. While national statistics were unavailable, in June 2009 the NGO ARSIS reported that it had found 638 street children in Athens and Thessaloniki. In 2009 and 2010, according to ARSIS, there was a significant rise in the total number of street children, especially Romani children from Bulgaria and Romania. However, the number of street children from Albania declined.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—Local leaders estimated the Jewish community numbered 5,000. Isolated expressions of anti-Semitism occurred, particularly in the extremist press. On December 20, the Greek Orthodox Church's Metropolitan Seraphim of Piraeus made anti-Semitic statements on national television; they were immediately condemned by the Government and other Church officials. There continued to be reports of incidents of vandalism of Jewish monuments. In November the police arrested two young men after finding Molotov bomb-making components in their possession, and charged them with planning an arson attack on a synagogue in Athens.

In May three perpetrators set fire to a tomb and painted anti-Semitic graffiti on a number of tombstones, on alley walls, and on the surrounding wall of the Jewish cemetery in Thessaloniki; the suspects were arrested. During the same month, unknown perpetrators damaged the Holocaust monument in Rhodes.

In June a university student painted a swastika on the Jewish monument in Komotini (Thrace) and was subsequently arrested; his trial was pending at year's end.

The Chania synagogue on Crete was destroyed after three arson attacks between December 2009 and January. Police filed charges against five suspects and arrested one, who was released in August due to lack of evidence. The court suspended criminal prosecution against the five suspects, deeming the evidence against them insufficient. The case may be re-opened within five years from the time the crime was committed if new evidence is presented.

The Government condemned all incidents of vandalism and desecration and provided funds for the restoration of the Chania synagogue. The police routinely investigated all such instances of vandalism and desecration. Many ministers spoke out immediately and publicly against the arson attack.

In May the Jewish community of Athens unveiled a Holocaust Monument in central Athens during a special ceremony organized by the city and the Jewish community. Government and political party representatives attended commemorative events throughout the country for the Holocaust Remembrance Day and issued public statements.

On September 26, the municipality of Chalkida (Central Greece) unveiled a monument in honor of the World War II Jewish hero Colonel Mordechai Frizis. The country's president and representatives of various political parties attended the ceremony.

In 2007 the Greek Helsinki Monitor (GHM) and the Central Board of Jewish Communities brought charges against the newspaper *Eleftheros Kosmos* and former LAOS political party candidate Kostas Plevris for racism and anti-Semitism. In March an appeals court vacated Plevris's 2007 conviction for inciting hatred and racial violence with his book *The Jews—The Whole Truth*. A public prosecutor subsequently filed an appeal with the Supreme Court against the decision, seeking to ensure that it would not set a legal precedent. In April the Supreme Court rejected the appeal.

In 2007 Plevris sued senior representatives of the local Jewish community, journalists, and NGO activists for publicly criticizing some of the judges who participated in the judicial proceedings against him, allegedly disseminating false information through the medium of the press, perjury, and aggravated defamation. The NGO activists were found not guilty in a December 6 verdict. The trial of the journalists and Jewish community representatives was scheduled for January 2011.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other government services; in practice government enforcement of these provisions was uneven. The law mandates access to buildings for persons with disabilities and special ramps for the sidewalks and means of public transportation; however, authorities enforced this law poorly. Disabled activists reported that, although special ramps for sidewalks were being constructed throughout the country, sidewalks and special ramps were overwhelmingly occupied by parked vehicles, thus hindering accessibility for disabled persons. The general lack of accessibility forced such persons to remain at home and led to serious social exclusion.

Only 5 percent of public buildings were fully accessible to persons with disabilities, with the majority of these in Athens; most buildings with special ramps did not have accessible elevators or lavatories. The deputy ombudsman for social welfare handled complaints related to persons with disabilities, especially those related to employment, social security, and transportation.

In 2009 the Ministry of Health and Social Solidarity estimated that there were 180,000 children with disabilities with special educational needs. The Teachers' Association estimated in 2009 that only 18,500 of these children attended primary school and of these only 10 percent would attend secondary school, due either to a lack of local special education schools or a lack of accessibility. In 2009 the National Confederation of Persons with Disabilities reported that the educational system for persons with disabilities fostered discrimination and social exclusion and, therefore, 90 percent of children with disabilities were excluded from the mandatory nine years of education.

The Confederation of the Disabled reiterated during the year that education was not available for persons with serious disabilities and many such persons were forced either to leave school due to lack of accessibility or to accept a low quality education at the special education schools. The confederation stated that only two of the 10 universities in Athens were accessible to persons with disabilities and that 80 percent of children in special schools for children with disabilities were housed in buildings unsuitable to their needs.

The Confederation of the Disabled estimated that the unemployment rate of persons with disabilities was 84 percent in 2009 and constituted the greatest social problem they faced.

Athens was selected to host the Special Olympics World Summer Games in the summer of 2011.

*National/Racial/Ethnic Minorities.*—Roma continued to face widespread governmental and societal discrimination, including alleged police abuse, mistreatment while in police custody; regular raids and searches of their neighborhoods for criminal suspects, drugs, and weapons; limited access to education; and segregated schooling. Their dwellings (in many cases shacks made of cardboard, plastic sheets, and corrugated tin on the edge of city dumps) lacked running water, electricity, or waste removal and were at times demolished by municipal authorities. Government efforts to address these problems were inconsistent, especially at the municipality level.

The law prohibits the encampment of “wandering nomads” without a permit and forces Roma to establish settlements outside inhabited areas and far from permanent housing. There were approximately 70 Romani camps in the country. Local and international NGOs charged that the enforced separation of Romani settlements from other inhabited areas contravened the country’s commitments under the International Convention on the Elimination of All Forms of Racial Discrimination.

In his report on human rights, the deputy ombudsman for human rights noted that in addition to the grave housing problem, Roma faced very serious problems of access to education and employment. He stated that very few indigenous Romani children attended school, that alien Romani children did not go to school at all, and that government projects to attract Romani children to education had very limited success. In September the GHM stated that segregation of Romani children in schools was a persistent phenomenon and noted the existence of Roma-only schools throughout the country as well as the refusal of school authorities in a number of areas to allow Romani children access to schools.

In September the secretary for intercultural education intervened in the case of two segregated schools, in Veroia and Ergochori (Northern Greece), resulting in the acceptance of Romani children by neighboring schools. The Ministry of Education acknowledged that Romani children’s attendance in school was limited and urged school directors to ensure enrollment and unhindered school attendance of Romani children. According to the European Union Agency for Fundamental Rights’ 2009 statistics, only 4 percent of Roma reported having attended school for at least 10 years, and 63 percent were living in segregated conditions, effectively cut off from mainstream society and municipal services.

Romani children also continued to face social exclusion and lack of access to social services, in part because they accompany their parents who primarily work as wandering merchants or engage in selling scrap materials. According to the ombudsman, Roma live in “extremely dangerous and unacceptable shacks” in many areas, and government housing projects for indigenous Roma have been largely unsuccessful.

In May the European Committee for Social Rights held that the country violated Article 16 of the European Social Charter because a significant number of Romani families continued to live in substandard conditions, while others were forcibly evicted from their housing and had insufficient access to the legal recourse generally available to non-Roma. A similar March 2009 report by the UN independent expert on minority issues offered the same criticism.

There was no follow-up to the April 2008 complaint concerning Romani housing rights filed by the International Center for the Legal Protection of Human Rights and the GHM against the country with the European Committee of Social Rights.

In late September 2009 the deputy ombudsman for human rights urged the Government to have local municipalities register Roma. Without registration, according to the deputy ombudsman, Roma lacked access to schools and other public services and faced severe challenges integrating socially. Media reports indicated that at least half of Roma were not registered with a municipality.

In April 2008 an academic researcher reported that life expectancy for Roma was 55 years (compared to 79 for the rest of the population), and that 90 percent of Romani children were not vaccinated, with the rate of hepatitis B among Roma

three times higher than among the rest of the population. He further noted that the rate of incarceration for Roma was seven times higher than that of the general population.

Media and NGOs reported multiple attacks on immigrants by far-right extremist groups. NGOs and labor unions expressed deep concern over the rise in racist violence committed by far-right groups. Among the incidents and attacks reported were the following:

In March a gang of mostly teenagers set fire to a house in Sparta (Peloponnese) where a group of Bangladeshi migrants slept; the youths were charged with an arsonist and racist attack. In June in the Aghios Panteleimonas neighborhood of Athens, right-wing extremists severely beat a Pakistani immigrant and subsequently in September attacked an activist for Doctors of the World. During the past two years, Aghios Panteleimonas became the focal point for racist attacks, as immigrants often fell victim to both physical and verbal attacks there. The municipality of Athens closed down a playground in the area as a result of clashes between migrants and right-wing extremists.

In July a group of approximately 60 extremists attacked migrants in the neighborhood and vandalized migrant houses, two cafes, and a makeshift mosque; a Bangladeshi immigrant was injured during the attack. During the same month, a gang of 10 men reportedly beat four Afghan immigrants with clubs after breaking into their home in Areopoli, Peloponnese; the victims were hospitalized and later discharged. In mid-September in Aghios Panteleimonas, local residents held a protest march to the police station demanding that immigrants leave the neighborhood. In November members of a right-wing extremist group threw eggs and verbally insulted Muslims who were praying in a public space during a religious holiday.

Immigrants, who made up approximately 10 percent of the total population of the country, also faced widespread societal discrimination and accused the police of physical, verbal, and other mistreatment. They reported the confiscation and destruction of personal documents, particularly during police sweeps to apprehend undocumented immigrants.

In 2008 the ombudsman noted that delays in citizenship processing were excessive and unjustified. The ombudsman reported that the Ministry of the Interior and Public Order accepted few applications for citizenship and that many applications were pending for years, even when applicants met all requirements.

During the year municipal governments in Athens established immigrant councils to foster dialogue on issues such as discrimination, social benefits for immigrants, legalization, employment, and security. Police officials met with representatives of the different immigrant communities to discuss ways to combat discrimination and incidents of police abuse. On December 12, the Athens Concert Hall and the Orthodox Archdiocese of Athens organized a religious music concert in an effort to ease anti-immigrant tensions in Aghios Panteleimonas. The President, Education and Religious Affairs Minister, and other dignitaries attended the event.

A number of citizens identified themselves as Turks, Pomaks (Slavic-speaking Muslims), Vlachs (a Balkan minority group speaking a dialect of Romanian), Roma, Arvanites (Orthodox Christians who speak a dialect of Albanian), or Macedonians. Some members of these groups sought to be identified officially as "minorities" or "linguistic minorities." The Government considers the 1923 Treaty of Lausanne as providing the exclusive definition of minorities in the country and defining their group rights. Accordingly, the Government recognizes only a "Muslim minority."

Although the Government does not confer official status on any indigenous ethnic group, nor recognize "ethnic minority" or "linguistic minority" as legal terms, it affirms an individual's right of self-identification. However, many individuals who defined themselves as members of a "minority" found it difficult to express their identity freely and to maintain their culture. Use of the terms *Tourkos* and *Tourkikos* ("Turk" and "Turkish") is prohibited in titles of organizations, although individuals legally may call themselves *Tourkos*. Associations with either term in their name were denied official recognition. To most ethnic Greeks, the words *Tourkos* and *Tourkikos* connote Turkish identity or loyalties, and many ethnic Greeks objected to their use by citizens of Turkish origin.

Pomak leaders filed a lawsuit against the local newspaper *Millet* (published in Turkish) for libel, calling for the newspaper to pay a total of 157,000 euros (\$224,500) in damages to three different claimants. In April 2010 the Appeals Court of Thrace ordered the newspaper editors to pay a Pomak journalist 30,000 euros (\$42,900) and a Christian researcher on Pomak issues 60,000 euros (\$85,800). The then-head of the "Cultural Association of Pomaks" in Xanthi also sued the same newspaper for libel and was awaiting a court date. The newspaper owner responded he could not afford the compensation, and some claimants were considering additional legal options. A local Muslim mayor sued the same newspaper for libel. The

case was heard in 2009 and the newspaper editor received a 15-month suspended sentence and was ordered to pay 4,000 euros (\$5,720) compensation to the claimant. The editor appealed the decision and the appeal was pending. Thessaloniki media reported in 2008 that two editors of *Millet* received 12-month suspended sentences for inciting hatred against the Pomak community.

The Government did not recognize the existence of a Slavic dialect, called “Macedonian” by its speakers in the northwestern area of the country. However, a small number of Slavic speakers insisted on identifying themselves as “Macedonian,” a designation that generated strong opposition from other citizens. These individuals claimed that the Government pursued a policy designed to discourage the use of their language. Government officials and the courts denied requests by Slavic groups to identify themselves using the term “Macedonian,” stating that approximately 2.2 million ethnically (and linguistically) Greek citizens also use the term “Macedonian” to identify themselves.

The UN independent expert on minority issues, in a March 2009 report, urged the Government to withdraw from the dispute over whether there is a “Macedonian” or a “Turkish” ethnic minority in the country. He advised focusing instead on protecting the rights to self-identification, freedom of expression, and freedom of association of those communities and on complying fully with the rulings of the ECHR that associations should be allowed to use the words “Macedonian” and “Turkish” in their names and to express their ethnic identities freely. The independent expert found that those identifying themselves as ethnic Macedonians continued to report discrimination and harassment. Representatives of this minority claimed they were denied the right to freedom of association, citing unsuccessful efforts since 1990 to register the organization “Home of Macedonian Culture” in Florina.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—According to law the age of consent is 15 for heterosexual sex and 17 for male homosexual sex. The law does not specify an age of consent for female homosexual sex. The NGO Homosexual and Lesbian Community of Greece (OLKE), stated that the higher age of consent for gays and the lack of any legal treatment of female-to-female sex, constituted gender identity discrimination. OLKE also criticized the country’s laws against hate speech for not including sexual orientation or gender identity.

The police provided adequate security for the annual Pride parade in central Athens in June; there were no reports of impediments to the march.

During the year OLKE alleged that police often abused and harassed LGBT persons and subjected them to arbitrary identity checks and body searches in public places.

NGOs reported that societal discrimination based on sexual orientation was widespread but focused on gay male relationships. Transgender persons were exempt from military service on disability grounds.

*Other Societal Discrimination.*—Observers indicated that individuals with HIV/AIDS suffered from high social exclusion and a loss of employment if they revealed their status.

In February 2009 the Supreme Court ruled against an HIV-positive individual and in favor of his employer in a landmark HIV/AIDS discrimination case. The individual revealed his HIV-positive status in 2005 and was subsequently fired. The Supreme Court ruled that the dismissal was legal because his HIV-positive status caused negative reactions from his coworkers and created a negative work environment. The General Confederation of Greek Workers protested the Supreme Court’s decision, but there were no further developments. No such cases were reported during the year.

Persons with HIV/AIDS were exempt from military service on medical grounds.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, with the exception of members of the military services, have the right to form and join independent unions of their choice without any previous authorization or excessive requirements, and workers exercised this right. Approximately 30 percent of the labor force was unionized. Agricultural employees, most of whom were foreigners, were not unionized. The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

The law provides for the right to strike, and workers in the private sector and in public corporations exercised this right in practice. Police have the right to organize and demonstrate but not to strike. There are some legal restrictions on strikes, including a mandatory notice period of four days for public utility workers and 24 hours for workers in the private sector. The law mandates minimum staff levels (as

determined by management) during strikes affecting public services. Courts may declare a strike illegal; however, such decisions were seldom enforced. Unions complained that this judicial power deterred some of their members from participating in strikes. Courts declared some strikes (of transportation workers, air traffic controllers, garbage collectors, dock workers, and others) illegal during the year for reasons such as a failure by the union to give adequate advance notice of the strike or the introduction of new demands by a union during the course of the strike, but no workers were prosecuted for striking. Numerous strikes took place during the year involving private and public sector employees, public utility employees, truck drivers, and garbage collectors. There were no apparent government impediments to the right to strike.

In 2008 unknown persons attacked Constantina Kuneva, secretary of the All Attica Union of Cleaners and Domestic Workers. The perpetrators threw sulfuric acid in her face and forced her to swallow it. Unions believed that the attack was a result of Kuneva's union activism and her advocacy on behalf of migrant workers. The perpetrators were not found and the judicial and police investigation was terminated in June.

*b. The Right to Organize and Bargain Collectively.*—The law generally provides for the right to bargain collectively and unions exercised this right freely. No antiunion discrimination was reported during the year. All workers in Greece are covered by collective bargaining agreements except for security and armed forces personnel, whose salaries are unilaterally determined by the state. Civil servants negotiate and conclude collective agreements with the Government on all issues except for salaries, for which the Government has a constitutionally provided prerogative. In December the Government passed new legislation to implement the EU-IMF austerity plan that allows workplace-level agreements to take precedence over sector-level agreements. The legislation imposes a salary cap for employees of public enterprises as well as a 10 percent salary cut for salaries reaching a certain limit. The unions argued that the reforms would weaken nationwide sectoral unions and diminish workers' bargaining strength.

There are three export processing zones in the country. There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forced or compulsory labor, including by children; however, women, children, and men were trafficked for commercial sexual exploitation or for labor exploitation in agricultural and construction sectors. For more information on forced labor, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace and prohibits forced or compulsory labor; however, the Government did not adequately protect children, primarily Roma, who were trafficked for commercial sexual exploitation, or for begging, pick-pocketing or selling merchandise on the street.

The minimum age for employment in the industrial sector is 15, with higher limits for some activities. The minimum age is 12 in family businesses, theaters, and the cinema. These limits were enforced by occasional spot checks by the Labor Inspectorate and were generally observed. Families who engaged in agriculture, food service, and merchandising were often assisted by younger family members on at least a part-time basis.

Child labor was a problem, although international and local observers agreed that the number of working children had decreased compared with previous years. A number of children begged or sold small items in the streets. The Government and NGOs reported that the majority of beggars were either indigenous Roma or Albanian Roma. Local advocates for children estimated that a large number of the 150,000 children under the age of 18 who dropped out of school each year ended up in the labor market, often in poorly paid and arduous positions. Jobs for dropouts included washing cars, pumping gas, construction, and low-level service sector employment.

In 2008 Human Rights Watch reported that unaccompanied immigrant children, working mainly in the agriculture, construction, and garment manufacturing sectors, were particularly vulnerable to labor exploitation. The situation remained largely unchanged during the year.

There were reports that children from Albania were trafficked and forced to beg, although this practice was reportedly less frequent during the year. Some parents forced their children to beg for money or used their children to elicit sympathy while the parents begged for money.

The Labor Inspectorate is responsible for enforcing labor legislation; however, trade unions alleged that enforcement was inadequate due to Labor Inspectorate understaffing.

*e. Acceptable Conditions of Work.*—The national minimum wage of 33 euros (\$47) per day and 740 euros (\$1,060) per month was not enough to provide a decent standard of living for a worker and family in urban areas with higher living costs. Wages were officially the same for local and foreign workers, but there were numerous reports of exploitation of documented, and particularly of undocumented foreign workers, by employers who paid low wages and made no social security contributions. Workers in the shadow economy, estimated to comprise approximately 25 percent of GDP, usually received less than the minimum wage and had no social security coverage. The Labor Inspectorate estimated in September that more than 35 percent of migrants were getting salaries below the minimum and did not have social security coverage. Legislation passed during the year allows employers to pay workers under the age of 25 wages amounting to 84 percent of the national minimum wage.

The maximum legal workweek is 40 hours in the private sector and 37.5 hours in the public sector. The law provides for at least one 24-hour rest period per week, mandates paid vacation of one month per year, and sets limits on the amount of overtime worked. Premium pay and authorization by the Ministry of Employment and Social Security is required by law for overtime work. The Labor Inspectorate is responsible for enforcement of labor legislation; however, trade unions alleged that enforcement was inadequate, especially in the construction and public works sectors, due to insufficient inspectorate staffing.

The law provides for minimum standards of occupational health and safety. The General Confederation of Greek Workers characterized health and safety laws as satisfactory but stated that enforcement by the Labor Inspectorate was inadequate. Workers do not have the legal right to remove themselves from situations that they believe endanger their health; however, they have the right to lodge a confidential complaint with the Labor Inspectorate. Inspectors can close machinery or a process for up to five days if they see safety or health hazards that they believe represent an imminent danger to workers.

---

## HUNGARY

Hungary is a republic with a population of approximately 10 million and a multiparty parliamentary democracy. Legislative authority is vested in the unicameral parliament (National Assembly). The National Assembly elects the head of state, the president, every five years. The president appoints a prime minister from the majority party or coalition. The National Assembly elections on April 11 and 25 were assessed as free and fair, with the conservative Fidesz-Christian Democrat (KDNP) coalition winning enough seats in the second round to achieve a two-thirds majority. Fidesz's prime ministerial candidate, Viktor Orban, took office on May 29. Security forces reported to civilian authorities.

Human rights problems included police use of excessive force against suspects, particularly Roma; new restrictions on due process; new laws that expanded restrictions on speech and the types of media subject to government regulation; government corruption; societal violence against women and children; sexual harassment of women; and trafficking in persons. Other problems continued, including extremist violence and harsh rhetoric against ethnic and religious minority groups and discrimination against Roma in education, housing, employment, and access to social services.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year.

In December 2009 the Somogy County Military Prosecutor's Office pressed charges against 10 prison guards at the Kaposvar prison for causing the death of a pretrial detainee and physically assaulting nine other inmates in February 2009. Authorities fired three of the 10 and suspended three others in April; one retired, and three remained in office. The case was active at the Győr-Ménfőcsanak County Court at year's end.

On September 3, the Budapest Prosecutor's Office charged a police officer with using his service weapon to kill a man during a December 2009 robbery. The officer

was suspended in December 2009, and the Budapest Investigative Prosecutors' Office indicted him in the Metropolitan Court on September 1. The case remained pending at year's end.

During the year the Office of the Prosecutor continued its investigation of Sandor Kepiro, who was convicted by Hungarian courts in 1944 and 1946 for his role in the January 1942 Novi Sad massacre in Serbia, in which more than 1,200 persons were killed, most of them Jews. His punishment was never carried out. In 2006 the Simon Wiesenthal Center discovered that Kepiro was living in Budapest, and in 2007 the Prosecutor's Office opened a new case against him. (A court ruled that the records related to the previous verdict had been lost, and thus the sentence could not be carried out.) On December 16, the Pest Central District Court dismissed a countersuit by Kepiro. The Jerusalem office of the Wiesenthal Center continued to criticize the country for failing to bring Kepiro to justice.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, the Hungarian Civil Liberties Union (HCLU) reported that police often verbally and physically abused suspects of Roma origin in certain areas of the country, most frequently in the north-eastern Borsod-Abaúj-Zemplén County.

On June 8, the Council of Europe's Committee for the Prevention of Torture (CPT) released the report on its March-April 2009 visit to the country. In its report the CPT delegation stated it received complaints from a few recent police detainees of excessive use of force (i.e., kicks, punches) at the time of apprehension and tight handcuffing during transport.

On March 8, the Budapest Metropolitan Court acquitted five police officers of raping a woman in 2007. The court cited questionable elements of the woman's story and determined that no crime had been committed. The woman appealed the verdict. No further information was available at year's end.

In December 2009 the prosecutor's office in Eger opened an investigation into an allegation by a Romani man that five police officers assaulted him. The case remained pending at year's end.

Between 2006 and 2009, authorities conducted 203 criminal investigations of police misconduct in connection with large antigovernment demonstrations and riots in Budapest and other major cities in 2006. Prosecutors terminated their investigations in 171 cases, mainly because they could not identify individual perpetrators; courts rejected the charges in eight cases; and the prosecutor pressed charges in 20 cases. Courts found the defendants guilty of causing bodily harm in 10 of these cases; the verdicts were not subject to appeal. Of the other cases, three remained under investigation, and three were transferred to the military prosecutor's office for action.

On May 20, the National Assembly created a subcommittee of its Human Rights Committee charged with investigating crimes that may have been committed by state officials between 2002 and 2010, particularly during the 2006 antigovernment demonstrations. Former National Police Chief Laszlo Bene admitted to the subcommittee that police had made mistakes in their handling of the 2006 riots. On October 20, the full Human Rights Committee approved the subcommittee's final report. The report concluded that, "between 2002 and 2010 the Government repeatedly took illegal actions against those exercising their political freedoms, banned a series of events of which police had been properly notified, and failed to distinguish between the peaceful exercise of fundamental rights and illegal forms of expression." Describing the events occurring in the autumn of 2006 as the "culmination of this trend," the report criticized the Governments of the period for failing to adopt policies that would permit dissent but keep it within lawful bounds and failing to promote police accountability by, for example, not requiring officers involved in crowd dispersion to wear identification numbers.

On November 2, subcommittee chairman Gergely Gulyas filed his report with Prosecutor General Tamas Kovacs thereby initiating an investigation into three aspects of police behavior related to the 2006 events: the lack of disciplinary action against the Budapest police chief, the absence of identification badges on police uniforms, and the failure of the police to protect Hungarian National Television employees when protestors entered their office building. The investigations remained pending at the end of the year.

On September 13, the Government ordered the Ministry of Interior and the Ministry of the National Economy to settle all registered and established requests for monetary compensation related to unlawful police actions during the 2006 demonstrations. As of October 22, the Government had paid a total of 175,472,000 forint (\$831,620) to 73 persons of the 101 whose claims it accepted as valid.

On September 21, the Supreme Court reversed an earlier decision and ruled that the police action to break up an anti-government demonstration in front of parliament in 2006 was illegal.

*Prison and Detention Center Conditions.*—Prison and detention center conditions fell short of international standards in some areas. The Government permitted visits by independent human rights observers.

Human rights nongovernmental organizations (NGOs) and prison monitors repeatedly expressed concern about prison overcrowding. For example, in its June 8 report, the CPT reported observing severe overcrowding at the Borsod-Abauj-Zemplen Prison in almost all cells, with up to four prisoners in cells of eight square meters (86 square feet), 10 to 14 prisoners in cells of 25 square meters (269 square feet), and up to 14 prisoners in cells of 32 square meters (344 square feet).

According to the Hungarian Helsinki Committee (HHC), prison overcrowding increased during the year. Shortages of bed linens, towels, and clothing, and inadequate medical care remained problems. Sanitation and toilet facilities were also poor in some instances. In some prisons, toilets were not separate from living spaces. Many police holding cells did not have toilets and running water; lighting and ventilation were often inadequate.

In its June 8 report, the CPT indicated that it received several credible accounts, supported by medical evidence, of staff mistreating prisoners (by punches and kicks) at the Miskolc Prison and allegations of mistreatment (by slaps, punches, and kicks) of prisoners at the Tiszalok Prison. At the Tiszalok Prison the CPT heard one allegation involving the unacceptable use of handcuffs (fixed behind a prisoner's back and raised to inflict pain) that could be considered assault.

On November 18, a military court found a guard at the Budapest Maximum and Medium Security Prison guilty of mistreating an inmate in June 2009. The court sentenced the defendant to one year in prison but agreed to three years' probation in lieu of the prison sentence. Both prosecution and defense appealed the verdict. According to the HHC, the same inmate alleged that following the verdict, a prison guard in the Metropolitan Penitentiary Institution mistreated him while referring to the conviction of his colleague. The appeals of the original case and an investigation into the allegations of mistreatment by a second guard were pending at year's end.

On May 7, the Metropolitan Court of Appeals upheld the conviction of two prison guards of physical abuse in an official capacity when they attacked an inmate in the Miskolc Prison in 2008. The court sentenced one guard to eight months' imprisonment, suspended him for two years, and demoted him in rank for one year. It fined the second guard 87,500 forint (\$414).

Both the HHC and the CPT noted that detainees who alleged physical mistreatment were usually examined only by internal medical staff. Further, on May 27, the national police chief ordered that medical examinations could be conducted in the absence of law enforcement staff only at the request of the detainee or the doctor, and only if permitted by the senior guard supervisor.

According to the June 8 CPT report, conditions at police holding facilities were generally adequate; however, the committee noted that one prisoner in detention at the time of the visit was subjected to degrading treatment. He was in the Budapest police central holding facility in a high security "cell" that consisted of a barred area within a single cell. Both the detainee and his sanitary facilities were subjected to powerful round-the-clock spotlights and video surveillance. In May 2009 authorities reportedly installed infrared cameras so the spotlights could be turned off at night. However, the CPT noted that the unscreened sanitary facilities remained in the field of vision of video surveillance cameras and in full view of supervising staff.

According to authorities, seven inmates had committed suicide as of October 19. In each case, a mandatory investigation cleared prison guards and other prisoners of any responsibility for the deaths.

On March 19, a man committed suicide in his cell at the Central Police Holding Facility of the Budapest Police Headquarters one day after his arrest. The deceased's sister noticed injuries on her brother's body and face. On March 22, the Budapest Police Headquarters launched its mandatory investigation. Simultaneously, the Budapest Investigative Prosecutor's Office opened its own investigation into the alleged mistreatment. Neither investigation was completed by year's end.

On March 29, a 22-year-old woman committed suicide in the central holding facility of the Budapest police headquarters. Authorities placed the woman, a registered heroin user, in a cell alone, although she had declared that she would rather die than go to prison. On July 12, the HHC appealed the results of the National Police Headquarters' mandatory investigation that cleared prison guards of responsibility. On August 11, the police revoked their initial decision and reopened the case, which was pending at the end of the year.

According to the Hungarian Prison Service, the prison population increased to 132 percent of capacity as of December 31, compared with 129 percent in 2009. On December 31, 16,366 inmates were in prisons and detention centers. On July 19, the Government reopened the prison in Solt to reduce overcrowding, increasing the capacity of the system by 288.

During the year human rights NGOs did not report any cases of juveniles being held together with adults.

The law provides prisoners with a minimum of one 30-minute visit per month. In practice, prison wardens decide the maximum length of visiting time, which at most facilities is one hour. The law allowed detainees phone calls in accordance with the technical capacity of the individual penitentiary. The HHC reported that phone calls are available in every institution, but their permitted length varies significantly.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of alleged inhumane conditions. Human rights NGOs did not report any complaints about censorship.

City and county prosecutors, under the supervision of the prosecutor general, are primarily responsible for overseeing the lawfulness of the deprivation of liberty as well as investigating credible allegations of inhumane conditions. The prosecutor general regularly monitored prison and detention center conditions. These reports are not available to the public; however, the Office of the Prosecutor General provides reports upon specific request. The parliamentary commissioner (or ombudsman) for civil rights Mate Szabo visited seven prisons during the year and published five reports on his office's Web site. The ombudsman is not authorized to act on behalf of prisoners.

The HHC reported that it conducted one visit to a prison and met with prisoners without the presence of prison officials.

NGOs reported that prisoners and detainees were permitted religious observance. The HHC argued that the one-hour monthly limit on visits could not be regarded as reasonable access to visitors, especially in the case of pretrial detainees.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions. According to the Prosecutor General's Office, in 2009 there were 65 official complaints of arbitrary detention. The Office of the Prosecutor General rejected 22 complaints and initiated indictments in three cases.

*Role of the Police and Security Apparatus.*—The National Police Headquarters (NPH), which operates under the direction of the Ministry of Interior, is responsible for enforcing laws and maintaining order nationwide. Twenty regional police departments are directly subordinate to the NPH; city police are subordinate to the regional police and have local jurisdiction.

On September 1, the Government opened a Counterterrorism Center in Budapest. The new center is directly subordinate to the minister of interior and is responsible for protecting the prime minister and the president and for preventing and investigating terrorist acts including kidnapping and hijacking.

The Hungarian Defense Force is subordinate to the Ministry of Defense and is responsible for external security as well as aspects of domestic security and disaster response.

The Office of the Military Prosecutor is responsible for conducting proceedings involving any member of the armed forces charged with a criminal offense, such as the abuse of official power, the mistreatment, unlawful detention, or forced interrogation.

Penalties for police officers found guilty of wrongdoing include reprimand, dismissal, and criminal prosecution. A legislative amendment that took effect on March 24 mandates the automatic dismissal of police officers convicted of criminal acts committed while on duty.

Victims of lesser police abuses may complain either to the alleged violator's unit or to the Independent Police Complaints Board (IPCB).

In the first 10 months of the year, authorities found 2,914 police officers responsible for breaches of discipline, 868 guilty of petty offenses, 310 guilty of criminal offenses, and eight unfit for duty.

In the same period, courts sentenced seven police officers to prison terms, gave suspended sentences to 25, fined 315, demoted four, and dismissed 11. In the same period courts convicted 32 officers of corruption. No information was available on the number placed on probation.

The IPCB, established in 2008, investigated violations and omissions by the police that affected fundamental rights. The five-member body, appointed by a two-thirds majority of the National Assembly, functions independently of police authorities. As

of December 8, the board had received 285 complaints from the public. It reviewed 501 (including some cases filed in 2009) and found legal violations in 157. The board forwarded the 157 cases to the national police chief, who agreed with the findings in one case, partially accepted the findings in 27, and rejected the remainder. The IPCB's authority is limited to making recommendations to the NPH and reporting its findings to Parliament.

*Arrest Procedures and Treatment While in Detention.*—Persons may be subject to “short-term arrest” if they are caught committing a crime, are suspected of having committed a crime, are the subject of an arrest warrant, or are unable or unwilling to identify themselves. Individuals who cannot prove their identity with identification documents may be charged with a petty offense. Generally, short-term arrests may last up to eight hours, but could last up to 12 hours in exceptional cases. Police may detain suspects whom they consider security threats for 24 hours, and police and the prosecutor's office may order the 72-hour detention of suspects caught in the act when their identities cannot be established or if the conditions for pretrial detention exist. If the court does not order pretrial detention within 72 hours, police must release the person.

On July 22, the National Assembly amended the law effective August 19, making petty offenses against property (including petty theft) punishable by imprisonment. The amendment at the same time abolished the prohibition against incarcerating juveniles, but did not alter the provision that if the juvenile does not have an income or property, he or she cannot be fined by way of punishment. Alternative sanctions such as community service or mediation also do not apply in such cases. Human rights NGOs were concerned that the changes leave no alternative to incarceration for juveniles convicted of minor offenses. Human rights NGOs also maintained that convicted juveniles, even if confined in the same prisons as adults, should be held in separate quarters. On July 22, the National Assembly adopted regulations giving additional rights to certain judicial secretaries (law school graduates employed by the judiciary who have taken the bar examination but have not been appointed as attorneys by the president), such as the right to make decisions in petty offense cases. Human rights NGOs strongly criticized this provision, arguing that judicial secretaries are not independent because they are appointed by the head of the respective county court.

Police must inform suspects of the charges against them and of the section of the criminal code under which they are charged at the beginning of their first interrogation, which must be within 24 hours of their detention. The authorities generally respected this right.

There is a functioning bail system.

According to the Hungarian Penitentiary Service, on December 31, 4,844 persons were in pretrial detention. Of these, 1,083 had been detained for six months to a year, and 679 had been detained for more than a year.

According to the law, police must inform suspects of their right to counsel before questioning them. However, in its June 8 report, the CPT noted that the majority of persons interviewed during its 2009 visit stated that they had not been allowed to contact a lawyer while in the status of “apprehended” persons (i.e. during their initial 12 hours in police custody). Representation by defense counsel is mandatory when defendants are deaf, blind, or suffering from a mental disorder; are unfamiliar with the Hungarian language; are unable to defend themselves in person for any other reason; are juveniles; or are indigent and request the appointment of a defense counsel. When defense counsel is required, defendants have three days to hire an attorney; otherwise, the police or the prosecutor will appoint one. If defendants make clear their unwillingness to retain counsel, the police or the prosecutor is required to appoint counsel immediately. However, the police or prosecutor is not obligated to wait for counsel to arrive before interrogating the suspect. According to human rights NGOs, police routinely proceeded with the interrogation immediately after notifying a suspect of his right to counsel.

The law permits detainees to notify relatives or others of their detention unless the notification would jeopardize the investigation. If the detainee cannot exercise this right, police must make a notification of where the individual has been detained within 24 hours. However, the IPCB as well as NGOs reported that in practice police did not fully comply with this requirement.

Under the law persons who are detained and later acquitted may receive monetary compensation.

According to NGO reports, Roma were detained and subjected to racial profiling more frequently than non-Roma. Research conducted in 2008 by the HHC with data from the HNP and the National Police College indicated that Roma were three times more likely to be stopped for identification checks than non-Roma. However,

the same data also indicated that Roma are no more likely to be involved in unlawful activities than non-Roma.

As of year's end, there was no further information about the Tatabanya Municipal Court's March 2009 detention order for an 83-year-old woman who was ill in the hospital. The order allegedly violated a 2007 Constitutional Court ruling that the accused must be present in court when pretrial detention is ordered.

*Amnesty.*—President Laszlo Solyom issued 20 official pardons during the year. President Pal Schmitt, who succeeded Solyom on August 6, issued three.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

The National Assembly's subcommittee in charge of investigating legal violations committed by state officials in Budapest during the 2006 demonstrations criticized judges for giving jail sentences to 150 persons, 90 of whom later successfully appealed their sentences. The committee also summoned judges who were involved in these decisions for questioning. On September 19, Supreme Court Chief Justice Andras Baka stated that it was intolerable for a parliamentary investigative committee to review specific rulings and hold judges personally responsible, because this could restrict the legal system's independence.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends these rights to all defendants.

Defendants are presumed innocent until proven guilty. There is no jury system; verdicts are rendered by judges. Judicial proceedings generally are investigative rather than adversarial. Trials are generally public, but the judge can prohibit or restrict public access to a trial to ensure participant privacy or trial safety. Depending upon space available in the courtroom, a judge may limit public access to preregistered visitors. The prosecutor, victim, defendant, and defense counsel may also request that public access to proceedings be restricted to protect minors younger than 14, witnesses, or state or business secrets. The court must publically announce the final decision of every case.

The HCLU repeatedly raised concerns about the lack of clear guidance on the recording of ongoing trials and the courts' practice of occasionally restricting cameras in the courtroom during public proceedings.

Defendants have the right to be present and are entitled to consult with an attorney during all phases of criminal proceedings.

Representation by defense counsel is mandatory for defendants facing a charge for which the punishment is five years or more in prison, as well as for those in detention. If the defendant fails to retain counsel within three days the police or the prosecutor will appoint one at public expense.

Defendants may challenge or question witnesses and may present witnesses and evidence on their own behalf. Defendants have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) ruled on 10 cases lodged by citizens against the state. Six involved complaints that domestic court proceedings exceeded the "reasonable time" requirement of the European Convention on Human Rights. In all six cases, the ECHR ruled in favor of the plaintiffs and ordered the state to pay between 2,300 and 14,500 euros (\$3,060 and \$19,300).

On May 20, the ECHR issued a decision favoring a plaintiff who challenged the decision of the authorities denying him the right to vote because he was under partial guardianship for manic depression, a condition the constitution envisages as a possible basis for deprivation of the franchise. However, the ECHR concluded that the indiscriminate removal of voting rights (without an individual judicial evaluation and based solely on a mental disability necessitating partial guardianship) violated the convention and awarded the plaintiff 3,000 euros (\$4,000).

Also on May 20, the ECHR ruled in favor of a plaintiff who claimed he was mistreated due to his physical disability while serving a prison sentence at Szeged Prison in 2005-06. The court awarded him 12,000 euros (\$16,000).

On July 6, the ECHR ruled that a police search of the office of a lawyer violated her right under the convention to respect for one's "home." The ECHR awarded her 3,000 euros (\$4,000).

On December 14, the ECHR ruled in favor of a pregnant woman who accused the state of violating her right to privacy under the convention by threatening to punish midwives, thus effectively preventing her from choosing to give birth at home. The

court decided that the violation resulted from the failure of the state to regulate the issue.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Under the law persons may seek damages for human rights violations; however, fines levied in such cases are payable to the state and not the victim. Generally, the fines were too small to deter violators.

On November 16, the National Assembly passed a constitutional amendment depriving the Constitutional Court of the authority to express an opinion or pass a ruling on central budget, tax, or social contributions issues, except in cases affecting certain fundamental rights, such as the rights to life and human dignity; the protection of personal data; freedom of thought, conscience, and religion; and rights linked to Hungarian citizenship. However, the sanctity of ownership of property was not included among the fundamental rights. On the same day, Fidesz resubmitted legislation imposing a retroactive 98 percent tax on large public sector severance packages, which the Court had declared unconstitutional in October, before the constitutional amendment removed such fiscal matters from its purview. Opposition parties and human rights NGOs strongly criticized the amendment for weakening the system of checks and balances, and thus the rule of law, and removing any consequences for violations of some areas of the constitution. Transparency International and other human rights groups vowed to appeal to the secretary general of the Council of Europe.

On October 27, Chief Judge of the Metropolitan Court Laszlo Gatter resigned from his post effective December 31, to protest the Government's decision to restrict the jurisdiction of the Constitutional Court.

*Property Restitution.*—The Government continued to facilitate the restitution of religious properties confiscated by the state during the communist era and sought to ensure that all religious organizations had an equal opportunity to regain control over their former property.

The Constantinople Patriarchy Hungarian Exarchy (the Hungarian branch of the Greek Orthodox Church) continued to demand the restitution of property that the Russian Orthodox Community has occupied since the 1950s. When Hungarian courts dismissed the Greek Orthodox community's claim to the property, the community turned to the ECHR. The case was pending at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. The independent media were active and expressed a wide variety of views. However, laws enacted during the year broadened the range of views whose expression was illegal to include public denial, doubt about, or minimizing the Holocaust, genocide and other crimes of the National Socialist and Communist regimes. Laws passed in July, November, and December concentrated authority over the media in a single government body with wide-ranging authorities.

Individuals generally could criticize the Government in public or private without reprisal; however, individuals could be held liable for their published statements or for publicizing libelous statements made by others. Journalists reporting on an event could be judged criminally responsible for making or reporting false statements. Officials continued to use the libel laws to claim compensation for perceived injuries to their character.

The criminal code includes provisions against incitement of hatred and hate-inspired violence. Any person who publicly incites hatred against any national, ethnic, or racial group or certain other groups of the population is guilty of a misdemeanor punishable by imprisonment for up to three years. In addition, any person who verbally assaults someone because of his membership in a national, ethnic, racial, or religious group is guilty of a felony punishable by imprisonment for up to five years. NGOs criticized courts for failing to convict persons for inciting hatred unless the crime was accompanied by a physical assault.

On February 22, the National Assembly amended the criminal code to criminalize Holocaust denial. According to the new provision, anyone who denied the Holocaust or diminished its significance could be imprisoned for up to three years. On June 8, the National Assembly amended the law to remove specific reference to the Holocaust and to broaden its scope to cover public denial, expression of doubt, or the minimization of genocide or other acts against mankind committed by either National Socialist or Communist regimes. The law provides that such crimes carry a

maximum sentence of three years in prison. On September 27, the HCLU filed a petition with the Constitutional Court to overturn the law, arguing that it imposes serious restrictions on freedom of speech. The case remained pending at year's end.

The law prohibits the public display of certain symbols. They include the swastika, the hammer and sickle, and the arrow cross, a symbol associated with the country's fascist World War II-era government. The law prohibiting the public display of the five-pointed red star remained in effect despite a 2008 ECHR ruling that declared it to be a violation of the right to freedom of expression.

On August 3, a member of the far-right Jobbik faction in parliament, Gyula Gyorgy Zagyva, allegedly harassed and threatened two journalists of the weekly paper *Hetek* during the Magyar Sziget music festival in Veroco. Reportedly, Zagyva, while brandishing a whip, told the journalists "you should be glad that you were not beaten up." He reportedly also said it was a sign of "Jewish arrogance" that the journalists turned on their Dictaphone and that he wanted to "stamp out their guts." Zagyva denied the reports. The Vac Municipal Prosecutor's Office ordered an inquiry, and the case remained pending at year's end.

On January 19, the Supreme Court ruled that former national media watchdog, the National Television and Radio Commission (ORTT) violated the law in awarding licenses for the only two frequencies that broadcast countrywide. ORTT's decision to reject the bids of existing radio networks Slager and Danubius to renew their licenses for another seven years triggered strong criticism both domestically and internationally. On July 14, an arbitration board upheld the Supreme Court decision. Despite the court decision, ORTT and its successor, the National Media and Infocommunication Authority (NMHH), failed to terminate contracts with the winning bidders.

On July 22, November 2, and December 21, the National Assembly adopted a series of laws governing media regulation, most of which were scheduled to enter into force on January 1, 2011. However, the law specifies that the Media Council may initiate proceedings against the providers of on-demand media services or print products only after July 1, 2011.

The July 22 law created the NMHH by merging the ORTT and the National Telecommunication Authority. The NMHH is a central government agency subordinated to the parliament that "contributes to the execution of the Government's policy in the area of frequency management and telecommunications." The prime minister appoints the president of the NMHH for a nine-year term with no limit on reelection. The president then serves as chair of the five-member Media Council that parliament appoints to supervise electronic media content. The four additional council members are elected to nine-year terms by a two-thirds majority vote of members of parliament (MPs) in attendance.

The July 22 law also transformed the public service broadcasting system. It converted the state-owned radio broadcaster, Hungarian Radio, the public television companies, MTV and Duna Television, and the Hungarian News Agency (MTI), into closed, not-for-profit, shareholder companies. The ownership and supervisory levels, as well as the real assets (high-end real estate, archives, and production units), of these companies were merged under the newly established Public Service Foundation. The foundation is managed by an eight-member Board of Trustees, six of whom are elected by a two-thirds majority vote of MPs in attendance, while the chair and one other member are delegated by the Media Council. All members serve nine-year terms. On September 9, the opposition Hungarian Socialist Party filed a complaint with the Constitutional Court against the new media law, arguing that its sections on the supervisory structure and financing are unconstitutional. Later in September, the green party LMP together with Jobbik also challenged the media law at the Constitutional Court. The cases remained pending at year's end.

These substantial legislative changes in media regulations generated strong criticism from national and international human rights organizations concerning the new framework for media regulation and supervision. On September 7, the Organization for Security and Cooperation in Europe (OSCE) released a report by Dr. Karol Jakubowicz, commissioned by the Office of the OSCE Representative on Freedom of the Media, which found that the legislation introduces "stricter regulation, more pervasive controls and limitations on freedom of expression." The OSCE report also expressed concern that the head of the Media Council will be a political appointee and that the selection method for the Public Service Foundation's board of trustees will lead to a politicized public service broadcasting system.

Legislation passed on November 2 focused on content regulation and set standards for journalistic rights, ethics, and norms. It applied to all media, including news portals and on-line publications. Under the law, all citizens are entitled to be appropriately informed about local, national, and European public affairs, as well as other "events bearing relevance" for Hungarians. The law prohibits inciting ha-

tred against persons, nations, communities, ethnic, linguistic or other minorities, majority groups, churches, or religious groups. The legislation provides exceptions to journalists' right to source protection in cases when unauthorised sources reveal classified information, and when courts or government authorities rule that such disclosure is "in the interest of protecting national security and public order, or uncovering or preventing criminal acts."

The bill passed on December 21 gave the Media Council the authority to impose fines for violations of content regulation, including media services that violated prohibitions on inciting hatred or violating human dignity, or regulations governing the protection of minors, public health, public security, national security and consumers and investors. The council may impose fines for violations ranging from 10 to 200 million forint (\$47,000 to \$948,000), depending on the type of publication and audience size. It may fine individual editors 2 million forint (\$9,500). The council can also suspend media outlets' right to broadcast for up to a week. The council is also empowered to render "reprimanding judgments" in cases of content that it considers "unbalanced." The council contended that media outlets would not have to pay the fines until any court proceedings have been completed. According to the law, decisions of the Media Council may be challenged in court by lodging a petition against the council, and the court may be requested to suspend the decision until the court challenge has been resolved. The postponement is not automatic according to the law; however, the Media Council argued that in practice the court would automatically defer the sanction. On December 22, the OSCE representative for press freedom expressed concern that the changes to the media law "harm media freedom."

On December 21, the host and the editor of a public radio program were suspended from their duties by the radio's management after the host held a minute of silence protesting the passage of the media law. An internal investigation into their protest was ongoing at the station at year's end.

The HCLU raised concerns that new media regulations merged the supervisory boards of all state-owned Public Service Broadcasting entities, including the state news agency, into a single foundation, and also placed their finances and assets under the control of the newly created Media Council. The HCLU also noted that all media, including television, radio, and Internet, are grouped under the same regulations despite wide variation in their uses. On December 24, European Commissioner for Media Affairs Neelie Kroes sent a letter to Deputy Prime Minister Tibor Navracsics requesting the full text of the act in order to assess whether it is in harmony with EU regulations on media freedom.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union, in 2009 approximately 63 percent of the country's inhabitants used the Internet.

However, European Commissioner Kroes, NGOs, and the foreign press raised concerns that provisions of the new media laws requiring balanced reporting and registration of media outlets lacked clear limits and could be interpreted to include blogs. The Government and the NMHH argued that, in practice, blogs would be exempt from these requirements on the basis that they are not considered "business endeavors."

There were no reports that the Government attempted to collect the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or beliefs.

*Academic Freedom and Cultural Events.*—On November 17, the director of the state-run National Theater cancelled an agreement to host a national day observance by the Romanian Cultural Institute of Budapest following objections by Fidesz, Christian Democrat, and Jobbik parliamentarians. The December 1 national day commemorates the 1918 Alba Iulia National Assembly, which declared the unification of Transylvania, until then a Hungarian territory, with the Kingdom of Romania. The Fidesz caucus issued a statement that "the loss of Transylvania constitutes a deep trauma to the present day for the majority of the Hungarian nation. While we acknowledge that this historical event tragic for Hungarians is a national holiday for Romania, we do not expect it to be celebrated in a symbolic space of our national culture."

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*Freedom of Assembly.*—Under the law, demonstrations do not require a police permit, but event organizers must inform police of a planned assembly in a public place at least three days in advance. The law authorizes police to prohibit any gathering

if it seriously endangers the peaceful operation of representative bodies or courts, or if it is not possible to ensure alternate routes for traffic. However, police are not required to disband a spontaneous, unauthorized assembly that remains peaceful. During the year police prohibited six demonstrations, which represented less than 1 percent of total announced demonstrations.

During the year the HHC and other human rights organizations repeatedly emphasized the need to modify the law on assembly to clarify when the police may prevent a public gathering. According to the HHC, the law does not permit the police to prevent a demonstration based on an unverified assumption that the demonstrators are highly likely to commit a criminal offense. According to NGOs, the shortcomings of the law sometimes resulted in inconsistent police practices.

*Freedom of Association.*—The constitution and the law provide for freedom of association, and the Government generally respected this right.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government cooperated with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The Asylum Act includes definitions for the principles of “safe country of origin” and “safe country of transit,” including adequate provisions for individual consideration in exceptional cases. In practice, authorities decide on a case-by-case basis whether the country of origin may be regarded as a safe country of origin for the applicant.

In law and practice, the Government generally provided protection against the expulsion or the return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the Office of Immigration and Nationality (OIN) received 2,104 applications for refugee status and approved 74. According to the law, OIN shall grant “subsidiary protection” status to foreigners who do not qualify as refugees but for whom there is a risk of exposure to serious harm upon their return to the country of origin. OIN granted 115 persons “subsidiary protection” status. The law provides that OIN may authorize persons to stay in the country by granting them “tolerated status” consistent with Hungary’s non-refoulement obligations under international law. During the year, OIN granted 58 persons “tolerated status.”

On February 26, the HHC filed a complaint with the Office of the Prosecutor General concerning the OIN practice of detaining certain asylum seekers beyond the 15-day pre-assessment period. In its April 15 response, the Office of the Prosecutor General repeated its previous warning to OIN, ordering the termination of the unlawful practice. OIN challenged this notice at the Ministry of Interior. On June 21, the ministry accepted OIN’s argument and authorized it to continue the practice.

On November 22, the National Assembly modified the Asylum Act, introducing several restrictive measures in immigration policing, such as increasing the maximum period of detention from 6 months to 12 months, rejecting manifestly unfounded asylum claims in the admissibility procedure, and detaining families with minor children for 30 days in exceptional cases. A disputed element of the legislation allowing for the continued detention of asylum seekers after they enter the “in-merit” procedure was eliminated. The HHC criticized the new regulations, arguing that the restrictions could not be justified by migratory trends and that certain of the new measures were contrary to the European Union Directive on Return.

According to established procedures, immigration police interview individuals detained at the border and then ask the OIN whether the person’s deportation would be in breach of the country’s non-refoulement obligations. The OIN issues a binding expert opinion, taking into account the interview as well as UN reports and other country-of-origin information.

On December 16, Human Rights Watch (HRW) published a report on the treatment of asylum seekers and migrants in Ukraine analyzing the readmission procedures from neighboring EU countries. HRW interviewed 14 migrants who were re-

turned from Hungary to Ukraine in 2008-10. Nearly all of them said that officials ignored their requests for asylum and that they were “pressured or tricked into signing papers they did not understand, or told they would be driven to a reception center, before being deported to Ukraine.” According to the HRW report, OIN had determined that it was permissible to return to Ukraine all 14 of the migrants HRW subsequently interviewed. OIN stated that there were no cases in which an asylum claim was rejected on the basis that Ukraine was a safe third country.

The HHC claimed there were incidents of police failing to identify asylum seekers in border procedures and of forced return of asylum seekers who were vulnerable or in need of international protection. OIN stated that they did not receive any official complaints.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The OSCE election observation mission reported that parliamentary elections held on April 7, with a second round on April 21, were conducted in a manner consistent with international standards and commitments for democratic elections. The elections brought a Fidesz-KDNP coalition back to power with a two-thirds majority. Prime Minister Viktor Orban assumed office on May 29. The National Assembly elected Pal Schmitt president, and he took office on August 6.

During the election campaign public stations Magyar Televizio (Hungarian Television) and Magyar Radio (Hungarian Radio) refused to broadcast an anti-Roma electoral campaign advertisement by the far-right party Jobbik because it would contravene rules forbidding the denigration of minority groups. The advertisement focused on “gypsy crime.” The National Election Committee said on November 27 that the rejection of the Jobbik advertisement violated the principal of equality for political parties, and that its content did not overstep the boundaries of freedom of speech legislation. On October 4, the Constitutional Court ruled that the stations erred in not broadcasting the advertisements.

The newly elected National Assembly amended the constitution to reduce the maximum number of MPs after the 2014 general elections from 386 to 200, cutting roughly by half the number of local representatives, and to extend citizenship rights to ethnic Hungarians living beyond the country’s present borders. There were no government restrictions on political parties.

The 386-seat National Assembly elected in April included 34 women, 20 percent fewer than its predecessor. There were no women in Prime Minister Orban’s immediate cabinet, but women were represented at the sub-cabinet level. There also were no women on the Constitutional Court. Due to privacy laws regarding ethnic data, no statistics were available on the number of minorities in the National Assembly, cabinet, or Constitutional Court.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and NGOs contended that officials often engaged in corrupt practices with impunity.

Corruption in the executive and legislative branches reportedly increased during the year, and numerous cases of alleged corruption received significant public attention. According to the World Bank’s Worldwide Governance Indicators, government corruption was a problem. Corruption within police agencies remained a problem. Penalties for police officers found guilty of wrongdoing include reprimand, dismissal, and criminal prosecution.

On January 18, the Prosecutor General’s Office accused Budapest Seventh District Mayor Gyorgy Hunvald of signing millions of forint worth of fictitious consultancy contracts. Hunvald has been in pretrial detention on other corruption charges since February 2009. The case remained pending at year’s end.

On January 26, authorities took former Budapest Public Transport Company director Attila Antal into custody on fraud charges. Police stated that Antal, while director of the company in 2007-08, seriously violated its asset management regulations by signing contracts for unnecessary services. In addition, he approved excessive severance payments. The company’s former human resources director, Eleonora Szalaine Szilagyi, was arrested in early January for alleged embezzlement after she authorized 86 million forint (\$408,000) for herself in severance pay. The cases were part of an investigation into the company that began in 2009 in connection with 1.7

billion forint (\$8.4 million) in severance payments to 100 persons during the previous six years.

On March 31, former Hungarian Socialist Party politician Janos Zuschlag was sentenced to eight-and-a-half years in prison by the county court of Bacs-Kiskun. Zuschlag, the subject of an 18-month police investigation, was accused of siphoning state funds, estimated to total about 75 million forint (\$355,400), and channeling them into Hungarian Socialist Party youth organizations. The court sentenced 15 of Zuschlag's associates to one to five years in prison. The prosecutor appealed the verdict and the case remained pending at year's end.

On September 1, police detained the former head of the State Asset Management Authority Miklos Tatrai, and former State Asset Management Authority sales manager Zsolt Csaszny, on suspicion of misuse of funds and other crimes related to the Sukoro casino project. According to the prosecutors, state properties provided for the casino project were undervalued by 734 million forint (\$3.5 million), while land received in exchange from the investors was overvalued by 593 million forint (\$2.8 million).

On September 28, the Komarom-Esztergom County chief prosecutor filed charges on misuse of funds against Tatrai in a separate case, charging that Tatrai ordered the illegal transfer 365 million forint (\$1.7 million) to state-owned Babolna stud farm. Both cases remained pending at year's end.

Members of the National Assembly, high-level government officials, civil and public servants, and police officials disclosed their financial status on a regular basis, as the law requires. NGOs contended that the regulation is not adequate because there is no effective method for auditing or sanctioning violators.

Several government offices were responsible for combating corruption. The State Audit Office audited the public sector and campaign spending of political parties. The independent judiciary, the prosecutors, the police, and in certain cases the customs and finance guard were responsible for investigating corruption. Special agencies such as the competition authority and the supervisory body of financial institutions were responsible for ensuring fair and transparent market conditions.

The constitution and law provide both citizens and foreigners the right to access state-held information, although the Government may restrict access in order to protect what it determines to be legitimate state interests. Requestors may appeal denials in court. Government offices may charge a fee to cover copying costs. Government offices are required to give the requestor detailed reasons for any denials.

According to the most recent statistics published by the ombudsman, government offices received 123,747 requests for information in 2009 and rejected 164 because they involved commercial secrets or the offices concerned lacked authority to act. The HCLU contended that the ombudsman's statistics underestimated the percentage of denied requests.

On June 23, a Budapest court ordered the Constitutional Protection Office, successor to the National Security Office, to make public the names of companies that have exclusive rights to participate in national security procurement. The ruling resulted from a lawsuit filed by Transparency International Hungary after the National Security Office refused to make the names available, citing national security considerations.

On September 15, the Supreme Court ruled against the HHC in its effort to obtain the names of and statistics about lawyers appointed to represent defendants in court. The HHC had sued 11 police units in 2008 for unlawfully denying their requests for this data, which the HHC regarded as in the public interest. The HHC maintained that police chose specific public defenders who were unlikely to contest vigorously charges against their clients, thus facilitating convictions. The Supreme Court ruled that the names of state-appointed public defenders were not data of public interest.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

There are parliamentary commissioners (ombudsmen) for civil rights, national and ethnic minority rights, data protection, and future generations. They examine constitutional rights violations and initiate individual or general proceedings to prevent further violations. Following appointment by the president, a two-thirds parliamentary majority confirms the ombudsmen for six-year terms, renewable once. The ombudsmen are responsible only to the parliament, which allocates their financial resources in the annual state budget and votes on their annual report. The om-

budsmen operated without government or party interference and published several reports during the year. The public perception of the ombudsmen's activities was generally positive.

The parliamentary Committee for Human Rights and Minority, Civil, and Religious Affairs has 21 members selected in proportion to the parties' seats in parliament. The committee debates and reports on human rights-related bills and supervises the human rights-related activities of the ministers.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status; however, the Government failed to enforce these rights fully in practice.

During the year the Equal Treatment Authority (ETA), an independent authority set up by the Government to monitor enforcement of antidiscrimination laws, received 1,282 complaints. The ETA issued 377 decisions and found 40 complaints of illegal discrimination to be justified. In the "justified" cases, the ETA ordered employers to stop their illegal activities, refrain from further wrongdoing, and in 20 instances, pay penalties ranging from 100,000 to five million forint (\$473 to \$23,700).

*Women.*—Rape, including spousal rape, is illegal, but human rights observers generally considered the problem to be underreported. Under the law, a sexual assault is considered rape only if it involves the use of force or threats. Penalties for rape range from two to eight years in prison and can be as long as 15 years in aggravated cases.

According to the NPH, in the first eleven months of the year the prosecutor's offices pressed rape charges in 126 cases.

The law does not specifically prohibit domestic violence or spousal abuse. The charge of assault and battery, which carries a maximum prison term of eight years, was used to prosecute domestic violence cases. Under a 2009 law, however, police called to the scene in domestic violence cases may issue an emergency restraining order valid for three days in lieu of immediately filing charges; courts are authorized to issue longer-term restraining orders. According to women's rights NGOs, the law does not provide appropriate protection for the victims and does not place sufficient emphasis on the accountability of perpetrators. NGOs noted that no protocols or systematic training regarding domestic violence were available for law enforcement personnel.

Expert research in the field of domestic violence indicated that approximately 20 percent of women have been physically assaulted or victimized by domestic violence. According to the NPH, during the year 8,514 women were reported to be victims; however, most incidents of domestic violence went unreported, due to fear and shame on the part of victims. Prosecution for domestic violence was rare. Prosecuting those who abused women was difficult because of societal attitudes that tended to blame the victim. According to NGOs, police remained reluctant to arrest abusers, due to a lack of confidence that the judicial system would effectively resolve abuse cases. Women's rights NGOs contended that many cases of violence against women required the victim to make a formal complaint in order to begin the criminal procedure, which prevented many victims from seeking justice.

The Ministry of National Resources (formerly the Ministry of Social Affairs) operated a 24-hour hotline for victims of abuse. During the first half of the year, the ministry financed 11 shelters for socially disadvantaged persons, including victims of sexual abuse; the funding for two of the shelters ceased at the end of June. The ministry also continued to operate four "halfway houses" around the country available for 16 families for up to five years. Women's rights NGOs contended that services for the assistance of victims of violence against women either operated with limited capacity or did not meet international standards of good practice.

The law establishes the right to a secure workplace and makes sexual harassment a criminal offense; however, according to NGOs, sexual harassment remained widespread. NGOs contended that the law did not clearly define sexual harassment, leaving victims with a lack of legal awareness or incentive to file a complaint. Through November, the NPH recorded 4,431 cases of harassment against woman. In the first nine months of the year, the ETA rejected one case of sexual harassment and imposed penalties in six others. Penalties included fines ranging from 100,000 to one million forint (\$474 to \$4,739) and making the ETA decision public for up to six months.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception and to skilled attendance during childbirth, and national family plan-

ning services focused on providing prenatal and postnatal care and counseling. However, NGOs contended that the lack of legal framework regulating the work of midwives limited women's access to reproductive health care services, as the authorities do not recognize independent midwives as a professional group and can charge them with a crime for their work. According to data from international organizations, there were approximately 13 maternal deaths per 100,000 live births in 2008. Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV/AIDS.

Under the constitution and the law, men and women have equal rights. The ETA was responsible for monitoring the implementation of the Equal Treatment Law and for coordinating governmental activities in the field of gender equality. NGOs pointed out that the law has no gender-specific provisions. NGOs also raised concerns about the ETA's lack of financial and human resources to carry out its mission, which decreased even further under the restructuring of government ministries.

According to the Central Statistical Agency, women continued to earn 17 percent less than men for substantially similar work. The ETA found employer discrimination against women in eight of the 19 complaints it received. There was economic discrimination against women in the workplace, particularly against job seekers older than 50 and those who were pregnant or had returned from maternity leave.

*Children.*—Citizenship is acquired by birth from a parent who is a citizen.

While the law provides free compulsory education for children through 18 years of age, a 2006 study found that more than 82 percent of Roma have eight years of education or less, compared with 36 percent of the rest of the population. Similarly, while an estimated 40 percent of the population had some form of secondary schooling, only 3.1 percent of Roma received such education. NGOs claimed that the right to public schooling is not honored for children with severe and multiple disabilities because public schools are not obliged to set up classes for those children.

The public education system continued to provide inadequate instruction for minorities in their own languages. Romani language schoolbooks and qualified teachers were in short supply.

Segregation of Romani schoolchildren remained a problem. NGOs and government officials estimated that one-third of Romani children were educated in segregated classes and that 20 percent were placed without justification in remedial classes for children with mental disabilities, effectively segregating them from other students. Schools with a majority of Romani students employed simplified teaching curricula, were generally less well equipped, and were in significantly worse physical condition than those with non-Romani majorities.

During the year the Chance for Children Foundation (CFCF) initiated a lawsuit against Heves County and the county-operated Expert Committee, which diagnoses and certifies children with disabilities and learning difficulties. The CFCF claimed that the percentage of children certified as having such disabilities was much higher than in other counties, the number of Romani children among them was disproportionately high, and almost all certified children attend segregated remedial schools with substandard curricula. The CFCF asked the court to rule that there was racial bias in the diagnosing and certifying procedure and to ban the county and its institution from the practice. The case was pending at year's end.

On June 7, the Supreme Court awarded 100,000 forint (\$474) in compensation to five Romani children for enduring segregation during their primary schooling in Miskolc.

On October 25, the ETA signed an agreement with a local school in Taktaharkany banning the segregation of Romani pupils. In 2008 the CFCF referred the case to the ETA on the grounds that Romani children were denied access to the school cafeteria and forced to attend classes in a separate building from non-Romani students.

The CFCF also won financial compensation for two Romani boys in Nyiregyhaza whom authorities incorrectly diagnosed and certified as having learning difficulties and assigned to remedial schools. The boys were not able to pursue normal careers as a result.

During the year the CFCF won a lawsuit filed in 2009 against local authorities of Győr. The court of first instance ruled that the Győr Municipality unlawfully segregated and discriminated against Romani children attending the Kossuth Street primary school.

In September 2009 the CFCF sued the Ministry of Education for violating the Equal Opportunity Act by failing to halt the segregation of Romani children in public schools. The legal successor to the ministry has yet to respond to the CFCF's claim, and the case was pending at year's end.

In December 2009, the Somogy County Court ruled that the municipality of Kaposvár had unlawfully discriminated against Romani children by segregating them from non-Romani students in a separate school with a simplified curriculum.

The Pecs Court of Appeals upheld the verdict on appeal but struck down the charge of discrimination in quality of education. The Supreme Court upheld this ruling but also struck down the appeal court's order that the municipality rectify the unlawful situation, arguing that a court can only order rectification if claimants put forward a detailed proposal for such action.

A 2008 European Roma Rights Center report found that Romani children were overrepresented in the child protection system. In the sample of children in professional care institutions, 40 percent were of Roma origin and 18 percent were half-Roma, although Romani children only account for approximately 13 percent of the children in the general population. Romani children have a higher probability of being placed in children's homes rather than in family-like care or community settings.

In the first 11 months of the year, the NPH registered 5,374 cases of crimes against children.

On May 26-27, 34 officers working on youth protection and domestic violence at county police headquarters participated in training that highlighted the specific tasks required for the implementation of the "National Youth Strategy 2009-2024," aimed at enhancing the social integration of young persons. During the year the NPH conducted a study of police attitudes toward domestic violence as well as the difficulties officers face in the field. Based on the results of the study, the NPH developed a set of recommendations and a training series aimed at improving the effectiveness of police response to domestic violence. During the year 600 police officers participated in this training.

Some girls under the age of 18 engaged in prostitution. Young girls who grew up in orphanages were highly vulnerable to internal forced prostitution. NGOs contended that the number of females under the age of 18 involved in prostitution increased in recent years. Buying sexual services from a child younger than 18 years old is a crime punishable by up to three years in prison.

The minimum age for consensual sex is 14 years. According to the law, statutory rape is a felony punishable by imprisonment for two to eight years and for five to 10 years if the victim is under 12 years of age. The law prohibits child pornography, which is punishable by up to eight years in prison.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish population was estimated to be between 80,000 and 100,000.

Jewish organizations expressed serious concern over a perceived increase in the public's tolerance for anti-Semitic remarks in public discourse. On April 18, Gabor Vona, the far-right Jobbik party chair and National Assembly member, told an interviewer from the weekly magazine HVG that "Israeli interests are trying to colonize Hungary because Israel's place and role in the Middle East are unstable, so they must seek another country if Israel's position becomes untenable. This is not anti-Semitism but fear for Hungarians," he said, adding, "politics rather than business interests lie behind the gaining of ground by Israeli capital."

As of November 30, there were 212 reported instances of vandalism or destruction of Jewish and Christian properties, 20 in houses of worship and 192 in cemeteries.

On March 30, unidentified individuals threw rocks into an apartment on Budapest's Dohany Street where a rabbi was celebrating Passover with fifty participants. No one was injured. The police started an investigation into what they classified as a crime involving "damage to property." The police rejected an HCLU petition to change the classification to "violence against a member of a social group." Police suspended the investigation after failing to identify the perpetrators.

On May 1, unidentified persons damaged a Holocaust memorial in Zalaegerszeg shortly after its repair from an April 6 attack. Police opened an investigation, which was ongoing at year's end.

On June 16, police stopped the screening of a Nazi propaganda film, *The Eternal Jew*, and took several of the viewers and the organizers into custody. Deme Brothers, publishers of extreme right-wing literature, staged the screening in Budapest's 13th district, the same venue where an illegal showing of *Jud Sss* took place in 2009. On July 6, unidentified persons damaged three monuments dedicated to victims of World War II in Szekesfehervar. The vandals poured red paint over separate memorials of soldiers and civilians killed during the war, anti-fascists, and victims of the Holocaust. The police failed to find the perpetrators and closed the investigation on August 28.

The weekly magazine *Magyar Demokrata*, the national daily *Magyar Hirlap*, and the more radical *Magyar Forum* published anti-Semitic articles during the year;

Magyar Demokrata and Magyar Hirlap discontinued these practices in the spring. The official publication of the far-right Jobbik party, Barikad, changed from a monthly to a weekly magazine and continued to publish openly anti-Semitic content.

There were numerous far-right websites in the country, many of which were openly anti-Semitic. NGOs reported that the Government monitored the content of these sites to enforce the prohibition against public display of such symbols as the swastika, the hammer and sickle, the five-pointed red star, and the arrow cross.

During the year the prime minister, other senior government officials, and representatives of other parties routinely criticized extremist movements; they initiated and participated in several demonstrations promoting tolerance.

The Government gave its support to a seven-day Holocaust education seminar for educators conducted in November. The seminar was the first element of a three-year educational program aimed at revising Holocaust education in the schools.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, and/or intellectual disabilities in employment, education, access to health care, or the provision of other state services; however, persons with disabilities frequently faced discrimination and prejudice.

Government sources estimated there were 600,000 persons with disabilities, while disability organizations estimated the number to be approximately one million.

NGOs expressed concern about the lack of independent oversight over government-run, long-term-care institutions for persons with mental disabilities. There were sporadic reports that employees of such institutions used inappropriate physical restraints on patients, a problem experts attributed partly to inadequate numbers of qualified staff. NGOs also noted that there was no legal regulation or government strategy for deinstitutionalization of persons.

The international NGO Mental Disability Advocacy Center criticized the Government for failing in its obligation to protect the rights of persons with disabilities who were under the legal guardianship of others, particularly in their access to employment, education, and health care services. According to the center, one of the key problems was a lack of alternatives to guardianship for persons with disabilities who needed support in making certain decisions. According to NGOs, almost 80,000 adults were under guardianship. According to the constitution, citizens placed under guardianship by a court immediately lose their right to vote. In addition, NGOs contended that polling places were not accessible for persons with disabilities and the election materials were not available in easy-to-read format.

A government decree requires all companies with more than 20 employees to reserve 5 percent of their jobs for persons with physical or mental disabilities. The decree specifies fines for noncompliance. Employers typically paid the fines rather than employ persons with disabilities. In 2009 approximately 9 percent of working-age persons with mental disabilities were employed.

Both the central government and municipalities continued to update public buildings to make them accessible to persons with disabilities. The law requires that buildings operated by the central government be accessible by 2010; those operated by the municipalities must meet this goal by 2013. There was no data available on the percentage of government buildings that were not accessible, but NGOs contended many public buildings remained inaccessible.

The lead agency for protecting the rights of persons with disabilities is the Ministry of National Resources.

*National/Racial/Ethnic Minorities.*—The Romani community remained the largest ethnic minority. According to the Central Statistics Office, in 2007 the Romani community accounted for 2 percent of the population, or approximately 200,000 persons. However, unofficial estimates, which vary widely, suggest the actual figure was much higher, ranging between 500,000 and 800,000 persons.

Violent attacks against Roma continued, generating strong public concern and intense disputes as to the existence and scale of racially motivated crimes. Human rights NGOs complained that law enforcement authorities, prosecutors, and courts were reluctant to recognize racial motivation for many crimes.

On March 18, Molotov cocktails were thrown at the houses of four Romani families in the town of Siofok, one of which suffered a serious fire. No one was injured. Police spokesman Gabor Biro confirmed that the incident had taken place, but gave no details, stating that an investigation was ongoing.

On April 15, one of the deputies of the National Roma Minority Self-Government was attacked in the town of Elek. According to the victim's media statements, two "active members of an extremist party and organization" were demolishing the pub

he owned and as he approached, they kicked and hit him. Police were not able to identify any perpetrators.

On May 22, unknown persons threw several bottles filled with gasoline through the window of a house inhabited by Roma in Hatvan. Damage was estimated at 5,000 forint (\$24), and no injuries were reported. Police were unable to identify any perpetrators.

On July 4, unknown persons attacked a Romani house in Olaszliszka. They fired three shots at the house, leaving bullet holes in the front wall. When the attack occurred, a mother and her children were sleeping in the house. There were no reports of injuries. Police could not identify any perpetrators.

On August 9, the National Bureau of Investigation announced the completion of its investigation into a series of physical attacks against Roma in 2008 and 2009. As a result of the investigation, the Pest County Prosecutor charged four suspects with the murder of six persons, the serious injury of five others, and threats to the safety of an additional 55. The case was scheduled to go to trial in 2011.

Human rights NGOs reported that Roma were discriminated against in almost all fields of life, particularly in employment, education, housing, penal institutions, and access to public places, such as restaurants and bars.

According to statistics of the Hungarian Institute for Educational Research and Development, Roma were significantly less educated than other citizens, with incomes and life expectancy well below average.

A 2007 International Labor Organization report estimated the unemployment rate among Roma to be 40 percent. However, in many underdeveloped regions of the country, it exceeded 90 percent. Unemployment among Roma was estimated to be three to five times higher than among the non-Romani population. The HCLU expressed concern that new legislation requiring completion of primary school to obtain a driver's license could increase unemployment among Roma.

According to the HCLU, members of the Romani community were regularly sentenced for minor offenses such as collecting firewood or minor traffic violations, which were usually ignored when committed by non-Roma. The HCLU asserted that police and municipalities selectively applied laws against the Romani community to keep Roma segregated and to restrict their free movement.

Inadequate housing continued to be a problem for Roma; their overall living conditions remained significantly worse than those of the general population. According to Romani interest groups, municipalities used a variety of techniques to prevent Roma from living in more desirable urban neighborhoods. In April the HCLU and the European Roma Rights Center filed a motion with the ombudsman asking him to examine whether Roma had been disproportionately targeted for eviction from municipality-owned housing. According to a survey by the Ministry of National Resources, approximately 100,000 seriously disadvantaged persons, mostly Roma, lived in approximately 500 settlements lacking basic infrastructure and often located on the outskirts of cities. The Government continued its program to eliminate these settlements and to help residents move to more desirable communities.

Most ministries and county labor affairs centers had special officers for Romani affairs focused on the needs of the Romani community. The Ministry of National Resources continued to offer financial incentives to encourage schools to integrate Romani and non-Romani children in the same classrooms and to reintegrate Roma inappropriately placed in remedial programs. The Ministry also operated a program to finance infrastructure development in Romani communities. The prime minister named Zoltan Balog as state secretary for social inclusion, charged with coordinating government efforts to address Roma issues.

The Ministry of Public Administration and Justice (formerly the Ministry of Justice and Law Enforcement) operated an antidiscrimination legal service network that provided free legal aid to Roma in cases where they encountered ethnic discrimination. Human rights NGOs lamented that the lawyers' offices were located in the larger cities, rendering them inaccessible to those Roma living in deep poverty in small villages. HCLU received reports that the network's lawyers rejected some Romani cases.

Since January 2009, in order to apply for EU and government funds for urban rehabilitation and public education projects, every city must attach to its proposal a desegregation plan outlining planned actions to eradicate segregation in housing and public education. The Government opened 200 positions in public administration for Romani college graduates. By year's end 165 applicants had passed the mandatory civil servant entry exam and 66 were placed in various national and county government offices.

Roma and the other 12 official minorities are entitled to elect their own minority self-governments (MSG), which organize minority activities and handle cultural,

educational, and linguistic affairs. The president of each MSG also has the right to attend and speak at local government assemblies.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexual conduct is legal, but extremist groups continued to subject gay men and lesbians to physical abuse and attacks.

On July 4, two teenagers wearing far-right party badges struck a man on his way home from the opening ceremony of the Rainbow Mission Foundation's (RMF) annual Budapest Pride festival, a week of lesbian, gay, bisexual, and transgender programs.

On July 10, the RMF organized the 15th annual Budapest Pride March, in which an estimated 1,000 persons participated. Organizers were successful in registering the march, which occurred on a shortened parade route with increased police protection. Authorities shortened the route further on the day of the march because counterdemonstrators along the route shouted antihomosexual slurs as well as the campaign slogan of the openly antigay political party Jobbik. Police prevented several protestors from approaching the route, but made no arrests. Two men followed one volunteer into the metro and attacked him following the march. A metro security guard briefly detained the attackers but then let them go.

On July 26, the RMF reported to the police that a neo-Nazi group calling itself the "Budapest Hungaristas" desecrated one of the Hungarian Lesbian, Gay, Bisexual, and Transgender community's unique symbolic sites, the tombstone of Karoly Kertbeny, originator of the terms "heterosexual" and "homosexual." The Hungaristas reportedly covered the gravestone with a black veil and attached a quotation from the Old Testament Book of Leviticus. Police declined to pursue the case on December 4, stating that no crime had been committed.

On September 4, approximately 100 participants marched in a legally registered Hetero Pride Parade, following the same route as the Budapest Pride March. The organizer stated that the organizers intended the march to be a "protest against the open practice and popularization of homosexuality."

There were no reported developments in connection with two attacks on a gay bar and a gay bathhouse in Budapest in 2008. In April 2009 police detained two persons in connection with these incidents.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice.

The law also allows unions to conduct their activities without interference, and the Government protected this right in practice. Approximately 25 percent of the workforce was unionized in 2009. With the exception of military personnel and police officers, workers have the right to strike, and workers exercised this right. The law permits the unions of military personnel and police officers to seek resolution of grievances in the courts. While employers are not allowed to hire temporary workers during a strike, temporary workers already hired before the strike were allowed to continue working.

On December 23, the National Assembly passed a bill amending the strike law so that workers at companies performing activities fundamental to the population—such as public transport, telecommunications, water, power, gas, and other energy sector firms—may not strike unless an agreement has been reached on minimum services during a strike. The definition of minimum services is decided by the courts. In addition, the bill added "abusing the right to strike" to the list of actions rendering a strike illegal. National trade unions opposed the law on the basis that the courts lack the expertise to decide on necessary minimum services, and that the term "abusing the right to strike" is too vague.

Two national trade unions, MSZOSZ and LIGA, have reported cases of employers intimidating trade union members, transferring, relocating, or dismissing trade union officers, and hindering union officials from entering the workplace.

The International Trade Union Confederation expressed concern that trade union registration practices are too long and cumbersome, and judges and prosecutors have legal authority to interfere with internal trade union matters. However, LIGA officials indicated the registration practices have not been a problem in their experience.

Court proceedings on unfair dismissal cases could take more than a year to complete, and court decisions were not always properly enforced.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law and was freely practiced, mainly at the company level. In 2008 collective bargaining agreements covered approximately 36 percent of the workforce.

The labor code requires trade unions to represent 65 percent of the workforce (for a single employer) or 50 percent of the workforce (for a group of employers) to engage in collective bargaining.

There are no export processing zones, but individual foreign companies frequently were granted duty-free zone status for their facilities. There were no exemptions from regular labor laws in the duty-free zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. See the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, and the Government effectively enforced these laws in practice.

The law prohibits children younger than 16 from working except in such circumstances as temporary work during school vacations. Children under 15 are prohibited from all work. Children may not work night shifts or overtime or perform hard physical labor.

The country's Labor Inspectorate reported that during 2009 six companies employed 136 children under 15 years old, mostly in financial and commercial work. The companies were fined a total of 5.2 million forint (\$24,640). Individuals who identify children as victims of labor exploitation are required to report them to the Guardianship Authority.

According to the International Organization for Migration, trafficking of children for sexual exploitation was a problem. The Government actively monitored immigration and emigration patterns for evidence of trafficking. See the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—The national minimum monthly wage of 73,500 forint (\$348) provided a decent standard of living for a worker and family. A special minimum monthly wage for jobs requiring the completion of secondary education was 89,500 forint (\$424). The law sets the official workday at eight hours, although it may vary depending on the industry. A 48-hour rest period is required during any seven-day period. The regular workweek is 40 hours with premium pay for overtime. The law prohibits overtime exceeding 200 hours per year. The laws also apply to foreign workers with work permits; they were enforced effectively and consistently. Labor courts and the Labor Inspectorate enforced occupational safety standards set by the Government, but enforcement was not always effective. Workers have the right to remove themselves from unsafe and unhealthy situations without jeopardizing their continued employment, and this right was generally respected.

On November 16, the National Assembly passed a law instituting a 98 percent special tax on public sector severance packages worth more than 3.5 million forint (\$16,587), imposed retroactively on payments collected after January 1, 2005. The Constitutional Court had struck down the law in October, but Fidesz resubmitted the legislation after a constitutional amendment removed the tax from the court's purview.

On December 23, the National Assembly amended the law on civil servants, giving employers the right to fire civil servants with two months notice without providing justification for the dismissal.

---

## ICELAND

Iceland, with a population of 318,000, is a constitutional parliamentary republic. The president is the head of state; a prime minister, usually the head of the majority party, is head of government. There is a unicameral parliament (Althingi). In 2008 Olafur Ragnar Grimsson was reelected president in free and fair elections. After free and fair parliamentary elections in April 2009, the Social Democratic Alliance (SDA) and the Left-Green Movement (LG) formed a governing coalition led by Prime Minister Johanna Sigurdardottir (SDA). Security forces reported to civilian authorities.

Reported human rights problems included the incarceration of juveniles and adults and of pretrial detainees and convicted prisoners in the same cell, societal discrimination against minorities and foreigners, violence against women, and trafficking of persons to and through the country.

## RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards. The Government permitted monitoring visits by independent human rights observers, but no such visits occurred during the year.

During the year the daily average number of prisoners was 134, and the daily average of pretrial detainees was 18. The prison facilities could hold 161 prisoners. The Government maintained a separate minimum-security prison for female inmates; however, because so few women were incarcerated (four on average), some men were also held there. Men housed in facilities with women were closely monitored and interacted with women only in the common areas; they did not share cellblocks. The Government normally held juvenile offenders in nonprison facilities run and supervised by the Government Agency for Child Protection. In one instance, however, a child was held in detention with adults, since there was no separate facility for juveniles in the prison system. The penal system held pretrial detainees together with convicted prisoners except in those instances when the authorities deemed it necessary to place such detainees in solitary confinement.

When the main prison at Litla-Hraun or in Reykjavik's main pretrial detention facility were overcrowded, pretrial detainees were held in local police station jails. During the year there was a waiting list of 276 persons convicted of crimes but unable to serve their sentences due to a lack of prison space.

The Prison and Probation Administration (PPA) decides whether convicted prisoners who have received a prison sentence of less than six months may serve their sentence in community service rather than in jail. The PPA also maintains records to ensure that prisoners do not serve beyond the maximum sentence for the charged offense.

Prisoners and detainees had reasonable access to visitors and authorities permitted religious observance.

The parliament's ombudsman can, on his own initiative, take up a prison issue, and he did on several occasions. Authorities permitted prisoners and detainees to submit complaints to judicial authorities and the parliament's ombudsman without censorship and to request investigation of credible allegations of inhumane conditions if they so chose. There were no allegations of inhumane conditions during the year. The Government investigated and monitored prison and detention center conditions.

The Government permitted independent monitoring of prison conditions by local and international human rights groups, the media, and the International Committee of the Red Cross, but no such monitoring occurred during the year. The Government permitted visits by independent human rights observers during the year. Prisoners could, and did, request visits from Prisoners' Friends, a group of volunteers from the Icelandic Red Cross. The volunteers spoke with prisoners and provided them with second-hand clothes upon request. There were no prison visits by international human rights monitoring groups during the year.

In May, to ease overcrowding, the Government opened a provisional prison with a capacity for 20 inmates at Bitra in the southern part of the country.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police, and the Government has mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Police may make arrests under a number of circumstances: when they believe a prosecutable offense has been committed, when they see a need to prevent further offenses or destruction of evidence, when they need to protect a suspect, or when a person refuses to obey police orders to move. Arrest warrants usually are not employed; the criminal code explicitly requires warrants only for arresting individuals who fail to appear at court for a hearing or a trial or at a prison to serve a sentence.

Persons placed under arrest must be informed promptly of the charges against them, and upon arrival at the police station, those arrested are entitled to legal counsel, including government-provided counsel for the indigent. Authorities must inform persons under arrest of their rights and bring them before a judge within 24 hours of arrest. The judge determines whether a suspect must remain in custody during the investigation; the judge may grant conditional release, subject to assurances that the accused will appear for trial. There was no functioning bail system.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are generally public but may be closed by judges at the defendant's request or when minors are involved. Defendants are presumed innocent, and courts generally tried cases without delay. Courts do not use juries, but multijudge panels are common. Defendants have access to legal counsel of their own choosing. For defendants unable to pay attorneys' fees, the Government covers the cost; however, defendants who are found guilty are required to reimburse the Government. Defendants have the right to be present at their trial, to confront witnesses, to present witnesses and evidence on their behalf, and to participate in the proceedings. They and their attorneys have access to government-held evidence relevant to their cases. At the discretion of the courts, prosecutors may introduce evidence that police obtained illegally. Defendants have the right to appeal, and the Supreme Court handles appeals expeditiously. These rights extend to all citizens without prejudice.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) issued one decision that found a violation by the country of its obligations under the European Convention on Human Rights. In April the ECHR ruled that the country's law could not compel an employer in the country's building sector to contribute to the Federation of Icelandic Industries, a private organization that he was not legally obliged to join. The ECHR ordered the Government to pay the defendant's legal fees, and the Government complied.

*Civil Judicial Procedures and Remedies.*—A single court system handles both criminal and civil matters. The two levels of the judiciary, the district courts and the Supreme Court, were considered independent and impartial in civil matters. Lawsuits may seek damages for, or cessation of, a human rights violation. Administrative remedies are available as well as judicial remedies for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibits such actions, and the Government generally respected these prohibitions in practice.

Immigration law allows authorities to conduct house searches without a prior court order when there is a significant risk that delay would jeopardize an investigation of immigration fraud. Immigration law also allows authorities to request DNA tests without court supervision in cases where they suspect immigration fraud. There were no reports that DNA testing took place during the year.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Individuals could criticize the Government publicly or privately without reprisal. The independent media were active and expressed a wide variety of views without restriction.

The law establishes fines and imprisonment for up to three months for persons convicted of publicly deriding or belittling the religious doctrines of an active religious organization registered in the country. The law also establishes fines and imprisonment for up to two years for anyone who publicly ridicules, slanders, insults, threatens, or in any other manner publicly assaults a person or a group on the basis of their nationality, skin color, race, religion, or sexual orientation. There were no reports that authorities invoked the law during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. According to data from Statistics Iceland, during the year approximately 92 percent of the country's households had an Internet connection, and 95 percent of persons between the ages of 16 and 74 used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status and the Government has established a system for providing protection to refugees. Human rights advocates, however, complained about the ambiguous nature of the asylum system and the high refusal rate for asylum applications.

The Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government had no fixed refugee acceptance requirements.

In September parliament amended the law to grant the minister of justice and human rights more leeway in postponing the deportation of an asylum seeker awaiting a court decision on an appeal. The initial request for a postponement must come from the asylum seeker. In previous years, human rights advocates criticized the deportation of several asylum applicants when their deportation dates came up although they were awaiting a court decision on an appeal.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the Directorate of Immigration processed 18 applications for asylum. It gave residence permits on humanitarian grounds to six persons and granted refugee status to four asylum seekers, one of whom was a dependent. The Directorate of Immigration rejected seven asylum applications, one of which was on the basis of the Dublin Convention, which allows for the return of refugees and asylum seekers to the first country they entered that is also party to the regulation. One asylum seeker withdrew his/her application or left the country voluntarily.

Asylum seekers were eligible for government-subsidized health care during the processing of their cases, which at times took a year or longer. They could enroll their children in public schools after three months in the country. Asylum seekers could also obtain work permits and attend Icelandic language classes.

The minister of justice and human rights appoints the head of the Directorate of Immigration, which is also the adjudicating body of first instance for asylum cases. Some observers asserted that this hierarchy could constitute a conflict of interest because asylum seekers must appeal denials to the Ministry of Justice and Human Rights. If rejected at that level, however, they can appeal to the courts.

Human rights advocates criticized the law for not specifying which “significant human rights reasons” must underpin granting temporary residence (and eligibility for work permits) while asylum cases are processed, arguing that the situation created the possible appearance of arbitrary decisions. Observers noted that the law was ambiguous about the criteria for granting and denying asylum. This ambiguity, combined with the small number of approved asylum applications, left unclear what considerations were applied in adjudicating the applications of asylum seekers. The law allows for accelerated refusal of applications deemed to be “manifestly unfounded.”

In March the Directorate of Immigration granted a residence permit to a male Kenyan asylum seeker and his family on grounds of possible repression in Kenya. The country's authorities had deported him to Italy in 2008, but the minister of justice and human rights overturned the directorate's decision that same year and ordered it to evaluate the basis of his asylum claim. His family had not been deported, and the Government allowed the man to return to the country and remain during the evaluation period.

The law permits the Government to provide temporary protection to individuals who may not qualify as refugees. The Government has never made use of this au-

thorization. In September parliament broadened the definition of a refugee by granting added protection to individuals who are not defined as refugees under the 1951 Convention relating to the Status of Refugees but who are in need of protection.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In April 2009 the country held parliamentary elections that were considered free and fair. In 2008 the incumbent president was reelected unopposed. Political parties could operate without restriction or outside interference.

There were 26 women in the 63-seat parliament and four women in the 10-member cabinet. One of the nine Supreme Court members and 14 of 40 district court judges were women. No members of minority groups held seats in either parliament or the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were no reports of government corruption during the year.

Most public officials were not subject to financial disclosure laws. Members of parliament are expected, but not required, to report their financial interests to the parliament's presidium for public disclosure. Every member of parliament has registered his or her financial interests. In September parliament passed legislation making the rules on the financing of political parties more transparent.

The law provides for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media. On occasion the Government denied legal requests for information based on reasons of confidentiality. The Government provided the legal reasons for denials. Appeals against refusals by government authorities to grant access to materials may be referred to an information committee consisting of three persons appointed by the prime minister. Permanent employees of government ministries may not be members of the committee.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The independent parliament's ombudsman elected by parliament monitored and reported to national and local authorities on human rights developments to ensure that all residents, whether or not they were citizens, received equal protection. Individuals could lodge complaints with the ombudsman about the decisions, procedures, and conduct of public officials and government agencies. The ombudsman may demand official reports, documents, and records; summon officials to give testimony; and access official premises. Government agencies generally responded to the ombudsman's requests for information and documents within a reasonable time. While the ombudsman's recommendations are not binding on authorities, the Government generally adopted them.

Parliament's General Committee is responsible for legislative oversight of human rights in the country.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, and social status. Various laws implement these prohibitions, and the Government effectively enforced them.

*Women.*—Rape carries a maximum penalty of 16 years in prison. Judges typically imposed sentences of one to three years. The law does not explicitly address spousal rape. In previous years, the Icelandic Counseling and Information Center for Survivors of Sexual Violence (Stigamot) noted that the number of reported rapes consistently rose faster than the number of convictions. According to national police statistics, there were 78 reported rapes in 2009. During that year prosecutors brought nine cases to trial and obtained convictions in two, but the courts had not ruled on six cases by the end of 2009. In 2008 convictions were obtained in four of the 13 cases that went to trial.

During the year 118 women sought temporary lodging at the country's shelter for women, mainly because of domestic violence. The shelter offered counseling to 257 clients. During the year 105 women sought assistance at the rape crisis center of the national hospital (Landspítali—The National University Hospital of Iceland). Activists continued to complain that the burden of proof in rape cases was too heavy and discouraged victims from reporting acts of rape and authorities from prosecuting them. The Government did not respond formally to these concerns.

The law prohibits domestic violence; however, violence against women continued to be a problem. The penalties can range from a fine to 16 years in prison, depending on the type of violence committed. In addition, the law permits judges to increase the sentences of persons who commit violence against persons with whom they had a domestic relationship or other close bond. However, there were no domestic violence cases in which judges actually handed down heavier sentences, and one respected activist expressed concern that sentences were too lenient.

Police statistics indicated that the incidence of reported violence against women, including rape and sexual assault, was low; however, the number of women seeking medical and counseling assistance suggested that many incidents went unreported. As of December 22, law enforcement agencies reported 195 cases of domestic quarrelling and 284 cases of domestic violence to the State Prosecutor's Office. In September the Center for Children and Family Research, commissioned by the Ministry of Social Affairs and Social Security, released a study indicating that 0.5-2.0 percent of all women above the age of 18, or between 590 and 2,360 women, had suffered violence from their spouse or former spouse in 2009.

Some local human rights monitors attributed the underreporting of domestic violence and sex crimes to the infrequency of convictions and to traditionally light sentences. In the few cases of domestic violence that went to court, the courts often continued to base sentences on precedent and rarely made full use of the more stringent sentencing authority available under the law. According to statistics from the Icelandic Counseling and Information Center for Survivors of Sexual Violence, in 2009, the latest year for which data was available, 12.4 percent of its clients pressed charges.

The Government helped finance the Icelandic Counseling and Information Center for Survivors of Sexual Violence, the rape crisis center of the national hospital, and other organizations that assisted victims of domestic or gender-based violence. In addition to partially funding such services, the Government provided help to immigrant women in abusive relationships, offering emergency accommodation, counseling, and information on legal rights.

Two laws prohibit sexual harassment. The general penal code prohibits sexual harassment and stipulates that violations are punishable by imprisonment up to two years. The law on equal status defines sexual harassment more broadly as any type of unfair and/or offensive sexual behavior—physical, verbal, or symbolic—that is unwanted, affects the self-respect of the victim, and continues despite a clear indication that the behavior is undesired. The law requires employers and organization supervisors to make specific arrangements to prevent employees, students, and clients from becoming victims of gender-based or sexual harassment. Victims of harassment can report incidents to the Complaints Committee on Equal Status. Employers are only required to provide their employees with information on the legal prohibitions against sexual harassment in workplaces with 25 or more employees. Gender equality advocates reported receiving several complaints during the year, but there were no court cases.

Although courts could issue restraining orders, advocates expressed concern that such orders were ineffective because courts granted them only in extreme circumstances and the court system took too long to issue them. Victims of sex crimes were entitled to lawyers to advise them of their rights and to help them pursue charges against the alleged assailants; however, a large majority of victims declined to press charges or chose to forgo trial, in part to avoid publicity.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There were no restrictions on the access to contraceptives and maternal health services, including skilled attendance during childbirth. Women had easy access to prenatal care, essential obstetric care, and postpartum care. Women also used nurses and midwives for prenatal and postnatal care unless the mother or child suffered more serious health complications. According to UN estimates for 2008, the maternal mortality rate in the country was five deaths per 100,000 live births. Women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men.

Women enjoy the same legal rights as men, including under the family and property laws and in the judicial system. However, despite laws that require equal pay

for equal work, a pay gap existed between men and women. According to a study conducted by the Social Science Research Institute of the University of Iceland in 2008, women working full time earn 77 percent of the base pay of men who also worked full time, noting, however, that men generally worked longer hours. When working hours were taken into account, women earn 84 percent of the base pay of men. The law states that employers and unions should work towards gender equality in the labor market, especially in managerial positions, and that employers should work towards declassifying jobs as primarily female- or male-oriented. According to the Center for Gender Equality (CGE), the Government has taken steps to attract men to female-oriented jobs and vice versa, but success was limited. The CGE affirmed that many more men than women are in managerial positions.

The Government funded a center for promoting gender equality to administer the Act on Equal Status and Equal Rights of Women and Men. The center also provided counseling and education on gender equality to national and municipal authorities, institutions, companies, individuals, and nongovernmental organizations. The minister of social affairs and social security appoints members of the Complaints Committee on Equal Status, which adjudicates alleged violations of the act. The minister also appoints members of the Equal Status Council, drawn from national women's organizations, the University of Iceland, and labor and professional groups. The council makes recommendations for equalizing the status of men and women in the workplace.

During the year the Complaints Committee on Equal Status decided in the single case brought before it that the law was not breached.

*Children.*—Citizenship is derived by birth from one's parents. A child acquires the country's citizenship at birth if both parents are Icelandic citizens, if the mother is an Icelandic citizen, or if the father is an Icelandic citizen and is married to the child's foreign mother. However, if a mixed-nationality couple had obtained a judicial separation at the time when the child was conceived, the child acquires the mother's citizenship. If the child is stateless, he or she can become an Icelandic citizen at the age of three. In both cases, the child's access to social services depends on whether it has a residence permit in Iceland.

In 2009 local child protection committees, whose work is coordinated by the Agency for Child Protection, received 1,734 reports of abuse, including 769 reports of emotional abuse, 534 of physical abuse, and 447 of sexual abuse. The agency operated three treatment centers and a diagnostic facility for abused and troubled minors and coordinated the work of 30 committees throughout the country that were responsible for managing child protection problems in their local areas. The local committees hired professionals with expertise in social work and child protection.

The Government maintained a children's assessment center to accelerate prosecution of child sexual abuse cases and to lessen the trauma experienced by the child. In 2009 the center conducted 168 investigative interviews, provided assessments and therapy for 139 children, and performed 17 medical examinations.

The children's ombudsman, who is appointed by the prime minister but acts independently of the Government, has a mandate to protect children's rights, interests, and welfare. When investigating complaints, which typically involved physical and psychological abuse and inadequate accommodation for children with illnesses or disabilities, the ombudsman had access to all public and private institutions that housed or otherwise cared for children. The ombudsman was not empowered to intervene in individual cases but could investigate them for indications of a general trend. The ombudsman could also initiate cases at personal discretion. While the ombudsman's recommendations are not binding on authorities, the Government generally adopted them.

The law criminalizes statutory rape with incarceration for up to 12 years. The minimum age for consensual sex is 14. The law prohibits child pornography, which is punishable by up to two years in prison.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community numbered fewer than 100 individuals. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. There were no reports of official discrimination in employment, education, access to health care, and the provi-

sion of other state services. The law also provides that persons with disabilities receive preference for government jobs when they are at least as qualified as other applicants. However, disability rights advocates asserted that the law was not fully implemented and that persons with disabilities constituted a majority of the country's poor.

The Government ensured that persons with disabilities have access to buildings, information, and communications. Building regulations require that public accommodations and government buildings, including elevators, be accessible to persons in wheelchairs, that public property managers reserve 1 percent of parking spaces (a minimum of one space) for persons with disabilities, and that sidewalks outside the main entrance of such buildings be kept clear of ice and snow to the extent possible. Violations of these regulations are punishable by a fine or a jail sentence of up to two years; however, the main association for persons with disabilities complained that authorities rarely, if ever, assessed penalties for noncompliance.

The Ministry of Social Affairs and Social Security was the lead government body responsible for protecting the rights of persons with disabilities. It coordinated the work of six regional offices that provided services and support to persons with disabilities. It also maintained a diagnostic and advisory center in Reykjavik that sought to create conditions allowing persons with disabilities to lead normal lives.

*National/Racial/Ethnic Minorities.*—Immigrants, mainly from Eastern Europe and the Baltic countries, suffered occasional incidents of harassment based on their ethnicity.

In September a father and son of Cuban origin temporarily left the country following a series of allegedly racially motivated attacks on their family home by two men. The case received significant media attention, and the public was generally outraged and showed broad support for the father and son. Following the incident, several other individuals of non-Icelandic ethnicity came forward saying that they had witnessed racism in Icelandic society.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—In August an estimated 80,000 to 100,000 persons attended the annual gay pride march in Reykjavik. The Government authorized the march and police provided sufficient protection to marchers.

There were no reports of societal violence or discrimination based on sexual orientation in employment and occupation, housing, statelessness, or access to education or health care.

*Other Societal Abuses and Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights. Labor unions were independent of the Government and political parties. Approximately 80 to 85 percent of workers belonged to unions. Workers had the right to strike and exercised this right in practice. The Government has imposed mandatory mediation when strikes have threatened key sectors in the economy, such as in the fishing industry. In March parliament passed a bill prohibiting a strike by the approximately 165 aircraft mechanics employed by Icelandair, which would have been forced to cancel many of its flights had the Government not taken this measure.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference and prohibits antiunion discrimination and employer interference in union functions, and the Government protected these rights in practice. The law allows workers, including foreign workers, to bargain collectively, and workers exercised this right in practice. Collective bargaining agreements covered approximately 100 percent of the workforce.

There were no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that women were trafficked to the country from Eastern Europe, Africa, and Brazil for sexual exploitation. There were also reports of persons being trafficked to the country to work in the construction, manufacturing, and restaurant industries. See the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively implemented laws and policies to protect children from exploitation in the workplace.

The law prohibits the employment of persons younger than 16 years of age in factories, on ships, or in other places that are hazardous or require hard labor; this prohibition was enforced in practice. Children who are 14 or 15 years of age may work part time or during school vacations in light, nonhazardous jobs. Their work hours must not exceed the ordinary work hours of adults in the same positions. The Administration of Occupational Safety and Health (AOSH) enforced child labor regulations effectively.

*e. Acceptable Conditions of Work.*—The law does not establish a minimum wage. The minimum wages negotiated in various collective bargaining agreements applied automatically to all employees in those occupations, including foreign workers, regardless of union membership. While the agreements can be either industry-wide, sector-wide, or in some cases firm-specific, the negotiated wage levels are occupation-specific. Labor contracts provided a decent standard of living for a worker and family.

The standard legal workweek is 40 hours, including nearly three hours of paid breaks a week. Work exceeding eight hours per day must be compensated as overtime. Overtime pay does not vary significantly across unions, but unions determine the terms of overtime pay when negotiating a bargaining agreement with the employer's association. Workers are entitled to 11 hours of rest within each 24-hour period and to a day off every week. Under special defined circumstances, employers may reduce the 11-hour rest period to no less than eight hours, but they must then compensate workers with one-and-a-half hours of rest for every hour of reduction. They may also postpone a worker's day off, but the worker must receive the corresponding rest time within 14 days. Foreign workers are entitled to the same protections in terms of working time and rest periods as citizens. The AOSH effectively enforced these regulations.

There were indications that undocumented foreign workers—primarily men in the construction and restaurant industries—were underpaid and required to work long hours while living in substandard housing or even sleeping at building sites. Most sources stressed that the men willingly worked illegally to earn more than they might have expected in their East European or Baltic home countries. The size of the immigrant labor force shrank drastically because of the country's financial and economic crisis that began in 2008.

The law sets health and safety standards, and the Ministry of Social Affairs and Social Security administers and enforces them through the AOSH, which conducted both proactive and reactive inspections. The ministry can close workplaces that fail to meet safety and health standards. Workers have a collective, but not individual, right to refuse to work at a job that does not meet occupational safety and health criteria. It is illegal to fire workers for reporting unsafe or unhealthy conditions, and this law generally was observed in practice.

---

## IRELAND

Ireland, with a population of approximately 4.1 million, is a multiparty parliamentary democracy with an executive branch headed by a prime minister, a bicameral parliament (Oireachtas), and a directly elected president. The country held free and fair parliamentary elections in 2007. Security forces reported to civilian authorities.

During the year there were some reports of police abuse of authority and inadequate care for prisoners with mental disabilities. Domestic violence; mistreatment of children; trafficking in persons; and discrimination against racial minorities, immigrants, and Travellers were problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings. The Government actively cooperated with authorities of the United Kingdom in Northern Ireland in efforts to solve killings and disappearances, and to recover and identify remains related to the activities of armed political dissidents on both sides of the Ireland-Northern Ireland border.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government offi-

cially employed them. Reports by the ombudsman of the national police, which administers the prisons, as well as from the prison chaplain office found no incidents of cruel, inhuman, or degrading treatment or punishment.

Siochana (national police) Ombudsman Commission (GSOC) alleged 3,509 instances of incorrect behavior by the police, of which 1,178 were deemed inadmissible. The GSOC also received 1,543 queries from the general public relating to the procedure for filing complaints. The largest number of allegations related to abuse of authority, followed by neglect of duty. Approximately 15 percent of the allegations were for nonfatal offenses against the person. The overall number of complaints and allegations against police officers decreased approximately 15-25 percent from the previous year.

*Prison and Detention Center Conditions.*—While prison conditions generally met international standards, there were some problems. The Government allegedly inappropriately held some mentally ill prisoners in prisons rather than in mental health care facilities. The Irish Prison Service investigated the case of a mentally ill, homeless woman who was forcibly removed from prison despite saying she had nowhere to go.

Prison overcrowding was a problem. According to the 2009 Irish Prison Service annual report, prisons averaged a 95 percent occupancy rate, with several prisons exceeding their capacity.

Mountjoy Prison was built for 489 prisoners; the Inspector of Prisons has stated that it cannot safely accommodate more than 540 prisoners, but the stated “bed capacity” was 630. As of the end of July, it held 759 prisoners. There was structured activity for a maximum of 391 prisoners.

Vulnerable prisoners at risk of self-harm and suicide were placed in safety observation cells for weeks at a time because there was no high-support unit at Mountjoy Prison, according to a report by the Mental Health Commission. The Mental Health Commission was concerned that observation cells were the only resources available to treat vulnerable prisoners at Mountjoy. The Mental Health Commission also criticized prison authorities for giving nursing staff the authority to place prisoners in cells without the standard four-hour review required at approved mental health facilities.

The Irish Prison Chaplains’ Annual Report criticized overcrowding at Limerick Prison, where, on July 23, there were 322 prisoners detained in a facility originally built for 185.

At times authorities held detainees awaiting trial in the same facilities as convicts. Although the country maintained facilities to provide for separation between children and young adults, authorities held a small number of 17-year-olds with specific individual needs, including the need for higher security, with young adults.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

Human rights groups continued to criticize understaffing and poor infrastructure at the Central Mental Health Hospital in Dundrum, the country’s only secure hospital for prisoners with mental disabilities.

The Government permitted prison visits by domestic and international human rights observers, including the International Committee of the Red Cross. From January 25 to February 5, a delegation from the Council of Europe’s Committee for the Prevention of Torture (CPT) carried out a visit to prisons, detention centers, and psychiatric institutions in the county. The CPT’s did not make the report on the visit by year’s end.

The country does not have an ombudsman who can address such matters as alleviating overcrowding by offering alternatives to incarceration for nonviolent offenders; monitoring the circumstances of confinement of juvenile offenders; and ensuring that prisoners do not serve beyond the maximum sentence for the charged offense by improving pretrial detention, bail, and recordkeeping procedures.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national police and the army, which was authorized to act when necessary in support of the unarmed police. The Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year; however, there were iso-

lated problems of abusive behavior, which the Government investigated and punished.

*Arrest Procedures and Treatment While in Detention.*—An arrest requires a warrant except in situations requiring immediate action for the protection of the public. Authorities must inform detainees promptly of the charges against them and, with few exceptions, cannot hold them longer than 24 hours without charge. For crimes involving firearms, explosives, or membership in an unlawful organization, a judge may extend detention for an additional 24 hours upon the police superintendent's request. The law permits detention without charge for up to seven days in cases involving suspicion of drug trafficking; however, to hold such a suspect longer than 48 hours, police must seek a judge's approval.

Upon their arrest, the law permits detainees and prisoners prompt and unrestricted access to attorneys. If the detainee does not have an attorney, the court appoints one; for indigent detainees, the Government provides. The law allows detainees prompt access to family members.

The law requires that authorities bring a detainee before a district court judge "as soon as possible" to determine bail status pending a hearing. The law allows a court to refuse bail to a person charged with a crime that carries a penalty of five years' imprisonment or more, or when deemed necessary to prevent the commission of another serious offense.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The director of public prosecutions prosecutes criminal cases. Courts generally used jury trials in criminal cases, and the accused may choose an attorney. Indigent defendants have the right to an attorney at public expense. Defendants enjoy the presumption of innocence and have the right to present evidence, question witnesses, and appeal.

The law explicitly allows "special courts" to be created when "ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order." A nonjury "special criminal court" tries all cases the director of public prosecutions certifies to be beyond the capabilities of an ordinary court. The judicial branch selects the three judges making up the special court, which usually includes one high court judge, one circuit court judge, and one district court judge. The panel reaches its verdicts by majority vote. The rules of evidence are generally the same as in regular courts, but the court accepts a sworn statement of a police chief superintendent identifying the accused as a member of an illegal organization as prima facie evidence of such membership. Special criminal court proceedings are generally public, but judges may exclude certain persons other than journalists. Both defendants and prosecutors may appeal special criminal court decisions to the court of criminal appeal.

The constitution allows the parliament to create tribunals, with limited powers, to investigate designated matters, usually cases of government corruption. They do not try cases; however, if warranted, their findings may be the basis for formal charges. In each instance, the legislation creating the tribunal sets out its powers and rules of procedure. Authorities established some tribunals to last indefinitely and established others only for a specific task.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—On September 10, the Grand Chamber of the European Court of Human Rights (ECHR) issued a judgment in the case of *McFarland v. Ireland* that found that the state had violated articles 6 (right to a fair trial) and 13 (right to an effective remedy) of the European Convention on Human Rights. The ECHR ordered the Government to pay the applicant, Brendan McFarlane, 5,500 euros (\$7,370) in non-pecuniary damages and 10,000 euros (\$13,400) in court costs.

The applicant, Brendan McFarlane, lodged the complaint on grounds of alleged false imprisonment related to his 1998 arrest for unlawful possession of firearms. McFarlane claimed that delayed proceedings and lack of access to certain evidence had deprived him of his right to a fair trial. His complaint to the European Court of Justice stated that because of delays, key evidence in his defense was lost.

The Government has said that it intends to comply with the judgment, and has three months to pay the non-pecuniary damages.

*Civil Judicial Procedures and Remedies.*—The independent and impartial judicial system hears civil cases and appeals on civil matters, including damage claims re-

sulting from human rights violations; such claims may be brought before all appropriate courts, including the Supreme Court.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech, and the Government generally respected this right in practice.

The constitution provides for freedom of the press with the qualification that it not “undermine public order or morality or the authority of the state.” The constitution prohibits the publication or utterance of “blasphemous, seditious, or indecent” material. The law provides that a person can be found guilty of blasphemy if “he or she publishes or utters matter that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion.” The maximum penalty for this offense is a 25,000 euro (\$33,500) fine.

The law proscribes words or behaviors that are likely to generate hatred against persons in the country or elsewhere because of their race, nationality, religion, national origins, or sexual orientation. There were no reports that authorities invoked these provisions during the year.

The law empowers the Government to prohibit the state-owned radio and television network from broadcasting any material “likely to promote or incite to crime or which would tend to undermine the authority of the state.” Authorities did not invoke this prohibition during the year.

The independent media were active and expressed a wide variety of views without government restriction.

The Censorship of Publications Board has the authority to censor books and magazines it finds indecent or obscene. The board did not exercise this authority during the year.

The Irish Film Classification Office (IFCO) must classify films and videos before they can be shown or sold; it must cut or prohibit any film that is “indecent, obscene, or blasphemous” or which tends to “inculcate principles contrary to public morality or subversive of public morality.” During the year the IFCO did not prohibit any films or videos.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics, during the year approximately 66 percent of the country’s inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected this right. The law allows the state to “prevent or control meetings” that authorities believe would breach the peace or to be a danger or nuisance to the general public.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country’s laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

A refugee in Irish law is someone who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, unwilling to avail himself or herself of the protection of that country...” The law provides that a social group can include membership of

a trade union or a group of people whose defining characteristic is sexual orientation.

Refugee status is granted if an applicant meets the requirements set out in the above definition. If granted, this status provides protection against return to the person's country of origin or residence, and includes the right to family reunification of immediate family members. Recognized refugees are entitled to work or operate a business and to access medical, social welfare and education services on the same basis as Irish citizens. They are also provided with a residence permit.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Government operated a resettlement program that accommodates up to 200 persons per year on referral from the UNHCR or identified through selection missions to existing UNHCR refugee operations.

There were no reports of discrimination against refugees, restrictions on their ability to work, or access to education and law enforcement.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Observers reported that the 2007 parliamentary elections were free and fair. Political parties could operate without restriction or outside interference.

There were 22 women in the 166-seat house of representatives (Dail Eireann) and 12 women in the 60-seat senate (Seanad Eireann). The president of the republic was a woman, as were three of the 15 government ministers. There were five women on the 34-member High Court and two on the eight-member Supreme Court.

There were no minorities in the lower house, the senate, or the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. During the year there were some allegations of government corruption; there were no confirmed reports of police corruption.

Public officials were subject to financial disclosure laws. The Revenue Commission in the Department of Finance is responsible for identifying and combating government corruption.

The law provides for public access to government information and requires government agencies to publish information on their activities and make such information available to citizens, noncitizens, and foreign media upon request. Authorities generally granted public information requests and did not charge prohibitive fees. There were mechanisms for appealing denials.

There were no reports of any corporation based in or operating under the jurisdiction of Ireland that through illicit trade in natural resources, supported armed groups accused of committing abuses.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The country has an ombudsman for the press and a human rights commission.

The Irish Human Rights Commission (IHRC) was established under statute in 2000 to promote and protect those rights, liberties, and freedoms guaranteed under the constitution and under international agreements, treaties, and conventions to which the country is a party for all persons living or present in Ireland.

The IHRC fulfills its statutory mandate by: Promoting awareness about human rights; Promoting and providing human rights education and training; Recommending to government how human rights standards should be reflected in legislation, policy, and practice; Promoting debate around human rights issues as part of the legislative process; Appearing before the High Court and Supreme Court to assist the courts with the interpretation of human rights standards in specific cases; Carrying out inquiries into human rights concerns; Publishing and promoting research and reports on human rights.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination in employment on the basis of gender, marital status, family status, sexual orientation, religion, age, disability, race, and membership in the Traveller community, and the Government sought to enforce the law; however, discrimination against racial and ethnic minorities, including immigrants and Travellers, remained a problem.

*Women.*—The law criminalizes rape, including rape within marriage, and the Government enforced it. The law provides for free legal advice to victims of serious sexual assault. There were 2,250 sexual offenses reported to authorities, including 436 rapes. The police and judicial authorities showed no reluctance to investigate and prosecute rape or sexual assaults. Most of the persons convicted received prison sentences of between five and 12 years.

The law criminalizes domestic violence, but such violence continued to be a problem. The law authorizes prosecution of a violent family member and provides victims with safety orders that prohibit a person from engaging in violent actions or threats and orders that bar an offender from entering the family home for up to three years. Victims may apply for interim protection while courts process their cases. Violations of these orders are punishable by a fine of up to 1,900 euros (\$2,546).

The police have the power to arrest and prosecute any person for illegal violent acts, including those committed against a family member. Under the law there are two main kinds of protection available: a safety order and a barring order.

A safety order is an order of the court prohibiting the violent person from further violence or threats of violence. A barring order is an order requiring the violent person to leave the family home, to refrain from further violence or threats of violence, and not to come into the close proximity of the family home.

There were over 14,000 incidents of domestic violence disclosed to the Women's Aid Helpline. These included 8,629 incidents of emotional abuse, 3,479 incidents of physical abuse, and 1,679 incidents of financial abuse.

The Government funded centers throughout the country for victims of domestic abuse. Several NGOs complained about a lack of bed spaces in domestic refuge shelters.

The law obliges employers to prevent sexual harassment and prohibits dismissing an employee for making a complaint of sexual harassment. The Equality Authority investigates claims of unfair dismissal and may require an employer to reinstate the employee or pay the employee up to 104 weeks' pay. Authorities effectively enforced the law in the cases of reported sexual harassment.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so, free from discrimination, coercion, and violence. Women had access to contraception and skilled attendance during childbirth. According to information compiled by international organizations, the maternal mortality rate in 2009 was approximately three deaths per 100,000 live births. The neonatal mortality rate was approximately four deaths per 1,000 live births. Women were not subject to coercive family planning. Men and women were diagnosed and treated equally for sexually transmitted infections, including HIV. There are no legal barriers that prevent women from taking advantage of these services.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. However, inequalities in pay and promotions persisted in both the public and private sectors. The average earnings of a woman were 78 percent of those of a man doing similar work. Women constituted 43 percent of the labor force but were underrepresented in senior management positions.

*Children.*—A person born on the island of Ireland, including Northern Ireland, after January 1, 2005 is automatically an Irish citizen if at least one parent is an Irish citizen, a British citizen, a resident of either the Republic of Ireland or Northern Ireland entitled to reside in either without time limit, or a legal resident of the Republic of Ireland or Northern Ireland for three out of the four years preceding the child's birth (excluding time spent as a student or an asylum seeker).

In 2009 the Dublin Rape Crisis Center reported that 52.8 percent of the calls to its crisis line involved child sexual abuse. The law requires government health boards to identify and help children who are not receiving adequate care and gives police the authority to remove children from the family if there is an immediate and serious risk to their health or welfare.

Unaccompanied minors entering the country continued to be a matter of concern. During the year, 11 unaccompanied children seeking asylum in the country went missing from government care, according to figures released by the Health Service

Executive. The missing children are all under 18 years old and arrived in the country without parents or guardians. Six of the 11 children were later found. Unaccompanied children who seek asylum are considered vulnerable to exploitation because they do not have parents or guardians in the country.

Numerous NGOs offered support for abuse victims, as well as resources for parents and professionals who work with children. The construction of a national children's hospital in Dublin was delayed because of budgetary constraints.

The Ombudsman for Children investigates complaints from children or persons acting on their behalf against various governmental and nongovernmental bodies and promotes child welfare. The ombudsman provides an independent complaints handling service in regard to public bodies, as well as promoting children's rights through participation and communication activities.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—According to the 2006 census, the Jewish community numbered 1,930 persons.

There were no reports of anti-Semitic acts during the year.

In August an anti-Semitic Facebook site was taken down by the company. The name of the site was “The Invasion of Jews in Midleton” and contained negative anti-Semitic stereotypes and jokes about the Holocaust. Representatives of the Jewish community reported being saddened and startled by the incident.

There were no developments and none were expected in the cases of the 2008 anti-Semitic voice message left on the answering machine of the Dublin Hebrew Congregation or the May 2008 painting of anti-Semitic slogans and a swastika on the home of a Jewish couple in Tuam.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual and mental disabilities in employment, education, access to health care, and the provision of other state services or other areas; and the Government effectively enforced these provisions. The Government effectively implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications. The Government does not restrict the right of persons with disabilities to vote or participate in civic affairs. The National Disability Authority has responsibility for setting and implementing disability standards, as well as directing disability policy.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination based on language or social status, and the Government enforced the law; however, societal discrimination and violence against immigrants, and racial and ethnic minorities continued to be a problem.

There were racially motivated incidents involving physical violence, intimidation, graffiti, and verbal slurs. NGOs reported problems with landlords refusing to rent property to immigrants who were not born in Ireland. NGOs also reported that immigrants, particularly Africans, suffered unemployment disproportionately during the economic downturn.

According to the 2006 census, 22,369 persons identified themselves as members of an indigenous nomadic group called “Travellers,” with a distinct history and culture. The Government recognizes Travellers as a social group rather than a distinct ethnic group. Travellers faced societal discrimination and were denied access to premises, goods, facilities, and services, despite applicable antidiscrimination laws and longstanding government policies to redress imbalances.

Despite national regulations, Travellers frequently experienced difficulties enrolling their children in school. Of the estimated 5,000 Traveller families, approximately 1,000 lived at sites without electricity or sanitary facilities. Many Travellers depended on social welfare for survival, and their participation in the economy was limited by discrimination and lack of education.

The law obliges local officials to develop accommodations for Travellers and to solicit Traveller input into the process. Traveller NGOs asserted that many communities provided Travellers with housing, such as government-owned apartments or townhouses, which was inconsistent with the nomadic Traveller lifestyle, or provided transient caravan-camping sites that did not include basic amenities such as sanitary facilities, electricity, and water.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Most cities and many towns celebrated gay pride with parades and festivals. The Government endorsed these activities and provided sufficient protection.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join independent unions of their choice without previous authorization or excessive requirements, and these rights were respected in practice. Approximately 33 percent of workers in the private sector and 95 percent in the public sector were unionized. Among foreign-owned firms, an estimated 80 percent of workers did not belong to unions, although pay and benefits were usually more attractive compared with domestic firms. Police and military personnel may form associations, but technically not unions, to represent them in matters of pay, working conditions, and general welfare. The law allows unions to conduct their activities without government interference, and this right was exercised in practice. The law provides for the right to strike, except for police and military personnel, and workers exercised this right in both the public and private sectors.

*b. The Right to Organize and Bargain Collectively.*—Labor unions have the right to pursue collective bargaining and in most instances did so freely; however, the law did not require employers to engage in collective bargaining, and they did not encourage it.

There were no reports of antiunion discrimination.

There are no special laws or exemptions from regular labor laws in the export processing zone at the Shannon airport.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. NGOs reported that men and women were trafficked into the country for work in the construction industry, commercial fishing, as domestic servants in private homes, or in agriculture. Trafficked women and girls were forced into prostitution. NGOs believed a number of Romani children have been trafficked for the purpose of forced begging; however, given the difficulty in understanding Romani family structures, they could not confirm that the children were not with a natural parent. Officials asserted that while trafficking and labor exploitation occurred, the magnitude of the problem was small.

The Government partnered with the International Labor Organization in its antitrafficking initiative and formed a labor exploitation working group involving members from trade unions and employer organizations.

Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government implemented laws and policies to protect children from exploitation in the workplace, and the Government effectively enforced these laws. Children were trafficked for commercial sexual exploitation, forced begging, and work in restaurants and domestic service. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Under the law, employers may not hire children under the age of 16 in a regular, full-time job. Employers may hire 14- or 15-year-olds for light work on school holidays as part of an approved work experience or educational program. Employers may hire children over the age of 15 on a part-time basis during the school year. The law establishes rest intervals and maximum working hours, prohibits the employment of 18-year-olds for late night work, and requires employers to keep detailed records on workers under 18 years of age. The Office of the Labor Inspectorate at the Department of Enterprise, Trade, and Employment is responsible for enforcement and was generally effective.

*e. Acceptable Conditions of Work.*—The national minimum hourly wage, which was 8.65 euros (\$11.60) for most of the reporting period, was reduced to 7.65 euros (\$10.25) in December as a budgetary austerity measure. Low-income families were entitled to such benefits as subsidized housing, medical coverage, and children's allowances to compensate for low wages. Legally resident foreign migrant workers are also eligible for this type of assistance. During the year reports persisted that the pay of foreign migrant workers was at times below the minimum wage, particularly in the rural agricultural and construction sectors. Laws establishing and regulating wage levels do not explicitly cover foreign migrant workers.

The Government operated a labor-monitoring agency independent of the Department of Enterprise, Trade, and Employment. The agency was active and effective. The standard workweek is 39 hours. The law limits working hours in the industrial sector to nine hours per day and 48 hours per week. The law limits overtime work to two hours per day, 12 hours per week, and 240 hours per year. The Government effectively enforced these standards. Although there is no statutory entitlement, premium pay for overtime could be arranged between employer and employee.

The Department of Enterprise, Trade, and Employment is responsible for enforcing occupational safety laws, and these laws provided adequate and comprehensive protection. There were no complaints from either labor or management during the year regarding shortcomings in enforcement. Regulations provide workers with the right to remove themselves from dangerous work situations that present a “serious, imminent, and unavoidable risk” without jeopardy to their continued employment, and authorities effectively enforced this right.

## ITALY

Italy is a multiparty parliamentary democracy with a population of approximately 60 million. The bicameral parliament consists of the Chamber of Deputies and the Senate. The constitution vests executive authority in the Council of Ministers, headed by the president of the council (the prime minister). The president, who is the head of state, nominates the prime minister after consulting with the leaders of all political forces in the parliament. International observers considered the 2008 national parliamentary elections free and fair. Security forces reported to civilian authorities.

Principal human rights problems were lengthy pretrial detention; excessively long court proceedings; violence against women; trafficking in persons; and reports of negative attitudes and harassment of gays, lesbians, Roma, and other minorities.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings, however, during the year security forces were involved in several controversial killings.

On February 6, police in Bergamo shot and killed a Moroccan immigrant, Aziz Amiri. Press reports state that the decedent’s car rammed a military vehicle when it was subjected to a traffic stop. Prosecutors opened an investigation for disproportionate use of force by police as they attempted to arrest Amiri.

On October 9, the parents of Federico Aldrovandi agreed to a two-million-euro (\$2.7 million) settlement with the Ministry of the Interior over the death of their son from a beating by four police officers in 2005. In July 2009 the court in Ferrara sentenced the four police officers to 42 months in prison for manslaughter. On March 5, three of the officers were found guilty of dereliction of duty and abetting dereliction. On December 10, the trial against the fourth officer began.

On October 14, a court in Rome sentenced a police inspector, Paolo Morra, to 10 years in prison and three years in a psychiatric hospital for the killing of his neighbor, Cheikh Diouf, a Senegalese immigrant. The incident, which took place in Civitavecchia in January 2009, was the result of a minor dispute.

On December 1, the Appeals Court of Florence sentenced a police officer, Luigi Spaccarotella, to nine years and four months’ imprisonment for the murder of Gabriele Sandri during a fight between rival soccer fans in Arezzo in 2007. Spaccarotella had been sentenced to six years in jail for manslaughter in July 2009, but the appeals court ruled that the killing was voluntary.

Doctors who performed the autopsy in the March 2009 case of the Algerian man who died in a center for identification and expulsion in Rome determined that his death was the result of a heart attack. Other detainees had claimed that police officers had beaten him. The results of an internal investigation by the Ministry of the Interior have not been released.

In September 2009 a trial against two police officers charged with the murder of Giuseppe Turrisi, a man who was living in a homeless shelter, began in Milan. A final ruling on the case was not reported as of year’s end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police occasionally used excessive force against persons, particularly Roma and immigrants, de-

tained in connection with common criminal offenses or in the course of identity checks.

On October 19, two police officers were indicted for having restrained and beaten a man who had stolen a car in Milan in August 2009. Another officer was put on trial for aiding and abetting his two colleagues.

On December 7, a trial began against eight Parma police officers charged with assaulting Emmanuel Bonus Foster while arresting him in 2008 on drug charges.

On April 4, the Council of Europe's Committee for the Prevention of Torture (CPT) published the report of its 2008 visit to the country's prisons and detention facilities. The CPT reported that in general detained persons were correctly treated and that overall conditions were satisfactory, but that the country's prisons and detention facilities nevertheless had significant problems.

While most detained persons that the CPT interviewed reported that police treated them correctly in custody, the CPT did receive a number of allegations of physical mistreatment and excessive use of force by police and Carabinieri officers and, to a lesser extent, by officers of the financial police. The alleged mistreatment consisted in the main of punches, kicks, or blows with batons at the time of apprehension and, on occasion, during custody in a law enforcement establishment. Most of the allegations related to police and Carabinieri officers in the Brescia area. In a number of cases, the CPT found medical evidence consistent with the allegations.

On June 17, the Appeals Court of Genoa sentenced Gianni De Gennaro, who was head of the National Police during protest demonstrations at the 2001 G-8 Summit, to 16 months' imprisonment for having induced police officers to give false testimony regarding police behavior toward the protesters. However, De Gennaro retained his position as the director of the department responsible for oversight of Italy's two main intelligence agencies. His lawyers planned to appeal the case to the Supreme Court, but a date for the final ruling on the case has not been set.

On March 5, an appeals court sentenced seven police officers to prison terms of 12 to 38 months for the "inhuman or degrading treatment," including assault, on some detained 2001 G-8 Summit protesters. Originally 44 police officers were put on trial. The other 37 were not sentenced because the statute of limitations had run out. The court ordered all 44 defendants to pay compensation to the victims. On May 18, the Genoa Appeals Court sentenced 25 police officers to prison terms of 44 to 48 months for perjury, conspiracy, or assault stemming from their raid on a building used by the protesters.

In its report released on April 4, the CPT noted that, in addition to violating the principal of refoulement, authorities carrying out government's policy known as "push-back," which involves intercepting migrants at sea and returning them to non-European countries, used disproportionate appropriate force (see section 2.d.).

On June 7, the Ministerial Committee of the Council of Europe called on Italy to avoid deportations that would violate European Court of Human Rights (ECHR) rulings. The Ministry of Interior expelled four Tunisians, including Toumi Ali Ben Sassi in 2009 and Ben Khemais in 2008, who were suspected of terrorism. The ECHR ruled that the deportations violated the European Convention on Human Rights on the grounds that the returned men risked torture and mistreatment in their home country.

*Prison and Detention Center Conditions.*—Many prison and detention centers met international standards, although some prisons were seriously overcrowded and antiquated. The Government permitted visits by independent human rights observers.

On July 15, a Rome prosecutor requested the indictment of 13 physicians, nurses, and agents charged with violence, perjury, abuse of power, and abetting in the death of Stefano Cucchi, who was under arrest for drug possession. While he was in custody, police transferred him to Rebibbia prison and then to a hospital, where he died in October 2009. The judge's ruling was pending at year's end.

As of November 30, according to the Ministry of Justice, 69,155 inmates were in a prison system designed to hold 44,066; however, the uneven distribution of prisoners left a few institutions particularly overcrowded. Older facilities lacked outdoor or exercise space, and some prisons lacked adequate medical care. In September approximately 54 percent of inmates were serving sentences; 43 percent were mainly detainees awaiting trial. Prisoners had access to visitors and attorneys and were allowed to submit complaints to judicial authorities, who generally investigate credible allegations. The Government and nongovernmental organizations (NGOs) regularly monitored the prison system.

According to an independent research center, between January and November, 160 prisoners died in custody, 61 of them by suicide. There were allegations that a small number of these deaths were the result of abuse or negligence on the part of prison officials.

In its April 4 report, the CPT noted that conditions were generally acceptable in the country's prisons, but many prisons were seriously overcrowded, and in some cases prisoners lacked basic hygiene items. The CPT also noted that, in some cases, corrections officers used excessive or disproportionate force to restrain prisoners, which at times resulted in injuries. The CPT found that in some prisons, prisoners sentenced to long terms did not have sufficient access to family visits or telephone calls.

In December an officer from the Via Corelli Identification Center was sentenced to seven years and two months in prison for the 2009 rape of a Brazilian transsexual inmate.

Some groups, including the NGO Doctors without Borders, claimed that conditions in detention centers were poor and that there was evidence of overcrowding. There were reports of disturbances at detention centers for immigrants throughout the year. For example, on August 28, 30 detainees staged a protest at Gradisca d'Isonzo, while nine other detainees used the disturbance for an escape attempt. The next day detainees continued to try to escape, injuring soldiers who were attempting to restore order. On December 12, detainees protested at the Via Corelli detention center in Milan. A week later detainees caused additional property damage at the detention center.

The law does not require pretrial detainees to be held separately from convicted prisoners; they were held together in smaller prisons.

The Government permitted visits to detention facilities by independent human rights organizations, parliamentarians, and the media.

Several municipalities and the NGO Antigone had permanent independent ombudsmen to promote the rights of detainees and facilitate access to health care and other services. The central government assigned magistrates to every prison in the country to provide for prisoners' rights, to apply measures to prevent infiltration of organized crime amongst inmates, and to examine alternatives to incarceration. The magistrates also made decisions on eligibility for parole and work release.

The Government provided access to detention centers for representatives of the Office of the UN High Commissioner for Refugees (UNHCR), and these visits were in accordance with the UNHCR's standard modalities.

On January 14, the Government adopted a prison plan designed to establish 18 new facilities from 2011 and to hire 2,000 additional prison guards. In September the Government approved a decree enabling citizens of other EU countries serving prison sentences in Italy to be transferred to, and serve out their sentences in, their countries of origin.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the Carabinieri, the national police, the financial police, and municipal police forces. The Government has effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces during the year; however, long delays by prosecutors and other authorities in completing some investigations undercut the effectiveness of mechanisms to investigate and punish police abuses. Police have proven effective at enforcing laws, conducting investigations, and seizing assets of criminal organizations, taking into account the resources dedicated to such activities.

*Arrest Procedures and Treatment While in Detention.*—To detain an individual, police require a warrant issued by a public prosecutor unless a criminal act is in progress or there is a specific and immediate danger to which they must respond. When authorities detain a person without a warrant, an examining magistrate must decide within 24 hours of the detention whether there is enough evidence to proceed with an arrest. The investigating judge then has 48 hours to confirm the arrest and recommend whether to prosecute. In terrorism cases authorities may hold suspects 48 hours before bringing the case before a magistrate.

Authorities generally respected the right to a prompt judicial determination. Although the law entitles detainees to prompt and regular access to lawyers of their choosing, authorities did not always respect that right in practice. In its April 4 report, the CPT found that in some cases police effectively denied detained persons the right to an attorney, which can be invoked only at the time of arrest, by engaging them in "informal chats" before a formal arrest was made.

The law permits detainees access to family members. The state provides a lawyer to indigent persons. In exceptional circumstances, usually in cases of organized crime figures where there is danger that attorneys may attempt to tamper with evidence, the investigating judge may take up to five days to interrogate the accused before access to an attorney is permitted. Some NGOs and international organiza-

tions asserted that the terrorism law is deficient in due process and in some cases resulted in the deportation or return of alien suspects to countries where they had reason to fear persecution. The law allows increased surveillance and enhanced police powers in terrorism cases to gather evidence, for example, DNA for purposes of identification (see section 2.d.).

Lengthy pretrial detention and trial delays were significant problems. During the first half of the year, 43 percent of all prisoners were either in pretrial detention or awaiting a final sentence. The maximum term of pretrial detention is two to six years, depending on the severity of the crime. According to independent analysts and magistrates, delays were due to the large number of trials, the lack of non-judicial remedies, and insufficient and inadequate distribution of offices and resources, including judges and staff.

There is no provision for bail; however, judges may grant provisional liberty to suspects awaiting trial. As a safeguard against unjustified detention, detainees may request that a panel of judges (liberty tribunal) review their cases on a regular basis and determine whether continued detention is warranted.

Authorities may impose preventive detention as a last resort if there is evidence of a serious felony or if the crime is associated with the Mafia or terrorism. Except in the most extraordinary situations, the law prohibits preventive detention for pregnant women, single parents of children under age three, persons more than 70 years of age, and those who are seriously ill.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice; however, most court cases involved long trial delays.

There were some reports of judicial corruption. On July 12, the Supreme Council of the Magistracy initiated a disciplinary action against Alfonso Marra, the president of the Milan Court of Appeals. Several regional politicians, a former judge, and others with possible links to an organized group pressured members of the council to secure Marra's appointment to the Milan court. After his appointment there were allegations that the same group pressured Marra to rule in favor of recertifying candidates previously barred from running in regional elections. In March the court had initially denied those candidates' petitions and other paperwork due to alleged irregularities in signatures.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Although the law provides that defendants have access to an attorney in a timely manner, authorities did not always respect this right in practice. Defendants may confront and question witnesses against them and may present witnesses and evidence on their own behalf. Prosecutors must make evidence available to defendants and their attorneys upon request. Defendants have a presumption of innocence and the right to appeal verdicts.

On July 27, an appeals court in Milan ruled that a man arrested in 2002 and convicted of rape, but found to be innocent of the crime in 2005 and January 2009, should receive 58,000 euros (\$78,000) in compensation for his 247 days of incarceration, his loss of work, and the eight years he lived under a false accusation of pedophilia.

Domestic and European institutions continued to criticize the slow pace of justice. The Court of Cassation estimated that 18,000 new cases were initiated at the national level during the first six months of 2009, compared with 14,000 in the same period of 2008. Also in 2009 courts rendered 6,800 judgments against the Government for excessively protracted proceedings.

Courts could determine when the statute of limitations should apply, and defendants often took advantage of the slow pace of justice to delay trials through extensive pleas and appeals.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—All citizens have the right to appeal their cases to the ECHR. The Government complied with the ECHR's final decisions on such appeals. In 2009 the ECHR found that the country violated the European Convention on Human Rights in 69 cases, compared with 83 in 2008.

On April 13, the ECHR found that the Government violated the European Convention on Human Rights in expelling a Tunisian national, Mourad Travelsi, suspected of terrorism. The court ordered the authorities to pay 21,000 euros (\$28,000) in damages, court costs, and compensation. In 2008 the Ministry of Interior deported Travelsi to Tunisia despite a previous court ruling that suspended his expulsion from Italy.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent and impartial judiciary in civil matters. Civil remedies are determined by law. Arbitration is allowed and regulated by contracts. Often citizens and companies turned to arbitration because of trial delays.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Searches and electronic monitoring were generally permissible with judicial warrants and in carefully defined circumstances. The Court of Cassation's lead prosecutor may authorize wiretaps of terrorism suspects at the request of the prime minister.

The media published leaked transcripts of government wiretaps authorized as part of continuing investigations. Between February and May, two leading national newspapers, *Corriere della Sera* and *La Repubblica*, published transcripts of telephone calls, including personal details, between various persons who were under investigation for their possible involvement with irregularities in the awarding of contracts by the Government.

The law allows magistrates to destroy illegal wiretaps discovered by police.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to provide for freedom of speech and the press.

The independent media were active and expressed a wide variety of views. However, disputes over partisanship continued to prompt frequent political debate. The two main opposition parties and NGOs contended that media ownership was concentrated in too few hands. Prime Minister Silvio Berlusconi's family holding company, Fininvest, held a controlling share in the country's largest private television company, Mediaset; its largest magazine publisher, Mondadori; and its largest advertising company, Publitalia. His brother owned one of the country's nationwide dailies, *Il Giornale*. Italian media organizations tended to reflect the point of view of their proprietors, whether a political party or a business entity.

Freedom House's 2010 report noted "increased government attempts to interfere with editorial policy at state-run broadcast outlets."

During the year, the National Federation of the Italian Press criticized some instances of what it described as excessive restrictions on freedom of expression.

On July 14, police in Chiavari searched the newsroom of the daily *Secolo XIX*, which had published details and wiretap transcripts obtained from a police investigation into organized crime. The regional association of journalists protested the newsroom search.

Public officials continued to bring cases against journalists under the country's libel laws.

On August 2, the president of the Chamber of Deputies, Gianfranco Fini, announced that he had filed suit against the newspaper *Il Giornale* for publishing defamatory articles alleging that the brother of his girlfriend improperly acquired an apartment that was originally donated to the political party founded by Fini.

On June 19, journalist Marco Travaglio was fined 16,000 euros (\$21,000) for making defamatory comments about the president of the senate, Renato Schifani, during a nationally broadcast RAI television talk show that aired in 2008.

On October 21, Prime Minister Berlusconi filed a libel suit against television journalist Milena Gabatelli of the national broadcaster RAI. She dedicated part of her weekly show to investigating Berlusconi's real estate investments in Antigua. Gabatelli suggested that the prime minister might have been involved in money laundering.

There was no update during the year on Prime Minister Berlusconi's libel suit against the daily *La Repubblica* for the publication of a list of leading questions including some that concerned matters which became public when Berlusconi's wife asked for a divorce.

There was no update during the year on Prime Minister Berlusconi's libel suit against the daily *L'Unita* for printing two unfavorable articles on his private life in July and August. Berlusconi sought three million euros (\$4 million) in damages.

In the view of most observers the risk of such suits did not affect adversely the willingness of the press to report on politically sensitive subjects.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

There were no reports of government attempts to collect, request, obtain, or disclose the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief.

A special unit of the police monitored Web sites for crimes involving child pornography online. The Government could request other governments to block foreign-based Internet sites if they contravened national laws. As an antiterrorism measure, authorities required that Internet cafe operators obtain licenses and that those utilizing wireless Internet areas register personal information before logging on. According to Eurostat, in 2009 approximately 53 percent of citizens had access to the Internet at home.

On February 25, a Milan court convicted three Google executives for privacy violations, but acquitted them of criminal defamation charges, related to a video clip that was uploaded to Google Video in 2006 that showed an autistic student being bullied by other students. The three executives received suspended six-month sentences. Google stated that it was unaware of the video and removed it within two and one-half hours after police notified the company of the objectionable content. Google appealed the verdict. The case sparked considerable international debate over Internet freedom and the balance between privacy, intellectual property rights, and combating criminal behavior.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

The Government cooperated with the Office of the UNHCR and other humanitarian organizations to protect and assist refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use forced exile in practice.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The country is a party to the EU's Dublin II Instruction, whose partners generally transfer asylum applications to the first EU member country in which the applicant arrived. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

In 2009, 17,600 persons applied for asylum, compared to 30,500 in 2008. According to the UNHCR, the dramatic decrease in asylum requests was the result of the country's controversial repatriation of persons aboard boats intercepted in the Strait of Sicily in international waters before they reached land. In 2009, 2,230 immigrants were granted asylum status. The Government issued temporary residence permits which had to be renewed periodically. While not a guarantee, these temporary permits could lead to future permanent residence. According to the UNHCR, the top three countries of origin of asylum seekers were Nigeria, Somalia, and Pakistan. Turkey and Greece often served as part of the transit corridor for asylum seekers from Pakistan and other countries of that region.

The Government also provided temporary protection to individuals who may not qualify as refugees. In 2009, 5,194 persons received temporary protection, and 2,149 obtained humanitarian protection.

In practice the Government provided protection against the expulsion or return of persons with refugee status to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Between August 2009 and July 2010, the Ministry of the Interior identified 3,500 individuals who came ashore illegally from North Africa, compared to 29,000 in the previous 12 months. Those who were apprehended were sent to temporary detention centers for processing, and a magistrate determined whether to deport them (if their identity could be ascertained), issue them an order to depart (if their identity could not be ascertained), or accept them for asylum processing.

According to the Government, 6,600 unaccompanied minors lived in the country in September 2009, 77 percent of them undocumented. Their top countries of origin were Morocco, Egypt, Albania, and Afghanistan. The Interior Ministry equipped special sections of identification centers to host minors.

During the year the Government continued to implement its 2008 agreement with Libya that included provisions for patrolling the Libyan coast by Italian and Libyan officers using Italian boats. The controversial agreement allows all immigrants departing from the Libyan coast, not only Libyan nationals, to be turned back before they reach Italy.

Amnesty International's annual report, released in May, criticized Italy for "expelling immigrants to countries that don't guarantee the respect of their rights"; fail to screen foreigners; and fail to identify refugees, unaccompanied minors, and victims of trafficking. The report also accused the Italian and Maltese governments of stopping boats in international waters without providing basic assistance to migrants on board. According to the Ministry of Interior, during the year, no boats were sent back to Libya by Italian authorities. Between January and March, only 52 intending immigrants made it to shore in Sicily compared to 4,450 during the same period in 2009. From January to July, an estimated 1,000 migrants coming from Turkey and Greece reached Puglia.

On April 24, the director of the police department for immigration, Rodolfo Ronconi, and the head of the financial police, Vincenzo Carrarini, were indicted in Siracusa for ordering the interception and return to Libya of a boat carrying 75 persons (including some minors) in August 2009. The charges alleged that those on the boat were returned against their will and were not allowed access to procedures for the protection of refugees.

In the report on its 2009 visit to the country that was released in April, the CPT described the Government's "push-back" policy of intercepting migrants seeking to reach the country by sea before they can reach the country's territorial waters. According to the report, "the policy, in its present form, of intercepting migrants at sea and obliging them to return to Libya or other non-European countries, violates the principle of nonrefoulement." It noted that, while authorities screened these migrants for serious medical conditions, they did not provide them the opportunity for an individual assessment of their possible asylum claims and did not screen them for relevant documentation such as documents from the UNHCR, but instead transferred them wholesale into Libyan custody. The report also claimed that the country's authorities did not provide assistance in the form of water and food to those aboard boats intercepted in international waters.

The CPT report stated that the country's authorities acknowledged officially that they did not formally identify migrants who were intercepted at sea and "pushed back" and that the UNHCR had informed the CPT that, among the migrants pushed back, there were persons who were registered with the UNHCR and to whom it had previously issued temporary documents. According to the CPT, other migrants, including persons from Somalia and Eritrea, were later interviewed by the UNHCR and immediately found to be seeking, and possibly qualifying for, international protection. Between May and July 2009, 97 of the 632 boat returnees screened by the UNHCR were found to be seeking international protection.

The CPT noted that the procedures in place did not appear to provide scope for a determination of whether the migrants included persons in need of international protection and that it appeared that Italian authorities had issued clear guidelines that migrants who were intercepted at sea were to be "pushed back," to the extent possible, provided they had not reached the country's territorial waters. Between May and July 2009, there was only one occasion when persons intercepted by the country's authorities in international waters were assessed as requiring urgent hospital care and transferred to Italian territory to receive such care. All other intercepted persons were transported to either Libya or Algeria, including persons who, according to health-care professionals aboard the Italian vessels, were scarcely in sufficiently good health to face the sea journey. The CPT report stated that "there would appear to be a real risk, in the Committee's view, that persons detained in Libya, including migrants, may be subjected to severe mistreatment and/or be sent to a country where they are at risk of such treatment."

On April 28, the Government responded that migrants were repatriated in conformity with international treaties and in cooperation with Libyan authorities. Italian authorities asserted that all migrants intercepted at sea received water and food and were not improperly detained; those who were in need of medical treatment or intended to apply for protected status were brought to Italy. Between July and November 2009, the period covered by the CPT report, six Nigerians were hospitalized and 523 asylum seekers were brought to temporary shelters.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—National and international experts, including observers from the Organization for Security and Cooperation in Europe, considered the 2008 parliamentary elections free and fair. In June 2009 the country held elections to the European Parliament that were considered free and fair.

Numerous political parties functioned without government restrictions or outside interference.

There were 59 women in the 322-seat Senate and 133 women in the 630-seat Chamber of Deputies. Women held five of 23 positions in the Council of Ministers.

The only legally defined minorities were linguistic: the French-speaking Valdostani and the German-speaking Altoatesini/Suedtiroler. There were four members of these groups in the Senate and three in the Chamber of Deputies. In a largely monolithic society, immigrants represented approximately 6.5 percent of the population, and fewer than half of them qualified as ethnic/racial minorities. Two members of immigrant groups (of Moroccan and Congolese origin) were elected to the Chamber of Deputies.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There continued to be isolated reports of government corruption during the year.

According to the president of the National Audit Court (Corte dei Conti), 221 persons were accused of corruption, 219 of embezzlement, and 1,714 of abuse of power in 2009. The National Audit Court convicted 126 persons of corruption in 2009.

Between January and June 2009, public authorities found sufficient cause to refer to prosecutors 5,574 persons suspected of such crimes as corruption (104 cases in 2009), abuse of power (948 cases in 2009), graft (121 cases in 2009), fraud (435 cases between January and June 2009), and embezzlement (133 cases between January and June 2009).

On February 11, prosecutors opened an investigation to determine whether Undersecretary for Civil Protection Guido Bertolaso accepted bribes in exchange for awarding construction contracts for the planned 2009 G8 Summit headquarters in La Maddalena.

On February 19, authorities indicted Governor Ottaviano Del Turco and 32 other local officials in Abruzzo for corruption, embezzlement, fraud, and abuse of power in a case allegedly involving 12.8 million euros (\$17.2 million) in the health care sector. The preliminary hearing began on June 14 and the main trial was scheduled to begin on April 15, 2011.

On July 12, a court sentenced General Giampaolo Ganzer, head of an elite Carabinieri unit, to 14 years in jail for drug smuggling and embezzlement in Milan. At year's end Ganzer remained in his position, but, at the end of December, authorities were considering transferring him to a training unit.

Members of parliament are subject to financial disclosure laws. The Ministry of Public Administration encouraged adherence to voluntary guidelines for financial disclosure on the part of the leadership of all ministries. The anticorruption and transparency office in the Ministry of Public Administration acts as the Government watchdog on corruption.

The law gives citizens the right to access government documents and to be informed of administrative processes. With some security-related exceptions, the Government and local authorities respected this right in practice for citizens, noncitizens, and the foreign press.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

An interministerial commission on human rights and a parliamentary committee on human rights focus on international and high-profile domestic cases.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, ethnic background, and political opinion. It provides some protection against discrimination based on dis-

ability, language, or social status. The Government generally enforced these prohibitions; however, some societal discrimination continued against women, persons with disabilities, immigrants, and Roma.

*Women.*—Rape, including spousal rape, is illegal, and the Government enforced the law effectively. According to Italian National Institute of Statistics (ISTAT), in 2008, 4,893 cases of rape and 1,484 cases of sexual exploitation were reported to the police.

Violence against women, including spousal abuse, remained a problem. In September, ISTAT reported that almost 10.5 million women aged 16 to 65, or 51.8 percent of all women, had been victims of violence or harassment at least once in their lives. Between 2008 and 2010, 3.9 million women were involved in situations involving violence or harassment. Of these 3.9 million cases, 27 percent were verbal assault, 22 percent were stalking, 20 percent were indecent exposure, and 19 percent were physical violence. Women who lived in big cities were more at risk; 64.9 percent of such women reported experiencing violence or stalking at least once over their lifetime. An estimated 8.5 percent of women in the study reported sexual harassment at work.

The law criminalizes the physical abuse of women, including by family members, allows for the prosecution of perpetrators of violence against women, and helps abused women avoid publicity. In July, ISTAT estimated that 100 women had been killed by their partners or former partners over the previous 12 months. Police officers and judicial authorities prosecuted perpetrators of violence against women, but victims frequently declined to press charges due to fear, shame, or ignorance of the law. According to the Ministry of Justice, of the five million assault victims, only 7.3 percent reported crimes to police.

On March 13, in Bergamo, a Moroccan man was sentenced to three years' imprisonment for several episodes of violence, including death threats, against his Italian wife. He accused her of violating Islamic moral values.

In 2009 the Ministry of Equal Opportunity established a hotline for victims of stalking in addition to the hotline for victims of violence seeking immediate assistance and temporary shelter. In 2009 the Ministry of Equal Opportunity hotline received 17,600 calls, 10 percent of them from foreigners. Between January and March police received 1,592 stalking complaints, 79 percent of them from women, and made 293 arrests, compared to 923 arrests between February 23 and December 2009. The NGO Telefono Rosa assisted 1,744 victims of violence, 287 of whom were foreigners. The NGO ACMID-Donna established a toll-free number for abused Muslim women and received 5,500 calls between November 2008 and August 2009. Approximately 82 percent of those cases involved violence or other mistreatment by husbands or relatives, including unwillingly participation in a polygamous marriage. No official statistics have been gathered on polygamous marriages in Italy, and estimates of women affected vary wildly from hundreds to tens of thousands.

There were occasional reports of "honor crimes."

On August 14, in Pordenone, El Ketaoui Dafani, a 45-year-old Moroccan man, received a sentence of life imprisonment for the September 2009 murder of his 18-year-old daughter, Saana Dafani, because of her relationship with a 31-year-old Italian man.

On April 29, police arrested an Egyptian man on charges of kidnapping, domestic assault, and sexual assault in Andria. The arrest followed escalating tensions between the man and his wife as she refused to cover her face when her husband's male friends visited their house. The man kidnapped their son and left him in Egypt to be raised by his paternal grandparents. Police arrested the man after he returned to Italy. The child was later reunited with his mother.

Female genital mutilation is a crime punishable by up to 10 years' imprisonment. The Ministry of Equal Opportunity estimated that 35,000 immigrant women were victims of genital mutilation. The vast majority of the women, 1,100 of whom were age 17 and younger, were victimized in their countries of origin. Most of the women lived in Lombardy, Veneto, Emilia Romagna, and Lazio. An interagency committee of the Department of Equal Opportunity in charge of combating female genital mutilation implemented a prevention program that included an awareness campaign for immigrants, an analysis of risks, and training of cultural mediators. In November 2009 the Ministry of Equal Opportunity inaugurated a hotline dedicated to victims of such mutilation.

The law permits domestic courts to try citizens and permanent residents who engage in sex tourism outside of the country, even if the offense is not a crime in the country in which it occurred. According to the domestic branch of End Child Prostitution, Child Pornography, and Trafficking of Children for Sexual Purposes, in recent years sex tourists from the country chose Thailand, Cambodia, Vietnam, the Czech Republic, northern Russia, and Brazil as preferred destinations.

The country has a code of conduct for tourist agencies to help combat sex tourism. Sexual harassment is illegal, and the Government effectively enforced the law. By government decree, emotional abuse based on gender discrimination is a crime.

Couples and individuals had the right to decide the number, spacing, and timing of their children, and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, and skilled attendance at delivery and in postpartum care were widely available. The maternal mortality rate was 5 per 100,000 live births in 2008. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law gives women the same rights as men, including rights under family law, under property law, and in the judicial system.

According to an independent research center, the overall gap between salaries for men and women was 16 percent, although a study released in July estimated the gap between men and women with the same jobs and qualifications was 2 percent. Women were underrepresented in many fields, including management, entrepreneurial business, and other professions. According to a report released by an independent research center in October, Italian women account for only 12 percent of all managers, compared to the European average of 33 percent. Only 3.2 percent of board members of Italian companies listed on the stock market were women.

On June 10, the Government enacted a decree that would eliminate discrimination in the minimum retirement age of men and women in the public sector beginning in 2012. It would end women's entitlement to retire at 60, five years earlier than men. The European Commission found the rule illegal in 2008, and the country enacted the new law to be in compliance.

A number of government offices worked to promote women's rights, including the Ministry for Equal Opportunity and the Equal Opportunity Commission in the Prime Minister's Office. The Ministry of Labor and Welfare has a similar commission that focuses on women's rights and discrimination in the workplace. Many NGOs, most of them affiliated with labor unions or political parties, actively and effectively promoted women's rights.

*Children.*—Citizenship is derived from one's parents. Local authorities registered all births immediately.

In the first six months of the year, Telefono Azzurro, an NGO that advocates for children's rights, received 882 requests for assistance. An estimated 5 percent of these involved sexual abuse, 12.5 percent physical violence, and 6 percent psychological abuse. In 53 percent of the cases, the victims were female; 62 percent of the victims were younger than 10. In 2006 authorities registered approximately 170 reports of sexual intercourse with minors, 290 reports of production of child pornography, and 180 reports of possession of child pornography.

According to ISTAT, in 2008, police received 474 cases of sexual intercourse with minors and 537 cases of pedophilia.

NGOs estimated that 10 percent of persons engaged in prostitution were minors. In the regions of Sicily, Puglia, and Marche, between January and August, the NGO Save the Children identified 778 minors who had entered the country illegally. An estimated 380 of them were unaccompanied by adults.

On August 6, at the Bologna airport, police arrested a Cameroonian man for trafficking minors. He was found with a boy and a girl, both between 5 and 7 years old, traveling on stolen passports. The children were in protective custody pending their identification.

On May 24, the Ministry of the Interior announced the establishment of a new hotline run by Telefono Azzurro dedicated to helping find minors who disappeared and assisting those who ran away. In 2008 there were 1,330 runaways, of whom 998 were not citizens of the country.

Illegal immigrant child laborers from North Africa, West Africa, the Philippines, and China continued to enter the country. The flow of children from Albania continued to drop, possibly due to improved economic conditions in Albania and increased police cooperation between the country and Albania.

Few of the country's children engaged in prostitution for survival. However, the independent research center Parsec reported that thousands of minors from Eastern Europe engaged in prostitution for survival. Prostitution under the age of 18 is against the law, but no penalty is specified.

Romani adults deploy Romani children of all ages for prostitution, begging, and theft. Such practices are common throughout the country, and, as a matter of practice, police do not intervene to prevent Romani children from being used in these activities.

The country, which has a statutory rape law, is not a destination for sex tourism. The minimum age for consensual sex varies from 13 to 16, based on the relationship

between partners. The penalty for child pornography ranges from six to 12 years in prison, and the penalty for violation of the law regarding the minimum age for consensual sex ranges from two to 10 years in prison. A special unit of the police monitored 26,600 Web sites during the year; the unit investigated 1,155 persons for crimes involving child pornography online and arrested 51 persons. According to the NGO Telefono Arcobaleno, during the year 4.7 percent of persons accessing pornographic materials involving minors worldwide were from the country. Between January and November, Telefono Arcobaleno received 2,580 reports of online pedophilia. These reports could come from Internet users who came across child pornography online or from persons who reported suspected activity involving exploitation of minors.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The country's estimated 30,000 Jews maintained synagogues in 21 cities.

No violent anti-Semitic attacks were reported during the year. Instances of anti-Semitic graffiti occurred in a number of cities. Small extremist fringe groups were responsible for anti-Semitic acts.

On March 17, a 75-year-old rabbi of Moroccan origin was insulted on a bus in Milan by a group of persons yelling, "Jews go away! We will kill you all." No one on the bus, including the driver, intervened to defend the man.

On January 28, anti-Semitic graffiti containing threats against the president of Rome's Jewish community appeared in the center of the city. On March 28, commemorative stone markers in Rome for a family deported to Auschwitz during World War II were vandalized.

On May 21, police searched the homes of four activists of the fascist group Militia who were organizing a summit with other radical associations to create a national network. Authorities believe the group was responsible for anti-Semitic graffiti, hate crimes, and vandalism committed in Rome and other cities.

The Government strongly criticized the acts of anti-Semitic vandalism. Prime Minister Berlusconi, Foreign Minister Franco Frattini, and other politicians across the political spectrum expressed solidarity with the victims. The Government continued to host annual meetings to increase public awareness of the Holocaust and to combat anti-Semitism.

On October 4, Prime Minister Berlusconi, while talking with supporters in front of his residence, told an anti-Semitic joke that was subsequently made public.

On December 28, a Rome municipal employee and former member of a defunct neo-fascist terrorist group was suspended after he used his office computer for a social networking conversation that included an anti-Semitic remark.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services. The Government effectively enforced these provisions, but there was some societal discrimination. The NGO Antigone claimed there was a pattern of abuse in prisons and mental health facilities, highlighting some cases of death possibly resulting from poor treatment of those detained in such facilities. On June 11, a parliamentary committee visited the largest criminal detention center for those with psychiatric problems, which is in Aversa. The committee criticized the lack of adequate treatment for inmates, whom they described as neglected.

On September 9, a woman in a wheelchair claimed that the driver of a water taxi in Venice refused to transport her because of her disability. The municipality opened an investigation.

Although the law mandates access to government buildings for persons with disabilities, mechanical barriers, particularly in public transport, left such persons at a disadvantage. The Ministry of Labor and Welfare was responsible for protecting the rights of persons with disabilities. Many cities lacked infrastructure (such as elevators at subway and funicular stations and ramps on sidewalks) for persons with limited mobility and those in wheelchairs.

ISTAT estimated there were 2.6 million persons with disabilities in 2004, based on a sample survey of the population. Using a different methodology, an independent research center, Censis, estimated that during the year there were 4.1 million persons with disabilities.

*National/Racial/Ethnic Minorities.*—There continued to be reports that authorities mistreated Roma. The press and NGOs reported cases of discrimination, particularly in access to housing, evictions, deportations, and government efforts to remove Romani children from their parents for their protection.

On September 1, in Livorno, an estimated 200 persons threatened two Romanians and threw stones at them before police intervened. According to the press, the two men had beaten two Italians who had previously criticized them for leaving an old washing machine on the street.

On June 25, a Brescia court sentenced Stefano Rizzi to 21 years' imprisonment for the 2008 "hate crime" killing of Mohamed Chamrani, a Moroccan who had been beaten and thrown into Lake Garda. Four minors also involved in the crime were placed under the supervision of the social services department.

There were no accurate statistics on the number of Roma in the country. NGOs estimated that 140,000, including 75,000 citizens, were concentrated on the fringes of urban areas in the central and southern parts of the country. Local officials and NGOs acknowledged that Romani camps were characterized by poor housing, unhygienic sanitary conditions, limited employment prospects, inadequate educational facilities, inconsistent police presence, and school-age children who are not attending school.

During the year the Interior Ministry continued a campaign to curb illegal immigration based on a 2008 emergency decree on security and immigration. Authorities arrested or ordered the expulsion of several hundred foreigners (mainly Roma) and took the names of others who lived in encampments near major cities. Between January and September, more than 9,000 foreigners were repatriated to their non-EU countries of origin, compared to 18,000 in 2009. An estimated 290 persons illegally in the country participated in a voluntary repatriation program.

On August 27, a child died and another one was seriously injured in an accidental fire that occurred in an illegal Romani encampment in the outskirts of Rome. The incident spurred Rome Mayor Alemanno to vow that the city would continue its efforts to tear down all unauthorized Romani settlements, including more than 200 illegal shanty towns that he stated remained around Rome. He added that persons who have arrived in Rome must be able to support and house themselves adequately; otherwise, they would have to leave.

The city of Rome continued efforts on its Nomad Plan through which the estimated 7,200 Romani inhabitants of the greater Rome area would be transferred out of unauthorized camps into authorized settlements built by the Government. In February the city closed the Casilino 900 camp, formerly one of the largest Romani camps in Europe, and moved inhabitants to one of 10 authorized camps in operation during the year.

Government officials at the national and local levels, including those from the Ministry of the Interior and the Ministry of Equal Opportunity, met periodically with Roma and their representatives. In July the city of Rome appointed a Romani person to be an unofficial spokesperson for his community.

The Government's Office to Combat Racial and Ethnic Discrimination in the Ministry of Equal Opportunity assisted victims of discrimination. In 2007 the office received approximately 8,000 calls on its national hotline. The majority of complaints related to labor conditions, wages, and discrimination in the provision of public services. The office provided legal assistance and helped mediate disputes.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There are no laws criminalizing homosexuality. The press reported several cases of violence against gay and lesbian couples during the year. On May 24, several persons assaulted a gay man in Rome in a neighborhood where members of the gay community often met in bars and restaurants.

On January 24, a court sentenced Alessandro Sardelli to seven years in prison for assaulting a gay couple during a gay festival in Rome in August 2009.

The Rome police department has created a special unit to investigate reports of crimes based on sexual orientation.

The Arcigay reported two killings and 29 nonlethal attacks against lesbian, gay, bisexual, or transgender (LGBT) persons between January and August, compared with eight killings and 52 other attacks in 2009. Several of the crimes were described as domestic disputes. Some acts of vandalism were committed against bars and discos catering mainly to LGBT clientele.

On November 4, the LGBT-rights group Arcigay criticized Prime Minister Berlusconi's comment that "It's better to look at nice girls than to be gay," which was his response to allegations of improper involvement with a female minor. In the midst of the controversy over the remark, Minister for Equal Opportunity Carfagna noted that the Government had promoted a number of initiatives to fight discrimination against gays and lesbians.

*Other Societal Violence or Discrimination.*—There were no reports of violence or discrimination against persons with HIV/AIDs. No underlying pattern of discrimination/abuse was detectable based on verifiable incidents.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right to establish, join, and carry out union activities in the workplace without previous authorization or excessive requirements, and workers exercised these rights in practice. The law prohibits union organization in the armed forces. Unions claimed to represent between 35 and 40 percent of the workforce.

The law provides for the right to strike, and workers exercised this right by conducting legal strikes. The law restricts strikes affecting essential public services (such as transport, sanitation, and health) by requiring longer advance notification and precluding multiple strikes within days of each other.

In February 2009 the Government approved a bill to restrict transport strikes. Only those unions representing at least half the workforce can call transport strikes.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right of workers to organize and bargain collectively, and workers exercised this right. According to ISTAT about 8.1 million employees (47 percent of all employees) worked under national collective bargaining agreements. Trade unions estimated that 3.2 million employees were covered by a national collective bargaining agreement. These employees were also covered by a second contract negotiated at the company or territory-wide level.

Antiunion discrimination is illegal, and the Government effectively enforced labor laws. Employees fired for union activity have the right to request reinstatement. There were no reported cases of discrimination.

There are no export processing zones.

The law relating to free-trade zones allows a company of any nationality to employ workers of the same nationality under that country's labor laws and social security systems.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government enforced such laws; however, there were reports such practices occurred.

Women were trafficked for sexual exploitation, Romani children for sexual exploitation and begging, and workers for agricultural labor or to work in sweatshops manufacturing counterfeit products. For information on forced labor, please see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

Parsec estimated that approximately 700 victims of labor trafficking worked outside the sex industry, mainly in domestic, agricultural, or service labor. Forced labor occurred primarily in the agricultural sector and mostly in the south where, according to Doctors without Borders, a large majority of the foreign seasonal workers were unregistered and did not hold residence permits.

Chinese men and women were trafficked to the country for forced labor. On May 31, police arrested the Chinese owner of a textile factory and charged him with exploiting 15 Chinese illegal laborers. Police found the laborers working and living in poor conditions at the textile factory near Perugia.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government sought to enforce laws and policies designed to protect children from exploitation in the workplace; however, there were a number of reports of child labor.

The law prohibits employment of children under age 15 with some limited exceptions, and there are specific restrictions on employment in hazardous or unhealthy occupations for boys under the age of 18 and girls under the age of 21. Enforcement was generally effective in the formal economy; however, enforcement was difficult in the extensive informal economy.

Illegal immigrant child laborers, mostly between 15 and 18 years of age, continued to enter the country from North Africa, the Philippines, and China. They worked primarily in the manufacturing and services industries.

Children were trafficked for sexual exploitation and begging. Please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

On September 30, according to the Ministry of Welfare, 6,587 unaccompanied minors were registered, 74 percent of whom were hosted in protected communities.

The Government, employers' associations, and unions continued their tripartite cooperation to combat child labor. The Ministry of Labor and Welfare, working with police and Carabinieri, is responsible for enforcement of child labor laws, but their efforts produced limited results.

*e. Acceptable Conditions of Work.*—Minimum wages, set on a sector-by-sector basis, provided a decent standard of living for a worker and family. However, workers in the informal sector often worked for less than the minimum wage in the corresponding formal sector. The estimated 2.6 million workers in the informal sector accounted for 11.3 percent of the total workforce in 2009 according to ISTAT.

The legal workweek is 40 hours. Overtime work may not exceed two hours per day or an average of 12 hours per week. Unless modified by a collective bargaining agreement, the law sets maximum overtime in industrial sector firms at 80 hours per quarter and 250 annually. The law requires rest periods of one day per week and 11 hours per day. Premium pay is required for overtime. These standards were effectively enforced.

The law sets basic health and safety standards and guidelines for compensation for on-the-job injuries. There were labor inspectors in both the public health service and the Ministry of Labor and Welfare, but their numbers were insufficient to provide for adequate enforcement of health and safety standards. The standards were not enforced in the informal economy. According to the Workmen's Compensation Institute, in 2009 there were 1,050 work-related deaths. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and the Government effectively enforced this right.

---

## KOSOVO

Kosovo is a parliamentary democracy with a population of approximately 2.2 million. Multiparty elections on December 12 for the Assembly and the national legislature generally met international standards, but serious irregularities in some areas resulted in a limited revote in some municipalities. The country declared its independence in 2008 when it accepted the Ahtisaari plan, which provided for internationally sponsored mechanisms, including an International Civilian Office and the EU Rule of Law Mission (EULEX), to support the new government. Security forces reported to civilian authorities while being monitored by the UN-authorized North Atlantic Treaty Organization (NATO) Peacekeeping Force for Kosovo (KFOR).

During the year reported problems and abuses included the following: government interference in security forces and the judiciary; lengthy pretrial detention and lack of judicial due process; intimidation of media by public officials and individuals; incidents of violence against members of religious communities and damage to religious properties; limited progress in returning internally displaced persons (IDPs) to their homes; government corruption, including in the police force and the judiciary; violence and discrimination against women; trafficking in persons, particularly girls and women for sexual exploitation; societal violence, abuse, and discrimination against minority communities; societal discrimination against persons with disabilities; abuse and discrimination against persons based on their sexual orientation; and child labor in the informal sector.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings during the year. There were developments in 1999-2003 cases of suspected politically motivated killings.

Following the November 2009 release of a video confession of a self-proclaimed political assassin, Nazim Bllaca, EULEX made four arrests during the year on suspicion of more than 20 politically motivated killings during the period 1999-2003. Bllaca and the three others arrested in the case are suspected of murder and attempted murder of political figures under orders from the Kosovo Information Service (SHIK), which served the Kosovo Liberation Army (KLA) until the end of the Kosovo conflict. SHIK reported its official disbandment in 2008. The investigation in the case continued at year's end. On July 13, EULEX police arrested Fahredin Gashi in connection to the investigation. Gashi was charged with war crime offenses committed in 1999 in the Lipjan/Lipljan municipality. On November 30, Nazim Bllaca was released from pretrial detention after spending one year in custody. The release was statutorily mandated, as pretrial detention cannot extend beyond one year.

EULEX's mandate included investigation, trial, and prosecution of war crimes from the 1998-99 conflict (see section 1.e., trial procedures).

On July 5, an unknown assailant shot and injured Petar Miletic, a member of the Assembly and the permanent secretary of the Kosovo Serb Independent Liberal Party, in front of his apartment as he departed for work. Interior Minister Bajram Rexhepi told the media that Miletic was hit by two bullets. Miletic was treated in the hospital and released after one week. Police said they had a description of the shooter, and an investigation was ongoing at year's end.

On December 12, the Parliamentary Assembly of the Council of Europe (COE) released a report by COE rapporteur Dick Marty on allegations concerning inhuman treatment of persons and illicit trafficking in human organs in the country. The report stated that, from July 1999 to mid-2000, elements of the KLA and affiliates held scores of "disappeared" persons in Albania at informally arranged locations at Bicaq, Burrel, Rripe, and Fushe-Kruje. The report further alleged that a small number of these persons became "victims of organized crime," their kidneys extracted for use by an international organ-trafficking ring. The report stated that all of those held, Albanians and Serbs, were presumed to have been killed. According to the report, first-hand sources implicated five members of the so-called "Drenica Group" within the KLA—Hashim Thaci, Xhavit Haliti, Kadri Veseli, Azem Sylja, and Fatmir Limaj—in having ordered, and in some cases personally overseen, assassinations, detentions, beatings, and interrogations in the context of KLA-led operations on the territory of Albania between 1998 and 2000. The report also stated that the head of the alleged Drenica Group, current Prime Minister Hashim Thaci, reportedly operated with the "support and complicity" not only of Albania's formal governance structure, including the Albanian socialist government in power at the time, but also from Albania's Secret Service and the Albanian mafia.

The Interim Administration Mission in Kosovo (UNMIK) and the International Criminal Tribunal for the former Yugoslavia (ICTY), whose mandates did not extend into Albania, previously investigated the allegations of organ harvesting contained in the Marty report and concluded that there was insufficient evidence to pursue a criminal case. The EULEX War Crimes Unit maintains an open investigation into the organ trafficking allegations. The EULEX War Crimes Unit stated that it possessed no evidence related to the Marty report allegations and called on the COE and other parties to share whatever evidence they may have obtained. The report also calls on Serbia, Kosovo, and Albania to cooperate closely with EULEX in support of the investigation. Kosovo authorities denounced the content of the report but pledged their cooperation with any investigation.

On June 11, the district court in Pristina sentenced Arben Berisha to the maximum prison sentence of 40 years in the 2007 killing of police officer Triumf Riza. The court also sentenced Fitim Avdiu to 10 years as an accomplice, and fined Agron Emini 2,000 euros (\$2,680) for assisting the perpetrator of a criminal offense. Three other persons accused in the case—Enver Sekiraca, Ilir Abdullahu, and Rrahim Abdullahu—remained at large.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, according to the International Committee of the Red Cross (ICRC), as of the end of August, there were 1,822 persons still listed as missing as a result of the 1998-99 conflict. Of the missing, 70 percent were Kosovo Albanians, and 30 percent were Kosovo Serbs and other minorities.

During the year the Ministry of Justice and the former Office on Missing Persons and Forensics, which became the Department of Forensic Medicine (DFM) this year pursuant to the law, continued to identify the remains of missing persons. From January to December the DFM and the International Commission for Missing Persons (ICMP) positively identified 56 missing persons, and transferred remains to families. Additionally the DFM and ICMP confirmed the identity of 47 persons previously identified and buried, but for whom there were concerns about the initial identification. In August the DFM began excavation of a large, complex site in Vushtrri/Vucitrn municipality with assistance from the Kosovo Security Force (KSF). As of mid-December, 364 unidentified sets of remains were in DFM custody (337 from Kosovo sites and 27 from Serbian sites).

During the year officials from Kosovo and Serbia met four times in a working group on missing persons chaired by the ICRC and under the auspices of the UN Special Representative of the Secretary-General. Two meetings of its sub-working group on forensic issues were held during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports during the year that the Government, EULEX, or KFOR (which has limited arrest and detention authority) employed them.

The December 12 COE report on inhuman treatment of persons and illicit trafficking in human organs (see section 1.a.) alleged that, from 1998 to June 1999, the

KLA, with the cooperation of the Albanian Secret Service, detained “prisoners of war” from Kosovo at locations in Durres, Cahan, and Kukës, where they were held in makeshift cellblocks, left in unsanitary conditions without food and water, and were visited periodically by KLA soldiers to be questioned under harsh treatment or indiscriminately beaten.

Some supporters of Vetevendosje (“Self-Determination” Movement) leader Albin Kurti reported they were injured during his June 12 arrest in Pristina. Kurti, who escaped from a house arrest sentence stemming from a violent 2007 protest and avoided several earlier attempts to return him to custody, was arrested after a protest at his group’s headquarters. More than 100 supporters tried to impede the arrest, and the Kosovo Police (KP) used two canisters of tear gas to control the crowd. Several supporters sought medical treatment following the interaction with police, alleging they were beaten with batons and sustained burns from the tear gas. Vetevendosje activists overturned two EULEX vehicles that were present at the scene and slashed tires of several KP vehicles.

In 2009 the COE’s Committee for the Prevention of Torture (CPT) released a report on the country based on its 2007 visit. The report stated that the CPT received a number of reports of mistreatment of detainees by KP officers, consisting mainly of punches, slaps, and kicks by officers attempting to obtain confessions. The report noted that, in a few cases, the alleged mistreatment (such as a mock execution and prolonged and severe beatings) could easily be described as torture and noted that a number of detained persons alleged that police officers had exerted psychological pressure on them not to file a complaint regarding the mistreatment.

*Prison and Detention Center Conditions.*—Prisons and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers.

During the year there were some allegations of abuse and mistreatment of prisoners. In October the Kosovo Rehabilitation Center for Torture Victims (KRCT), a local NGO that visited and monitored prisons and detention centers, published a report on its 2009-10 visits to all prisons and detention facilities in the country. The KRCT reported no allegations of excessive use of force; it received few allegations of ill-treatment by police, mainly during arrest or questioning and no cases of ill-treatment in police holding cells.

The KRCT reported an allegation of excessive use of force by a guard in the Peje/Pec Detention Center but noted that the inmate did not report any further abuses against him when interviewed again in April. Additionally the KRCT reported a case of physical abuse of a juvenile in the Lipjan/Lipljan Correctional Center in February 2009.

The KRCT noted that some cells, mainly in the Dubrava Prison, lacked proper ventilation and access to natural light. The quality and quantity of hygiene products provided to inmates was low. The KRCT also raised concerns of overcrowding in the Dubrava Prison. The KRCT commended new initiatives to screen inmates for HIV and hepatitis and cited the establishment of the Forensic Psychiatry Institute, established with funding and assistance of the EU, for the treatment of mentally ill inmates. However, the KRCT raised concerns that medical supplies to detention and correctional centers were sometimes interrupted and indicated that a decrease in investments in medical supplies, services, and specialized health treatment have affected the quality of health care in the correctional system.

The Kosovo Correctional Service (KCS) managed daily operations at all correctional and detention centers. EULEX retained a limited monitoring, mentoring, and advising role in the prisons. Additionally EULEX transported prisoners upon request. As of the end of December, there were approximately 1,320 convicted prisoners and 130 pretrial detainees mixed in prison and detention centers. There were 35 females (20 convicted prisoners and 15 pretrial detainees) and 45 juveniles (12 detainees and 33 in juvenile imprisonment). During the year the monthly prison population at the main correctional center, Dubrava Prison, varied from 650 to 1,000 inmates, below its total capacity of 1,200. Three correctional facilities, six detention centers, one center for the protection of witnesses, and one prison hospital operated during the year.

The KRCT reported that there continued to be facilities in which pretrial detainees mixed with convicted prisoners, including the detention centers in Peja/Pec, Gjilan/Gnjilane, and North Mitrovica. The Kosovo Correctional Service reported that there were no facilities that co-located pretrial detainees and convicted prisoners. The KRCT also reported that it had observed multiple cases of pretrial detainees being held for more than 12 months. The correctional service confirmed that a number of pretrial detainees were held for periods of longer than one year, which is a violation of the law.

The KRCT reported that there are “no major problems regarding inmates contact with the outside world, access to information, or right to practice religion,” that inmates are provided adequate information about their rights and their nutrition, and that “minority rights in the detention centers are still well respected.” The KRCT raised a concern about the lack of teachers in the Lipjan/Lipljan Correctional Center for juveniles and noted that some subjects taught in the public school system are not available in the correctional center. Corruption and nepotism, especially in Dubrava Prison, remained a concern. As a consequence, privileges, disciplinary measures, and review of complaints were not always applied in a fair and transparent way.

Authorities permitted visits and monitoring of the country’s prisons and detention centers. The ombudsman and KRCT inspected correctional and detention centers during the year. The ombudsman reported good cooperation from the correctional service, including the ability to conduct private interviews with inmates during visits. Detainees could submit complaints and requests for investigations to judicial authorities, without censorship, through anonymous boxes in prison. The director of the KCS received 65 official requests regarding prison conditions from prisoners as of the end of the year, but none of these requests were classified as complaints by the KCS. On June 8 to 15, the CPT visited a number of detention and correctional facilities; the CPT had not released its report on the visit as of year’s end. The ICRC did not conduct any prison or detention facility inspections during the year.

The KRCT’s report called material conditions “generally good” and noted a number of improvements since 2008 on the basis of observer recommendations. “Police holding cells keep being renovated and the situation continues to improve on the infrastructure level. The conditions in police custody are globally fine and the law generally respected.” During the year the Government spent 3.39 million euros (\$4.5 million) to improve living conditions in prisons and detention centers and to open a new detention facility, with capacity for 200 persons, in Smrkovnica.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government, EULEX, and KFOR generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Local security forces include the KP and KSF. Police function under the authority of the Ministry of Internal Affairs. In 2008 the EU rule of law mission in Kosovo, EULEX, became operational and established its mandate to monitor, mentor, and advise local judicial and law enforcement institutions. EULEX possesses limited executive authority in areas including organized crime, corruption, war crimes, witness protection, money laundering, terrorist financing, and international police cooperation. In July 2009 police assumed primary responsibility for terrorism investigations that did not have international impact. The KSF is a lightly armed security and civil defense force that functions under the civilian authority of the Ministry of Kosovo Security Force and is mentored by KFOR.

In April the prime minister appointed a new acting director general of the KP. The minister of internal affairs and the new general director then signed an order creating a unified chain of command within the police. The acting director general, with approval of the minister of internal affairs, then formalized an organizational structure for police.

As of December, members of ethnic minorities comprised an estimated 15 percent of 7,291 police officers; 9.5 percent of officers were Kosovo Serbs. An estimated 13 percent of officers were women.

The Government and EULEX shared executive authority over police, although EULEX authority is limited to the Serb-majority areas north of the Ibar River. The KP were responsible for day-to-day police operations in all areas of the country, but EULEX exercised additional executive authority and oversight in Serb majority northern municipalities of Zubin Potok, Zvecan, Leposaviq/Leposavic, and the northern part of Mitrovice/Mitrovica.

Specialized police units investigating war crimes, financial crimes, and organized crime, and the EULEX police witness protection program, remained staffed by international EULEX police officers and operated independently of police. EULEX and the KP independently operated units on criminal intelligence and organized crime. EULEX’s international police officers, prosecutors, and judges deployed in the country have broad discretion to intervene in any particular criminal matter. However, as a practical matter, most policing duties and responsibilities were in the hands of the local police.

The Police Inspectorate of Kosovo (PIK) operated as an independent body under the Ministry of Internal Affairs and has a mandate to conduct investigations and inspections involving police personnel. The PIK law was amended on October 14 and

will enter into force on June 1, 2011, transferring the authority to conduct criminal investigations of police personnel from within the KP to the independent PIK.

During the year the PIK reviewed 1,185 complaints, of which 577 were citizen-initiated complaints, 13 were complaints from institutions, and 595 were initiated by police. Of those complaints, the PIK pursued further investigation into 408 and turned 541 cases over to the KP Professional Standards Unit (PSU). Court decisions for criminal cases were pending in 106 cases, and 100 cases were pending before the Senior Police Appointment and Discipline Committee. Of the 408 cases investigated by the PIK, 20 percent were allegations of serious discipline violations. Of the discipline violations, 20 percent were for serious cases of conduct unbecoming a police officer, 13 percent involved allegations of inappropriate use of force, 12 percent involved criminal offenses (and were referred to the Prosecutor's Office), 9 percent were for serious insubordination, 2 percent concerned complaints of corruption, and the remainder were various violations categorized as serious.

The PSU investigated minor police violations and imposed administrative penalties for infractions. During the year the unit opened 639 cases, including instances of minor insubordination and damage or loss of police property. As of the end of the year, 73 cases remained under investigation.

*Arrest Procedures and Treatment While in Detention.*—Police generally made arrests openly using a warrant issued by a judge or prosecutor and based on sufficient evidence. In some cases, masked or undercover officers conducted arrests. By law arrests must be based on prosecutors' orders, and arrestees must be brought before a judge within 72 hours. The majority of the year's arrests were carried out by police. There were no reports that police abused the 72-hour rule, and authorities generally charged arrestees within six to eight hours or released them. Arrestees have the right to be informed of the reason for their arrest in a language they understand; to remain silent and not answer any questions except those concerning their identity; to obtain free assistance of an interpreter; to obtain defense counsel and to have defense counsel provided if they cannot afford one; to receive medical and psychiatric treatment; and to notify a family member. Police and EULEX police generally respected most of these rights in practice.

In its 2009 report, the CPT noted that a number of detained persons claimed that they were not able to contact a lawyer at the outset of their detention, but only at the time of the initial period of questioning with a criminal police officer. In some cases, the right of access to a lawyer only became effective after the initial period of questioning.

Under extraordinary circumstances, KFOR can arrest and detain individuals without a warrant. The KFOR commander can detain individuals for 72 hours, renewable for a second 72-hour period. After 144 hours, KFOR must release the detainee. There were no reports that KFOR arrested persons without a warrant during the year.

The KP and EULEX police may hold individuals for up to 72 hours without a court order. Following an initial ruling, a court may hold individuals in pretrial detention for 30 days from the day of arrest and can extend detention up to a total of one year if no indictment has been filed. After an indictment has been filed and until the conclusion of trial proceedings, detention on remand may be ordered or terminated only by the ruling of the trial panel. There is a functioning bail system. The law allows for house arrest, confiscation of travel documents, and expanded use of bail as alternatives to pretrial detention. Defendants can also appeal their detention on remand.

Lengthy detentions, both before and during judicial proceedings, remained a problem. The law provides that a judge may impose pretrial detention when there is well-grounded suspicion that a person has committed a criminal offense and that person is likely to destroy, hide, or forge evidence; influence witnesses; flee; repeat the criminal offense or engage in another criminal offense; or when other measures provided by the law are insufficient to secure the defendant's presence during criminal proceedings. In practice, however, judges routinely used detention on remand without showing any evidentiary justification. In particular, in the Mitrovica District Court, which sits in Vushtrri/Vucitrn, detention on remand for defendants has been continuously extended throughout the period that the court has operated with limited capacity.

Trial delays were caused by factors including judicial inefficiency and corruption.

*Amnesty.*—On February 17, the president granted amnesty or commuted the sentences of 62 individuals (approximately 5 percent of the total population of prisoners and pretrial detainees) in honor of the country's second anniversary of independence.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the local judiciary was at times biased, subject to outside influence, and did not always provide due process. There were credible reports of corruption in the local judiciary, and the court system was inefficient. There was no effective mechanism for disciplinary proceedings against judges.

The court system included a constitutional court, a supreme court, five district courts, a commercial court, 25 municipal courts, 25 minor offense courts, and an appellate court for minor offenses. On July 22, the Assembly approved the law on courts, regulating the organization, functioning, and jurisdiction of the courts in the country. Through EULEX, 31 international judges and 15 international prosecutors supported local judges and prosecutors. There is one state public prosecutor's office, five district prosecutors' offices, and seven municipal prosecutors' offices. EULEX exercised its executive authority over a special prosecutor's office which included eight international prosecutors focused on serious crimes including human trafficking, money laundering, war crimes, and terrorism.

In criminal cases in which EULEX international judges exercised their jurisdiction, these judges sat on mixed panels with local judges. EULEX judges were the majority on these panels, with one EULEX judge serving as the presiding judge. The president of the Assembly of EULEX Judges has the authority to create a panel solely or majority of which are local judges, or to not assign particular stages of proceedings to EULEX judges. For civil cases in which EULEX international judges exercised their jurisdiction, judicial panels were composed of three judges, two of which were EULEX judges.

Under the Kosovo Judicial Council (KJC), the Office of the Disciplinary Commission (ODC) was responsible for investigating the activities of judges, prosecutors, and lay judges, and for prosecuting cases of misconduct before the KJC. During the year 89 new cases were referred to the ODC. The ODC convened hearings and ruled on 23 of the 219 cases before it. The ODC's total caseload included 130 cases carried over from previous years. The Judicial Audit Unit analyzed and evaluated the functioning of the courts and public prosecutors' offices and submitted reports and recommendations to the KJC.

The Mitrovica/Mitrovica District Court continued to function partially during the year. Since 2008 only EULEX judges were based at the court's premises in northern Mitrovica, while other operations of the Mitrovica district and municipal courts and the Mitrovica district and municipal prosecutors' offices continued to operate from the Vushtrri/Vucitrn Municipal Court.

District and municipal courts in Mitrovica/Mitrovica and municipal courts in Leposaviq/Leposavic and Zubin Potok remained closed following 2008 protests against the country's independence. Efforts to reopen the Mitrovica/Mitrovica District Court stalled in July when Kosovo Serb judges who were scheduled to take up positions on the court withdrew following intimidation from Serb parallel authorities and persons claiming to represent Serbian institutions. The two Kosovo Serb judges indicated they would not take their positions until "appropriate conditions," including security measures, were in place.

The Serbian government continued to operate an unsanctioned parallel judicial system in Kosovo Serb enclaves and in majority Serb municipalities.

*Trial Procedures.*—Trials are public, and defendants enjoy the presumption of innocence, the right to be present at their trials, to confront witnesses, to see evidence, and to have legal representation. Representation may be provided at public expense if necessary; however, this procedure was used rarely in practice. Defendants have the right of appeal. Trials are heard by panels consisting of professional and lay judges; there are no jury trials.

The Legal Aid Commission, an independent government agency, provided free legal assistance to low-income individuals through five district legal aid bureaus. From January to June, the commission provided legal assistance to 1,479 persons.

The Ministry of Justice operated a judicial integration section that continued to address judicial system problems affecting minorities. To that end, the ministry operated 11 court liaison offices to assist minority communities in Kosovo Serb majority areas by accompanying them to courts, filing documents with courts on their behalf, and providing information and legal assistance to refugees and IDPs.

War crimes cases are overseen by EULEX, which in 2008 assumed responsibilities formerly held by UNMIK to ensure that war crimes cases are properly investigated and prosecuted. Under EULEX's mandate, cases can be investigated and adjudicated either independently by internationals or, where appropriate, jointly with Kosovo counterparts. By the end of 2009, EULEX prosecution had tried four war crimes cases. A May report by the Kosovo Mission of the Organization for Security and Cooperation in Europe (OSCE) found a systematic failure to adjudicate war crimes cases as well as a lack of resources for this effort.

On December 14, EULEX police, supported by the KP, arrested two Kosovo Albanians in the Prizren region in an ongoing investigation into war crimes. The charges are related to application of measures of intimidation, terror, dislocation, and displacement of the civilian population committed in 1998 in Rahovec/Orahovac and nearby villages. The investigation was under the supervision of a EULEX prosecutor from the Kosovo Special Prosecution office.

On November 9, a mixed panel of two EULEX judges and one Kosovo judge found Vukmir Cvetkovic guilty of committing war crimes and sentenced him to seven years in prison. Cvetkovic was found guilty of expelling one family from the town of Hline/Klina and burning the homes of two families in 1999, as a member of the Serbian Police.

On May 6, EULEX police arrested former KLA members Sabit Geci and Riza Aliaj on suspicion of having committed war crimes in 1999. The Kosovo Special Prosecutor filed indictments in the case on August 6. On November 25, the pretrial judge of the District Court in Mitrovica confirmed the indictments against Sabit Geci and Riza Aliaj. The defendants remain in detention on remand, and a trial has not yet been scheduled. A third defendant is at large.

There were no new developments stemming from the September 2009 arrest by EULEX police of Slobodan Martinovic, Srecko Martinovic, and Svetlana Stojanovic for war crimes committed in 1999. The three allegedly kidnapped and tortured eight persons at an informal detention center in the Novoberde/Novo Brdo and Gjilan/Gnjilane area. EULEX charged them with inhuman treatment, immense suffering or violation of bodily integrity or health, application of measures of intimidation and terror, and illegal arrest and detention. At year's end no hearing or trial date had been set.

In October 2009 the Pristina District Court found Rrustem "Remi" Mustafa, Latif Gashi, and Nazif Mehmeti guilty of war crimes for the torture of civilian detainees at three KLA detention facilities. The court, composed of one local and two EULEX judges, sentenced Mustafa to four years in prison, Gashi to six years, and Mehmeti to three years. At year's end, Mustafa remained free pending a final judgment on his appeal. During the conflict, Mustafa had been the chief of the KLA operational zone of Llap, and he later became a PDK member of the Assembly and chairman of the Assembly's Security Committee. All three were arrested in 2002 on charges of war crimes for illegal detention, torture, and killing of suspected collaborators of the Milosevic regime in the 1990s. Of the 26 victims listed in the indictment, one was Serbian; five were killed.

There were no developments in the war crimes case against Momcilo Jovanovic. In February 2009 an international EULEX prosecutor at the Peje/Pec District Court issued an arrest warrant for Jovanovic after he failed to respond to official summons to appear in court. In 2008 an international prosecutor indicted Jovanovic for war crimes, murder, and other violations of the laws of war for incidents that took place in 1998-99 in the village of Katundi i Ri/Vitomirca.

*Political Prisoners and Detainees.*—There were no reports that the Government or KFOR held political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent judiciary in civil matters. The local judiciary was at times biased and subject to outside influence and did not always provide due process. The media and public perceived the judiciary to be corrupt, secretive, and inefficient. Complaints submitted to the Office of Disciplinary Counsel dropped between September 2009 and August 2010.

In November 2009 the European Commission reported that the country's judicial system remained weak at all levels. The commission cited the low public confidence in the justice system as well as the continuing existence of three parallel sources of legislation (former Yugoslav law, UNMIK regulations, and Kosovo law) as particular problems. The commission also noted that the backlog of court cases remained a serious problem. The Kosovo Judicial Council established a working group to develop a national backlog reduction strategy.

According to monitoring reports released by the OSCE in 2009 and during the year, civil judicial procedures were plagued by delays, and judgments often lacked necessary reasoning. Judges often failed to manage their cases effectively and to discipline parties abusing procedural avenues to delay proceedings.

Individuals may appeal to courts in order to seek damages for, or cessation of, human rights violations. In practice there were many such lawsuits pending. Individuals turned to the Constitutional Court for review of their rights to due process. More than 60 percent of cases filed with the Constitutional Court during the year alleged violations of constitutional rights by courts, prosecutors, or police.

There were problems enforcing civil court orders. For example, shortly after a May 2009 settlement agreement regarding a land dispute, the Decan/Decani municipality publically stated that it would not amend the municipal property records regardless of the eventual decision of the Supreme Court.

*Property Restitution.*—Systemic challenges to the restitution of property persist. A March 2009 OSCE report assessed that the legal system's review of property rights cases was hindered by a confusing mix of laws, regulations, administrative instructions, court practices, and directives in the field of property as well as the country's complex post-conflict environment.

The Kosovo Property Agency (KPA) is responsible for the resolution of residential, commercial, and agricultural property claims arising from the Kosovo conflict. As of the end of the year, the agency administered 3,131 abandoned properties. Of those, 2,576 were administered upon the request of a successful claimant, and 515 were administered based on official interventions by the Housing and Property Claims Commission (HPCC, the predecessor adjudicating agency to the KPA). The KPA rented 863 properties on behalf of the legitimate owners who received 2.5 million euros (\$3.35 million) in rent. At year's end, the agency had received 41,099 total claims: 36,637 for agricultural property, 974 for commercial property, and 3,488 for residential property. Kosovo Serbs in the northern part of Mitrovica/Mitrovica continued to occupy Kosovo Albanian-owned properties and denied their owners access; Kosovo Albanians in the southern part of the municipality occupied and denied Kosovo Serbs access to their property. The KPA has orders for 481 evictions pending in Mitrovica/Mitrovica, 299 of which are in north Mitrovica and 182 of which are in south Mitrovica. These 481 eviction orders represent 83 percent of all pending evictions by KPA. During the year the KPA carried out 182 evictions Kosovo-wide.

The KPA remained unable to enforce seven HPCC decisions for properties located in the northern part of Mitrovica/Mitrovica, due to concern by authorities that attempts to serve eviction notices would lead to violence.

The KPA also examined requests for reconsideration in instances where the original claim had been denied. As of December one HPCC request for reconsideration remained pending. Additionally the Kosovo Property Claims Commission (KPCC), a quasi-judicial arm of the KPA acting under the KPA mandate, adjudicated 26,953 claims by the end of December. The KPCC overturned 18,637 claims based primarily on incorrect notification or other technical reasons. Of the overturned claims, the KPCC re-adjudicated 1,680. As such the number of valid adjudicated claims stands at 10,266. The total number of implemented KPCC decisions stands at 2,249.

The backlog of property-related claims in municipal courts remained high with approximately 20,000 outstanding at year's end, representing almost exclusively monetary claims by Kosovo Serbs for war-related damage.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government, EULEX, and KFOR generally respected these prohibitions in practice. KFOR forces retained the ability to assist local police and EULEX police in conducting searches for high-risk suspects and independently to search private property for weapons without court orders, based on UN Security Council Resolution 1244's peacekeeping authority. During the year KFOR did not conduct any such searches.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, there were reports that media representatives were intimidated by public officials, politicians, and businesses. The media also encountered difficulties in obtaining information from the Government and public institutions. The law on broadcast media prohibits hate speech and speech that incites ethnic violence.

Individuals generally could criticize authorities publicly or privately without reprisal.

According to the Association of Professional Journalists of Kosovo (APJK), media outlets' financial difficulties left the editorial independence and journalistic professionalism of both print and television media vulnerable to outside influence and pressure. A few newspapers were financially self-sufficient and thus able to develop editorial policies independent of business and political interests. However, other newspapers relied on funding from businesses and political interest groups, as well as the Government, which provided financial support in exchange for positive coverage or absence of critical coverage.

There was no direct censorship of print or broadcast media; however, journalists reported pressure from politicians and organized crime, which frequently resulted in self-censorship. Some journalists refrained from critical investigative reporting

out of fear for their personal security or their jobs. Journalists were occasionally offered financial benefits in exchange for positive reporting or for abandoning an investigation, and government officials and suspected criminals verbally threatened some journalists for perceived negative reporting. According to editors, government agencies and corporations withdrew regular advertising from newspapers that had published critical coverage of them.

Print media self-regulated through a code of conduct adopted by the Press Council, an organization composed of print editors and publishers and led by an international member elected by the council. The council's complaint board reviews and issues decisions on complaints against media outlets. The council requires media outlets found to have violated the group's code of conduct to publish the council's negative finding. Under the council's new statute, which entered into force on January 26, the council no longer imposes monetary fines for misconduct.

The Independent Media Commission implemented regulations and enforced codes of conduct governing broadcast media. The commission is a permanent body overseen by a seven-member governing council.

As of December the country had 104 licensed broadcasters on the terrestrial network (39 of which broadcast in minority languages); the broadcasters expressed a wide variety of views. Of the 65 broadcasters whose primary language was Albanian, the three entities of the publicly funded Radio Television Kosovo (RTK) group (RTK Television, Radio Kosova, and Radio Blue Sky) also broadcast daily in minority languages.

The RTK board of directors is responsible for overseeing RTK, and the Ministry of Finance controlled its budget. The law provides for regulation of RTK program content and requires that at least 15 percent of RTK program time, including prime time, be dedicated to minority communities in their respective languages on a proportional basis.

State broadcaster RTK operated on interim funding allocated by the Assembly pending amendment of the law on RTK. In October 2009 the Constitutional Court suspended RTK's principal funding mechanism, a 3.50 euro (\$4.70) monthly RTK fee that had been added to all electricity bills. The suspension of the fee caused the European Broadcast Union to issue a public letter noting that this decision endangered the broadcaster's independence.

There were no reports of censorship or harassment of the publication of books, and publishing houses expressed a wide variety of views without restriction.

There were no reports that the Government used libel laws, national or public security grounds, or publishing restrictions as vehicles to limit the operations of print, broadcast media, or publishing houses.

During the year the APJK reported 33 instances of press freedom abuse by government officials, business interest groups, and media owners, including verbal threats to journalists and their agencies by individuals affected by negative media coverage, pressure not to publish certain materials and articles, and obstruction of their work. The APJK also reported that many journalists complained that editors often did not allow them to publish or broadcast stories critical of the Government or particular officials due to editors' or media outlets' connections to, or preferences for, certain senior government officials. In some cases, journalists reported that editors threatened to fire them if they continued to produce stories critical of the Government. Three journalists reported that editors prevented them from producing stories on high-level government corruption.

On August 27, the Vienna-based South East Europe Media Organization (SEEMO) issued a press release on the organization's concerns about restrictions on the ability of journalists to travel. SEEMO reported that several journalists had been denied passports because they were under police investigation or faced court proceedings. All passport applicants, including journalists, are required to submit a certificate from a competent court certifying that the applicant is not under investigation or court proceedings. Since journalists are often sued for critical reporting and are further subject to excessive court delays, SEEMO called the requirement "a clear restriction of the freedom of movement of journalists."

On November 14, Kosovapress online news agency reporter Sebahate Shala quit her job following a November 13 press conference in which she asked a EULEX official whether Minister of Transport and Communications Fatmir Limaj should have been included in political party PDK's candidate list for Assembly elections, considering that Limaj was the subject of an ongoing EULEX investigation. Shala reported receiving intimidating and insulting text messages after the press conference and publication of her report on the conference. Shala reported she was forced to quit because of disagreements with the agency's management over her question at, and coverage of, the press conference.

During the year there were several incidents of violence or harassment directed at the media.

On May 13, unknown persons placed signs on buildings on the street where the director of the media company Koha Group, Flaka Surroi, resided. The signs read “UBD Street—Veton and Flaka Surroi.” UBD was the acronym for the former Yugoslav/Serbian state security and, among the country’s majority population, is generally perceived as synonymous with “traitor.” The placement of the signs followed publication of an interview in the Koha Group’s top-circulation daily newspaper, Koha Ditore, with EULEX prosecutor, Johannes Van Vreeswijk, in which he revealed that Minister of Transportation Fatmir Limaj was suspected of involvement in organized crime and abuse of duty. Prime Minister Thaci publicly criticized the placement of the signs.

On June 3, the APJK received a complaint from daily newspaper Zeri alleging that the president of the Pristina District Court, Anton Nokaj, had pressured the newspaper by threatening to press criminal charges (as a private citizen) against a reporter for the daily Besa Kalaja. Nokaj claimed that Kalaja had falsely reported that charges had been pressed against him with EULEX related to the employment of his son as an interpreter for the court. Nokaj was not reappointed to his post as a judge.

On June 28, a group of participants at the Serbian anniversary celebration of the Battle of Kosovo in Gazimestan damaged the vehicle of the Kosovo branch of Tirana-based Top Channel Television and threw rocks at a Top Channel cameraman. The cameraman recorded the incident and was not injured in the attack. Police were investigating the case.

On July 20, an explosive device was thrown in the yard of the home of the editor in chief of Radio Mitrovica, Caslav Milisavljevic. The blast damaged three parked vehicles, one of which belonged to Milisavljevic. Some media quoted him as calling the attack politically motivated due to his son’s involvement with the North Mitrovica Municipal Preparation Team, which is working with the national government to establish a new Serb-majority municipality within Kosovo’s administrative system. An investigation into the case was ongoing at year’s end.

There were some developments in cases of violence or harassment directed against the media in previous years.

On May 5, EULEX prosecutors reported there was insufficient evidence to pursue the January 2009 case of a group of Kosovo Serbs who threw an explosive device at firefighters in the northern part of Mitrovica/Mitrovica and attacked a television crew from local station, TV Most, which was covering the fire, injuring a reporter and destroying a television camera.

There were no new developments in the March 2009 case in which the Kosovo Serb media reported that police harassed reporters of the Kosovo Serb television production Glas Juga and Radio KIM after they covered a Kosovo Serb protest in the village of Shillove/Silovo. Reportedly, police officers stopped the reporters, forced cameraman Bojan Kosanin out of his vehicle, and kicked him. Police claimed that they did not receive any complaints regarding police mistreatment.

The local newspaper Infopress, cited by the Press Council for publishing opinions that constituted hate speech (threats against television journalist Jeta Xharra), did not pay the 1,000 euros (\$13,400) fine imposed by the Press Council in June 2009. Under the Press Council’s new statute, it no longer imposes fines on media outlets.

The KP assessed that there was no police wrongdoing in the July 2009 detention of a reporter and a technician from “TV Iliria” for allegedly provoking the crowd while they were covering a police operation involving the arrest of dozens of municipal employees from the Viti/Vitina municipal government in July 2009. The reporter and technician left the police station, were not interviewed there, and did not file any charges against police for the detention. Viti/Vitina police later said they filed charges against the reporter and technician for obstructing officials in their duties, but the journalists have not received notification of any charges against them.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. In December the Telecommunications Regulatory Authority reported that approximately 40 percent of households had Internet connectivity.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and the Government, EULEX, and KFOR generally respected this right in practice.

The law on public gatherings requires that organizers inform police of protests 72 hours prior to the event. Police are required to notify the organizers within 48 hours if the protest will be allowed.

On a few occasions during the year, police used force to disperse demonstrations and beat demonstrators while making arrests.

There were allegations of excessive use of force by EULEX police in the September 11 clash between a group of Kosovo Serbs and EULEX and the KP, following an interethnic altercation after Serbia's loss in the World Basketball Championship semifinal. One EULEX officer received a bullet wound to the foot, and one KP officer and seven Kosovo Serbs were also injured in the incident. The KP was investigating the case at year's end.

The PIK investigated but did not issue a conclusion in a May 2009 case from the Kosovo Serb enclave of Ranilug/Ranilug in Kamenice/Kamenica, where local Kosovo Serbs protested power cuts by public electricity provider KEK. There were credible reports that multiple KP special operations officers beat and kicked one of the protesters while he was on the ground. No officers were charged in the case.

*Freedom of Association.*—The constitution and law provide for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government and EULEX generally respected these rights; however, interethnic tensions and real and perceived security concerns restricted freedom of movement in practice.

The Government cooperated with the Office of the UN High Commissioner on Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Police continued to assess the security situation as stable but fragile. No crimes related to freedom of movement were reported to police. Nevertheless, members of all ethnic communities continued to remain largely within or travel between areas where their group comprised the majority.

Perceived risks and sporadic incidents of violence and intimidation continued to limit freedom of movement for Kosovo Albanians in northern Kosovo and Serbs in other parts of the country. The Government enhanced efforts to facilitate minority travel, but real and perceived risks deterred many minorities from traveling outside their neighborhoods.

There were several cases of explosive devices found along roadways and under one bridge in the Strpce/Shterpce area. None were detonated.

There were no new developments since the 2009 arrests of five men in the 2008 case of attempted armed robbery of bus passengers on route that carries Kosovo Serbs to Serbia near Podujeve/Podujevo.

There were no new developments in the 2008 incidents in which pedestrians discovered explosive devices along the railway in Old Kacanik village in Ferizaj/Urosevac and beneath a railway bridge in Mitrovice/Mitrovica.

The Government regulated movement in and out of the country. The law provides that the central civil registry may issue travel documents to any person registered as a habitual resident of the country, and the registry routinely issued such documents in practice.

The law prohibits forced exile and authorities did not use it.

*Internally Displaced Persons (IDPs).*—According to the UNHCR, at the end of the year, there were 18,196 displaced persons within the country, 54 percent of whom were Kosovo Serbs and 40 percent Kosovo Albanians. Of the 4,100 persons displaced by riots in 2004, approximately 1,000 remained IDPs.

According to UNHCR estimates, the largest number of IDPs, approximately 80 percent, were concentrated in the Mitrovice/Mitrovica region. In Mitrovice/Mitrovica municipality, many Kosovo Serbs in the northern part and Kosovo Albanians in the southern part of the municipality remain in displacement.

International donors completed construction of 96 homes for 96 families in a Romani settlement in the southern part of Mitrovice/Mitrovica that was destroyed during riots in 1999. The homes accommodate families that had been living in the lead-polluted Cesmin Lug IDP camp and the Osterode camp. Before the new construction this year, 484 displaced Roma, Ashkali, and Egyptian inhabitants had returned to the neighborhood. On December 2, international donors funded a program for testing the blood lead levels of 78 children who were resettled from the lead-contaminated camps during the year. In a testing and treatment protocol recently

approved by the Ministry of Health, nurses at the Romani Mahalla medical center have begun testing the children for lead poisoning. Testing revealed a significant drop in blood lead levels after the resettlement. Depending on additional results, follow-up treatment will be conducted by health officials.

During the year the Ministry of Communities and Returns budgeted five million euros (\$6.7 million) for returns of, and assistance to, IDPs. International community donors also provided funding directly to implementing partners of projects for returns in coordination with the Ministry of Communities and Returns. The funds were spent on housing reconstruction, food and nonfood assistance, income generation grants, and basic support infrastructure such as roads and water systems.

The Government did not attack, target, forcibly return, or resettle IDPs under dangerous conditions.

The KP reported that investigations into four cases of physical attacks and verbal harassment against Romani returnees living in Gjilan/Gnjilane in July 2009 resulted in three cases being sent to the municipal prosecutor's office and one case being sent to the municipal court for minor offenses.

*Protection of Refugees.*—The country is not a party to the 1951 Convention relating to the Status of Refugees or the 1967 Protocol. However, the law is based on and refers to the 1951 convention and 1967 protocol to provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The asylum law entered into effect in 2008. Administrative instructions, such as procedures and standards for the reception and initial treatment of asylum seekers, and rights and obligations of asylum seekers, have been promulgated and are pending implementation. During the year the UNHCR continued to assist the Department of Borders, Asylum, and Migration in building its capacity to adjudicate claims; to provide training to border police in identifying and processing individuals who request asylum at ports of entry; and to prevent the return of persons to countries where their lives or freedom would be threatened. In addition the Government has issued a decision on the establishment of the national commission for refugees, and with the European Commission, is funding a construction of a new reception center for asylum seekers in Lipjan/Lipljan municipality.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. At year's end, the country hosted 220 refugees, mostly from neighboring countries.

According to the UNHCR, from January 2009 until December 2010, 271 asylum seekers applied for international protection in the country. The Department of Borders, Asylum, and Migration and the asylum center accommodated all asylum seekers. In January a temporary asylum center in Pristina was opened. The facility was filled to capacity early in the year. At year's end only 62 of the 272 asylum seekers remained in the country. Figures on stateless persons were unavailable, but the UNHCR reported assisting nearly 10,000 from the Roma, Ashkali, and Egyptian community to obtain civil status registration in recent years.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide residents with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Since the country's declaration of independence in 2008, local officials assumed authority and responsibilities in most areas of governance. Under the constitution, the 120-member Assembly has the authority to select a president, a prime minister, and other ministers and government officials.

*Elections and Political Participation.*—On December 12, the country held snap Assembly elections, following the November 2 Assembly vote of no-confidence in the Government. The no-confidence vote followed the September 27 resignation of President Fatmir Sejdiu following the Constitutional Court's decision that he had breached the constitution by maintaining his position as leader of his political party, Democratic League of Kosovo (LDK), while serving as president.

Domestic and international observers stated the elections generally met international standards but noted serious irregularities and electoral manipulations in some areas, including falsification of signatures on the voters' list and observed irregularities in counting. Observers also noted incidences of family voting (male heads of household voting on behalf of female family members) throughout the country. The Electoral Complaints and Appeals Panel and the Central Election Commission annulled results for three municipalities—Skenderaj/Srbica, Gillogovac/Drenas,

and Decan/Decani—as well as three polling stations in Malisheve/Malisevo and Lipjan/Lipljan as a result of electoral irregularities. Revoting in these three municipalities and the annulled polling stations in the other two municipalities was scheduled for January 9, 2011.

For the December 12 Assembly elections, 14 alternative polling stations—minibuses staffed by internationals and advertised to the public—were provided to enhance polling opportunities in Serb areas north of the Ibar River. Electoral authorities did not have access to the schools that would normally serve as polling stations, as these institutions are under the control of unsanctioned parallel Serbia government authorities. Serious intimidation generally prevented local persons from serving as polling station workers and suppressed voter turnout in the region.

On October 29, the Assembly adopted changes to the national election law that clarified the election complaints and appeals process and provided for voters in Assembly elections to vote for one party and up to five candidates from that party.

On June 20, municipal elections were held in the newly established Serb-majority municipality of Partes/Partesh, and the mayoral run-off election was held on July 18. The Partes/Partesh elections were marked by the highest rate of Kosovo Serb participation since the county became independent, with first round voter turnout exceeding 56 percent and runoff elections reaching 36 percent turnout. International observers assessed the elections as generally free and fair. On April 11, due to the death of the mayor, extraordinary mayoral elections were held in the municipality of Istog/Istok.

Serb hardliners who object to Kosovo's independence continued to intimidate and retaliate against Kosovo Serbs who engage with Kosovo government structures. On September 27, explosive devices believed to be hand grenades were thrown at the home of Dragan Stojkovic and the car of Dusan Milisavljevic, officials of the only legally registered political party in northern Kosovo, the Democratic Alternative Party, following its inaugural congress. The September 27 attack was the third attack on Stojkovic's property and the second on Milisavljevic's vehicle.

The country had a multiparty system dominated by five Kosovo Albanian parties with several minority parties and coalitions. The law provides that individuals may nominate themselves as candidates to their parties, which must hold open and transparent internal elections to select candidate lists. Political parties could operate without restriction or outside interference, but party affiliation played an important role in access to government services and social and employment opportunities. Traditional social arrangements and clan loyalties also played an important, although unofficial, role in political organizations.

Prior to its dissolution in November, there were 37 women in the 120-seat Assembly. The electoral law requires a 30 percent quota for female parliamentarians. There were no women on the eight-member Assembly presidency. In the Government, there were two female ministers and four female deputy ministers. While no women were elected in the November mayoral elections, women represented 31 percent of elected municipal representatives.

Prior to its dissolution in November, there were 24 ethnic minority members in the 120-seat Assembly, including 10 Kosovo Serbs and 14 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Egyptians.

The constitution requires that the Assembly reserve 10 seats for Kosovo Serbs and 10 for members of other ethnic groups. Although there are no similar quotas for municipal elections, Kosovo Serb political participation and representation in the southern part of the country continued to grow, especially in the Serb-majority municipalities newly established or enlarged in accordance with the Ahtisaari plan and the country's constitution. Serbs remain without municipal representation in the three northern municipalities of Leposaviq/Leposavic, Zubin Potok, and Zvecan, as Kosovo Serb voters responded to calls from Serbian authorities not to participate in the November 2009 municipal elections there.

In 2008 the Government implemented an election law to create a single, multi-member electoral district throughout the country. Under the law, elections are to be held with open lists according to a proportional representation system. A quota system provides for representation for women and minorities in the Assembly. A political party must receive 5 percent of the vote in order to enter the Assembly.

The Serbian government continued to run parallel government structures in Kosovo Serb enclaves. In 2008 UNMIK stated that organizing elections for these parallel structures was a violation of UN Security Council Resolution 1244. In 2008 UNMIK declared that the parallel municipal structures arising from these elections were illegitimate.

On October 14, the unsanctioned parallel government of a Serbia court operating in North Mitrovica issued indictments to the mayor of the municipality of Strpce along with nine other members of the Strpce Municipal Assembly and municipal

employees. The indictments, stemming from the January 14 takeover of some of the offices in the Strpce Municipal building used by parallel Serbian authorities, accuse the mayor and municipal officials of having committed offenses under the Serbian criminal code. The indictments put the mayor and municipal officials at risk of arrest if they travel outside of Kosovo to Serbia or any country that has an extradition treaty with Serbia.

On May 30, the Serbian government sponsored parallel municipal elections in Mitrovica/Mitrovice and Novo Brdo/Novoberde to replace parallel municipal governments dissolved by the Serbian government in December 2009. The Kosovo government and international community continued to emphasize that the parallel institutions were illegal and invalid.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials reportedly engaged in corrupt practices with impunity. According to Freedom House's 2010 report, Nations in Transition, corruption remained a serious problem.

There was widespread public perception of corruption in the Government. International organizations and NGOs continued to report that corruption was a serious problem. A lack of effective judicial oversight and general weakness in the rule of law contributed to corruption in the Government.

On October 15, the Kosovo Special Prosecutor's Office filed an indictment in the District Court of Pristina against five Kosovo defendants for trafficking in human organs, organized crime, unlawful medical activities, and abuse of official authority. Among the defendants are doctors and a person who previously worked at a senior-level in the Ministry of Health. Interpol also issued arrest warrants for a Turkish citizen and an Israeli citizen in the case. The charges are related to the Medicus Clinic in Pristina, which was closed in 2008 by KP after a months-long investigation for the international trafficking of organs.

On November 10, a mixed panel of two EULEX judges and one Kosovo judge of the District Court of Pristina found Democratic League of Dardania (LDD) president Nexhat Daci and his former aide Ahmet Alishani guilty on charges of misusing their offices during Daci's tenure as speaker of the Assembly in 2003-05. The court convicted Daci on charges related to the misappropriation of Assembly funds to pay for his dental and optician bills in the total value of 1,540 euros (\$2,063); he was acquitted on charges related to the illegal procurement of power generators for his personal residence. The court gave Daci a suspended sentence of one year and six months in prison, and he is prohibited from serving in public office for two years following the completion of the sentence; Alishani received a six-month suspended sentence. According to the terms of the sentences, neither will face prison time as long as they commit no other offenses.

On July 13, members of the Anticorruption Task Force and EULEX police arrested Ilir Tolaj, political advisor to Minister of Health Bujar Bukoshi, on suspicion of tax evasion during the period 2004-08, when he was permanent secretary in the Ministry of Health. He was released the following day on a bail of 50,000 euros (\$67,000). The investigation continued at year's end.

On July 23, EULEX and KP units arrested Hashim Rexhepi, governor of the Central Bank, on suspicion of abuse of official position, corruption, bribery, tax evasion, and money laundering. The Anticorruption Task Force searched seven locations in the case, including the office of the Central Bank and the residence of the governor. On November 19, Rexhepi was released on 20,000 euros (\$26,800) bail.

Corruption and government influence remained problems in the security forces. On December 16, EULEX and KP executed search warrants at the Kosovo Customs and the Ministry of Economy and Finance in relation to the importation of large quantities of cigarettes in 2008-09. EULEX investigators have alleged that Customs Director Naim Huruglica was complicit in a scheme to deprive the Government of the 2.5 million euros (\$3.35 million) in tax revenue had the cigarettes been imported after a planned excise tax increase which took effect in 2009. The case remains under investigation, and no charges had been filed at year's end.

The investigation continued in the August 2009 case of police lieutenant Sejdi Zeqiri, who was arrested for abuse of official authority, bribery, and sexual harassment. At year's end, Zeqiri remained under house arrest.

The Kosovo Customs Law Enforcement Unit made progress in investigating and prosecuting corruption in the Customs Service. During the year one customs officer was dismissed, one was suspended, two were demoted, nine were denied promotion, and 15 were issued warnings in various internal investigations of wrongdoing within the Customs Service.

There were no developments in the June 2009 case of the arrest of Ardian Hasanaj, a senior official at the Government-owned national telecommunications provider Post and Telecom of Kosovo (PTK). Hasanaj allegedly took bribes from two persons to help them find jobs. Hasanaj's employment with PTK was terminated after he was arrested.

On July 14, the municipal court in Prizren sentenced Elez Hoxha to four years in prison and fined him 10,000 euros (\$1,340) for accepting bribes during the period 2005-07, when he was a judge in the Pristina District Court.

On July 9, the district court in Pristina convicted Norwegian citizen Ove Johansen on corruption charges for arranging for a fraudulent transfer of 300,000 euros (\$402,000) from a government-owned telecommunications provider to a phantom company in Norway. The court sentenced him to two years in prison and ordered him to pay damages to PTK in the amount of 300,000 euros (\$402,000). Two other suspects in the case, Roger Reynolds and Ronnen Sorenson, remained at large.

The law provides that public officials are subject to financial disclosure laws.

The Kosovo Anticorruption Agency and the Office of the Auditor General are the two major agencies responsible for combating corruption in the Government. During the year the anticorruption agency received 132 reports of corruption; 27 cases were referred for prosecution, four were passed to the KP, 57 were closed for lack of evidence, and 44 were under investigation.

The independent Office of the Auditor General (OAG) reviewed fiscal management and accountability in the central government, municipal authorities, and publicly owned enterprises. During the year the OAG audited most ministries, the president's office, and the Assembly. In a September report, the OAG noted that government institutions continued to fail to respect fiscal management laws and regulations due to a lack of understanding of their responsibilities and of basic accounting.

In a report released during the year, Freedom House noted that corruption was widespread and remained a major problem due to insufficient laws, a lack of political will, and the weakness of the judicial system. The report also noted that the anticorruption law and the provisional penal code define corruption differently.

In 2009 the European Commission reported that the public sector's outsized role resulted in an unfriendly business environment in which politically connected groups and individuals have advantages in establishing companies and seeking public contracts.

The law provides for public access to government information through a newly strengthened law on access to official documents, adopted on October 10, which abrogated the 2003 law. The new law provides for penalties for institutions and officials that do not provide access to information as required by the law. NGOs have commented favorably on the new law, indicating it clarifies procedures for accessing official documents.

A test conducted by the NGO Youth Initiative for Human Rights, covering the period from June 2008 to July 2009, indicated that only approximately 25 percent of requests for access to official documents (sent randomly to local and central authorities) received positive responses. The International Exchanges and Research Board's Media Sustainability Index noted that the administrative instruction implementing the 2003 Law on Access to Official Documents extended the time limit beyond 15 days and was overly specific about when a document can be accessed, thus limiting access to official documents.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government was occasionally cooperative and responsive to their views.

The Government occasionally met with domestic NGO monitors, responded to their inquiries, or took action in response to their reports or recommendations. There were no reports that the Government harassed, targeted, or prosecuted NGOs for their activities.

The Government cooperated with international organizations, including UN representatives and other international organizations including the ICRC and the International Organization for Migration. The UN maintained a large presence in the country and covered a wide range of issues.

There were no developments in the 2008 case of unknown assailants in Mitrovica/Mitrovica throwing a Molotov cocktail at the headquarters of the humanitarian organization Norwegian Church Aid.

The ombudsperson investigates allegations of human rights violations and abuse of government authority. The ombudsperson was considered moderately effective but

was restricted by funding problems. The ombudsperson continued to assert that the courts and ministries were the most frequent violators of human rights in the country. The ombudsperson also noted that recent reforms in the judiciary were insufficient, and the system suffered from grave defects. While the ombudsperson actively issued intervention letters, reports, and recommendations, his recommendations were not always followed by the Government, local courts, or police. The ombudsperson investigated cases concerning property rights, abuse of official authority, administrative acts or omissions by public authorities, lack of proper investigations into criminal acts, issues involving the length of court proceedings and the execution of court decisions, employment-related disputes, and discrimination cases.

The Assembly maintains a committee on human rights, gender equality, missing persons, and petitions. The committee must review all laws that affect human rights. The committee was controlled by governing coalition parties and did not issue any public reports during the year.

The Government and KFOR generally cooperated with the ICTY. On July 21, the Appeals Chamber of the ICTY ordered a partial retrial in the case of former prime minister Ramush Haradinaj and codefendant Idriz Balaj, acquitted by the ICTY in 2008, and ordered both men into custody. On October 28, the prosecutor for the ICTY revised its indictment against Haradinaj. The amended charges have replaced “crimes against humanity” with “violations of the customs of war.” The appeal of Lahi Brahimaj, convicted of torture and mistreatment of prisoners and sentenced to six years in prison in 2008, was pending at year’s end.”

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law specifically prohibits discrimination on the basis of race, gender, ethnic origin, disability, social status, or language. The Government did not effectively enforce these prohibitions.

*Women.*—The law criminalizes rape; however, spousal rape is not specifically addressed. Under the criminal code, rape is punishable by two to 10 years in prison; statutory rape (sexual intercourse with a child under 16 years old) is punishable by five to 20 years in prison. Rape involving homicide is punishable by imprisonment of 10 to 40 years.

Observers believed that rape was significantly underreported due to the cultural stigma attached to victims and their families. Police rape units around the country received 18 reports of rape during the first half of the year. According to the Justice Ministry, victim advocates provided services to victims in 40 cases of rape from January through November.

Domestic violence against women, including spousal abuse, remained a serious and persistent problem. The law prohibits domestic violence, and convictions carry prison terms of six months to five years. The law treats domestic violence cases as civil cases unless the victim suffers bodily harm. Failure to comply with a civil court’s judgment relating to a domestic violence case is a criminal offense and can be prosecuted. When victims did press charges, police domestic violence units conducted investigations and transferred cases to prosecutors. According to the special prosecutor’s office, family loyalties, poverty, and the backlog of cases in both civil and criminal courts contributed to the low rate of prosecution.

In November 2009 the OSCE provided an update to its 2007 report on domestic violence. OSCE monitors reported continued problems in the adjudication of domestic violence cases, including unlawful delays in scheduling hearings or in deciding on protection orders, failure to involve representatives of the Center for Social Work in civil domestic violence proceedings, misapplication of relevant laws by courts, and failure to prosecute domestic violence crimes.

Between January and November, police reported 636 victims of domestic violence. Between January and December, the Centers for Protection of Women and Children in Pristina and Mitrovica provided assistance to 182 victims of domestic and sexual violence and six victims of trafficking. From January through June, the Justice Ministry’s victim advocate and assistance unit was involved in 313 domestic violence cases.

Convictions for domestic violence were rare, and sentences ranged from judicial reprimands to imprisonment. Traditional social attitudes towards women in the male-dominated society contributed to the high-level of domestic abuse and low number of reported cases.

The Ministry of Labor and Social Welfare’s protection for families section had a unit dedicated solely to dealing with family violence. The ministry provided some financial support to NGOs running shelters for domestic violence victims, which also accommodated some trafficking victims. The ministry also provided social services through social welfare centers. Several domestic and international NGOs pursued

activities to assist women; however, they were constrained by a tradition of silence concerning domestic violence, sexual abuse, and rape.

The police training school offered special courses on domestic violence and rape. There were no reports that police responded inappropriately to rape or domestic abuse allegations.

There is no specific law against sexual harassment, which was a common problem. Women's rights organizations indicated that sexual harassment commonly occurred on the job but went unreported due to fear of expulsion or physical retaliation. Public awareness of sexual harassment remained low, and few cases were reported.

The reproductive health law protects the reproductive rights of individuals and couples, including the right to information and access to reproductive services. In practice the Government generally respected reproductive rights. The UN Population Fund (UNFPA) reported that access to reproductive health information and treatment was generally widespread and equitable, however, poor, marginalized, and illiterate communities often received limited access to information. Public health care provided limited treatment for sexually transmitted infections and cancers of reproductive organs.

Women possess the same legal rights as men but traditionally have a lower social status, which affected their treatment within the legal system. The Agency for Gender Equality within the Prime Minister's Office has the mandate to implement and monitor the gender equality law.

Relatively few women obtained upper-level management positions in business, police, or government. Women represented less than 30 percent of the Government workforce. According to the Business Registration Agency, women owned fewer than 5 percent of registered businesses. Female unemployment remained at around 80 percent, 25 to 30 percentage points higher than the rate for men. During the year the Agency for Gender Equality supported a local NGO providing training for women in small businesses.

According to the OSCE, women belonging to nonmajority communities were at risk of suffering multiple forms of discrimination due to gender, ethnicity, or social origin. Traditional societal attitudes toward women resulted in discrimination. In rural areas, women frequently had little ability to make decisions involving their children or to exercise control over property. While the law makes no gender distinction in the right to inherit property, family property customarily passes only to men. In rare cases, Kosovo Albanian widows, particularly in rural areas, risked losing custody of their children due to a custom calling for children and property to pass to the deceased father's family while the widow returns to her birth family.

*Children.*—Children acquire citizenship from their parents or by virtue of birth in the country. According to a 2008 UN Children's Fund (UNICEF) study, 14 percent of Roma, Ashkali, and Egyptian children in Kosovo Albanian-majority areas were not registered at birth. In Kosovo Serb-majority areas, 5 percent of these children were not properly registered. UNICEF reported that, as a rule, a lack of registration did not affect a child's ability to receive elementary education or health care but could have an adverse effect on access to social assistance.

The extent of child abuse in the country was unknown, but UNICEF believed it was significantly underreported due to lack of awareness, victim services, and limited capacity to identify, report, and refer cases of abuse. The Justice Ministry's unit for victim advocacy and assistance reported six cases of child abuse between January and November. Children also suffered from domestic violence. During the same period, police reported 60 child victims of domestic violence. Of those, 23 were placed in shelters; 12 were from Kosovo and 11 were from other countries.

There was anecdotal evidence of child marriage, particularly in the Roma, Ashkali, Egyptian, and Kosovo Albanian communities. The Government and NGOs did not compile statistics on child marriage, so the extent of the problem was unclear.

Statutory rape is a criminal offense punishable by five to 20 years in prison, depending on circumstances and the age of the victim.

The law prohibits possession, production, and distribution of child pornography. Anyone who produces, uses, or involves a child in making or producing pornography is subject to one to five years' imprisonment. Distribution, promotion, transmission, offer, or display of child pornography is punishable by six months' to five years' imprisonment. Possession or procurement of child pornography is punishable by fine or imprisonment of up to three years.

From January to June the Ministry of Labor and Social Welfare operated 35 centers that assisted 1,435 orphans and 1,626 delinquent children. The ministry also managed foster homes and coordinated with NGOs to place children in temporary shelters. During the year 61 children were living in foster homes and NGO-funded

or government-funded community homes under 24-hour care, including 54 children who were placed into protective care during the year. Two children who were placed under protective care were hospitalized and remained so at the end of the second quarter of the year.

The Ministry of Labor and Social Welfare reported that there were 258 abandoned children with disabilities, ranging in age from three to 18 years, living in two government-funded community homes receiving 24-hour care.

The country is a not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts during the year.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and in the provision of other state services; however, the Government did not effectively implement laws and programs to provide that persons with disabilities have access to buildings, information, and communications. The situation for persons with disabilities remained difficult. Although the law mandates access to official buildings, it was not enforced and such access was rarely available in practice. Even the Office of the Ombudsperson is not accessible for persons with physical disabilities. During the year the country enacted new laws providing for access by deaf and blind persons to all public institutions, but implementation of these laws was poor.

The Ministry of Labor and Social Welfare is the Government agency responsible for protecting the rights of persons with disabilities. By law protection and provision of services is offered to all citizens; however, there was considerable discrimination in practice, and ensuring the rights of persons with disabilities was not a government priority.

According to local disability rights NGO HandiKos, existing laws and government action plans relating to persons with disabilities were not adequately implemented. As a result, children with disabilities were often excluded from educational opportunities, were not professionally evaluated, and lacked sufficient health and social services.

According to the Ministry of Education, there were seven special residential schools for children with disabilities and 70 special needs classrooms attached to regular schools. The ministry reported that, at year's end, 1,100 pupils were receiving special education.

There were legal protections for children with disabilities. A Law on Material Support for Families of Children with Permanent Disability entered into force in 2008, and a new Law on Material Support for Families of Children with Temporary Incapacity entered into force on January 1. The laws provide definitions of children with disabilities and permit their legal guardians to apply to the Ministry of Labor and Social Welfare for material support. However, the ministry lacked both the funds and personnel to implement the laws.

According to the NGO Kosovo Mental Disability Rights International (K-MDRI), persons with mental disabilities continued to be detained without legal basis in isolated conditions. K-MDRI noted that there is no law to regulate the process of committing persons to psychiatric or social care facilities or to protect their rights within institutions. According to the World Health Organization (WHO), there were an estimated 14,000 persons with mental disabilities; K-MDRI reported an estimated 50,000 persons with mental disabilities living outside institutions. According to K-MDRI, such persons lived isolated and stigmatized lives.

The Government-operated Shtime/Stimlje Institute maintained a facility for persons with developmental or intellectual disabilities with 58 residents, run by the Ministry of Labor and Social Welfare, and a separate psychiatric facility with 57 residents, run by the Ministry of Health. Citing insufficient training for staff and a lack of rehabilitative programming for patients and residents, K-MDRI advocated closing the facility, and placing its patients and residents into homes and apartments in urban areas, where they can be integrated with the community.

During the year the Ministry of Health hired a person with special needs to conduct outreach to disabled persons. The ministry operated eight integration and community homes across the country, providing inpatient care for 75 persons with mental disabilities. In addition the Ministry of Labor and Social Welfare operated another nine community homes with approximately 10 to 15 residents in each facility. K-MDRI reported that, while these homes were intended to be transitional, most

residents spent years there with little prospect of integration into the community. According to the WHO, there were not enough facilities to provide care for persons with mental disabilities, and employment opportunities for persons with mental disabilities were limited.

The National Council on Disabled Persons, an advisory organization to government authorities and the Assembly, met twice during the year.

*National/Racial/Ethnic Minorities.*—Institutional and societal discrimination persisted against Kosovo Serb, Roma, Ashkali, and Egyptian communities in employment, education, social services, language use, freedom of movement, the right to return, and other basic rights. Members of the Kosovo Bosniak and Gorani communities also complained of discrimination, while Kosovo Croat and Kosovo Montenegrin communities were nominally acknowledged through appointment of their representatives to the Kosovo president's Communities' Consultative Council. Kosovo Bosniak leaders continued to complain that many of their community members continued to depart the country as a result of discrimination and, increasingly, an absence of economic opportunities. Members of the Roma, Ashkali, and Egyptian communities were subject to pervasive social and economic discrimination; often lacked access to basic hygiene, medical care, and education; and were heavily dependent on humanitarian aid for survival. Reports of violence and other crimes directed at minorities and their property persisted.

There were clashes between groups of Kosovo Albanians and Kosovo Serbs during the year.

On September 11, groups of Kosovo Albanians and Serbs clashed in Mitrovica after exchanging taunts and insults following Serbia's loss to Turkey in the World Basketball Championship semifinals. Both sides threw rocks, and the clash ended when Kosovo Albanians withdrew. EULEX responded to the incident, and one of its units was attacked by Kosovo Serbs with stones, stun grenades, Molotov cocktails, and firearms. Several police and protestors were injured in the incident, which remained under investigation by the KP.

On July 2, a protest by Serbian government parallel structures of the opening of the Government's citizen services center in north Mitrovica turned violent, resulting in the death of a Kosovo Bosniak, Dr. Mesud Djekovic, and injuries to 11 others. The death and injuries occurred when an unidentified individual threw a hand grenade into the crowd of Serb protestors, who were marching toward a home in the ethnically mixed neighborhood of Bosniak Mahala that was flying an Albanian flag. EULEX and KP investigations in the case continued at year's end.

During 2009 EULEX police reported 116 cases of alleged interethnic crime, 86 involved Kosovo Serbs as victims or suspects. Figures for 2010 were unavailable. Investigations into such crimes yielded arrests of suspects in many cases.

In June 2009 three Kosovo Serb teenagers were reportedly beaten by a group of Kosovo Albanians in Lipjan/Lipljan while passing a construction site. On June 16, police filed assault charges against Atdhe Qerkini, Kosove Kelmendi, Bunjamin Jashanica, Gezim Xhemajli, Gazmend Bleta, and Qendrim Veseli. On June 17, the Lipjan/Lipljan Municipal Court ordered the six suspects to be detained for 30 days, with the exception of Veseli, a minor.

There were no developments in police investigations of the six attacks against Roma returnees that were reported in the village of Abdullah Peseva in July and August 2009 or the harassment and intimidation of 20 Romani, Ashkali, and Egyptian families from the Halit Ibish neighborhood in the Ferizaj/Urosevac municipality.

There were no developments in the 2008 case in which police charged Blasko Lazar Simic, Tihomir Radivoje Milosevic, Miodrag Vladimir Nikolic, and Bozo Zivojin Stanojevic with assaulting a public official and inflicting minor bodily injuries during a clash between Kosovo Serbs, protesting the construction of a mosque, and Kosovo Albanians in the ethnically mixed village of Berivojce in the Kamenice/Kamenica municipality. Two police officers and a number of protestors were injured. A trial date was pending at year's end.

According to a draft report prepared by the prime minister's Office of Community Affairs, minority employment in public institutions fell during the year and was generally confined to lower levels of the Government. The report recommended that the Government more actively reach out to minorities and implement reporting, recruiting, training, equal opportunity, and language procedures.

A 2009 OSCE study showed that minority representation in the civil service decreased from 12 percent in 2006 to 9 percent in 2009 and remained particularly low at senior levels. The highest rates of employment of minorities in the public sector are in the judiciary and police.

In education the law requires equal conditions for schoolchildren regardless of mother tongue and provides the right to native-language public education for minor-

ity students through secondary school. However, the Ministry of Education, Science, and Technology and international organizations reported that school enrollment rates were lowest among non-Serb minority communities (Ashkali, Bosniak, Egyptian, Gorani, Roma, Turkish, and others). A 2009 OSCE study showed that school enrollment rates for Kosovo Serb and Kosovo Albanian children were 99 percent and 96.5 percent respectively, while school enrollment rates for non-Serb communities averaged 76 percent.

Roma, Ashkali, and Egyptian children attended mixed schools with Kosovo Albanian and Kosovo Serb children and reportedly faced intimidation and bullying in some majority Albanian areas. Romani children tended to be disadvantaged by poverty, leading many to start work both at home and in the streets at an early age to contribute to family income.

During the year there were occasional reports of Kosovo Albanians destroying private property belonging to Kosovo Serbs. Some of these attacks may have been attempts to force Kosovo Serbs to sell their property. Regulations prevent the wholesale buyout of Kosovo Serb communities in an effort to prevent the intimidation of minority property owners in certain areas; however, these were rarely enforced. There were numerous reports that Kosovo Serbs had difficulty accessing their property, which was sometimes occupied or used by Kosovo Albanians. The Kosovo Property Agency (KPA) reported that it faced frequent cases of illegal occupation and re-occupation of properties in its eviction activities, with many properties vandalized or destroyed. For example, there were such property conflicts in the village of Zallq/Zac in Istog/Istok, where the Government is building houses for Kosovo Serb and Montenegrin families who returned to Kosovo spontaneously from Serbia and Montenegro in May. These properties, in various stages of construction, were vandalized on several occasions, and forested land surrounding the properties set on fire. The KP made several arrests related to these cases. So far, all suspects were juveniles, between seven and 14 years old.

There were no developments in the 2008 case in which the OSCE reported that a Kosovo Serb man attempted to visit his property in Decan/Decani with members of a United Nations Development Programme team planning to help reconstruct his home. The Serb owner could not exercise his rights to the property as adjudicated by KPA, as his home was destroyed, and an illegally built new house on the location continued to be occupied by a Kosovo Albanian family.

There were no developments in the 2008 case in Kline/Klina in which a Kosovo Serb reported that his property had been taken by a Kosovo Albanian man.

In September Kosovo Serbs in the village of Malisheve/Malisevo complained that plans for construction of a mosque immediately adjacent to their homes created an unwelcome environment for Serbs, noting that other land closer to Kosovo Albanian houses was available.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The constitution and law prohibit discrimination based on sexual orientation; however, there were reports of violence and discrimination directed against lesbian, gay, bisexual, and transgender (LGBT) individuals.

The Center for Social Group Development (CSGD), a local NGO focused on LGBT health issues, reported that traditional societal attitudes about homosexuality intimidated most gays and lesbians into concealing their sexual orientation. LGBT individuals generally felt insecure, with many reporting threats to their personal safety. A 2008 study by the Youth Initiative for Human Rights, funded by the Swedish Helsinki Committee for Human Rights, found that 57 percent of LGBT persons surveyed were afraid for their safety.

The print media at times reinforced negative attitudes by publishing articles about homosexuality that characterized LGBT persons as mentally ill. At least one political party, the Islamic-oriented Justice Party, included a condemnation of homosexuality in its political platform.

The CSGD reported that, while there was little official discrimination against LGBT persons, there were a number of cases of societal discrimination against LGBT individuals during the year. Victims generally refused to allow the center to present their cases publicly out of fear of discrimination. There were no overt impediments to the center's operation; however, social pressure and traditional attitudes had the effect of limiting its activities. The CSGD reported that the Ministry of Internal Affairs delayed without explanation the renewal of a memorandum of understanding with the KP for awareness-raising on LGBT issues.

There was no official discrimination in employment, housing, statelessness, access to education or health care; however, societal pressure persuaded virtually all LGBT persons to conceal their sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of official discrimination against persons with HIV/AIDS during the year; however, anecdotal reports indicated such discrimination did occur.

*Section 7. Worker Rights*

*a. The Right of Association.*—Regulations allow workers to form and join independent unions of their choice without previous authorization or excessive requirements, but this right was sometimes impeded by companies that threatened their employees when they joined or established unions. Regulations do not recognize the right to strike; however, strikes were generally permitted in practice, and few strikes occurred during the year. The Government passed a new labor law on November 2. The law codifies a 40-hour work week, provides for 20 days of paid leave per year for employees, and also provides for 12 months of maternity leave.

The largest unions were the Association of Independent Trade Unions of Kosovo (BSPK) and the Confederation of Free Unions (CFU). However, the Ministry of Labor and Social Welfare reported that the influence of both groups was declining as former members split off to form smaller unions.

*b. The Right to Organize and Bargain Collectively.*—Government regulations provide for the right to organize and bargain collectively without interference or restriction, and the Government did not restrict this right in practice; however, no collective bargaining took place during the year. The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

Regulations prohibit antiunion discrimination; however, some union officials reported discrimination in practice. The BSPK and CFU reported that only a small number of companies respected regulations preventing antiunion discrimination and claimed that worker rights were abused in every sector, including in international organizations, where staff did not receive pensions.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The criminal code prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—Regulations prohibit exploitation of children in the workplace, including a prohibition of forced or compulsory labor; however, with the exception of trafficking, the Government rarely challenged these practices. Trafficking of children, primarily for labor exploitation, was a problem, although a lack of statistical data made it difficult to estimate its magnitude. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Regulations set the age of 16 as the minimum for employment and the age of 18 as the minimum for any work likely to jeopardize the health, safety, or morals of a young person. Regulations permit children to work at the age of 15, provided the employment is not harmful or prejudicial to school attendance. The law requires children between ages six and 15 to attend school.

Child labor remained a problem. According to UNICEF, in recent years, the number of children begging on the streets of towns and cities rose, although the overall number of child beggars remained unknown. While most children were not their families' main wage earners, child labor served as a major contribution to many families' income.

In rural areas, young children typically assisted their families in agricultural labor. Urban children often worked in a variety of unofficial retail jobs, such as selling newspapers, cigarettes, and phone cards on the street. Some children were also engaged in physical labor, such as transportation of goods. International NGOs active in the country continued to report labor violations during the year, including child labor.

The Ministry of Labor and Social Welfare coordinated child protection policies for the Government, however, police had the lead on enforcing child labor laws. The ministry reported that limited progress had been made in reducing the number of children working on the streets. The ministry and local NGOs, with assistance from the International Labor Organization, worked to identify and remove working children from the streets. Since 2007 691 children were identified, of whom 440 returned to school.

*e. Acceptable Conditions of Work.*—There is no law establishing a minimum wage. Although not enforceable as law, the Government, chamber of commerce, and association of trade unions signed a memorandum of understanding in 2004 setting the minimum wage at 120 euros (\$161) per month, which was generally respected, but did not provide a decent standard of living for a worker and family. The average

monthly salary in the country was 230 euros (\$308) in the public sector and 280 euros (\$375) in the private sector. The World Bank reported, based on 2007 statistics, that 45 percent of the population was living below the national poverty line, and an estimated 17 percent was extremely poor, unable to meet basic nutritional needs. Regulations provide for a standard 40-hour workweek; require rest periods; limit the number of regular hours worked to 12 hours per day; limit overtime to 20 hours per week and 40 hours per month; require payment of a premium for overtime work; and prohibit excessive compulsory overtime.

During the year employers often failed to abide by official labor standards due to a lack of government enforcement, particularly with regard to the standard workweek and compulsory and unpaid overtime. Employees often did not report such violations due to fear of reprisals. According to the BSPK, many individuals worked long hours in the private sector as at-will employees without employment contracts, regular pay, or pension contributions paid on their behalf. Employees reported being fired without cause in violation of existing laws and being denied holidays. Women's rights organizations indicated that sexual abuse occurred on the job but went unreported due to fear of expulsion or physical retaliation. According to union officials, workers in the public sector commonly faced similar mistreatment, including sexual abuse and the loss of employment due to political party affiliation.

The Labor Inspectorate within the Ministry of Labor and Social Welfare is responsible for enforcing labor, health, and safety standards. However, the inspectorate primarily advised employers and, although it issued 3,329 site inspection citations and 360 citations for various labor standard violations during the first half of the year, many fines remained unpaid pending litigation.

Although there is a law to protect employees' health and working conditions, many private and public institutions continued to violate it. Labor inspectorate officials reported difficulties in obtaining accurate information because workers rarely disclosed the problems themselves in spite of legal protections.

---

## LATVIA

The Republic of Latvia, with a population of approximately 2.2 million, is a multiparty parliamentary democracy. Legislative authority is vested in the unicameral Saeima (parliament). Elections on October 2 for the 100-seat parliament were free and fair. Security forces reported to civilian authorities.

Human rights problems included police abuse of detainees and arrestees; poor conditions at police detention facilities; poor conditions and overcrowding in prisons; lack of detainees' access to attorneys; government corruption; violence against women; child abuse; trafficking in persons; and hate speech against ethnic and racial minorities on the Internet.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings. Security forces in one instance killed a criminal suspect in a shootout. On January 2, National Police officers shot and killed a man with a gun who was threatening to kill the officers and other persons in an apartment near Jelgava. After a routine investigation, the Internal Security Bureau of the National Police determined the officers acted reasonably.

On April 16, prominent journalist and local politician Grigorijs Nemcovs was shot and killed at a restaurant in Daugavpils. According to Reporters without Borders, a nongovernment organization (NGO), Nemcovs' killing appeared to be professional. Nemcovs was known for his investigative work on municipal government corruption and had previously been the subject of death threats and violence. At the end of the year, Nemcovs' killing remained unsolved.

There were no developments in the investigation by the prosecutor's office of the death of Sergejs Danilins in 2008, possibly due to a severe beating by a prison guard. In 2009 the Latvian Prison Administration (LPA) found sufficient evidence of wrongdoing by prison guards to refer the case to the prosecutor's office. The guards were found guilty in August 2009 and were fined and suspended for one year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that government officials employed them.

Independent local organizations continued to express concerns about police behavior, and there were reports that police severely abused persons in custody. During the year the Internal Security Bureau of the State Police received 141 complaints of alleged police violence. Of these reports, 94 cases were not substantiated, 18 criminal procedures were initiated, and 29 were still under review at the end of the year.

As of December the ombudsman's office received four complaints regarding mistreatment by police and five about mistreatment by prison officials. Some of these involved allegations against guards at the male juvenile detention facility. The ombudsman's office reported that, after it raised the issue with the LPA, a number of corrections officers were terminated, including a supervisor who failed to investigate initial reports adequately.

In December the European Court of Human Rights (ECHR) dismissed the case of Edgars Gulbis, a former Presidential Security Service officer whom police allegedly tortured while in custody in 2007. In June 2009, after an internal investigation and an opinion from the ombudsman's office failed to produce suitable redress in his view, Gulbis filed a complaint with the ECHR. The court did not receive required information from Gulbis' representatives and dismissed the case on that basis.

*Prison and Detention Center Conditions.*—Conditions in prisons and detention centers remained poor and did not meet international standards. The Government permitted monitoring visits by the ombudsman and other independent human rights observers, and such visits occurred during the year.

During the year prison authorities opened five investigations into cases of the violent deaths of prison inmates. In three of these cases, investigators found that the victims committed suicide. Investigations in the other two cases continued at year's end.

The ombudsman's office, NGOs, and prisoners continued to complain that prison facilities were seriously inadequate. These complaints echoed many of the conclusions of the 2007 report of the Council of Europe's Committee for the Prevention of Torture (CPT) based on a visit in the same year. The CPT found that in prisons for men, 20 prisoners were typically held together in dormitory-style rooms. Complaints included inadequate privacy in living spaces and bathrooms, severely dilapidated physical plants, lack of heat, inadequate sanitary facilities, lack of hot water, inadequate places to sit, inadequate work and educational opportunities, and inadequate access to open space and fresh air.

As of December, the ombudsman's office received 50 complaints about poor conditions in detention facilities, compared with 50 complaints in 2009. The State Police received seven complaints about poor conditions in detention centers.

In July the ombudsman's office found that prisoners throughout the system did not have adequate access to healthcare services. The report specifically criticized the Government's 2009 decision to reduce healthcare in prisons. In November the new minister of justice announced publicly that improvement of prison conditions would be a priority for his ministry.

In 2008 a group of maximum-security prisoners brought a claim in the Constitutional Court alleging inadequate outdoor exercise time. The LPA asserted that it was not possible to give the group outdoor time for security reasons. The Constitutional Court agreed with the prisoners and ordered the Government to make changes to prison facilities necessary to allow the prisoners outdoor time by January 2011. The LPA made the required changes and complied with the order by the end of the year.

In 2009 a group of prisoners filed a complaint with the Constitutional Court, alleging that a LPA decision to cut prisoners' food rations violated their rights. The Constitutional Court agreed and ordered the prison administration to increase rations. The prison administration complied with the order in June.

As of December the Ministry of Justice reported that 6,790 persons were held in the prison system, which had a total capacity of 7,970 persons. Of these, 2,034 were detainees awaiting trial or the outcome of their appeals and 4,756 were convicted inmates. Detainees and convicted inmates were generally held together. Male prisoners were held in 10 prisons throughout the country.

The prison population also included 91 juvenile males. Most of these prisoners were held at a separate juvenile facility, which was equipped with a school funded by the state. At the end of the year 42 juveniles were held in regular adult prisons. Although the Ministry of Justice stated such cases were temporary and rare, the ombudsman's office expressed concern that during pretrial detention some juveniles

were held for long periods at adult facilities, where they were isolated and had no access to education. Conditions, especially sanitary facilities, at the juvenile facility for males remained very poor. However, in September the prison administration broke ground on a new building at the juvenile prison designed to bring conditions there in line with international standards.

The prison population included 417 women, held in a separate women's prison. The country's few juvenile female prisoners were held in a separate wing of the women's prison. The ombudsman's office considered the physical conditions at the women's prison to be better than at other facilities, and generally adequate.

During the year the Ministry of Justice began several projects to improve conditions in prisons. These included building renovations, a project to digitalize prison records and modernize information technology systems, and a program to bring its administrative controls into line with international standards. The prison administration also began new training programs for prison employees.

The Latvian Center on Human Rights reported poor conditions at the Olaine detention center for illegal immigrants in Riga.

In general, prisoners had reasonable access to visitors. The prison administration allowed prisoners and detainees to observe religious practices with some limitations, including security-related restrictions on religious articles kept in cells and dorm rooms. However, a group of prisoners filed a claim with the Constitutional Court challenging these restrictions. A decision was pending at year's end.

Authorities allowed prisoners and detainees to submit complaints to judicial authorities. Prisoners may submit complaints without censorship and may request investigation of credible allegations of inhumane conditions. The ombudsman's office raised no concerns in this area. Authorities generally investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. Ministry of Justice and other government officials investigated and monitored prison and detention center conditions.

The Government generally permitted independent monitoring of prisons and detention centers by international and local human rights groups. In December 2009 a CPT delegation inspected prisons in Daugavpils, Jekabpils, and Jelgava. As of year's end, the CPT had not publicly released its report.

The ombudsman's office consistently monitored conditions at prisons and detention facilities. Although various NGOs argued the ombudsman's office was not aggressive enough in this area, it effectively advocated better conditions in some cases, especially involving juveniles.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The State Police, Security Police, and State Border Guards are subordinate to the Ministry of the Interior. Municipal police are under local government control. Military forces, the Military Counterintelligence Service, the Protective Service, and the National Guard are subordinate to the Ministry of Defense. The State Police and municipal police forces shared responsibility for maintaining public order, but only the State Police were authorized to carry out criminal investigations. The Security Police were responsible for combating terrorism and other internal threats. The military and National Guard were primarily responsible for external security.

Civilian authorities maintained effective control over security forces, and the Government had effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law requires that persons be arrested openly and with warrants issued by an authorized judicial official, except in exceptional cases specifically defined by law (e.g., apprehension in the act, eyewitness identification of suspect, or flight risk). The Government generally respected this requirement in practice. The law requires the prosecutor's office to decide whether to charge or release an individual under arrest within 48 hours, and authorities generally respected this right in practice. Detainees were promptly informed of charges against them. There is a bail system; however, it was used infrequently and applied most often in cases of economic crimes.

The Government provided attorneys for indigent defendants. Detainees have the right to have an attorney present during questioning; however, authorities did not always respect this right in practice. Investigators sometimes conducted unscheduled interrogations of detainees, or "talks," without legal counsel. In 2008 the ombudsman's office criticized these "talks" with detainees. The Government did not issue a formal response, but the ombudsman reported having periodic discussions about this issue with police.

Authorities permitted detainees prompt access to family members.

The law limits pretrial detention to no more than 18 months from the first filing of the case for the most serious crimes and less for minor offenses. NGOs continued to express concern about the length of pretrial detentions in practice. The Government claimed that pretrial detention times were reduced slightly during the year but could not cite supporting statistics.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected this provision in practice; however, there were significant problems, including inefficiency.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and most judges enforced this right; however, the fairness of individual court decisions, of judges, and of the judicial system in general remained a concern. As of December the ombudsman's office reported that it opened 26 investigations into complaints about the fairness of trials and courts.

Defendants enjoy a presumption of innocence. Trials are generally public; however, some may be closed to protect government secrets or the interests of minors. A single trial judge hears most cases. Defendants have the right to be present at their trials. In closed trials, defendants are subject to criminal sanction if they reveal any details of the case outside the courtroom. Defendants have the right to consult with an attorney in a timely manner, at government expense if they are indigent. Defendants have the right to read charges, to confront and question witnesses against them, and to call witnesses and offer evidence to support their cases. Defendants and their attorneys have access to government-held evidence relevant to their cases and may appeal to the highest levels in the judicial system.

Information on court decisions is published on the Internet; a person's identity may be withheld in accordance with regulatory procedures.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the ECHR issued seven decisions in cases involving the country, finding a violation of the European Convention on Human Rights in two of those cases. In general, the country promptly complied with judgments of the ECHR.

On May 17, the ECHR Grand Chamber upheld the country's 2001 conviction of Vassili Kononov on charges of war crimes during World War II. In so doing, it overturned its earlier decision, which found that the country's prosecution of Kononov applied the law retroactively. Kononov was a member of a Red Partisans unit that attacked the village of Mazie Balti in the eastern part of the country in 1944, killing nine villagers.

On October 26, the ECHR ruled that Latvia denied a claimant, Marina, her right to a fair hearing by failing to take her low-income status into account when imposing court fees. The ECHR awarded Marina 1,000 euros (\$1,340).

On December 21, the ECHR ruled that Latvia violated the rights of a deaf mute man, Jasinskis, who died in police custody in 2005. Jasinskis, who was intoxicated at the time of the incident, fell and suffered a head injury during a fight. When police arrived, they took him into custody and placed him in a "sobering-up room." While still in custody, Jasinskis died from his previous head trauma. The ECHR ruled that police negligently failed to provide Jasinskis with medical care, thereby violating his right to the protection of life. The ECHR awarded Jasinskis' family 50,000 euros (\$67,000).

*Civil Judicial Procedures and Remedies.*—The law provides for an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. The Government generally upheld the law concerning civil procedures and generally enforced civil court orders.

*Property Restitution.*—Restitution of property confiscated or nationalized during the World War II period and thereafter was substantially completed under an expired denationalization law. However, some religious groups, including the Lutheran, Orthodox Christian, and Jewish communities, continued to claim additional communal and heirless properties. The status of many of these remaining properties was the subject of complicated legal and bureaucratic processes concerning ambiguous ownership, competing claims, and the destruction of the Jewish communities to whom properties belonged before World War II.

The Jewish community has identified a number of properties for restitution. In 2008 the Government established a task force to study the Jewish community's outstanding claims and to consider solutions. The task force did not release its report by the end of the year, and members of local and international Jewish communities continued to urge the Government to pursue a resolution to this issue.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press. However, certain government actions caused concern among observers.

In general individuals were free to criticize the Government and its policies. However, the law criminalizes incitement to racial or ethnic hatred and spreading false information about the financial system.

Human rights groups criticized the Government for attempting to enforce national spirit. In April prosecutors brought charges against an individual for “blasphemy against a state symbol” after he disposed of a hand-held Latvian flag in a dumpster. The case resulted in acquittal. The law imposes fines on property owners who fail to display the national flag on designated holidays.

The independent media were active and expressed a wide variety of views, usually without restriction. There were some reports of harassment of the media:

In January unknown persons ransacked the offices of the daily newspaper Neatkariga Rita Avize. This crime remained unsolved at year’s end.

In May the police raided the home of television journalist Ilze Nagle in connection with the high-profile case of Ilmars Poikans (a.k.a. Neo), who was accused of hacking the State Revenue Service’s database and publishing public employees’ salary information. Nagle reported extensively on the Neo case. Pursuant to an “extraordinary” same-day warrant (usually reserved for cases in which the police fear the loss of evidence), police seized Nagle’s computer and files. The ombudsman’s office found that the police action violated the country’s constitution. Nagle sued the police, but her complaint was dismissed.

In September the Government’s Corruption Prevention and Combating Bureau (KNAB), which enforces campaign laws, removed a satirical film, *The Last Bear Slayer*, from the on-demand playlist of the partially state-owned cable provider, Lattelecom. The KNAB stated that the film might have constituted election advertising. Reporters without Borders charged that the prohibition constituted improper censorship but noted it was ineffective because the film was widely available on the Internet.

Independent media were active and expressed a wide variety of views without government restriction. All prominent newspapers were privately owned. Russian-language print and electronic media were also prevalent and active. The one government-owned newspaper mainly published official records of government actions and decisions. Other newspapers were widely believed to be associated with political or economic interests; complete information on media ownership was not publicly available.

The country has one state-owned television station, Latvian National Television (LTV), and one state-owned radio station, Latvian National Radio. Privately owned television and radio outlets also operated in the country. On August 11, the Law on Electronic Mass Media, which requires 65 percent of all broadcast airtime to be in Latvian, dubbed in Latvian, or subtitled in Latvian, entered into force. While Latvian is the sole official state language, approximately one-third of the country’s population (largely ethnic Russians, Belarusians, and Ukrainians) speak Russian as their first language. Many television stations in the country already employ Latvian subtitles or voiceover when broadcasting programs originally produced in another language. Despite the new law, extensive Russian-language programming remained available during the year.

In February after a government appeal, the Supreme Court reduced to 12,000 lats (\$22,440) the civil award of 100,000 lats (\$187,000) to LTV journalist Ilze Jaunalksne for the violation of her privacy by the State Revenue Service. Jaunalksne claimed in the case that the State Revenue Service targeted her for reporting on incidents of government corruption.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 67 percent of the country’s inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and law provide for freedom of assembly, and authorities may not prohibit public gatherings except in very limited cases related to public safety. Organizers of demonstrations must provide advance notice to local authorities, who may prohibit the event, or change the time and place to prevent public disorder.

During the year numerous demonstrations took place peacefully and in most cases without government interference. Police usually did not interfere with peaceful assemblies and normally offered demonstrators appropriate levels of protection. However, some observers continued to criticize the legal requirement to give 10- days' advance notification of a planned protest.

In March Riga city officials initially denied the request of a group seeking to hold its annual event in remembrance of Latvian soldiers who died fighting in German Waffen SS units during World War II. A local court overturned the city's decision, and approximately 200 persons participated in the March 16 event. Opposition groups counterdemonstrated, but police kept the two groups apart, and the demonstration was largely peaceful. State Police reported that in connection with the demonstration, officers detained one person for petty hooliganism, and a court later fined the individual 50 lats (\$93.50). According to press reports, between three and five additional persons were detained and released without charges.

In May the organizer of a protest in support of hacker Ilmars Poikans (a.k.a. Neo) and reporter Ilze Nagle (see section 2.a.) was arrested for organizing a protest without notifying the authorities. Charges were later dropped.

In June the Riga city government denied a group the right to demonstrate to mark the July 1 anniversary of the German army's entry into Riga in 1941. A court overturned the city's decision, finding that the marchers were not inciting violence or advocating Nazism, and citing the sanctity of the right to assemble. The city complied with the court's order and allowed the march. However, the day of the march, police detained the group's leader, Uldis Freimanis, for questioning on a suspected case of "glorifying Nazism." He was later released without charges. Because Freimanis was in custody at the time of the demonstration, the group officially cancelled it. A small demonstration took place with no more than 30 participants. State Police detained two persons during the demonstration: one for violating assembly laws (charges were later dropped) and one for resisting police and violating assembly laws. A court imposed a fine of 70 lats (\$131).

*Freedom of Association.*—The constitution and law provide for freedom of association, but bar the registration of Communist, Nazi, or other organizations whose activities could contravene the constitution, for example, by advocating the violent overthrow of the Government. Within these limits the Government respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice, including with respect to its "noncitizen resident" population.

The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. Reports continued that authorities turned away persons attempting to enter the country at border checkpoints without establishing whether they might be refugees or asylum seekers; the Government disputed these claims.

During the year 60 persons requested asylum; seven were granted asylum, and 18 were granted alternate status ("subsidiary protection"). In 2009, 52 sought asylum, five were granted refugee status, and six received subsidiary protection. In 2008, 51 persons requested asylum, two were granted refugee status and one received subsidiary protection.

Latvia does not discriminate asylum cases based on the applicant's country of origin or country of transit.

In practice the Government provided some protection against the expulsion or return of refugees to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Stateless Persons.*—Citizenship is derived from one's parents. The children of "noncitizen residents" may be naturalized upon application by their parents.

According to UNHCR data, there were 344,263 stateless persons at the end of 2009, the vast majority of whom the Government considered "noncitizen residents." According to the Department of Citizenship and Migration, 335,918 "noncitizen residents" and 172 stateless persons lived in the country as of July. Most of the "noncitizen residents" were persons of Slavic origin, who either moved to the country during the Soviet occupation, or are descended from those who did. The Government did not give them automatic citizenship when the country regained sovereignty in 1991. "Noncitizen residents" have permanent residence status; consular protection abroad; the right to return to the country; full rights to employment, except for some government jobs and private sector positions deemed related to national security; and the right to most government social benefits. However, they may not vote in local or national elections and may not organize a political party without the participation of an equal number of citizens.

The UNHCR noted that "noncitizen residents" have, under the country's laws, a transitional legal status that entitles them to rights and obligations beyond the minimum rights prescribed by the 1954 Convention relating to the Status of Stateless Persons. The UNHCR further noted that these rights are identical to those attached to the possession of nationality, with the exception of certain limited civil and political rights.

The law provides naturalization procedures for granting citizenship to the noncitizen population. The citizenship procedure includes a test of Latvian language skills and knowledge of the constitution and history of the country. Although the UNHCR considered most of these "noncitizen residents" to be "stateless," the Government did not, because most were eligible to naturalize under the country's law. The Government recognized as stateless only those individuals who did not have a claim to foreign citizenship and were not eligible to apply for naturalization in the country.

Most "noncitizen residents" had not applied for citizenship even though they were legally eligible for it. They frequently cited as reasons for not applying the perceived "unfairness" of the requirements, resentment at having to apply at all, and the lack of perceived benefits. A study by Ilze Brands Kehris of the Latvia Human Rights Center found that noncitizens still accounted for 15 percent of the country's population (down from 29 percent in 1995) and that naturalization applications dropped sharply from 2004 to 2009 (largely due to a 2004 surge upon the country's entry into the EU). In addition, failure rates in the citizenship examinations rose to approximately 20 percent in 2008-09. Nils Muiznieks, a University of Latvia scholar and former chairperson of the European Commission against Racism and Intolerance, asserted that the Government made integration a lower priority in recent years. During the year through November, 2,974 persons applied for naturalization, and 2,137 persons were approved. In 2009, 3,470 persons applied and 2,080 were approved.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic and generally free and fair elections based on universal suffrage.

*Elections and Political Participation.*—Free and fair elections for parliament were held on October 2; parliament elected a new president in 2007. Observers from the Office for Democracy and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) visited a limited number of polling stations on election day. It found the elections "generally met OSCE commitments and other international standards for democratic elections, as well as domestic legislation." However, it also noted that "321,000 noncitizen long-term residents of voting age" were not able to vote, that the country needs to strengthen its laws regarding candidacy rights to enhance compliance with its OSCE commitments, and that "hidden" advertising illegally not accounted for in campaign spending reports skewed the playing field in the election.

Citizens can organize political parties without restriction; however, the law prohibits the country's "noncitizen residents" from organizing political parties without the participation of an equal number of citizens in the party. The election law prohibits persons who remained active in the Communist Party or various other pro-Soviet organizations after 1991 or who worked for such institutions as the former Soviet Committee for State Security (KGB) from holding office.

At year's end there were 20 women (including the speaker) in the 100-member parliament, and three women in the 14-member Cabinet of Ministers. Three of

seven judges at the Constitutional Court were women, and 23 of 44 judges of the Supreme Court were women.

Members of minorities, including ethnic Russians and Poles, served in various elected bodies. The mayor of Riga, the country's largest city, is a member of the ethnic Russian minority.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials sometimes engaged in corrupt practices. There was a widespread perception that corruption existed at all levels of government. The World Bank's World Governance Indicators reflected that corruption was a problem in the country.

The KNAB is primarily responsible for fighting corruption. During the year the KNAB initiated 30 criminal cases, and other legal institutions initiated 12 criminal cases against government and law enforcement officials. The KNAB also forwarded 14 criminal cases involving 45 individuals to the prosecutor's office.

Corruption cases during the year included the following:

In May the KNAB initiated criminal proceedings against two municipal officials in Jurmala for offering a bribe in exchange for a vote in a Jurmala city council meeting.

In June authorities indicted Vladimirs Vaskevics, the former head of the criminal investigative service of the customs service, for failure to comply with financial disclosure laws. This indictment followed an extensive investigation.

In February 2009 the Riga Regional Court sentenced two former district court judges, Irena Polikarpova and Beatrise Talere, to eight years' imprisonment for bribery. Polikarpova and Talere appealed the sentence to the Supreme Court. In October the Supreme Court sentenced Polikarpova to a prison term of three years plus fines. In the meantime, Talere died.

Under the country's law, public officials are required to file income declarations annually, and irregularities within the declarations are investigated. The state auditor's office reviews the financial records—classified and unclassified—of all governmental agencies on an annual basis and documents any irregularities. These reports are forwarded to the prime minister.

There was a perceived lack of fairness and transparency in the public procurement process. A number of foreign companies complained that bidding requirements were sometimes written with the assistance of potential contractors or couched in terms that exclude all but "preferred" contractors.

Allegations of corruption and bribery within law enforcement agencies continued to hurt the public's perception of police effectiveness. The Internal Security Office of the State Police was responsible for investigating and disciplining State Police officers who committed crimes or abuses of power, including corruption. Citizens could also report police corruption to the KNAB. In August the KNAB began criminal proceedings against two State Police inspectors accused of demanding a bribe from a suspect in exchange for not reporting a robbery.

A regulation of the Cabinet of Ministers provides for public access to government information, and the Government generally provided citizens such access in practice. There were no reports that noncitizens or the foreign media were denied access.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials met with domestic NGO monitors and responded to their inquiries. Government officials often were cooperative and responsive to their views.

The ombudsman's office has the responsibility to monitor the Government's performance on human rights issues. The office generally enjoyed the Government's cooperation and operated independent of government or party interference. However, at a time of across-the-board budgetary cuts for governmental agencies, the ombudsman's office complained that it did not have sufficient resources to accomplish its mandate. Under its charter the office's primary function is to investigate complaints and make specific recommendations, but its authority is strictly advisory. Some human rights groups voiced concern that the ombudsman's office was reactive rather than proactive and called for the office to advocate more aggressively with respect to certain human rights problems. The office complied with a statutory requirement to publish an annual public report detailing its activities and recommendations. These included monitoring conditions and making recommendations regarding detention facilities and prisons, as well as collecting, investigating, and answering

complaints related to a broad spectrum of human rights: civil rights, children's rights, and rights pertaining to property, social welfare, education, and healthcare. The Justice Ministry acknowledged many of the shortcomings referenced by the ombudsman's office—especially those pertaining to prison conditions—and claimed to be addressing them as resources permit. Notwithstanding calls for greater activism from certain human rights groups, the ombudsman's offices generally maintained public trust.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status; and the Government generally enforced these prohibitions effectively.

*Women.*—The law specifically criminalizes rape but does not recognize spousal rape as a distinct crime. Criminal penalties vary depending on the nature of the crime, the age of the victim, the criminal history of the offender, and the dependency of the victim on the offender. Such penalties range from probation to life imprisonment. During the first nine months of the year, there were 10 convictions on rape charges, compared with 39 convictions in 2009 and 44 in 2008. Several local NGOs complained that rape laws were ineffective or were inadequately enforced by authorities. NGOs continued to report that rapes were underreported due to a tendency of police to blame victims.

In October the parliament adopted amendments to the Criminal Law adding domestic violence to the list of aggravating factors in criminal offenses connected with violence. Until these amendments there was no definition of domestic violence, and in practice domestic violence was understood very narrowly.

NGOs and police agreed that domestic violence was a significant problem; however, the law was not effectively enforced. Victims were often uninformed about their rights and were reluctant to seek redress through the justice system. Human rights groups asserted that the legal system, including the courts, did not always take domestic violence cases seriously. Police stated they could only make arrests if either the victim or a witness agreed to file charges or if police caught someone in the act of committing the abuse. The women's advocacy NGO Marta Center noted that no system was in place whereby women could receive legal protection as soon as they arrived at a hospital for treatment after violence. Most abused women first went to the hospitals and only then turned to the police.

During the year the Marta Center received 362 complaints of domestic violence, compared with 249 in 2009. Marta Center provided legal assistance in 208 of those cases.

There were no shelters designed specifically for battered or abused women. Women who experienced violence could seek help in family crisis centers; however, these centers had limited capacity and gave priority to women with children. There were no dedicated rape or assault hotlines; however, NGOs managed four general crisis hotlines. The Marta Center operated Web sites that provided information and legal assistance for female victims of violence.

Riga continued to be a destination for adult sex tourism.

Sexual harassment is illegal; however, there was no record of complaints, due in part to procedures required to register incidents. The ombudsman's office, located in the capital, Riga, was the only designated location to file complaints. In addition, cultural factors tended to discourage women from filing sexual harassment complaints. Sexual harassment of women in the workplace reportedly was common. However, in the absence of complaints, the Government was not able to enforce the law. As of December the ombudsman's office had received no complaints regarding sexual harassment.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There were no restrictions on the right to access contraceptives; however, according to the UN Population Fund (UNFPA) for 2008, only 68 percent of the population used any kind of contraception, while 56 percent used modern methods, including male and female sterilization, intrauterine devices, the pill, injectables, hormonal implants, condoms, and female barrier methods. According to UNFPA data for 2008, there were approximately 20 maternal deaths per 100,000 live births in the country. The Government provided free childbirth services.

According to statistics compiled by the World Health Organization in 2005, men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but local health NGOs and clinics reported that

women were more likely than men to seek treatment and to refer their partners for treatment.

Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The law prohibits employment discrimination; however, in practice women frequently faced hiring and pay discrimination, particularly in the private sector. The Marta Center noted that there had been cases of discrimination based on gender when applying for work.

The law prohibits work and wage discrimination based on gender and requires employers to set equal pay for equal work; however, government regulatory agencies did not implement the law fully. According to the country's Central Statistics Bureau, in the first quarter of the year, the average female worker earned 18.5 percent less than a male worker.

*Children.*—Citizenship is derived from one's parents. Children of "noncitizen" parents born in the country are registered immediately and are eligible to apply for citizenship. There were no reports of systematic or widespread failure to register births immediately.

An NGO working with abused children, the Dardedze Center Against Violence, stated that the number of reported instances of child abuse, including sexual abuse, increased in the past several years. The center attributed this increase largely to better reporting due to increased awareness of the problem. Laws against child abuse were enforced effectively, although the center observed that coordination among agencies involved in the protection of children's rights was weak. Children from families that were unable to care for them had access to government-funded boarding schools that provided adequate living conditions; however, these schools had lower educational standards than regular state schools.

Statutory rape and child pornography are illegal. The minimum age for consensual sex is 16 years. Statutory rape is punishable by four years' imprisonment, or six years if the victims are particularly young. The State Police can initiate proceedings against a sexual abuser without an application from a victim who is a minor. Purchase, display, reproduction, or distribution of child pornography is punishable by up to three years in prison. Involving a minor in the production of pornography is punishable by up to 12 years in prison, depending on the age of the child.

A special police unit in Riga worked to prevent sexual abuse of minors and eradicate child sex tourism through aggressive prosecution of pedophiles and other child abusers. The unit also publicized the potential dangers posed to minors by Internet chat rooms and worked closely with local social networking sites to identify potential Internet predator cases.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community numbers approximately 10,000 and is largely secular and Russian-speaking. There were reports of anti-Semitic vandalism during the year, but no reports of anti-Semitic attacks. Anti-Semitic sentiments persisted in some segments of society, manifested in hostile comments on the Internet.

On March 16, according to press reports, authorities in Riga detained one person who was displaying an anti-Semitic sign at an annual event in remembrance of Latvian soldiers who died fighting in German Waffen SS units during World War II (see section 2.b.). The person was later released without formal charges.

On December 7, 89 headstones in the New Jewish Cemetery of Riga were vandalized by painting with swastikas and anti-Semitic slogans in the Russian language. Government officials, including the president, prime minister, foreign minister, and the mayor of Riga, quickly and forcefully criticized the acts. The police launched an investigation and said they would charge the perpetrators with grave desecration and inciting ethnic hatred, crimes carrying up to 10-year prison terms. At the end of the year, police continued to investigate the case but had made no arrests. The city of Riga rapidly repaired the damage with city funds, and the mayor stepped up police presence and patrols in relevant areas to prevent further incidents.

On December 13, marks of white paint were found on a monument to Zanis Lipke, a Latvian who rescued Jews during the Holocaust. Riga city authorities removed the paint on the day it was discovered, and police opened a criminal investigation. The president and foreign minister quickly and strongly condemned the act.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, ac-

cess to healthcare, or the provision of other state services or other areas, and the Government generally enforced these provisions. The law mandates access to buildings for persons with disabilities; however, most buildings were not accessible.

A new law which preserves the rights of handicapped children took effect during the year. The law grants additional assistance to children with disabilities, allowing them and their chaperones to use public transportation free of charge. The law also allows families of children who have been diagnosed with a disability to receive state-funded counseling.

*National/Racial/Ethnic Minorities.*—According to government statistics for the year, Russians comprised 28 percent of the population, Belarusians 4 percent, Ukrainians 3 percent, Poles 2 percent, Lithuanians 1 percent, Jews 0.4 percent, and Roma 0.4 percent.

No attacks against minorities were reported. However, NGOs representing minority groups claimed that official statistics underreported the actual number of incidents, including physical assaults.

In the first eight months of the year, the Security Police reviewed 18 applications/complaints connected to possible incitement of ethnic or racial hatred. Of these, in five cases a criminal procedure was initiated for incitement of ethnic hatred. These complaints involved hate speech on the Internet. One of the five cases was dismissed due to lack of evidence, and in the remaining four cases, investigations continued at the end of the year. As of July the ombudsman's office received two written complaints of racial or ethnic discrimination, compared with 85 in 2009.

In August, Valdis Rosans, a self-proclaimed National Socialist, was charged with using hate speech online and was given a two-year suspended sentence. Rosans had published remarks that were demeaning to Jews, gays, and other minorities.

There were no developments, and none were expected, in the February 2009 attack on two Armenians in Riga by unknown persons with apparent racial intent. Police classified the incident as "hooliganism" rather than a racially motivated attack.

The Romani community has historically faced widespread societal discrimination and high levels of unemployment and illiteracy. As a result of emigration, the Romani population in the country fell from approximately 20,000 in the mid-1990s to approximately 8,000 persons. The Government had a national action plan to address problems affecting the Romani community with respect to employment, education, and human rights; however, observers criticized the plan for lacking adequate funding to improve conditions for Roma substantially.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—No gay pride parades or marches were held in the country during the year, although a Baltic regional pride march took place in Vilnius, Lithuania, in March. Latvian lesbian, gay, bisexual, and transgender (LGBT) activists reported they received good cooperation from Latvian police who traveled to Vilnius to assist Lithuanian police in providing appropriate security for the march. LGBT representatives stated the attitude of the country's police toward their organizations has improved in recent years.

There were no official reports of societal violence based on sexual orientation or gender identity; however, leaders of LGBT organizations complained of widespread intolerance and underreporting of physical attacks. As of July the ombudsman's office had received one report of discrimination based on sexual orientation.

LGBT representatives also reported that the ombudsman expressed reluctance to assist the LGBT community in securing its rights, particularly LGBT persons' right of assembly.

LGBT groups complained about the use of anti-LGBT rhetoric and images in the campaign of the For a Good Latvia party during the national parliamentary election campaign during the year.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law entitles all workers, except for uniformed members of the military, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. This law was implemented fairly and effectively. Throughout the year union membership remained constant at approximately 15 percent of the workforce.

The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law recognizes the right to strike, subject to limitations related to public safety. However, the law prohibits "sym-

pathy” or “solidarity” strikes by workers who are not directly involved in the specific work agreement between strikers and their employers. While most workers were free to exercise the right to strike within these parameters, labor regulations prohibit strikes by essential personnel, including judges, prosecutors, police, fire fighters, border guards, employees of state security institutions, prison guards, and military personnel. The law provides arbitration mechanisms that essential personnel may use in lieu of striking.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and workers exercised this right in practice. Approximately 18 percent of workers were covered by collective bargaining agreements.

The law also prohibits antiunion discrimination and employer interference in union functions, and the Government effectively protected this right throughout the year.

There are four export processing zones; regular labor laws applied in all of them.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children. Also, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law and policies protect children from exploitation in the workplace, including policies regarding acceptable working conditions, and the Government generally implemented these laws and policies in practice.

The law restricts employment of those under the age of 18 years by prohibiting nighttime or overtime work. The statutory minimum age for employment is 15 years, although children who are 13 years old or older may work in certain jobs outside school hours with written permission from a parent.

Inspectors from the Ministry of Welfare’s State Labor Inspectorate are responsible for enforcing the child labor laws, and they did so effectively.

*e. Acceptable Conditions of Work.*—The legally mandated monthly minimum wage of 180 lats (\$336.60) did not provide a decent standard of living for a worker and his or her family. By comparison, the Latvian Central Statistical Bureau’s “Minimum Consumer Basket” price index for November was approximately 170 lats (\$317.90). In 2009 the average monthly wage was approximately 461 lats (approximately \$862). The State Revenue Service is responsible for enforcing minimum wage regulations and did so effectively.

The law provides for a mandatory 40-hour maximum workweek with at least one 42-hour rest period weekly. The maximum permitted overtime is 144 hours in a four-month period. Employees are also not allowed to work more than 24 hours consecutively, 56 hours in a week, or overtime on more than six consecutive days. The law requires premium pay in compensation for overtime, unless other forms of compensation are agreed to in a contract. These standards were generally respected for both citizens and noncitizen workers.

The law establishes minimum occupational health and safety standards for the workplace, which were effectively enforced. Workers have the legal right to remove themselves from situations that endanger health or safety without endangering their continued employment; however, authorities did not enforce this right.

## LIECHTENSTEIN

The Principality of Liechtenstein, with a population of approximately 36,000, is a multiparty constitutional monarchy with a parliamentary government. The unicameral Landtag (parliament) nominates, and the monarch appoints, the members of the Government. A two-party coalition government was formed following free and fair parliamentary elections in February 2009. Security forces reported to civilian authorities.

There were isolated reports of societal discrimination against minorities, violence against women, including spousal abuse, and child abuse.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reported incidents.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards. In 2009 there were 149 persons serving time in prison or detention for a total of 2,554 days. Nine of these were women, one was under 18 years old, and 106 were detained due to a violation of the provisions of the law on foreigners, representing an increase of more than 300 percent from the previous year. The reason for this increase was the massive immigration of asylum seekers from Somalia and Eritrea who had illegally travelled to the country via Switzerland and were being detained prior to their deportation. Twenty-three persons were in prison for offenses under the criminal code, a decline of 36 percent, compared with 2008. Due to the 1982 bilateral treaty between Liechtenstein and Austria whereby prisoners with sentences of longer than two years' imprisonment were to be accommodated in Austria, 13 individuals from the country were incarcerated in Austria. The country's only prison had a total capacity of 20 beds. The maximum capacity was not reached during the year. The Government permitted visits by independent human rights observers.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. According to law, they could submit complaints to the prince, the Government, parliament, and judicial authorities without censorship and request investigations of credible allegations of inhumane conditions. No such allegations were submitted during the year.

In March four former asylum seekers filed a complaint with government officials after being detained by police while trying to return to the country following their deportation to Switzerland. The prosecutor's office ruled in favor of one of the asylum seekers and ordered the individual's release, while the other three remained in custody until their scheduled deportation. The Government opened a liability action against the arresting officers, charging them with falsely arresting the released asylum seeker.

There is no ombudsman who can serve on behalf of prisoners and detainees, but the Government has an independent body, the Corrections Commission, to monitor prison conditions. The Corrections Commission, which also serves as the designated national preventive mechanism under the Optional Protocol to the UN Convention against Torture, organized at least one unannounced visit to the country's prison each quarter. During these visits, the commission collected documentation and spoke to prisoners without prison officials being present. Following four visits in 2009, the commission on April 26 published a report with recommendations for the Government.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the regular and auxiliary police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Police arrest a suspect based on an arrest warrant issued by the national court. Within 48 hours of arrest, police must bring suspects before an examining magistrate who must either file formal charges or order release; authorities respected this right in practice. Release on personal recognizance or bail is permitted unless the examining magistrate has reason to believe that the suspect is a danger to society or would not appear for trial. The law grants suspects the right to legal counsel of their own choosing during pre-trial detention, and counsel was provided at government expense to indigent persons. According to the criminal procedure code, every detainee must be informed at the time of detention or immediately thereafter of the reasons for the detention. The detainee also must be advised of his right to contact legal counsel and a relative. During investigative detention, visits may be monitored to prevent tampering with evidence.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent. A single judge hears trials involving minor offenses. A panel of judges hears more serious or complex cases, and the most serious cases, including murder, are heard by a public jury. The law grants defendants the right during trial

to legal counsel of their own choosing; counsel is provided at government expense for indigent persons. Defendants may challenge witnesses or evidence and present witnesses or evidence on their own behalf. They have access to government-held evidence relevant to their cases. Those convicted have the right to appeal, ultimately to the Supreme Court.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters and access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, the law prohibits public insult directed against a race, people, or ethnic group, with a possible prison sentence of up to two years. During the year no such charges were filed. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2008, approximately 65 percent of the country's inhabitants used the Internet. These figures remained unchanged during the year.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. The law does not prohibit forced exile, but the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status, and the Government has a system for providing protection to refugees.

According to the law, persons entering the country from another safe country are not eligible for asylum. In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There were 88 asylum applications from January to September, none of which was successful. The Government did not grant any residency permits to asylum seekers, who were housed temporarily in the country's asylum center.

A May 25 UN Committee against Torture (CAT) report noted that the time limit of 24 hours within which asylum seekers “under preventive expulsion” were allowed to request a hearing before the Administrative Court in appeals cases was too short to ensure access to the asylum procedure in Switzerland or Austria in view of those countries' readmission agreements with Liechtenstein. The CAT recommended that the country increase the time limit. An April 12 report by the UNHCR mentioned the same concerns.

The Government has a system for providing temporary protection to individuals who may not qualify as refugees. There were no reported cases during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

As a hereditary monarchy, the country's line of succession is restricted to male descendants of the Liechtenstein dynasty. Prince Hans Adam II is the head of state. In 2004 hereditary Prince Alois assumed the duties of head of state, exercising the rights of office on behalf of the reigning prince. All legislation enacted by the parliament must have the concurrence of the monarch and the prime minister.

*Elections and Political Participation.*—In February 2009 the country held parliamentary elections that were considered free and fair. Individuals and parties freely declared their candidacy and stood for election.

There were six women in the 25-member parliament and two women in the five-seat cabinet. There were no known members of minorities in the Government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government effectively implemented these laws. There were no reports of government corruption during the year.

The law prohibits public officials from requesting or accepting gifts or benefits in connection with their duties and places restrictions on public officials engaging in private commercial activities. The police and the prosecutor's office, respectively, are responsible for investigating and prosecuting official corruption. The police have an organizationally independent special investigative unit for corruption cases. An interdepartmental working group chaired by the Ministry of Foreign Affairs coordinated measures to prevent and combat corruption.

Public officials are not subject to comprehensive financial disclosure laws.

The law requires the Government to inform the public of its activities, and government information was freely available to all persons living in the country, including domestic and foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status. The law also prohibits public incitement to violence or public agitation or insult directed against a race, people, or ethnic group. The Government effectively enforced these prohibitions.

*Women.*—Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted those accused of such crimes. Spousal rape has the same penalties as rape under other circumstances. It is possible to reduce sentences if the victim decides to remain with the abusive spouse.

The law prohibits all forms of domestic violence and provides for restraining orders against violent family members. However, there were reports of violence against women, including spousal abuse. According to police records, there were 12 cases of domestic violence reported as of late August.

During this same time frame, 14 women and 10 children received counseling and refuge at Frauenhaus, a women's shelter. Government centers provided single-stop financial, administrative, legal, and psychological assistance to victims of domestic violence.

Stalking is a criminal offense. Sexual harassment is illegal and punishable by up to six months in prison or a fine, and the Government effectively enforced these prohibitions. Employers are required to take reasonable measures to prevent sexual harassment; failure to do so may result in compensation for victims up to 40,000 Swiss francs (approximately \$38,000). There were three recorded complaints of sexual harassment during the year.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Contraceptives and medical services are readily available. There were no reports of barriers limiting access to maternal health services. Women and men were equally diagnosed and treated for sexually transmitted infections, including for HIV.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. The Equal Opportunity Office and the Commission on Equality between Women and Men worked to eliminate all forms of gender discrimination. However, societal discrimination continued to limit opportunities for women in fields traditionally dominated by men. On average women earned 80 percent of men's earnings for equal work. The labor contract law and the equal opportunity law contain provisions to combat gender discrimination in the workplace.

*Children.*—Citizenship is derived from one's parents at birth. Citizenship may be derived from a single parent. Every child born in the country, who otherwise would be stateless, may acquire citizenship.

There were some reports of child abuse. The Commission for the Coordination of Professionals in Cases of Sexual Offenses against Children reported being contacted regarding five cases of suspected sexual abuse as of September. Possession of child pornographic material is a criminal offense. During the year there were three reported cases of suspected sexual abuse; one case was dismissed, and two were pending at the end of the year. According to the law, penalties for statutory rape are between one and ten years' imprisonment. The law sets the minimum age for consensual sex at 14 years.

The Government supported programs to protect the rights of children and made financial contributions to three nongovernmental organizations that monitored children's rights. The Office for Social Services oversaw the implementation of government-supported programs for children and youth.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The small Jewish community does not have an organizational structure. There were no reports of anti-Semitic acts against persons or property.

*Trafficking in Persons.*—There were no confirmed cases of trafficking to, from, or within the country.

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, access to health care, or the provision of other state services or other areas.

The Government effectively implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications, and disabled persons readily had access. The law mandates that all public kindergartens and schools as well as public transportation systems must be accessible to persons with disabilities by 2012. Recently constructed public buildings must become barrier-free by 2027; older public buildings, by 2019.

*National/Racial/Ethnic Minorities.*—Police estimated violent right-wing extremists, including skinheads, numbered no more than 30 to 40 persons. The Government continued to monitor right-wing groups. Approximately 30 percent of the resident population in the country consisted of foreigners, mostly Swiss and Austrian. Turks accounted for 2.2 percent of the population. Since 2009, there were reports that right-wing extremists attacked foreigners on several occasions:

On February 26, an arson attack on a kebab bistro owned by a Turk occurred the day before its opening. Police identified the perpetrator, who was subsequently sentenced to two-and-a-half years in prison. The same perpetrator from a right-wing group had thrown Molotov cocktails at two apartment buildings, primarily inhabited by foreigners, in November 2009.

In May 2009 a group of three skinheads threatened a Turkish bistro owner and injured him with a large waste bin. The main offender was convicted and assessed a fine of 1,000 Swiss francs (\$937). The other two were acquitted.

On April 12, in response to these attacks, the Government launched a public awareness campaign against right-wing extremism and established a working group against such extremism.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—A government-contracted study published in 2007 found evidence of discrimination based on sexual orientation. During the year, however, there were no formal complaints issued by the country's gay community, nor were there any gay pride marches. The Government was in the process of elaborating a registered partnership law aimed at eliminating legal discrimination against same sex couples; the process was not completed by the end of the year.

In October 2009 the Office of Equal Opportunity launched an awareness campaign using posters to reduce discrimination and stigmatization of homosexual activity. In

early November 2009, unknown people sprayed homophobic slogans on some posters of the awareness campaign. Investigations were abandoned due to lack of evidence.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including foreigners, are free to form and join independent unions of their choice and select their own union representatives, and workers exercised these rights in practice. The law allows unions to conduct their activities without government interference, and the Government protected this right. There was only one trade union, which represented approximately 3 percent of the workforce. There is no provision in the constitution or labor laws explicitly banning the right to strike. The 2008 Civil Servants Law lifted the previous ban on strikes for civil servants. No strikes occurred during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and bargain collectively. Collective bargaining agreements covered approximately 25 percent of workers.

The law does not prohibit antiunion discrimination; however, there were no reports of antiunion discrimination during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reported violations.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, and the Government effectively enforced these laws. The law prohibits the employment of children younger than 16; exceptions may be made for the limited employment of children who are 14 and older and for those who leave school after completing nine years of compulsory education. Children who are 14 and older may be employed in light duties for not more than nine hours per week during the school year and 15 hours per week at other times.

The law prohibits labor that subjects children to physical, psychological, moral, or sexual abuse. There were no reported cases.

The Government devoted adequate resources and oversight to child labor policies, and the Department for Worker Safety of the Office of the National Economy effectively supervised compliance with the law.

*e. Acceptable Conditions of Work.*—There is no national minimum wage. The Liechtenstein Workers Association negotiates minimum wages annually with the Chamber of Commerce and the Chamber for Economic Affairs. The average daily wage provided a decent standard of living for a worker and family.

The law sets the maximum workweek at 45 hours for white-collar workers and employees of industrial firms and sales personnel and 48 hours for other workers. The law provides for a daily mandatory one-hour break and an 11-hour rest period for full-time workers; with few exceptions, Sunday work is not allowed. Pay for overtime is required to be at least 25 percent higher than the standard rate, and overtime is generally restricted to two hours per day. The average workweek, including overtime, may not exceed 48 hours over a period of four months. Thousands of workers commuted from neighboring countries daily and were covered by the same standards.

The law sets occupational health and safety standards, and the Department for Worker Safety generally enforced these provisions effectively. The law provides for the right of workers to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment, and workers exercised this right in practice.

---

## LITHUANIA

The Republic of Lithuania, population approximately 3.2 million, is a constitutional, multiparty, parliamentary democracy. Legislative authority is vested in the unicameral Seimas (parliament). In May 2009 Dalia Grybauskaitė was elected as the country's first female president. Parliamentary elections in 2008 led to the formation of a center-right coalition government. Both elections were free and fair. Security forces reported to civilian authorities.

Conditions in prisons and detention centers were poor, and physical mistreatment of prisoners and overcrowding were reported. Lengthy detention of persons awaiting

trial was a problem. Controversial legislation took effect that restricted the public dissemination of a broad range of materials deemed harmful to juveniles. There were reports of corruption in the police and government. Domestic violence and child abuse, intolerance of sexual and ethnic minorities, and trafficking in women and children continued to be problems.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

During the year prosecutors forwarded eight cases involving alleged war crimes or crimes against humanity during the periods of Soviet occupation to the courts for trial and opened nine new investigations. As of the end of December, the Prosecutor's Office was reviewing 58 cases relating to the periods of German or Soviet occupation.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits inhuman or degrading treatment or punishment; however, there were reports that police physically mistreated detainees.

During the year the Human Rights Ombudsman's Office received nine complaints that officials used force and psychological pressure to obtain evidence in an investigation. The Ombudsman's Office found eight complaints to be groundless and terminated the remaining one because it did not fall within the competence of the ombudsman.

In June 2009 the Council of Europe's Committee for the Prevention of Torture (CPT) released a report on the 2008 visit of a CPT delegation. The report noted that, while the majority of individuals interviewed indicated they had been treated correctly, the delegation received a number of allegations of recent mistreatment during questioning by police officers, often apparently intended to produce confessions. It noted that juveniles appeared to be particularly at risk. The report described the mistreatment as mainly consisting of "kicks, punches, slaps, and blows with truncheons or other hard objects (such as wooden bats or chair legs)." The delegation also heard allegations of extensive beating and asphyxiation using a plastic bag or gas mask. The delegation indicated that in some cases it was able to provide evidence consistent with the allegations. During the visit the delegation also received a number of allegations that prosecutors and judges did not act on claims of mistreatment when these were brought to their attention. Authorities responded that human-rights training for police personnel was an ongoing policy.

During the year military police opened one case related to military hazing, compared with six in 2009. The investigation was terminated due to lack of evidence. According to the national courts administration, no persons were convicted of hazing during the year.

*Prison and Detention Center Conditions.*—Prison and detention center conditions did not meet international standards. The Government permitted monitoring visits by independent human rights observers, and such visits occurred during the year. Although government measures to upgrade prisons brought them closer to international standards, domestic human rights advocates reported that conditions remained poor in some prisons.

According to Prison Department data, there were 9,139 prisoners at year's end, including 421 women and 158 juveniles. In its June 2009 report, the CPT delegation noted that it received several allegations by prisoners that staff of Lukiskes Prison mistreated them; the mistreatment consisted of punches, baton blows, and blows with books. In some cases the prison personnel inflicting the mistreatment were said to have been drunk. The delegation also heard inmates' allegations that personal at the Pravieniskes Corrections Home No. 3 and the Kaunas Juvenile Remand Prison and Correction Home engaged in mistreatment (see section 6, children).

Three correctional institutions remained overcrowded. For example, on December 31, a correctional facility in Siauliai held 676 inmates, despite a capacity of 435. The CPT report noted that renovated cells at the Lukiskes Prison were overcrowded, sometimes to "an outrageous degree," with six prisoners in a cell measuring eight square meters (approximately 86 square feet).

Authorities did not respond to a 2008 judgment of the European Court on Human Rights (ECHR) that declared conditions at Lukiskes Remand Prison and the Rasu Prison to be violations of the prohibition of inhuman or degrading treatment as defined by European Convention on Human Rights.

During the year the parliamentary ombudsman received 865 complaints from prisoners, compared with 267 in 2009. Most complaints involved the failure of administrators to give proper attention to prisoners' grievances about such conditions as poor hygiene in prisons' visiting rooms and other premises; the practice of turning off the electricity during half of the day to save money; mistreatment by prison personnel; restrictions on such prisoners' rights as access to information; and inappropriate investigation of complaints. The ombudsman's investigators found 330 of these complaints to be justified and 456 to be groundless, while the remainder were judged to be outside the ombudsman's purview. During the year the ombudsman received, and dismissed as groundless, one allegation that working inmates received less than they were supposed to be paid.

The CPT's 2009 report noted major shortcoming in conditions of police detention centers visited in Jonava, Rokiskis, Kupiskis, Siauliai, and Trakai. In some cases conditions in these facilities could be considered inhuman and degrading. At Siauliai city police headquarters, the delegation reported, the majority of cells were filthy and in a poor state of repair, there was little or no access to natural light, the available artificial lighting was dim, and ventilation was poor. The delegation observed that authorities at Siauliai city police headquarters held a juvenile detainee in a cell with two adults for more than a week.

In their September 2009 response to the CPT's report, authorities acknowledged that only 10 of the country's 39 police detention centers were in good condition and that the others did not meet international standards. During the year authorities closed seven detention centers that were in dilapidated condition and allocated 50,000 litas (\$19,000) for renovation of detention centers in the Vilnius and Svencionys regions. No information on any progress they made was available at year's end.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. They were permitted to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions. Authorities generally investigated such allegations and documented the results in a publicly accessible manner.

On April 24, in compliance with a 2006 ECHR ruling, the parliament amended the procedures for monitoring inmate correspondence to provide more specific guidelines.

The Government permitted independent human rights observers and researchers to visit prisons. However, on June 30, the prosecutor denied a Human Rights Monitoring Institute representative's request for a meeting with terrorist suspect Egle Kusaite. In his response to the request, the prosecutor eliminated any possibility of meeting with the suspect and indicated that requests to meet with her "were regarded as attempts to interfere with the prosecutors' professional activities and are directly prohibited by law." Representatives of the Office of the Parliamentary Ombudsman made six visits to prisons. Media representatives also visited prisons. A CPT delegation visited Kaunas Juvenile Remand Center and Correction Home on June 14-18. Neither the International Committee of the Red Cross nor other international or intergovernmental organizations visited the country's prisons during the year. The ombudsman office served prisoners by investigating their complaints and attempting to resolve them, usually through recommendations to detention institutions. The Ombudsman's Office reported that institutions were responsive to all of the ombudsman's interventions.

During the year the Government allocated 7.0 million litas (\$2.7 million) to the renovation of the prison in Vilnius and two other facilities.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, there were complaints of illegally prolonged pretrial detention. Civilian authorities maintained effective control over the State Security Department, the police, and the military forces, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Warrants are generally required for arrests and must be granted by judges upon the presentation of reliable evidence of criminal activity. Police may detain suspects for as long as 48 hours before charging them.

Detainees have the right to be informed of the charges against them, and there were no complaints of failure to comply with this requirement. Bail was available and was widely used. Detainees were allowed prompt access to family members. The law provides the right to an attorney from the moment of detention and, if the detainee is indigent, to one provided at state expense; however, these rights were not

always respected in practice. The law entitles a detained person to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice.

In its 2009 report, the CPT delegation noted that several detained persons it interviewed claimed they had been informed of their right to an attorney only when a “protocol of apprehension” was drawn up, i.e. several hours after they were detained. The CPT also found that most of the recipients of legal aid complained they had no contact with their state-appointed lawyers before their first interrogation or, at times, not until their first court hearing.

The pretrial judge may order a suspect’s detention for up to three months, but only in the case of persons suspected of a felony and only to prevent flight or the commission of new crimes, allow an unhindered investigation, or comply with extradition requests. In many cases detention may be extended to 18 months (12 months for juveniles), subject to appeal to a higher court. Such extensions were frequent. The law provides for civil liability for damage caused by the unlawful actions of investigating officials, prosecutors, judges, and courts. As of December the average length of pretrial detention was seven months and four days; approximately 10 percent of the incarcerated population consisted of pretrial detainees.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government respected this provision in practice.

*Trial Procedures.*—Defendants enjoy the presumption of innocence. The law provides for public trials; juries are not used. While defendants have the right to be present, the law permits trials in absentia when a defendant is outside the country. The law establishes the right to legal counsel for defendants from the time of their arrest. It provides for free legal counsel for indigent persons. During the year the human rights ombudsman received 12 complaints that authorities failed to provide such counsel. Defendants have the right to access government evidence, present evidence and witnesses, and confront and question witnesses against them. Defendants have the right to appeal. The law extends these rights to all citizens. Local human rights experts criticized the practice of trying persons in absentia, which, they contended, denied defendants the opportunity to cross-examine witnesses or present evidence in their own defense.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Courts Decisions.*—In the first nine months of the year, in cases involving six defendants, the ECHR found the Government to be in violation of the European Convention on Human Rights for unlawful and excessively lengthy detention and unfair proceedings. In 2009 the ECHR issued nine judgments that found at least one violation of the convention.

On a number of occasions, the Government did not pay damages awarded by the ECHR within the period stipulated in the court’s final judgments. As of year’s end, the Government had not responded to a 2008 ECHR decision that found one violation involving inhuman or degrading treatment of persons. The case concerned detention conditions at the Lukiskes Remand Prison and in the Rasu Prison (see section 1.c.).

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Plaintiffs may sue for legal or injunctive relief based on human rights violations. Apart from redress within the court system, victims of human rights abuses may appeal to the parliamentary ombudsman for a determination regarding the merits of their claims. Although the ombudsman may only make recommendations to the offending institution, his findings are honored in practice.

*Property Restitution.*—The law places significant restrictions on claims for communal property, and as a result the Jewish community has regained only a fraction of the communal property owned by the country’s prewar Jewish population of more than 200,000. Fewer than 30 properties have been returned to the Jewish community under the law, which applies only to the restitution of religious properties.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits arbitrary interference in an individual’s personal correspondence or private and family life; however, there were reports that the Government did not respect these prohibitions in practice.

The law requires authorities to obtain a judge’s authorization before searching an individual’s premises and prohibits the indiscriminate monitoring of citizens’ correspondence or communications. However, domestic human rights groups alleged that the Government did not properly enforce the law. During the year the State Data Protection Inspectorate investigated 270 allegations of arbitrary interference with privacy by government officials and companies, compared with 201 in 2009.

Most complaints involved individuals' assertions that government agencies and companies were collecting or using their personal data, such as personal identity numbers, without a legal basis or justification. For example, companies allegedly released e-mail information to other companies for marketing purposes or to enable officials of professional databases to obtain personal information on individuals. During the same period, the inspectorate conducted 80 preventive, not complaint-driven, investigations of enterprises and government agencies, compared with 165 such audits in 2009.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede criticism. Independent media were active and expressed a wide variety of views. Radio and television broadcasters included a mix of independent and public stations. International media generally operated without restriction.

During the year the Prosecutor's Office opened 168 investigations of incitement to hatred (most of them over the Internet). In the same period the Prosecutor's Office forwarded 24 cases to the courts for trial, of which courts completed 14 and convicted six persons, imposing fines of 260 to 3,250 litas (\$100 to \$1,248). Another 21 investigations (including some from previous years) were terminated during the year for lack of evidence. A number of investigations and court cases (including some from previous years) were ongoing. Most of the allegations of incitement to hatred involved homophobic (148 investigations out of 168), racist, or anti-Semitic expression.

In February four young men carried posters with swastikas during an Independence Day parade in Klaipeda; they were subsequently charged with violating laws against the display of Nazi-related symbols. The defendants argued in court that the swastikas were not Nazi symbols but representations of items found in the country prior to the rise of the Hitler regime in Germany. On May 19, the court ruled that, since the image of the swastika was the sign of the sun in ancient times, as evidenced by archaeological artifacts and monuments, it was not forbidden. The 2008 law prohibiting the distribution or display in public gatherings of Soviet- or Nazi-related symbols led to a 2008 court ruling that fined a woman in Vilnius 500 litas (\$192) for selling souvenirs containing Soviet symbols. In March 2009 the parliament amended the law to safeguard other salesmen from such fines in the future. The amended law permits the "collection and trade of antique and flea market items," that contain Soviet and Nazi symbols, as well as their use in museums and for purposes of education, science, and the arts. There would no longer be punishment for persons using the official symbols of an existing state or the wearing the uniforms worn by participants in World War II.

In March legislation protecting minors took effect that prohibited the dissemination of information promoting a broad range of activities. In addition to prohibiting information that promotes bad eating and bad hygiene, lack of physical exercise, and certain forms of hypnosis, the law prohibits material that is erotic, promotes sexual intercourse, arouses fear or horror, or encourages gambling or participation in the games of chance, lotteries, and other games that imply that they are easy to win. The law prohibits material "detrimental" to minors' bodies or thought processes, information promoting the sexual abuse and harassment of minors, or promoting sexual relations by minors or sexual relations in general. The legislation specifically stated that the prohibitions were to apply to motion pictures and Web sites. The version of the law that came into effect in March had been amended from an earlier version (passed but not implemented) that would have banned all public information that agitates for homosexual, bisexual and polygamous relations; the implemented legislation refers to sexual intercourse in general. Authorities did not use the law to prevent the Baltic Gay Pride March, which took place in May, nor were there any reports of prosecutions under the new law.

It is illegal to disseminate information that is both untrue and damaging to an individual's honor and dignity. Libel is punishable by a fine or imprisonment of up to one year, or up to two years for libelous material that is disseminated through the mass media. No cases were reported during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail; however, authorities prosecuted persons posting material deemed to be inciting hatred.

According to the Department of Statistics, 60 percent of the country's residents between the ages of 16 and 74 had access to the Internet in the first quarter of the year, an increase from 58 percent in the same period in 2009.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law and constitution provide for the right to assemble peacefully, and the Government generally respected this right in practice for most groups; however, in the past the Government denied assembly permits to certain groups. There were no reports of such denials during the year, but a group of professional unions was reportedly denied a permit to assemble in the center of the capital for a protest and offered alternative venues far from the city center. This led the organizers to abandon their planned demonstration.

On May 8, a long-planned Baltic Pride parade by members of the lesbian, gay, bisexual, and transgender community took place. A court briefly prohibited the parade at the request of the Office of the Prosecutor, which claimed that it might be impossible to maintain order. However, police maintained that they were prepared to protect the gay participants and a higher court overturned the prohibition just one day before the parade was scheduled to begin (see section 6, Discrimination and Acts of Violence Based on Sexual Orientation and Gender Identity).

In March 2009 Vilnius officials refused to issue a permit to the Human Rights Monitoring Institute (HRMI) and the Center for Equality Advancement (CEA) to hold a rally and march in support of democracy, human rights, and tolerance on March 11, the country's Independence Day. However, municipal officials issued a certificate for a march, scheduled the same day, organized by the Lithuanian National Center, a group that espoused and demonstrated intolerance toward other racial, ethnic, and religious groups; claimed that human rights and antifascism were examples of extremism; and openly sympathized with neo-Nazi groups. Local human rights organizations appealed to the Vilnius First District Court, claiming that the denial of a rally permit to HRMI and CEA was discriminatory. In September 2009 the court dismissed the complaint on the grounds that the police would not have been able to preserve public order if the two events had taken place on the same day.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice; however, the Government continued to prohibit the Communist Party and other organizations associated with the Soviet period.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, returning refugees, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Authorities did not permit asylum seekers coming from “safe” countries of transit to enter the country; they returned them to the country of transit without reviewing the substantive merits of their applications. According to the Migration Department, authorities did not have a list of safe countries but defined such countries as ones in which the person's life or liberty would not be threatened on account of membership in one of the categories specified in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and from which the individual would not be sent to another country in contravention of his rights under these agreements.

There were two additional forms of protection in addition to asylum. “Temporary protection” may be granted to groups of persons in the event of a mass influx of aliens, but an individual alien has no right to apply for this protection. No grants of temporary protection were issued during the year. The Government may also afford “subsidiary protection” to individuals who do not qualify as refugees but who

cannot return to their countries of origin because of fear of torture or because inhuman treatment, violence or military conflict, or systematic violations of human rights in that country would endanger their basic rights or fundamental freedoms. In the first six months of the year, the Government granted subsidiary protection to 71 persons.

*Stateless Persons.*—Citizenship can be acquired either by birth on the country's territory or from one's parents.

According to UNHCR statistics, there were approximately 3,902 stateless persons in the country at the end of 2009, a decline from 5,900 at the beginning of the year. According to the director of the Migration Department, virtually all stateless persons were persons who had been in the country at the time of the dissolution of the Soviet Union but did not take advantage of their right to qualify for citizenship.

The law permits the naturalization of an individual who has lived in the country for at least 10 years, has an unlimited residence permit, passes an official language test and an examination on the basic provisions of the constitution, takes an oath of allegiance, and is able to defray his living costs.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Presidential elections held in May 2009 were considered free and fair, as were parliamentary elections held in 2008. The 2009 elections resulted in the election of Dalia Grybauskaitė, former European budget commissioner and former minister of finance, as the country's first female president.

The Government continued to ban the Communist Party; other political parties could operate without restriction or outside interference.

On June 30, the parliament enacted a law allowing citizens to run for municipal councils without being on party lists. The law was necessitated by a 2007 Constitutional Court ruling that a provision of municipal election law denying individuals the right to seek election in municipal elections was unconstitutional.

At year's end the president of the republic was a woman. There were 26 women in the 141-seat parliament and two in the 15-member cabinet of ministers. The speaker of the parliament was a woman. Women accounted for 5 percent of mayors, 21 percent of municipal council members, and 5 percent of local administration directors.

Three persons belonging to ethnic minorities served in parliament, but there were none in the cabinet of ministers.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government often did not implement the law effectively, and corruption was a problem. Although courts convicted and punished some officials for corruption, the penalties were usually light, and many investigations did not result in conviction. The World Bank's worldwide governance indicators reflected that corruption was a problem. Corruption in the police force remained a problem.

During the year a number of active and former government officials were under investigation, facing trial, or convicted and sentenced for corruption. On February 5, former vice minister for health Arturas Skikas was sentenced to two years probation. In May the courts began to examine the results of a Special Investigation Service investigation of the mayor, deputy mayor, and head of administration of the Trakai municipality who were suspected of receiving bribes of 200,000 litas (\$76,800) in connection with the development of a shopping and entertainment center. The officials were dismissed from their posts pending the outcome of the investigation. The case reached court in May and was pending at year's end.

An investigation continued of former parliamentary speaker Viktoras Muntianas, who resigned his post in 2008 amid allegations that he bribed a deputy governor of Kaunas County to obtain assistance with a relative's business.

The law provides for public access to government information, and government institutions generally provided access in practice. During the year the parliamentary ombudsman received 78 complaints of delays by government offices in providing information and found 50 of them to be valid. The ombudsman recommended disciplinary action against the officials involved. Although the ombudsman's recommendations were not binding, the Ombudsman's Office reported that the Government offices concerned took disciplinary action in all of the cases forwarded to them by the ombudsman.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Office of the Equal Opportunities Ombudsman is an independent public institution with responsibility for implementing and enforcing rights under the Law of Equal Treatment and for investigating individual complaints. A Children's Rights Ombudsman Institution oversees observance of children's rights and their legal interests and may initiate investigations of a possible violation of children's rights upon receipt of a complaint or on its own initiative. A parliamentary ombudsman investigates complaints about abuse of office or other violations of human rights and freedoms in the sphere of public administration. The ombudsmen institutions received government funding but maintained they could be more adequately funded (the Government has cut funding across the board due to a prolonged economic crisis). The ombudsman for children's rights resigned in April after receiving criticism for ineffective work related to a widely discussed and unsolved case of suspected pedophilia.

The human rights committee of the parliament prepares and reviews draft laws and other legal acts related to civil rights and presents recommendations to state institutions and other organizations about problems related to the protection of civil rights. It also has oversight over the Office of the Parliamentary Ombudsman.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits and penalizes discrimination based on race, gender, social status, ethnic background, age, sexual orientation, disability, and religion or beliefs. Despite government programs and efforts at enforcement, discrimination against women and ethnic and sexual minorities persisted.

*Women.*—The law criminalizes rape, including spousal rape. Convicted rapists generally received three- to five-year prison sentences. During the year, 208 rapes were reported, compared with 144 in 2009. Societal violence against women, particularly alcohol-related domestic violence, remained a serious problem. There is no law specifically prohibiting domestic violence or violence against women; however, authorities prosecuted domestic violence under general assault laws. To initiate an investigation into cases of domestic abuse, the victim must file a complaint. Surveys showed that 56 percent of divorced women and 15 percent of married women had suffered domestic violence. During the year, according to the Ministry of Interior, 88 women reported abuse by their spouses and 35 by their children. Also during the year, police registered 992 violent acts against women and initiated 1,484 pretrial investigations. Fines were imposed on 1,473 persons.

Municipal governments and NGOs funded and operated 39 shelters that provided assistance to victims of domestic violence. The Government fully funds two shelters. One of them, the Shelter for Children and Mothers in Vilnius, provided assistance to more than 90 victims of domestic violence, forced prostitution, and human trafficking during the year.

The law prohibits sexual harassment; however, according to the Ombudsman's Office, approximately 20 percent of women had experienced sexual harassment. Women remained reluctant to approach police or other institutions in such cases. During the year the equal opportunities ombudsman received two complaints of sexual harassment.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local NGOs are permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Public Health. There were no restrictions on access to contraceptives. According to United Nations data and the Kaunas Institute of Medicine, 47 percent of women used contraceptive measures. The Government provided free childbirth services. Women have access to regular prenatal care, essential obstetric care, and postpartum care. A joint study published during the year by the World Health Organization, the UN Population Fund, the UN Children's Fund (UNICEF), and the World Bank estimated the maternal mortality rate at 13 deaths per 1,000 live births in 2008, and the lifetime risk of maternal death (the risk that a woman aged 15 will die from maternal causes) was one in 5,800. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Men and women have the same legal rights in the judicial system, including in family and property law. Women nevertheless continued to face discrimination. Government policy requires equal pay for equal work; however, women often earned less

than their male counterparts. In 2009 women earned an average of 83 percent of what men earned in comparable jobs; the figure was 81 percent in the public sector. Women were significantly underrepresented at the managerial level. The Office of the Equal Opportunities Ombudsman is the Governmental institution that promotes the legal rights of women and men.

*Children.*—Citizenship can be acquired either by birth in the country or from one's parents. The Government registers all births immediately. Child abuse, particularly in connection with parental alcohol abuse, continued to be a problem. According to the Department of Statistics, in 2009 approximately 24,200 children lived in 11,100 abusive or dysfunctional families. Media sources reported that incidents of cruelty to children, including sexual abuse, intentional starvation, and beatings, were common. According to the Ministry of Interior, six deaths from child abuse were reported during the year. The children's rights ombudsman reported 344 complaints during the year, compared with 407 in 2009 and 382 in 2008; his office initiated 84 investigations of alleged abuse during the year, compared with 297 in 2009.

The penalty for violence or cruelty toward minors is one to two years in prison. Authorities may also remove abused children from their families and place them in foster care. Despite efforts to combat child abuse and aid abused children, the ombudsman reported that insufficient assistance was provided. During the year the Child Line (a hotline for children and youth) received 95,715 calls and responded to 1,400 letters from children concerning problems ranging from relations with their parents and friends to violence in their families and sexual abuse.

On July 2, the parliament amended the criminal code to tighten penalties for child molestation and to raise the age of consent for consensual intercourse to 16. The amended code increased maximum prison terms for persons convicted of child molestation from two to five years.

The law provides for up to 13 years in prison for sexual abuse of a child; however, sexual abuse of children remained a problem. In the first eight months of the year, the Interior Ministry registered 12 cases of child sexual abuse (excluding child rape), compared with 48 cases throughout 2009. The Government operated a children's rehabilitation center to provide special care for sexually abused children.

Laws against child pornography were enforced. Anyone involving a child in pornographic events or using a child in the production of pornographic material can be imprisoned for up to five years. During the year, the children's rights ombudsman received nine complaints of, and initiated nine investigations into, the sexual exploitation of children. No data were available about convictions during the year.

According to the ombudsman for children's rights, there were reports of 202 children living on the streets in 2008; 27 children were found begging in public areas. Street children were widely scattered among the country's cities. Most were runaways or from dysfunctional families. There were a number of free, government-sponsored programs to assist them. Sixty children's rights protection agencies administered by regional governments, other institutions, and numerous NGOs, routinely assisted vulnerable children.

There were 105 orphanages and 32 foster homes. Orphanages still housed the vast majority of orphans and other children in need of care. During the year, the children's rights ombudsman initiated 15 investigations of possible violations of children's rights in orphanages and one in a foster home.

In 2008 the CPT visited the Kaunas Juvenile Remand Center and Correction Home. In its report on the visit, the CPT noted that as long ago as 2004, it had described conditions for juveniles in the remand prisoners area, including unsanitary and dilapidated physical conditions and the absence of any program of activities, as being "totally unacceptable" and urgently recommended that authorities take remedial actions. However, despite government assurances that such steps were being taken, the CPT found during its 2008 visit that conditions under which juveniles were being held at Kaunas, "in some cases for lengthy periods," remained unacceptable. In its 2009 response to the report, the Government indicated that improvements in the Kaunas facility continued, detainees were taught in classes, and seven additional social workers had been hired. Funds were allocated and a construction schedule agreed upon for further physical improvements. In June the CPT made a follow-up visit to the Kaunas Juvenile Remand Center and Correction Home; a report on its observations had not been released as of year's end.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community consists of approximately 4,000 persons. No violent anti-Semitic attacks against individuals were reported during the year;

however, anti-Semitism was widely manifested on Lithuanian-origin Internet sites and foreign sites in the Lithuanian language. The number of reports of vandalism of Jewish and other cemeteries, anti-Semitic activities, and other manifestations of intolerance declined during the year. However, anti-Semitic and racial comments on the Internet remained widespread.

In January, according to the Anti-Defamation League, a statue of Dr. Tsemakh Shabad, a leading Jewish political figure of the early 20th century, was defaced with paint. On June 22, the Avenue of Rescuers, a path leading to a Holocaust memorial, was vandalized in Kausenai. Plaques were smashed, torn off their stands, covered in mud, and scattered about; the stands were broken and pulled out of the ground. On August 23, a pig's head, adorned with a black hat and makeshift hasidic style earlocks, was placed at the entrance to a synagogue during the service in Kaunas city. An investigation was initiated, and a government statement described Prime Minister Andrius Kubilius as welcoming the investigation of "the anti-Semitic provocation" in Kaunas and hoping it would lead to the punishment of the perpetrators. On September 3, a sign on the Jewish community's building in Panevezys town was vandalized and covered in black paint. There were no reports that authorities had apprehended suspects in connection with these incidents.

There were no reports that suspects had been apprehended in the August 2009 vandalism of a Jewish cemetery in the Klaipeda region or in the 2008 vandalizing of a Holocaust memorial near the village of Pluskiai in the Kelme Region.

In November a number of foreign ambassadors sent a letter to senior government officials formally expressing their dissatisfaction over what they described as manifestations of anti-Semitism. The letter followed the publication in the weekly magazine *Veidas* of an article on the Nuremberg trials by a historian, Petras Stankeras, who was also an employee of the Ministry of Internal Affairs. The author described the Holocaust as a legend without documentary substantiation of the killing of six million Jews during the Holocaust. The ambassadors stated the article amounted to Holocaust denial. Following criticism from the minister of internal affairs, on November 25, Stankeras resigned. Subsequently, the Prosecutor's office opened an investigation into possible violation of the country's legislation that prohibits deprecation of the Holocaust.

In August local and foreign governments, together with descendants of Holocaust survivors, erected a new memorial and restored a site in Uzventis where massacres were committed in World War II. The city's university has begun efforts to raise awareness and recognition of Lithuanian-Jewish history and to improve education about the Holocaust.

On October 20, the Vilnius city government announced that it had begun restoration of the historic Snipiskes Jewish cemetery site in central Vilnius, a source of concern since new construction began on and near the site in 2005. On October 25, under rabbinical supervision, two parking lots on the site were closed and covered with dirt to allow grass seed to be planted in the spring. In May 2009 the Government unilaterally provided protection for nearly the entire cemetery site, and in August 2009 it agreed with the Jewish communities and the developer to preserve and protect it.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The Law on Equal Treatment prohibits discrimination against persons with disabilities, although it does not specify what kind of disabilities. During the year, the equal opportunities ombudsman investigated 22 cases of alleged discrimination based on disability. The law mandates accessibility of buildings for persons with disabilities; however, according to 2009 data from the Department of Statistics, 38.2 percent of housing was inaccessible.

Individuals involuntarily declared incapacitated have no right to appeal the decision in court.

The mental health system was widely regarded as inadequate. In 2007 the Government approved a National Strategy for Mental Health; however this area remained among the least reformed areas in the health sector.

The Ministry of Social Security and Labor and the Council for the Affairs of the Disabled are the two primary governmental organizations responsible for developing equal opportunities in the labor market and improving government effectiveness in meeting the needs of and augmenting the social security net for persons with disabilities. The Ministry of Health is responsible for making health services equally accessible to all inhabitants of the country.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination against ethnic or national minorities; however, intolerance and societal discrimination per-

sisted. Minority ethnic groups, including Russians, Poles, Belarusians, Ukrainians, Tatars, and Karaites, constituted approximately 16.5 percent of the population.

During the year the Prosecutor's Office initiated 20 investigations of alleged discrimination or incitement to racial or ethnic hatred (most of the instances investigated involved the Internet), compared with 39 during 2009 and 84 in 2008.

There were no reports of racially motivated violence during the year.

On March 2, the Supreme Court rejected Violeta Iljnych's appeal against her May 2009 conviction for participation in a 2008 assault on a South African singer of Indian descent.

The small Romani community (approximately 3,000 persons) continued to experience problems, including discrimination in access to such services as education, housing, and health care; in employment; and in relations with police. However, there were no official charges of police abuse. The Romani unemployment rate continued to be more than 90 percent, and fewer than 5 percent of the Romani population had permanent, full-time jobs. Minority advocates continued to criticize the Vilnius city government for focusing on law enforcement in the Romani community but doing little to integrate Roma into the broader community.

On September 23, the Supreme Administrative Court, in response to a lawsuit brought by the Vilnius Roma community, ordered the Vilnius Municipality to pay nonmaterial damages of 55,000 litas (\$21,000) in compensation for the destruction of their housing in 2004. The court ruled that Vilnius City Council was responsible for the illegal demolition of Roma houses.

In September 2009 Valdemar Tomasevski, the representative in the European Parliament of the organization Lithuanian Polish Electoral Action, complained to European Commission President Barroso about alleged discrimination against the Polish minority. Tomasevski claimed that Poles were not allowed to conduct official business in Polish, even in settlements with as many as 80 percent Polish-speaking inhabitants, and could not have street signs in their language. He asserted that the country's laws regulating the use of language in public life were contradictory and conflicted with EU law and international conventions.

A 2007 study by the EU Agency for Fundamental Rights concluded that governmental responses to ethnic discrimination were ineffective and that insufficient attention was given to the problem. According to the agency's research, the law provides ways for victims to complain about ethnic discrimination, but penalties usually applied in such cases were insufficient, and victims received insufficient or no compensation. In April 2009 the Government approved a new National Antidiscrimination Program for 2009-11; no funds were allocated for it in 2009, but 33,000 litas (\$12,680) were allocated for 2010 and 103,000 litas (\$39,570) for 2011.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—While homosexual acts are not illegal and there was no official discrimination against lesbian, gay, bisexual or transgender (LGBT) persons, society's attitude towards homosexuality remained negative. NGOs focusing on LGBT problems faced no legal impediments, but the few that functioned kept a low profile because of public hostility to their aims. The Lithuanian Gay League (LGL) continued to promote an inclusive social environment for LGBT persons.

During the year the Prosecutor's Office opened 148 investigations of incitement to hatred, most of them over the Internet, against gays and lesbians.

Domestic human rights organizations and members of the LGBT community reported that discrimination and the persistent social exclusion of LGBT persons were problems. The first Gay Pride march to be held in Vilnius took place on May 8, with participants from all of the Baltic countries. It attracted approximately 600 participants. The event took place only after the Supreme Administrative Court overturned at the last minute a lower court decision to suspend the parade's license. In 2009 the Vilnius municipality refused NGOs that supported gay rights and other human rights the permission to organize a tolerance march on Independence Day. The NGOs appealed to a court, which upheld the refusal in November 2009.

Approximately 500 police were stationed along the parade route to protect the marchers from a crowd of around 1,000 persons protesting the parade. The protesters, led by two parliamentarians, were kept at a distance by a wall of barriers that had been erected around the parade route, but that did not prevent them from shouting antigay epithets. Police reportedly fired teargas into protesters who attempted to jump the barriers; the protesters retaliated by throwing stones and improvised smoke bombs as well as broken street signs. Authorities temporarily detained 18 persons. Prosecutors sought the lifting of immunity from the two parliamentarians involved in the protest, but the parliament later voted against lifting their immunity.

In July 2009 the Seimas adopted, over the president's veto, legal provisions "protecting" minors from exposure to certain public information; many human rights

proponents criticized the legislation on the grounds that it discriminated against gays and lesbians. In December 2009 the law was further amended in response to those objections, and the amended law took effect in March 2010. However, some human rights activists remained skeptical of its possible use (see section 2.a.). Antigay activists cited the law to justify their (unsuccessful) effort to prevent the May 8 Baltic Pride march in Vilnius.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDs.

During the year the equal opportunity ombudsman investigated 25 cases of age discrimination, compared with 21 in 2009. Most complaints concerned discrimination in obtaining employment, insurance, loans, or leases.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, including members of the police and armed forces, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice.

The law provides for the right to strike, except for government employees involved in law enforcement or other security-related activities; however, labor code procedures made it difficult for some to exercise this right. The law provides that only a union or a union's strike committee may call a strike, leaving nonunion employees unable to legally call a strike. However, in June 2009 the labor code was amended to relax strike ballot rules. A strike may be called if approved by half of the employees of a unit or enterprise in a secret ballot.

*b. The Right to Organize and Bargain Collectively.*—The law protects collective bargaining for all workers except government employees involved in law enforcement and other security-related work. A Tripartite Council, consisting of representatives of labor, business, and government, estimated that between 5 and 25 percent of workers were covered under collective bargaining agreements.

The law prohibits employer discrimination against union organizers and members; however, this prohibition was often ineffective in practice, and there were reports that employees were punished for attempting to organize. For example, in May a doctor, who was also a chairman of the professional unions of one of the medical polyclinics in Vilnius, was dismissed without warning or explanation, according to the Lithuanian Professional Unions. According to the International Trade Union Confederation, the judicial system was slow to respond to cases of unfair dismissal, and no employer has ever faced the penal sanctions foreseen by law for antiunion discrimination. There are no labor courts or judges who specialize in labor disputes. Some large retail stores hired short-term contract labor and sometimes did not renew the contracts of union members.

Managers often determined wages without regard to union preferences, except in large factories with well-organized unions. The Government periodically issued guidelines for state enterprise management in setting wage scales.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, such labor existed. Please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law prohibits exploitation of children in the workplace, and the Government generally enforced these prohibitions effectively; however, statistics from 2009 indicated that 8 percent of children working did so illegally, mostly in the agricultural sector, where children sometimes received unlawfully low compensation. There were reports that children 15 to 17 years old were trafficked for commercial sexual exploitation. Also, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The law sets the minimum employment age at 16 but allows the employment of persons as young as 14 years old for light labor with the written consent of the child's parents and school. The law mandates reduced work hours for children, allowing up to two hours per day or 12 hours per week during the school year and up to seven hours per day or 32 hours per week when school is not in session. Young persons under the age of 18 are subject to additional restrictions, including a prohibition on night work.

The State Labor Inspectorate is responsible for receiving complaints related to employment of persons under 18. During the year the inspectorate identified 11 cases of illegal child labor, mainly in agriculture and catering sectors. Schools administered specific programs tied to labor safety.

*e. Acceptable Conditions of Work.*—The legal minimum wage of 800 litas (\$307) per month did not provide a decent standard of living for a worker and family. The law provides that the maximum time worked in any seven-day period, including overtime, may not exceed 40 hours for white-collar work and 48 hours for blue-collar work. Overtime is allowed only in cases stipulated by law, and both overtime and night work must be compensated by at least one-and-a-half times the hourly wage. The labor laws apply to both local and foreign workers.

The State Labor Inspectorate is responsible for implementing labor laws. In the first six months of the year, it reported conducting nearly 7,000 company inspections. The most numerous abuses it found related to wage arrears, illegal employment, violation of labor contracts, faulty accounting for time off and hours worked, inadequate worker safety, and unsatisfactory investigation of accidents. Training provided by the State Labor Inspectorate helped reduce the scope of some of these abuses during the year. Workers dissatisfied with the result of an investigation could appeal to the court system.

The law gives workers the right to safe and healthy working conditions, and this provision was generally enforced. During the year the Government recorded 51 fatal accidents at work, compared with 49 during 2009. These occurred mostly in construction work. To address the problem the State Labor Inspectorate provided training, various prevention materials, and best practice examples to construction companies. Workers have the legal right to remove themselves from dangerous work environments without jeopardizing their continued employment and did so in practice.

## LUXEMBOURG

The Grand Duchy of Luxembourg, with a population of approximately 500,000, is a constitutional monarchy with a democratic, parliamentary form of government. The role of the grand duke is mainly ceremonial and administrative. Legislative authority is vested in the unicameral Chamber of Deputies. The prime minister is the leader of the dominant party in the popularly elected parliament. In June 2009 the country held parliamentary elections that were considered free and fair. Security forces reported to civilian authorities.

Some overcrowding and instances of substandard prison conditions were reported. There were some cases of domestic violence and allegations of human trafficking, primarily of women for sexual exploitation.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted monitoring visits by independent human rights observers. On October 28, the Council of Europe's Committee for the Prevention of Torture (CPT) released a report on the April 2009 CPT delegation visit to examine safeguards afforded persons deprived of their liberty by the police and review conditions at the Schrassig Prison, the State Socio-Educational Center at Dreibern, and the Neuropsychiatric hospital at Ettelbruck. The CPT was critical of a number of issues within the police and judicial authority, namely the lack of mattresses in cells reserved for the intoxicated, the use of solitary confinement as a disciplinary measure, and the "caging" of suspects before interrogation, a process in which detainees were left in a room with floor-to-ceiling bars until questioned. Other CPT recommendations included an hour of outdoor exercise each day for detainees at the State Socio-Educational Center at Dreibern, improved access to a dentist for all detainees, and better monitoring of cells at the security facilities.

According to press reports, overcrowding in the country's Schrassig Prison remained a problem. Legislation adopted in 2007 appropriated funding for the construction of a detention center for refused asylum seekers to relieve prison overcrowding. The capacity of the prison is 598, and the population is 616 detainees. Construction of the new facility is underway, with an estimated completion date in

2011. Refused asylum seekers are imprisoned if they fail to depart the country voluntarily within a specified time period. They may be imprisoned for a maximum of four months while arrangements are made to deport them.

Three deaths occurred in Schrassig Prison during the year. On April 11, a 25-year-old detainee was found dead in his bed. On June 11, a female detainee was found dead in her cell. On June 30, one detainee died a natural death after a long illness. The Government is investigating the first two cases.

In an answer to a parliamentary question, Justice Minister Biltgen announced that 288 grams of drugs were seized in Schrassig Prison between March 2009 and August 2010.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the Grand Ducal Police and the judiciary police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Warrants issued by a duly authorized official are required for arrests in most cases. Within 24 hours of arrest, police must inform detainees of charges against them and bring them before a judge for determination of the detention's legality. There is a functioning bail system, which judges regularly employed. Detainees are given immediate access to an attorney, whose services are provided at government expense for indigent detainees. Detainees were allowed prompt access to family members.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are public except for those involving sexual or child abuse. There are no jury trials. Defendants have the right to be present and to consult with an attorney in a timely manner. Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

A legal basis exists for the establishment of religious and military courts under special circumstances, but no such action has occurred in more than 60 years.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—In 2009 the European Court of Human Rights (ECHR) issued judgments in two separate cases that found that the country had violated the right to a fair trial as provided under the European Convention on Human Rights. The ECHR took formal note of the friendly settlement reached by the Government of the country and the applicant in one case, with the requesting state paying 50,000 euros (\$67,000) to the complainant. In the second case, the requesting state had to pay 10,000 euros (\$13,400) to the complainant.

*Civil Judicial Procedures and Remedies.*—The magistrate courts serve as an independent and impartial judiciary in civil and commercial matters and are available to individuals who wish to bring lawsuits seeking damages for, or cessation of, a human rights violation.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media were active and expressed a wide variety of views without restriction.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. A majority of the population had connections to the Internet. The European Commission indicated that 87 percent of households were con-

nected to the Internet, and 71 percent of households had broadband connections. Using 2009 statistics, the International Telecommunication Union estimated that approximately 80 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government respected these rights.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. While statistics for the year were not yet available, in 2009, 505 individuals asked for asylum; 207 of these requests were rejected. In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There are no laws that deny asylum based on an applicant's country of origin. There is no "black list" for repatriation; each dossier is examined on its merits. The Government applies the safe country of transit principle.

In August the Government repatriated a Serbian family (father, mother, and two children, ages 20 and 30) to Belgrade.

The law provides for the possibility of granting protection to individuals who may not qualify as refugees; the Government did not grant such protection during the year.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In June 2009 the country held elections for the 60 seats in the Chamber of Deputies. The elections were considered free and fair. Also on that date, the country held elections to the European Parliament that were considered free and fair.

Political parties operated without restrictions or outside interference.

There were 12 women in the 60-member Chamber of Deputies and four women in the 15-member cabinet. There were 15 women in the 32-member Supreme Court.

There was one parliamentarian of Portuguese descent, and one minister of Italian descent.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were no reports of government corruption during the year. The Ministry of Justice is responsible for combating government corruption. Public officials are not subject to financial disclosure laws.

There is no law providing public access to government information; in practice the Government granted access to government information to members of the public and placed extensive quantities of government information on official Web sites.

### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. There is an Ombudsman Committee for the Rights of Children.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government effectively enforced it.

*Women.*—The law prohibits rape, including spousal rape, and the Government enforced the law effectively. The legal penalties range from five to 10 years imprisonment. The law prohibits domestic violence, and the Government effectively enforced it. The law is gender neutral and provides that abusers will be removed from their residences for 10 days; this can be extended an additional three months. Penalties may include fines and imprisonment. If a person approaches a nongovernmental organization (NGO) for assistance, the police are required to investigate. In 2009 there were 572 cases of police intervention relating to spousal abuse and 302 police expulsions of the abusing spouse. These figures were higher than for the previous year. The Government funded organizations that provided shelter, counseling, and hotlines. There are three hotlines for abused women. In 2009 government-sponsored NGO shelters provided refuge to approximately 398 women and 560 children. The Government also provided financial assistance to domestic violence victims.

The law prohibits sexual harassment and requires employers to protect employees from sexual harassment. The law prohibits gender-based job discrimination and harassment of subordinates by superiors. Disciplinary measures against offenders are available, including dismissal. An employer's failure to take measures to protect employees from sexual harassment is considered a breach of contract, and an affected employee has the right to paid leave until the situation is rectified. Sexual harassment in the workplace was not widely considered a problem.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception and skilled attendance during childbirth, and the rate of maternal mortality was low (17 deaths per 100,000 live births, according to UN Population Fund statistics for 2008). Women and men were equally diagnosed and treated for sexually transmitted infections, including HIV. There were no barriers that limited access to maternal health services.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. The law mandates equal pay for equal work; however, according to government reports, women were paid 14 to 16 percent less than men for comparable work. The Ministry of Equal Opportunity is responsible for protecting the legal and social rights of women. In 2009 the Government conducted a two-month media campaign in all of the country's high schools promoting equal rights for men and women. In November the ministry promoted equal rights at the annual student fair, with a series of roundtable discussions.

*Children.*—Citizenship is governed by the principle of descent, according to which a father or mother who is a citizen of the country automatically conveys citizenship to their offspring at birth. The Government registers all births immediately.

A special police unit is responsible for the protection of minors, and two call centers—one government-run, the other NGO-administered—are available to child victims of abuse. Neither the Government nor NGOs compiled statistics on child abuse during the year.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance with the convention at <http://travel.state.gov/abduction/resources/congressreport/congressreport4308.html>.

*Anti-Semitism.*—There were no reports of anti-Semitic acts. The Jewish community numbered approximately 1,000 persons.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services or other areas, and the Government effectively enforced these provisions. The law does not require government or privately owned buildings to be accessible to persons with disabilities, but the Government subsidized the construction of "disabled friendly" structures. The NGO Aid for Handicapped Children advocated for the protection of the rights of persons with disabilities. The Government and Info Handicap, an NGO, organized a campaign entitled "For Mobile People with Handicaps" in which representatives of the national railway company met with persons with disabilities with the goal of improving access to public transportation.

The law establishes quotas requiring businesses that employ more than 25 persons to hire unspecified number of workers with disabilities and pay them prevailing wages, but the Government acknowledged that these laws were not applied or enforced consistently.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There was one organization for lesbian, gay, bisexual, and transgender persons that operated without any impediment. An annual gay pride event took place in May. The Government authorized the event and police provided sufficient protection.

There were no reported incidents of discrimination based on sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of official or societal discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights. Approximately 50 percent of the workforce (including transborder workers who commute from neighboring countries) was unionized. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to strike, except for government workers who provide essential services. Legal strikes may occur only after a lengthy conciliation procedure between the parties. For a strike to be legal, the Government's national conciliation office must certify that conciliation efforts have ended.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to collective bargaining, and workers exercised this right freely. Approximately 66 percent of workers were under collective bargaining agreements. There were no reported examples of antiunion discrimination.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports of trafficking in women for sexual exploitation.

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace, and the Government effectively enforced these laws. There were no reports of child labor.

The law prohibits the employment of children under the age of 16. Apprentices who are 16 years old must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The ministries of labor and education effectively enforced the child labor laws.

The Ombuds-committee for Children's Rights (a different institution from the ombudsman) carries out a series of inspections including inspections for child labor.

*e. Acceptable Conditions of Work.*—The national minimum wage for a single worker over the age of 18 was 1,683 euros (\$2,143) per month for unskilled workers and 2,019 euros (\$2,571) for skilled workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family; however, most employees earned more than the minimum wage. The Ministry of Labor enforced the minimum wage effectively. Foreign and migrant workers are covered by minimum wage provisions.

The law mandates a maximum workweek of 40 hours. Premium pay is required for overtime or unusual hours. Sunday employment is permitted in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel; other industries must request permission for Sunday work, which the Government granted on a case-by-case basis. Work on Sunday, allowed for some retail employees, must be entirely voluntary and compensated at double the normal wage or with compensatory time off on another day, equal to the number of hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum of 10 hours per day, including overtime. The labor inspection court and the Superior Court of Justice are responsible for enforcing these laws.

The law mandates a safe working environment. An inspection system provided penalties for infractions. The labor inspectorate of the Ministry of Labor and the accident insurance agency of the Social Security Ministry carried out effective inspections. No laws or regulations specifically provided workers with the right to remove themselves from dangerous work situations without jeopardy to their continued em-

ployment; however, every worker has the right to ask the labor inspectorate to make a determination regarding workplace safety, and the inspectorate usually did so expeditiously.

## MACEDONIA

The Republic of Macedonia is a parliamentary democracy with a population of approximately 2.1 million. A popularly elected president is head of state and commander in chief of the armed forces. A unicameral parliament (Sobranie) exercises legislative authority. In 2009 the country held presidential and municipal elections, which the Organization for Security and Cooperation in Europe (OSCE) assessed as meeting most international standards for democratic elections. Security forces reported to civilian authorities.

Overcrowding, severe staff shortages, and lack of training for guards continued to contribute to poor conditions at some of the country's prisons. There were reports that authorities abused pretrial detention for political reasons. Judges reported that there was strong political pressure on the judiciary and that this pressure sometimes influenced their rulings. The Government criticized the media and attempted to influence reporting by manipulating its spending on advertizing. Tensions between ethnic Macedonian and ethnic Albanian populations continued to influence individuals' opportunities for education, employment, and political participation. There were reports of discrimination against persons with disabilities and Roma.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings.

On May 12, police attempted to arrest four men who were smuggling a significant number of weapons into the country near the village of Radusha, close to the border with Kosovo. The police shot and killed the four after they opened fire.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were credible reports that police used excessive force during the apprehension of criminal suspects and abused detainees and prisoners.

During the first nine months of the year, the Ministry of Interior's Sector for Internal Control and Professional Standards Unit (PSU) reported receiving 41 complaints against police officers for use of excessive force. After preliminary investigations, the PSU found grounds for further investigation in four cases and took disciplinary action in one.

On February 2, a citizen accused a Skopje police officer of physically assaulting him after an argument related to a traffic matter. Authorities charged the officer with a misdemeanor, and the PSU issued a recommendation to the disciplinary commission to initiate disciplinary procedures. The commission determined that the police officer did not use excessive force.

On May 18, in the village of Bansko, Strumica, a police officer was accused of using excessive force against a handcuffed civilian. The PSU submitted a report to the Public Prosecutor's Office and issued a recommendation to his supervisor to initiate disciplinary procedures to determine responsibility for the incident. The commission determined that there was no use of excessive force.

On June 4, a police officer in Gostivar attacked a driver for not following directions. The PSU issued a mandatory recommendation to the officer's supervisor to initiate disciplinary procedures in order to determine responsibility for the incident. The commission reduced the officer's salary by 15 percent for three months.

Also in June two individuals filed torture and mistreatment charges against two Skopje police officers. The individuals claimed that police officers physically abused them at the Prolet police station after the officers arrested them on May 31. As of year's end, the prosecutor's office had not announced whether it would prosecute the officers.

On August 18, a Skopje police officer hit a citizen's face against the doorframe of his car causing injury to the citizen's face. The PSU issued a recommendation to the officer's supervisor to initiate disciplinary procedures to determine responsibility for the incident. The procedure was ongoing at year's end.

In its 2009 Annual Report, the Office of the Ombudsman reported some improvements in the investigations of the PSU; however, it reported that in most cases the

PSU continued to justify police actions. The report also noted that this “protective attitude towards police officers” is shared by the court and the public prosecutor and that court procedures last indefinitely and contribute to the impunity of police officers.

Between November 2009 and October 31, the nongovernmental organization (NGO) All4Fair Trials received 38 complaints from citizens alleging excessive use of force by police. It referred many of these complaints to the PSU or ombudsman. It also noted that some alleged victims did not want to report the incidents to authorities for fear of reprisal. The NGO criticized the Prosecutor’s Office for not completing prosecutions of police abuse cases filed in 2007 and 2008.

The Skopje prosecutor continued the May 2009 investigation, of four prison guards accused of tying inmates to radiators and beating them until they gave statements. The accusation prompted the ombudsman to recommend torture charges against the guards. Authorities returned the guards to duty pending the outcome of the investigation. As of year’s end, the prosecutor had filed no charges.

*Prison and Detention Center Conditions.*—On August 25, the ombudsman announced criminal charges against several guards at Idrizovo prison. The ombudsman found credible evidence that the guards beat an inmate who was attempting to aid the escape of two other inmates. The prison warden and the director of prison administration investigated the case and found that guards used excessive force against the inmate. The prison administration forwarded the case to the Prosecutor’s Office, which determined it would not prosecute the case due to a lack of evidence.

In its November progress report, the European Commission reported that “the degrading conditions and the dire state of some prisons, in particular Idrizovo and its closed ward, remain of serious concern. “ It continued to state that “most of the prisons are underfunded and cannot cover their basic maintenance expenses, “ and that “the mechanisms for preventing and combating ill-treatment and corruption in prisons remain weak. “

The ombudsman performed regular visits to the country’s prisons and maintained complaint boxes within the prisons. He reported in his 2009 annual report that conditions in the prisons were unchanged and remained “inhumane” and “overcrowded.” It also reported that the opportunity for juvenile detainees to mingle with adult detainees remained a problem.

On February 4, the EU special representative to Macedonia and the ombudsman visited the Idrizovo prison. The EU special representative publicly criticized living conditions in the prison as “a disgrace,” noting roofless rooms, broken windows, and inadequate bathroom facilities, and urged the Government to take immediate action to improve the situation. The ombudsman echoed these concerns, recommended closing the partially open section of the prison, and proposed moving the inmates to a different facility. Prison authorities closed, renovated, and reopened the section.

Prison officials cited the lack of funding for the hiring and training of prison guards as major contributors to the poor conditions at Idrizovo. Idrizovo was severely understaffed; in some units, as few as three guards monitored as many as 130 prisoners, making it extremely difficult for the guards to control the prison population, and creating a situation with substantial prisoner-on-prisoner violence and abuse. Idrizovo guards also received little or no formal training, and authorities expected them to learn on the job. Prison officials stated that overcrowding contributed to the poor conditions. Idrizovo is the country’s largest prison, holding about 70 percent of convicted detainees.

On January 7, an inmate of Bitola Prison died of a heart attack at the hospital. Other inmates claimed that, despite the deceased’s requests for urgent medical assistance, prison authorities did not take him to the hospital until several hours after his requests.

Official reports indicated that two prisoners committed suicide in Idrizovo prison during the year.

As of November, the ombudsman reported that the country housed a total of 2,329 detainees and prisoners, although the total capacity of all facilities was only 1,952.

The ombudsman stated that the right to express religious beliefs and practice religious rites in the penitentiary and correctional facilities was not hindered. Visitor access was allowed, but facilities remained insufficient for the number of prisoners, and conditions are poor.

The Government usually granted independent humanitarian organizations and the ombudsman access to convicted prisoners. The law allows family members, physicians, diplomatic representatives, and representatives from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the International Committee of the Red Cross (ICRC) access to

pretrial detainees with the approval of the investigative judge. Judges usually granted permission.

There were no reports of prisoners serving beyond the maximum sentence.

During the year the Ministry of Justice refurbished several prison and detention facilities. This activity included renovating the partially open section at Idrizovo and installing new video surveillance and alarm systems at the Suto Orizari detention center and Stip Prison to improve overall security and decrease corruption among guards and other detention staff.

On May 21, the Government announced that it would allocate 52 million euros (\$69 million) for prison renovations, of which the Council of Europe Development Bank would fund 46 million euros (\$61 million) and the EU Instrument for Pre-Accession Assistance would fund the remainder.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, arbitrary arrest and detention were problems.

*Role of the Police and Security Apparatus.*—The national police are a centralized force under the Ministry of the Interior, consisting of uniformed police, criminal (civilian) police, and border police. By September approximately 21 percent of force members were from minority groups, but this figure was short of the Government's 25 percent quota for minority officers. Ethnic Albanians made up approximately 25 percent of the population and approximately 17 percent of the police force.

International observers and local NGOs cited corruption, lack of transparency, and political pressure within the Ministry of the Interior as hindering efforts to fight crime, particularly organized crime.

Police impunity remained a problem, although there were improvements with internal investigations and an active ombudsman.

In addition to investigating alleged police mistreatment, the PSU conducts all internal investigations into allegations of other forms of police misconduct. After conducting an investigation, the PSU forwards its findings to either the Prosecutor's Office or a disciplinary commission, usually composed of the officer's peers. The PSU has authority to impose administrative sanctions during the course of its investigations, such as temporary suspension from work, but cannot impose disciplinary actions, which require a ruling from a disciplinary commission, or more serious criminal sanctions, which require court action. Many observers considered that the PSU, Prosecutor's Office, and courts did not provide an effective deterrent to police abuse, contributing to an atmosphere of impunity.

The Government worked to strengthen the PSU following the CPT's 2008 report that noted that, when it came to investigating alleged mistreatment by officers, the PSU "cannot be considered as an independent body which is able to carry out prompt, thorough, and effective investigations." Insufficient funding and staffing hampered the PSU's effectiveness. The EC reported in its progress report, this year that "the human resources capacity of the Sector for Internal Control and Professional Standards within the Ministry of Interior is low." To address these and other issues, the approved personnel strength of the unit was raised from 45 to 60 during the year. A PSU representative is now allowed to sit on disciplinary commissions as a nonvoting member. PSU staff participated in training conducted by outside experts.

The October 17 EC progress report noted that "control over the police in general, and special units in particular, was more effective, partly because of increased internal audits to provide for professional standards to be respected." The report further noted that "investigations were carried out in accordance with international standards." The report stated that, although an independent external mechanism was lacking, strengthening the powers of the public prosecutor in the investigative phase improved oversight of police work.

Although unit officials showed some improvement in efficiently conducting internal investigations, concerns remained about the low number of completed investigations and the lack of charges in outstanding human rights cases from previous years.

Representatives from a number of international organizations, including the OSCE, the EU, and foreign missions, continued to monitor police operations and advise the Ministry of Interior on police reforms.

Citizens filed 239 complaints related to police conduct with the ombudsman.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants issued by an investigative judge for arrest and detention, and police generally followed this requirement in practice.

The law states that prosecutors must arraign a detainee within 24 hours of arrest. An investigative judge, at the request of a prosecutor, may order detention of suspects for up to 72 hours. Police generally adhered to these procedures in practice.

There were reports that police continued to call suspects and witnesses to police stations for “informative talks” without informing them of their rights. Police did not arrest the individuals nor hold them for extended periods of time. The law permits immediate family members access to detainees, and authorities generally provided access, although it was not always prompt. The law states that an investigative judge must approve access.

The Ministry of Interior conducted inspections of the registers of detained persons and prepared standard procedures for their detention and treatment. These procedures included designating shift supervisors, who were responsible for the proper processing and treatment of detained persons.

There is a functioning bail system. The law sets the initial length of pretrial detention at 30 days. This period may be extended up to 180 days if a council of three judges orders a 60-day extension for further investigation and a superior court orders an additional 90-day extension. The law allows a 90-day extension only in cases for which sentencing guidelines provide that a person convicted of the crime under investigation serve at least five years in prison. Following indictment the maximum pretrial detention is two years. There was a 20 percent drop in the number of pretrial detention cases this year, as judges increased the use of home confinement and bail.

*e. Denial of Fair Public Trial.*—The constitution and laws provide for an independent judiciary; however, the Government, political pressure, intimidation, and corruption influenced the judicial branch. Inadequate funding of the judiciary continued to hamper court operations and effectiveness. A number of judicial officials accused the Government of using its budgetary authority to exert control over the judiciary. Despite persistent underfunding, the Government again reduced the annual budget for the judiciary during the year.

On October 28, parliament amended the law in order to fix the court’s budget at a minimum of 0.8 percent of Gross Domestic Product (GDP), thereby addressing the need for adequate and stable funding of the courts. However, the new law is to be implemented gradually beginning in 2012 and will not reach the 0.8 percent level until 2015. This law does not affect funding for the Prosecutor’s Office, which remained severely understaffed and underfunded.

Political pressure influenced the work of the Judicial Council, the body responsible for the election, discipline, and removal of judges. There were reports that the Judicial Council gave preference to outside candidates for judges instead of choosing 50 percent of new judges from academy graduates as the law requires. Through early December, the Judicial Council elected 38 new first-instance judges, eight of whom were academy graduates.

In January the OSCE published the results of an anonymous survey of judges, in which two-thirds of the country’s 650 judges participated. The results indicated that the majority of respondents felt pressure from political parties and the Government in making decisions, and 43 percent stated that this pressure influenced their rulings. The respondents also stated that the Judicial Council was not an independent body and that the minister of justice should not be a member of this council. The minister of justice and the president of the Judicial Council publicly criticized the survey as unreliable and denied that there were inappropriate pressures on judges.

On February 17, the parliamentary Standing Inquiry Committee on Human Rights concluded that the human rights of defendants and witnesses in the Sopot case had been violated by the “authorized bodies and institutions” of the country. The committee found violations of the prohibition of torture, inhumane, or degrading treatment; the right to liberty and security; the right to privacy of home; and the right to a fair trial. In the 2003 case, two Polish NATO soldiers and one civilian were killed and two civilians were injured by an improvised explosive device along the Kumanovo-Sopot road. Eleven ethnic Albanians were convicted in three separate trials occurring in 2004, 2006, and 2009, and sentenced to 10 to 14 years in prison. In June motions for retrial were filed by the defense in two separate courts based on the committee’s conclusion. On June 17, one of the trial courts denied the defense attorney’s request for retrials for seven defendants. On June 23, the other trial court granted the retrial of four defendants and released them to house arrest on June 28. On September 16, the appellate court reversed the decision of the first trial court and ordered a retrial for all 11 defendants. At year’s end, four defendants remained under house arrest, one remained in detention pending retrial, and six remained at large having been convicted.

In April the media criticized government influence on the judiciary after the parliament elected an affiliate of the ruling party, Branko Uskovski, to sit on the Judicial Council. Media alleged that the parliament chose Uskovski over candidates with far more judicial experience as a reward for his loyalty to the ruling party. Media

reports alleged that one basic court judge, Emilija Ilievska, was promoted to Supreme Court judge based on her political connections. She is the wife of the chief of the Organized Crime and Corruption Prosecution Unit and the sister-in-law of the head of the internal intelligence service.

On June 10, after a seven-month disciplinary procedure initiated by Minister of Justice Mihajlo Manevski, the Judicial Council removed appellate judges Violeta Duma and Vlado Djilvidjiev for unprofessional and incompetent conduct in a 2008 case. The Judicial Council acquitted three other judges who sat on the same panel. There were reports that Djilvidjiev was promised a position on the parliament's Legislative Affairs Committee in return for not publically objecting to his removal. The removal of Judge Duma received significant public attention, and the media accused the Judicial Council of biased, politically motivated, and nontransparent conduct. Duma accused Manevski of retaliating against her because she refused to submit to his pressure on the appellate case of former defense minister and prime minister Buckovski, which stemmed from activities while he was serving as defense minister. Both Duma and Djilvidjiev appealed their removal before the Supreme Court-led appeals committee. The appeals were rejected on December 10.

On September 16, the Constitutional Court struck down several Judicial Council rulebooks that govern the evaluation, discipline, and removal of judges on the grounds that the council did not have a mandate to create and implement the rulebooks. Legal experts interpreted the court ruling as calling into question the dismissals of several judges under the rulebooks. The council ignored the Constitutional Court's requests for opinions and information on the suspended rulebooks. To satisfy the court ruling, the Government amended the law on the Judicial Council to incorporate the rulebooks.

On December 8, the appellate court ruled to release a convicted cigarette smuggler to house arrest pending appeal. On December 10, the Supreme Court reversed the decision, saying the appellate court judges had misinterpreted the law on detention and filed motions with the Judicial Council against the appellate court judge and the president of the appellate court for "unprofessional conduct and malpractice." Legal experts and members of the academic law community said that either interpretation could be considered correct and argued that the motions before the Judicial Council were extreme. They questioned whether the Judicial Council should discipline a judge for his or her interpretation of the law in a ruling. The media speculated that this was an attempt by the Government to remove judges who did not succumb to executive pressure. One of the three judges involved in the appellate ruling resigned from the bench on December 16 for unspecified reasons. The president of the appellate court resigned his position "for health reasons," but said he wanted to remain a judge. The Judicial Council scheduled his disciplinary hearing for January 2011.

Throughout the year the Government heavily criticized the Constitutional Court for overturning a number of laws related to government sponsored projects. In March the speaker of parliament demanded that President of the Constitutional Court Trendafil Ivanovski come to parliament to explain the court's rulings. Ivanovski refused, citing the independence of the court. On October 1, the lustration committee found Ivanovski guilty of collaboration with secret services under communism. Ivanovski appealed the ruling to the Administrative Court, which upheld the guilty verdict. Ivanovski was suspended from the Constitutional Court and appealed to the Supreme Court, which had not ruled at year's end.

During the year the media and legal community criticized the Government for proposing judicial legislation with little or no input from the judiciary or legal experts. For example, the Government proposed amendments to the Law on Courts that would establish a strict point-based system for the evaluation of judges. NGOs, the media, and legal professionals criticized the system, asserting that it would not solve major problems with the judiciary, such as chronic underfunding, political pressure on judges, and inadequate working conditions.

The efficiency of trial courts improved in the first half of the year. Based on unofficial reports from authorities, trial courts decided 536,183, or 52.3 percent, of the 1,023,924 cases on their dockets versus only 29.9 percent for the same period during the previous year. The efficiency of other courts varied. The appellate courts completed 67.7 percent of their caseload and the Supreme Court completed 58.1 percent. The Administrative Court completed only 39.6 percent of its cases. There were 466,315 backlogged cases involving the enforcement of civil judgments, including such cases as failure to pay utility bills, which were supposed to be transferred to a private bailiff system. However, on July 2, parliament moved the date for the transfer of enforcement cases to July 1, 2011, and the cases remained on the docket of the trial courts.

*Trial Procedures.*—The law presumes defendants innocent until proven guilty. Trials are generally open to the public. The country does not use juries. A single judge hears less serious cases, and a panel of one or two professional judges and two to three lay judges hear more serious cases. The judicial panels determine guilt and impose sentences. The panel usually follows the recommendations of the presiding judge. Defendants have the right to an attorney in pretrial and trial proceedings. The law requires that courts provide indigent defendants an attorney at public expense, and authorities generally respected this requirement in practice. Defendants may question witnesses and present evidence on their own behalf. The law entitles defendants and their attorneys to have access to government-held evidence. In practice defendants were not always given access. Both the prosecution and defendants have the right to appeal verdicts.

The law provides that courts may try defendants in their absence as long as they repeat the trials if convicted individuals later become accessible to justice officials.

The courts published civil and criminal judgments online, but public access to judgments and court decisions remained limited. Most of these electronically published judgments lacked an indexing function and were difficult to search due to the large amount of deleted data. Officials cited privacy and data protection concerns as reasons why the courts did not publish more information on judgments.

*Political Prisoners and Detainees.*—During the year there were claims that authorities detained persons for political reasons.

On July 16, the prosecutor indicted 36 of 40 medical doctors and officials of the Health Fund whom police arrested in April on bribery and fraud charges related to disability pensions. The family of one of the doctors, Ljube Gligorovski, claimed that authorities mistreated him in detention and were holding him for personal and political purposes. Gligorovski's attorney stated that the court denied repeated petitions for his release on bail or transfer to house arrest. On September 13, the day before the trial began, the court renewed Gligorovski's detention order for another 90 days, based on the risk that he would commit further crimes, although he was no longer in his position and had been suspended from practicing medicine. In mid-October the court placed Gligorovski under house arrest. At year's end, the court had set no hearing date.

There were claims that officials used pretrial detention as a punitive measure in the case of former manager of the Health Fund, Georgi Trenkoski. Trenkoski was initially arrested and sent to pretrial detention on more serious charges than those for which he was indicted. Authorities justified pretrial detention as necessary to prevent Trenkoski from tampering with evidence; however, he had resigned from his position as manager of the Health Fund three months earlier and had no access to the files. Supporters claimed that the media were notified ahead of Trenkoski's arrest to ensure a "perp walk." Media coverage of his case has been derogatory, implying guilt prior to conviction. The trial was ongoing at year's end.

Dusko Ilievski, a leader of antigovernment protests related to the bankruptcy of the dairy company "Swedmilk" claimed that he, his father, and brother were unlawfully detained for 12 days for political reasons. In July police charged Ilievski of raising marijuana on family owned land. Ilievski claimed the charges were politically motivated, aimed at silencing his criticism of the Government. At year's end, the trial against Ilievski was pending before the Bitola court.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) issued 15 decisions that found violations by the state of the European Convention on Human Rights, including violations of the right to liberty and security, the right to a fair trial, the right to court access, and the right to due process. In 2009 the Government enacted an ECHR Orders Enforcement Law; however, inadequate implementation has resulted in the timely compliance of only a small number of the ECHR orders.

On October 28, the ECHR issued a judgment against the country in the Snake Eye case. The court found violations of the right of liberty and security of 38 defendants in both the pretrial and trial detention periods.

*Civil Judicial Procedures and Remedies.*—Citizens had access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations. Individuals may file human rights cases in the criminal, civil, or administrative courts, depending upon the type of human rights violation in question and the perpetrator of the alleged violation. Individuals may also appeal adverse decisions. The law provides the right to timely adjudication of cases and a legal basis for raising excessive judicial delays to the Supreme Court.

On February 10, the Constitutional Court ruled for the first time on an individual human rights petition involving a violation of the right to stand for public office. The court ruled that the Zajas municipal administration violated the plaintiff's polit-

ical rights during his 2009 attempt to campaign for mayor by prohibiting his candidacy. The court annulled the original decision of the lower court, allowing the plaintiff to file a civil suit for damages against the municipality.

In December 2009 parliament passed a law that provides for free legal aid to citizens seeking legal assistance. The law designates those who qualify for assistance including recipients of social or disability welfare, single parents, certain pension recipients, and asylum seekers. The Office of the UN High Commissioner for Refugees (UNHCR) reported that in practice there has been no access to state-funded free legal aid for asylum seekers due to the manner in which the provisions of the law were interpreted.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, the Government did not always respect these rights in practice, and government pressure on the media was a problem. The law prohibits speech that incites national, religious, or ethnic hatred, and the law provides penalties for broadcasters who violate these laws.

Individuals could criticize the Government publicly or privately; however, there were reports that the Government attempted to impede criticism, pressured the media, and forced journalists to practice self-censorship. The Government was one of the largest purchasers of advertising in the country and favored outlets and journalists it perceived as friendly. In an open letter dated August 5, the former spokesperson for the National Health Fund, Dejan Gacov, claimed that the Government controlled the media through its spending on advertising.

During the year journalists worked to strengthen the professionalism and independence of the media through the Association of Journalists of Macedonia (AJM). On September 21, the AJM, which had been criticized as biased in the past, adopted a new statute that provides for a more democratic and transparent association, and on December 11, elected new leadership in line with the new statute. On November 12, the first labor union for journalists, the Independent Trade Union of Journalists, was established.

The ruling party, VMRO-DPMNE, issued statements expressing disappointment with reporting by some media outlets, including A1 television and the daily newspaper Vest. President Gjorge Ivanov also criticized the media for allegedly misinterpreting his statements. In reaction the AJM accused the president of trying to “discipline the country’s journalism.”

On February 1, the owner of the national radio station Kanal 77, Goran Gavrilov, appealed the acquittal of three defendants accused of attempting to murder him in 2008 to the European Court of Human Rights (ECHR) in Strasbourg. The ECHR accepted the case on May 4.

On March 17, an appellate court reversed the slander conviction of opposition SDSM Member of Parliament and former prime minister Vlado Buckovski and returned the case to the trial court for retrial. The court fined Buckovski 11,600 euros (\$15,372) in 2009 for slandering VMRO-DPMNE Member of Parliament Silvana Boneva during the 2006 election campaign.

On March 22, the amended criminal code went into effect; the code decriminalized slander based on the reporting of statements by third parties.

Media institutions and reporting were divided along ethnic and political lines, with the most striking divisions visible in reporting on controversial political issues.

The independent media were active and expressed a wide variety of views without restriction. However, there were some condemnations of hate speech. On May 14, the AJM announced that during the previous year and a half, holders of public office had filed 150 defamation, libel, and slander charges against journalists. The AJM stated it had collected the information directly from journalists because the courts did not respond to its inquiries. On May 19 supported the European Federation of Journalists the AJM’s criticism of the Government for neglecting the safety of journalists. The authorities failed to act after the AJM lodged an official complaint against a commentator on Kanal 5 television for using hate speech against journalists he believed to be traitors. The National Broadcasting Council determined there was no hate speech broadcast but rather “elements that occasionally harm program standards and professional journalism.”

In August a court acquitted a journalist in a retrial of his 2008 conviction for publishing a report on a judge whom police fined for driving under the influence of alcohol.

On November 25, backed by heavy police presence, financial and tax inspectors carried out an investigation on the premises of A1, the country's most popular, and opposition-oriented, television station. The station shares premises with three independent newspapers and various other businesses, all with ties to the owner of A1, Velija Ramkovski. The widely publicized operation was conducted late in the evening and broadcast live on A1.

Late at night on December 23, special police forces arrested Ramkovski, his daughter, and 17 other managers and employees of the businesses on charges of tax evasion and conspiracy. Four, including Ramkovski's son, remained at large; however, 16 of the 19 arrested were ordered to 30 days pretrial detention. While there were no technical procedural violations during the arrest, concerns were raised about the timing of the arrests (11:00 p.m.), the length of the judicial investigation process (12 hours held in police custody and 10 more hours in front of an investigative judge), access to attorneys during the questioning process, and the use of a blanket pretrial detention order for the majority of the accused. The arrest of Ramkovski and the other defendants raised concerns about media freedom and selective prosecution of government critics. There were reports that A1 television reporters and corporate sponsors were threatened, although the television station continued to operate.

There were seven major, private, daily newspapers in Macedonian and four in Albanian. International newspapers and magazines were available throughout the country. Macedonian Radio and Television, which generally favored the Government's views on political issues, was the country's sole public broadcaster.

There were five private television broadcasters with national coverage, 16 national television stations broadcasting via satellite, and 57 private local and regional television stations. Most of the stations broadcast news programs and reflected a variety of viewpoints. There were 71 independent radio stations. All major broadcast and print media offered up-to-date Web editions. Blogs and Internet-based social networks were also available.

As of year's end, the ECHR had not issued a decision in the case of Ljubomar Frckoski, who was convicted in 2008 of slandering Prime Minister Nikola Gruevski in a 2007 column and ordered to pay Gruevski 30,000 euros (\$39,754) in damages. Frckoski's conviction became effective in December 2009, and he was reportedly paying Gruevski in installments. The NGO Reporters without Borders criticized the decision as harmful to freedom of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The Government tried to increase Internet use and operated Internet cafes throughout the country that provided free Internet access to persons under the age of 26, women over the age of 62, and men over the age of 64. As of June there were an estimated 1,057,000 Internet users in the country, approximately 50 percent of the population.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. In order to hold public gatherings of any kind, organizers must notify the Ministry of Interior so the venue can be made secure.

On February 16, a trial court acquitted three persons of failing to provide proper security arrangements in connection with the March 2009 protests over the Government's plans to construct an Orthodox Church in Skopje that turned violent. In addition the Ministry of Interior charged 15 other participants, seven anticonstruction protesters and eight proconstruction protesters, mainly for violating public order. This group of 15 was tried in a separate trial by the court of misdemeanors. On November 26, the court acquitted all 15 defendants.

*Freedom of Association.*—The law provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refu-

gees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not use forced exile, internal or external.

*Internally Displaced Persons (IDPs).*—The Government reported 611 persons remained displaced from the 2001 internal conflict. Of these, 251 persons lived in collective centers, and 360 were lodged with host families.

IDPs received basic assistance, mostly from the Ministry of Labor and Social Policy, but had few opportunities for work due to the country's high unemployment rate. The UNHCR assisted 12 IDPs to regulate their civil status and identity documents.

During the year the Government encouraged IDPs to return to their homes of origin in areas the authorities considered safe. Some IDPs continued to assert that the Government did not provide adequate support for the return process. Romani IDPs faced additional challenges due to lack of documentation of tenancy for properties where they previously resided.

*Protection of Refugees.*—The country's laws provides for the granting of asylum or refugee status both to those individuals meeting the criteria for refugee status and those meeting the criteria for subsidiary protection. The Government has established a system for providing protection to refugees.

The law meets most international and EU standards; however, it contains exclusionary provisions for persons under subsidiary protection which are not in compliance with the 1951 Refugee Convention. The UNHCR submitted friend of the court brief to the Administrative Court in two cases in which the Section for Asylum ceased subsidiary protection on exclusion grounds, alleging that the two refugees involved constituted a danger to national security. The case involves two Roma from Kosovo who have lived in the country since 1999.

The law provides for protection of refugees and persons under subsidiary protection in accordance with EU standards. During the year the Government transformed the status of protection for persons formerly granted "asylum for humanitarian protection" to "asylum for subsidiary protection" in line with EU directives. UNHCR assessed that there was no improvement in the refugee status determination mechanism. During the year no asylum seekers were granted refugee status or subsidiary protection.

The Government reaffirmed its commitment that it would not deport failed asylum seekers from Kosovo and no such deportations took place. The Ministry of Interior issued identification documents and temporary residence permits to those whose applications for asylum the Government rejected. The temporary residence permits were subject to extension as individual circumstances warranted. The Administrative Court accepted the appeals of 14 individuals and returned the cases for re-adjudication. It rejected appeals in 24 cases. Although 17 appeals of Administrative Court verdicts were submitted to the Supreme Court as the second instance judicial body, it issued only two verdicts, rejecting the appeals.

In December 2009 amendments to the law on asylum and temporary protection came into force that significantly improved the quality of national asylum legislation.

Delays in the identification and referral of new asylum seekers persisted. The mechanism for appointing guardians to the asylum seekers who were unaccompanied minors was a problem. The country continued to experience an increase in arrivals of new asylum seekers from outside the region, including 70 Afghans, 28 Palestinians, 22 Pakistanis, five Eritreans, and 15 Somalis. There were no qualified interpreters in Pashtun, Dari, or Arabic, which made identification and conducting interviews very difficult. Most of these persons departed to unknown destinations after applying for asylum. By the end of November, the number of registered asylum seekers increased from 89 at the beginning of the year to 162. Of these individuals, 67 were accommodated at the Reception Center for Asylum Seekers in Vizbegovo.

The Government issued identity documents to all asylum seekers, recognized refugees, and other persons under humanitarian protection. There were some delays noted issuing identity documents to new asylum seekers.

Through November seven rejected asylum seekers, refugees, or other persons of concern from Kosovo obtained Macedonian citizenship.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, or in which they would be subjected to torture or inhuman or degrading treatment or punishment. However, one Nigerian asylum-seeker was deported to a third country before the deadline for submitting an appeal had expired. The

UNHCR representation in Skopje ascertained that his deportation, likely followed by an immediate deportation to his country of origin, may have amounted to indirect refoulement.

By the end of November, 1,534 asylum seekers, refugees, persons under subsidiary protection, and other persons of concern remained in the country, most of them Roma from the 1999 conflict in Kosovo. UNHCR continued to note progress in the return process of Roma to Kosovo, which it facilitated on the basis of individual voluntary requests. As of the end of November, 115 individuals returned to Kosovo. The reconstruction of 13 houses in Kosovo was ongoing with the support of local authorities and the international community.

In 2009 the country adopted the National Plan for Integration of Refugees and Foreigners that focused on housing, education, health, social protection, employment, and community development. In March the Ministry of Labor and Social Policy assumed responsibility for social protection of persons granted asylum. Rejected asylum seekers from Kosovo continued to be assisted by UNHCR. An integration center that provided vocational training to persons granted asylum operated with the support of UNHCR. The funding for the housing component of integration strategy remained a key concern.

*Stateless Persons.*—At the end of November, according to UNHCR statistics, there were 426 effectively stateless long-term habitual residents. There were 1,232 persons with documentation gaps who were considered at risk of statelessness, the vast majority of whom were Roma.

Progress was achieved in the reduction of persons effectively stateless and at risk of statelessness. A total of 35 long-term habitual residents were granted citizenship during the year, while 62 long-term habitual residents had applications pending. According to UNHCR, 5,030 effectively stateless long-term habitual residents acquired citizenship since 2004.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair, elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In March and April 2009, the country held national presidential and municipal elections. The OSCE characterized the elections as meeting most commitments and other international standards but noted that intimidation of voters, especially public sector employees, was a problem. In October 2009 the Ministry of Justice began a pilot project in two municipalities, Gostivar and Vinica, aimed at updating the voters' lists. An NGO which participated in the project complained that the methodology that was used was not defined, and the results were not presented to the working group for discussion. At year's end, plans to examine the lists of the remaining municipalities were announced.

Political parties could operate without restriction or outside interference.

There were 41 women in the 120-seat parliament and two women in the 22-member Council of Ministers. The law requires gender diversity in each political party's candidate list; at least one in every three candidates must be of the gender opposite of the majority gender on the list. None of the country's 85 mayors were women.

There were 29 ethnic Albanians, four ethnic Serbs, two ethnic Vlachs, one ethnic Turk, one ethnic Rom, one ethnic Bosniak, and one person formally declared as being of "other" nationality in the parliament. There were eight members of minorities in the 22-member Council of Ministers.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials often engaged in corruption with impunity.

There were several claims during the year of government interference in high profile cases of "abuse of office" or "misuse of official position" in order to threaten non-compliant government officials or party members or to intimidate key opposition leaders. A number of current and former government officials faced charges of misuse of position or abuse of office, while other officials and opposition leaders reported threats that they would face such charges.

Police and judicial corruption were problems. During the year the Judicial Council removed four judges for unprofessional and unethical conduct and initiated disciplinary action against 12 others.

On January 21, the Supreme Court reversed the 2008 embezzlement conviction of the former governor of the National Bank of Macedonia, Ljube Trpeski, and ordered a retrial. Authorities released Trpeski, who was serving a sentence of four-

and-a-half years, pending his retrial, which authorities had not scheduled at year's end.

On January 29, the trial court acquitted three judges from Struga who, along with 10 other persons, went on trial for embezzlement and defrauding investors. The court convicted seven defendants and dropped the charges against the remaining three. At year's end, the case remained on defense appeal.

In April and September 58 individuals were convicted of bribery in two separate trials. The court also convicted 40 of criminal conspiracy related to the 2009 investigation into corruption of police and customs officials by the Ministry of Interior. The court acquitted six additional defendants of all charges. Prison sentences ranged from six months to two years. The defendants were awaiting the decision of the appellate court at year's end.

During the year retrials began for Vasil Tupurkovski, a former deputy prime minister and director of the Agency for Reconstruction and Development, who was convicted of corruption, and for former prime minister and former minister of defense Vlado Buckovski, who was convicted of abuse of office. Buckovski's retrial was ongoing at year's end. Tupurkovski's retrial was scheduled to begin in early 2011.

On April 1, the trial began for one of four criminal cases returned in 2008 by the International Criminal Tribunal for the Former Yugoslavia (ICTY) to be tried in the country, for alleged war crimes during the 2001 conflict. The prosecution charged 22 defendants, most of them ethnic Albanians, with humanitarian crimes against a group of civilian road workers from the municipality of Mavrovo. The case is the only one of the returned ICTY cases that has gone to trial. The trial was ongoing at year's end.

On June 11, the spokesperson of the Health Fund, Dejan Gacov, resigned and stated that he was "unwilling to continue the corrupt policies of the Government" which have "bankrupted the Health Fund." Afterwards, pictures of Gacov in women's clothing appeared repeatedly on the front page of a progovernment daily newspaper, presumably in an effort to discredit his allegations.

Members of parliament and high-ranking public officials were subject to financial disclosure and conflict of interest laws.

On June 24, the Anticorruption Commission filed misdemeanor charges against 40 public officials for failing to submit financial and conflict of interest statements. If convicted the officials could be subject to fines ranging from 1,000 to 3,000 euros (\$1,325 to \$3,975).

The State Commission for the Prevention of Corruption (Anticorruption Commission) was responsible for investigating charges of corruption and complaints submitted by citizens. During the year the commission received 457 complaints under the Law on Corruption Prevention and the Law on Conflict of Interest Prevention and reviewed a total of 1,342 complaints, which included some from the previous year. The commission dismissed 675 complaints for lack of jurisdiction and 250 complaints as unfounded. The commission also determined that 67 complaints were duplicates, transferred 34 complaints to state organs for further investigation, recommended criminal prosecution in 14 cases, and recommended disciplinary action in three cases.

On July 20, the director of the Money Laundering Prevention Unit, Vane Cvetanov, resigned after the Anticorruption Commission alleged that he had hired staff without the permission of the Government and that he had misused funds. Cvetanov denied the allegations and accused the prime minister and his closest associates of pressure, hypocrisy, and unwillingness to fight serious corruption. No official charges have been brought against Cvetanov to date.

On October 28, the parliament passed a Law on Prevention of Corruption which will cut the term of office of the members of the commission from five to four years and will make the members full-time government employees instead of part-time employees. The commission members opposed this law, claiming that making the members full-time government employees would damage the independence of the commission. The head of the commission said publicly that the Government wanted to take control of the commission to prevent his continued investigations into ministers and other members of the Government for corrupt or unethical conduct. The Government denied these allegations and maintained that the proposed law is in line with the country's 2009 EU progress report, which recommended the commission members work full-time.

During the year the chairman of the anticorruption commission requested that the public prosecutor charge five current and two former mayors with violating the law on public procurement. Each mayor was involved in separate events in which public money was allegedly spent without proper tendering and open calls for bids. At year's end, the cases were under review by the prosecutor's office.

At year's end, the trial of the former director general of the electric company, Pande Lazarov, whom authorities accused of taking kickbacks and of money laundering, was ongoing. Lazarov was released on bond pending the outcome of the trial.

In April 2009 an appeals court upheld the trial court's conviction of the former director of the Public Revenue Office, Petra Miteva, for abuse of official position and confirmed her sentence of three years in prison. The Supreme Court overturned Miteva's original conviction in January and returned the case to the appellate court for retrial. In March the appellate court upheld the original conviction. A second appeal to the Supreme Court was pending at year's end.

The law provides for public access to government information. Implementation lagged, especially in respect to citizens' access to court judgments and other court decisions.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings. Government officials were cooperative and responsive to their views.

The Government cooperated with international governmental organizations and permitted visits by representatives of the UN and other organizations.

The ombudsman worked to protect citizens against infringement of their rights by public institutions, to reduce discrimination against minority communities and persons with special needs, to promote their equitable representation in public life, and to address problems of children's rights. The ombudsman has the right to visit all detained persons and to report findings to the UN. Most complaints that the ombudsman received concerned violations of judicial procedures; police abuse; prisons; and labor, consumer, or property rights. The ombudsman reported good cooperation and communication with the Government but noted that, while government responses to its inquiries were usually timely, they were often not substantive and at times lacked requested information.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on gender, race, disability, , religion, or national, social, or political affiliation, and the Government generally enforced these prohibitions. In April parliament passed a new antidiscrimination law, scheduled to be implemented at the beginning of 2011 that protects against most forms of discrimination. The new law provides for a seven-member commission to review discrimination complaints, to issue recommendations, and to promote the implementation of the law; however, the commission has no power to punish offenders. The law provides for fines ranging from 400 to 1,000 euros (\$530 to \$1,325), which courts can issue against individuals or legal entities found guilty of discrimination.

*Women.*—The law specifically prohibits rape, including spousal rape; however, legal sanctions were not a significant deterrent. The penalties for rape or forcible sexual assault range from one to 15 years imprisonment, but due to poor enforcement of the law, the penalties, although sufficient, did not serve as a significant deterrent. As with domestic violence, police and judicial officials were reluctant to prosecute spousal rape, and many victims did not come forward due to social stigma.

Domestic and other violence against women was a persistent and common problem. Cultural norms, including victims' concerns over possible shame to the family, discouraged the reporting of violence against women and the filing of criminal charges. Domestic violence is illegal, but authorities rarely enforced the law in practice.

There were three NGO-operated and seven limited-capacity government shelters for women at risk, a national NGO-operated hotline, and two crisis centers for temporary (24- to 48-hour) shelter for victims of domestic violence. Local NGOs combating domestic violence relied largely on international donors. The Government sponsored a public campaign against domestic violence that uses well known women from throughout society to raise public awareness of the issue.

A program implemented by the UN Development Program with the Ministry of Labor and Social Policy that provides training to improve professional skills and opportunities for self-employment for victims of domestic violence was initiated. The program also provided payments for a period of six months to companies that employed women who were victims of domestic violence.

Sexual harassment of women in the workplace was a problem, particularly in the private sector. The law prohibits sexual harassment in the workplace. The criminal code provides a sentencing guideline of three months to three years for sexual harassment. Authorities could prosecute sexual harassment under the law, but victims

have generally not brought cases forward due to fear of publicity and possible loss of employment. Although women remained underrepresented in the higher levels of government and the private sector, there were several prominent professional women in the public sector, including the interior and culture ministers.

Couples had the right to decide freely and responsibly the number, spacing, and timing of their children and means to do so free from discrimination, coercion, and violence. Contraceptives were widely available and affordable. Obstetric and postpartum care was available at hospitals throughout the country and was accessible to expectant and new mothers either through medical coverage provided to employed persons through their employers or to unemployed persons through the national welfare systems. According to recent UN estimates, the maternal mortality rate in the country is nine deaths per 100,000 live births. Women and men were equally diagnosed and treated for sexually transmitted infections including HIV.

The Department of Gender Equality in the Ministry of Labor and Social Policy was responsible for ensuring the legal rights of women. There were gender commissions at the municipal council level.

Women from ethnic Albanian and Romani communities did not have equal opportunities for employment and education due to traditional or religious restrictions on their education and role in society. In some Albanian communities, the practice of men directing voting (or voting on behalf of female family members) disenfranchised women.

*Children.*—The law determines citizenship primarily by citizenship of parents, but the law allows for acquisition of citizenship by birth in the country's territory for a child found in the territory of Macedonia with unknown parents, if authorities do not discover that the parents are foreigners before the child reaches the age of 18. Births of all children in hospitals and medical institutions are registered automatically, and the law requires that all children, including those born at home or elsewhere, be registered at magistrate offices within 15 days of birth. Some Romani families delayed registration of newborns, making it difficult for these individuals to access educational, medical, and other benefits later in life because they lacked proper identity documents.

The country's schools suffered from chronic underfunding and insufficient classroom space. Many schools offered classes in shifts, usually divided along ethnic lines. Boys and girls generally had equal access to education, although there were isolated instances of discrimination against girls in educational institutions in some ethnic Albanian areas.

Child abuse was a problem in some areas. The Center for Social Work of the Ministry of Labor and Social Policy and the Department for Juvenile Delinquency of the Ministry of Interior were responsible for addressing child abuse. NGOs were also active in this area. There were reports that Roma often organized their children into groups to beg for money in public places.

An NGO operated a helpline and e-mail address for battered or abused children. It conducted advertizing campaigns aimed at children to promote the helpline.

Child marriage occurred in the Romani community and, to a lesser extent, in the ethnic Albanian community, but it was difficult to estimate numbers because child marriages were rarely registered.

According to 2008 data from the UN Children's Fund, there were between 500 and 1,000 street children in the country; most of them Roma. With international support, the Ministry of Labor and Social Policy operated four day centers for street children.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.htm>

*Anti-Semitism.*—The Jewish community estimated that 250 to 300 Jews lived in the country. There were no reports of anti-Semitic acts. Please see [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*Trafficking in Persons.*—For information on trafficking in persons, please see the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Persons with disabilities faced discrimination in employment, education, and access to health care and other state services. The law requires persons with physical or mental disabilities to obtain approval from a medical commission of the Government to serve in supervisory positions in both the private sector and the Government. The law does offer incentives to certain "shelter companies" to provide employment for persons with disabilities, but NGOs reported that restrictions on which companies qualified limited employment opportunities for persons with disabilities. The new antidiscrimination law, which passed in April, al-

lows for those who allege discrimination to submit their complaints to the Commission for Protection Against Discrimination.

The law requires only that new buildings be made accessible to persons with disabilities. Many public buildings remained inaccessible. Inconsistent inspection resulted in construction of new facilities that were not accessible for persons with disabilities.

Advocates stated that employers were reluctant to hire persons with disabilities and that the difficulty of accessing educational and other opportunities prevented the full integration into society of persons with disabilities.

The Ministry of Labor and Social Policy is responsible for integrating persons with disabilities into economic life and for the payment of benefits. In practice disability benefits did not cover the cost of living. Advocates indicated that employment and life-skills training programs for persons with mental and physical disabilities were very limited and did not contribute significantly to economic integration.

*National/Racial/Ethnic Minorities.*—According to the 2002 census, the population was 64.2 percent ethnic Macedonian, 25.2 percent ethnic Albanian, 3.9 percent ethnic Turkish, 2.7 percent ethnic Roma, 1.8 percent ethnic Serbian, 0.8 percent ethnic Bosniak, and 0.5 percent ethnic Vlach.

Relations between the ethnic Macedonian majority and the ethnic Albanian minority were strained.

On April 28, security forces confiscated a large cache of weapons after intercepting a group of militants along the border with Kosovo. A group claiming to represent the “National Liberation Army,” the ethnic Albanian militant organization which operated during the 2001 conflict, claimed responsibility. In a separate incident, on May 12, security forces shot and killed four ethnic Albanian militants, three from Macedonia and one from Kosovo, who were transporting explosives and other weapons near the border with Kosovo (see section 1.a.). Reports indicated that the actions of the security forces were justified; however, interethnic tensions increased after these two incidents.

Students from different ethnic groups usually studied in separate classrooms, separate school shifts, or at separate facilities, either due to linguistic differences or at their parents’ request.

Ethnic Albanians continued to complain of unequal representation in government ministries. Ethnic Macedonians often claimed that employers targeted them for reverse discrimination in downsizing, regardless of performance. Some ethnic Albanians claimed that discrimination in citizenship decisions by the Ministry of Interior, which has authority to grant, revoke, interrupt, or confirm a person’s citizenship, effectively disenfranchised them.

The law provides for protection of minority rights and integration of all sectors of society. The Government has a secretariat to hold accountable those state institutions that do not comply with the strategy for equitable minority representation. According to the secretariat, there were 800 new public administration jobs advertised and 360 new jobs offered to ethnic minorities during the year. Data from September showed that ethnic minorities accounted for approximately 24 percent of employees of state institutions.

Minorities remained underrepresented in the military, despite efforts to recruit qualified minority candidates. Minorities represented 26 percent of the army while ethnic Albanians accounted for 18 percent.

The law provides for primary and secondary education in the Macedonian, Albanian, Turkish, and Serbian languages. The number of minority students who received secondary education in their native languages continued to increase, especially after secondary education became mandatory.

Ethnic Turks complained of discrimination. Their main concerns were slow progress in achieving equitable representation in government institutions, the absence of ethnic Turkish majority municipalities, and the inadequacy of Turkish-language education and media.

Roma complained of widespread societal discrimination. NGOs and international experts reported that employers often denied Roma job opportunities, and some Roma complained of lack of access to public welfare funds. Romani NGOs also reported that proprietors occasionally denied Roma entrance to their establishments.

The Government funded implementation of the national strategy for the Romani decade, including assistance with education, housing, employment, and infrastructure development. The Government also continued to fund Romani information centers that directed Roma to educational, health care, and social welfare resources. Increased NGO and government funding to eliminate barriers to education for Romani students resulted in continued increases in school attendance rates. For the 2009-10 school year, there were 13 percent more Romani students enrolled in primary

education and 26 percent more in secondary education than during the previous school year.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were two registered NGOs addressing lesbian, gay, bisexual, and transgender (LGBT) issues. Activists representing the rights of LGBT individuals reported incidents of societal prejudice, including harassment and use of derogatory language, including in the media.

The Government removed sexual orientation as a protected category from the antidiscrimination law just before it was submitted to parliament for a vote. NGOs, the media, and the international community criticized the Government for the law's exclusion of sexual orientation—a provision required for membership into the EU.

NGOs condemned the use of text books at the university and high school levels that treated homosexuality as a disease and sexual disorder. They complained that this increased societal discrimination against members of the LGBT community.

On November 16, LGBT activists participated in a march in central Skopje to mark the International Day for Tolerance. Two representatives of the LGBT community addressed the crowd and reporters.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence and isolated reports of discrimination, in the form of employment discrimination and impeded access to health care, against persons with HIV or AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form and join independent unions without previous authorization or excessive requirements and workers did so in practice.

Unions may freely register with the Central Registry of Macedonia. More than 50 percent of the legal workforce belonged to labor unions, and unions were particularly well represented in the public sector. There were two major union federations, the Confederation of Trade Unions of Macedonia (SSM) and the Confederation of Free Trade Unions (KSS). Several unions were not affiliated with either of the two confederations, including unions of journalists, police officers, farmers, financial sector workers, and health care workers.

The law provides for the right to strike, and workers, including civil servants, exercised this right in practice. The law grants members of the military and police a restricted right to strike. During a strike, the law allows employers to “exclude” or temporarily release up to 2 percent of workers whom they believe are potentially violent or engaged in “undemocratic activity” and are obstructing the negotiations between the workers and the employer. The law requires employers to pay the workers' benefits during the exclusion period and to rehire them after the strike. The unions maintained that this provision allows employers to exclude union leaders from negotiations during a strike. If authorities declare a strike illegal, employers may dismiss participants or sue them for damages.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to operate without interference; however, the Government did not always enforce these laws in practice. The law protects the right to bargain collectively, and most unions had collective bargaining agreements. The law, however, requires that trade unions represent 20 percent of workers in either the public or private sector, and 10 percent of employers in order to negotiate these agreements. Collective bargaining agreements covered all legally employed workers for the public or private sectors. Studies indicate that a significant number of employees are not part of the legal workforce. Estimates of the size of the gray economy fall between 15 percent and 40 percent of GDP.

The law prohibits antiunion discrimination; however, it existed in practice. Employers were rumored at times to have interfered in the internal affairs of unions by attempting to influence union election campaigns or running their own candidates in the elections.

There is one export processing zone where two foreign-owned companies operated and where several other companies were in the process of building factories. There are no special laws or exemptions from regular labor laws in the zone.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, forced labor still occurred. Women and children were trafficked for commercial sexual exploitation and forced labor in the service sector. Romani children were especially vulnerable to trafficking for forced begging, usually by family members, which often took place at busy intersections, on street corners, and in restaurants.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace, including a prohibition of

forced or compulsory labor, and the Government effectively enforced these laws in practice. The law mandates a prison sentence of at least eight years for anyone who buys, sells, keeps, or takes children or minors for the purpose of exploitation.

The minimum age for employment is 15 years old. Children 14 years of age can work as apprentices or as part of an official education program. The law prohibits employing minors under the age of 18 years old in work that is detrimental to their physical or psychological health and morality. The law also prohibits minors from working nights or more than 40 hours per week.

There were no official reports of illegal child labor during the year; however, there was evidence that individuals used such labor in the gray economy, primarily involving children who begged and sold cigarettes and other small items at open markets, in the streets, in bars, or in restaurants, sometimes at night. The children involved in these activities were primarily Roma and most often worked for their parents. Officials did not punish such violations, and children remained vulnerable to exploitation.

The Ministry of Labor and Social Policy is responsible for enforcing laws regulating the employment of children. Government efforts to eliminate forced begging by children have been largely ineffective; although the necessary laws were in place, there was little practical implementation.

During the year the Ministry of Labor and Social Policy funded three centers that provided education, medical, and psychological services to children who beg on the street. NGOs funded two additional centers for children in Skopje with support from the Government. International donors supported programs to prevent children from begging on the street and to increase school enrollment of children at risk for such work.

*e. Acceptable Conditions of Work.*—The country does not have a national minimum wage established by law. According to official statistics, the average monthly net wage in June was 20,424 denars (\$433), which did not provide a decent standard of living for a worker and family. The Government statistics office estimated that approximately 29 percent of the population lived below the poverty line in 2008, the most recent year for which data were available.

The law establishes a 40-hour workweek with a minimum 24-hour rest period, and vacation and sick leave benefits. Employees may not legally work more than 10 hours of overtime per week, 20 hours per month, or 190 hours per year. According to the collective agreement between the Government and the unions, employees in both the public and private sector have a right to overtime pay at 135 percent of regular pay. By law collective agreements apply to all workers whether union members or not. In addition the law entitles employees who work more than 150 hours of overtime per year to a bonus of one month's salary. However, many employers hired workers without complying with the law. In particular small retail businesses often required employees to work well beyond the legal limits. During the year the Labor Inspectorate of the Ministry of Labor and Social Policy filed complaints against several private businesses for forcing employees to work long hours without the breaks required by law and for not legally registering all employees. In the case of such violations, labor inspectors have the legal authority to close an establishment until the employer corrects the violations. In cases of repeated violations, the owners can be fined. During the year authorities temporarily closed more than 1,000 companies due to labor violations such as the employment of nonregistered workers. No record of the number of employers fined was available.

The Ministry of Labor and Social Policy did not strictly enforce laws and regulations on worker safety. While workers have the legal right to remove themselves from situations that endanger their health or safety without jeopardy to their future employment, employers did not always respect this right in practice.

---

## MALTA

Malta is a constitutional republic and parliamentary democracy with a population of approximately 400,000. The president is the head of state and is appointed by the unicameral parliament (House of Representatives). The president appoints as prime minister the leader of the party that gains a majority of seats in parliamentary elections. General elections held in 2008 were judged free and fair. Security forces reported to civilian authorities.

The Government reportedly detained irregular migrants under harsh conditions. Lengthy delays in the judicial system sometimes diminished individuals' due process guarantees, and there were some restrictions on free speech. Societal problems in-

cluded child abuse, trafficking in persons, and substandard work conditions for irregular migrants.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, authorities detained irregular immigrants under harsh conditions for up to 18 months during the review of their protected status. During the year only 27 new migrants were received in the country and the vast majority of irregular migrants previously held in detention centers were released as their cases “aged out.” At year’s end there were 78 persons held in detention. During the year the Office of the UN High Commissioner for Refugees (UNHCR) continued to provide training for authorities in handling detainees.

In 2008 authorities charged four prison wardens with assaulting and seriously injuring a prisoner following his attempt to escape from a government correctional facility. The case continued at year’s end, with no change in status.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted visits by independent human rights observers; however, there continued to be reports of poor conditions in government-run detention centers for irregular migrants.

As of July the prison population of 589 inmates consisted of 510 men, 39 women, and 40 juveniles (36 men and four women). Of the adult prison population, 234 were foreigners, representing nearly 40 percent of the total prison population. Approximately 61 percent of these foreigners were of African descent.

Men and women were held separately. Juveniles were separated from adults in most cases; however, first-time offenders were housed in the same building as juveniles. Pretrial detainees were held together with convicted prisoners, albeit with those incarcerated for lesser crimes and shorter sentences. Due to a decrease in the number of detainees, Lyster Barracks, one of the two migrant detention centers, was closed during the year, leaving Safi as the only functioning closed center. The reduced population also produced the result that issues associated with overcrowding, such as poor ventilation and insufficient sanitary facilities no longer represented significant problems.

Authorities permitted prisoners and detainees to submit uncensored complaints to judicial authorities and to request investigation of credible allegations of inhumane conditions. There are no political prisoners held in the country.

The situation improved in many of the “closed” detention centers as a result of the significant decrease in the number of migrants entering the country. Toilet and kitchen facilities were also renovated or built in some of the centers over the course of the year. As of December the population in the closed centers had been reduced to the point where only one remained open, housing approximately 75 migrants; the population in the open centers dropped to 2,000.

The Government permitted occasional visits to its detention centers by independent human rights observers, including foreign diplomats. In January 2009 a mission of the UN Working Group on Arbitrary Detention visited the country at the Government’s request. Authorities granted the mission access to the Safi and Lyster Barracks closed centers, the Corradino Correctional Facility, the closed wards at Mount Carmel Hospital, and to detention facilities at the Police General Headquarters, the Valletta Police Station, and the Armed Forces of Malta (AFM). The UN report, released in January, noted a number of positive features of the institutions and laws in place to prevent arbitrary detention; however, the delegation also suggested that the detention regime imposed on irregular migrants arriving by sea was not in line with international human rights law. The report noted that such detainees remained for long periods in substandard conditions which, particularly in the cases of the Safi and Lyster Barracks, were described as adversely affecting the health, including the mental health, of some detainees. It expressed particular concern over the detention of migrants deemed vulnerable (e.g., minors, pregnant women, and families with children).

During the year the Refugee Commissioner’s Office expanded the number of asylum determination officers to 10, which reduced to fewer than 60 days the time migrants were required to wait for a determination of status. Migrants who were found not eligible for asylum or subsidiary protected status, or who were not otherwise deemed to be vulnerable as a result of age, sex, health, or mental condition

or otherwise, were still required to remain in detention for 18 months. The European Court of Human Rights (ECHR) has thus far declined to rule such detention improper. Vulnerable migrants were moved to other centers and provided with care appropriate to their conditions. Migrants determined to be minors were placed under “care orders” that resulted in their being moved to residential facilities and provided with needed services, including education or training.

In March 2009 the NGO Doctors without Borders (MSF) suspended activities at three detention centers for migrants on the grounds that it could not “offer adequate medical care” in what were referred to as “appalling” living conditions. Following MSF’s departure, authorities removed tent housing from the camps mentioned in the MSF report and replaced them with trailer-type living facilities. They rehabilitated the facilities at Lyster Barracks to include upgraded toilet and kitchen facilities. The Government was also receptive to donations of clothing and other materials, and to the continued provision of educational assistance by outside groups, including NGOs and a foreign embassy. In July 2009 MSF resumed its activities at the Ta’Kandja closed center after discussions with authorities. By year’s end, however, MSF did not appear to be working in country, and the Ta’Kandja closed center was no longer in operation.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the police force, the security service, and the armed forces, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reported problems related to impunity within the police force or security service.

*Arrest Procedures and Treatment While in Detention.*—With the exception of irregular migrants, whom authorities almost always detained for six to 18 months pending adjudication of any asylum requests, an arrest warrant issued by a magistrate is generally necessary to detain a person for questioning and may be issued on the basis of reasonable suspicion. According to the constitution, police must either file charges or release a suspect within 48 hours; in all cases authorities must inform detainees of the grounds for their arrest. Police generally respected these requirements in practice. As of February, procedures related to the right of access to counsel prior to interrogation changed. Accordingly during the 48-hour detention period, generally including initial interrogation by police, arrested persons were entitled to access to legal counsel prior to interrogation, but not to family members. Once authorities filed charges, pretrial detainees were entitled to access to counsel and family. Authorities adjudicated applications for bail on a case-by-case basis and normally granted them in the case of citizens. The UN Working Group on Arbitrary Detention noted that “the rules of release on bail are not applied equally to Maltese citizens and foreigners alike.” Foreign criminal defendants who insist on their right to a trial by jury have in some instances been confined for more than two years awaiting arraignment and trial.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair and public jury trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are public and juries are used if requested by the defendant. Defendants have the right to counsel of their choice or, if they cannot afford counsel, to court-appointed counsel at public expense. Defendants and their lawyers have access to government-held evidence relevant to their cases. Defendants may confront witnesses and present evidence; defendants enjoy a presumption of innocence and have the right to appeal. All citizens enjoy these rights.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the ECHR issued a total of four judgments that found a violation by the state of obligations under the European Convention on Human Rights (the convention). The judgments found two violations for lawful arrest or detention and the right to a prompt trial, one violation for respect for family life/privacy, and one violation involving protection of property. The country complied only partially with ECHR decisions.

In one case, the ECHR ruled on July 20 that a wait of 28 months to register a marriage performed in Russia violated the convention.

On July 27, in a case involving a detained migrant, the ECHR ruled that the applicant had no effective remedy to challenge the legitimacy of his detention within the legal framework supplied by the Government. The ECHR awarded the applicant

12,000 euros (\$16,080); the migrant was still slated to be deported despite the ECHR recommendation of an extension of his stay. By year's end the migrant had been deported to Tunisia, and the Government had not yet made the payment ordered by the ECHR.

In a case involving the rights to bail and a speedy trial, the ECHR ruled that the Government was in violation of Article 5 of the convention by failing to strike a balance between the administrative regulations regarding conditional release on bail and the importance of the right to liberty. Notwithstanding the ECHR ruling, the individual involved was not yet released from prison at the end of the year.

*Civil Judicial Procedures and Remedies.*—The constitution provides for an independent and impartial court in civil matters, including for the determination of civil rights or obligations, and for access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Persons who have exhausted their right to appeal in the national court system could apply to bring an alleged breach of human rights covered by the European Convention on Human Rights before the ECHR. Civil and judicial procedures for the exercise of this right exist, and citizens regularly made use of them.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected this prohibition in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law generally provide for freedom of speech and of the press; however, there are restrictions on “vilification” of or “giving offense” to the Roman Catholic Apostolic Religion, the country's official church. Also illegal, but carrying a lesser punishment, is vilification of or giving offense to any “cult tolerated by law.” It is an offense to utter publicly any obscene or indecent words or make obscene acts or gestures or in any other way offend public morality, propriety, or decency. According to the newspaper *Times of Malta*, the home affairs minister told parliament in October that, in the first three months of the year, authorities initiated criminal proceedings against 162 persons for public blasphemy; they began similar proceedings against 621 persons during 2008.

The independent media were active and expressed a wide variety of views without restriction. International media operated freely, and there was no indication of reprisals against individuals for either public or private criticism of the Government.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Internet use was widespread; an estimated 59 percent of households, 90 percent of schools (state, church, and private) had Internet access, and another 90 percent of businesses had a broadband connection. Numerous Internet cafes and many blogs operated freely throughout the islands. According to International Telecommunication Union statistics for June, approximately 59 percent of the country's inhabitants used the Internet. A 2009 Eurostat study showed that 64 percent of households had Internet access, up from 54 percent in 2007. There were no government attempts to request, obtain or disclose the personally identifiable information of a person in connection with that person's peaceful expression of political, religious, or ideological opinion or belief.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom.

The law restricts cultural activities that publicly vilify the Catholic Church and other religions tolerated by law.

In February 2009 the Board of Film and Stage Classification prohibited production of the Anthony Neilson play, *Stitching*, on the basis that it was blasphemous and obscene. The production company, Unifaun Theater Company, instituted legal proceedings against the prohibition. In June the Constitutional Court upheld the banning of the play as lawful and in accordance with Maltese and European law. The production company stated that it would appeal the verdict, but there was no change in status at year's end.

In March 2009 authorities arrested, tried, and gave a suspended one-month prison sentence to a man convicted of giving offense to the Roman Catholic Apostolic Religion by dressing as Jesus Christ during February carnival festivities in the village of Nadur. In July exhibition organizers at the Gozo Arts Festival in Gozo, the second largest of the Maltese islands, prohibited the exhibition of some paintings by Macedonian painter Aleksandar Stankovski for being too lewd and disrespectful.

The incident was followed by a peaceful march in the capital city by the Front Against Censorship later on in the month. There were no reported incidents.

In October 2009 the University of Malta authorities deemed an article in a student publication on campus, *Il-Realta*, “vulgar.” In January the police filed criminal charges both against the publication’s editor and the author. At year’s end the case had not yet come to trial.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government generally cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. However, irregular migrants were subject to mandatory incarceration while their immigration status was under review.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In practice the Government consistently provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In addition migrants not qualifying for refugee status, but from countries to which their return would be unsafe as a result of war or other conditions, were granted subsidiary protected status, which permitted their stay in the country on a year-to-year, renewable basis.

In July Maltese and Libyan patrol boats responded to a distress call from a vessel of Somali migrants; 28 of the rescued migrants were taken to the country and the remaining 27 were believed to be returned to Libya. This was reportedly the first time Libyans and Maltese vessels cooperated in a rescue operation. The Government announced that the 27 migrants who returned to Libya did so voluntarily. Both the UNHCR and a local NGO, the Jesuit Refugee Service (JRS), questioned official government assertions that the migrants who returned to Libya did so voluntarily, and the case produced considerable controversy. The migrants who were brought to the country consisted of 22 men, five women and a baby. The baby and his mother were initially taken to a hospital before being transferred to an “open center” where they could come and go freely once medical clearance was granted. All other migrants were held at the Safi Barracks “closed center,” where they could be held for up to 18 months, unless granted asylum or some other protected status earlier.

The issue of how the migrants were divided between Libya and Malta remained controversial, with one rescued migrant claiming his wife was one of those returned to Libya while the AFM denied the claim. Senior AFM officials maintained that all efforts were made to take potential humanitarian cases, claiming that in three instances when individuals indicated that family members were aboard the Libyan boat, these relatives were reportedly transferred to the AFM boat. Meanwhile, NGOs expressed their “grave concern” about the fate of the migrants who were returned to Libya and whether half the migrants had in fact volunteered to return.

The country, as an EU Member State and a member of the Schengen Zone, followed laws and policies established by those bodies related to safe country of origin and transit.

Authorities detained irregular migrants for up to 18 months after they arrived in the country, generally in closed detention centers. The length of the procedure was reportedly related to the need to establish the migrant’s identity, country of origin, etc., since migrants nearly always arrived without identity documents. Such migrants could file asylum claims within two months of their detention; however, they remained in detention while their cases were processed.

According to the UNHCR, migrants spent an average of six months in detention in 2009. Due to a decrease in traffic, this dropped to two months during the year. Detainees also included persons who did not apply for asylum and those whose asylum applications and appeals were rejected or were under review. Individuals awaiting decisions on their cases occasionally protested their detention or attempted to escape from detention centers. Within days to weeks of their initial detention, authorities usually moved “vulnerable individuals,” such as children, pregnant women,

elderly persons, and parents with infants, to “open centers,” where they were free to come and go. The armed forces are responsible for the management of the closed detention centers and report directly to the Ministry of Justice and Home Affairs, while the Agency for the Welfare of Asylum Seekers (AWAS), a part of the Ministry of Justice and Home Affairs, has responsibility for the welfare and accommodation of persons transferred from detention centers to open centers. Individuals were not required to stay in open centers if they could find other accommodations.

Authorities released all detainees whose cases were not resolved within 18 months, whether or not police had arranged to repatriate them. They were permitted to remain in the country, allowed to stay in “open centers,” and given work permits. EU law prohibited them from travelling to other EU countries, and they were not eligible to bring family members to the EU. They were eligible for voluntary repatriation programs, but most did not choose to participate. There were no significant changes to this general pattern, although there was a drastic drop in migrant arrivals during the year. As of year’s end, there were approximately 2,000 migrants living in three open centers.

Overcrowding continued to persist at the country’s largest migrant housing center in Marsa. Friable asbestos was present in one of the common areas. In other centers, high temperatures in the summer months and inadequate ventilation in tent housing and prefabricated housing units contributed to uncomfortable living conditions. In the winter months, tent housing had limited heating and rain could penetrate the not fully waterproof fabric.

Detainees had reasonable access to visitors and were permitted religious observance. The Government prevented Muslim detainees at the Hal-Far migrant center from using a megaphone to gather the faithful for the call to prayer, indicating that community religious facilities were available and the establishment of a de facto religious facility inside the center was inconsistent with its policy. While the call to prayer was not prohibited, use of a megaphone at a particular location in order to assemble individuals for prayers was.

The Government improved the “open center” facilities, where the majority of migrants found themselves at year’s end. With EU funding, the Government built new kitchen and hygienic facilities at the Hal-Far center. All migrants have moved out of the hangars and into portable homes.

The Government provided asylum to 41 applicants as of October. In addition 157 individuals were granted subsidiary protection; 321 were granted temporary humanitarian protection, 314 of whom had had their applications rejected earlier, had exhausted all asylum request possibilities, but had been in the country for a number of years because they could not be returned to their countries of origin. From 2004 onward, most asylum seekers were from Ethiopia (28); in 2009, most were from Syria (7). In every year most of those granted subsidiary protected status or other humanitarian protected status have been from Somalia—3,743 overall and 1,445 in 2009. From January through June, the Government provided “subsidiary protection” to 128 persons not legally entitled to asylum.

Beneficiaries of subsidiary protection, introduced in 2008 with the implementation into domestic law of an EU Council directive, were entitled to remain in the country; move freely; be granted personal identification documents, including a one-year renewable residence permit; and obtain travel documents in emergency situations. They could be employed, subject to labor market considerations; receive core social welfare benefits; seek appropriate accommodations; and benefit from integration programs, public education and training, and essential medical care, especially in the case of vulnerable persons. Their dependents, if in the country when the status was conferred, enjoyed the same rights and benefits. However this status does not provide family reunification, a path to citizenship, or other benefits of refugee status under the 1951 Convention relating to the Status of Refugees.

The Government also provides “temporary humanitarian protection” as an administrative procedure in special and extraordinary cases in which applicants are found not to be eligible for asylum or subsidiary protection but are considered to be in need of protection for special humanitarian reasons. This protection was provided to seven persons from January through June.

Protected persons can access the labor market, free state health care, and public schooling. If they reside in an open center, they are also entitled to free accommodation, the services offered by staff within the centers and, if unemployed, an allowance of 130.48 euros (\$174.84) every four weeks to cover daily expenses.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2008 the country held parliamentary elections that observers considered to be free and fair. In June 2009 the country held elections to the European Parliament that were considered free and fair.

Political parties operated without restriction or outside interference.

There were six women in the 65-seat parliament and two in the 14-member Cabinet of Ministers. Approximately 13 percent of senior government officials were women, and three women held ambassadorial rank. There were two female judges and six female magistrates. None of the country's six members of the European Parliament was a woman.

There were no members of minorities in the Government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

In June a woman was sentenced to one year's imprisonment suspended for two years (whereby the sentence would not be imposed if the individual did not violate the law during the following two years). Charges included corrupting a public official in a case related to social benefits recipients.

In August there were reports that police officers of the Administrative Law Enforcement Division accepted bribes to tip off hunters of impending police action to enforce hunting laws. This report was under investigation by the Police Commissioner, and one police officer was charged officially with accepting a bribe. The case continued at year's end.

There were regular allegations in the press that the contract for the extension of the Delimara power plant was awarded to one of the competitors in a manner contrary to normal competitive bidding processes. The European Commission (EC) engaged the Government on the allegation and requested an explanation of the bidding process. The Government provided its explanation to the EC in July, and the outcome of the EC's review was pending at year's end.

In November 2009 a court found former chief justice Noel Arrigo guilty of accepting money to reduce the sentence of a drug trafficker, of trading in influence, and of revealing official secrets. He received a prison sentence of two years and nine months. Arrigo indicated he would appeal the verdict and the sentence.

Government officials are subject to financial disclosure laws; the court has the right to order financial disclosure, depending on its judgment of the circumstances. The police and the Permanent Commission against Corruption were responsible for combating official corruption.

According to the Press Act, the Government is to establish procedures to give representatives of the press information to help them "fulfill their public tasks." However, the scope of this mandate has not been defined and no implementing legislation (regulation) has been enacted. Access to government information in certain specified areas, generally dealing with matters of public interest, security or ongoing court proceedings, was excluded from this requirement. For government activities in areas not subject to disclosure under the Press Act, there was no legal entitlement to government-held information; however, authorities generally provided access. A freedom of information law enacted in 2008 is gradually entering into force. A newly established Information and Data Protections Commission, the regulatory agency responsible for implementing the act, began issuing initial directives establishing the scope of its jurisdiction.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating human rights cases. Government officials were cooperative and generally responsive to their views. The Government cooperated with UN and other international bodies.

The country has an ombudsman who is empowered to investigate complaints about the activities of governmental bodies, including activities that affect human rights and issues that concern prisoners/detainees. The ombudsman only investigates complaints when administrative or judicial remedies are not available. When the ombudsman concludes that a complaint is wholly or partly justified, he submits recommendations to the public entity responsible for undoing the harm the com-

plainant suffered. The ombudsman has no power to force acceptance of any recommended remedy; however, most of his recommendations were accepted. The president appoints the ombudsman with the consent of two-thirds of the members of parliament.

The House of Representatives' Standing Committee on Foreign and European Affairs and Standing Committee on Social Affairs have responsibilities for human rights issues. Both committees are made up of members from both sides of the House of Representatives who collaborate closely on issues related to the committees' respective responsibilities. The committees generally held open hearings and their deliberations were normally a matter of public record unless a hearing was closed for security reasons. There was generally full debate on issues before the committees. The committees generally had a reputation of integrity and credibility, with legislation enacted in the areas under their purview enjoying widespread public support.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these prohibitions effectively.

*Women.*—Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted such crimes. The crimes of rape, spousal rape, and indecent assault carry sentences of up to 10 years in prison. Rape was not perceived to be a widespread problem. However, there were convictions for rape during the year.

From January through June 2009 the police domestic violence unit received 208 reports of domestic violence. The law makes domestic violence a criminal offense, and the Government effectively enforced the laws prohibiting it. Penalties ranged from three months to 20 years in prison. Some NGOs and victims' assistance advocates asserted that domestic violence was underreported, primarily because of concerns by women that they would not be believed or protected by law enforcement personnel.

A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline to assist victims of abuse through counseling and shelter referrals. The Government also supported victims through the Ministry for Social Policy. A government-supported shelter for women and children was in operation throughout the year; the Government also provided financial support to other shelters, including one operated by the Catholic Church.

Sexual harassment is unlawful and punishable by a 2,329-euro (\$3,121) fine, six months' imprisonment, or both.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs operated freely in disseminating information on family planning. There were no restrictions on access to contraceptives. There was a free and effective government health program that provided for prenatal and postnatal care and delivery, as well as other related medical services. The maternal mortality rate was low; a UN interagency group estimated the 2008 maternal mortality rate to be eight deaths per 100,000 women. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men, including, but not limited to, family and property law. Redress in the courts for sexual discrimination was available. The Ministry for Social Policy and the National Commission for the Promotion of Equality were responsible for gender equality and focused on broader integration of women into society and advising the Government on the implementation of policies promoting equality of women and men.

The constitution prohibits discrimination based on gender. This prohibition was generally enforced in practice.

Women constituted a growing proportion of graduates of higher education and of the workforce. However, they were underrepresented in management and generally earned less than their male counterparts. According to second quarter statistics for the year, the unemployment rate for women was 8.1 percent compared with 6.2 percent for men. Figures on the wage disparity between women and men differed moderately; the National Commission for the Promotion of Equality indicated that for 2008, men were paid 17 percent more than women in comparable jobs. The European Foundation for the Improvement of Living and Working Conditions (Eurofound) reported in March that the hourly pay gap was 2.4 percent. According to Eurostat, between the end of 2008 and the end of 2009, the latest period for which statistics were available, the female employment rate rose from 36.3 percent to 37.2 percent, while the male employment rate decreased from 73.5 percent to 71.5 percent.

*Children.*—Citizenship generally is derived from one's parents, although some specific applications of the law can be complex. While specific data on access to health care and education for stateless children was not available, according to the local UNHCR representative, there were no reports that education and healthcare were denied to children.

In 2009 the Child Protection Service of Appogg, the social welfare services arm of the Ministry for Social Policy, received 1,053 referrals of possibly abused children, up from 854 in 2008. The service's total case turnover for 2009 was 1,194, down from 1,256 the previous year. There were 697 new and reopened cases, up from 464 in 2008. In 2009 courts convicted a number of persons for the sexual abuse of minors. During the year 60 persons were charged, and 20 were convicted for such offenses. Some observers speculated that an increase in the legal drinking age from 16 to 17 resulted in significantly fewer minors' being in potentially predatory situations.

Several individuals claiming to have been abused by clerics consistently claimed that authorities did not pursue cases of alleged sexual abuse of children by Catholic clerics unless a parent or adult filed a formal complaint. They alleged authorities instead allowed the church to handle the matter internally. Once a complaint was filed, however, authorities followed the same police investigative and judicial procedures as for other such complaints.

Statutory rape is punishable by three to six years in prison. The minimum age of consent is 18. Rape committed by violence carries a penalty of imprisonment for three to nine years, with or without solitary confinement. Creation of child pornography is prohibited and punishable by imprisonment from one to five years (up to eight years in special circumstances). Possession of child pornography is also prohibited and punishable by imprisonment not exceeding three years.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were isolated reports of anti-Semitic acts during the year. The Jewish community numbered approximately 120 persons. No specific incidents were observed or reported, apart from unspecified insults yelled at the Israeli Foreign Minister during a June visit. Police protected the Foreign Minister, but no demonstrators were arrested.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits both the public and private sectors from discriminating against persons with disabilities in employment, education, health care, access to goods and services, housing, and insurance, and the Government effectively enforced these provisions. As of the end of September, the National Commission for Persons with Disabilities (NCPD), the agency responsible for enforcement of this law, was working on 113 discrimination complaints pending from previous years. During the year ending in September 2009, the NCPD opened investigations into 130 new cases and satisfactorily concluded 137.

*National/Racial/Ethnic Minorities.*—The population included more than 10,000 persons of Arab, African, and East European origin. There continued to be reports that owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin, from entering their establishments. The Government took no specific action to discourage these problems.

In June 2009 authorities charged a bouncer at a popular entertainment area with causing a serious injury followed by death after a Sudanese migrant whom he allegedly hit in the face died of head trauma. The case was ongoing at year's end.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—In June the Malta Gay Rights Movement staged a weeklong series of events during Gay Pride Week with no reported interference or harassment. The events culminated in a gay pride march supporting the adoption of anti-discrimination measures, including better access to goods and services and extending to lesbian, gay, bisexual and transgender (LGBT) couples the same rights as other family units. The country's antidiscrimination laws regarding sexual orientation only extend to the area of employment. Same sex couples do not have legal recognition or parenting or adoption rights.

In October 2009 the Malta Gay Rights Movement hosted the International Lesbian and Gay Association-Europe Conference with an estimated 300 participants from 48 countries. It also freely carried out other public activities.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

*Section 7. Worker Rights*

*a. The Right of Association.*—The constitution allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers did so in practice. The law does not allow uniformed military and police personnel to join unions. Approximately 55 percent of the workforce was unionized. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. Workers, with the exception of uniformed military and police personnel, have the right to strike, and during the year they exercised this right by conducting legal strikes. The labor law provides for compulsory arbitration; however, this provision was not employed during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and it was freely practiced. Employees without the right to strike or join unions participated in associations, such as the police association, through which they sought to protect their interests. According to the European Industrial Relations Observatory (EIRO) online, as of 2008, all 40,600 public sector employees were covered by collective bargaining agreements together with 26.7 percent of the 103,055 private sector employees.

During the year there were no reports of antiunion discrimination or other forms of employer interference in union activities.

There are no special laws or exemptions from regular labor laws in the country's one export processing zone.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced or compulsory labor, including by children; however, there were reports that women were trafficked, primarily from abroad, for purposes of forced commercial sexual exploitation.

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, and the Government generally implemented these laws effectively; however, there were unverified reports that underage children worked as domestic laborers, restaurant kitchen help, or vendors, and during the summer in family-owned businesses.

The law prohibits the employment of children younger than 16. The director general of the directorate for educational services may grant an exemption for employment only after determining that it would not harm the health or normal development of the minor. Such exemptions were granted in practice. No legal work was specifically restricted; however, any work to be performed could not be regarded as harmful, damaging, or dangerous to a young person.

The Employment Training Corporation (ETC), a government entity under the Ministry for Social Policy, is responsible for labor and employment issues. It generally enforced the law effectively in most formal sectors of the economy but allowed summer employment of underage youth in businesses operated by their families.

No assessment was available of the effectiveness with which the ETC monitored the often unregistered employment of children as domestic employees, restaurant workers, and street vendors.

*e. Acceptable Conditions of Work.*—The national weekly minimum wage of 152.59 euros (\$204), combined with an annual mandatory bonus of 270 euros (\$362) and the latest cost-of-living increase of 242 euros (\$324) (automatically adjusted annually), provided a decent standard of living for a worker and family. Following consultations with workers and employers, the Government established the minimum wage, which it revises annually based on changes in the cost of living.

Irregular migrant workers from Somalia, Eritrea, Sudan, and other sub-Saharan African countries, who comprised a small but unquantifiable percentage of the workforce, sometimes worked under conditions that did not meet the Government's minimum standards for employment. In 2008 the General Workers' Union (GWU) issued a report documenting what it termed the "exploitation" of migrant workers. The general secretary of the GWU told a press conference that such workers were often employed in the most hazardous occupations, such as road construction and highway refuse cleanup, where traffic and environmental conditions posed a danger, and in the building construction trades, where accidents such as collapses might occur. In many cases migrants received less than the minimum wage. In 2008, AWAS (then called the Organization for the Integration and Welfare of Asylum Seekers), in coordination with the ETC, established informational programs to help individuals understand how to pursue employment and obtain work permits. The

GWU and AWAS believed that the programs were beneficial, but there was no data to validate this assessment.

In 2009 the Government ended an assisted voluntary return program called “Dar” (Maltese and Arabic for “Home”), through which irregular migrants who volunteered to leave the country could receive free rail or air fare to their country of origin, plus 5,000 euros (\$6,700). The program successfully repatriated 112 immigrants, the majority from Ghana, Nigeria, and Sudan. The Dar program was replaced by an 80-percent EU-funded program called “Restart I,” administered for the Government by the International Office of Migration (IOM). Restart provided 200 euros (\$268) cash, and up to 2,000 euros (\$2,680) toward education or business start-up costs, as well as additional educational preparation toward a migrant’s return. Restart I repatriated 29 migrants to their countries of origin. “Restart II” was launched at the beginning of the year and was scheduled to last until June 2011. As of year’s end, 19 returnees had benefited from the program. The IOM set a goal of 100 returnees by the middle of 2011.

The standard workweek was 40 hours, but in certain occupations, such as health care providers, airport workers, and civil protection services, 43 or 45 hours was the norm. Government regulations provided for a daily rest period, which is normally one hour, and one day of rest per week. Premium pay is required for overtime. Excessive compulsory overtime is prohibited, and workers cannot be obligated to work more than 48 hours, inclusive of overtime. The Ministry of Social Policy generally enforced these requirements effectively in the formal economy.

The Occupational Health and Safety Authority (OHSA), a government entity composed of representatives of the Government, unions, and employers, conducted regular inspections at work sites and cited a number of offenders. Enforcement of health and safety standards continued to be uneven; industrial accidents remained frequent, particularly in the manufacturing, and building and construction sectors. Workers have the right to remove themselves from situations that endangered health or safety without jeopardizing their employment, and OHSA generally enforced this right.

---

## MOLDOVA

Moldova<sup>1</sup> is a republic with a form of parliamentary democracy. The country has an estimated population of 3.56 million, including an estimated 600,000 to one million citizens living outside of the country. The constitution provides for a multiparty democracy with legislative and executive branches, as well as an independent judiciary and a clear separation of powers between them; however, under the previous government led by the Party of Communists (PCRM), which was in power until September 2009, the president heavily influenced the three branches of government. In July 2009 parliamentary elections, four opposition parties won enough seats to establish a governing coalition, known as the Alliance for European Integration (AEI), which entered office in September 2009. On November 28, the country held parliamentary elections that international observers stated met most Organization of Security and Cooperation in Europe (OSCE) and Council of Europe (COE) commitments. On December 30, the Liberal Party (PL), Democratic Party of Moldova and the Liberal Democratic Party of Moldova (PLDM) announced the formation of a second AEI coalition government. Security forces reported to civilian authorities.

There were reports of police beatings, arbitrary detention by police, and occasional illegal searches. Corruption within the police and judiciary remained endemic. The Government unduly influenced the media, intimidated journalists, restricted freedom of assembly, and refused official registration to some religious groups. There were also reports of persistent societal violence; discrimination against women; trafficking in persons; discrimination against Roma; harassment and abuse of lesbian, gay, bisexual, and transgendered (LGBT) individuals; limits on workers’ rights, and child labor. In contrast to the previous year, there were no reports of killings by security forces. During the year reports of government exercising undue influence over the media substantially decreased.

In 1990, fearing a newly independent Moldova would unite with Romania and that the Russian-speaking population would suffer political and economic discrimination, separatists supported by Soviet military forces declared a “Transnistrian Moldovan Republic” (Transnistria) in the area along the eastern border with Ukraine. The central government lacked ability to exercise its authority in the re-

---

<sup>1</sup>Unless otherwise noted, all references in this report exclude the secessionist region of Transnistria.

gion, and Transnistrian authorities governed through parallel administrative structures. A 1992 ceasefire agreement established a tripartite peacekeeping force comprising Moldovan, Russian, and Transnistrian units. In Transnistria, authorities restricted the ability of residents to freely change their government and interfered with the ability of Moldovan citizens living in Transnistria to vote in Moldovan elections. Torture, arbitrary arrests, and unlawful detentions were regularly reported. Transnistrian authorities continued to harass independent media and opposition lawmakers; restrict freedom of association, movement, and religion; and discriminate against Romanian speakers.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—In contrast with the previous year, there were no reports that the Government or its agents committed arbitrary or unlawful killings.

On May 10, a parliamentary commission concluded that police were likely involved in the deaths of Valeriu Boboc, Ion Tibuleac, and Eugen Tapu, all of whom died during the postelection demonstrations in April 2009.

On March 23, Chisinau mayor Dorin Chirtoaca stated that a source at the Ministry of Interior had provided him with new information on the April 2009 violence. According to this source, on the night of April 6-7, 2009, deputy police commissioner Serghei Cociorva ordered approximately 60 plainclothes officers to arrest all persons who were in the area of the demonstrations. On April 1, Chirtoaca released videotaped footage of the April 6-7, 2009 demonstrations, taken from closed circuit television cameras mounted in the area. The tape showed former deputy police commissioner Iacob Gumenita and inspector Ion Perju kicking protestors lying on the pavement in front of the main government building. Based on the new evidence, police arrested Perju on April 6 and charged him with the murder of Boboc. At year's end, Perju remained under house arrest, and criminal charges remained pending.

On April 20, prosecutors charged former interior minister Gheorghe Papuc and former police commissioner Vladimir Botnari with criminal negligence related to handling the protests and subsequent abuse during interrogation of those detained; both men pleaded not guilty, and the case was ongoing at year's end. On April 30, police arrested Gumenita on charges of misuse of power; at year's end, he remained under house arrest.

In April prosecutors announced a criminal investigation into the death of Ion Tibuleac, an anticommunist protester allegedly killed by police during the postelection demonstrations. The investigation remained pending at year's end.

In April, after reassessment of the medical forensic examination materials, prosecutors concluded that Tapu's death was not linked to the April 2009 events. According to the examination report, Tapu died two to three weeks before the discovery of his body on April 15. The parliamentary commission's contradictory finding on May 15 did not prompt prosecutors to reopen their investigation.

In the separatist region of Transnistria, there was at least one report of an alleged killing during the year. According to local authorities, on May 22, Alexandru Stomati, a Ukrainian citizen and member of the Transnistrian armed forces, committed suicide. After conducting its own investigation, local nongovernmental organization (NGO) Promo-Lex filed a claim with the European Court of Human Rights (ECHR), noting that Stomati had suffered premortem injuries to both his head and his upper back, which were inconsistent with authorities' account of the suicide.

*b. Disappearance.*—There was one allegation of a politically motivated disappearance during the year. On the morning of November 23, former intelligence service head Artur Resetnikov appeared at a hospital with PCRМ leader and former president Voronin, two other PCRМ leaders, and a film crew. Resetnikov alleged that he had been kidnapped from downtown Chisinau, that his captors injected him with psychotropic substances, and that they demanded information designed to discredit Voronin. According to a local police station, officers received a report at 1:45 a.m. on November 23 that Resetnikov had been attacked just over an hour earlier on a suburban street. Resetnikov publicly claimed, however, that he had been kidnapped at 4:00 p.m. on November 22 from a downtown Chisinau bar, although no witnesses came forward to confirm Resetnikov's version of events. Resetnikov declined to meet with criminal investigators for an additional six hours, while he slept and spoke to the press, and refused examination by doctors or to identify the place on his body where he allegedly was injected with psychotropic drugs. The documents that Resetnikov claimed that he was forced to sign compromising Voronin did not surface, and Resetnikov declined to reveal what subjects the documents covered. Pros-

ecutors announced an investigation into the incident, which was proceeding at year's end.

A previously reported case of a possible politically motivated disappearance was resolved during the year. In February 2009 police arrested Gheorghe Ionel, mayor of Vorniceni village and a member of the then opposition party, Our Moldova Alliance (AMN), on charges of abusing his authority; the Straseni District Court subsequently acquitted him. While the judge was reading the acquittal, police surrounded the courthouse and forced their way into the courtroom. During the commotion, Ionel disappeared, and his whereabouts remained unknown until March when he reappeared and resumed his duties as mayor.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police used cruel and degrading arrest and interrogation methods and guards beat prison inmates. According to a Soros Foundation study released in December, approximately 27,000 persons over the past five years (or 15percent of total inmates) reported beatings by police. According to the parliamentary ombudsman, the frequency and severity of such acts decreased compared with previous years. Under the law, inhuman treatment carries a sentence of eight to 15 years' imprisonment, and torture carries a sentence of 16 to 25 years in prison. Coercing an individual to testify is punishable by up to three years' imprisonment; if such coercion involves cruel, inhuman, or degrading treatment, it is punishable by three to eight years' imprisonment. Torture inflicted by an official to punish, intimidate, or obtain information from a person is punishable by two to five years' imprisonment.

NGOs reported that while courts were somewhat more open to hearing allegations of torture, victims still frequently lacked access to effective judicial remedies. At times courts declined to hear their complaints, and long delays in the legal process caused some petitioners to abandon their claims. Victims carried the burden of proving that they had been mistreated, which was difficult, since prisoners often remained in detention for months before having access to courts. By the time they were able to appear in court, the physical evidence of abuse had disappeared.

NGOs reported that prosecutors were more active during the year in investigating complaints of police torture, although the number of complaints dismissed by prosecutors remained high. In January prosecutors reported that of 131 complaints of police torture or degrading treatments in 2009 (not connected with the April 7 to 8 violence), 45 were dismissed, 24 led to criminal investigations, and two cases were sent to court. In November, the Prosecutor General established a specialized antitorture prosecutor in each region. During the year the Prosecutor General's Office established hotlines for victims of torture, which provided legal counseling over the telephone.

Local and international NGOs reported widespread incidents of abuse and torture of persons detained after the April 2009 demonstrations. During the year a commission charged with investigating the events of April 7 held hearings, interviewed witnesses, and reviewed over 200 hours of videotape before presenting its report to parliament. On July 8, parliament officially took note of the report and instructed government institutions to act on the report's recommendations. Parliament recommended that the Prosecutor General's Office: verify allegations of electoral fraud in April 2009; determine whether the actions of state security officials to withdraw from their assigned locations at and around the parliament building were legal; review allegations of cyber attacks and take action against persons found responsible; verify the lawfulness of Ministry of Interior transfers of administratively sanctioned persons to temporary detention facilities in regional police directorates; and investigate all cases of torture, degrading, and inhumane punishment against arrested and detained persons.

Based on the commission's recommendations, parliament further recommended that authorities ensure the rehabilitation of protest victims—including both police and civilians—and implement the COE's Committee for the Prevention of Torture (CPT) recommendations regarding the transfer of temporary detention facilities from Interior Ministry to Ministry of Justice authority.

In January an unidentified officer in Balti ordered a drunken man brought to the police station. Upon his arrival, the officer punched and kicked the man, causing minor injuries. In July a court found the officer guilty of using violence and torture, sentenced him to three years' probation, and prohibited him from holding any positions in the Interior Ministry.

In March 2009 police arrested Ivan Orlioglo, Ivan Caracet, Dmitrii Covic, and Vitalii Orlioglo for armed robbery and assault. All four men reported that after their arrest, police subjected them to repeated beatings, and two of the men alleged that police beat them with plastic bottles filled with water. The Orlioglo brothers also stated that they were suffocated; Ivan Orlioglo said that investigating officers taped

his mouth and then repeatedly plugged his nose. Both Caracet and Ivan Orlioglo claim that they had guns put to their temples and were threatened with execution to coerce a confession. This information became part of the official court transcript. On June 30, a court convicted the four men of all charges against them, with sentences ranging from 10 to 13 years. The judge admitted into evidence the testimony of all four defendants without addressing their allegations of physical abuse. However, the judge called attention to multiple serious "infractions" by investigating officers which, "although they did not affect the outcome of the case, demand adequate compensation." Because of these violations, the judge reduced the sentence of each defendant by three years. According to Amnesty International (AI), authorities took no action to investigate further the torture allegations.

According to the CPT, during its late-April 2009 visit, authorities were investigating 99 cases of alleged police abuse related to the April 2009 demonstrations. At the time of the CPT's return visit in July, prosecutors had not initiated criminal charges against any members of the police. After the Government came to power, prosecutors initiated 106 investigations of alleged police torture and other abuses. Through these investigations, prosecutors pursued 46 criminal cases against police officers, including 26 cases involving torture; 12 cases of abuse of power; and other cases involving charges of murder, attempted murder, and attempted kidnapping. Through August authorities had charged 40 police officers in 24 separate criminal cases with crimes related to the April demonstrations; two were convicted during the year. During the year an additional 25 investigations were suspended and six were closed.

On December 14, a court in Chisinau convicted police officers Gheorghe Vutcariov and Alexandru Mocanu of physically abusing and unlawfully arresting a young man in connection with their actions during the April 2009 protests. Vutcariov, of the Chisinau General Police Directorate, was sentenced to five years in prison, with a five-year suspension and deprivation of the right to hold office for two years for "abuse of power" and "false statements in public documents." Mocanu, a member of the "Scut" Regiment, was sentenced to two years in jail, with a five-year suspension and deprivation of the right to hold offices for "abuse of power."

In 2008 the UN special rapporteur on torture stated that police abuses remained common, and prosecutors, judges, medical staff, and staff at penitentiaries failed to investigate allegations of mistreatment and torture promptly. Alleged torture methods included severe beatings, electroshock, asphyxiation through oxygen deprivation while wearing gas masks, and putting needles under fingernails. In his February 2009 report, the rapporteur acknowledged some improvements by the Government but also noted the widespread prevalence of mistreatment of prisoners in preventive detention and the continued use of torture by some police. The rapporteur also noted that complaint mechanisms were inefficient, that a statute of limitations impedes justice in torture cases, and that in a majority of cases prosecutors refused to allow independent medical examinations.

In January 2009 the Chisinau Court of Appeals reinstated charges against Sergiu Perdeleanu, chief of security at the Cricova penitentiary, for allegedly torturing inmates in 2008, but downgraded those charges from a criminal to an administrative offense. The military prosecutor disagreed with the decision and appealed it to the Supreme Court. In May 2009 the Supreme Court annulled the appeals court's decision and ordered the case retried by a different judge in the same court. In September 2009 prosecutors ordered the initiation of criminal proceedings against Perdeleanu. In December 2009 the Court of Appeals found Perdeleanu guilty and sentenced him to three years in prison. On June 15, the Supreme Court upheld the appeals court's judgment and sentence.

According to an ombudsman's report released in March, authorities received 6,027 complaints of torture or inhumane and degrading treatment allegedly committed by government officials in 2009, representing a significant increase over previous years (1,075 complaints in 2008 and 1,289 in 2007). In 693 cases, authorities initiated criminal investigations: 208 cases alleging acts of torture, 438 alleging acts of violence and exceeding authority, and 47 alleging acts of inhumane and degrading treatment. Of the number of cases under investigation, 383 defendants were convicted. The prosecutor's office failed to begin an investigation in 5,334 cases, citing a lack of evidence. Prosecutors completed the investigation and issued indictments on 293 criminal cases. At year's end, 400 cases remained pending.

The report also noted that authorities with the power to investigate allegations of police abuse frequently failed to do so. For example, in October 2009 a person identified as C.S. was transferred to Prison No. 13 with a concussion and lesions on his face. He explained that an officer at the Straseni detention facility, identified as Lieutenant-Major C.M., had struck him in the face. Authorities delayed the prisoner's petition against the officer who allegedly struck him; they only investigated

the incident and charged the officer with torture after the intervention of the ombudsman. Those charges remained pending at year's end.

In September 2009 during a visit to Prison No. 13, the ombudsman reported that detainees complained of psychological pressure from other detainees and intimidation from prison authorities, including the imposition of unjustified disciplinary sanctions to force them to withdraw their testimony in the criminal case against Perdeleanu. The ombudsman requested that the Ministry of Justice and prosecutors take all legal measures necessary to protect the witnesses.

During the year the Ministry of Justice allotted 400,000 lei (\$33,380) to renovate five cells (occupied by 19 minors) and a gymnasium at Prison No. 13 in Chisinau, in accordance with EU standards. In response to recommendations from the EU, on April 26, authorities closed all solitary confinement cells in which minors had previously been held for breaching internal regulations.

On November 29, a military court in Chisinau acquitted former Contract Lieutenant Alexandru Botezatu of the Ministry of Defense Guard Battalion of charges of abuse of power and use of excessive force against soldiers in his charge but fined him 3,000 lei (\$250). On December 3, prosecutors appealed against the sentence as too lenient. That appeal was pending at year's end.

During the year the ECHR issued judgments that found violations by the state of the prohibition against torture and protections against inhuman or degrading treatment as provided by the European Convention on Human Rights (see section 1.c.).

In the separatist region of Transnistria, former detainees alleged they had been subject to torture and mistreatment in detention centers. According to the NGO Promo-Lex, approximately 90 detainees in a Tiraspol pretrial detention center began a hunger strike on October 10 to protest "cruel, degrading, and inhuman treatment" that included arbitrary detention, torture, and denial of medical care and legal assistance. Promo-Lex reported the holding of many of the detainees for more than six months without a court hearing, and some relatives claimed that they had not been able to visit detainees or deliver food packages.

During the year prisoners in Transnistria undertook hunger strikes but gained no concessions from authorities. One such prisoner, Iurie Matcenca, was arrested in September 2009 on suspicion of fraud and was beaten while in custody. He filed a complaint with the ECHR on February 19; on March 15, the court admitted his case. Matcenca alleged that the Transnistrian intelligence agency forced him to undergo a mock execution, and that both police and intelligence officers beat him during his detention.

On April 1, the ECHR accepted the case of Boris Mozer, who was arrested in March 2009 for allegedly damaging telephone company property. Told of his plans to raise his case with the ECHR, prison authorities told Mozer that "it will be worse for you if you complain." On July 1, Mozer was released on parole.

In Transnistria the closed military court system regularly ignored reports of alleged hazing and abuse of conscripts in the Transnistrian "army." There were unconfirmed reports that Transnistrian authorities drafted men who had already completed mandatory military service in the Moldovan armed forces. According to NGOs, the treatment of conscripts improved slightly during the year: food was reported to be better and parents were allowed to visit their conscripted sons. In contrast with previous years, there were no reports of conscripts being forced to march and run in boots that were several sizes too small. However, reports of hazing continued, and officers warned conscripts not to harm the army's reputation by reporting it.

Transnistrian military authorities continued to restrict information on deaths of conscripts, although there were reports of at least two such deaths during the year. One conscript allegedly killed himself by jumping from a third-floor window. On January 21, Serghei Verbitskii was found dead in a trailer used by Transnistrian soldiers working in the kitchen facilities of a military unit. Verbitskii died due to a fire reportedly caused by a short circuit. On January 30, the Transnistrian Military Prosecutor's Office stated that military commanders violated local legislation that forbids housing soldiers in facilities other than barracks. The Military Prosecutor's Office mentioned that similar violations occurred very often in Transnistria. No further developments in this case were reported by year's end.

The law provides for four parliamentary ombudsmen who make up the independent Moldovan Human Rights Center (MHRC). Parliament appoints the ombudsmen to examine claims of human rights violations, advise parliament on human rights problems, submit legislation to the Constitutional Court for review, and oversee MHRC operations. MHRC personnel also provided training for lawyers and journalists, visited prisons, made recommendations on legislation, and organized roundtable discussions. Between January 1 and December 16, the MHRC registered 1,686

complaints of human rights violations: 389 concerned personal security and dignity, 403 concerned social assistance and protection, 139 concerned free access to information, and 70 involved the right to work. The MHRC provided assistance from its own resources, if possible, and referred other cases to authorities.

*Prison and Detention Center Conditions.*—Prisons and pretrial detention facilities around the country continued to fall far short of meeting international standards. While conditions in most prisons, including those in Transnistria, remained harsh, authorities reduced overcrowding and improved nutrition in prisons under the control of central authorities in Chisinau. According to the ombudsman, the number of persons imprisoned decreased during the year, primarily because of increasing use of alternatives such as house arrest and fines. Conditions were particularly harsh in pretrial and presentencing facilities, but, in contrast with previous years, suspects were generally held for fewer than 10 to 20 days.

According to the 2009 ombudsman's report, conditions in the 38 pretrial detention facilities did not improve significantly. Pretrial facilities, located mostly in the basement of the police stations, generally lacked access to natural light; artificial light was described as being mediocre or poor. In some facilities, ventilation systems were nonexistent. A number of pretrial facilities also lacked toilets and sewage systems. At the Chisinau General Police Station, inmates generally were allowed to shower once a week but were not provided soap. According to the ombudsman, sleeping conditions were inadequate; for example, detainees were offered wooden bunks, but pillows or bed sheets were not provided.

Prisons did not provide for recreational activities. Cell sizes did not conform to local law or international standards. The incidence of malnutrition and disease, particularly tuberculosis, was high in all prisons.

In October the total number of prisoners and pretrial detainees was 10,415, with 4,111 inmates in prisons and 6,304 persons in pretrial detention centers. The country maintained a maximum prison capacity of 5,860 and a maximum detention center capacity of 8,580. There were 320 women and 87 juvenile prisoners serving terms in Moldovan penitentiaries.

Of the country's 18 penitentiaries, two were recently renovated, and conditions in those prisons were significantly improved compared with the 16 facilities that had not been renovated. The ombudsman reported that overcrowding in unventilated spaces, lack of timely access to healthcare, and poor sanitation continued to be the norm in the other 16 penitentiaries. In all penitentiaries, the ombudsman noted poor relations between prison authorities and prisoners.

The UN special rapporteur on torture visited the country during the year, but was denied access to individual detainees. In a February 2009 report detailing his previous visit, the rapporteur noted that police kept most detainees in custody for several weeks or months; they often returned to pretrial detention facilities only when physical signs of torture were no longer visible. In the Transnistrian region, prisoners transferred by police were packed in poorly ventilated vans and were often held in such conditions for hours. Prisoners with diseases, such as tuberculosis, were routinely held with healthy prisoners.

The commissioner's medical expert observed that the records of injuries kept in the detention facility at the General Police Directorate in Chisinau were extremely cursory and superficial, in contrast to the prison and hospital medical records. A CPT delegation also noted deficiencies in the recording of injuries at police establishments in a report on its 2007 visit to the country.

According to the Center for Human Rights and the Moldovan Institute for Human Rights, complaints received from prisoners and detainees did not show evidence of censorship by prison authorities.

Generally, detainees were permitted religious observance.

Official discrimination based on an inmate's health condition was a common problem, and at least one HIV-positive inmate was the victim of such discrimination during the year (see section 6).

The ombudsman monitored the observance of human rights and fundamental freedoms in public institutions, including prisons. The ombudsman has the right to inspect, publicize, and recommend actions; and publish results of investigations.

The Government permitted independent monitoring of prison conditions by local and international human rights observers, and prison officials generally allowed observers to interview inmates in private. Representatives of international organizations and embassies were allowed to visit detainees that had been arrested after the April 2009 demonstrations, but they were able to do so only several days after the arrests. The Government cooperated with the International Committee of the Red Cross (ICRC) and permitted visits to prisoners in accordance with the ICRC's standard practices.

In July 2009 a CPT delegation visited the country. The delegation visited the temporary detention facility of the General Police Directorate, as well as the Centru and Ciocana district police stations in Chisinau. It also had a series of interviews, including at Prison No. 13, with alleged victims and potential witnesses of police abuses; it examined in detail a number of relevant investigation files.

During its 2009 visit, the CPT noted that the practice of holding remand prisoners in police temporary detention facilities continued unabated. The CPT found that detention cells did not offer suitable conditions for holding persons remanded in custody. While the CPT noted that cells in the Chisinau General Police Directorate had been fitted with beds and that some repair works carried out a few months before the visit, it found that overall conditions in the facility were still not suitable for the prolonged periods that prisoners and administrative detainees were being held. These conditions included high official occupancy levels in the cells (for example, four places in a 10 square yards cell), poor lighting in cells, and access to outdoor exercise limited to 15 minutes.

Although there were no juveniles being held at the time of the visit, police staff working at the General Police Directorate informed the delegation that juveniles may be detained together with a carefully chosen adult (for example, a first offender or former police officer).

Transnistrian civil society representatives complained that it was extremely difficult to gain access to Transnistrian detention facilities. Moldovan lawyers were denied access to clients in Transnistrian prisons unless accompanied by a local Transnistrian attorney. Conditions in those facilities were grave, particularly in the Tiraspol prison. Sick and contagious prisoners shared quarters with healthy prisoners.

In July a CPT delegation visited the Transnistria region. On July 22, as the delegation was preparing to visit Prison Colony No. 3 in Tiraspol, Transnistrian authorities informed the delegation that the CPT would not be allowed to interview remand prisoners in private. The delegation ended its visit in protest of this restriction.

*d. Arbitrary Arrest or Detention.*—While the law prohibits arbitrary arrest and detention, authorities did not observe these prohibitions in practice.

A parliamentary ombudsman employed by the Government regularly visited various places of detention, including police stations and detention rooms at psychiatric hospitals, railway stations, and the Chisinau airport. The ombudsman found that many arrestees were not registered in logbooks, and railway police arbitrarily arrested citizens before their trains departed and released them after their trains left the station. Police at the airport often detained travelers for document checks and then released them without explanation. Most of the persons placed in detention at police stations were arrested for petty crimes, insulting police, or for document checks, although they were carrying valid documents. During the year the ombudsman reported some improvements in registration of prisoners; however, the practice continued.

On April 20, the ECHR ruled in favor of Oleg Brega, a local Chisinau journalist, who in 2008 staged a silent protest outside the main government building in connection with his brother's arrest and detention a few days earlier. Police officers approached Brega and arrested him for disturbing public order, while he filmed the encounter. A local court subsequently acquitted him on the basis that Brega was arrested and detained on false grounds, as it could be seen from his video that he had neither resisted arrest nor insulted the police officers. Brega alleged that the verbal and physical abuse to which he was subjected before and during his arrest, and the poor conditions of his subsequent detention, including lack of access to medical care, constituted inhuman and degrading treatment. He also alleged that his detention for 48 hours without legal basis further violated his rights. The court agreed, and ordered authorities to pay Brega 8,000 euros (approximately \$11,200) in nonpecuniary damages.

On April 7, Transnistrian authorities arrested local journalist Ernest Vardanean and Transnistrian tax official Ilie Cazac and charged them with espionage. On June 25, and on subsequent occasions during the year, the OSCE expressed concern that the two were deprived of the right to choose their own legal counsel, the right to be represented by counsel of their own choice at pretrial detention hearings, and the right to contact their families. In addition, the OSCE criticized the televised airing of an alleged confession by Vardanean and noted that the confession was made in the presence of security officers. On November 3, the Transnistrian newspaper *Novaya Gazeta* carried a report quoting a letter from Stella Surkichan, Cazac's mother, who wrote that during the arrest, officers planted some papers and a flash drive on her son and that he was severely beaten and forced to sign papers afterwards. "He was questioned for 10 to 15 hours in a row with no food, water, or toilet. He was threatened by long jail terms and reprisals against his family." She quoted

her son as saying that, during a visit by the head of the OSCE mission to Moldova, he was instructed to lie on behalf of the State Security Ministry. On December 16, Vardanean was sentenced to 15 years' imprisonment for "high treason" by Transnistrian authorities.

The ombudsman reported instances during the year in which police rearrested previously acquitted individuals and detained them for unspecified short periods.

*Role of the Police and Security Apparatus.*—The national police force is the primary law enforcement body. It is subdivided into regional and city police commissariats, which are subordinated to the Ministry of Interior.

*Arrest Procedures and Treatment While in Detention.*—The law allows judges to issue arrest warrants based on evidence from prosecutors. Authorities must promptly inform detainees why they were arrested and describe the charges against them. Suspects may be detained without charge for 72 hours. The ombudsman noted several cases during the year in which police records contained no mention of the arrest of prisoners who were in jail, thereby allowing authorities to extend detentions beyond the 72-hour limit.

Once charged, a detainee may be released pending trial. The law provides for bail, but it was rarely utilized and the system did not function well. Authorities generally did not authorize bail for detainees accused of violent or serious crimes.

Detainees have the right to a defense attorney, but at times, this right was restricted. Authorities generally did not grant detainees access to a lawyer until 24 hours after being detained. Police often told persons that they were witnesses in a case, questioned them without a lawyer present, and subsequently detained them as suspects. Detainees were often informed of the charges against them without a lawyer being present. The Government required the local bar association to provide representation to indigent defendants, but did not reimburse lawyers for legal fees. Consequently, poor defendants often did not have adequate counsel.

The law permits pretrial detention for up to 30 days. The courts may extend pretrial detention for up to 12 months, depending on the severity of the charges. Pretrial detentions lasting several months were common.

*Amnesty.*—The Government generally granted amnesty to persons sentenced to less than four years in prison; as a result, such persons often served no jail time for their offenses.

On July 1, acting president Mihai Ghimpu pardoned a group of convicts condemned for various offences, including two with disabilities. When examining the pardon requests, the reviewers and pardoning officials took into consideration the character and extent of the social threat of committed crimes; the offender's behavior and attitude towards work in prison, as well as participation in social activities within detention facilities; family status; and the term of punishment.

On March 23, Transnistrian leader Igor Smirnov signed a decree granting a mass pardon, commutation, or amnesty to hundreds of inmates. More than 900 persons benefitted from the amnesty, including those who had served in the 1990-92 conflict with Moldova, persons convicted of lesser crimes, disabled and ill inmates (including those suffering from tuberculosis, HIV, and cancer), mothers, and single parents.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, there were reported instances of government officials failing to respect judicial independence in practice. Official pressure on judges and corruption remained problems. There continued to be credible reports that local prosecutors and judges asked for bribes in return for reducing charges or sentences, and observers asserted that judges sometimes faced political influence. Political factors also played a role in the reappointment of judges. According to Freedom House, judges were appointed and promoted based on subjective and nontransparent factors. Younger judges, who held initial five-year appointments, were particularly vulnerable to influence by the executive branch. According to the 2009 EU progress report, the Government continued to fall short in its implementation of judicial system reforms.

In 2007 the Government instituted a judicial code of ethics and created the new position of inspector judges, who are responsible for investigating and reporting cases of judicial misconduct or ethics breaches to the Supreme Council of Magistrates. Inspector judges referred 15 cases against 17 judges in 2008 and 25 cases against 27 judges in 2009. In 2009 the council issued warnings to eight judges, issued "severe warnings" to three, and dismissed one; the council dismissed the complaints against the remaining 13 judges.

According to the American Bar Association's (ABA) 2009 Judicial Reform Index, the establishment of a judicial administration department within the Ministry of Justice constituted an attempt by the executive branch to exert control over the judiciary's finances. The ABA also described the Judicial Administration Department as understaffed, ineffective, and lacking the capacity to oversee adequately the ad-

ministration of the judiciary. While the department was responsible for developing the annual draft budget after consultations with the courts, in 2009 the Superior Council of Magistracy presented the proposed judiciary budget directly to parliament without consultation.

The judiciary consists of lower courts, courts of appeal, and the Supreme Court of Justice. A separate Constitutional Court has exclusive authority in cases relating to the constitutionality of draft and final legislation, decrees, and other governmental acts. Most outside observers have assessed the Constitutional Court as the only court that was reasonably fair and objective. By law the Prosecutor General's Office is autonomous and answers to parliament. It is responsible for overseeing criminal investigations, filing charges, and protecting the rule of law and civil freedoms. Prosecutors have discretion to close cases before they reach trial for lack of sufficient evidence, but the injured party can appeal this decision to an investigative judge. This discretion gives prosecutors considerable influence over the judicial process, and NGOs asserted that political influence continued to play a role in some prosecutions.

The military court system, which operated independently of the civilian courts, also suffered problems with corruption and inefficiency similar to those of the civilian courts. The jurisdiction of military courts extends to crimes committed by active duty, reserve, and retired military personnel. Military courts can also try civilians for crimes committed against military personnel.

*Trial Procedures.*—The law provides that defendants in criminal cases are presumed innocent; however, in practice, this presumption had little effect. On some occasions, judges' remarks jeopardized the presumption of innocence. NGOs expressed concern that the practice of keeping defendants in handcuffs and metal cages during court proceedings went beyond what was necessary to secure public order and failed to ensure the presumption of innocence.

Cases are presented to a judge or to a panel of judges. Defendants have the right to a lawyer, to attend proceedings, to confront witnesses, and to present evidence. The law requires the local bar association to provide an attorney to indigent defendants. The practice of appointing temporary defense lawyers without allowing them to prepare adequately was common and infringed upon the right to legal assistance. Prosecutors occasionally used bureaucratic maneuvers to restrict lawyers' access to clients but they generally allowed defense attorneys access to the evidence. The law provides a right to appeal convictions to a higher court.

According to a 2008 OSCE report, based on a six-month project that monitored thousands of hearings in hundreds of criminal cases at all levels of the justice system, legal guarantees of a fair trial functioned only partially. Although the law provides for defendants to have an interpreter, the OSCE observed a shortage of interpreters, a lack of knowledge of legal terminology, and a tendency to mix Romanian and Russian terms. Nearly 40 percent of court interpreters did not translate in a fully satisfactory manner. The OSCE also noted that judges at times ordered proceedings to be conducted in Russian, although some participants complained they could not understand the language.

The OSCE noted that proceedings were often not open to the public; court facilities were inadequate; and a large number of judges, prosecutors, and defense lawyers failed to treat victims and witnesses with respect.

Implementation of the witness protection law was inconsistent. During the year AI reported several cases of Transnistrian authorities disregarding trial procedures, and noted that, in practice, defendants in Transnistria were denied access to a fair trial.

In 2007 Transnistrian security services arrested Alexandr Alimpiev, former Transnistrian justice minister and former president of Tiraspol municipal court, and charged him with accepting a bribe, insulting a law enforcement officer, and resisting a search warrant. He remained in detention until his 2008 conviction, at which time he was sentenced to seven years' imprisonment. In 2009 authorities released Alimpiev without a formal review of this sentence. AI noted that authorities infringed his right to a fair trial on several occasions, censored his correspondence with his attorney, and subjected him to "precarious" conditions of imprisonment, despite being ill.

*Political Prisoners and Detainees.*—In contrast with the previous year, there were no reports of political prisoners.

According to AI, since the change of government in September 2009, national authorities had discontinued the practice of fabricating criminal cases for political ends.

*Regional Human Rights Court Decisions.*—During the year the Government paid 14.2 million euros (\$19 million) in damages for cases lost at the ECHR. In 2009 indi-

viduals and advocacy groups lodged 3,400 complaints against the Government. The most common complaints concerned alleged violations of due process.

On January 5, the ECHR ruled in favor of a local company, Bucuria, which alleged that the judiciary failed to notify the company of a lawsuit brought against Bucuria by a former employee, nor did it notify the company of subsequent proceedings in the case. The court awarded Bucuria 1,000 euros (\$1,340) in nonpecuniary damages.

On May 18, the ECHR ruled in favor of Liuba Anusca, whose son was performing military service in 2004 when he was found dead under a tree with a broken cord around his neck, the other end of which was tied to a branch. Military prosecutors investigated and ruled the death a suicide. Prosecutors subsequently reopened and closed the investigation several times before concluding in 2008 that no crime had been committed. While the ECHR found no reason to doubt the finding of suicide, it expressed concern that civilian prosecutors had considered it necessary to intervene three times, ordering the military prosecutor on each occasion to reopen the investigation and conduct further inquiries into significant issues. The total time of three years and seven months until the investigation finally concluded could not be justified by its complexity or any objective difficulties, and the court awarded Anusca 8,000 euros (\$10,700) in damages.

On July 13, the ECHR found in favor of Vladimir Parnov, who claimed that he was subjected to police brutality in 2005 when he was arrested and detained on charges of possession and sale of marijuana. Parnov was acquitted of the charges in 2007. The court agreed that the investigation into his abuse allegations was inadequate, and awarded him 9,000 euros (\$12,000) in nonpecuniary damages and 800 euros (\$1,070) in costs.

On September 14, the ECHR ruled in favor of the NGO Hyde Park, ruling that arrests and fines for demonstrations in 2007 constituted unlawful interference with their right of peaceful assembly.

According to the local NGO Lawyers for Human Rights, during the year national authorities became significantly more likely to execute the decisions of the ECHR, resulting in payment of applicable penalties to victims. Court decisions against district level governments and municipalities frequently remained unexecuted, because these entities lacked the funds to pay judgments levied against them. In the past, judgments against private parties were nearly impossible to execute, given widespread corruption and the lack of resources and oversight in the country's bailiff system. To improve the situation, beginning on September 10, the Government began issuing licenses to private bailiffs who would operate on retainer. According to the Justice Ministry, the situation had not been in place long enough for an assessment of its effectiveness by year's end.

*Civil Judicial Procedures and Remedies.*—The law provides for citizens to seek damages in civil courts for human rights violations. Under the constitution, the Government is liable when authorities violate a person's rights by administrative means, fail to reply in a timely manner to an application for relief, or commit misconduct during prosecution. Judgments awarded in such cases were often small and not enforced.

The mediation law establishes an alternative mechanism for resolving civil and criminal cases voluntarily between parties and establishes rules for the status of professional mediators. However, the country still lacked an implementation mechanism. Observers noted that a lack of financial resources and institutional capacity were the main impediments to implementing the law.

*Property Restitution.*—While the law provides for the restitution of property and compensation for victims of political repression, the Government often failed to provide funds to the commissions established to receive these petitions; as a result, the commissions lacked funds to provide payments to victims. In Chisinau, where authorities allocated approximately six million lei (\$575,000) for compensation, no commission existed to make payments. Applicants must prove a direct causal connection between political repression and the seizure of their properties to receive restitution.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice.

It was widely believed that law enforcement authorities, including the Interior Ministry, prosecutors, the Prosecutor General's Office, and the Security and Intelligence Service, continued to conduct illegal searches and wiretaps. Under the law, the Security and Intelligence Service is the only institution that can legally conduct wiretaps, including those made at the request of prosecutors or police. Judges may authorize legal wiretaps only in the course of investigating a serious crime. In Feb-

bruary 2009 the ECHR ruled that the country's criminal procedure law fails to provide a clear and detailed interpretation of reasonable suspicion required to authorize a wiretap. The ECHR also noted that the law does not contain safeguards against the overuse of wiretaps and does not provide adequate protection against the abuse of power by the Government because of wiretapping. Courts continued to accept illegally obtained evidence.

According to a Justice Ministry report, examining magistrates ordered 3,803 wiretaps in 2009, an increase of 1,448 over the previous year.

In July prosecutors acknowledged that the Security and Intelligence Service had illegally wiretapped Minister of Justice Alexandru Tanase in 2009. During hearings, two intelligence officers admitted they received orders to intercept Tanase's calls but refused to divulge who gave the orders. A criminal investigation into the illegal conduct remained ongoing at year's end. On October 22, in a separate case, prosecutors charged the head of the Interior Ministry's Operative-Technical Unit with privacy violations and abuse of authority in another illegal wiretapping case. The unit head had been suspended temporarily from his position in July. On December 13, prosecutors announced that they had completed their investigation into the Ministry of Interior's unauthorized wiretapping of European Action Movement leader Veaceslav Untila, AMN leader Serafim Urechean, and seven other persons; charges were pending at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and the press; however, these rights were not always respected in practice. Individuals could criticize the Government publicly and privately without reprisal. According to Reporters without Borders, press freedom improved significantly since 2009. In contrast with previous years, individuals and organizations critical of the Government no longer risked monitoring and subjection to abusive tax and registration inspections.

On July 13, the ECHR awarded damages to nine employees and former employees of the public broadcaster Teleradio Moldova, who alleged in 2002 that they were victims of undue political influence over editorial policy; the court agreed and held that the Government had violated their freedom of expression. The court noted that authorities had failed to enact legislation which would offer safeguards against government officials' abusive interference in free speech and which would clearly indicate the scope and the limits of the discretion enjoyed by those authorities in controlling editorial content.

The print media expressed diverse political views and commentary. There were approximately 260 newspapers and magazines in the country. A number of the newspapers were owned or subsidized by political figures and expressed well-defined political views. The Government owned the Moldpress News Agency, and local and city governments subsidized approximately 25 newspapers. Political parties and professional organizations also published newspapers.

Formerly government owned newspapers, Moldova Suverana and Nezaavisimaia Moldova, continued to favor the PCRM in their coverage. These papers often used inflammatory language and photo-edited portrayals of opponents as Nazis in articles criticizing the opposition. In February prosecutors began investigations of the legality of the privatization of these two newspapers, a process that started in 2005. According to the authorities, the former communist government initiated the liquidation process of these papers, but did not finish it and illegally transferred over one million lei (\$83,000) from the State Reserve Fund to cover debts of these two papers.

The Government did not restrict foreign publications, but most were not widely circulated because of high cost. Newspapers from Russia were available, and some of these papers published special weekly local editions.

According to the Audiovisual Coordinating Council (ACC), 47 radio stations, 63 television channels, and about 140 cable providers operated in the country. Most stations rebroadcast programs from Romania, Russia, and Ukraine and offered limited, locally produced programming. Other foreign programs, including a range of international news broadcasts, were available by subscription from private cable television operators. Some local governments, including that of Gagauzia, operated television and radio stations and newspapers.

In April two major foreign-financed news channels, Jurnal TV and Publika TV, began local broadcasting.

Observers noted that the public broadcaster, which under the previous government had heavily skewed coverage in favor of the communist authorities, became increasingly balanced in its news coverage since the AEI government assumed power in September 2009.

In 2008 the ACC announced that it would not automatically extend the expiring license of the private television channel PRO TV, along with those of other broad-

casters, although the law provides for automatic extension if no major violations have occurred. Media observers criticized the ACC decision, while noting that ambiguities in the law allowed for such political actions, and PRO TV initiated a court challenge of the ruling. In November 2009 the Supreme Court of Justice ruled that the ACC should automatically extend PRO TV's license and those of other broadcasters; the ACC then extended PRO TV's license for another seven years.

In 2008 the ACC distributed 40 provincial television frequencies to two progovernment stations, significantly expanding their coverage, and did not consider other applications for the frequencies. After the Government assumed power in September 2009, complaints that the ACC's decisions were politically motivated decreased.

Owners of the private, procommunist television station NIT accused the AEI government of trying to shut down the channel. NIT alleged that the new government refused to extend a lease for space in a government-owned building that NIT had been renting for 12 years. The Government responded that it needed the space for use by government agencies, and NIT could continue to use other offices in the same, earlier privatized, building. Later in the year, NIT vacated the Government-owned offices and moved into the smaller privatized offices in the same building.

A July monitoring report by the NGO Access Info Center indicated that there were continuing problems in the implementation of the law on access to information and the law on transparency in government decision making. Only 34.5 percent of 943 public institutions asked to provide data on their implementation of the transparency law responded to the data request.

On April 21, prosecutors closed the criminal case initiated against Vocea Basarabiei radio station by the communist government in 2007. Authorities at the time alleged that the station had aired calls to overthrow the Government during a radio program. Prosecutors concluded that the alleged actions did not constitute a crime.

On January 19, the ACC ordered the Ploaia de Argint (Silver Rain) radio station to suspend broadcasting pending an appeals court ruling on the station's complaint against the ACC. The station had sued the ACC for its refusal to automatically extend its expired license as required by the 2006 audiovisual law. The ACC claimed in response that internal regulations required broadcasters that received licenses under the old law to compete again for frequencies. The station continued to transmit programming on the same frequency.

On June 18, the parliament approved modifications to ACC regulations on license issuance to provide for automatic licence extensions.

In 2008 opposition members of the Balti municipal council criticized the nontransparent manner in which the public broadcaster, Teleradio Balti, was undergoing privatization, noting that the privatization commission was staffed exclusively by councilors belonging to the majority PCRM. In November 2009 Teleradio Balti was forced to suspend broadcasting after the ACC ruled that the station did not have the right to broadcast until it was fully privatized. However, at the end of November, at the request of Balti authorities, the ACC revised its earlier decision and allowed Teleradio Balti to resume broadcasting under the condition that it completes its privatization by February 1. Since then, Balti authorities have made four unsuccessful attempts to privatize the station. Lack of interest from investors resulted in the suspension of privatization at year's end.

There were continued reports that authorities denied independent media access to official events. In May and August 2009, the Ministry of Interior prevented journalists from the Internet-based Jurnal TV from covering its press conferences. In July a television crew from TV-Prim was prevented from covering a public meeting of the prime minister in Glodeni. On July 14, police in Donduseni expelled two journalists from the Moldavskie Vedomosti newspaper from a hall where the prime minister had been meeting with local residents.

During and after the protests that followed the April 2009 parliamentary elections, government harassment and aggression against journalists dramatically increased. The PCRM government frequently denied access to its public events to media representatives it considered disloyal. On occasion journalists were intimidated into practicing self-censorship.

Libel is not a criminal offense, and the law limits the amount of fines for slander. Nevertheless, some newspapers continued to practice self-censorship and avoided controversial issues out of concern that government officials and other public figures could use civil defamation laws to retaliate against critical news coverage. On October 9, a new law on freedom of expression entered into force, which provided that protection of honor, dignity, and business reputation" would not outweigh the right of the public to obtain information relevant to the public interest. The law also provides that "no one shall be prosecuted for disclosure of information on the private

or family life of a person if the public interest in its dissemination overweighs the interest of the particular person in its nondisclosure.”

The law prohibits the editing and publication of literature that contains “denial and defamation of the state and the people; calls for war or aggression, calls to ethnic, racial, or religious hatred; incitement of discrimination, territorial separatism, or public violence.” Several private publishing houses opposed these provisions, claiming that they impose censorship.

On July 28, an employee of the Center for Combating Economic Crimes and Corruption (CCECC) verbally and physically assaulted Jurnal TV reporter Victor Ciobanu while he was filming outside the Appeals Court. The employee allegedly grabbed the reporter’s camera during the incident and removed the digital memory card. A group of major media NGOs, as well as international media organizations, strongly criticized the incident, calling upon the authorities to observe the media’s rights. The center claimed that it had launched an internal investigation into the incident and, if the allegations were proved, there would be monetary compensation to the victim and discipline the employee.

During the year the parliamentary mass media committee began an initiative to amend the law to allow broadcasters to possess up to five broadcasting licenses in each of the county’s administrative zones. In June a group of media NGOs expressed public concern over the initiative, which they claimed could lead to the monopolization of media by a small number of actors.

In Transnistria authorities greatly limited freedom of speech and of the press. Alternative viewpoints were subject to widespread censorship, and residents were wary of voicing alternative opinions and engaging in meaningful debate over key issues affecting the separatist region.

It was difficult to register, maintain, and finance independent newspapers, radio stations, or television stations in Transnistria, although several continued to exist. Most newspapers from central government-controlled areas did not circulate widely in Transnistria, although they were available in Tiraspol. Foreign publications, including publications edited in Chisinau, were difficult to obtain, as separatist authorities imposed a 100 percent customs duty.

On April 7, Transnistrian authorities arrested local journalist Ernest Vardanean on charges of high treason against the separatist government and spying for Moldova. On May 11, Transnistrian television aired a video recording with Vardanean confessing that in 2001, while he was studying at the Moldova State University, he collaborated with Moldova’s Security and Information Service. Vardanean’s lawyer, as well as his family, stated that Vardanean made this statement under psychological pressure. On November 3, the OSCE reported that Transnistrian soldiers prevented OSCE representatives from observing Vardanean’s trial. On December 16, a Transnistrian court convicted Vardanean of treason and sentenced him to 15 years in prison.

Both of Transnistria’s major newspapers, Pridnestrovie and Dnestrovskaya Pravda, were official publications of the separatist administration. Separatist authorities harassed other, independent newspapers for publishing reports critical of the regime. Independent daily newspapers such as Novaia Gazeta and Chelovek i yevo Prava were published, but each had a circulation of only about 3,000. Other small-circulation papers expressing views critical of Transnistrian authorities were published on a weekly or monthly basis. Authorities controlled all printing houses and, at times, threatened to stop the printing of independent newspapers, including one based in Bender and another in the northern city of Ribnita.

Transnistrian authorities controlled the majority of television and radio stations in the region and largely dictated editorial policies and financial operations. Transnistria’s largest commercial entity, Sheriff Enterprises, owned some broadcast networks, such as the TSV television station and the INTER-FM radio station. The company also effectively controlled the Obnovlenie (Renewal) Party, which held a majority of seats in the region’s legislature. Transnistrian authorities also operated the other major television station, Transnistrian Moldovan Republic Television. While these outlets on occasion expressed alternative views on social and economic policy, Transnistrian authorities sharply criticized any mention of compromise with the central government or any questioning of the Transnistrian goal of “independence.”

*Internet Freedom.*—In contrast with previous years, the Government did not issue any letters threatening to suspend domain names for expression of political views.

There were approximately 50 Internet service providers (ISPs) in the country. While most citizens could not afford computers and private access to the Internet, public access at cafes in major cities was readily available. In 2009 a local ISP created public Wi-Fi hot spots in several public parks in Chisinau. According to the report of the National Agency for Regulations in Telecommunications and Informa-

tion Technologies, there were 203,500 Internet users in the country in 2009, a 30.6 percent increase over 2008. Between the end of 2009 and April, the number of broadband Internet users increased from 187,000 to 203,000. The number of dial-up users decreased from 17,000 to 12,000 during that same period.

There were no reports that the Government attempted to collect personally identifiable information in connection with individuals' peaceful expression of political, religious, or ideological opinion. However, the opposition PCRM complained that the PLDM, led by Prime Minister Vlad Filat, used personally identifiable data to send personalized electoral campaigning materials to voters.

In Transnistria Internet connections were available in most parts of the region, and most residents accessed the Internet through publicly available computers at cafes. One company, Sherriff Enterprises, was the sole ISP in the region.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, at times authorities limited this right in practice. Authorities denied LGBT activists a permit for a pride parade, and, in response to the December 2009 anti-Menorah demonstration at which police did not intervene, the Jewish community celebrated Hanukkah and the Menorah lighting on private property.

NGOs reported that rights of freedom of assembly have improved under the new government. While the previous PCRM government at times prevented opposition parties and activists from traveling to Chisinau for rallies, on May 1, authorities allowed over 15,000 supporters of the opposition PCRM to march in downtown Chisinau and converge in front of the main government building for a peaceful rally.

According to a study commissioned by NGOs Promo-Lex and the Resource Center of Moldovan NGOs for Human Rights, an average of 82 assemblies took place per month between February and June 2009. There were 85 in February, 141 in March, 65 in April, 53 in May, and 79 in June—all in connection with parliamentary elections.

According to a June UNHCR report, Transnistrian authorities severely restricted freedom of assembly and rarely issued required permits for public protests. On those occasions when they did issue permits for demonstrations, authorities often harassed organizers and participants and ordered that the demonstrations take place in obscure locations away from city centers. Permits for demonstrations and public meetings were issued predominantly to organizations and groups loyal to the authorities.

*Freedom of Association.*—The constitution provides for freedom of association and states that citizens are free to form parties and other social and political organizations. However, the constitution prohibits organizations that are “engaged in fighting against political pluralism, the principles of the rule of law, or the sovereignty and independence or territorial integrity” of the country.

In Transnistria authorities severely restricted freedom of association. Separatist authorities granted the legal right of association only to those they recognized as citizens of Transnistria. All nongovernmental activities must be coordinated with local authorities, and groups that did not comply faced harassment, including visits from security officials. Any organizations favoring reintegration with the rest of Moldova were strictly prohibited.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Transnistrian authorities at times restricted travel of Transnistrian residents and other Moldovans to and from the separatist region.

Transnistrian authorities often stopped and searched vehicles traveling between the region and the central government-controlled area. According to the local Helsinki Committee, waits of up to two hours at Transnistrian checkpoints occasionally occurred, as did arbitrary fines and seizures of goods from persons entering or exiting the region.

Short-term visitors from government-controlled areas to Transnistria were permitted to remain for 10 hours. A longer stay required an official letter of invitation

and registration at a local passport office. Transnistrian authorities allowed farmers from government-controlled villages in the Dubasari region of Transnistria to travel to areas outside Transnistria to sell their produce. On a number of occasions during the year, Transnistrian authorities denied Western diplomats stationed in Chisinau entry into the region for routine visits but at other times allowed them entry.

The law prohibits forced exile, and the Government did not employ it. There were no reports that Transnistrian authorities exiled persons from their territory during the year.

Although citizens generally were able to depart from and return to the country freely, there were some limitations on emigration. Before persons are allowed to emigrate, the law requires that they satisfy all outstanding financial obligations to other persons or legal entities. This requirement was not strictly enforced in practice. The law also provides that close relatives who are financially dependent on a potential emigrant must give their concurrence before the emigrant is allowed to depart the country; this law was also not enforced in practice.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In practice the Government provided protection against the return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

*Stateless Persons.*—Citizenship can be acquired by birth in the country, inheritance from parents, adoption, recovery, naturalization, or on the basis of certain international agreements. On July 1, parliament amended the law on citizenship and granted citizenship to persons who resided in the historical regions of Bessarabia, Northern Bucovina, the Herta region, and in the territory of the Moldovan Autonomous Soviet Socialist Republic prior to June 28, 1940, as well as their descendants.

According to UNHCR statistics, there were 2,036 stateless persons in the country on September 30, an increase from 1,805 at the beginning of 2009. The largest numbers were Russians, Ukrainians, and ethnic Moldovans born outside the country. Of this total, 1,547 resided in Transnistria. According to the UNHCR, stateless persons enjoyed equal rights in terms of employment and education but frequently were prevented from applying for citizenship because they lacked certificates showing that they had no criminal records.

During the year the UNHCR assisted several refugees in gaining citizenship by court order. However, despite legal provisions that allow a stateless person who resides legally in the country for eight years to seek citizenship, the UNHCR was unsuccessful in assisting such persons in obtaining citizenship.

On July 1, authorities reduced the time for completing a provisional residence permit for foreign nationals and stateless persons from 30 to five days. Residence permits for a period of up to one year are issued to foreign citizens and stateless persons temporarily residing in Moldova; they cost approximately 640 lei (\$53).

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice in most of the country through periodic elections based on universal suffrage. Unlike the previous year, there were no reports that authorities harassed or intimidated the political opposition, misused administrative resources in favor of government-supported candidates, or restricted opposition access to public media.

In Transnistria authorities restricted the right of residents to vote in elections and interfered with the right of Moldovan citizens to vote in Moldovan elections.

The constitution provides for a form of parliamentary government. The parliament is elected by popular vote and it then elects the president by a three-fifths majority vote, or 61 out of 101 members of parliament. If the parliament repeatedly fails to elect a president, it is dissolved and new elections are required, although the law states that parliament can only be dissolved once per year. In 2009 parliament failed on four occasions to elect a president. To resolve the impasse, the Government held a referendum on September 5, which asked voters to approve direct popular voting for president. Political parties campaigned freely and without harassment to support or reject the proposition. The PCRM boycotted the referendum. In the final results, 87.8 percent of voters supported the referendum's call for direct popular voting for president, but the turnout (30.29 percent of registered voters) was insufficient to validate the referendum, for which a one-third turnout of registered voters was required. As a result, election of the president remains a function of parliament.

*Elections and Political Participation.*—On April 27, the ECHR ruled in favor of Justice Minister Alexandru Tanase (a dual Romanian-Moldovan citizen), who in 2007 preemptively challenged a law that required dual nationals to renounce their other nationality before being allowed to take a seat parliament. In the April 2009 elections, Tanase was elected to parliament. He wrote a letter to the Romanian Embassy in Chisinau, announcing being forced to initiate the renunciation of his Romanian nationality, but indicating that he reserved his right to withdraw the letter after the ECHR judgment. On April 27, the court ruled that the law was discriminatory of dual nationals and, therefore, violated the European Convention on Human Rights.

International and local observers noted positive developments during the July 2009 parliamentary election campaign and the September 5 referendum, including greater Central Election Commission (CEC) openness and the ability of party representatives to be present during polling. However, CEC performance has remained inconsistent, and voter registration has yet to be centralized, making it harder to identify those who vote multiple times. Voter lists, maintained by the CEC, were largely outdated and subject to manipulation. Political parties cited these lists as a major concern by leading to the November elections.

International observers concluded that the November 29 parliamentary elections met most international commitments, and the elections administered in a transparent and impartial manner, with a diverse field of candidates that provided voters with genuine choice. According to the observers, authorities respected civil and political rights during the election campaign, and media outlets covered the campaign actively and provided voters with diverse information. International observers provided a generally positive assessment of election day, despite some procedural errors. The OSCE election observation mission noted that authorities should make further efforts to strengthen public confidence in the democratic process.

On December 12, first-round elections occurred for governor of the autonomous region of Gagauzia. A monitoring effort sponsored by the East European Foundation judged that the election met international standards despite minor violations, including advertisements near polling stations, multiple voters sharing a booth, and a lack of heating or electricity in some polling stations. Confusion arose from the fact that some voting procedures in the governor's election differed from those used in the November 28 parliamentary elections.

There were 19 women in the 101-seat parliament elected on November 28. Members of ethnic Russian, Ukrainian, Bulgarian, Azeri, Jewish, and Gagauz communities had representation in parliament alongside members of the majority Moldovan/ethnic Romanian community.

In Transnistria authorities held legislative elections on December 12, in which the Renewal Party, the main party in opposition to "president" Igor Smirnov, won a majority of 23 seats in the 43-seat Transnistrian Supreme Soviet.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement these laws effectively, and NGOs and international organizations reported that corruption was pervasive throughout the Government and society. A Transparency International preliminary survey revealed that only 75 percent of public officials could define the concept of a "conflict of interest."

Police corruption remained a serious problem. According to prosecutors, the Interior Ministry ignored, or only superficially examined, reports of police corruption. The prosecutor in charge of the Ministry of Interior's anticorruption activities noted that corruption was endemic and took place at all levels—from low-level functionaries to government ministers.

On August 24, Justice Minister Tanase noted that many judges illegally gave lenient sentences to persons convicted of trafficking-related offenses. He cited the case of Cahul Court judge Vasile Vulpe who in 2008 issued a five-year suspended sentence for human trafficking when the penalty prescribed by law is 10 to 25 years in prison. Judge Vulpe's immunity from prosecution was subsequently lifted, and a Chisinau court tried Vulpe of purposefully issuing an illegal judicial decision. He was acquitted in June 2009. On November 11, in a subsequent lawsuit brought by Vulpe challenging his dismissal as a judge, the Supreme Court upheld the legality of Vulpe's dismissal upon the expiration of his judicial appointment.

A Transparency International survey conducted in 2009 reported that 51 percent of those interviewed said they had paid bribes to the police. According to the Prosecutor General's Office, between January and November, prosecutors initiated 103 criminal investigations against police, including in 43 cases of alleged torture. The CCECC initiated 31 criminal investigations, mainly on charges of corruption. Of these, the prosecutors sent 62 cases to court, and the CCECC sent 21 cases.

Corruption in the educational system was widespread. The law provides for punishing university rectors, deans, and chairs for corrupt acts, including grade buying and extortion, with fines or imprisonment of two to seven years. The law does not apply, however, to professors and lecturers. Ministry of Education regulations do not address corruption explicitly, and the bylaws of the major universities do not provide sanctions for cheating or bribery. There were reports that some university officials offered falsified documents for sale to assist students in obtaining work and travel visas.

The Government acknowledged that corruption was a major problem. NGOs and political party representatives asserted that authorities at times failed to act in an impartial manner.

The law provides free public access to official information; however, the Government did not fully implement the law. NGOs complained that gaining access to information required repeated, often unsuccessful, requests to authorities. Court decisions ordering release of information were not implemented fully or in a timely manner. According to the NGO Access-Info Center, between January and August, public officials frequently denied the media access to information in violation of law and procedures. Since coming into office, the Government made some improvements; however, the Access-Info Center noted that full responses to information access requests remained low, averaging 24 percent, because of a lack of information management policies.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups generally operated in the country without government restriction, investigating and publishing their findings on human rights cases. Government agencies were frequently cooperative and responsive to their views.

In Transnistria authorities continued to impede activities of human rights groups. For example, "immigration" officials frequently blocked entry into the region by representatives of Moldovan NGOs attempting to meet local human rights counterparts and contacts. Moldovan NGOs also reported that in 2009 Transnistrian officials contacted local organizations and advised them not to attend events and seminars organized by Moldovan NGOs.

On several occasions in 2009, representatives of a Moldovan NGO arrived in the region to hold capacity-building seminars for local groups. In advance of their visits, Transnistrian officials warned the NGO not to come. When they arrived, they found that attendees to these workshops included camera operators—ostensibly from local television stations—who filmed the proceedings, as well as representatives of progovernment veterans' organizations, and a representative of the public affairs office of the Russian peacekeeping force in Transnistria. On at least one occasion, in December 2009, Transnistrian cameramen followed the participants and filmed them as they exited buses rented for the occasion. Transnistrian television subsequently broadcast this footage as part of an anti-NGO expose. Following these events, the organization chose to hold its seminars outside Transnistria.

Transnistrian authorities also continued to control and intimidate NGOs by inviting their representatives to meetings where security officials were present and pressuring landlords not to renew leases for office space. Authorities restricted NGOs from providing legal advice and other assistance on political programs, such as domestic disputes, access for persons with disabilities, and property and pension rights. Transnistrian authorities encouraged NGOs operating in the region to cooperate with Russian, Abkhazian, and South Ossetian organizations rather than Western NGOs and those that operated in Moldova proper. Transnistrian authorities also required representatives of Moldovan NGOs wishing to operate in Transnistria to register locally as separate organizations.

Transnistrian authorities frequently limited OSCE access to the separatist region, including to the four- to eight-mile security zone dividing Transnistria from the rest of the country.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, ethnicity, or social status; however, the Government did not always enforce these prohibitions effectively.

*Women.*—The law criminalizes rape or forcible sexual assault and penalties range from three years to life in prison. The law also criminalizes spousal rape.

Rape remained a problem, and there were no specific government activities to combat rape. In the first 11 months of the year, prosecutors opened 311 criminal cases of rape. Of these cases, 78 were dismissed and 138 were forwarded to courts

for trial. These figures were close to the totals for 2009 with 260 cases opened, 66 dismissed, and 105 forwarded to courts for trial. Prosecutors were unsure if the increased numbers reflected higher crime rates or better reporting. NGOs believed that many rapes remained unreported.

The law defines domestic violence as a criminal offense, provides for the punishment of perpetrators, defines mechanisms for obtaining restraining orders against abusive individuals, and extends protection to unmarried individuals and children of unmarried individuals. The law also provides for cooperation between government and civil society organizations, establishes the protection of the victim as a human rights principle, and allows third parties to file complaints on behalf of victims. According to a 2009 report by the local NGO La Strada, there were no government standards regarding the quality of victim support services or for the identification, assessment, or monitoring of domestic violence cases.

According to NGOs, domestic violence and spousal abuse remained widespread. A 2008 survey indicated that at least 40 percent of women in the country had been the victim of at least one violent act in their life. Domestic violence was closely linked to human trafficking. According to local NGOs, at least 80 percent of trafficking victims had previously been victims of domestic violence. A study released during the year by the Joint UN Program on HIV/AIDS found that 51.3 percent of women who had a sexual partner had experienced psychological violence in their lifetime and that 26.8 percent experienced such violence in the previous 12 months. A total of 24.2 percent had experienced physical violence in their lifetime, and 10.3 percent had experienced it in the previous 12 months. Slightly more than 12 percent had experienced sexual violence in their lifetime and 7.1 percent in the past 12 months. Rural women experienced all forms of violence in significantly higher proportions than urban women did, and younger women experienced more emotional and sexual violence compared with older women.

Victims of domestic violence generally suffered in silence, as the problem received little recognition from government, society, or other women. Unless such violence resulted in serious injuries, most citizens accepted it as a normal aspect of private life by both men and women, and not a problem warranting legal intervention. Surveys indicated that only 11.2 percent of domestic violence victims sought medical assistance, only 12.2 percent reported the abuse to the police, 6.3 percent pursued claims through the justice system, and 5.1 percent reported their abuse to other municipal authorities.

NGOs noted that one of the reasons women rarely reported domestic violence to authorities was because of the general weakness of available legal remedies, which commonly consisted of fines and brief detentions for convicted abusers. After their release from detention, abusers commonly returned to their homes and continued the abuse. Fines often had the effect of significantly reducing the overall household budget, which further harmed the wives and children of abusers.

Women's groups continued to assert that incidents of spousal abuse were significantly underreported. According to the Ministry of Interior, between January and November authorities registered 1,997 cases of domestic violence. The actual numbers were believed to be much higher.

The Government supported education efforts, usually undertaken with foreign assistance, to increase public awareness of domestic violence and to instruct the public and law enforcement officials on how to address the problem. The city of Chisinau operated a women's shelter for domestic violence victims. Private organizations operated services for abused spouses, including a hotline for battered women. Access to such assistance remained difficult for some.

The NGO La Strada operated a hotline for reporting domestic violence, offered victims psychological and legal aid, and provided victims with options for follow-up assistance. During the first nine months of the year, the hotline received 623 calls from victims of domestic violence requesting assistance. Despite the success of the hotline, La Strada representatives noted that few victims requested follow-up assistance.

In July parliament approved criminal code amendments designed to better promote the safety and well-being of victims, their children, and their property. The amendments require the abuser to leave lodgings shared with the victim, regardless of who owns the property. The amendments also provide for psychiatric evaluation and counseling, forbid the aggressor from approaching the victim either at home or at a place of business, and forbid visitation of children pending a criminal investigation. Courts may apply such protective measures for a period of three months, and can extend them upon the victim's request or following repeated acts of violence.

In Transnistria there is no law prohibiting violence against women. Domestic violence against women in Transnistria was a serious problem, although, given the lack of laws against domestic violence the extent was difficult to estimate. According

to a 2009 study conducted by the NGO Rezonans, one in four women in Transnistria experienced domestic violence in the form of physical abuse, economic manipulation, or psychological violence.

Sexual harassment remained a common problem. In July parliament approved amendments to the criminal code that criminalize sexual harassment and provide for penalties ranging from a fine to a maximum of two years imprisonment. The new law prohibits sexual advances that affect a person's dignity or create an unpleasant, hostile, degrading, or humiliating environment in a workplace or educational institution.

In January the parliamentary ombudsman received complaints from parents claiming that their children at a high school in the Chisinau suburb of Riscani were being sexually harassed. The ombudsman's investigation revealed that a number of girls had been sexually molested by a teacher. The Riscani prosecutor's office refused to launch a criminal investigation, stating that the acts took place before the criminalization of sexual harassment in July. Authorities argued that the law in force at the time prohibited only the use of force to make another person commit a sexual act. The school board subsequently dismissed the teacher, but a court later reinstated him because the school board had failed to follow proper legal procedures. Appeals remained pending at year's end, and the ombudsman responsible for children continued to monitor the case.

Couples and individuals could decide freely and responsibly the number, spacing, and timing of their children and had the information and means to do so free from discrimination, coercion, and violence. The Government adopted laws and implemented policies to increase the birthrate by ensuring free obstetric and postpartum care to all citizens and by paying child benefits of 1,700 lei (\$140) for the first child in a family, and 2,000 lei (\$165) for each subsequent child. Applying to receive child benefits was sometimes difficult because of excessive bureaucracy, but there were no reported cases of denial of payment. Mandatory government medical insurance covered all expenses related to pregnancy, birth, and postpartum care. During pregnancy, the Government provided essential medicines free of charge.

Most medical institutions, both state and private, had free booklets and leaflets about family planning and contraception. There were no reports of women discriminated against when diagnosed with or treated for sexually transmitted infections, including HIV. There were reports that some employers failed to provide women with paid maternity leave or threatened pregnant women with termination of employment.

There were no reports of Romani women denied obstetrical, childbirth, or postpartum care. However, many Romani women failed to take advantage of free government-administered medical care during pregnancy. There was no reliable information on Romani access to contraception.

The law provides for full gender equality. The National Bureau of Statistics reported that women experienced higher levels of employment than men did. Women, however, earned approximately 85 percent of what men earned for equal work. According to an EU report released in 2008, the country's implementation of the 2006 law on equal opportunities for men and women was slow. In some cases, especially in rural areas, women encountered attitudes and stereotypes that served to perpetuate the subordinate position of women in the family and in society.

The law provides for 70 days of paid leave for pregnant women, and an additional 56 days of postpartum maternity leave (70 days in case of complicated or multiple births). Once this officially authorized leave period is exhausted, men and women have the option of taking partially paid paternity or maternity leave for up to three years (counting towards an employee's seniority). Women are also entitled to unpaid maternity leave of up to six years from the child's birth, while retaining the right to their job. This period is also included in seniority. While government-owned companies generally followed these regulations, private firms often ignored the law by restricting maternity leave periods through individual work contracts.

*Children.*—Citizenship can be acquired by birth in the country, inheritance from parents, adoption, recovery, naturalization, or on the basis of certain international agreements. Registration of birth is free of charge for all citizens. Civil registration offices within maternity hospitals issued birth certificates before the mother and newborn were discharged from the hospital.

Primary education was free and compulsory until the ninth grade, although many inadequately funded schools, particularly in rural areas, charged parents for school supplies and textbooks. Although not illegal, such fees contradicted the Government's policies and resulted in some parents keeping their children home. Government and local authorities provided 300 lei (\$29) for school supplies annually to children from vulnerable families.

Romani NGO Vocea Romilor reported that 2,800 Romani children were unable to attend school because of poverty. According to Romani NGO Ograda Noastra, approximately 50 percent of Romani children attended school, but the group acknowledged that such estimates were often unreliable.

The law prohibits child neglect and specific forms of abuse, such as forced begging; however, child abuse was believed to be widespread. In December 2009 law enforcement agencies had opened 405 cases for crimes against children, including 97 cases of sexual abuse, 20 cases of serious bodily injuries to children, and 10 cases of premeditated murder. The Ministry of Interior is responsible for investigating and prosecuting child sexual abuse cases, but declined to release statistics on the scope of the problem.

According to the Ministry of Labor, Social Protection, and Family, inadequate victims' services, lack of reliable methods to track cases, and insufficient legal mechanisms to prevent such abuse or to provide special protection to victims, hampered efforts to protect children from abuse. According to the ministry, more than 25 percent of minors admitted to being beaten by their parents, 20 percent said they experienced parental verbal abuse, and 15 percent said they lacked food and care. Approximately 10 percent of parents admitted to abusing their children, emotionally or physically.

During the year there were reports of cases of child prostitution. Commercial sex with minors is punished as statutory rape. The minimum age for consensual sex is 16 years. The law prohibits production, distribution, broadcasting, import, export, sale, exchange, use, or possession of child pornography, and violators face one to three years' imprisonment.

According to the Center for Combating Trafficking in Persons, in the first 11 months of the year, authorities opened 19 investigations into allegations of child trafficking, approximately the same number as during the same period in 2009. Prosecutors filed formal criminal charges in eight of these cases, and courts convicted three persons on criminal charges related to trafficking of children, sentencing two persons to prison and giving the third person a suspended sentence.

Conditions for children in orphanages and other institutions remained generally very poor. Underfunding caused major problems such as inadequate food, "warehousing" of children, lack of heat in winter, and disease. NGOs estimated that approximately 25 percent of the children in orphanages had one or two living parents but were abandoned when their parents left the country in search of employment. Observers estimated that approximately one-third of children lived in households where one or both parents had left the country in search of work. Such children often lived in poverty, and were particularly vulnerable to trafficking and labor exploitation.

Various government ministries ran their own orphanages and boarding schools. The Ministry of Labor, Social Protection, and Family maintained two boarding schools with a population of 675 children with disabilities and three asylums providing temporary shelter (for up to one year), counseling, and other assistance to up to 110 children from socially vulnerable families. The Ministry of Education oversaw 19 boarding schools with 5,932 students, and two orphanages with 137 children. The ministry reported that 35 percent of the children in its care were orphans or abandoned. The other 65 percent came from socially vulnerable families in which parents were unable to maintain even basic living conditions. The ministry also supervised 42 institutions for children with disabilities, housing up to 5,487 children.

On August 13, Minister of Education Leonid Bujor announced that the number of children placed in residential institutions had dropped by 32.6 percent since 2007, following implementation of a National Action Plan for the Reform of the Residential Care System for Children. According to Bujor, 7,087 children lived in 56 institutions run by the Residential Care System for Children and, of those, 17 percent were orphans. He also noted the existence of 76 family homes for children, 87 professional foster parents, 102 daycare centers, two social-medical rehabilitation centers, and 31 temporary placement centers for families with children facing difficulties.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community had approximately 25,000 members, including 2,600 living in Transnistria.

On the night of September 11, unknown individuals painted Nazi swastikas and SS symbols on the facade of the synagogue in Chisinau. According to the chief rabbi, Zalman Abeliskii, several other minor incidents occurred during the year. The inves-

tigation is ongoing. Parliament speaker and acting president Mihai Ghimpu described the profanation of the synagogue as “a provocation.”

In December 2009 the Chisinau Jewish community organized the dedication of a five-foot-high menorah in the city’s central park. A crowd led by Moldovan Orthodox priest Anatolie Cibric gathered, engaged in anti-Semitic speech, dismantled and removed the menorah from its base, and placed it upside down at the feet of a nearby statue of Stephen the Great, the medieval Moldovan king who is also a Moldovan Orthodox saint. Authorities condemned the incident and fined Cibric for his role in it.

On November 10, in Chisinau, several hundred Orthodox Christians marched to warn local authorities against allowing the Jewish community to place a menorah in downtown Chisinau during the upcoming Hanukkah celebration. A leader of the Orthodox Youth Association told media that placing the menorah near the statue of Stephen the Great was offensive and constituted a form of oppression of Christians by non-Christians. Chisinau mayor Chirtoaca responded by telling the Jewish community to proceed with plans to place the menorah downtown. Seeking to avoid further desecration of the menorah, Jewish community leaders instead decided to place the menorah on private property in the courtyard of the Chisinau Jewish Community Center. On December 1, the Jewish community dedicated the menorah, and it remained there during the holiday without incident.

In March 2009, after one of Chisinau’s synagogues received a shipment of kosher food from abroad for the upcoming Passover holiday, police officers made several visits to the synagogue to search the food parcels.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to public facilities, healthcare, or the provision of other state services, but the law was rarely enforced. Local NGO Gaudeamus reported continued widespread discrimination against students with disabilities.

On August 25, shortly after the country’s ratification of the UN Convention on the Rights of Persons with Disabilities, the Ministry of Education issued an order ensuring the inclusion of orphans and children with disabilities and special educational needs into the educational system.

During the year there were over 170,000 persons with disabilities in the country. While national strategies for reforming the residential childcare system and rehabilitating and integrating persons with disabilities existed, the Government did not provide funding to implement them. Persons with disabilities faced discrimination, social exclusion, poverty, unemployment, low quality education, and lack of access to social protection. The director of the Center for Services for Students with Disabilities noted that the structure of educational institutions and the lack of materials for teaching persons who are deaf or blind were illustrative of the Government’s general failure to meet the needs of persons with disabilities.

Official regulations mandate access to buildings for persons with disabilities, and most government buildings provided such access. While most newly built or reconstructed private buildings were accessible, older buildings often were not. The Government provided few resources to training persons with disabilities. The Social Assistance Division in the Ministry of Labor, Social Protection, and Family and the National Labor Force Agency are responsible for protecting the rights of persons with disabilities.

On October 6, authorities approved a framework regulation on organization, operation, and quality standards of “community houses” for persons with mental disabilities. Such community houses were designed to take the place of boarding facilities for children with mental disabilities.

According to the Association of the Blind, there were 9,000 persons nationwide with visual impairment, of which 3,500 were fully blind. The 2009 ombudsman report noted problems involving persons with visual impairment exercising their right to vote. According to the election law, voters unable to complete a ballot on their own have the right to invite another person to help them vote. However, this procedure jeopardizes the voter’s right to a secret ballot. The ombudsman urged the Government to make ballots available in Braille.

During the November 28 parliamentary election, at one polling station in Chisinau, authorities piloted a new method of direct, secret voting for persons with visual impairments.

In Transnistria children with disabilities and special educational requirements rarely attended school and lacked access to specialized resources.

Although the law provides for equal employment opportunities and prohibits discrimination against persons with disabilities (with the exception of jobs where certain health conditions are required), in practice many employers failed to provide accommodation to persons with disabilities and avoided employing persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were continued reports that Roma experienced violence, harassment, and discrimination. NGOs reported instances in which Roma were denied medical services, told that promised jobs were already filled when they reported to employment centers, and were subjected to arbitrary arrests and harassment. Roma were the country's poorest minority group and many continued to live in unsanitary conditions in segregated communities lacking basic infrastructure. These conditions often led to segregated education and schools with even fewer resources than existed elsewhere in the country.

Official statistics put the number of Roma in the country at 11,600. However, some Romani NGOs estimated it to be as high as 250,000, including 100,000 persons of voting age. NGOs asserted that government census forms allowed persons to identify with only one ethnic group, and that many Roma declined to identify themselves as Roma.

A 2009 report by the NGO National Center for Roma noted several specific cases of police harassment of Roma, including illegal searches and detention, at times accompanied by verbal intimidation, racial slurs, beatings, and extortion demands.

Many Romani children did not attend school, very few received a secondary or higher education, and the Government did not provide education in the Romani language. Romani NGOs estimated that 80 percent of Romani children were illiterate. According to a 2007 UN Development Program (UNDP) report, 43 percent of Romani children between the ages of seven to 15 did not attend school, compared with approximately 6 percent of non-Romani children.

According to both the Bureau for Interethnic Relations and UNDP, the reasons for school nonattendance for Romani children were both objective and subjective. Objective barriers included a lack of financial capacity for parents to support their children's education, as well as health problems and deficiencies related to school infrastructure. Subjective barriers included experiences of discrimination in schools, lack of parental support for their children's education, and early marriages.

The 2009 National Center report mentioned two cases of Romani children denied equal access to education. In one case, officials of a technical college denied a Romani high school graduate free admission, despite the existence of a budget allocation specifically available for Romani students. In another case, officials at a secondary school advised an applicant's father to find "another school because the program was too challenging for his children." Furthermore, they accused the applicants' grandmother of showing up at school and "staging a Gypsy bazaar." The report further noted that as a result, at the time of writing, the children were not enrolled in any school.

The report also noted a case of hazing and the beating of a Romani child by other children. The head of the local child protection office overseeing the case told the center's investigators informally the victim was "nasty, not attending school, does not learn anything, and runs away from the classes." The official also expressed doubt that the incident had ever occurred.

During the year officials at times used language insensitive to Roma when discussing the community. For example, in an official statement issued in July, the Ministry of Education used the term "tsigan" (which has a negative connotation in Romanian) to identify Roma as part of the 15 percent of children in special categories eligible for government scholarships. NGOs including the National Center for Roma criticized this press release and urged authorities to use the term "Roma" when referring to the community.

In August the United Roma Alliance, an NGO to combat discrimination, withdrew its membership from the Government-supported Bureau of Interethnic Relations, which provides office space and financial support for ethnic groups to promote their identities. The alliance announced that it was taking the step because the 2006 Action Plan for Roma aimed at combating discrimination and improving access to education and employment remained unimplemented.

Nicolae Radita of the National Center for Roma noted that the presence of Romani candidates and a Romani political party on the ballot for the early parliamentary elections in November were hopeful signs regarding the overall situation of Roma, although none of these individuals obtained seats in parliament.

In Transnistria authorities continued to discriminate against Romanian speakers. Use of the Latin alphabet is forbidden by the Transnistrian "constitution," which provides for fines of approximately \$40.50 for those who read or write in Latin script. However, as part of the 1992 ceasefire agreement, the Transnistrian authori-

ties allowed eight Latin-script Romanian-language schools (five high schools and three elementary schools) under the Moldovan Ministry of Education to operate in Transnistria. School employees expressed concern that authorities could rescind this arrangement. Approximately 7,700 children in the region attended these eight Latin-script schools. The situation was more difficult for approximately 26 “Moldovan language” Cyrillic-script schools that operated under the Transnistrian Ministry of Education. Authorities failed to provide sufficient funding to those schools. Although lacking books and other supplies, school principals declined to accept donations of books from the Moldovan government because of pressure and threats from Transnistrian authorities.

In 2008 a local NGO initiated a fundraising drive to help repair the Romanian-language Latin-script Harmatca School and prepare it for the upcoming school year. Transnistrian police summoned the school director and interrogated him about the fundraising event. They prohibited him from participating in the campaign and also threatened and intimidated other school officials. Due to the intimidation and threats, school authorities refused further contacts with NGOs.

At year’s end, negotiations between the central government and local Transnistrian educational authorities on the operation of Romanian-language schools had not resumed nor was there progress on returning the confiscated school buildings of the Evrica high school in Ribnita and the Stefan cel Mare high school in Grigoriopol. The Evrica high school continued to meet in temporary rented quarters after Transnistrian authorities confiscated its building in 2004. Since that time, Transnistrian authorities pressured the schools to reregister under their jurisdiction. During the year three parents complained of intimidation and threats that they would be dismissed from their jobs if they sent their children to the Evrica school. Classes often were interrupted by unknown persons who broke windows, and Transnistrian authorities and police repeatedly failed to identify the perpetrators. The central government provided Grigoriopol students with transportation and facilities in the Government-controlled town of Dorotcaia, approximately 10 miles away.

In July the ECHR agreed to hear a case involving the right of 170 Transnistrian children to study in the Romanian language, using the Latin alphabet. The case remained pending before the court at year’s end. In November the ECHR admitted a second case brought by the parents, students, and teachers at three Romanian-language schools; court proceedings were pending at year’s end.

On August 31, just prior to the start of the school year, Transnistrian police raided the high school in the town of Corjova, claiming they were responding to a bomb threat. During their visit, police threatened the school director for displaying the Moldovan national flag and playing the national anthem.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were reports of governmental and societal discrimination based on sexual orientation. According to the gay rights NGO GenderDoc-M, lack of community recognition, negative media portrayals, and condemnation by the Orthodox Church, often led to public ostracism of LGBT persons and their families.

In recent years, public officials made a series of negative comments regarding homosexuality. In 2007, in response to an inquiry on the treatment of LGBT individuals by a member of the European Parliament, Nicholae Esanu, who at the time was deputy minister of interior, responded, “I have more important issues to solve than your gays and lesbians. The situation of sexual minorities in our country is not a priority issue for the Government.”

In 2008, at a meeting with Balti students, Marian Lupu, speaker of parliament, expressed his opinion about public demonstrations of gays and lesbians, saying, “Everyone is free to do whatever they want in private, but public parades of homosexuals are inadmissible.” Similarly, in a press conference on October 18, Acting President Mihai Ghimpu noted that his PL party’s position on LGBT rights was that persons could invoke such rights in private, but that, as Christians, “we should not popularize these kinds of rights.”

On April 28, the Court of Appeals ruled in favor of the Chisinau city government, which had denied a permit by organizers of an LGBT pride parade scheduled for May 2 in Chisinau’s central square. The city mayor’s office had denied the permit, noting its concern over counterdemonstrations planned by Christian groups and NGOs. Mayor Dorin Chirtoaca proposed an alternative location away from the center of the city, but parade organizers rejected that alternative. During the only previous pride parade, held in 2008, police failed to intervene as counterdemonstrators physically attacked parade participants.

On December 6, a 27-year-old gay man took his life following an incident of homophobic harassment by the Moldovan police during the day. The incident started when a police car arrived at a known “cruising area” in Chisinau. The police

asked two men to go with them to the police car, where police officers proceeded to abuse verbally and intimidate the two men with homophobic and derogatory remarks. As a witness to the incident, a male staff member from the local LGBT rights organization Gender Doc-M, attempted to intervene on their behalf. The outreach worker contacted the president of Gender-Doc-M whose intervention resulted in the men's release but not before the police had taken their personal details including their work addresses. Only one of the police officers, Sergiu Gaina, presented his identity; his anonymous colleague was armed. After the incident, the young man went home, called his mother and apologized to her for being gay. Later that night, the man hanged himself.

Gender Doc-M issued a press release, stating that while the exact reasons for the suicide may never be known, this incident, as witnessed by one of their outreach workers, was consistent with a pattern of police abuse of power towards the LGBT community, which included blackmailing or threatening and detaining LGBT individuals at police stations. Authorities failed to launch any investigation into this incident, and subsequent appeals by Gender Doc-M officials to the Interior Ministry and the police received no reply.

In Transnistria homosexual activity is illegal, and LGBT persons were subject to governmental and societal discrimination.

In recent years, over 30 citizens were forced to travel abroad to undertake gender-reassignment surgeries, since no such services were available in the country. While authorities allowed individuals to change their names (for example, from a male name to a female name), the Government did not allow persons to change the gender listed on their identity cards or passports.

*Other Societal Violence or Discrimination.*—NGOs including the League of People living with HIV, the Regional Centre for Community Policies, and “New Life” reported that persons living with HIV faced frequent societal and official discrimination, particularly by medical workers. While various laws enshrine patient confidentiality as an inherent right and prohibit the unauthorized disclosure of personal medical information, NGOs reported numerous cases of an individual's HIV status disclosed by physicians or nurses. Such instances occurred primarily in rural areas and smaller communities with a relatively low number of patients. No measures were taken to prevent such abuses.

Following disclosure of the HIV status of a person, their children were often ostracized in kindergartens and schools, and employers found reasons to discharge the HIV-positive individuals. Such patients avoid taking action against the medical workers from fear of further discrimination. Authorities were investigating a case of medical misconduct in Ungheni, in which a healthcare worker disclosed a patient's HIV status. With the help of local social workers, the victim presented a formal complaint to the local prosecutor's office.

In December 2009 an HIV positive prisoner identified as S.V. was refused access to prison gym facilities. When he complained to the district prosecutor's office about the refusal, the prosecutor replied that it was appropriate to deny this individual access to the facilities because of his HIV status. The Moldovan Institute for Human Rights submitted a complaint to the Prosecutor General's Office requesting disciplinary action against the district prosecutor. The office replied that the nature of HIV is such that S.V. should be in a “certain degree of isolation from the rest of the detainees.” As the institute was preparing to file a formal complaint to the Ministry of Justice, the Penitentiary Department decided to permit S.V. access to some gym equipment.

One of the conditions for immigration to the country is that prospective immigrants obtain a medical certificate containing the results of an HIV test. In three cases during the year, the Interior Ministry's Bureau of Asylum and Migration refused to issue immigration certificates to HIV-positive individuals because such persons suffered diseases presenting a danger to public health. The applicants appealed these rulings, and the cases remained pending before the courts at year's end. In one of these cases, the Supreme Court posted a decision on its website, which disclosed the identity and HIV status of the applicant.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join independent unions and conduct their activities without government interference; however, this right was not always respected in practice. Unions may only acquire legal status if they are members of national, sectoral, or intersectoral organizations. Approximately 46 percent of the workforce was unionized. The law forbids police and members of the armed forces from joining unions.

The law does not provide sanctions for violations of freedom of association, and labor organizations reported that labor inspectorates and prosecutors' offices failed to monitor and enforce the right to organize effectively.

The law provides for the right to strike, except for government workers and workers in essential services such as law enforcement. Healthcare providers and public utility employees are not allowed to strike during duty hours. Political strikes are prohibited. Compulsory arbitration may be imposed at the request of only one party to the conflict. Workers exercised the right to strike by conducting legal strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and the right to organize; however, this right was not always respected in practice.

The law does not stipulate penalties for violating trade union rights, although it does prohibit antiunion discrimination. As a result, prosecutors may reject appeals by trade unions alleging antiunion behavior and during the year, violations of the trade union law remained unpunished. According to the Prosecutor General's Office activity report, released early in the year, there were no cases of criminal investigations initiated by the prosecutors on infringement of right to organize and bargain collectively.

In 2008 the Government ignored a request by the Education and Science Trade Union (ESTU) to enter into collective bargaining for a salary increase. ESTU subsequently organized a picket line in front of government buildings in protest. Upon assuming office, the AEI government announced that teachers would be the only government employees to receive a scheduled annual salary increase. In September 2009 the Government increased salaries for teachers by 24 percent.

In February the formerly government-controlled National Trade Confederation (CNSM), which represented 450,000 workers across almost all economic sectors, joined the International Trade Union Confederation as part of an internal democratization process. The CNSM is a member of commissions on which it can discuss labor-related issues with employers and government representatives.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, with exceptions. The law and a government decision allow central and local authorities, as well as military bodies, to mobilize the adult population under certain conditions, such as military service and national calamities, and employ such labor to develop the national economy. The Government did not invoke this provision during the year.

Men, women, and children were trafficked for commercial sexual exploitation and forced labor, although the numbers of reported cases have declined in recent years. Also, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The NGO Pacifists without Borders accused military centers and conscription commissions of violating the rights of persons who have reached the age of conscription for military service (18 years). The NGO stated that to reach conscription targets, military centers and conscription commissions declared some men fit, both physically and mentally, for conscription without medical examinations and without taking into account their beliefs and values.

The law prohibits forced or compulsory child labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law sets standards for child labor, including the minimum age for employment, hours of work, and working conditions, and prohibits the worst forms of child labor. However, these protections were not effectively enforced, and child labor was a problem. Parents who owned or worked on farms often sent children to work in fields or to find other work.

According to the estimates of the Children's Activities Survey, conducted in 2009 by the Ministry of Labor, Social Protection, and Family, 177,872 children, who represent 29.8 percent of 15 to 17-year-olds, were economically active. The employment rate was as high as 17.6 percent among boys between the ages of five and 11. Approximately half of boys between the ages of 15 to 17 were employed. Among girls this figure was approximately 35 percent. Despite the high employment rate among children, the average number of work hours for children was an estimated nine hours per week. Oleg Budza, chair of the Confederation of Trade Unions, acknowledged the prevalence of child labor, especially in agricultural and sales sectors (markets) as well as the service economy.

There were reports that farms and agricultural cooperatives signed contracts with school directors to have students work during the harvest high season; children

were paid for the work but were pressured to participate. On several occasions during the autumn harvest, the ombudsman responsible for children investigated reports of children working in fields and vineyards and returned the children to their schools, threatening school authorities with fines. During inspections conducted between June and October, the Labor Inspectorate Office (LIO) found 405 persons under the age of 18 working for 14 agricultural farms, including 245 children under the age of 16. As a result of LIO inspections, 40 children were removed from the worst forms of child labor, including five children under 15 years old working in the agricultural sector.

The minimum age for unrestricted employment is 18 years. Persons between the ages of 16 and 18 are permitted to work under special conditions, including shorter workdays. Individuals falling within this age range are prohibited from night, weekend, or holiday shifts and are not permitted to work overtime. Fifteen-year-old children may work only with written permission from a parent or guardian. The most common labor violations involving persons under the age of 18 were failure to issue work contracts, illegal overtime, scheduling work during school hours, and underpayment or nonpayment of wages.

Children worked illegally picking apples, sewing in factories, working as waiters, and in construction. Children also regularly worked in theaters, car washes, markets, and transportation. During inspections, one of the most commonly identified violations involving child labor was a lack of legally required labor contracts. In addition to illegal child labor, the inspections uncovered other violations involving children, such as lack of proper safety equipment and education, the participation of children in heavy labor or work with dangerous chemicals, as well as violations in the areas of compensation and vacation calculation.

Efforts by the LIO to enforce child labor laws did not effectively prevent violations. Between January and October, the LIO uncovered 50 cases involving the employment of individuals younger than 18 years, and 51 cases of children working illegally without a work record card or signed work agreement. Of these 101 child labor violations, the LIO referred eight to courts for further action. While the LIO could stop ongoing child labor activities, it lacked the authority to punish violators.

Through September, the LIO reported 454 violations against economic agents for breaching labor legislation, and forwarded the documentation to the courts. There were 32 contraventions impeding the activity of the public officers forwarded to CCECC for farther investigations and subsequent action.

There were reports that children, including those in state-run orphanages, were trafficked within and to points outside the country for commercial sexual exploitation, labor, and begging. The law provides for 10 to 15 years' imprisonment for persons involving children in the worst forms of child labor, and under aggravated circumstances, the sentence could be life imprisonment.

*e. Acceptable Conditions of Work.*—The minimum monthly wage for the private sector of the economy was amended on February 1, and set at 1,100 lei (\$91) per month. The Ministry of Labor, Social Protection, and Family announced that all economic agents had four months—until May 1—to adjust their internal policies and salary calculations to the new minimum wage. The amount was established after lengthy negotiations with unions and company owners. The minimum monthly wage for the public sector is established by the Government and was set in January 2009 at 600 lei (\$50) per month. In October the National Bureau of Statistics reported that the average monthly salary was 2,957 lei (\$238).

The law sets the maximum workweek at 40 hours with extra compensation for overtime and provides for at least one day off per week. LIO field visits led to the sanctioning of violators when discovered, but staff and funding deficiencies limited the frequency of such visits. While the country had few foreign or migrant workers, the law gives them equal status to domestic workers.

A thriving informal economy and black market accounted for a significant portion of the country's economic activity. Union representatives believed that the shadow economy employed approximately 30 to 40 percent of the workforce.

Under the labor code, work contracts are required for all employment, even on private farms. Registration of contracts with local officials is required, and the copies sent to the local labor inspectorate. The 2009 LIO report noted that joint inspection teams comprised of the LIO, tax inspectorate, and Interior Ministry, operating in April and May 2009, identified approximately 900 persons employed at about 250 enterprises without such contracts, a further indication of the shadow economy. There were also no reports of such contracts offered in the agricultural sector, and the central government did not have a mechanism to monitor compliance with the requirement.

The Government is required to establish and monitor safety standards in the workplace, and the LIO was responsible for enforcing health and safety standards.

During the first nine months of the year, the LIO performed 5,112 inspections, 2,578 of which were health and safety inspections, in which the LIO documented 34,165 health and safety infringements. During the same period, the LIO inspected 3,253 companies employing 198,000 persons, and uncovered 100 companies employing 560 persons without proper documentation.

The law provides workers the right to refuse work if conditions represent a serious health or safety threat, but there were no reports that workers exercised this right in practice. Poor economic conditions led enterprises to economize on safety equipment and provide inadequate attention to worker safety. LIO representatives noted severe financial and legal constraints on inspectors' activities, ranging from lack of Internet access, training, and fuel for inspectors, to a system of incentives that drives employers to pay minimal fines for violations rather than address underlying problems.

---

## MONACO

The Principality of Monaco has an estimated resident population of 35,000, of whom approximately 7,000 have Monegasque citizenship. It is a constitutional monarchy in which the sovereign prince plays the leading governmental role. The prince appoints the Government consisting of a minister of state and five counselors responsible for finance and economy, internal affairs, health and social affairs, environment and city planning, and external affairs. The prince shares the country's legislative power with the popularly elected 24-member National Council. In 2008 the country held multiparty elections for the National Council that were considered free and fair. The National Council meets at least twice a year to consider bills proposed by the prince's government. The prince may dissolve the National Council at any time, provided that new elections are held within three months. The Crown Council has seven members, three chosen directly by the prince and four chosen by the prince from nominees put forward by the National Council. Security forces reported to civilian authorities.

The electoral system allows citizens to change many aspects of their government, but there is no constitutional provision to allow the citizens to change the monarchical nature of the Government.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—The country has one detention center/penitentiary, which generally met international standards, and the Government permitted monitoring by independent human rights observers. Non-Monegasque convicted persons sentenced to long prison terms are generally sent to France to serve their term while citizens of Monaco remain incarcerated in Monaco.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the national police and the Carbiniers du Prince, the ceremonial military unit which guards the prince's palace. The Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Arrest warrants are required, except when a suspect is arrested while committing an offense. The police must bring a detainee before an investigating magistrate within 24 hours to inform the detainee of the charges against him and of his rights under the law. Most detainees were released without bail, but the investigating magistrate may order detention on grounds that the suspect might flee or interfere with the investigation of the case. Monaco and France work cooperatively to return any fugitive who flees Monaco into France. The investigating magistrate may extend the initial two-month detention for additional two-month periods indefinitely. Detainees generally have

prompt access to a lawyer. The investigating magistrate customarily permits family members to see detainees.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. Under the law the prince delegates his judicial powers to the judiciary.

*Trial Procedures.*—The constitution and the law provide the right to a fair, public trial, and an independent judiciary generally enforced this right. The defendant enjoys a presumption of innocence. Trials are public, unless one of the following conditions exists: the trial involves a person less than 18 years of age, either the prosecutor or defendant requests a closed trial, publicity would cause public unrest, or the public trial would be morally prejudicial. In criminal cases a three-judge tribunal considers the evidence collected by the investigating magistrate and hears the arguments made by prosecuting attorney/s and defense attorney/s. Juries are not used. The defendant has the right to be present and the right to counsel, at public expense if necessary. Defendants have the right to question witnesses against them and to present their own witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy the right of appeal. After being found guilty and receiving a definitive sentence, foreign convicts are transferred to a French prison to serve out their terms. All citizens enjoy these rights.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—The country is subject to the European Court of Human Rights. During the year the court issued no judgments or decisions in which the country was involved.

*Civil Judicial Procedures and Remedies.*—The country has an independent and impartial judiciary in civil matters, and residents have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Plaintiffs regularly use available administrative remedies to seek redress for alleged wrongs.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. However, articles 58 and 60 of the Penal Code prohibit public denunciations of the ruling family, provisions that the media followed in practice. The law provides for punishment of six months' to five years' imprisonment for violation of articles 58 and 60. No one was charged with violating these statutes during the year.

As limited by the provisions of articles 58 and 60, an independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 70 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The country is a party to the 1951 Convention relating to the Status of Refugees, and on June 16 signed the 1967 Protocol relating to the Status of Refugees. On June 18, the Government also signed a cooperation agreement with the Office of the UN High Commissioner for Refugees.

*Protection of Refugees.*—In theory the Government is committed to following international norms regarding protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In practice the country depends on bilateral arrangements with France in all matters relating to refugees and asylum. During the year there were no reported cases of the Government granting refugee status or political asylum. Illegal residents are referred to the French authorities and taken out of the country. The Government refers refugee requests to the French government.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The authority to change the Government and to initiate laws rests solely with the prince. The constitution can be revised by common agreement between the prince and the elected National Council.

*Elections and Political Participation.*—As head of state, the prince names the minister of state, in effect the prime minister, frequently a French citizen chosen in coordination with the Government of France. The prince also names the five other counselors who make up the Government.

Only the prince may formally initiate legislation, but the 24-member National Council may propose legislation to the Government. All legislation and the adoption of the budget require the National Council's assent.

Elections for the National Council are held every five years and are based on universal adult suffrage and a secret ballot. The 2008 National Council elections were considered free and fair. Several political parties exist, operate freely, and are active on both the national and municipal level.

There were six women in the 24-member National Council, and two women in the seven-member Crown Council.

There were no members of minorities in the Government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of governmental corruption alleged during the year, but no formal proceedings against government officials for corruption. Public officials are not subject to financial disclosure laws.

The law provides for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While the Government did not restrict the establishment or operation of groups devoted to monitoring human rights, none existed in the country during the year, nor did the country have an ombudsman for human rights problems. The country's legislature (the National Council) did not have a committee charged with oversight of human rights. The Government is committed to full cooperation with any UN or other international human rights organization, but no monitoring visits by international human rights organizations took place during the year.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution provides that all nationals are equal before the law. It differentiates between rights accorded to nationals (including preference in employment, free education, and assistance to the ill or unemployed) and those accorded to all residents (including inviolability of the home). The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced it.

*Women.*—Rape, including spousal rape, is a criminal offense. There were no arrests or prosecutions for any form of rape during the year.

Instances of violence against women were rarely reported. Spousal abuse is prohibited by law, and victims may bring criminal charges against their spouses.

Sexual harassment is illegal, and the Government effectively enforced the law. There were no reports of sexual harassment this year.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception, skilled attendance during childbirth, and women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men.

Although the law provides for the equality of men and women, there is no institution with a mandate to monitor gender inequalities. The law governing transmission of citizenship provides for equality of treatment between men and women. Women were well represented in professions, but less well in business and financial professions. While no data was available, observers believed that there was a small and gradually diminishing gender pay discrepancy.

*Children.*—Citizenship may be transmitted through either parent. Citizenship is not derived from birth within the territory. The Government registers all births immediately.

Child abuse was generally believed not to be a serious problem. The Government sponsors public service programs against child abuse, and the country's helpline service provides a means of reporting and addressing child abuse.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were no reports of societal violence, harassment, or discrimination against members of any religious group. The Jewish community numbered approximately 1,000 persons. There were no reports of anti-Semitic incidents or attacks.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within the country.

*Persons With Disabilities.*—The constitution and the law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services. The Government effectively enforced these provisions. There was no reported governmental or societal discrimination against persons with disabilities. The Government through the Ministry of Health and Social Affairs has largely fulfilled the legal requirement to provide access to public buildings for persons with disabilities. According to government statistics, approximately 2 percent of minors (persons under 18) were considered either to have disabilities or to be in danger and therefore in need of assistance from the Social Welfare Services.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—No specific laws protect lesbians, gays, bisexual, or transgender persons from discrimination. The law imposes a punishment of five years' imprisonment "for those who harbor hatred or violence towards a person or group of persons, based on their sexual orientation, real or supposed." However, under the law, a racial or sexual discrimination infraction is not seen as an aggravating circumstance, as it is in France. In July the first-ever case of gay discrimination was reported to the court.

*Other Societal Violence or Discrimination.*—There were no reports of violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—By law, workers are free to form and join independent unions of their choice, but fewer than 5 percent of workers were unionized. Non-Monegasque workers, who constitute approximately 97 percent of the work force, have the right to join unions. Of the larger foreign work force, nearly 70 percent are French or Italian citizens. Unions were independent of both the Government and political parties.

The constitution and law provide for the right to strike, but government workers may not strike. The law protects the right of workers to belong to a trade union. Failure to respect this right is punishable by a fine or imprisonment from three months to a year.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the free exercise of union activity, and workers exercise this right in practice. In reality, strike actions are infrequent. Employer organizations and trade unions negotiate agreements on working conditions. Collective bargaining is protected by law; however, it was rarely used because of the widespread use of individual contracts. Labor contracts are negotiated between employers and each worker individually and are subject to work law and regulations.

Antiunion discrimination is prohibited. Union representatives may be fired only with the agreement of a commission that includes two members from the employers' association and two from the labor movement. During the year no cases were brought before this commission. Allegations of dismissal for union activity may be

brought before the labor court, which can order redress, such as the payment of damages with interest.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution and law prohibit forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The minimum age for employment is 16 years old; those employing children under that age may be subject to a fine under criminal law. Workers between the ages of 16 and 18 may not perform nighttime work. The counselor of government for the interior is responsible for enforcing the child labor laws and regulations, and they were effectively enforced.

*e. Acceptable Conditions of Work.*—The legal minimum wage for full-time work is the French minimum wage, 8.86 euros per hour (\$11.87) plus a 5-percent adjustment to compensate for the travel costs of the three-quarters of the workforce who commute daily. The minimum wage provided a decent standard of living for a worker and family. Most workers received more than the minimum wage.

The legal workweek is 39 hours. The Government allows companies to reduce the workweek to 35 hours if they so choose. Regulations provide for a minimum number of rest periods and premium pay for overtime. Law and government decree fix health and safety standards, which health and safety committees in the workplace and the Government labor inspector enforced.

Workers have the right to remove themselves from dangerous work situations without jeopardy to their employment, and authorities effectively enforced this right.

---

## MONTENEGRO

Montenegro is a mixed parliamentary and presidential republic with a population of 670,000. Both the parliament and the president are elected by popular vote. The president nominates the prime minister, who must win parliamentary approval. International observers reported that parliamentary elections held in March 2009 met almost all international standards but were marked by frequent allegations of electoral fraud and a blurring of state and party structures.

Principal human rights problems included police mistreatment of suspects in detention; substandard prison conditions; police impunity; lengthy pretrial detention; inefficient trials; intimidation of journalists; mistreatment of refugees; widespread reports of government corruption; denial of public access to information; discrimination against women; trafficking in persons; discrimination against persons with disabilities; discrimination against ethnic minorities, particularly Roma; intolerance based on sexual identity; and infringement on the rights of workers.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

On June 29, the High Court convicted police officer Rade Popovic of the June 2009 killing of Danijel Dedejic and sentenced him to six years in prison. The officer, who was off duty at the time, punched the victim in the face, and the victim died six days later.

During the year authorities continued to pursue several cases involving charges of war crimes committed during 1991-99. The trial of eight officers and soldiers of the Podgorica Corps of the former Federal Republic Yugoslav Army, who were accused of the 1999 killing of 23 Albanian civilians in Kaludjerski Laz near Rozaje, continued at year's end. One defendant was being tried in absentia; the others remained in detention. The families of two of the alleged victims filed civil suits claiming compensation of 15,000 euros (\$19,950) and 20,000 euros (\$26,600), respectively, for mental anguish.

On April 22, the special prosecutor for the suppression of organized crime, corruption, terrorism, and war crimes, detained seven former military and police personnel and charged them with war crimes against Muslims in 1992-93 in the Bukovica region. The trial began on June 28. On December 31, the Bijelo Polje Superior Court acquitted the accused for lack of evidence.

Some nongovernmental organizations (NGOs), media, and opposition figures alleged that authorities manipulated the processing of the war crimes cases ahead of the May local elections. Twenty families whose members were victims of the alleged crimes filed civil suits with the Podgorica Basic Court. The court decided the civil case of Saban and Arifa Rizvanovic and ordered the Government to pay each 10,000 euros (\$13,300) for physical and mental anguish. The Belgrade Fund for Humanitarian Law, the Rizvanovic court representative, voiced dissatisfaction with the level of compensation.

The trial continued of nine defendants charged with the deportation to Bosnia and Herzegovina of Muslims and Serbs who fled to Montenegro from Bosnia in 1992. The deported Bosnians were reportedly killed by Republika Srpska forces, and the deported Serbs, mostly deserters from the Republika Srpska army, were turned over to that army. While four defendants remained in custody; another four were arrested in Belgrade on October 29, in accordance with the new bilateral extradition agreement between Serbia and Montenegro. One defendant (Dusko Bakrac) remained at large. On November 23, unknown persons vandalized the vehicle of Slobodan Pejovic, a former colleague of those being charged, who testified in the case on October 20. This was the fifth incident involving vandalism against Pejovic. The perpetrators were never found, although police have maintained surveillance over the building in which Pejovic lived with his family. Pejovic told media that these instances of vandalism represented a continuation of pressure on him and an attempt to destabilize him as a person because of his testimony. Several hours after his car was demolished, his daughter was fired from the Ministry of Tourism. The ministry stated that she was fired not for political reasons but because she had completed her internship. Pejovic claimed that the secret service was behind the measures against him. Referring to the statements by some witnesses heard during the trial, the Association of Families of Deported Bosnian Citizens announced that they would file legal charges accusing Pejovic for being an accomplice in the crime.

On December 6, the Court of Appeals revoked a May decision of the Podgorica Superior Court that found six former Yugoslav People's Army soldiers and reservists guilty of war crimes in 1991 and 1992 in the Morinj prisoner of war camp and sentenced them to prison terms ranging from one and one-half to four years. The Court of Appeals ordered the Superior Court to repeat the trial. The five accused who had been apprehended were released, while one, convicted in absentia, remained at large at year's end.

In July authorities undertook a search for a suspected mass grave containing the bodies of Kosovo Albanians killed on the territory of Montenegro during the 1990s; no evidence of the graves was found.

On February 17, authorities extradited Stanko Kovacevic to Croatia. They arrested him in November 2009, based on a 2001 Interpol arrest warrant issued in Zagreb alleging that he committed war crimes in Croatia during the 1990s.

On March 24, police arrested Nikola Munjes, a refugee from Benkovac, Croatia, on a Croatian war crimes warrant. They held him in detention after his arrest, pending possible extradition.

On August 24, authorities extradited Marin Krivosic to Croatia where he was wanted for war crimes allegedly committed in 1991. On December 28, in Pljevlja, police arrested Milojko Nikolic, a member of the former Serbian paramilitary group "Jackals," who was suspected of involvement in war crimes against Albanian civilians during the war in Kosovo. The recent agreement on extradition between Montenegro and Serbia would require authorities to extradite him to Serbia, where former "Jackals" were on trial on the charge that in 1999, in the village Cuska, in Kosovo, they killed 44 Albanian civilians and destroyed or set fire to more than 40 houses.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, police at times beat and harassed suspects while arresting them or detaining them for questioning.

In June the NGO Youth Initiative for Human Rights (YIHR) asserted that the number of cases of police misconduct decreased during the first six months of the year. However, the NGO also noted that citizens reporting misdeeds of police officers faced difficulties: investigations of such cases were slow, evidence was difficult to obtain, and officers often remained on duty while they were being investigated.

In a report on its 2008 mission to the country that was released in March, the Council of Europe's Committee for the Prevention of Torture (CPT) noted that the CPT mission members heard many accusations of police mistreatment of persons in their custody, primarily in the first hours of detention in an effort to extract confessions. Both men and women complained of "slaps, punches, and kicks and blows with truncheons, gun butts, or other hard objects." The report stated that in several

instances, the delegation noted evidence consistent with the charges in the medical documentation at prison establishments. Authorities responded by describing a number of measures they have taken to discourage such practices.

During the year the Department for Internal Control of Police Operations received 95 complaints concerning police conduct, compared with 112 during 2009. The department found 14 cases justified and 81 unjustified. Police stated that they took disciplinary actions in response to those complaints they considered justified.

Although there is a legally mandated agency, the Council for Civilian Control of Police Operations, to which citizens could address complaints of abuse, it is only empowered to make recommendations. Since its establishment in 2004, the council has reviewed and forwarded approximately 400 citizen complaints. In some cases, police failed to respond to these recommendations. The council publicly invited police officers to inform the Police Directorate and prosecutors about possible police mistreatment of citizens and other irregularities.

Aleksandar Zekovic, a member of the council, accused the Police Directorate of failing to punish adequately some officers found to have abused their office. The police rejected those claims as unfounded. A group of NGOs protested against the Parliament's failure to confirm the renomination procedure of the NGO representative in that body (Mr. Zekovic), while it endorsed the nominations of other four members.

Observers noted that during the year, police filed fewer countercharges against individuals who reported police abuse than in the past. It was widely believed that the practice of filing such charges contributed to the reported reluctance of citizens to report police mistreatment.

Delays in processing some allegations of police abuse at times led to their dismissal by the courts because they had not been filed in a timely manner. For example, in September 2009 the Basic Court in Podgorica cited this reason when it shelved the indictments of police officers Darko Delic, Darko Knezevic, Dragan Krstovic, Velimir Rajkovic, and Slavko Minic, who had been accused of mistreating Milovan Jovanovic.

During the year there were a number of incidents in which authorities were charged with, or convicted of, mistreating persons in their custody. For example, authorities in Herceg Novi charged police officer Bozidar Jaukovic with mistreating Milos Konjevic after Jaukovic arrived on the scene of an altercation on July 21. Konjevic claimed to have been severely beaten by Jaukovic.

The High Court in Bijelo Polje opened an investigation against police officer Dejan Radevic. Radevic was being investigated for excessive use of force while arresting Asmir Dacic on December 13 in Rozaje.

No new information was available regarding the May 2009 case of police officer Kenan Osmankadic, who wounded mental patient Batric Knezevic while escorting him to the mental hospital in Kotor. Authorities acknowledged that Osmankadic made some professional mistakes and pressed charges against him.

In August the Danilovgrad Basic Court sentenced police officer Dragan Djukic to three months in prison for the 2008 mistreatment of Prelja Djokic in the Konik district police station in Podgorica.

On June 11, the Podgorica Basic Court sentenced police officers Milan Kljajevic and Milanko Lekovic to five months in prison and Ivica Paunovic to three months for complicity in the mistreatment of Aleksandar Pejanovic while he was in custody in 2008. The court acquitted three other police officers: Bojan Radunovic, Dobrivoje Djurisic, and Goran Stankovic. The convicted police officers appealed. In response to statements made by Stankovic, the prosecutor's office started and then stopped a new trial of Kljajevic, Lekovic, Paunovic, Radunovic, and Djurisic. Aleksandar Pejanovic then filed a legal case against Radunovic and Djurisic. In December 2009, during the trial, Stankovic alleged that several of his colleagues, mostly supervising and higher ranking officers, committed a series of offenses related to ordering, enabling, and covering up the torture of Pejanovic, including forging official records.

A trial was underway in the Basic Court of Bar in a case involving earlier alleged police misconduct, including five Bar police officers (Nesko Jaredic, Veselin Buskovic, Rifat Ramusovic, Ivica Raicevic, and Jagos Pivljanin) charged with beating Predrag Djukic and Ivan Abramovic in a police station in 2007. There were no reported developments in the case of two former police officers charged with abuse of power, extortion, and mistreatment of a flower vendor in Herceg Novi.

During the year the Berane Basic Court charged police officers Ivan Bojovic, Nebojsa Veljic, and Zeljko Devic with abusing four Kosovo Albanians detained in 2007. The trial was pending with the court at year's end.

On June 10, the Basic Court in Bar sentenced police officer Mirko Banovic to three months in prison and issued suspended sentences to Vuksan Damjanovic, Jugoslav Raicevic, and Nenad Krstajic for the 2005 beating of Milika Bukilic in Bar.

No new information was available concerning the investigation of former Podgorica police chief Milan Vujanovic, who reportedly ordered the beating of prisoners during a raid on Spuz Prison in 2005. In their report for the second quarter, the domestic NGO YIHR reported that the number of cases in which police and other security officers were involved in torture was lower than in the previous period, but the number of cases of politically motivated violence was at a "level to cause concern."

On June 25, a group of young men attacked the teenage son of the opposition Movement for Change party leader Nebojsa Medojevic, inflicting minor injuries. Three men were arrested. The attack followed a physical assault on Medojevic himself outside his home earlier in the year, shortly after he had given a high-profile interview during which he publicly named a suspected criminal figure. Medojevic asserted the attack was politically motivated. The Police Directorate strongly denied the claim; however, the Council for Civilian Control of Police Operations concluded that police exceeded their authority by expressing a view about the lack of political motivation for the incident.

*Prison and Detention Center Conditions.*—Prisons and facilities for holding pretrial detainees did not meet international standards and were generally dilapidated, overcrowded, and poorly maintained, although there were some improvements over previous years.

In the report of its 2008 visit, released in March, the CPT was especially critical of conditions in pretrial detention centers. In particular, it noted an "alarming" level of overcrowding in the remand prison in Podgorica; at the time of the CPT visit, 512 prisoners were in a facility whose official capacity was 320. According to the report, in many cells prisoners had only mattresses or blankets on the floor on which to sleep. Prisoners ate their meals in their cells, but there were not enough places for all of them to sit. There was little opportunity for exercise.

The press reported that inmates in Spuz and Bijelo Polje prisons went on hunger strikes several times during the year after claims of beatings, overcrowding, poor medical conditions, and bans on extraordinary visits. Prison administrators categorically denied those accusations.

YIHR claimed that the ombudsman did not receive all letters sent by inmates, many requests for access to free information remained unanswered, food and water in prison were of poor quality, and prison management banned many furloughs normally granted to prisoners.

In contrast with the previous year, there were no fatalities or attempts to commit suicide or self-inflicted injuries by prisoners or detainees. During the year there were five hunger strikes against lengthy criminal proceedings, severe punishment, and refusals to grant pardons. Disciplinary procedures were initiated against four prison staff.

In October the total prison population was 1,438 persons, of whom 780 were convicts and 658 were detainees. The maximum national prison capacity is 1,130 inmates. Approximately 1,000 convicted persons were waiting to serve their prison sentence. To reduce overcrowding, the Assembly approved an amnesty law on July 27.

In contrast with previous years, there were no reports of juveniles held in the same cells with adult prisoners.

Although the Spuz Prison hospital contains a department for treating alcoholics and drug addicts, it was overcrowded, and such prisoners, along with mentally ill prisoners, were often treated in the Kotor psychiatric hospital, which lacks facilities and personnel to house mentally ill patients together with dangerous convicts.

There were a number of cases in which prison officials were accused of, charged with, or convicted of, mistreating inmates. The family of Zeljko Mrvaljevic called on authorities to punish the officials who, they alleged, ordered his beating in prison on January 16. Prison personnel were alleged to have beaten Mrvaljevic in the belief that he smuggled 11 mobile telephones into Spuz Prison. After the beating, officials transferred Mrvaljevic to Bijelo Polje Prison in order, his parents alleged, to distance themselves from his injuries.

On February 12, the State Prosecutor's Office rejected as unfounded civil cases against Spuz Prison wardens filed by the families of inmates Dalibor Nikezic and Igor Milic, who claimed that in October 2009 wardens severely beat them. Earlier, after analyzing security camera footage and documents related to the reported attacks, ombudsman Sucko Bakovic declared that there had been no reason for the use of force in the case, especially not to the extent shown in the video. The footage in question was posted online and shows uniformed staff hitting prisoners who were being held down on the floor by prison guards. Following the ombudsman's intervention, prison officials initiated disciplinary proceedings against three wardens. However, the chief state prosecutor, the Ministry of Justice, and prison management

concluded that the inmates were “resisting,” and that the guards Igor Markovic and Radovan Todorovic did not overstep their authority. Some NGOs believed that the prosecutor’s office should have investigated the case or provided an explanation for not doing so and more generally they criticized the prosecutor’s office and prison authorities for their apparent unwillingness to confront prison torture. On November 2, the prison director informed the media that four wardens were demoted and the prison management removed in connection with this incident.

There were no new developments in the case of two female prison guards accused of beating and injuring detainee Vladana Kljajic in 2008 in the women’s detention unit in Spuz Prison. Prison authorities claimed that Kljajic broke prison rules and was appropriately disciplined but not beaten. Prison authorities filed charges against Kljajic for assaulting an official, while Kljajic’s mother filed charges against the prison wardens.

On October 5, the Podgorica High Court imposed sentences of two and a half to six years on four persons for distributing heroin inside Spuz Prison to inmate Alen Harovic, who was found dead in his cell in October 2009.

On March 17, the Basic Court in Danilovgrad determined that authorities overseeing Spuz Prison were responsible for the 2007 death of prisoner Dragan Kastratovic by electric shock and ordered the prison to pay financial compensation to his family.

Prisoners had reasonable access to visitors and were permitted religious observance. Authorities permitted visitors and detainees to submit complaints to judicial authorities and ombudsman without censorship and to request that authorities investigate credible allegations of inhumane conditions. There was a special complaints box in Spuz Prison in which the inmates could file grievances directly with the ombudsman. However, several families of imprisoned or detained persons claimed that serious violations of those rights occurred. Authorities investigated credible allegations of inhumane conditions, but some investigations took place only after media campaigns or the ombudsman’s recommendation. NGOs and human rights activists often criticized the results of those investigations. The Ministry of Justice, responsible for operating the national prisons, monitored prison and detention conditions.

The Government permitted monitoring visits by independent human rights observers, and they occurred during the year, including visits undertaken on short notice. Human rights observers, including the International Committee of the Red Cross (ICRC) and domestic NGOs, were allowed to visit prisons and detention units and to speak with the prisoners without the presence of a guard. The ICRC and the Helsinki Committee of Montenegro made several visits during the year. Their visits took place in accordance with the ICRC’s standard modalities. Representatives of the Office of the Human Rights Ombudsman routinely visited prisons without prior notice, meeting with detainees and inmates.

The ombudsman may consider cases involving violations of human rights and freedoms committed by government authorities, whether by their actions or their inaction, and can undertake activities to remedy such violations. The ombudsman can also deal with general issues that are important for the protection and promotion of human rights and freedoms and can cooperate with appropriate organizations and institutions dealing with human rights and freedoms. However, the ombudsman may act upon complaints about ongoing judicial proceedings only in cases of delay, if an obvious abuse of procedural powers occurred, or if court decisions have not been executed. The ombudsman may, without prior notification, undertake an inspection of all spaces in prisons and other premises in which individuals deprived of their liberty are held. The ombudsman may provide an opinion on the protection and promotion of human rights and freedoms, upon the request of the authorities deciding on such rights.

The law permits inmates to serve their sentences through voluntary service in a state institution or agency, but this alternative, which observers noted could reduce overcrowding, was used only in a few cases.

Authorities continued to make improvements in the prison system. New spaces were built in prisons in Spuz (8,300 square feet) and Bijelo Polje (2,150 square feet). A new unit for prisoners serving shorter sentences was established in Spuz. Repairs were made on the electric and water supplies and sewage facilities in both prisons and existing facilities were renovated. The CPT’s March report acknowledged a number of improvements made in the years before its 2008 visit.

To improve the general qualifications of prison staff, on March 11, Spuz Prison and the Police Academy signed a memorandum of understanding on the training and education of prison staff. During the year approximately 82 percent of prison staff had at least a secondary education. The memorandum described the planning,

organization, and administration of a two-year program for training guards and other employees working within the prison.

In its 2008 report, which was released in March, the CPT pointed out many shortcomings in prison and detention centers. In their response, also released in March, the authorities, who had been aware of the CPT's concerns since its 2008 visit, described measures undertaken to correct some of the abuses it observed. The response described measures authorities had taken to improve the hygienic and technical conditions (potable water, daily light, ventilation, wooden beds, and separate bathrooms) in police detention centers. They reported they had acquired and installed video surveillance equipment in a number of police facilities. Authorities reported that they had developed information forms in Montenegrin and other languages informing detainees of the reasons for their detention, their right not to make a statement, to have a defense attorney, and to inform someone close to them about their detention. Authorities reported to the CPT that they had introduced a hotline for complaints about police behavior; they had taken organizational measures to improve the timely provision of meals for detainees; and a police code of ethics was adopted. The Government response described other concrete measures they had taken to reduce the mistreatment of prisoners, improve detainees' contacts with the outside world, improve their medical treatment, and improve conditions in the Komanski Most Children and Youth Center and the Ljubovic Children's Correction Center. No independent reports were available to confirm or evaluate these improvements.

Authorities completed a project to equip detention units in all police stations with video surveillance equipment in an effort to reduce police abuse. The main prison in Spuz opened a new extradition pavilion that, on November 1, had seven detainees, and a new pavilion to house 144 minors, women, foreigners, and inmates serving sentences of less than six months. The Government renovated existing facilities and installed a permanent water supply to the prison; however, adequate facilities for treating mentally ill prisoners or those with special needs were lacking.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national and border police were responsible for law and order. They worked under the supervision of the Ministry of Interior and Public Administration and were generally effective. In 2009 internal control responsibility was moved from the Police Directorate to the Ministry of Interior and Public Administration in an effort to improve control of the police force. The Agency for National Security, a separate entity within the Ministry of Interior and Public Administration, has responsibility for intelligence and counterintelligence. The Ministry of Defense is responsible for military and security matters. There is a military security department within the Ministry of Defense.

The Assembly's Committee for Defense and Security held regular meetings with the directors of the national police and the Agency for National Security as well as the minister of defense. The Assembly is responsible for overseeing the democratic and civilian control of the army, police and security services in accordance with the Law on Parliamentary Oversight of the Security Services adopted on December 22. Pursuant to the amendments to the Law on Secrecy of Information, Assembly members sitting on the Committee for Defense and Security had access to classified documents without prior approval or security clearances.

A report by the European Commission indicated that there was "some progress" in policing and police reform over the 12 months that ended in August and that a "track record" was being established in this regard. The commission reported that disciplinary measures were imposed on 124 police officers in this period, while from February to July, criminal charges were brought against 27.

*Arrest Procedures and Treatment While in Detention.*—Arrests require a judicial warrant or a "strong suspicion that the suspect committed an offense." Police generally made arrests with warrants based on sufficient evidence. The law provides that police must inform arrested persons immediately of their rights, and authorities respected this right in practice. The police have a maximum of 24 hours to inform the family, common law partner, or a social institution of an arrest. Authorities may detain suspects for up to 48 hours before bringing them before a judge and charging them. At arraignment the judge makes an initial determination about the legality of the detention. In practice, arraignment generally occurred within the prescribed period. The law permits a detainee to have an attorney present during police and court proceedings. Detainees generally had prompt access to family members. There is a system of bail; however, it was not widely used because citizens could rarely raise money for bail. The law sets the initial length of pretrial detention at 30 days but provides for the possibility of an extension to five more months and al-

lows a defendant to be detained for up to three years before a first-instance verdict is issued.

Police continued to summon suspects and witnesses to police stations for “informative talks,” usually without holding them for extended periods. In principle those who have been summoned have the right not to respond.

The law forbids use of force, threats, and coercion by police to obtain evidence; however, during the year there were a few allegations that police sometimes used those methods to obtain evidence. NGOs and human rights observers noted that the incidence of such practices had greatly declined in the previous two years.

Long trial delays frequently led to lengthy pretrial detention. The law prohibits excessive delays by authorities in filing formal charges against suspects and in opening investigations; however, such delays occurred regularly. The law on the right to trial within a reasonable time was not implemented effectively; almost all complaints about delays were rejected on procedural grounds. Trials themselves were subject to frequent interruptions. Pretrial detainees, on average, accounted for 50 percent of the prison population. The average length of pretrial detention was approximately six months and 10 days.

On August 26, those portions of a new Criminal Procedure Code relating to war crimes and organized crime and corruption entered into force. The Ministry of Justice had earlier stated that the judiciary was prepared to apply the entire code during the year; however, implementation of the remaining elements was postponed by one year.

*Amnesty.*—On July 27, the Assembly adopted an amnesty law that allows for a 20 percent reduction of some prison sentences. The law applies to persons who were serving sentences as of the day the law came into force, to persons convicted by foreign courts but serving their sentences within the country, and to persons convicted of sentences up to three months who had not yet started to serve their sentences. The amnesty did not include persons convicted of human trafficking, war crimes, crimes against humanity, rape, and those pardoned in accordance with previous laws. According to the law, sentences of three months or less should be suspended.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, some observers asserted that the judiciary was not always independent and that government officials at times influenced prosecutors for political and personal reasons. Some observers contended that the executive and legislative branches, through the process of proposing and adopting the budget for the courts, could influence the independence of the judiciary, as well as through the legal framework, which leaves space for political influence. Many observers asserted that the system of appointing judicial and prosecutorial officials contained inadequate protection against the exertion of political influence on the judiciary and that the absence of a merit-based career system, together with the system of random allocation of cases, undermined its quality. A large backlog of cases, frequently primitive courtroom facilities, lack of sufficient administrative support for judges and prosecutors, shortage of skills, cumbersome procedures, and judicial corruption also remained problems.

Although many cases took years to resolve, courts continued to make progress in reducing the backlog of civil and criminal cases. They accomplished this by establishing deadlines for solving priority cases, using greater flexibility in reassigning judges from one court to other as needed, and equipping courtrooms with modern technology. However, many suggested that these measures may have had an adverse effect on quality. Priority was given to the cases involving corruption, organized crime, war crimes, drugs, illegal construction, money laundering, human trafficking, and family violence.

The Judicial Council is responsible for the election, discipline, and removal of judges. Since the existing Judicial Council was established in 2008, several judges have been fired, suspended, or sanctioned for unprofessional behavior. Beginning in June 2009, the Judicial Council prohibited judges from sitting on various government commissions due to the incompatibility of such service with their primary judicial function.

On December 28, President Filip Vujanovic nominated outgoing Minister of Justice Miras Radovic to be a Constitutional Court judge. Parliament appointed Radovic judge a day later. Many questioned the Government’s intention to depoliticize the judiciary, given Radovic’s former involvement in the Government. Radovic, who served as a judge prior to his appointment as Justice Minister in the previous government, resigned as a member of the ruling Democratic Party of Socialists on December 29. He stressed that he would do his job without political influence. The Constitutional Court consists of seven judges appointed for nine-year

terms. They in turn appoint one of their number as president of the court for a period of three years.

The anticorruption watchdog Network for Affirmation of the NGO Sector (MANS) claimed that Chief State Prosecutor Ranka Carapic violated conflict of interest laws by serving as president of the Prosecutor's Council. MANS called on the Assembly to remove her from that position. MANS accused Carapic of receiving significant financial compensation from her council position.

Generally accepted rules of international law are an integral part of the internal legal order and have supremacy over national legislation. The extradition agreements with neighboring Serbia and Croatia helped bring some suspects in the country and abroad to justice.

Authorities claimed that courts completed 75 percent of their cases in 2009, processing 14,038 more cases than the previous year. They stressed that this was accomplished despite the financial difficulties faced by the court. Financial problems were also cited as the reason for postponing the full implementation of the newly adopted criminal procedure code. Authorities justified courts' lenient penal policies (one-third of judgments resulted in prison sentences, approximately 10-15 percent in fines, and more than 50 percent in probationary sentences) by pointing to the problem of overcrowded prisons and the large number of convicts, all but the most serious offenders, at liberty, waiting to serve their prison sentences.

The implementation of civil and criminal court decisions frequently remained weak. A law on free legal aid is still pending. The salaries of judges and public prosecutors were improved.

On April 22, Judge Ljiljana Simonovic of the Kolasin Basic Court accused Vesna Medenica, president of the Supreme Court, of removing her from office for political reasons. Medenica told the press that Simonovic was dismissed for poor performance unrelated to any political influence.

On December 4, the Court of Appeals confirmed a June ruling of the Podgorica Superior Court that sentenced Vaseelj Dedvukaj in absentia to six years and six months in prison. Dedvukaj was one of 17 persons convicted in 2008 of planning a rebellion in order to create by force an autonomous region for ethnic Albanians, contrary to the constitution.

On July 5, Arif Spahic, a former judge of Bijelo Polje Superior Court, was sentenced to seven years in prison on charges of corruption. On December 30, the Court of Appeals confirmed the decision of the Superior Court. Spahic was found guilty of taking bribes to reduce the sentence and ensure the release of a man convicted of causing a death in a car accident. Dzermal Ljuca, an employee of the municipality of Bijelo Polje, was sentenced to two years in prison for brokering the deal.

*Trial Procedures.*—Criminal trials are generally public, but sessions may be closed during the testimony of state-protected witnesses. Juries are not used. Professional judges preside over trials. Lay judges assist them in determining verdicts but the judges generally determine the sentences. Defendants have the right to be present at their trials and to consult with an attorney in a timely manner in pretrial and trial proceedings. Defendants have a right to an attorney; an attorney is generally provided at public expense when a defendant is destitute or following indictment on a charge carrying a possible sentence greater than 10 years in prison. Defendants and their attorneys have the right to access government held evidence relevant to their cases. Defendants enjoy a legal presumption of innocence. Courts may try defendants in absentia as long as they repeat the trials if the convicted individuals are later apprehended. Both the defense and the prosecution have the right of appeal. The Government at times influenced the judiciary—for example, in some trials for slander or corruption involving prominent persons or senior officials—and such influence contributed to continued public distrust of the judiciary. However, defendants' rights were generally respected and extended to all citizens.

A two-year trial-monitoring project sponsored by the Organization for Security and Cooperation in Europe (OSCE), completed in June 2009, indicated that progress was made in prosecuting cases but noted problems with the duration of trials, their fairness, and the insufficient capacity of the judiciary. A report issued by the Council of Europe in September 2009 described the country's progress in reducing backlogs court cases as "impressive."

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—Once national remedies are exhausted, citizens may appeal violations of their human rights to the European Court of Human Rights (ECHR). At year's end, 700 cases involving the country were pending before the ECHR. Most related to property restitution, property rights, length of pretrial detention, media freedom, treatment of citizens by police, the right to a

timely trial, and slander. Since 2004, ECHR rejected 250 appeals as inadmissible and has issued three rulings against the Government for violations of the European Convention on Human Rights. Authorities immediately implemented the first ruling, handed down in April 2009. The other two, issued on September 21, became binding on December 21.

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent judiciary in civil matters, and citizens had access to courts to bring lawsuits seeking damages for, or cessation of, human rights violations. Although parties have brought suits alleging human rights violations and at times prevailed, there was high public distrust in the independence of the judiciary. The sensitivity of law enforcement and the judiciary when it comes to human rights remained insufficient. Legal aid is provided by the Bar Association and NGOs.

Citizens may appeal violations of their human rights to the Constitutional Court. However, this legal remedy as the supreme form of appeal before the domestic judiciary turned out to be practically unavailable to citizens.

In July 2009 an attorney filed a claim for 1.1 million euros (\$1.5 million) in damages covering eight cases involving 46 plaintiffs and one claim on May 26, for 40,000 euros (\$53,200) involving four plaintiffs related to the 1992 deportation of Muslims and Bosniaks to the Republika Srpska in Bosnia-Herzegovina, where they subsequently were killed or disappeared. These cases were in addition to earlier ones in which 196 plaintiffs were awarded 4.1 million euros (\$5.5 million). Two cases were completed in which the plaintiffs were awarded 370,000 euros (\$492,000), while other cases were pending at year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice. The law requires the Agency for National Security (ANB) to obtain court authorization for wiretaps; however, some observers believed that authorities selectively used wiretapping and surveillance against opposition parties and other groups without court authorization. Many individuals and organizations operated on the assumption that they were, or could be, under surveillance.

There was no response during the year by the Constitutional Court to a complaint filed in 2008 by MANS challenging the laws and the memorandum of understanding between police and the telephone company M-Tel giving police direct access to the databases of mobile telephone service providers, without judicial oversight, for the purpose of monitoring potential criminal activity. M-Tel is one of the country's three mobile phone service providers. MANS asserted that this violated citizens' right to privacy. Police responded that all communications monitoring had to be approved by the competent prosecutor's office.

On July 26, 24 journalists, 10 representatives of opposition political parties (including four Assembly members), and seven employees of MANS filed requests with the ANB for access to any files being kept on them. On August 24, the ANB replied that they were not keeping any such files. During an October 6 session of the Assembly's Committee for Defense and Security, the ANB informed parliamentarians that it was not conducting surveillance of opposition politicians, NGO representatives, or journalists.

During the first nine months of the year, four citizens requested permission to inspect secret files kept by security services between the years 1945 to 1989. Two requests related to the persons directly, while two requests related to third persons. The ANB responded that there was no information concerning any of those persons.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press; however, there were some restrictions of freedom of the press in practice.

Individuals could criticize the Government publicly or privately without reprisal, and there were no reports that the authorities monitored political meetings or otherwise attempted to impede criticism.

The print media included private newspapers and a state-owned newspaper with a national circulation. The independent media were active and generally expressed a wide variety of political and social views without government restriction. The Government did not restrict the distribution of foreign publications.

Authorities made no further attempts to sell the Government's 51 percent stake in the public company that publishes the daily newspaper Pobjeda, following the failure of efforts to do so in 2007 and 2008. The failure to privatize the state-owned newspaper as required by the 2002 parliamentary legislation remains unfulfilled at year's end. Instead, the company received 12.77 million euros (\$17 million) from the Government in the form of tax concessions and loan guarantees made in 2009. On

July 7, the Ministry of Finance informed the media that the aim of these actions was to avoid Pobjeda's bankruptcy and help the paper survive. The Government's actions increased its share in the company to 86 percent.

Opposition politicians criticized the Government's 2009 decision to appoint Predrag Sekulic, the political director of the ruling Democratic Party of Socialists, as president of the board of directors of Pobjeda and to appoint an advisor to former prime minister Milo Djukanovic as the paper's editor in chief. They asserted that the newspaper clearly favored the Government in its reporting. Some observers claimed that the newspaper was used to discredit the Government opponents, including opposition politicians, some private media owners, and NGOs. On December 29, Sekulic became a minister in the newly formed government and subsequently stepped down from the board.

A wide variety of public and private broadcast media included a national public radio and a television broadcaster, 14 local public radio and four local public television stations, and 41 private radio and 19 private television stations. On January 27, the Agency for Electronic Communication and Postal Activity (AECPA) allocated a series of 20 terrestrial broadcasting frequencies to broadcasters that responded to a tender issued by the AECPA in November 2009. The private television network TV Vijesti, which had attempted for two years to get licenses to broadcast in Podgorica, was also granted frequencies. TV Vijesti, often seen as a strong critic of the Government and former Prime Minister Djukanovic, had previously accused the Government of blocking its access to a wider market for political reasons by delaying the tender process.

The Council of Europe, the OSCE, and the European Commission, as well as domestic NGOs, criticized the Law on Electronic Communications which provided for the Government's major role in selecting members of the AECPA's governing council. In response to these criticisms and in order to align with international standards on the independence of media regulators, the Assembly on July 27 adopted the Law on Electronic Media which took the responsibility for issuing broadcasting licenses away from the AECPA and transferred it to the Agency for Electronic Media, which is legally an independent regulator.

Government opponents—and even the ruling party's junior coalition partner, the Social Democratic Party—continued to criticize the functioning of the country's public radio and television broadcaster, Radio and Television of Montenegro (RTCG). They alleged that changes made in 2008 to the law governing the funding of the public broadcaster, which substituted government subsidies for user fees, made RTCG more dependent on the Government. They also criticized changes in the method of selecting members of the governing board of the public outlets, which increased the role of the Assembly at the expense of civil society. In 2009 the Assembly elected all nine members of the RTCG council. Some observers noted that a majority of the nine entities authorized to nominate candidates for the RTCG council are state-funded institutions or organizations and that the public broadcaster clearly favored the Government in its programming and reporting.

There were no reports during the year of physical attacks on journalists, but threats against them and unsolved attacks on them from previous years, as well as police investigations and court procedures related to those attacks, remained in public focus. At year's end, despite much legal wrangling, pretrial proceedings were not completed in the well-known case of the alleged attack in August 2009 by Podgorica Mayor Miomir Mugosa and his son on deputy editor in chief Mihailo Jovovic and photo reporter Boris Pejovic of Podgorica-based daily Vijesti. The incident reportedly began while Pejovic was photographing the mayor's official car, which allegedly was parked illegally. On January 25, in a separate procedure, the Podgorica Court for Offences fined Mugosa 400 euros (\$532) for insulting Jovovic and Pejovic in connection with the incident.

There were no developments in the investigations of several earlier physical attacks on journalists, including a 2008 attack on Mladen Stojovic, a journalist of the Serbian daily Danas and former stringer for Podgorica-based daily Vijesti.

On July 12, the Supreme Court confirmed the Court of Appeals' 2009 sentence of Damir Mandic to 18 years in prison as an accessory in the 2004 murder of Dan newspaper editor Dusko Jovanovic. Other participants, as well as those who actually planned the murder, remained at large at year's end.

On June 25, police interrogated Monitor journalist Petar Komnenic and NGO activist Veselin Bajceta about a video that appeared on the Internet of alleged drug trafficker Safet Kalic's 2001 wedding. The video showed several ANB officials attending the wedding ceremony and in close contact with Kalic. Komnenic and Bajceta publicly questioned why authorities were investigating the placement of the footage on the Internet. They expressed concern that the investigators were not taking action against the intelligence officers observed in the video.

Officials continued to bring or threaten libel and defamation suits against media organizations or journalists that accused them of wrongdoing directly or by implication. In many cases, media observers regarded the fines levied upon those convicted as disproportionate, and some NGOs warned that the prospect of criminal libel charges could deter journalists from reporting candidly on events. On April 22, the Assembly amended the Criminal Code by introducing the publishing of court judgments in libel cases as an alternative to imposing fines. The NGO Human Rights Action called on the authorities during the year to decriminalize libel completely or, alternatively, to reduce fines significantly in keeping with ECHR case law. Conviction of criminal libel could lead to fines of up to 14,000 euros (\$18,620).

On February 8, the Podgorica Superior Court fined the daily newspaper Dan 14,000 euros (\$18,620) for libel following former Prime Minister Djukanovic's 2003 lawsuit. The prime minister sued the paper's deputy editor in chief, Danilo Vukovic, for publishing articles in 2003 related to Djukanovic's alleged involvement in the well-known human trafficking case of a Moldovan woman.

On July 9, the Podgorica Superior Court overruled the May acquittal in a libel case involving Monitor magazine journalist Sead Sadikovic. The Superior Court's ruling directs the journalist to pay ANB official Zoran Lazovic one euro (\$1.33) for "emotional distress" caused by an article that Monitor published in April 2007. The article contained information about Lazovic's purported connections with alleged drug trafficker Safet Kalic. Sadikovic was quoted as saying that "the Superior Court's decision is a clear message that journalists should not mention state officials, especially police officials."

On October 19, Podgorica's Superior Court upheld a lower court's imposition of a 3,000-euro (\$4,000) fine on Petar Komnencic, a Monitor journalist, for libeling Ivica Stankoivic, who was then president of the Podgorica Superior Court, in a 2007 article implying that he had criminal connections. On November 5, the Podgorica Superior Court overruled the basic court's November 2009 imposition of a 2,000 euro (\$2,660) fine against Komnencic, who was found guilty of libeling alleged drug trafficker Safet Kalic. The superior court ordered the lower court to retry Komnencic. The journalist was sued for an article published by the Monitor in 2008. Komnencic assessed his acquittal as a consequence of the country's process of integration with the EU and asserted that "the Government, which was instructing the courts, or the courts, under government influence, became aware" that libel verdicts with large fines would not be allowed anymore. On November 15, in a separate civil lawsuit, the Podgorica Basic Court acquitted the Monitor of libel charges filed by Kalic for a series of articles published by the weekly in 2007 and 2008.

The slander trial of author Ibrahim Cikiric was delayed several times during the year, as police claimed they could not find Cikiric at his home address in Bijelo Polje to serve a summons on him. Eleven persons sued him because of allegations he made in a book that, as former prison employees, they tortured him when he was serving a sentence following what he considered to be a politically motivated prosecution. Cikiric and 20 leaders of the Party of Democratic Action of Montenegro went to prison in 1994, convicted of plotting an armed conflict in the northern Sandzak region.

Lower courts acquitted journalists and NGO activists in several defamation suits during the year. The Podgorica Basic Court acquitted Vijesti journalist Jasmina Muminovic of the defamation charges filed against her by alleged drug trafficker Safet Kalic. The same court acquitted Vijesti journalist Samir Adrovic of defamation charges filed against him by the former head of police in the city of Ulcinj. Vijesti journalist Komnen Radevic was also acquitted of libel by the Podgorica Basic Court.

On November 8, Podgorica's Basic Court acquitted Vanja Calovic, executive director of anticorruption watchdog MANS, of defamation charges brought by MNSS BV, the company that owned the Niksic Steelworks. On February 15, Dejan Milovac, a MANS activist, was acquitted in a defamation suit against him brought by Cetinje Mayor Milo Jankovic.

On April 30, the Podgorica Basic Court announced that the then president of the Podgorica Superior Court, Ivica Stankovic, withdrew a defamation lawsuit against the Vijesti editor in chief. Stankovic had sued over an article alleging that, in a closed session of the Assembly's Security Committee, the director of police named Stankovic as one of the judges who had obstructed several police investigations.

On May 18, the Superior Court overruled a September 2009 Podgorica Basic Court decision to fine Vijesti, along with Nebojsa Medojevic, leader of opposition political party Movement for Change, 33,000 euros (\$43,890) for tarnishing the reputation of the firm MNSS BV, owner of the Niksic Steelworks. The case involved a 2008 opinion piece, written by then presidential candidate Medojevic, which warned of the potential for money laundering following MNSS BV's purchase of the steelworks.

On August 11, Milutin Sekulovic, a correspondent for Serbian daily *Vecernje Novosti*, informed police that he was threatened over the phone by Milan Golubovic, a municipal official in Berane. An article written by Sekulovic that same day about Golubovic's decision to order the removal of a billboard protesting a waste disposal decision was believed to be the reason Golubovic threatened him. The prosecutor's office concluded that there were no elements of a criminal act in Golubovic's behavior. On September 10, Jovan Loncar, a citizen of Berane whose billboards were removed by local authorities, sued the municipality and the companies managing the billboards for violating his freedom of expression. The lawsuit was pending before Berane's basic court at year's end.

On September 24, five individuals employed by *Vijesti* and known to be strong critics of the Government—director Zeljko Ivanovic, editor in chief Ljubisa Mitrovic, cultural affairs editor Balsa Brkovic, director of TV *Vijesti* Slavoljub Scekcic, and *Vijesti* columnist Milan Popovic—received anonymous letters containing the threatening message, “it is over, you are next.” Popovic had been previously interrogated by supreme state prosecutor Ranka Carapic about a January 2009 opinion piece he published in *Vijesti*, in which he cited corruption, conflicts of interest, and organized crime as major national problems and wrote that there were indications of the prime minister being involved in such activities. Popovic claimed that Carapic asked him for evidence to support the allegations. A group of intellectuals protested against the prosecutor's action, calling it a violation of Popovic's right to freedom of speech. On October 5, the group again publicly protested disciplinary action initiated against Popovic the previous day by the University of Montenegro law faculty dean Ranko Mujovic for having criticized him (Mujovic) and high-ranking state officials at a September 30 faculty meeting.

On October 14, on the eve of a municipal election in Ulcinj, the owner of local television station Teuta, Dino Ramovic, informed police that he received telephone threats from Ulcinj Mayor Gzim Hajdinaga, who led the Democratic Union of Albanians and the Party of Democratic Prosperity coalition in the election. Unsatisfied with the timing and order of presentation of his coalition's preelection activities by Teuta, Hajdinaga warned Ramovic that 200 of his supporters would come to the station to force him fulfill his demands. Upon Ramovic's denouncement, the police provided an overnight patrol to safeguard the television station.

Despite these developments, observers noted an increase in the willingness of the media to criticize the Government, although a profound division between progovernment and opposition media remained. The prominence of articles and television programs critical of the authorities during the year suggested that self-censorship was not a major problem; however, observers noted that some journalists were susceptible to political and business influence due to their lack of expertise and their political affiliations.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet Web sites or chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail and social media websites. According to the Agency for Telecommunication and Postal Activity, the total number of broadband connections was 63,155 in October, which corresponds to an Internet household penetration of 34.4 percent. According to data published by the International Telecommunication Union, there were 294,000 Internet users in the country in 2008; government data showed 44 percent of the population used the Internet in December 2009, up from 36 percent in October 2008.

There were no reports that the Government collected or disclosed personally identifiable information of a person based on that person's peaceful expression of political, religious, or ideological opinion or belief. However, MANS criticized police authorities for finalizing an agreement in 2007 with a local telecommunication service provider M-Tel under which the provider agreed to give authorities direct access to the company's data. In 2008 MANS, citing the Free Access to Information Law, requested information from the police about the content of the agreement. On May 28, after an administrative court overruled the initial police denial of the request, the Ministry of Interior complied by ordering the Police Administration to reveal the details of the agreement, and on October 11, the ministry gave a copy of it to MANS. The agreement gave police round-the-clock access to all forms of communication provided by M-Tel. On September 13, the Constitutional Court rejected MANS' 2008 complaint that the agreement concluded between the police and the operator violates the plaintiffs' right to privacy. However, the Constitutional Court did not act during the year upon MANS' 2008 request for a decision on the constitutionality of provisions of the Criminal Code and the Government action plan for the fight against corruption and organized crime concerning police authorities having access to telecommunication providers' data.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice. A wide range of social, cultural, and political organizations functioned without interference. Citing the organizers' noncompliance with a legal requirement to announce public gatherings in advance, police in May 2009 banned a series of assemblies of workers of the Aluminum Plant of Podgorica who wanted to demonstrate against the company's management for failing to pay salaries. The workers complained to the Ministry of Interior and Public Administration, asserting that this requirement violated the constitution, but there were no indications that the Government responded.

*c. Freedom of Religion.*—For a description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice.

For the most part, the Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced or arbitrary exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—The Government maintains an official estimate of 10,948 persons who fled Kosovo during the 1999 conflict there, and whom it recognizes as IDPs (both the present territories of Montenegro and Kosovo having been part of the State Union of Serbia and Montenegro). However, for an additional 5,415 persons, mostly ethnic Serbs who fled in 1991-95 from Bosnia and Herzegovina and from Croatia during the conflict that attended the breakup of Yugoslavia, it created the category of "displaced persons" (DPs). The UNHCR, on the other hand, regards all of these persons to have been "refugees" at the time of their arrival.

The treatment of DPs and IDPs was not equal. The law recognizes DPs as lawful residents, a designation that could lead to citizenship through residence or through marriage with a citizen. However, the law omits IDPs, whose numbers included mainly Roma, Ashkali, Balkan Egyptians, Muslims, Bosniaks, ethnic Serbs, Albanians, and Montenegrins, from the description of persons meeting the required criteria for lawful residence.

Many of the displaced, both DPs and IDPs, continued to live in deplorable conditions in unofficial collective centers and other accommodations. However, authorities permitted them access to domestic and international humanitarian organizations and permitted them to accept assistance provided by these groups.

The Government did not attack or target displaced persons or forcibly return or resettle them under dangerous conditions.

Restricted access to employment has pushed many DPs and IDPs to provide for themselves and their families through gray-market activities. Romani, Ashkali, and Egyptian IDPs from Kosovo were particularly affected and continued to form the most marginalized and vulnerable segment of the displaced/refugee population. A law governing the employment of aliens, which entered into force in January 2009, removed the right of IDPs or DPs to work. After UNHCR's intervention with the prime minister, the possibility of engagement at seasonal work was opened, but only until the end of 2009. In July the Government passed the Decree on the Manner of Exercising Rights by DPs and IDPs, which enabled these persons to register with the Employment Bureau and have the same health care as Montenegrin nationals. However, the prerequisite for registration is having a unique citizen identification number (JMBG), which requires birth and citizenship documentation, which many, particularly Roma, Ashkali, and Egyptian IDPs, do not have.

Between April and July 2009, the Government completed a program of registration of DPs from Bosnia and Croatia and reported that 5,769 of the initial 7,820 had successfully reregistered. Between September 2009 and February 2010, the Government completed the registration of IDPs from Kosovo, and their numbers decreased from 16,197 to 10,979. The registration, closely monitored by the UNHCR, was intended to help authorities decide on the future status of these persons. Those who did not reregister or were not entitled to reregister would not be eligible for the status of "foreigner with permanent residence," and their present status would be terminated.

However, those persons not able or willing to apply for the status of foreigner with permanent residence, as well as those unable to access Montenegrin citizenship, would have the possibility to apply for asylum if they are still in need of international protection. The deadline for submitting applications for foreigner with permanent residence status is scheduled to expire on November 7, 2011. Those who miss the deadline will be considered as illegal residents.

In September 2009 the Government adopted an action plan for resolving the status of displaced persons from the former Yugoslav republics and IDPs from Kosovo and in October 2009 amended the Law on Aliens in order to meet the benchmarks for visa liberalization set by the EU. The new provisions give such persons the opportunity to seek the status of foreigners with permanent residence while exempting them from the minimum income standard and other usual requirements for that status. A foreigner with permanent residence has the same rights as a citizen, save the right to vote. In UNHCR's view, however, this mechanism involved many difficult hurdles. Persons would be required to provide valid travel documents from their countries of origin and should have no criminal records. The requirement to present valid travel documents was of particular concern to the Romani, Ashkali, and Egyptian communities, many of whom had no birth records, either because their births were never registered or because their records were destroyed during conflict. However, related legislation permits DPs/IDPs unable to present valid travel documents to obtain the status of "temporary" foreign resident, with all the rights accorded to foreigners with permanent residence, and gives those three years to obtain valid travel documents and have their status made permanent.

The UNHCR observed that limited progress was made in the implementation of the action plan since its introduction, despite the Government's stated commitment to it. The number of applications for the new status by DPs and IDPs remained low, and by the end of the year only 529 DPs and 351 IDPs applied for the status of foreigner with permanent residence. In addition, only 40 DPs and one IDP applied for the status of foreigner with temporary residence. As of year's end, 373 persons (238 DPs and 135 IDPs) were granted the status of foreigner with permanent residence, while no decisions were made on the applications for temporary residence.

During the year the Government continued to encourage IDPs to return to their places of origin. Some continued to assert that the Government did not provide adequate support to make it possible for them to do so. However, after many years in the country, the number participating in voluntary repatriation has declined. At the time of the 2009 reregistration, 9,953 IDPs (or 90.1 percent) expressed their desire to remain in the country, while 244 (or 2.2 percent) declared themselves as willing to return to Kosovo. Some 1,600 IDPs, mostly Roma, Ashkali, and Egyptians, have returned to Kosovo since 2001; 177 returned during the year. Among DPs, only 35 refugees returned to Bosnia and Herzegovina and to Croatia in 2006, nine returned in 2007, five in 2008, 10 in 2009, and 12 during the year.

While a considerable number of DPs have returned to their places of origin since 1996, the repatriation of those who remained slowed to a trickle. Only 10 persons returned to Bosnia and Herzegovina or to Croatia in 2009 and just another 12 during the year. By contrast, more than 600 Bosnian and Croatian refugees acquired Montenegrin citizenship between May 2008 and June 2010, in many cases through marriage with Montenegrin citizens.

During October and November, the UNHCR conducted an outreach and media campaign for DPs and IDPs to inform them about the possibility of acquiring permanent residence as a foreigner and the November 7 deadline for applications.

The July 22 reduction of applicable administrative taxes removed an important obstacle and facilitated DP and IDP access to the new status. The UNHCR observed that progress in implementing the action plan was limited, despite the Government's commitment to expeditious completion of numerous measures, such as harmonizing the revisions in the law with the Law on Aliens.

On November 9, the European Commission recommended that the European Council grant Montenegro EU candidate country status but condition the opening of accession negotiations upon, inter alia, the Government guaranteeing the legal status of displaced persons, and adopting and implementing a sustainable strategy for closure of the Konik camp.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. A path to citizenship was effectively accessible to recognized refugees.

In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. At the beginning of 2008, the Government assumed responsibility for

refugee status determination, and the UNHCR, which previously exercised this responsibility, continued to provide technical support.

Conditions for refugees varied; those with relatives or property in the country were able to find housing and, in some cases, to rejoin family members. However, between 2,000 and 3,000 refugees holding DP status remained in barely habitable facilities (mainly on the Adriatic Coast) that had been privatized. On November 11, the Kotor Basic Court ruled that 30 IDPs from Kosovo must move from a holiday resort in Kamenovo owned by the company Recreatours.

Although the 2007 law that governs asylum affords a number of protections, the failure of the Government to harmonize other legislation with this law deprived asylum seekers of the right to identity documents, employment, and health care. On May 27, authorities adopted the Regulation on Access to Health Care for Asylum Seekers, Refugees, and Persons Granted Subsidiary and Temporary Protection to address some of these problems. However, these persons still faced obstacles to obtaining health care, since the regulation was not fully implemented during the year.

During the year authorities processed asylum applications involving nine persons; none were granted asylum. Although the country remained primarily a point of transit for asylum seekers, authorities anticipating that the number of asylum seekers would increase as the country moved closer toward EU accession, continued construction of a reception center designed to house approximately 65 asylum seekers.

*Stateless Persons.*—Citizenship is derived from one's parents. According to the UNHCR, there were no legally stateless persons in the country; however, there were individuals who were de facto stateless. The biggest problem related to statelessness was the lack of personal documentation for many inhabitants, primarily in the Romani, Ashkali, and Egyptian communities, both those of local origin and those who entered the country from Kosovo. Government data published in May 2009 reported a total of 9,934 Roma, Ashkali, and Egyptians, of whom 4,400 were refugees from Kosovo. The 2009 registration of Kosovo IDPs indicated that this population numbered approximately 3,100 persons. The UNHCR estimated that approximately 1,300 local Roma and 1,600 Kosovo-born Romani, Ashkali, and Egyptian refugees were at risk of statelessness due to lack of personal documentation, as they were either never registered at birth or lacked proof of registration. As of year's end, the Government had not developed a procedure for systematically identifying, documenting, and registering stateless persons or persons at risk of statelessness, although UNHCR experience indicated that lack of documentation was the most significant factor leading to statelessness or the loss of effective citizenship.

While the country is party to several conventions dealing with statelessness, the Government holds that it is not bound to grant citizenship to persons who became stateless as a result of the dissolution of the State Union of Serbia and Montenegro, since Serbia, as the "succeeding state," was obligated to award citizenship to these persons.

The UNHCR continued a regional project, in cooperation with partner NGOs, to register Romani, Ashkali, and Egyptian community members and assist them to obtain personal identity documents. During the year the UNHCR and the Legal Center provided legal advice to approximately 5,600 displaced persons from Bosnia, Croatia, and Kosovo and to some 200 local Roma, Ashkali, and Egyptians at risk of statelessness, providing help in obtaining personal documents for submission to various administrative and judicial entities in an effort to obtain access to basic rights. In addition, the Legal Center assisted nine asylum seekers in the refugee status determination procedure.

A further 1,300 persons were at risk of statelessness because they faced difficulties proving citizenship. These were mostly Roma, Ashkali, and Egyptians who originated from Montenegro or Kosovo and were either never registered at birth or lacked acceptable proof of registration.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—According to the OSCE election observation mission, the March 2009 parliamentary elections met almost all OSCE and Council of Europe commitments. The mission's statement noted frequent allegations of electoral fraud and a blurring of state and party structures that created a negative atmosphere among many voters. As in previous elections, most opposition parties raised concerns regarding campaign and party financing, and the overlap of state and political party structures. Allegations of pressure on voters and the purchase

of voter identification documents were again reported by some opposition parties, the media, and certain individuals.

On May 23, local elections were held in 14 of the country's 21 municipalities. The elections were not monitored by either international or domestic observers. While individuals and parties could freely nominate their candidates and run for local elections, the press reported several instances of politically motivated incidents.

On December 29, the parliament failed for the fifth time to reach the two-thirds majority required to pass an election law designed to bring electoral procedures in line with the 2007 constitution.

Political parties generally operated without restrictions or outside interference.

Parliamentary control of the executive branch of government remained weak.

There were 10 women in the 81-seat Assembly and one in the cabinet. There was one female mayor in the country's 21 municipalities. Four of the 11 parties in the Assembly had female members in their caucuses. There were no women in six out of nine standing parliamentary committees. The president of the Supreme Court and the chief state prosecutor were women.

There were 19 members of ethnic minorities in the Assembly and three members of ethnic minorities in the cabinet. The law reserves five Assembly seats for ethnic Albanians. No Roma ran for or held a seat in the Assembly.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials at times engaged in corrupt practices with impunity. The perception of the public sector as corrupt, particularly in the executive and judicial branches, was widespread. Observers noted that corruption was most evident in the areas of spatial planning, the judiciary, customs, police, local government, health care, and education.

While many of the legal prerequisites for effective anticorruption policies were in place, implementation lagged. The World Bank's worldwide governance indicators reflected that corruption was a serious problem. In the first six months of 2009, police forwarded 887 corruption cases involving 1,420 persons to prosecutors. In the same period, courts convicted 206 defendants in 151 cases. Local NGOs, media, and opposition political parties frequently accused the Government of not taking sufficient measures against corruption and organized crime. The results of investigations, prosecutions, and convictions for corruption at all levels remained weak. Citizens rarely reported corruption. Internal controls carried out within institutions or by responsible agencies seldom resulted in efficient prosecution of the perpetrators. State functionaries often had several functions and were permitted to be presidents or members of managing boards in more than one public company or state institution.

On December 24, the mayor of the city of Budva, Rajko Kuljaca, and nine of his associates, were arrested on charges of abuse of office. Among those arrested was deputy mayor Dragan Marovic, brother of outgoing Deputy Prime Minister Svetozar Marovic. According to a police press release, Kuljaca and Marovic were suspected of having secured "substantial unlawful gain" for the Zavala Invest Company through abuse of their official positions. On December 26, Radomir Ivanovic, investigative judge of the Podgorica Superior Court, ordered a 30-day detention of the suspects, who were believed to have committed crimes carrying penalties of up to ten years' imprisonment.

Police corruption and inappropriate government influence on police behavior remained problems; the small, close-knit nature of Montenegrin society discouraged the reporting of corruption and made criminals' access to law enforcement officers easy. In February the Government formed an interagency joint investigative team designed to work exclusively on fighting organized crime and corruption and enhancing the ability of law enforcement agencies to work together.

Acting on a June 2 request by the deputy special prosecutor for organized crime and corruption, police arrested 22 persons, including three police officers and 11 customs officers and one agricultural sanitary inspector from the towns of Rozaje and Berane. Police suspected that these individuals received and gave bribes, abused their offices, and smuggled goods across the border with Serbia. They were charged in Superior Court on August 23.

According to the Council of Europe's commissioner for human rights, who visited the country in 2008, there were few criminal proceedings against law enforcement officers for extortion of evidence, mistreatment, torture, or abuse of office, and the few that occurred were not efficiently conducted. Courts rendered verdicts only in a small number of reported cases but sentences were limited to admonitions, suspended sentences, and fines. During the first eight months of the year, authorities dismissed one officer and fined eight for abuse of office and exceeding authority.

During the year the Interior and Public Administration Ministry's Internal Affairs Unit took disciplinary measures to address those problems. These internal investigations, combined with the work of the Council for the Civilian Control of Police Operations, the ombudsman, and human rights activists, reduced impunity. However, NGOs noted that police officers found responsible for violating rules of service, as well as senior officers implicated in cases of torture, remained on duty. The OSCE and local diplomatic missions provided training for police, security, and border and customs officers on combating terrorism, corruption, and financial crimes.

Public officials were subject to financial disclosure under a 2008 conflict of interest law that requires state officials, including members of the legislature, to disclose their salaries and property. During the first eight months of the year, the Commission for Preventing Conflicts of Interest, charged with carrying out that law, initiated legal proceedings against 248 state officials and proposed the dismissal of 15, for failing to comply with disclosure requirements. The commission initiated legal proceedings against 313 state officials who failed to comply in 2008 and 52 who failed to comply in 2009. During the year 92 persons were fined and 156 others warned. While the law provides for fines ranging from 825 to 1,100 euros (\$1,097 to \$1,463), the highest fine imposed by a court was 500 euros (\$665). The commission did not perform an adequate supervisory role, as it does not have the authority to check disclosures by public officials and has weak sanctioning powers. Many observers noted that the law had significant loopholes and was weakly implemented in practice.

Protection for whistleblowers who reported corruption was inadequate. However, in July the Administrative Court revoked the September 2009 dismissal of Mirjana Draskovic, a veterinary inspector with 28 years of experience. She was fired by the Veterinarian Directorate after she made public statements about irregularities in the work of the Veterinarian Directorate and Ministry of Agriculture. The State Prosecutor's Office took no action on Draskovic's reports about the irregularities.

On July 29, the Government adopted its 2010-14 Strategy for the Fight against Corruption and Organized Crime, together with an action plan for its implementation over the following two years. The strategy laid down the main guidelines, principles, and goals for the fight against corruption and organized crime. NGOs claimed that the plan was developed without their involvement by unknown individuals or groups and adopted without any public consultation, even though a team composed of representatives of public institutions and NGOs had been working on a similar document for four months and had presented it at a public debate to all interested stakeholders.

A law on financing political parties was enacted in 2008, but according to the NGO Center for Democratic Transition, did not significantly improve the transparency and accountability of political party finances.

There were allegations that authorities failed to act on reports of suspected corruption at high political levels. Many citizens continued to believe that state officials misappropriated public funds and pocketed significant revenue from the privatization of formerly state-owned companies. In spite of the existing institutional framework to curb corruption, the overall number of investigations, prosecutions and convictions remained low.

While open bidding was the most commonly used procedure for public procurement, many auditing reports identified inconsistent or irregular application of legal provisions or circumvention of the law in practice. The Commission for the Control of Public Procurement Procedures received 290 complaints during the first 10 months of the year alleging violations of procurement procedures. The commission found 98 complaints to be valid and rejected 192.

The constitution and law provide for public access to government information; however, implementation of the law was weak and inconsistent, in particular in relation to some parts of privatization agreements. Some ministries were supportive of information requests, while others at times publicly criticized them. The level of access did not differ for noncitizens or the foreign or domestic press.

On April 12, in response to a ruling by the Administrative Court, the Government reversed its earlier position and published its answers to a questionnaire required of countries seeking admission to the EU. The questionnaire contained responses to detailed questions about reforms being made on the country's road to EU integration. The Government previously refused to provide the information, on the grounds that publishing it would jeopardize national political and economic interests. Two NGOs took the matter to the Administrative Court.

On November 25, the Ministry of Justice revoked the decision of the chief state prosecutor to deny the Youth Initiative for Human Rights request for information about actions taken by the chief state prosecutor in 12 cases of allegations of official misbehavior: the torture of prisoners in Spuz Prison in 2005; threats against

Aleksandar Zekovic in 2007; the beating of Vladana Kljajic in Spuz Prison in 2007; the torture of members of the Party of Democratic Action in 1994; illegal surveillance of several judges of the Superior Court in Podgorica; the beating of journalist Tufik Softic and former boxer Aleksandar Pejanovic; the beating of detainees in the "Eagle's Flight" police operation; statements of veterinarian inspector Mirjana Draskovic about corruption at high levels regarding the issuance of licenses for food imports; the existence of a "football mafia" in the country; and the killing of Dusko Jovanovic and Srdjan Vojcic. The Ministry of Justice stated that the chief state prosecutor failed to give clear reasons for denying the request for information and ordered the chief state prosecutor to review the matter and issue a new decision.

The NGO Youth Initiative for Human Rights noted in its report for the second quarter that political party allegiance was the key to employment in public service and that the ethnic composition of the public sector workforce did not correspond to that of the general population.

NGOs reported that their requests for government-held information frequently went unanswered. Public awareness of a right to access government information remained at low level, and citizens themselves seldom turned to state institutions for information. Anticorruption NGO MANS reported that the competent authorities provided timely responses to approximately 38 percent of its requests for information. MANS noted that agencies usually refused to give information that could reveal corruption or lawbreaking, particularly involving the privatization process. MANS reported that citizens preferred to submit requests through NGOs rather than do so themselves. Authorities usually provided reasons for denials (such as threats to state interests or to the business interests of the contracting parties), and these could be appealed to the higher-level state bodies or courts. While the courts usually supported access to information, their orders to the ministries to comply with specific requests were often ambiguous and, consequently, sometimes ignored. The administrative court ruled favorably on 77 percent of the 4,879 complaints filed by MANS since 2005.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to the views of international groups, but some of the many domestic NGOs regarded cooperation as only nominal.

In March the Government published the report of the Council of Europe's CPT on its 2008 visit to the country. However, a translation into Montenegrin was only published after the NGO Human Rights Action filed a lawsuit with the administrative court to require it to do so.

Almost 4,500 domestic registered NGOs operated in the country, including those specializing in human and minority rights and women's rights. According to NGOs, authorities provided nominal, rather than substantive, cooperation. The OSCE- and EU-led international community efforts to engage the Government on human rights issues.

Several NGOs and international organizations investigated human rights cases. According to its 2009 report, the UN Human Rights Council Working Group on Enforced or Involuntary Disappearance and Missing Persons forwarded 15 cases involving disappearances that took place in 1992 and 1993 to the Government for its response; the Government provided an explanation in one case; 14 cases remained outstanding. The working group decided to discontinue consideration of those 14 cases.

The Government cooperated with international human rights and humanitarian NGOs and on February 17-21 hosted a visit by the European Commission for Human Rights. Amnesty International visited the country in November 2009.

There is an ombudsman for human rights, who operated without government or party interference but received inadequate resources. Public awareness of the ombudsman's role remained insufficient. The Office of the Ombudsman had a staff of 23 persons; its annual budget was 431,400 euros (\$573,762). Upon finding a violation of human rights or freedoms by any state agency or institution, the ombudsman could initiate disciplinary procedures, including dismissal, against the violator. In addition to 77 unresolved cases from earlier years, the office received 525 new complaints in 2009, or 10 percent more than in 2008. The largest number of complaints involved the work of the courts (168), followed by public administration (152), public services (48), local governments (37), and the prosecutor's offices (nine); 69 complaints related to the work of companies and other organizations. During the year the ombudsman's office met with 845 citizens and communicated with 1,850 citizens

by telephone. The majority of complaints concerned lengthy trials and the lack of implementation of court decisions. The Government and the courts generally implemented the ombudsman's recommendations.

Failure to comply with the ombudsman's request for access to official data, documents, or premises, or with the ombudsman's request to testify at a hearing, is punishable by fines of 10 to 20 times the minimum monthly wage, or between 550 and 1,100 euros (\$731 and \$1,463).

The Assembly's Standing Committee for Human Rights and Freedoms met several times during the year, but its contribution was perceived by many observers as insignificant.

Authorities cooperated with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Court, of which the country is a member.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and laws prohibit discrimination based on race, gender, disability, language, or social status; however, the Government did not effectively enforce these prohibitions in practice. On July 27, the Assembly adopted an anti-discrimination statute containing comprehensive prohibitions of discrimination on the basis of race, religion, sexual orientation, gender identity, and other grounds. However, the Office of the Ombudsman, which is responsible for the law's implementation, lacked the human, technical, and financial resources for its enforcement.

*Women.*—Rape, including spousal rape, is illegal; however, enforcement remained a serious problem. Instances of rape were significantly underreported due to the cultural stigma that attaches to victims and even their families. Deeply ingrained societal attitudes hampered prosecutions; judges frequently allowed aspersions on a victim's character to be entered into court proceedings. As a result victims were reluctant to report rape. Punishment for rape, including spousal rape, is one to 10 years in prison; however, authorities can only prosecute the crime if the victim brings charges. There were no arrests or convictions for spousal rape during the year. According to police and judiciary statistics during 2009, there were 13 cases of rape reported and 16 persons were sentenced to prison.

Domestic and other violence against women was a persistent and common problem. NGO sources working with abused women make strong claims that significant number of incidents remain unreported due to fear of reprisals from their attackers or lack of measures to prevent reoccurrence. According to government authorities, the number of reported incidents of domestic violence tripled between 2006 and 2009. The press reported that during 2009, police investigated 519 cases of possible domestic violence, 9 percent fewer than 2008; 85 persons were sentenced. According to NGO estimates, one out of four women has been a victim of some form of domestic violence. The NGO SOS, which operated a hotline for victims of domestic violence, reported that during the first four months of the year, it worked with 137 persons, far more than in past years. SOS noted an increase in the number of children and elderly among the victims and an increase in the use of physical violence. SOS also reported that health institutions charged the victims of family violence for medical aid, claiming that the injuries occurred as the result of "fights."

On July 27, the Assembly approved the Law on Protection against Family Violence. The law was not fully implemented by year's end, as regulations and an action plan for its implementation had not been put in place. Since adoption of the law, police filed charges against 92 perpetrators.

Domestic violence is a crime punishable by fine or prison sentence, depending on the seriousness of the offense. Perpetrators are mainly fined; the rare prison sentences imposed were lenient. Due to lengthy trials, economic dependence or lack of other places to go, victims and perpetrators often lived together in the same place, which frequently resulted in new, more aggressive assaults that discouraged victims were usually hesitant to report. Local NGOs working to combat domestic violence relied to a large extent on international donor assistance. During the year official agencies, including the police and, to some extent, the judiciary improved their response to domestic violence; however, efforts remained inadequate. According to NGOs, many female victims of domestic violence complained about the inadequate response of social welfare centers to their appeals for help.

On May 27, the Judicial Council terminated the assignment of Podgorica Superior Court judge Milorad Marotic at his own request due to personal reasons. He had been indicted for domestic violence in 2008 and temporarily suspended by the Judicial Council, but the Administrative Court revoked the suspension in September 2009.

NGOs operated two shelters for victims of domestic violence. Women's advocacy groups worked to combat domestic violence through awareness campaigns and sought to improve women's access to legal services and workshops.

Sexual harassment is prohibited by law; however, it remained a problem and society generally tolerated it. Victims were hesitant to report harassment, although police were usually effective in intervening when asked to do so. According to surveys conducted by the Damar polling agency in March, 20 percent of employed persons stated that they were victims of workplace harassment.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning under the guidance of the Ministry of Health. There was free access to contraceptives and to skilled attendance during childbirth, including essential obstetric and postpartum care. The Government guaranteed free childbirth services. According to statistics developed by intergovernmental organizations, the estimated maternal mortality rate in 2008 was 15 maternal deaths per 100,000 live births.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Women have the same rights as men in property law, family law, and the judicial system; however, in practice women did not enjoy equal social status with men. NGOs pointed out that it was difficult for women to defend their property rights in divorce suits. One emerging trend involved husbands in divorce proceedings titling their property in the name of other family members or friends rather than their wives. Traditional patriarchal ideas of gender, which maintain that women should be subservient to male members of their families, persisted and resulted in continued discrimination against women in the home. For example, 84 percent of illiterate persons were women. In rural areas, women could not always exercise their right to control property, and husbands occasionally directed their wives' voting.

Women constituted 6.3 percent of central government employees, 11.4 percent of employees of local governments, and 12.3 percent of members of the national parliament.

There were no official statistics about women in managerial positions. Some job announcements openly advertised discriminatory criteria, such as age and physical appearance, for female applicants. Few women held senior management positions in government, military, or commerce. There were, however, some signs of improvement; an increasing number of women served as judges, and there were many women in professional fields such as law, science, and medicine. Women from Romani communities did not have equal opportunities for education due to traditional values and restrictions on their participation in society. Due to low education and harsh living conditions, Romani women seldom visited gynecologists, with negative consequences for their health and for infant mortality rates.

Women constituted 50.7 percent of the population and 46.3 percent of the unemployed population. Media reports indicate that 44.9 percent of the holders of bachelors, masters, and doctoral degrees were women.

Although the law incorporates the general principle of nondiscrimination against women, it does not explicitly address the principle of equal pay for equal work; in practice, women's wages were lower than those of men for comparable work. According to an August report of the Statistical Office of Montenegro (Monstat), working women have lower salaries than their male colleagues. According to Monstat, women in 2009 earned, on average, 13 percent less than men. The average monthly salary with taxes and contributions for women amounted to 581 euros (\$773) at the end of September 2009, while men received an average of 674 euros (\$896). Of 15 industries surveyed, women had higher salaries in only transport and warehousing.

There remained a deeply rooted division between male and female professions. In April 2009 the Government transformed its Office for Gender Equality into a department within the Ministry for Protection of Human and Minority Rights.

Gender equality is provided for in the constitution. It is regulated by the Law on Gender Equality (2007) and promoted by an action plan (2008). Although implementation of the action plan is monitored by parliament, the Government, and the ombudsman, it has not been properly implemented. In addition, the Law on Gender Equality includes only limited sanctions and does not clearly address the principle of equal pay. The protection of women against their economic dependency remains insufficient.

*Children.*—Citizenship is derived from one's parents by birth in the country's territory, by marriage to a Montenegrin citizen, or as specified by international treaties governing the acquisition of citizenship. Roma, Ashkali, and Egyptians continued to experience difficulties registering the births of their children, mostly due to the lack

of awareness of the importance of civil registration and a lack of documentation of parents' identities. Romani children are not well integrated into the broader community, and discrimination against them remained widespread.

There is a law on child and social protection. However, implementation of the national plan for children has been inadequate, as the Council for Children's Rights, which is the main body for coordinating implementation of the national plan, is not operational.

By law, education was compulsory and free; however, according to Romani community leaders, nearly one-half of Romani children never enrolled in primary school. According to the national statistics in May, only 47 percent of the 2,587 Romani children between the ages of six and 15 attended primary school. Romani children continued to face difficulties in continuing their education, including lack of knowledge of the local language, poverty, and tradition. Many Romani parents did not want their children, particularly girls, to go to school, but preferred them to stay at home and marry at an early age.

Of the comparatively small number of Roma who completed primary school, a much smaller proportion continued to secondary and higher education compared with non-Romani children. Human rights observers reported that the Government did not undertake adequate efforts to monitor or encourage Roma to continue to attend school. In the Konik refugee camp in Podgorica, there was a remote campus of the Bozidar Vukovic primary school, which was attended exclusively by 247 Romani, Ashkali, and Egyptian students. Romani NGO leaders described this as discrimination and during the year asked that this type of school division be abolished. There was some progress; the proportion of Romani, Ashkali, and Egyptian children enrolled in the first year of secondary school increased from 50 percent in the 2008-09 school years to 55 percent in 2009-10. Sixty Romani students continued to secondary education and 12 attended university in 2010-11.

Some ethnic Albanians continued to criticize the Government for not providing textbooks on history, music, and visual arts oriented to Albanian primary school children. The first privately funded Muslim religious secondary school opened in Malesija, near Podgorica, in 2007; as of year's end, however, authorities had not given it full accreditation. There was one fully accredited Albanian-language private school.

While tuition for primary education was free, students, except for families who benefited from social welfare programs had to provide their own books and school supplies. NGO programs and grants helped provide books and other school resources for Romani students. The Government provided books for children without parents, the disabled, special social cases, and Romani children.

In an effort to reduce dropouts among Romani children, the UNHCR, the EU, and the Foundation for Providing Scholarships to Roma, a local NGO continued a pilot project for 15 students in the sixth and seventh grades of the school in the Konik refugee camp.

A deputy ombudsman investigated complaints of violations of children's rights. His office received 32 complaints during the first nine months of the year, mainly involving contact with parents after divorce, protection from violence, the rights of children with disabilities, children's right to education, and access to social benefits.

The NGO Center for Children's Rights, in cooperation with 19 other NGOs, reported an increase of juvenile delinquency, drug use, begging, and violence against minors. Romani children still remained a vulnerable group, while many issues relating to refugee children were not resolved.

Child abuse was an underreported problem that the Government took little action to address. The country lacked proper facilities for children who suffered from family violence. The law does not allow a juvenile to make an allegation of a crime without a parent or guardian present. Consequently, there was almost no reporting of incest or other child abuse to authorities. In 2007 police reported four cases of child sexual abuse. During the first nine months of the year, social welfare centers received complaints about the mistreatment of 72 children from 27 families. Seventeen children were accommodated in the shelter for victims of family violence run by the NGO Safe Woman's House.

Child marriage was a problem, particularly in Romani communities, where boys and girls generally married around age 14. It was difficult to estimate the extent of underage marriage in the Romani community because the Roma frequently did not register such marriages. Romani children were disadvantaged by poverty, leading many to start work both at home and in the streets at an early age, typically around age seven, in order to contribute to the family income. Romani children were also disadvantaged by having to attend school in a nonnative language, since many spoke Romani at home. The Government generally ignored the problem.

The age of consent is 18. There is a statutory rape law. The penalties for rape are higher if the victim was a minor. Child pornography is illegal, with penalties ranging from six months in prison for displays of child pornography, to a maximum of five years' imprisonment for using a child in the production of pornography.

Street children, most of them Roma, were organized into groups to beg at busy intersections, on street corners, and in restaurants and cafes. During the first nine months of the year, police charged 13 persons with organizing the begging and removed 10 children from the streets; the children were temporarily accommodated in the Center for Children and Youth, and then sent back to their places of origin in Serbia, Bosnia and Herzegovina, and Montenegro.

Children with disabilities faced numerous obstacles in education and other social services. Some children with mental disabilities were confined in institutions under substandard conditions. In its March 9 report on its 2008 visit to the country, the CPT described the treatment of 15 children in the Komanski Most Institution for Persons with Special Needs, where mentally disabled children were held together with adults in unsanitary circumstances and without sufficient supervision to prevent their mistreatment by adults.

The Government adopted an action plan to carry out the CPT's recommendations and sought to improve the living conditions and treatment of patients in the Komanski Most Institution for Persons with Special Needs. The facilities were reconstructed and properly equipped. The children were separated from adults, and males were separated from females. The size of the staff has increased. Individual daily activity plans, in line with the inmates' physical and mental characteristics, were revised. The isolation room is no longer used, while leather restraints were used strictly according to need, and a log of their use was maintained. However, conditions remained inadequate, especially the shortage of trained staff and continued substandard facilities.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The country's Jewish population was small and widely distributed across the country. A 2004 survey by the Government statistics office concluded that there was no organized Jewish community; an international Jewish NGO reached a similar conclusion. There were no reports of anti-Semitic acts.

*Trafficking in Persons.*—For information on trafficking in persons, please see the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, pensions, allowances, family care and support, buildings, information and communication. The constitution also provides persons with mental disabilities with the right to be placed in an adequate residential institution and the right to foster care and support or other state services; however, societal discrimination against persons with disabilities effectively limited their access to these benefits, and authorities did not actively prosecute infractions. While laws mandating that new public buildings have access for persons with disabilities were generally enforced, lack of access to older public buildings, hospitals, and public transportation was a problem. A 2008 Law on Spatial Planning and Construction regulates the accessibility of public facilities and mandates that all public facilities must be made accessible to persons with disabilities by 2013. Facilities at polling stations were inadequate for persons with disabilities, although authorities provided mobile voting for voters who could not come to polling stations because of illness or disability.

Education for children with disabilities, including the implementation of the strategy for inclusive education, was insufficient.

Society often stigmatized persons with disabilities, and such persons depended greatly on government disability allowances, which were not adequate.

The Ministries of Health, Labor and Social Welfare, Education and Sports, Science, Culture, and Human and Minority rights were responsible for protecting the rights of persons with disabilities.

Unemployment remained a serious problem for persons with disabilities. While the law provides incentives and tax breaks to employers who hired them, employers rarely chose to hire persons with disabilities. Only 2 percent of the approximately 63,000 persons with disabilities in the country had employment during the year. In August the Employment Agency reported that 2,297 persons with disabilities were registered. To enhance the employment prospects of persons with disabilities, the Ministry of Labor and Social Welfare, the Employment Agency, trade unions, local

governments, and associations of persons with disabilities signed a memorandum of understanding to monitor and evaluate the employment process and create a data base.

Mid-2009 estimates of the number of children with special needs ranged between 6,000 and 7,000. NGOs stated that the ambitious government action plan for implementing its strategy for integration of persons with disabilities for 2008-16 was significantly behind schedule. A study conducted in 2008 by the UN Development Program (UNDP) and the Strategic Studies and Prognosis Institute cited estimates of the number of persons with disabilities in the education system that varied from 2 to 10 percent. Although they were entitled to receive healthcare from the state, the numerous obstacles they faced, including the physical inaccessibility of most health institutions, unequal access to various medical treatment, and the limited availability of prosthetics, blocked full access.

Mental health care was inadequate in terms of service and capacity. Facilities for treating persons with mental disorders were out of date and underfunded. Institutional isolation perpetuated stigmatization and discrimination against the mentally ill. Institutionalized persons often became wards of the state and often lived in isolation.

On March 9, the CPT released a report on its 2008 visit to the country that characterized as “appalling” conditions for disabled persons deprived of their liberty in the Kaminski Most Institution for Persons with Special Needs. In describing Ward B of the institution, the CPT took note of “totally bare and malodorous rooms” and residents (some of whom were physically handicapped or blind, as well as mentally disabled) were seen to lie alone, occasionally with their heads covered with a blanket, some naked, with flies crawling on them. In a locked “baby room,” the delegation saw five bedridden residents, aged between three and 19, lying in cots. There was also a locked dayroom where approximately 25 residents (men, women and children together) were left wandering alone. In an unstaffed and locked part of the ward, where residents appeared to be left alone, the delegation found a dayroom in which seven residents were physically attached to furniture. The CPT report emphasized the importance of safeguards when committing persons to institutions, particularly when these decisions are made by committees of officials.

The Law on Social and Child Protection provides for the right of accommodation and education of persons with physical, mental, and sensual deficiencies in an institution for persons with special needs. The law provides that the initial decision on whether a particular individual needs this type of accommodation is made by the social welfare center commission, while the Ministry of Education is responsible for deciding on the applicant’s special educational needs. The decisions of these bodies can be appealed to the Ministry of Labor and Social Welfare Center and then to the Administrative Court. Family Law regulates the area of guardianship.

On September 17, the Podgorica Basic Court fined the Podgorica municipal government 500 euros (\$665) for failing to implement its July 2009 decision, that city employee Marijana Mugosa was entitled to come to her office with a guide dog. The Podgorica government appealed, and the superior court, on October 22, delayed the execution of the basic court’s decision. While the ombudsman criticized the Podgorica mayor for failing to implement the court decision, the mayor blamed the ombudsman for overstepping his authority by meddling in the court decision. The city of Podgorica accepted Mugosa’s return to work but assigned her to an isolated location, explaining that the presence of her guide dog in the office harmed the health of her two colleagues. The basic court initiated an investigation of the adequacy of the new office location.

On September 22, Andrija Samardzic and his guide dog were expelled from the Carine restaurant in Podgorica where he was having dinner. Following a meeting with the Association of Handicapped Youth, the owner of the restaurant apologized and said that persons with disabilities who use guide dogs would be welcome in his restaurants; however, on November 5, Andrija Samardzic was expelled from the restaurant. The NGO Antidiscrimination Center Equista filed charges with the Podgorica basic court against the owner of the restaurant.

Local residents in the Gorica district near Danilovgrad protested against the construction of a day care center for children with special needs and signed a petition against it. The NGO YIHR criticized the petition and called on the competent authorities to ignore the protests and proceed with the construction.

*National/Racial/Ethnic Minorities.*—The constitution provides both individual and collective rights for minorities, and for most groups these rights were generally observed in practice; however, Roma were disadvantaged in access to social services and experienced societal discrimination.

Unlike in some previous years, there were no reports of physical attacks against persons during the year for what appeared to be ethnic reasons.

The leaders of ethnic Serbian, Albanian, and Bosniaks communities, as well as Muslim leaders, continued to complain of their underrepresentation in government, the judiciary, and state-owned economic enterprises. According to a study conducted by YIHR between December 2009 and May, there was a huge imbalance in the employment of some ethnic groups in public service, with Roma being at the bottom.

Three members of the national cabinet were members of national minorities. Although members of the national parliament included almost all minority groups except Roma, the right to authentic political representation of minorities as provided for in the constitution was not implemented.

A survey by the NGO Human Rights Initiative indicated that, despite the existence of a satisfactory legal framework, the availability of information in minority languages and the protection of minority cultures and tradition needed improvement. Human rights activists raised the issue of insufficient usage of the Romani language in government notices and publications.

On July 24, the Assembly amended the Law on General Education to provide that classes throughout the country would be taught in the Montenegrin language, resulting in protests by parents who threatened to withdraw their children from schools. Many Serb political representatives stated that ethnic Serbs living in the country were being treated in a discriminatory manner. Opposition parties filed the case with the Constitutional Court. Authorities delayed the implementation of the law until the next academic year to create conditions in the National Educational Council for General Education for the Montenegrin language to be introduced as a subject, namely more teachers, better text books, and a more thorough curriculum. On December 24, the National Council for General Education adopted a curriculum for the study of Montenegrin language and literature for primary and secondary education.

According to a joint survey conducted in 2008 by the National Statistics Office, the Roma National Council, and the local NGO Roma Circle, there were approximately 11,000 Roma in the country, of whom 4,500 were IDPs or DPs and 6,500 were long-term residents. Many Roma, including IDPs from Kosovo, lived illegally in squatter settlements, often far apart from each other and lacking such basic services as public utilities, medical care, and sewage facilities.

Prejudice against Roma, who comprised 0.42 percent of the population, was widespread, and local authorities often ignored or tacitly condoned their intimidation or mistreatment. Negative stereotypes strongly impacted the Romani, Ashkali, and Egyptian populations. They did not have political representatives and generally stayed out of politics. They often lacked identity documents and therefore did not have access to basic social services. Some settlements were located on property whose owners wanted to reassume control or on the premises of companies due to be privatized, and their residents were at risk of eviction; however, no evictions were reported during the year. The Romani, Ashkali, and Egyptian population faced many challenges related to social inclusion, including access to secondary medical protection (such as surgeons and specialist doctors) afforded to other residents.

A well-known human rights researcher, Aleksandar Zekovic, alleged that the relevant social and health institutions failed to prevent and report the death of two Romani children in Niksic in 2008 and 2009.

According to 2009 UN data, approximately 40 percent of the Romani, Ashkali, and Egyptian population in the country lacked birth or citizenship certificates. The Law on Citizenship and its accompanying regulations posed numerous obstacles for Romani, Ashkali, and Egyptian residents in obtaining citizenship, as many lacked personal identity documents (see section 2.d.).

According to the UNDP, approximately 70 percent of Roma were illiterate, 50 percent were unemployed, and 36 percent lived below the poverty level.

On November 22, the ombudsman asked the police directorate about the alleged mistreatment of two Romani men, Vahid Adzovic and Mentor Idrizaj, by police after they were caught stealing car batteries. The two men claimed that they were beaten and otherwise mistreated by the residents of the village Botun near Podgorica who caught them and turned them over to police.

Six officers of the border police from Rozaje who were dismissed accused the head of the Border Police Branch in Berane, Veselin Krgovic, and the Police Directorate of discrimination against Bosniaks, Muslims, and Albanians on national grounds, claiming that to be the reason for their dismissal. Authorities rejected those allegations and attributed the dismissals to downsizing of the police force.

On November 27, the Podgorica Superior Court sentenced Milos Kovac, from Serbia, to four months in prison for spreading national intolerance and hatred. According to the indictment, Kovac and Sonja Stojanovic, also from Serbia, insulted, swore at, and physically attacked a tourist guide during their visit to the museum of King Nikola in Cetinje in 2007. Stojanovic was acquitted.

During the year authorities appropriated approximately 400,000 euros (\$532,000) to improve conditions for Roma under the Strategy for Improvement of the Roma Position in Montenegro 2008-12. Priorities included the integration of the Romani, Ashkali, and Egyptian population into society. NGOs alleged, however, that the appropriated funds were not spent. Despite the appointment in 2009 of a new national coordinator, the establishment of a commission for monitoring the implementation of the strategy (including representatives of Roma and NGOs), and the establishment of a center for the preservation and protection of minorities' culture, government efforts did not result in significant improvements during the year. Minister for Human and Minority Rights Ferhat Dinosa publicly stated that the abbreviated name RAE, for Roma, Ashkali, and Egyptians, should be avoided, and he invited the public to use the correct names for each Romani ethnic group.

During the year the Government continued to fund the operating costs of national councils, those elected bodies established in 2007 and 2008 to represent the interests of minority groups. It provided an additional 850,000 euros (\$1.13 million) to the councils during the year for the implementation of 126 projects, apportioned according to the size of each group. There were national councils for Serbs, Bosniaks, Albanians, Muslims, Croats, and Roma. Some members of the councils and human rights activists voiced suspicions that their funds had been misappropriated. The Fund for Minorities decided to allocate funds just a few days before parliament adopted amendments to the Law on Minority rights, on December 9, that established new criteria for appropriation of funds. A group of Romani activists voiced their dissatisfaction with the excessive amount of government assistance provided to Vaselj Beganaj, president of the NGO coalition Roma Circle. NGOs asserted that his projects were given preferential treatment and that some funds were used for personal expenditures.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The constitution calls for respect for human rights on all grounds and prohibits the instigation of hatred or intolerance on any grounds. Nevertheless, antipathy and stigmatization toward lesbian, gay, bisexual, and transgender (LGBT) persons existed.

A number of NGOs and human rights activists continued to sharply criticize and unsuccessfully demand the removal from office of the minority and Human Rights Minister Ferhat Dinosa for "his incompetent, intolerant and homophobic statements."

The Ombudsman's Office stated that since adoption of an antidiscrimination law in July, their office received two complaints against discrimination on sexual orientation.

NGOs Juventas and Safe Woman's House, along with individual members of the LGBT population, filed a complaint with ombudsman's office claiming a program aired on Atlas TV called "Glamour Noir" contained hate speech. The Slobodan Skerovic secondary school in Podgorica sanctioned a psychology teacher who was a guest on the program because of her statements about LGBT persons on that program. Following the ombudsman's recommendation, the Broadcasting Agency urged Atlas TV and other electronic media outlets "to avoid promoting or instigating intolerance or hate speech."

There were infrequent reports of violence and discrimination directed against gay men; there were no reports that the Government condoned such actions. In July two cases of violence against gay men were reported to the NGO Juventas. Neither case was reported to the police, as the victims reportedly feared disclosure of their sexual orientation during the investigation and possible court trial. There were no reports that persons were denied equal opportunities in education and employment on the basis of sexual orientation. Societal antipathy towards gays and lesbians led most of them to conceal their orientation. No person publicly declared their gay or lesbian affinity during the year. Juventas reported two cases in which media carried insulting remarks against LGBT persons.

During the year the NGO Juventas and the Coalition for LGBT conducted an awareness campaign through the EU-funded project, "Montenegro Bright Spot on the Gay Map," a hopeful response to the Dutch NGO that had once labeled the country "the dark spot on the gay map."

In July, as part of efforts to provide protection to sexual minorities in the country, six Montenegrin police officers took part in training programs in Los Angeles and Toronto on the protection of LGBT rights.

*Other Societal Violence or Discrimination.*—There were no reports of violence against persons with AIDS; however, the NGO Juventas stated that persons with HIV/AIDS were stigmatized and experienced discrimination. Observers believed that fear of discrimination prevented many persons from seeking HIV testing, and the

rate of testing was only 33 persons per 1,000 inhabitants. The NGO Cazas runs the only center for psychological support and assistance to persons infected by HIV and AIDS.

Although knowledge about transmission of HIV was generally widespread, changes in behavior lagged behind. Since persons are not accustomed to HIV testing, HIV infection is often discovered only in the later stages, often when the person being tested has already developed AIDS. Most of this population lives at subsistence level.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law entitles workers, except for uniformed military and police personnel, to form and join independent unions of their choice without previous authorization or excessive requirements, and authorities effectively enforced these laws. Approximately 60 percent of the workforce in the formal economy was unionized. The most prominent trade union organizations were the Confederation of Trade Unions of Montenegro and the Union of Free Trade Unions of Montenegro.

In May the legislature adopted a new law on trade union representativeness to ease restrictions on trade union pluralism.

The law allows unions to conduct their activities without government interference, and the Government protected this right in practice. The law provides for the right to strike, with the exception of military and police personnel and public servants. During the year workers in the private sector exercised this right by conducting frequent legal strikes. Worker participation in an unlawful strike is sufficient grounds for dismissal or for the union to be held responsible for damages.

Unpaid wages and factory closures led to large-scale strikes. In September strikers took possession of the management buildings in the Podgorica Aluminum Plant (KAP) and the steel works and bauxite mine in Niksic. Workers held a hunger strike in the bauxite mine pit. On September 30, police interrogated 17 members of the trade union of the steel works in Niksic. The trade union stated that it considered the police action a pressure tactic.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to bargain collectively; however, collective bargaining remained at a rudimentary level and was hampered by the fact that only the most representative unions, i.e. unions with the largest membership in a given plant, can be the parties to the collective agreements. Under a 2004 law, collective bargaining agreements cover the registered workforce. On November 3, representatives of the Government's Social Council, the Union of Employers, and the Confederation of Trade Unions of Montenegro signed amendments to the general collective agreement to align the agreement with the labor law. The Union of Free Trade Unions of Montenegro, which did not sign the amendments, described them as detrimental to workers and filed a case with the Constitutional Court.

The law prohibits antiunion discrimination and employer interference in union activities, but there were some reports that it occurred during the year. Trade union activists reported that there were cases of dismissal, demotion, and suspension for suspected union activity.

On April 28, the Trade Union of the Podgorica Aluminum Plant stated that company management exerted various kinds of pressures on workers to prevent their participation in an announced strike. The Union of Free Trade Unions and several NGOs urged the minister of labor and social welfare to stop antiunion discrimination at the company and criticized the Labor Inspectorate for inaction.

Workers dismissed for union activity had the right to reinstatement. However, because of delays in the court system, it could take a worker who claimed to have been unjustly fired several years to regain employment through legal action. There is a law providing for out-of-court settlement of labor disputes, and the Agency for Amicable Labor Dispute Resolution, which became operational in August, exists to implement the law. Between August and November, the agency reviewed 46 cases involving 465 parties.

On March 12, following a 24-day strike at the bauxite mine in Niksic, company management agreed to reinstate eight miners who had been dismissed. Management also agreed that miners with more than 20 years of service could retire with pensions based on length of service.

On April 30, the Government brokered a deal between KAP management and its trade union, reversing the dismissal of trade union leader Sandra Obradovic and a few other workers. After management had previously refused to withdraw the dismissals and meet the union's requests, the strike escalated and workers occupied the management building, forcing the management to leave the premises. The trade union called on the authorities to intervene.

The Confederation of Trade Unions of Montenegro reported instances of employers bullying trade union members. When the trade union at the Mikro firm in Bijelo Polje organized a strike to protest unpaid salaries and allowances—in full compliance with national procedures—the employer threatened to sue the union for 100,000 euros (\$133,000) in damages. A similar situation led to a strike by the local branch of the construction workers' union at the Prvoborac Kamen i Beton firm in Herceg Novi. Following the strike, management issued the local trade union leader an official warning.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forms of forced or compulsory labor; however, there were reports that individuals were trafficked from abroad and within the country for labor, particularly in construction. There was also forced begging, mostly by Romani children (see section 7.d.). See also the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, including those prohibiting forced or compulsory labor and those establishing acceptable working conditions. The Government generally enforced these laws and regulations effectively in the formal economy. The official minimum age for employment is 15 years; however, in farming communities it was common to find younger children assisting their families. Romani children also worked in a variety of unofficial retail jobs, typically washing car windows, collecting items such as scrap metal, or selling old newspapers.

Many Romani children also engaged in begging. In Podgorica and the coastal areas, police continued an initiative aimed at suppressing begging. They arrested and charged several adults with organizing and forcing their relatives, mostly young Romani children, to beg. Most of these children were temporarily accommodated in the Center for Children and Youth. Police asserted that the practice constituted isolated family begging rather than organized begging. Police pressed charges against the perpetrators while the children were sent to their families. See also the State Department's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Inspectors from the State Labor Inspector's Office were responsible for enforcing the child labor laws within the formal economy. Inspectors reported no violations of child labor laws during the year. The ministry has 40 inspectors covering labor issues divided in eight branch offices, although there were no resources devoted exclusively to investigating child labor. The Government has provided two general awareness training courses for officials charged with enforcing child labor laws.

*e. Acceptable Conditions of Work.*—The national minimum wage of 55 euros (\$73) per month did not provide a decent standard of living for a worker and family. According to statistics released at the end of August, the average salary was approximately 504 euros (\$670) per month and was not adequate for a worker and family to live comfortably. The Government statistics office estimated that approximately 5 percent of the population lived below the poverty line in 2008. Significant portions of the workforce, particularly in rural areas and the informal sector, earned less than the minimum wage. The Ministry of Labor and Social Welfare enforced the minimum wage; there were no reports during the year of employers in the formal economy failing to pay it.

The law limits hours worked to 40 per week (except in specified unusual circumstances), sets a 30-minute daily rest period, and requires an unspecified premium for work in excess of 40 hours per week. Overtime work is limited to 10 hours per week; however, seasonal workers often worked much longer hours.

Many workers from privatized or bankrupt companies had outstanding claims for back payment of salaries and severance pay. The law provides some recourse, and parties have reached settlements involving some compensation in the past; however, these were the exception. The law requires employers to make substantial contributions to pension and health care funds. To avoid these payments, employers often did not officially register their employees.

During the first nine months of the year, the Employment Agency granted licenses for the employment of 10,062 foreigners, most of them seasonal workers in the fields of tourism, catering, and construction. The quota for nonresident employees for the year was 39,450. Labor law provisions governing temporary employment place no limitation on extending the temporary employment of a worker, putting employers in a position of considerable leverage over workers, particularly women, older workers, and those with disabilities.

The Government establishes mandatory health and safety regulations, and it increased inspections and preventative measures during the year.

The law governing workplace health and safety covers both the public and private sectors. Employers are obliged to provide and ensure the use of safety equipment at work and report any serious injury or death at work within 24 hours; however, authorities did not strictly enforce laws and regulations on worker safety. In practice, workers often lacked safety equipment, especially in the construction and wood-processing industries. During the first nine months of the year, there were 45 injuries and four deaths from injuries at work. The most frequent reasons cited for injuries were lack of work-related training, inadequate medical care for workers, and old workplace equipment.

During the first nine months of the year, authorities conducted 11,405 inspections and found 8,171 violations of labor standards. Labor inspectors have legal authority to close an establishment until violations are corrected. In cases of repeated violations, the owners can be fined. Infractions included violations related to labor permits and contracts, payment for work, annual leave, and unpaid and unreported overtime. Inspectors shut down workplaces in 356 cases, levied 2,515 on-the-spot fines for lesser violations, and filed criminal charges in three severe cases.

Workers did not have the right to remove themselves from situations that endanger health and safety without jeopardy to their employment. As a part of the agreement with the European Agency for Protection and Health at Work, the Ministry of Health, Labor and Social Welfare distributed 18,000 fliers during 2009 to raise awareness about potential hazards. The law requires employers to make a risk assessment of workplaces that includes measures to prevent and reduce risks.

## NETHERLANDS

The Kingdom of the Netherlands includes the Netherlands (population approximately 16.6 million), Aruba (103,000), Curacao (141,000), and St. Maarten (41,000).<sup>1</sup> The Netherlands (the term used to designate the European part of the kingdom) is a constitutional monarchy with a bicameral parliamentary legislative system. The country's 12 provincial councils elect a First Chamber; citizens directly elect a Second Chamber. The most recent general elections, held in June, were considered free and fair. A prime minister and a cabinet representing the governing political parties (traditionally a coalition of at least two major parties) exercise executive authority. Security forces reported to civilian authorities.

Aruba, Curacao, and St. Maarten have unicameral parliamentary systems. They are largely autonomous, except for foreign policy and defense. The Kingdom of the Netherlands is required, according to its charter, to safeguard fundamental human rights and freedoms, good governance, legal certainty, and the soundness of administration in all of its territories.

In the Netherlands, individuals were prosecuted during the year for violations of a law prohibiting public speech that incites hatred or discrimination. There were reports of anti-Semitic incidents, societal discrimination, and violence against some religious and ethnic minorities, violence against women and children, and trafficking in persons for sexual exploitation. In Aruba, Curacao, and St. Maarten, prison conditions remained substandard in some respects.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them during the year.

*Prison and Detention Center Conditions.*—In the Netherlands, prison and detention conditions generally met international standards, and the Government permitted visits by independent human rights observers. No visits occurred in the course of the year. In Aruba, Curacao, and St. Maarten, prison conditions remained substandard in some respects.

<sup>1</sup>With the dissolution of the Netherlands Antilles on October 10, Curacao and St. Maarten became separate, largely autonomous, entities within the Kingdom of the Netherlands; three smaller islands, Bonaire (12,800), St. Eustatius (2,700), and Saba (1,600) became special entities with direct ties to the Netherlands.

In all kingdom territories, authorities permitted prisoners and detainees to maintain regular contact with the outside world and receive visitors. Prisoners were permitted religious observance. They could submit complaints to a supervisory committee, the penitentiary institution's selection official, the prison system's complaint commission, and in many cases had the option to appeal. Complaints were addressed adequately with respect for due process of law. The Government monitored prison and detention center conditions.

In the Netherlands, 11,682 persons were held in detention as of September 2009, approximately 7 percent of them women. The total included about 5,500 persons awaiting judicial disposition, about 4,200 serving prison sentences, approximately 500 in detention for not paying a fine, and approximately 500 in detention for failing to meet their community-service obligations.

In Curacao and St. Maarten, authorities have not increased prison capacity sufficiently to allow separate facilities for juvenile offenders, and judges may sentence juveniles under the age of 16 who have committed serious offenses to prisons where they serve time together with adults. A project begun in 2007 that replaced prison with house arrest for selected inmates continued but involved very few individuals. During the year only one inmate was selected for electronic monitoring.

At Bon Futuro Prison in Curacao, renamed Curacao Detention and Correction Center in September, there were several altercations between inmates, and one brief inmate strike by inmates in May, which resulted in some property damage. Prison guards went on strike in September in Curacao over newly implemented prison regulations. In St. Maarten, inmates struck briefly in April over a Public Prosecutor's Office decision to send two inmates to prison in Bonaire.

In July 2009 the UN Human Rights Committee described reports that prison conditions in Bon Futuro Prison and Bonaire Remand Prison remained "extremely harsh." However, improvements were under way as a result of a 2008 allocation of eight million euros (\$10.7 million) by the Netherlands government. The Council of Europe's Committee for the Prevention of Torture (CPT) based the improvements on recommendations. The CPT's 2009 report cited improvements in the prisons in Curacao and St. Maarten, including the opening of a youth section in St. Maarten. Authorities completed the renovation of the Bonaire detention center in 2009 in accordance with CPT standards. The renovation of Bon Futuro Prison was under way. Work continued on a construction and renovation project for separate holding facilities for undocumented foreign nationals in Curacao, including that section's specific perimeter security. Also in Curacao, construction of new entry and exit facilities and a workshop for prisoner activities continued. No new construction or renovation took place during the year in St. Maarten. The prison director stated that prison staffing was sufficient. Training for six new guards was scheduled for January 2011.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the regional police forces, and the Government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Police officers, acting under the authority of the public prosecutor, conduct criminal investigations. A prosecutor or senior police officer must order any arrests. Authorities must promptly inform detainees of the charges against them. Police may question suspects for a maximum of 12 hours (six hours in Aruba, Curacao, and St. Maarten) and detain them for up to three days (two days in Aruba, Curacao, and St. Maarten), with the possibility of an additional three-day extension in cases of "urgent necessity," by order of the public prosecutor without the permission of a magistrate. However, by the fourth day (the third day in Aruba, Curacao, and St. Maarten), the prosecutor must bring detainees before an examining magistrate for questioning and a decision whether to extend detention for another 14 days. The court subsequently reviews the validity of continued detention every 90 days. Extensions depend on progress in the preliminary investigation.

In the Netherlands, in terrorism-related cases, the examining magistrate may order detention for the first 14 days on the lesser charge of "reasonable suspicion" rather than "serious suspicion" required for other crimes.

By law defendants have the right to access to an attorney during questioning; however, after a 2007 visit, the CPT expressed concern that authorities in the Netherlands did not always permit attorneys to be present during the initial period of detention, which may last up to 12 hours. In April the College of Prosecutors-General issued instructions on "giving effect to the right of a detained defendant to consult an attorney prior to substantive questioning." Minors are also entitled to coun-

sel during questioning. The Justice Department has established pilot projects to test the practice of having an attorney present during the initial detention and questioning of an adult suspect.

Authorities in Aruba indicated that if a detainee requested a lawyer, no interrogation would take place without one unless the severity of the case dictated otherwise. A legal aid system existed to provide indigent detainees with legal aid, but such lawyers did not always appear before questioning began. In the Netherlands Antilles, beginning in mid-November 2009 authorities reportedly instituted procedures requiring that police inform defendants of their right to have a family member or other person informed of their arrest and that police document this procedure.

There is no provision for bail, but in the Netherlands authorities avoided lengthy detention before trial unless there were compelling reasons to keep a person in custody.

In 2007 the UN Committee Against Torture criticized the excessive length of pre-trial detention and the high number of detainees not convicted of a crime in Aruba and the Netherlands Antilles. The Governments of the two territories sought to correct this problem by reducing the number of crimes requiring pretrial detention and implementing other policies aimed at reducing the case backlog, particularly more expeditious processing of cases involving illegal drugs. The backlog of detainees awaiting trial has been significantly reduced.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Juries are not used. The law requires that authorities fully inform defendants about the proceedings at every stage. In criminal trials the law provides for prompt access to counsel (inexpensively for persons with low incomes), the presumption of innocence, and the right to appeal. The accused is not present when the examining magistrate examines witnesses, but his attorney has the right to question them. In most instances defendants and their attorneys have access to government-held evidence relevant to their cases; however, in certain cases involving national security, special procedures permit an examining judge to assess the reliability of official intelligence reports without exposing the identities of intelligence officers or releasing confidential intelligence information to the public or the defendant. In such cases the defense has the right to submit written questions to these witnesses through the examining judge. The law extends the above rights to all citizens.

On July 27, the UN Human Rights Committee took the position that the Netherlands violated the UN International Covenant on Civil and Political Rights by enacting legislation in 2007 that restricts a defendant's right to appeal fines of less than 500 euros (\$665) for minor offenses. The legislation provided that an appellate court must first grant permission to the defendant in such a case to file an appeal "in the interest of proper administration of justice." The committee found, however, that the new procedures denied the defendant the right to challenge his conviction effectively. The Government did not respond by year's end.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—The Government was responsive to rulings by the European Court for Human Rights (ECHR). On August 24, the foreign minister issued his annual report on the previous year's ECHR decisions affecting the country. He noted that of the four cases in which the court issued judgments in 2009, no violation of the European Convention on Human Rights had been found in two, while the other two cases were settled on friendly terms. In response to earlier court judgments, the Government consolidated the legal basis for wiretapping.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Individuals may bring lawsuits for damages related to a possible human rights violation before the regular court system or specific appeal boards, and once individuals exhaust national remedies, they may appeal to the ECHR.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these freedoms in practice.

Individuals could criticize the Government publicly or privately without reprisals.

Disputes occasionally arose over a journalist's right to protect their sources. On September 14, the ECHR ruled in a Dutch case that the right to protect journalistic sources should include a guarantee of review by a judge or other independent and impartial decision-making authority before the police or the public prosecutor gained access to information that would reveal these sources. The case concerned a police seizure of photographs of an illegal automobile race. The photographs had been taken by a journalist of the publication *Autoweek* who assured the participants in the race that their anonymity would be respected. The police believed the photographs would help them track down participants in a series of major robberies. The public prosecutor held that the interests of its investigation outweighed the reporter's asserted right to protect his sources. However, the ECHR ruling found that the right of journalists to protect their sources was sufficiently critical to freedom of the press to require greater protection. Legislation being drafted by the Government to bring the country's law into compliance with the court's ruling had not been enacted as of year's end.

It is a crime to engage in public speech that incites hatred, discrimination, or violence against persons because of their race, religion, convictions, gender, sexual orientation, or disability. During the year the Government successfully prosecuted several such cases, notably cases in which judges considered the language in question to be "unnecessarily offensive." The Government urged prosecutors and police to give proper attention to incidents of "discrimination," which in the country's jurisprudence includes racially offensive speech. Convictions for these offenses were rare because courts were reluctant to restrict freedom of expression, especially when it took place within the context of a public debate.

In October Geert Wilders stood trial before the Amsterdam District Court on charges of offending, inciting hatred toward, and discriminating against, Muslims. However, due to a number of incidents that raised doubt about the impartiality of the judges, a mistrial was declared, and the case was rescheduled for 2011. Wilders was a member of parliament and a leader of the Party for Freedom. In a number of public statements and in his movie, *Fitna*, Wilders characterized Islam as a violent political ideology that is incompatible with western values. The prosecutor initially declined requests from Muslim and other groups to prosecute Wilders, asserting that his opinions were expressed in the context of a legitimate public debate. However, in January 2009 the Amsterdam Appellate Court ordered the prosecutor to initiate criminal proceedings. In the October trial, the prosecutor requested Wilders' acquittal.

On August 19, an appellate court fined the Arabic European League (AEL) for placing a cartoon on its Web site that expressed the idea that Jews deliberately invented or exaggerated the Holocaust. AEL had stated that they published the cartoon in reaction to earlier Danish cartoons depicting the Prophet Mohammed in a negative way, with the stated intention of demonstrating double standards in the media and public debate. A district court ruled in favor of the AEL on the grounds that the organization's stated objective had nullified its offensive, punishable character. The appeals court, however, disagreed, asserting that the context was not sufficiently clear. In its ruling the court stated that despite the AEL disclaimer, the cartoon was "unnecessarily offensive." It agreed with the ECHR that freedom of expression must be protected, even if it shocks or offends, but noted that the ECHR makes an exception for denying or trivializing the Holocaust. The court concluded that "the Jewish community must be able to deal with critical statements to a certain degree, even if they could be perceived as offensive, but it is entitled to be spared serious offense based on the Holocaust."

On September 21, the Amsterdam Prosecutor's Office decided not to prosecute the cartoonist Gregorius Nekschot ("Deathblow" in Dutch) for some of his cartoons, even though, in the prosecutor's stated view, the cartoons violated the law on intentional discrimination and incitement to hatred. In announcing his decision, the prosecutor noted that the cartoonist had removed the cartoons from his Web site and that the complaint dated from five years earlier. The cartoonist and the Netherlands Association of Journalists expressed regret that a judge had no opportunity to rule on the alleged breach of freedom of expression.

*Internet Freedom.*—There were no governmental restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. More than 90 percent of the population had access to the Internet.

During the year authorities continued to pursue policies to counter incitement to discrimination on the Internet. There were a number of convictions in 2009 and during the year.

The police maintained a list of Web sites they have judged to be purveyors of child pornography and reviewed the list periodically. All major Internet service providers in the Netherlands have agreed not to permit access to those sites.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The laws provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—Laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

Authorities denied asylum to persons who came from so-called safe countries of origin or who resided for some time in safe countries of transit. They used EU guidelines to define such countries. Asylum seekers are granted adequate opportunity to present their cases.

In practice authorities generally provided protection against the expulsion or return of asylum seekers to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In response to criticism that some of the Government's procedures were inadequate to avoid this risk, the asylum procedures were revised on July 1 to ensure expedited and more scrupulous processing of asylum applications. Authorities provided economic assistance to persons who were denied asylum and who chose to return home voluntarily.

During the year the Government ended its policy of automatically granting temporary protection to certain categories of asylum seekers based on country of origin or other established criteria, a policy favored by the UNHCR and many nongovernmental organizations (NGOs). Instead, it adopted a policy of investigating individual asylum applications and determining on a case-by-case basis whether the individuals concerned would face mistreatment if returned to their countries of origin. The UNHCR and NGOs, including Amnesty International (AI), challenged the Government when it considered returning persons to countries where they might be at risk. For example, AI asserted that authorities planned to return persons to territory in and near Mogadishu that was controlled by the Transitional Federal Government of Somalia based on an agreement with that government. However, in AI's view, no part of central or southern Somalia was a safe destination. These and similar charges resulted in pressure to return to the practice of not deporting persons in certain categories, including asylum seekers from such areas as Somalia, Iraq, and Sudan or those meeting other criteria, such as gays and lesbians, and Christian converts from Iran.

Several organizations, including AI and the Council for the Administration of Criminal Law, criticized the manner of detention of aliens prior to deportation. They maintained that since the aliens were not criminals, authorities should not subject them to a criminal regime or keep them in detention for extended periods of time, especially if there was little or no prospect of actual deportation. Courts have ordered the release of aliens if there was no prospect of actual deportation. The state secretary for justice noted that there was no evidence of structural abuse in the treatment of aliens in detention centers. Some NGOs continued to argue that the Government did not always keep deportable children out of detention. The state secretary countered that it was at times unfair and inhumane to separate families awaiting deportation. The Council of Europe's European Committee of Social Rights, NGOs, and Dutch courts criticized the Government for violating the rights of children by failing to give basic assistance to children whose adult family members had been denied asylum. The Government reviewed the situation and decided during the year not to terminate care for children of rejected asylum seekers.

According to the UNHCR, there were slightly fewer than 100,000 asylum seekers and refugees in the country. Official data from Statistics Netherlands (CBS) indicated that at the beginning of 2008 more than 70,000 refugees were living in the

country with residence status. Refugees received government assistance in finding housing and they are entitled to social welfare and other social services.

An average of approximately 17,000 persons per year apply for asylum. They are usually housed in asylum centers until a decision has been made on their applications. Rejected asylum seekers, once they have exhausted all possible appeals, are denied further assistance. Several thousand rejected asylum seekers and illegal immigrants were in detention during the year awaiting deportation.

Rejected asylum seekers and those still awaiting decisions on their applications were not permitted to work and they were denied many social services; however, they were given basic sustenance and health care and permitted to attend school.

*Stateless Persons.*—Citizenship is based primarily on the mother's citizenship. According to UNHCR statistics, there were 5,034 stateless persons in the country at the end of 2009.

Parliament has revised the law governing citizenship repeatedly to counter and prevent statelessness, including by providing the opportunity to gain Dutch citizenship. Immigrants may naturalize after five years of legal residence, or after three years if they are married to a citizen. Migrants who are not naturalized are allowed to work, including in the civil service but not the police force or the army. After five years of legal residence, nonnationals have the right to vote in local elections. To become citizen, they must complete a written naturalization examination that tests both their proficiency in the Dutch language and their knowledge of the country's culture and society.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. These rights also apply to the Aruba, Curaçao, and St. Maarten.

*Elections and Political Participation.*—During the year, parliamentary elections in the Netherlands were considered free and fair.

Political parties generally operated without restriction or outside interference. On April 9, the Supreme Court, upholding a 2007 appeals court decision, ruled that the Government was obliged to ensure that the Protestant Political Reformed Party (SGP) grants women the right to run for office. The SGP maintained that the decision constituted interference with religious freedom and freedom of association, and that the party's female members were not seeking to run for office. The party had already agreed to permit women to become party members following an earlier court decision that would have cost it its subsidy for not doing so. The Government did not respond to the Supreme Court ruling by year's end. The SGP, however, has filed an appeal with the ECHR.

There were 61 women in the 150-seat Second Chamber of parliament ("House of Representatives"). Of the 20 Dutch cabinet members four were women. Women also held positions in the parliaments and cabinets of the former Netherlands Antilles, Curaçao, St. Maarten, and Aruba, including the position of prime minister of St. Maarten and the prime minister of the Netherlands Antilles prior to its dissolution in October.

In the Netherlands, 17 members of the Second Chamber of parliament were of immigrant descent, including six of Turkish and five of Moroccan descent.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented the law effectively. There were isolated reports of government corruption during the year.

In 2009, the most recent year for which information was available, authorities imposed disciplinary sanctions on 295 central government employees for abusing their positions.

There are no laws requiring officials to make financial disclosures. The Government pursued an active anticorruption policy coordinated by the Internal Affairs Ministry's Bureau for Promotion of Integrity of the Public Sector. The National Criminal Investigation Service coordinated investigations under the supervision of the national prosecutor for corruption.

The law provides for public access to government information, and authorities generally respected that right for both citizens and noncitizens, including foreign media. Whenever authorities denied requests for information, they provided reasons based on the law. Those seeking information could appeal any refusal to the regular courts. Disputes occasionally arose in court over the scope of the Government's right to withhold information based on the public interest.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In the Netherlands, there are no ombudsmen or parliamentary committees dealing exclusively with human rights. However, a citizen may bring any complaint before the Equal Opportunity Commission (CGB), the national ombudsman, the Commercial Code Council, or the Council of Journalism, depending on the circumstances.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on age, race, gender, disability, language, political preference, sexual orientation, and social status, and the Government generally enforced these prohibitions.

*Women.*—Rape, including spousal rape, is a crime, and the Government effectively prosecuted such crimes. The penalty for rape is imprisonment not exceeding 15 years or a fine. The maximum sentence for marital rape is eight years in prison. According to a 2008 report on crime and law enforcement published by the Justice Ministry's Scientific Research and Documentation Center and the CBS, in 2007 there were 3,459 registered cases of rape and sexual assault involving 2,118 suspects.

Domestic violence was the most prevalent form of violence in society. A factsheet issued by the Ministry of Justice in May 2009 indicated that there were approximately 500,000 incidents of household violence annually. Approximately 40 percent of the population experienced some form of domestic violence during their lives; 10 percent of these reported experiencing some form of physical, sexual, or mental abuse at least weekly, and 4 percent had been raped. According to police records, approximately 85 percent of victims were women. Police estimated that victims reported approximately 12 percent of all cases. The Government continued to implement a 2008-11 national action plan to intensify the fight against household violence that included a national survey on its scope. In June the College of Prosecutors-General, which supervises the operation of the national and regional prosecutors' offices, issued new instructions for investigating and prosecuting cases of domestic violence and so-called honor violence.

In Aruba, the criminal code specifies additional penalties for violent offenses when committed against family members.

In the Netherlands, spousal abuse carries a penalty that is one-third more severe than ordinary battery. Police records indicated that approximately 3 percent of spousal abuse cases reported to police resulted in arrests. The Government provided support to the national organization Movisie (formerly TransAct), which assisted victims of domestic and sexual violence and trained police and prosecutors in investigating and prosecuting related crimes. The Government subsidized shelters for battered women. Mayors may impose temporary restraining orders on perpetrators of household violence; police figures indicated that 2,150 restraining orders were issued nationwide in 2009. In October the Government repeated a public information campaign against domestic violence.

In May the Justice Ministry, together with several NGOs, repeated the annual national information campaign to combat forced marriages and the abandonment by immigrants of their spouses in their country of origin. The campaign was intended to generate awareness among certain groups of young immigrants regarding the risks which they might be running in this regard and inform them about precautionary measures they could take to prevent forced marriage or being left behind during vacations in their parents' country of origin.

According to a report published in August, the National Expertise Center on Honor-Related Violence (LEC-EGG) received of 445 reports of possible honor violence in 2009, compared to 553 in 2008 and 493 in 2007. Of the 445 reports received in 2009, 54 percent involved threats, 31 percent physical violence, 3 percent allegations of murder, 3 percent attempted murder, and 2 percent rape. The Government has addressed the problem vigorously and continued a five-year program started in 2006 to combat honor violence that focused on prevention, protection, and criminal prosecution. In 2008 the Government set up LEC-EGG within the regional police department in The Hague. The center, accessible seven days a week and 24 hours a day, developed a checklist to help the police and other professionals identify honor violence cases.

Female genital mutilation (FGM) was practiced on both women and young girls (see section 6, Children).

The law requires employers to take measures to protect workers from sexual harassment; however, sexual harassment was a problem. In June the CBS published a study on sexual harassment which estimated that in 2009 one in 40 women was subject to unwelcome sexual advances. The study indicated that 20 percent of the unwanted advances occurred in the workplace and that only 10 percent were reported to the police. The Government continued a public-awareness campaign and took measures to counter harassment among civil servants; no information was available on their effectiveness. The Working Conditions Act commits employers to protect employees against aggression, violence, and sexual intimidation. Complaints against employers who fail to provide sufficient protection can be submitted to the CGB. Victims of sexual assault or rape in the workplace must report the incidents to the police since they are criminal offenses.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There were no restrictions on the right to access contraceptives. The Government provided skilled attendance during childbirth, including obstetric and postpartum care. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. According to 2008 estimates published by the World Health Organization, the United Nations Children's Fund (UNICEF), the UN Food Program, and the World Bank, the maternal mortality rate was nine deaths per 100,000 live births.

Under the law women have the same rights as men, including rights in family law, property law, and the judicial system.

In the Netherlands, approximately 68 percent of women were employed in 2009, nearly 75 percent of them part time. Female and male unemployment rates were 5.3 and 4.5 percent, respectively. The Ministry of Social Affairs and Employment reported that the higher rate of unemployment among women, their reduced chances for promotion, and their generally lower-ranking positions compared with men resulted primarily from their higher level of part-time employment status. According to EU statistics, the disparity between men's and women's earnings in the country's private sector was 23.6 percent in 2008; adjusted for level of experience and expertise required for the jobs, the differential was 7 percent.

The Government provided affirmative action programs for women, and collective labor agreements usually included provisions to strengthen the position of women. In 2009 the CGB received 473 complaints of discrimination, 16 percent of which related to gender.

*Children.*—Children obtain citizenship through their parents. Registration of all births is mandatory.

Child abuse was a problem. The Ministry for Youth and Family reported in September that an estimated 107,000 children were abused annually, of whom fewer than 50 percent were known to professional organizations. Experts estimated that approximately 50 to 80 children died each year from some form of abuse. In 2009 the Child Abuse Reporting Center received almost 60,000 reports of possible child abuse, 12 percent more than in 2008. In March 2009 the Government launched a two-year publicity campaign to encourage the public to report signs of possible child abuse. In 2008 the Government began to require physicians to report child abuse, overriding professional confidentiality. Despite increased government funding for the Council for the Protection of Children, there still were long waiting lists for assistance.

The law prohibits FGM. The maximum penalty is 12 years in prison. In May 2009 the Ministry of Health published an FGM prevalence study which indicated that, of the 1,200 pregnant women and girls from high-risk countries (Somalia, Ethiopia, and Egypt) examined by midwives in 2008, a total of 470 had undergone FGM. In 2007 the Government's National Public Health Council estimated that at least 50 girls a year underwent FGM, probably in the native countries of their parents; the FGM committee established by the Ministry of Health estimated that 16,000 girls and 32,000 women had been subjected to the procedure. The Government continued a long-term program to combat FGM through primary prevention and early identification, and the Health Ministry committed more than one million euros (approximately \$1.3 million) annually to combat FGM. The funds were used for information campaigns for at-risk groups and among professionals whose occupations bring them into contact with immigrant girls. They were also used for projects designed to engage key individuals in communities where FGM occurred. In August 2009 the College of Prosecutors-General issued new instructions for investigating and prosecuting cases of child abuse, including a chapter devoted to FGM.

Prostitution under the age of 18 is illegal. Anyone who forces a minor to engage in prostitution is liable to a sentence of up to eight years, or up to 12 years if the

victim is under 16. Because there were no reliable statistics on the number of underage prostitutes, the Government in 2009 asked Comensha, the national human trafficking victim registration center, to set up a national registration system for underage prostitution. During the year the system became operational.

The Netherlands and the Caribbean parts of the kingdom were not destinations for child sex tourism. The law provides penalties for nationals and legal residents of the country who abuse minors abroad, even if the offense is not a crime in the country where the abuse occurs. In November 2009 the Government installed the Taskforce on Child Pornography and Child Sex Tourism to intensify the fight against these crimes. The country has a statutory rape law. The penalty for rape is imprisonment not exceeding 15 years, a fine, or both. The minimum age for consensual sex is 16. The law prohibits production, possession, and distribution of child pornography for which there is a maximum penalty of eight years' imprisonment. In January legislation came into force that makes gaining access to child pornography on the Internet a crime with a maximum penalty of four years in prison. In Aruba, Curacao, and St. Maarten, this awaited ratification.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see <http://travel.state.gov/abduction/country/country—3781.html>

*Anti-Semitism.*—According to the Jewish Social Work organization, approximately 45,000 Jews resided in the Netherlands.

Anti-Semitic incidents, including threats, verbal abuse, and desecration of monuments and cemeteries, continued to occur. The Center for Information and Documentation on Israel (CIDI) reported a significant rise in the number of reported incidents in 2009 and 2010. CIDI stated, however, that “serious incidents” remained rare. The frequency of incidents appeared to be correlated with the political situation in the Middle East. For example, incidents sharply increased in June following the Israeli action against the Gaza Flotilla. They included spraying red paint on the front doors of synagogues in the towns of Amersfoort and Utrecht and an incident on June 6, during which passers-by shouted “Heil Hitler” when Chief Rabbi Binyomin Jacobs was speaking at a memorial ceremony at the former concentration camp in Vught. CIDI pushed for more action against anti-Semitic Internet sites, which it characterized as one of the main means of disseminating anti-Semitic and racist ideologies. It also sought tougher action against Holocaust denial, better registration of anti-Semitic incidents, and more attention to Holocaust education. Explicitly anti-Semitic sentiments were widespread among certain segments of the Muslim community, pro-Palestinian groups, and fringe nationalist and neo-Nazi groups.

In its most recent report, the Registration Center for Discrimination on the Internet (MDI) in 2009 reported a sharp increase in anti-Semitic statements. During that year it received 399 reports of anti-Semitism, of which it considered 258 to be punishable, including 41 denials of the Holocaust. Whereas the Web sites of right-wing extremists traditionally accounted for most of the anti-Semitic expressions on the Internet, the MDI found that such expressions were increasingly present on mainstream interactive websites.

On August 19, the Arnhem Appellate Court fined the AEL for a cartoon on the AEL Web site that expressed the idea that Jews deliberately invented or exaggerated the Holocaust (see Section 2.a.).

In September the Government initiated an updated action plan to combat discrimination in general and anti-Semitism in particular. The plan underlined the importance of a local approach through cooperation between local authorities and Jewish and non-Jewish organizations to include the reporting and filing of complaints, improved tracking down and prosecution of offenders, and education and the dissemination of information on discrimination. For example, the Government sponsored special training courses for teachers, peer education projects, and education programs that focused specifically on anti-Semitism and Holocaust denial. It also sponsored the Jewish Moroccan Network, which sought to reduce tensions between Jews and Moroccans.

In early December, Dutch politician and former EU commissioner Frits Bolkestein advised Dutch Jews, particularly those that stand out due to their dress, to leave the country because of what he described as increasing anti-Semitism, especially amongst Dutch Moroccans. After he was criticized for this statement, Bolkestein stated that his intentions were to urge the Dutch “not look away” from the realities and denied that he ever called on Jews to leave the country.

The Government-funded Article 1 National Association Against Discrimination set up several projects at elementary, secondary, and vocational training schools to counter racism and discrimination.

There were no reports of anti-Semitic incidents in Curacao, St. Maarten, or Aruba.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

*Persons With Disabilities.*—Discrimination against persons with disabilities is illegal in all parts of the kingdom, but government enforcement was inadequate, and there were some reports that such discrimination occurred. The penal code provides penalties for discrimination in employment, education, access to health care, and the provision of state services. In 2009 the CGB received 473 complaints of discrimination, 17 percent of which related to persons with disabilities. Although CGB rulings are not binding, they usually were implemented. The law requires that persons with disabilities have access to public buildings, information, and communications, but public buildings and public transport often were not easily accessible in practice.

*National/Racial/Ethnic Minorities.*—The kingdom’s constitution prohibits racial, national, or ethnic discrimination in all kingdom territories.

In the Netherlands, incidents of physical assault against minorities were rare, but members of minority groups experienced verbal abuse and intimidation, and were at times denied access to public venues, such as discotheques.

A Muslim community of approximately 850,000 persons faced frequent discrimination. Members of immigrant groups also faced discrimination in housing and employment. According to the CBS, in 2009 the minority unemployment rate (11 percent) remained roughly three times that of the ethnic Dutch workforce (4 percent), while the unemployment rate among minority youth was 25.3 percent compared to 11.6 percent for native Dutch youth.

The Government pursued an active campaign to increase public awareness of racism and discrimination. The Government initiated a national campaign to counter discrimination and to improve the reporting of hate crimes, including hate speech, by using a special Web site.

Within the police, the National Discrimination Expertise Center (LECD) worked to optimize the criminal processing of discrimination cases. The LECD cooperated closely with the prosecutor’s offices, local antidiscrimination units, and the MDI. These organizations also registered incidents and issued reports. Data from the LECD, the CGB, and the Racism and Extremism Monitor of the Anne Frank Foundation provided insights into the extent of incidents of discrimination. These organizations voiced concern about the reluctance of victims to report incidents.

In each region a discrimination consultation body, which included police, the prosecutor’s office, and antidiscrimination units, evaluated incidents of discrimination. In 2009 the LECD registered 160 reported offenses of discrimination. This number was lower than the annual average over the previous decade, but the apparent decline could have been the result of a new method of registering such offenses. The offenses were discrimination based on race (51 percent) and religion (anti-Semitism, 35 percent; and anti-Islam, 5 percent). Also in 2009 officials prosecuted 194 offenses, brought 137 indictments, obtained 135 convictions, and entered into 20 out-of-court settlements.

In 2009 the MDI registered 577 instances of Internet discrimination that it asserted were punishable, a significant decrease from 2008. Half of these instances were anti-Semitic. Those responsible removed most (86 percent) of offending sites voluntarily when the MDI asked them to do so. The MDI reported six cases to the prosecutor’s office; cases brought before a court produced several convictions.

Most defamation cases filed in criminal courts concerned racial defamation. Civil lawsuits often alleged discrimination against persons who were not ethnically Dutch in the supply of such services as cell phones and access to clubs. The CGB focused on discrimination in the labor market, including discrimination in the workplace, unequal pay, termination of labor contracts, and preferential treatment of ethnically Dutch employees.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—In the Netherlands, there are no government impediments to the organization of gay events. The gay rights organization COC called for government policies to increase societal acceptance of homosexuality, for example, through mandatory information at schools on homosexuality and the transgender community. There were several gay pride marches during the year. During the year the Justice Ministry reported a rise in harassment due to homosexual activity. Most incidents consisted of verbal epithets and abuse. Police placed a high priority on combating antigay violence.

Caribbean society remained much less accepting of homosexuality and the transgender community; however, there were no known cases of abuse or violence

against individuals in this community in Aruba or the former Netherlands Antilles during the year. There were no gay pride marches.

*Other Societal Violence or Discrimination.*—There were no specific reports of societal violence against persons with HIV/AIDS. However, the Government sponsored a national campaign against societal stigmatization of persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form or join independent unions of their own choosing without prior government authorization or excessive requirements, and workers exercised this right in practice. Approximately 25 percent of the legally employed workers were unionized. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The right to strike is based on the European Social Charter, and workers exercised this right by conducting legal strikes. Requirements for conducting a legal strike were not excessively lengthy or cumbersome. Regulations prohibit retaliation against legal strikers. Public-sector workers generally have the right to strike, but a magistrate may forbid a strike that threatens the public welfare or safety. For example, magistrates have often prohibited police actions because of the essential services police perform.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize, and specific laws provide for the right to collective bargaining; workers exercised these rights in practice. According to the Christian Trade Union Federation, collective bargaining agreements covered approximately 85 percent of the workforce.

The law prohibits antiunion discrimination.

There were no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. See the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

According to the national rapporteur for trafficking in persons, the highest risk sectors for labor exploitation included domestic employment, temporary employment agencies, agriculture and horticulture, restaurants, hotels, and construction. In 2009 the Labor Inspectorate conducted approximately 11,000 inspections at many of these high-risk workplaces.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace; however, children were trafficked for commercial sexual exploitation. See the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

The minimum age for employment is 16 years. Special rules apply to schoolchildren 16 and 17 years of age. For example, the law prohibits persons under the age of 18 from working overtime, at night, or in activities dangerous to their physical or mental well-being. A tripartite labor commission composed of representatives from the Government, enterprises, and unions monitored hiring practices and conducted inspections. The commission enforced the laws effectively.

Holiday work and after-school employment are subject to very strict rules set by law. The Ministry of Labor's inspection office, which is responsible for enforcement, found that during the year 70 percent of companies employing holiday workers and children younger than 18 complied with regulations.

*e. Acceptable Conditions of Work.*—In the Netherlands, the minimum wage for adults is 1,416 euros (\$1,883) per month, which provides an adequate standard of living for a worker and family. The Labor Ministry establishes the minimum wage. The minimum wage in Curacao and St. Maarten was 7.30 Netherlands Antillean Guilders (\$4.10) per hour.

Dutch law establishes a 40-hour workweek. The average workweek in the Netherlands was 38.7 hours for full-time workers and 20 hours for part-time workers. Persons who work more than five hours per day are entitled to a 30-minute rest period. Overtime is regulated. The Labor Inspectorate effectively enforced the labor laws.

A tripartite labor commission actively monitored and effectively enforced working conditions, including comprehensive occupational safety and health standards set by law. The Ministry of Labor and Social Affairs also monitored standards. Workers could remove themselves from dangerous working conditions without jeopardizing their continued employment, and they exercised this right in practice.

Workers in the significant underground economy enjoyed neither the minimum wage nor any of the other legal, administrative, or safety protections available to other workers.

## NORWAY

Norway is a parliamentary democracy and constitutional monarchy. The population is approximately 4.9 million. The country is governed by a prime minister, a cabinet, and a 169-seat parliament (Storting) that is elected every four years and cannot be dissolved. Free and fair elections to the multiparty parliament were held in September 2009. Security forces reported to civilian authorities.

During the year extensive use of holding cells, violence against women, and trafficking of men, women, and children were continuing problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions mostly met international standards, and the Government permitted visits by independent human rights observers; however, there were reports of juveniles being held with adults in holding cells and prison. In November the bar association reported that nearly half of all those arrested during the year were kept in holding cells for longer than 48 hours. In September 2009, the latest date for which government figures were available, police disclosed that due to long waiting lists for prison cells and geographical factors, they had detained approximately 1,500 arrestees during the year in temporary holding cells for longer than the 48 hours allowed by law. Police holding cells were austere and designed for short stays and a transient inmate population. During the year Oslo police reportedly expressed alarm over what they described as some suicidal detainees in holding cells. Media reported that on March 30, a 48-year-old male committed suicide in police custody in Hamar after having spent nearly five days in a holding cell. The Bureau for the Investigation of Police Affairs reportedly concluded in December that the case involved serious misconduct in the use of police arrest and that police significantly exceeded the deadline for a pretrial detention hearing. Authorities fined the Hedmark Police District 50,000 kroner (\$8,400); a final decision on possible additional penalties was pending in anticipation of further depositions. Trandum, the country's only detention center dedicated solely to foreign nationals awaiting deportation, was understaffed, but the problem was rectified during the year according to the parliamentary ombudsman's office (see section 2.d.).

On December 31, there were 3,433 prisoners in the country. There were fewer inmates at the end of the year, because some prisoners were released early for Christmas and others had not been called in to start their sentences. During the latter half of the year, after the country's total prison capacity increased from 3,500 to 3,826, the prison population was usually between 3,700 and 3,800. A total of 1,173 women and 62 juveniles were imprisoned during the year; on average, there were 108 women and 10 juveniles in prison in the country at any given time during the year. The country has three separate prisons for women: Bredtveit (64 places), Sandefjord (14) and Ravneberget (53). In addition, seven other prisons have women's departments with a total of 57 places. A number of other prisons in the country can accommodate women as needed.

Other than Trandum detention center, the country has no separate detention facilities apart from police station holding cells. Nationwide there are 45 prisons, most of which contain separate cells for pretrial detainees. According to government officials, the Trandum detention center can house 150 alien detainees, but usually holds no more than 70. In March the Norwegian Labor Inspection Authority (NLIA) placed a cap of 45 detainees in Trandum due to concerns about employees' safety due to understaffing. According to the Police Officers' Union, the decision required the moving of 20 detainees; of these, almost half were ordered deported, and the rest were released after specific assessment of the status and progress in their

cases. To assess the need for concrete measures to address capacity problems, the Government introduced an improved tool for recording statistics on the use of police custody.

The Government also initiated measures to provide individually adapted follow-up of young offenders, including projects based on the principles of restorative justice. To avoid juveniles' serving their sentences with adults or in total isolation, the Government established two separate prison units for young offenders. The Government also supported alternatives to prison, such as serving a sentence in a child welfare institution or through other means developed on a case-by-case basis by mediation boards. Authorities also escalated the frequency of community service sentences for juveniles.

The prison system was considered transparent; prisoners were represented by an ombudsman who could visit at a prisoner's request or at the ombudsman's own initiative. The ombudsman does not act on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; only the courts handle sentencing. The ombudsman may conduct investigations, however, and may express a legal, nonbinding opinion on whether public authorities have erred or committed any injustice. The ombudsman also may serve on behalf of prisoners and detainees concerning the status and circumstances of confinement of juvenile offenders but received few complaints on this issue. The ombudsman reportedly received no reports of prisoners serving beyond the maximum sentence for the charged offense. The Government permitted monitoring visits by independent human rights groups, the media, and the International Committee of the Red Cross; however, no such visits took place during the year. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions; there were no such complaints or allegations during the year.

Representatives from the national Police Directorate, the relevant state prosecutor's office, and the ombudsman's office carried out inspection visits to ensure prisons and detention facilities were equipped and operated in accordance with all relevant regulations, particularly concerning the prisoner's health conditions. Each police district had its own mechanism or entity for informing prisoners of their rights. Prisoners and detainees had reasonable access to visitors and were permitted religious observance.

To help reduce the waiting list for the country's prisons, in 2008 the Government began a two-year pilot project testing electronic monitoring as an alternative to imprisonment for offenders sentenced to less than four months in prison or those with fewer than four months left of a longer sentence for a nonviolent crime. Juvenile offenders and "first-time" offenders were a priority target group. The electronically monitored offenders had to participate in a motivational and crime prevention program and other activities individually matched to each offender's rehabilitation needs. The stated goal was to maintain and advance offenders' social and economic capabilities and to prevent recidivism. By February 2009, the latest date for which figures were available, authorities had tagged 192 offenders, only eight of whom were returned to prison due to misconduct. On average, approximately 70 offenders were under electronic monitoring at any given time during the year.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police have primary responsibility for internal security; the police may call on the armed forces for assistance in crises. In such circumstances the armed forces are under police authority. The Ministry of Justice and Police oversees the police force.

Civilian authorities maintained effective control over the national police, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

The Organization against Public Discrimination (OMOD) and the Norwegian Center against Racism received some complaints that public security officials used discriminatory racial profiling techniques to stop and search members of ethnic minorities. Evidence of racial profiling was anecdotal because police did not keep records of stop and search activities.

During the year the Government continued to support measures to improve the level of trust between police and adolescents from ethnic minorities. The Ministry of Justice and Police, the Police Directorate, and local police districts had regular dialogues with minority and immigrant organizations. A continuing project in several police districts focused on policing in a multiethnic environment, the results of which may be used as a basis for further police training.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants authorized by a prosecutor for arrests except when the perpetrator is caught in the act of committing a crime, and police usually arrested a person based on a warrant. Police are required to file a justification to hold detained persons in custody within four hours of their arrest and must inform detainees of the charges against them within three days. Authorities must arraign an arrested suspect within 24 hours (not including Saturday and Sunday), at which time the arraigning judge determines whether the accused should be held in custody or released pending trial. There is no bail system. Nonresident foreigners were not released pending trial. Defendants accused of minor crimes were routinely released pending trial. Defendants accused of serious or violent crimes usually remained in custody until trial. Arrested persons were allowed access to a lawyer of their choosing before interrogation or, if they could not afford one, to an attorney appointed by the Government. Authorities usually allowed arrested persons access to family members. The law mandates that detainees be transferred from a temporary police-holding cell to a regular prison cell within 48 hours.

The law permits detention of aliens to establish identity or to effect their removal from the country, if it is most likely they will evade an order to leave. The Police Officers' Union expressed concern about conditions at the Trandum Detention Center for foreign nationals, which the Police Immigration Unit (PUI) administered. According to the Police Officers' Union, authorities released ten detainees from Trandum in March due to "intolerable conditions" stemming from a ratio of 16 detainees to one employee. During the year understaffing at the center led detainees to set fires and nearly to riot. The employee protection ombudsman shut down the center for a few days in April, partly due to concerns over air quality following a fire. The NLIA determined the conditions were good enough to reopen shortly thereafter. As of November the parliamentary ombudsman's office reported that the PUI hired additional staff for Trandum and rectified the problems.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—Defendants enjoy a presumption of innocence. Trials are public. In criminal cases involving a maximum prison sentence of at least six years, a court of appeal sits with a jury of 10 civilian members; there is no right to a jury trial in other instances. Defendants have the right to be present at their trial, to have counsel, at public expense if necessary, to confront and question witnesses, to present evidence and witnesses, and to appeal. Defendants and their attorneys have access to government-held evidence relevant to their cases. The law extends these rights to all citizens.

The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—There are no barriers to access to the European Court of Human Rights (ECHR) by citizens. During the year through October, the ECHR found for the Government in its two cases involving the country. In 2009 the ECHR issued one judgment against the state which found the country had violated the right to respect for private and family life as provided under the European Convention on Human Rights. The Government complied with the ECHR judgment by paying the damages assessed.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters that can adjudicate cases involving human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law prohibits "discriminatory or hateful expressions," defined as "threatening or insulting anyone, or inciting hatred or persecution of or contempt for anyone because of his or her: a) skin color or national or ethnic origin, b) religion or life stance, or c) homosexuality, lifestyle, or orientation." Violators are subject to a fine

or imprisonment not to exceed three years. There were no reported charges or convictions for violating the hate speech law during the year.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms or attempted to collect personally identifiable information. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. As of the second quarter of the year, according to Statistics Norway, approximately 90 percent of households had Internet access, and 81 percent of the population used the Internet daily.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government established a system for providing protection to refugees.

The country is party to the Dublin II regulation, which allows the Government to return refugees and asylum seekers to the first country they entered that is also a party to the regulation. As of October the country returned 255 refugees and asylum seekers to Greece, which is a Dublin II regulation country, only on a case-by-case basis. Following a written request by the ECHR in October, the Immigration Appeals Board issued a press release, stating that it would suspend the deportation of asylum seekers to Greece under the Dublin II regulation until the ECHR ruled on the issue in a pending case involving another European country.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government granted refugee status or asylum and accepted refugees for resettlement. NGOs expressed concern, however, regarding the Government's increasing tendency to return persons to areas the UNHCR deemed unsafe, against UNHCR advice. The media reported that, as of the second quarter of the year, authorities had returned 207 refugees to Greece, Iraq, Somalia, Afghanistan, and Sri Lanka, reportedly against UNHCR advice. The Government responded that it met regularly with the UNHCR and followed most guidelines, but it reviewed each case individually and, following careful research, in some instances did not follow UNHCR advice.

According to the Norwegian Directorate for Immigration (UDI), the Government also provided temporary protection to individuals who might not qualify as refugees and provided it to 2,060 persons.

As a general rule asylum seekers in the country were not taken into custody pending assessment of their applications or following final rejection; they were admitted to open reception centers located across the country, where they had freedom of movement. There were 132 such reception centers, 17 of which were reserved for unaccompanied minors. As of November the reception centers housed approximately 17,000 persons, including those who received a final rejection, and had a total capacity of 19,000 persons.

The Government provided legal guardians to unaccompanied minor asylum seekers. NGOs reported great variation in the recruitment and training of legal guardians, resulting in arbitrary differences in representation. Child Welfare Services took over legal care for unaccompanied minor asylum seekers under 15 years of age, including the responsibility to find legal guardians. Due to logistical difficulties following a steep rise in the number of unaccompanied minors arriving in the country in recent years (from 403 in 2007 to 1,647 by the end of September 2009), immigration authorities remained responsible for older children (ages 15-18). According to the ombudsman for children, this division of responsibility resulted in unequal

treatment, as the Child Welfare Service was better equipped to provide follow-up services and find competent guardians. The Government responded that the 15-18 year olds were accommodated in reception centers particularly adjusted for this group, and that their living conditions had improved in the last two years, both with regard to care and availability of leisure activities.

Unaccompanied minor asylum seekers who are at least 15° years of age at the time of arrival were given a temporary residence permit. The permit expires when they reach 18 years of age, at which time they must return to their country of origin. As of October authorities gave a temporary permit to 38 unaccompanied minors, mostly from Afghanistan (15), Iraq (six), and Ethiopia (three). Some NGOs and local government leaders objected to the practice, expressing concern about its possible psychological impact on children from war-torn countries.

In early July rejected asylum seekers rioted and set fires at the Lier and Fagerli asylum transit centers outside of Oslo. The centers, which burned to the ground during the unrest, had provided housing and food for 250 foreign nationals whose applications for asylum had been rejected and who were expected to leave the country voluntarily or by compulsion if necessary. The Norwegian Center against Racism maintained that the incidents should not have been a surprise; prior to the incidents, residents had expressed dissatisfaction with the centers' conditions and anguish over their own status. Following the fires, the Government decided not to rebuild the two transit centers and instead to establish "return" centers. The new centers would focus on reducing waiting time to a minimum and on preparing the center residents for return to their home countries or countries of first asylum.

In late July six Palestinian asylum seekers at a reception center in Svolvær and one Palestinian at a center in Finnmark, both above the Arctic Circle, began a hunger strike in protest over the length of time authorities were taking to process their asylum applications. The spokesman for the Svolvær group told the media he had been waiting 18 months for the UDI to process his application. The Police Immigration Unit escorted the Finnmark hunger striker to Oslo, en route to his country of first asylum, reportedly based on a decision made before his strike began.

*Stateless Persons.*—According to UNHCR statistics, there were 2,860 stateless persons in the country as of the end of 2009. Citizenship is derived from one's parents; children born in the country do not automatically become citizens. According to government authorities, 95 percent of stateless persons in the country were of Palestinian origin. Others are mostly from the Baltic countries, where there are unresolved nationality issues for some residents. The law authorizes revocation of Norwegian citizenship granted on the basis of false identity information. Since the law requires applicants for Norwegian citizenship to renounce their original citizenship, revoking Norwegian citizenship can result in statelessness if the person's original citizenship is not reinstated. The Government effectively implemented laws and policies to provide stateless persons the opportunity to gain nationality on a non-discriminatory basis.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In September 2009 the country held parliamentary elections that were considered free and fair. The elections resulted in a second term for a coalition government of the Labor, Socialist Left, and Center parties.

Political parties operated without restriction or outside interference.

Following the September 2009 elections, there were 67 women in the 169-seat parliament (nearly 40 percent). There were nine women among the 19 Supreme Court justices, and women headed half of the 20 government ministries. Women led five of the seven political parties represented in parliament. There was one member of parliament from a minority group and one alternate member, both Pakistani-Norwegians. There were no minority ministers or Supreme Court justices. Most major political parties in the country voluntarily apply a gender quota system for purposes of nominations and the composition of party-governing bodies at all levels.

### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were no confirmed reports of government or police corruption during the year.

Public officials are subject to financial disclosure laws. The Ministry of Justice and Police and the Ministry of Finance are responsible for combating corruption.

The law provides for public access to government information, and the Government provided access in practice to both citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The country has parliamentary ombudsmen for public administration, for children, and for equality and antidiscrimination. All of the ombudsmen enjoyed the Government's cooperation and operated without government interference. The ombudsmen hear complaints on actions by government officials, but their offices did not issue any reports specifically on human rights problems. Although the ombudsmen's recommendations are not legally binding, in practice government authorities usually complied with those from the ombudsmen for children and public administration.

Parliament's Standing Committee on Scrutiny and Constitutional Affairs reviews the reports of the parliamentary ombudsmen. Its Standing Committee on Justice is responsible for matters relating to the judicial system, police, the penal code, and the civil and criminal code.

In August the Equality and Antidiscrimination Tribunal confirmed the assessment of the Ombudsman for Equality and Antidiscrimination (LDO) that the banning of religious headscarves (hijabs) in police uniform regulations was discriminatory. The minister of justice and the Police Officers' Union responded that the decision to forbid hijabs would stand based on a thorough political and judicial evaluation of the regulations concerning police uniforms. The Government's decision led some commentators and NGOs to question the LDO's purpose.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced this prohibition in practice, although racial profiling, violence against women, and trafficking in persons were problems.

*Women.*—The law criminalizes rape, including spousal rape, and the Government generally enforced the law. According to police, 1,126 rapes and attempted rapes were reported during 2009 and 489 rapes and attempted rapes reported through the second quarter of the year, the latest date for which figures were available.

The penalty for rape is generally one to 10 years in prison, depending on the severity of the assault, the age of the victim, and the circumstances under which the crime occurred. Very few cases, however, resulted in a maximum sentence. During the year 84 percent of rape cases reported to police never reached the courts; authorities believe this was usually due to the victim's reluctance to press charges, while Amnesty International believed systemic inadequacies were largely to blame. Approximately 36 percent of rape trials during the year ended in acquittal.

In 2008 a government-appointed public committee concluded that a structural failure in the police to prioritize rape cases led to the low percentage of cases prosecuted and offenders convicted. As of the third quarter of the year, the Government had not implemented many of the recommendations in the report, including the suggestion that police set up an independent sexual violence unit.

Violence against women, including spousal abuse, was a problem. The law provides higher penalties for domestic violence than for simple assault, generally one to three years in prison, with an increased term of up to six years in more severe cases. The Government generally enforced the law in practice. In 2009, the latest period for which data were available, 2,144 cases of domestic violence were registered, a 47 percent increase over 2008.

The Government generally and police agencies in particular had programs to prevent rape and domestic violence and to counsel victims. Each of the country's 27 police districts had a domestic violence coordinator to assist victims. Public and private organizations operated 50 government-funded shelters and managed five 24-hour crisis hotlines. The shelters provided support and counseling for victims and helped them gain access to social services, doctors, lawyers, and housing authorities. Victims of domestic violence have a right to consult a lawyer free of charge before deciding whether to make a formal complaint. If criminal proceedings are instituted, the victim is entitled to free assistance from a victim's advocate. This also applies to children who have been subjected to violence, sexual abuse, or genital mutilation.

The law provides that “employees shall not be subjected to harassment or other unseemly behavior,” and the Government effectively enforced this provision. Employers who violate this law are subject to fines or prison sentences of up to two years, depending on the seriousness of the offense.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception, and 88 percent of women used some form of contraception according to 2008 data from the UN Population Fund (UNFPA). There was skilled attendance during childbirth and essential prenatal and postpartum care; in 2008 the UNFPA, the World Health Organization (WHO), and the UN Children’s Fund estimated the maternal mortality rate to be seven per 100,000 births. Women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men.

Women have the same legal status as men and enjoy identical rights under family and property laws and in the judicial system. The LDO was generally effective in processing and investigating complaints of gender discrimination. In 2009 the office received 65 complaints and addressed 510 information requests related to alleged sexual discrimination. Of the 65 complaints, 21 were processed by year’s end. The LDO issued an official statement in ten of the cases, finding an illegal practice in eight. As of September, the latest date for which figures were available, the LDO had received 287 information requests and 36 complaints, eight of which resulted in a finding of illegal gender discrimination.

The law provides that women and men engaged in the same activity shall receive equal wages for work of equal value. According to Statistics Norway, women received largely the same pay and benefits as men for equal work but earned on average 85 percent of what men earned per month. The Government attributed this to differences in the professions chosen and the predominance of women in part-time or public sector work.

The law mandates that 40 percent of the boards of directors of publicly listed companies be women; virtually all public companies complied with the law.

*Children.*—Citizenship is derived from one’s parents; children born in the country do not automatically become citizens. All birth clinics in the country reported child-births to a central birth register, which included names, birth certificates, and social security numbers, including those of the parents.

In 2009 childcare services initiated 30,100 investigations of alleged abuse, 8.2 percent more than in the previous year and a record high. Childcare services completed 29,900 investigations in 2009 and offered intervention or services in approximately half the cases. An independent children’s ombudsman office within the Ministry of Children, Equality and Social Inclusion (MCESI) is responsible for the protection of children under the law. The directorate for children, youth, and family affairs provides assistance and support services. With five regional offices and 26 professional teams, the directorate is the Government’s principal agency for the welfare and protection of children and families.

Female genital mutilation (FGM) is illegal. Since 2004 police have received 15 reports of FGM involving families originally from countries where the practice is customary. Of these, one report was still under police investigation, while the others were dropped. None of the cases involved FGM performed in the country.

In what officials described as an effort to prevent FGM, the national government initiated a pilot project in 2008 that offered counseling and voluntary genital examination to all girls and women who came from areas where, according to the WHO, the incidence of female genital mutilation was 30 percent or more. According to the Government, the offer was part of the municipal health examination which qualified doctors carried out. Counseling and genital examination were offered to all relevant groups of girls (immigrants and those born in the country of immigrant parents) before starting school (five to six years old), in the fifth grade (10-11 years old), and 10th grade (15-16 years old). The genital examination would only be carried out with valid consent of the patient, parent, or guardian in compliance with the law. There were unconfirmed reports that some parents were told that, if they did not acquiesce to the exam or counseling, they might be referred to the Department of Child Protective Services. OMOD expressed privacy concerns on behalf of the targeted girls and reported that parents of African ancestry felt stigmatized by the project.

Forced marriage and aiding and abetting a forced marriage are punishable under the law. In the first half of the year, authorities were advised of 49 forced marriages, a 50 percent increase from 2009. As of July an NGO hotline also received 71 calls for help in averting or annulling a forced marriage. During the year the Directorate for Integration and Diversity assumed responsibility for managing emergency housing for children fleeing a forced marriage. Two NGOs that previously

managed emergency housing reported that during the year children fleeing a forced marriage often ended up in shelters for drug addicts due to slow case processing.

An estimated 10,000 to 18,000 persons were illegally resident in the country, including an unknown number of children. Children have the right to basic health services regardless of their residence status and are entitled to primary and lower secondary education. NGOs expressed concern that many children without legal residence are not receiving health services or attending school because they and their families live in hiding to avoid expulsion. Juss Buss, a student legal aid organization, reported that case workers at the Labor and Welfare Administration were unaware illegal residents were entitled to these rights, leading them to reject some illegal residents' requests for emergency assistance.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish population is relatively small, consisting of approximately 1,100 persons.

In March a state-owned broadcasting company televised a news feature, highlighting anecdotal reports of bullying against Jewish students, particularly by Muslim youth. Four teachers interviewed anonymously on the news program stated that anti-Semitism had become acceptable among some students, with some denying the Holocaust openly in the classroom and claiming Jews were responsible for the 9/11 attacks.

Shortly after the newscast, Oslo's governing mayor invited representatives from the Jewish community, the Islamic Council, the Christian Council, the Center for Studies of Holocaust and Religious Minorities (Holocaust Center), and Oslo's Department of Cultural Affairs and Education to discuss how to eradicate harassment of religious minorities. The city's stated goal was to determine the scope of the problem and to introduce targeted measures. In May the Ministry of Education inaugurated a working group to analyze ways to counter racism and anti-Semitism in the country's primary and secondary schools. The Holocaust Center in Oslo was the secretariat for the group.

NGO representatives and leaders of the Jewish and Muslim communities applauded the Government's prompt response to the problem identified in the March news program. Some expressed concern, however, that the news feature identified Muslim youth as the main instigators, noting that the problem was more nuanced. The concern led to a debate regarding the existence of anti-Semitism and the line between criticism of Israeli policy and anti-Semitism.

In October one of the country's leading newspapers published on its front page a painting by a prominent Norwegian artist, under the headline "This painting did not get to be hung." The painting, which portrayed a blood-spattered Israeli flag and faceless soldiers over a pile of skulls and body parts, was one of two works removed a few days earlier by French authorities from the artist's traveling exhibit at the French Cultural Center in Damascus. The exhibit had been billed as an homage to the children of Gaza. In an editorial, the rabbi of the Oslo Jewish Community wrote that the painting crossed the line from legitimate anti-Israel criticism to anti-Semitism. The rabbi called on the Government to distance itself from the messages in the artwork, which he said could promote hatred and dehumanization of Jews. He also questioned the newspaper editors' decision to publish the painting, which he said steps on "my symbols, my faith, and my cultural identity," without additional context from the Israeli Gaza war that would show the suffering of both sides in the conflict. The editors responded that their decision to publish the painting was not anti-Semitic but was a protest directed at the State of Israel.

A survey conducted during the year in conjunction with the International Civic and Citizenship Education Study, concluded that the vast majority of ninth graders in the country had a high level of awareness about the Holocaust, Nazism, and racism. Ninety-one percent of the 14- and 15-year-olds surveyed knew that six million Jews were killed during the Holocaust, while 9 percent did not. The survey evidenced no discernible pattern of responses among particular ethnic or religious groups.

The Government continued to support organizations working to combat racism, discrimination, and anti-Semitism, including organizations such as the White Buses foundation, which took students from the country to Auschwitz and other World War II-era concentration camps to educate them about the Holocaust. In March the country completed a one-year rotating chairmanship of the International Task Force for Holocaust Education, Remembrance, and Research.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services, and the Government effectively enforced these provisions. The law applies generally to all persons with disabilities without enumerating specific types of disabilities. It mandates access to public buildings, information, and communications for persons with disabilities, and the Government generally enforced this provision in practice. The MCESI and the State Council on Disability divide the responsibility to protect the rights of persons with disabilities. The State Council served as an advisory body for the MCESI, which coordinated national policy and managed the social benefits system for persons with disabilities. All educational institutions are required to have an appointed contact person for disabled students as well as a plan of action to include this group of students.

*National/Racial/Ethnic Minorities.*—On January 3, a 63-year-old immigrant woman died of a heart attack after her family members made nine emergency calls to the ambulance service. The family subsequently sued, contending the operators refused to acknowledge the emergency call due to discrimination. The operators stated they perceived the caller's language as threatening and thus waited for police to arrive before entering the building. On September 14, the Bureau for the Investigation of Police Affairs acquitted the operators of gross misconduct and breach of the Health Personnel Act, but criticized two of the operators for their actions. The Board of Health Supervision had not concluded its investigation of the incident at year's end.

In February the Center against Racism found what it perceived as evidence of ethnic discrimination following a test of five nightclubs in Oslo. According to the same NGO, groups of youths who did not appear to be ethnic Norwegian were rejected in three of five clubs, while groups of ethnic Norwegian youths in the same lines were admitted without question. The claim received media attention, and some of the youth involved started their own initiative to gather a larger sampling of information. In response, the minister of children, equality and social inclusion publicly condemned racism in nightclubs, and the LDO investigated the issue. In October the LDO concluded its investigation, finding six nightclubs in Oslo had engaged in ethnic discrimination and recommending the nightclubs lose their liquor license and improve training. The law provides for the withdrawal of a license to serve food and beverages for breach of the Antidiscrimination Act. There were no reports of licenses withdrawn during the year.

Immigrants and their children sometimes had more difficulty finding employment than equally qualified ethnic Norwegians. There were also stark differences in the overall unemployment rate. As of May the unemployment rate among immigrants was 7.3 percent, compared with 2.2 percent among nonimmigrants, according to government statistics. African immigrants had the highest unemployment rate at 13.5 percent, followed by immigrants from eastern EU countries at 9.3 percent and Asians at 8.2 percent.

*Indigenous People.*—The Sami are Norway's indigenous people; there are approximately 50,000 Sami living in the northern part of the country. In addition to participating freely in the national political process, the country's Sami elect their own parliament, the Samediggi. The law establishing the Sami parliament stipulates that this 39-seat consultative group meet regularly to deal with "all matters, which in [its] opinion are of special importance to the Sami people."

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Gay pride marches were authorized and registered; police provided sufficient protection to marchers. On June 26, the main march of the year took place peacefully in Oslo through a neighborhood where gays and lesbians had previously been harassed.

In August 2009 an unknown assailant attacked two gay men who were holding hands while walking in a majority Muslim neighborhood of Oslo. Police were unable to identify a suspect during the year.

*Other Societal Violence or Discrimination.*—There were no media reports of societal violence against persons with HIV/AIDS. However, an NGO reported that persons with HIV/AIDS continued to face discrimination by some dentists and medical personnel but did not provide information on specific incidents. An NGO criticized as insufficiently funded the Government's five-year national HIV strategy to increase acceptance and knowledge of the disease, both to limit new infections and to provide persons living with HIV better opportunities for social inclusion.

*Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 53 percent of the workforce belonged to a union. The law allows unions to conduct their activities without government interference, and workers exercised this right in practice.

The law provides for the right to strike, except for military forces and senior civil servants, and workers exercised this right in practice. However, with the approval of parliament, the Government may compel arbitration in all industrial sectors under certain circumstances, such as when a strike threatens the quality of health care or endangers public safety. The Government invoked compulsory arbitration during the year to end a two-week hospital strike.

*b. The Right to Organize and Bargain Collectively.*—All workers, including government employees and military personnel, have the right to organize and to bargain collectively, and they exercised this right in practice. Approximately 50 percent of workers were covered by collective bargaining agreements.

The law prohibits antiunion discrimination and there were no reports that it occurred during the year.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and the Government enforced these provisions in practice. However, there were reports that persons were trafficked for labor. For further information, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace, and the Government effectively enforced these laws; however, children were trafficked for forced labor. For further information, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Children 13 to 15 years of age may be employed up to 12 hours per week in light work that does not adversely affect their health, development, or schooling. Between the ages of 15 and 18, persons not in school may work up to 40 hours per week, while persons who remain in school may only work a number of hours that does not adversely affect their schooling, in fact substantially less than 40 hours. Minimum age rules were observed in practice and enforced by the NLIA.

*e. Acceptable Conditions of Work.*—There is no legislated or specified minimum wage, although in practice there was a minimum wage in certain sectors. Wages are set in collective bargaining agreements negotiated by labor unions, employers, and the Government. The agreements may include minimum wage levels for specific sectors on a biennial basis. The average daily wage provided a decent standard of living for a worker and family.

The law limits the normal workweek to 37.5 hours and provides for 25 working days of paid leave per year (31 days for workers over age 60). The law mandates a 28-hour rest period on weekends and holidays. The law provides for premium pay of 40 percent of salary for overtime and prohibits compulsory overtime in excess of 10 hours per week. Although the law provides the same benefits for citizens and foreign or migrant workers, there were reports, especially in the construction industry, of foreign workers being underpaid or overworked beyond legally permissible limits.

The law provides for safe and physically acceptable working conditions for all employed persons. The NLIA, in consultation with nongovernment experts, set specific standards. Under the law, enterprises with 50 or more workers must establish environment committees composed of management, workers, and health personnel. All enterprises with 10 or more workers must have safety delegates, who are elected by the employees. Workers have the right to remove themselves from situations that endanger their health, but no data was available on whether they exercised this right in practice. The NLIA effectively monitored compliance with labor legislation and standards.

---

## POLAND

Poland is a republic with a multiparty democracy and a population of approximately 38.5 million. The bicameral National Assembly consists of an upper house, the Senate (Senat), and a lower house (Sejm). The president, the prime minister, the Council of Ministers, and the Sejm share executive power. The July special presidential election and the 2007 preterm National Assembly elections were considered

free and fair. Both President Bronislaw Komorowski and Prime Minister Donald Tusk were members of the ruling Civic Platform party. The prime minister governed in a coalition with a smaller political party. Security forces reported to civilian authorities.

Among the country's principal human rights problems were police misconduct; lengthy pretrial detention resulting from an inefficient judicial system; laws that restricted free speech, although rarely enforced; and corruption in the Government and society. Other problems were discrimination against women in the labor market; sexual exploitation of children; occasional nonviolent incidents of anti-Semitism; trafficking in persons; and societal discrimination and violence against ethnic minorities, gays, and lesbians. Violations of workers' rights and antiunion discrimination also occurred.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, police shot and killed two persons during the year.

On May 23, police shot and killed a Nigerian market vendor during a routine document check. The vendor reportedly fled when police approached, causing them to pursue. After the police caught the man, bystanders formed a mob and attacked the police, at which time police fired a shot. According to police, they were unable to administer first aid to the victim because the mob was still attacking them. Prosecutors charged 26 persons with assaulting a police officer and resisting arrest. At year's end, the investigation into whether the police used excessive force or caused wrongful death was ongoing.

On December 3, an off-duty police officer in Lodz shot a man, who died of his wounds two days later. According to press accounts, the officer and a colleague were returning home when two men with a dog attacked them. Press reports indicated that the police officer drew his gun to protect himself from the dog, which was attacking him with the owner's encouragement. During the struggle with the dog's owner, who tried to grab the weapon, the police officer fired the gun, wounding the man in the abdomen. Reports indicated that both the off-duty officers and their attackers may have been inebriated. Both prosecutors and the internal affairs authorities in the police force initiated investigations, which were ongoing at year's end.

On February 5, the Warsaw District Court began a new trial of 12 communist-era police officers found guilty in 2007 of firing on striking coal miners in 1981. Nine persons were killed and 25 others wounded in the incident at the Wujek coal mine.

A trial begun in 2008 continued against eight communist-era officials who imposed martial law in 1981, including generals Wojciech Jaruzelski and Czeslaw Kiszczak. If convicted on charges of violating the constitution, abuse of power, and leading an organized criminal group, the defendants could face up to 10 years in prison.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and the Government generally respected these provisions. There were problems, however, with police misconduct and abuse of prisoners. The criminal code lacks a clear, legal definition of torture, which is not reported as a separate crime.

On November 12, an individual filed a complaint with the Warsaw prosecutor's office claiming police beat him during November 11 Independence Day demonstrations and counterdemonstrations. A second person, who participated in counterdemonstrations, submitted a complaint alleging police brutality. Both individuals were among 33 persons arrested by police during the demonstrations. Authorities filed charges against nine of the 33, including the two individuals who filed complaints alleging police brutality. Eight were charged with violating the physical inviolability of police officers and one with using violence or the threat of violence to prevent a police officer from performing his/her duties.

On November 5, after a two-year investigation conducted by Gdansk district prosecutors, the regional court in Kwidzyn began a trial against six police officers and one civilian employee of the police station in Prabuty for using excessive force and failure to fulfill their duties by not reporting the actions of their colleagues. In November 2009 prosecutors filed charges for offenses that took place in 2008, including beating and subsequently abandoning intoxicated persons in a forest, as well as

beating two teenagers at a police station. If convicted, the officers could face three to five years' imprisonment. An internal investigation led to the dismissal of the regional police commander and deputy commander. The six officers were suspended from their official duties with half pay.

In 2008 the country's human rights ombudsman issued a formal statement of concern to the chief of the national police about the excessive use of force by police, such as beatings that resulted in injuries and unauthorized arrest in some cases. The ombudsman requested information on a plan to address the problem; however, as of year's end, police had not responded.

The law on police misconduct outlines disciplinary actions, which include reprimands, demotion in rank, and dismissal.

On June 8, a revision of the criminal code took effect that allows forced chemical castration of convicted pedophiles. Under the law, courts are to decide whether the offender should undergo such treatment six months before their expected parole. In the case of the rape of a person less than 15 years of age or incest, chemical castration would be obligatory. There were no reports that judges administered this punishment during the year.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards; however, prison medical staff vacancies and access to specialized treatment continued to be a problem. The Government permitted monitoring visits by independent human rights observers.

At year's end there were 80,734 persons in prisons and detention facilities, according to government statistics. The capacity of these facilities declined by approximately 2,900 during the year. Occupancy was approximately 95 percent of capacity.

As of October 31, approximately 2,656 prisoners (3 percent of the prison population) were women. Women prisoners were held either in dedicated detention facilities or in separate parts of joint facilities. While authorities generally separated juveniles from adults, in exceptional cases the law allows them to share housing in prisons and detention centers. Authorities usually sent juveniles (17- to 21-year-olds) accused of serious crimes to pretrial detention.

Pretrial detainees were often held in prisons pending trial but in separate areas from convicts. Conditions for pretrial detainees were generally similar to those for prisoners but, on occasion, were worse due to overcrowding and poorer facilities resulting from court-mandated restrictions on where a prisoner should be located while awaiting trial.

Under the country's criminal code, the minimum cell size is three square meters (32 square feet) per person, but prisoners may occupy smaller cells for a limited time. At year's end, 49 detainees were in cells smaller than the legally mandated minimum, according to government statistics.

In December 2009 a new criminal code provision took effect that provides mechanisms designed to prevent prison overcrowding, including deferring sentences if the total number of prisoners would exceed prison capacity. In an effort to meet occupancy requirements, prison officials converted many common areas, such as activity rooms and libraries, into cells.

Prisoners and detainees had reasonable access to visitors and could participate in religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Prisoners exercised this right either directly with prison officials and the Justice Ministry or indirectly through local non-governmental organizations or the human rights ombudsman.

During the year the human rights ombudsman received 7,233 complaints, compared with 7,158 in 2009, mainly regarding abuse by prison authorities, inadequate living conditions, inadequate medical care, and violations of mail and visiting rights.

Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. At the request of the Justice Ministry, the human rights ombudsman administers the National Preventive Mechanism to investigate and monitor prison and detention center conditions. The office of the ombudsman publishes its findings and a summary of the recommendations it made to relevant authorities in an annual report.

The Government allowed independent monitoring of prison conditions and detention centers on a regular basis by the human rights ombudsman. The ombudsman can join proceedings in civil and administrative courts on behalf of prisoners and detainees, either when they have filed a complaint or when information otherwise leads to an allegation of inhumane conditions. During the year the ombudsman visited 80 prison and detention facilities, including pretrial and juvenile detention centers, as well as guarded centers for refugees. As of year's end, the Council of Europe's Committee for the Prevention of Torture had not released the findings from its fourth periodic visit to the country in December 2009.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The police force is a national law enforcement body with regional and municipal units overseen by the minister of interior. The Internal Security Agency (Agencja Bezpieczeństwa Wewnętrznego, ABW) has responsibility for investigating and combating organized crime, terrorist threats, and proliferation of weapons of mass destruction. The Central Anticorruption Bureau (Centralne Biuro Antykorupcyjne, CBA) is responsible for combating governmental, business, and financial corruption. Both agencies report directly to the prime minister.

Civilian authorities maintained effective control over the security forces, and the Government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—In most cases the law requires authorities to obtain a court warrant based on evidence to make an arrest, and authorities generally complied with the law in practice.

Lengthy pretrial detention remained a problem that contributed to overcrowding and deterioration of detention facilities; however, according to media reports, the number of prosecution motions for pretrial detention declined during the year. The law allows 48-hour detention before authorities must file charges and an additional 24 hours for the court to decide whether to order pretrial detention. Authorities must promptly inform detainees of the charges against them. There was a functioning bail system, and most detainees were released on bail. Detainees have the right to counsel; the Government provided free counsel to the indigent. Defendants and detainees have the right to consult an attorney at any time.

The law permits authorities to detain persons charged with a crime for up to three months. Detained persons may appeal the legality of their arrest. A court may extend pretrial detention every six to 12 months, but the law specifies that the total time in detention may not exceed two years (in certain complex cases, the court may petition the Supreme Court for an extension beyond two years); however, in practice detention frequently extended beyond two years.

As of November 30, according to the Central Prison Authority, there were 8,945 pretrial detainees, a decrease of 900 in comparison to November 2009.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice; however, the judiciary remained inefficient and did not enjoy public confidence.

Military courts, supervised by the minister of justice and the prosecutor general, have jurisdiction over crimes committed by military personnel while on duty. Military defendants enjoy the same rights as civilians.

The court system remained cumbersome, poorly administered, and inadequately staffed. Although according to the General Prosecutor's Office, the overall number of prosecutors was large (5,668), but the number of prosecutors dealing with criminal offenses was inadequate. Some progress was reported in the computerization of the court system, but a continuing backlog of cases and the high cost of legal action deterred many citizens from using the justice system.

On January 4, the Justice Ministry established the country's first "e-court," designed to adjudicate approximately 600,000 routine civil cases per year.

In 2007 the country implemented a system of "24-hour courts" to expedite trials for minor offenses and petty crimes. Under this system, the accused must be tried and a decision reached within 72 hours of arrest. Police and prosecutors have 48 hours to collect evidence and file a case; courts must issue a decision within 24 hours. On June 8, in response to criticism of the cost and questions about the effectiveness of this system, a law took effect that gives accused persons the option of voluntarily accepting prescribed penalties while the case is under investigation and allows the state to release accused offenders on their own recognizance if they agreed to appear in court. The new law also eliminated the state's obligation to provide a defense attorney and provides that 24-hour courts may try individuals in absentia. According to media reports, the 24-hour court procedure was rarely used.

*Trial Procedures.*—Defendants must be present during trial; they enjoy a presumption of innocence. Trials are usually public; however, the courts reserve the right to close a trial in some circumstances, including divorce proceedings, cases involving state secrets, and cases whose content may offend public morality. The law provides for juries, usually composed of two or three individuals appointed by local officials. In regional and provincial courts, a panel of one judge and two lay assessors try cases. Defendants may consult an attorney, confront and question witnesses, have access to government-held evidence, and present evidence and wit-

nesses. Prosecutors can grant witnesses anonymity if they express fear of retribution from defendants.

After a court issues a verdict, a defendant has seven days to request a written statement of the judgment; courts must respond within seven days. A defendant has the right to appeal a verdict within 14 days of the response. A two-level appeal process is available in most civil and criminal matters.

Individuals continued to file complaints against the Government with the European Court of Human Rights (ECHR) regarding trial delays, the right to a fair trial, and the lack of due process.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—In 2009, the most recent year for which data was available, the ECHR issued 123 judgments that found at least one violation of the European Convention on Human Rights. Of that total, 71 judgments found the country violated the convention's provisions for a fair and expeditious trial. Of these decisions, 35 involved violations of the right to liberty and security, including lengthy pretrial detention, 14 related to inhuman or degrading treatment and ineffective investigations, and 12 involved respect for private and family life. At the end of 2009, 4,750 cases involving the country were pending before the court.

The country generally complied with ECHR judgments. In May 2007 the Government adopted a special action plan to improve the effectiveness of the implementation of the ECHR judgments. Included in the action plan were recommendations for changes in legislation (only partially enacted by year's end), improvement of legal practices, human rights training, and distribution of information about ECHR judgments to courts and the National School for Prosecutors and Judges. An interagency team at the Justice Ministry's Human Rights Department monitors the implementation of ECHR judgments.

According to the Helsinki Human Rights Foundation, the Government was most successful in complying with ECHR judgments in cases that affected a large number of persons and cases of particular legal importance, specifically cases where systematic or legislative changes were required. The foundation claimed the Government was less successful in complying with less prominent, individual cases that attracted less media attention.

*Civil Judicial Procedures and Remedies.*—The judiciary system is generally independent and impartial in civil cases, and there is access to courts to bring lawsuits seeking damages for or cessation of human rights violations. The constitution and law provide for the sovereignty of, and public access to, the courts. However, implementation of court orders, particularly for payment of damages, remained slow, cumbersome, and ineffective. Changes to civil procedures placed speed and efficiency ahead of individual rights, and the limited number of attorneys made it expensive to exercise the right to legal counsel.

In November 2009 the Justice Ministry created a Human Rights Department with the primary objective of promoting the human rights standards throughout the justice system. The department also responds to identified cases of human rights violations, including overlong trials, excessive use of pretrial detention, and prison overcrowding. According to Warsaw-based Helsinki Human Rights Foundation, the department was particularly successful in promoting knowledge about ECHR verdicts by translating them into Polish, posting them on the ministry's Web site, and distributing them to domestic courts.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits most such actions; however, the Government did not always respect these prohibitions in practice.

The law allows electronic surveillance for crime prevention and investigation. There was neither independent judicial review of surveillance activities nor any control over the use of information obtained by monitoring private communications. A number of government agencies had access to wiretap information.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, in practice there were laws that restricted these freedoms. Since the collapse of the Communist government in 1989, the Government and courts have either upheld or instituted laws that criminalize defamation by individuals and the media and limit editorial independence.

Defamation includes publicly insulting, defaming, or libeling members of parliament, government ministers, or other public officials, as well as private entities and persons. Defamation, carried out through the mass media, is punishable by imprisonment of up to one year. Defamation outside the media is punishable by a fine

and community service. For publicly insulting the president, the maximum sentence is three years' imprisonment. Maximum penalties are rarely applied; persons found guilty of defamation generally only faced fines.

On January 5, the Lublin prosecutor's office again discontinued the case against Sejm deputy Janusz Palikot, who in his Internet blog referred to the president as a "runt." In September 2009 the Lublin Regional Court overturned the prosecutor's earlier decision not to pursue charges against Palikot in response to the president's call for the charges to be pursued.

The law prohibits hate speech, including dissemination of anti-Semitic literature and the public promotion of fascist or other totalitarian systems. On June 8, a revision to the criminal code took effect, adding public promotion of communist systems to the prohibited list. On December 14, the Wroclaw District Court gave prison sentences of from 13 to 18 months to three persons for promoting neofascist ideas and inciting hatred on the basis of national, ethnic, racial, and religious differences on their Web sites, RedWatch.info, and BHPoland.org. The Web sites published names and personal information of persons from minority groups, human rights NGOs, and local media, resulting in threats and harassment to at least 385 persons.

The independent media were active and expressed a wide variety of views.

The National Radio and Television Broadcasting Council, a five-member body appointed by the National Assembly and the president, is responsible for protecting freedom of speech and has broad power to monitor and regulate programming, allocate broadcasting frequencies and licenses, apportion subscription revenues to public media, and impose financial penalties on broadcasters. While council members were required to suspend their membership in political parties and public associations, critics asserted that the council remained politicized. The president and the Sejm each select two members, and the Senate selects one member.

Content restrictions on the media include a law that prohibits the promotion of activities that are against government policy, morality, or the common good and requires that all broadcasts "respect the religious feelings of the audiences and, in particular, respect the Christian system of values." In practice the Government rarely enforced this provision, which allows for levying fines on programs deemed offensive. The press code also places some limits on editorial independence, for example, by specifying that journalists must verify quotes and statements with the person who made them before publication.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

According to International Telecommunication Union statistics, approximately 58 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

The law on protecting aliens permits denial of refugee status based on safe country of origin or safe country of transit; however, the law also includes provisions to consider the protection needs of individuals with exceptional cases.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. During the year the Government granted refugee status to 84 persons

compared with 133 persons in 2009. The Government denied refugee status in 3,967 cases.

Persons granted asylum or refugee status had the right to work, to receive social assistance and education, and to have access to a state integration program for 12 months. The program provides participants with contacts in the local community, assistance with accommodations, and help with job searches. Refugees received monetary assistance for living expenses and language training and were registered in the national health-care system.

According to Amnesty International, asylum seekers and recognized refugees continued to face difficulties finding jobs and obtaining health care due in part to poor integration program conditions. Persons with temporary status also had the right to work, received social assistance, and participated in the Government's integration programs.

There were occasional reports of problems in the country's 19 refugee detention centers, which were located in the Warsaw, Bialystok, and Lublin areas and had a capacity of 4,000 persons. Refugees experienced language and cultural barriers; they had limited access to higher education. There was discrimination against refugee children by their peers.

The Government also provided temporary protection to individuals who may not qualify as refugees and provided it to 439 persons during the year, compared with 2,458 persons in 2009.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The June 20 (first round) and July 4 (second round run-off) special presidential election and the 2007 preterm parliamentary elections were considered free and fair.

Multiple candidates from various political parties freely declared their candidacy to stand for election and had access to the media.

There were 91 women in the 460-seat Sejm and seven in the 100-seat Senat. There were five women in the 20-member Council of Ministers. An additional 24 women held ministerial-level positions. Eleven of the country's 50 members of the European Parliament were women. In local government elections held on November 21, women won 24 percent of the seats in local councils, a 4 percent increase over the previous election.

On October 27, the UN Human Rights Council published its concluding observations following its review of the country's sixth periodic report, in which it noted that the Government should intensify efforts to achieve equitable representation of women in parliament and at the highest levels of the Government, judiciary, civil service, police force, and prison service. The council called on the Government to ensure that women receive equal pay for work of equal value and reinstitute the Office of the Government Plenipotentiary for Equality of Men and Women as an independent body.

There were two minority members in the Sejm (one representing the German minority in Silesia) and no minorities in the upper house. On December 14, John Godson was sworn in as the first black member of parliament. There were no members of minorities in the cabinet. The law exempts ethnic minority parties from the requirement that they must receive 5 percent of the vote nationwide to qualify for seats in individual districts.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not always implement these laws effectively, and officials sometimes engaged in corrupt practices.

According to World Bank governance indicators for 2008, corruption was a problem in the country. There was a widespread public perception of corruption throughout the Government. Citizens continued to believe that political parties and members of the legislative branch, the health care system, and the judiciary were the most corrupt.

On December 10, the District Prosecutor's Office in Swidnica initiated an investigation into "political" corruption in connection with the first and the second round of the local government elections in Walbrzych. The investigation was based on evidence gathered by the CBA, which indicated that some voters might have been given money to vote for particular candidates. On December 2, Senator Roman Ludwiczuk of the ruling Civic Platform (PO) party resigned his party membership

after admitting to political corruption. On a tape recording released by the press, Ludwiczuk was heard offering a member of his opponent's campaign staff a high-ranking local government position in exchange for resigning his campaign position. On December 3 and 7, three candidates for mayor of Walbrzych filed a motion to the court to annul the election results on the grounds of possible corruption.

On September 21, Deputy Prime Minister and Economy Minister Waldemar Pawlak dismissed the presidents of two state-owned coal mining companies, Kompania Weglowa and Katowicki Holding Weglowy, after the Katowice Prosecutor's Office charged them on September 16 with accepting bribes ranging from 16,000 to 600,000 zloty (\$5,400 to \$203,000). As of year's end, the prosecutorial investigation was ongoing.

The investigation continued of Sylwester Rypinski, the president of the state-owned Social Insurance Agency and six other employees. They were arrested in September 2009 by ABW on corruption charges. If convicted, Rypinski would face up to 10 years' imprisonment.

On August 5, a parliamentary special investigative committee concluded that prominent representatives of the ruling Civic Platform party did not conspire with businessmen who were allegedly lobbying for a revision of a draft law on gambling. The Government's chief anticorruption official published a separate report on July 29 that noted irregularities in the drafting of the new law and criticized the Ministries of Economy, Finance, and Sport for confusing the legislative process. In October 2009 the national daily Rzeczpospolita published transcripts that the CBA obtained through wiretaps of conversations between leading politicians and gambling industry representatives. The so-called gamble-gate scandal led to a major government reorganization later that month, in which six ministerial-level officials, including Sports Minister Miroslaw Drzewiecki, resigned. The chairman of the ruling party's parliamentary caucus, Zbigniew Chlebowski, also resigned.

The CBA has broad powers to audit the financial holdings of public officials and to fight corruption in public procurement. It is also authorized to conduct searches and secret videotaping, wiretap telephone conversations, and make arrests.

During the year the CBA continued to examine numerous high-profile and controversial investigations begun earlier:

The trial of billionaire Henryk Stoklosa continued in the Poznan District Court. Stoklosa was indicted in 2008 on 21 charges in connection with a major finance ministry corruption case. Three ministry officials were also arrested as part of the CBA investigation. According to the prosecutor, the officials canceled fiscal liabilities and issued tax exemptions over a 10-year period in exchange for bribes from organized criminals and businessmen. Stoklosa was also charged with bribing a Poznan judge. If convicted, he could face up to 10 years' imprisonment.

On October 5, the Warsaw District Court began the trial of Beata Sawicka, a former member of the parliament, and Miroslaw Wadolowski, the mayor of Hel, on corruption charges related to a real estate scandal. The CBA accused Sawicka of corruption for accepting a bribe to influence a public tender in Hel in the period preceding the 2007 parliamentary elections. In her defense Sawicka said that a CBA officer seduced and manipulated her into accepting the bribe. A few months earlier, on April 23, the Warsaw Prosecutor's Office discontinued its investigation into CBA's involvement in the case, deciding that the CBA officers had not acted illegally.

On May 24, an appeals court overturned the August 2009 Warsaw Circuit Court conviction of two persons for attempting to bribe former agricultural minister and Deputy Prime Minister Andrzej Lepper. The CBA detained the two in 2007 based on reports that they had connections with persons in the Agriculture Ministry who could issue favorable land-use decisions in exchange for a bribe of three million zloty (\$1 million). Lepper was subsequently dismissed as minister. The appeals court ordered a new trial in the case.

The Government continued to take steps to address corruption within the 100,000-member police force by instituting harsher penalties and eliminating collection of fines in cash by police officers. Instead, it became necessary to pay fines at post offices or via electronic fund transfers. The National Police's Internal Affairs Office investigated instances of corruption and serious criminal misconduct.

On January 17, a special prosecutor's office in Bialystok concluded a major corruption investigation of senior officials for malfeasance in public tenders in 2004. As a result of the investigation, 23 persons, including several senior employees at national police headquarters, were indicted in a Warsaw court on charges of abuse of power, failure to fulfill duties, accepting bribes, and perjury.

The law provides for public access to government information and, in practice the Government generally provided access to citizens and noncitizens, including foreign media. By law government refusal of information requests must be based on excep-

tional circumstances related to government secrets, personal privacy, and proprietary business data. Refusals may be appealed.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The country's human rights ombudsman presents an annual report to the Sejm on the state of human rights and civic freedom in the country. The ombudsman generally had adequate resources, enjoyed the Government's cooperation, and was considered effective. In 2009 the human rights ombudsman reported that 65,208 cases were filed with the office, an increase of 3,686 from 2008.

The office of the ombudsman is independent; however, the ombudsman is selected by the parliament and, at times in the past, was criticized by the media for being influenced by party politics.

Both chambers of parliament have committees on human rights and the rule of law. The committees serve a primarily legislative function and are composed of representatives from multiple political parties.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these prohibitions.

*Women.*—Rape, including spousal rape, is illegal and punishable by up to 12 years in prison. According to national police statistics, during the first half of the year, there were 885 reported cases of rape. However, NGOs estimated that the actual number of rapes was much higher because women often were unwilling to report rape due to social stigma. During the same period, police forwarded 464 possible rape cases to prosecutors and 278 to family court (for underage offenders) for indictment.

Domestic violence against women continued to be a serious problem. The number of reported cases was attributed to heightened police awareness, particularly in urban areas, as a result of media campaigns and NGO efforts. While courts can sentence a person convicted of domestic violence to a maximum of five years in prison, most convictions resulted in suspended sentences. The law provides for restraining orders on spouses to protect against abuse. On August 1, a revised law on domestic violence took effect that gives prosecutors the authority to issue restraining orders without requiring a court's approval, but police did not have the authority to issue immediate restraining orders at the scene of an incident.

During the year police identified 18,659 domestic violence offenses compared with 20,505 in 2009. Of the cases identified during the year, 16,463 were forwarded for prosecution, in comparison to 17,999 in 2009. During the first six months of the year, police reported that officers conducted 40,497 interventions related to domestic violence. According to prison authorities, at the end of the third quarter of the year, 5,024 individuals were serving prison sentences for domestic violence crimes.

According to some women's organizations, the number of women affected by domestic abuse was underreported, particularly in small towns and villages. The Women's Rights Center reported that police were occasionally reluctant to intervene in domestic violence incidents if the perpetrator was a member of the police or if victims were unwilling to cooperate.

NGO-operated centers for domestic violence victims provided counseling for offenders and training for personnel who worked with victims. The Government also provided victims and families with legal and psychological assistance and operated 266 crisis centers and 12 shelters for pregnant women and mothers with small children. In addition 36 specialized centers were operated by local governments and funded by the Government's National Program for Combating Domestic Violence. The centers provided social, medical, psychological, and legal assistance to victims and "corrective education" programs for abusers. In 2009, the last year for which statistics were available, the Government allocated approximately 12.1 million zloty (\$4 million) for the centers' operating costs. The Government also spent 4.4 million zloty (\$1.5 million) during the year on programs to counteract domestic violence. They were primarily corrective-education programs for abusers and training for social workers, police officers, and specialists who are the first contact for victims of domestic violence.

The Council for Victims of Crime, established in 2009, met periodically during the year to review proposed policy changes and legislative initiatives to support victims.

On January 14, the Justice Ministry launched a national public awareness campaign on crime victims' rights.

The law prohibits sexual harassment. Persons convicted of sexual harassment may be sentenced to up to three years in prison. The labor code defines sexual harassment as discriminatory behavior in the workplace, including physical, verbal, and nonverbal acts, violating an employee's dignity.

According to the Women's Rights Center, sexual harassment was a serious and underreported problem. Many victims do not report abuse or withdraw harassment claims in the course of police investigations out of shame or fear of losing their job. However, social awareness of the problem continued to increase due in part to reporting by the media. During the first six months of the year, police reported 52 cases of sexual harassment, compared with 58 cases during 2009.

On February 11, a court in Piotrkow Trybunalski convicted two former members of parliament of extorting sex from female employees. Former Samoobrona Party member Stanislaw Lyzwinski was sentenced to five years' imprisonment for rape, repeatedly forcing four women to have sex, abetting a kidnapping, and extortion. Andrzej Lepper, another Samoobrona member and former deputy prime minister and agricultural minister, was sentenced to two years and three months' imprisonment for extorting sex from a female party worker and using force to obtain sex from another. Both Lepper and Lyzwinski, who was released from pretrial detention after two and a half years, were free on bail pending resolution of their appeals.

On January 27, the Olsztyn court overturned the Olsztyn Prosecutor's Office December 2009 decision to suspend the investigation of former Olsztyn mayor Czeslaw Malkowski, who was charged in 2008 with the sexual harassment of two female employees and the rape of a third who was pregnant. At year's end, the investigation against Malkowski continued.

Although the Government generally recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children, some restrictions existed. While there were no restrictions on the right to obtain contraceptives, social and economic factors limited their use, according to a local NGO, the Federation for Women and Family Planning. Prescription contraceptives were not included on the Government list of subsidized medicines, which made them cost-prohibitive relative to average household income. The law does not permit voluntary sterilization. Health clinics and local health NGOs were permitted to provide information on family planning, including information about contraception, under the guidance of the Ministry of Health.

On June 4, UN Special Rapporteur on Health Issues Anand Grover presented a report to the Human Rights Council summarizing his 2009 visit to the country to assess sexual and reproductive health rights. Among his findings, he cited serious impediments to women's access to certain reproductive health services, such as contraception and prenatal testing. Grover called for providing unbiased sexual education and better funding for contraceptives.

The Government provided free childbirth services, and there were sufficient doctors. Women also used nurses and midwives for prenatal and postnatal care unless the mother or child suffered more serious health complications. According to statistics compiled by international organizations, there were approximately six maternal deaths per 100,000 live births in the country in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

The constitution provides for equal rights for men and women in family law, property law, and in the judicial system; however, in practice there were few laws to implementing this provision. Women held lower-level positions and frequently received lower pay than men for equivalent work, were fired more readily, and were less likely to be promoted.

On March 18, the European Commission sent a warning to the Government after its failure to pass national legislation implementing EU directives against gender discrimination in the workplace. The warning is the final stage before the commission refers a case to the European Court of Justice. In a separate May 2009 action, the commission referred the country to the European Court of Justice for not codifying EU directives prohibiting gender discrimination in access to and supply of goods and services. In February 2009 32 NGOs that promote women's rights complained to the European Commission about a lack of government action to combat discrimination against women.

On March 5, the independent research company, Wynagrodzenia.pl, published a survey reporting a large discrepancy in the average salaries of men and women. The survey found that women's salaries were on average approximately 30 percent lower than men's salaries in the insurance, banking, and health professions.

In August 2009 the private Center for Economic Information reported that the number of women working in senior positions in small- to medium-sized businesses had doubled over the preceding three years. Women were on the boards of approximately 70,000 companies, representing 30 percent of all companies in the country.

In 2008 the prime minister appointed a senior government official as “equality minister” with a mandate to promote equal treatment. However, some women’s rights groups complained that the position was neither sufficiently resourced nor sufficiently independent from government influence to fulfill its mandate. Women and lesbian, gay, bisexual, and transgender (LGBT) groups criticized the incumbent for making controversial statements about these issues and for not doing enough to combat discrimination against women as well as LGBT persons.

On January 1, the Ministry of Labor and Social Policy dissolved its Department of Women, Family, and Antidiscrimination. The department was responsible for combating gender discrimination, incorporating gender equality into governmental policy, and monitoring implementation of government programs to promote gender equality. Many of these functions were reassigned to the Government’s equality minister. The Ministry of Labor and Social Policy continued to promote gender mainstreaming in the labor market, including providing support for the Polish Women’s Congress and funding public awareness campaigns.

In its November 2009 report, the UN Committee on Economic, Social, and Cultural Rights expressed concern that, despite the existence of a ministerial-level position for equal treatment within the Prime Minister’s Chancellery, discrimination continued against women and minorities, including ethnic minorities, persons with disabilities, and LGBT persons.

*Children.*—Citizenship is acquired by birth if at least one parent is a citizen regardless of where the birth took place. Children born or found in the country with parents of unknown origin are also citizens. The Government has in place a system of universal birth registration, implemented immediately after birth.

Incidents of child abuse were reported; however, convictions for abuse were rare. The law prohibits violence against children and provides for prison sentences ranging from three months to five years.

A government ombudsman for children’s rights issued periodic reports on problems affecting children, such as pedophilia on the Internet, improving access to public schools for children with disabilities, and providing better medical care for children with chronic diseases. The ombudsman’s office also operated a 24-hour hotline for abused children. In 2009, the last year for which statistics were available, the ombudsman received 14,460 complaints of infringements of children’s rights under the country’s laws, an increase of 3,882 in comparison with 2008. Of that number, 40 percent related to the right to be brought up in a family, citing factors such as limitation of parental rights because of a divorce and the need for better support for foster families; 20 percent to the right to protection against abuse and exploitation; 11 percent to the right to education; and 7 percent to the right to adequate social conditions.

In February 2009 the Warsaw-based Helsinki Human Rights Foundation published a report that asserted that child prostitution was a problem although its extent was difficult to measure due to a lack of data.

According to the Government and the Nobody’s Children Foundation, a leading NGO dealing with trafficking in children, child sex tourism was not significant in the country, although trafficking in children for sexual exploitation remained a problem.

The law prohibits sexual intercourse with minors younger than 15 years of age. The penalty for a conviction of statutory rape ranges from two to 12 years’ imprisonment. Child pornography is also illegal. The production, possession, storage, or importation of child pornography is punishable by imprisonment for a period of three months to 10 years. According to the Ministry of Justice, 742 persons were convicted in 2008 of sexual intercourse with persons younger than 15 years old, and 26 persons were convicted of pimping with the involvement of a minor.

During the year police conducted operations against child pornography and pedophiles that led to the arrest of 473 persons. However, difficulty in meeting legal evidentiary standards led to few convictions in these cases.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State’s annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Union of Jewish Communities estimated that the Jewish population numbered approximately 20,000. There were reports of occasional, non-violent anti-Semitic incidents and occasional desecrations of Jewish cemeteries.

On March 13, vandals defaced the Holocaust memorial in Krakow on the eve of the commemoration of the 67th anniversary of the liquidation of the Krakow ghetto. The vandals spray-painted anti-Semitic slogans and Nazi symbols on the monument. Authorities removed the graffiti before the beginning of the commemoration ceremony, during which the archbishop of Krakow, Cardinal Stanislaw Dziwisz, apologized to Jews on behalf of all Christians for the incident. On August 19, the prosecution discontinued its investigation into the incident on the grounds that police had been unable to identify the perpetrators.

On March 18, a Krakow court sentenced three persons to two-and-a-half years' imprisonment for the December 2009 theft of the "Arbeit Macht Frei" sign that hung above the main entrance to the Nazi death camp at Auschwitz. The sign was found cut into three pieces and buried in the woods two days after the theft. Prosecutors charged a Swedish man, who had ties to a neo-Nazi organization, with orchestrating the theft. On December 30, the Krakow Court sentenced the man, who was extradited from Sweden, to two years and eight months imprisonment. The court sentenced two additional persons, who recruited the three thieves, to two years and six months, and two years and four months imprisonment.

On February 23, a Bialystok court convicted five persons of disseminating anti-Semitic literature and inciting hatred and gave each a suspended sentence. The case, which began in 2005, was connected to an ongoing case against Leszek Bubel, a self-proclaimed anti-Semite and leader of a far-right political party. There were no developments in the case against Bubel, who was charged in 2008 with posting a video on a popular Internet site in which he boasted about his anti-Semitism and urged Jews to leave the country. Bubel has repeatedly claimed he is unable to stand trial because of failing health. He previously served six months in jail for inciting racial hostility and defaming Jews.

Unlike in earlier years, there were no reports during the year that the Catholic nationalist radio station, Radio Maryja, broadcast anti-Semitic or racist statements by its viewers during call-in shows.

The Government publicly criticized anti-Semitic acts, prosecuted offenders, and supported tolerance education.

The country has made considerable progress in relations with its Jewish communities. The Government consistently supported efforts to promote interfaith dialogue and tolerance, as well as initiatives to combat anti-Semitism. However, members of marginal populist and nationalist parties and organizations continued to make some extremist, intolerant, and anti-Semitic statements.

In March 2009 the Education Ministry, in cooperation with the Organization for Security and Cooperation in Europe, introduced a curriculum for middle school students aimed at combating anti-Semitism. In particular the materials promoted tolerance by addressing problems of stereotypes and prejudice.

On June 15, the European Commission against Racism and Intolerance (ECRI) criticized the country for making insufficient progress in fighting anti-Semitism, noting the lack of comprehensive antidiscrimination legislation.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Article 32 of the constitution and the 1997 Charter of Persons with Disabilities prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care or the provision of other state services. The Government effectively enforced these provisions; however, there were reports of some societal discrimination against persons with disabilities. The Government restricts the right of persons with certain mental disabilities to vote or participate in civic affairs.

The law states that buildings should be accessible for persons with disabilities, and at least three laws require retrofitting of existing buildings to provide accessibility. Public buildings and transportation generally were accessible.

The Ministry of Labor and Social Policy is responsible for disability-related matters. During the year the Government plenipotentiary for persons with disabilities organized training sessions for central and local government officials to encourage them to hire persons with disabilities. The state fund for rehabilitation of persons with disabilities continued a nationwide campaign encouraging companies to employ them. The fund granted money to NGOs to organize media campaigns on the rights of disabled persons.

*National/Racial/Ethnic Minorities.*—The constitution gives ethnic and national minorities the right to preserve their own language, customs, and culture. The law

contains several provisions against hate crimes and incitement to violence based on ethnic origin; however, government enforcement efforts were sometimes ineffective.

On June 15, ECRI noted the continuation of public racist discourse and the vulnerable situation of Roma as a continuing source of concern, along with anti-Semitism (see section 3).

During the year there were isolated incidents of racially motivated violence and verbal and physical abuse directed at Roma and persons of African, Asian, or Arab descent. The Ukrainian and Belarusian minorities also continued to experience petty harassment and discrimination.

On September 23, the Wroclaw District Court sentenced a man to an 18-month suspended sentence (to include five years' probation), and a 1,000 zloty (\$338) fine for racially motivated violence. The man was convicted of physically and verbally assaulting a Ghanaian in Wroclaw on January 4.

During the year developments were reported in a number of court cases stemming from racially motivated assaults in previous years:

On March 18, the Bialystok District Court upheld a lower court's conviction of two persons for physically and verbally assaulting a dark-skinned female student of Cuban origin in March 2009. The accused received six- and nine-months suspended sentences respectively (to include five years' probation).

The trial continued in Bialystok of four persons charged with physically and verbally assaulting a dark-skinned French citizen in April 2009.

On January 10, the Wroclaw Prosecutor's Office indicted two Wroclaw University students for a racially motivated physical assault on a Nigerian student in July 2009.

On September 1, the Warsaw Prosecutor's Office discontinued its investigation into the National-Radical Camp's November 2009 march through Warsaw, during which demonstrators chanted neo-Nazi and anti-Semitic slogans and used Nazi gestures. The prosecutor cited an inability to identify those responsible as the reason for closing the case.

On December 15, the Wroclaw Appeals Court found six members of the National Rebirth of Poland and the neopagan association Zadruga not guilty of promoting fascism and inciting to hatred on racial grounds. Four individuals had appealed the June 1 ruling of a Wroclaw court, which sentenced six members of the two organizations to five to seven months of community service and a 1,000 zloty (\$338) fine, to be paid to Helpful Hand, a local NGO that protects children and youth from psychological manipulation by cults and gangs. The charges stemmed from a 2007 demonstration in Wroclaw, during which the organizations' members shouted and carried banners with racist slogans.

In October 2009 the Opole District Court banned the Brzeg branch of the National Radical Camp, a neo-Nazi organization, from operating after determining that its ideology and behavior promoted racial hatred. This was the first prohibition of a neo-Nazi group. The decision stemmed from the 2008 conviction of three members of the National-Radical Camp for making Nazi gestures during the group's gatherings in 2006 and 2007.

During the year there were displays of racist behavior at sporting events. The Sports Ministry and the soccer union announced a number of projects underway to fight racism, including educational and awareness raising campaigns. In March the Never Again association—an NGO that combats racism and xenophobia—created a booklet in cooperation with the Union of European Football Associations and Soccer against Racism in Europe on combating racism in soccer clubs. In 2008 the human rights ombudsman sent a letter to the president of the Polish Soccer Union expressing concern about racist and anti-Semitic incidents at soccer matches. He suggested assessing penalties and initiating tolerance programs to educate soccer fans about cultural or racial differences.

On May 8, Rzeszow soccer fans held up a large banner with a Jewish caricature and anti-Semitic slogan during a match. The banner initially elicited no reaction from soccer officials or local authorities, but after intense media scrutiny, prosecutors opened an investigation. On May 13 and 14, police arrested the six soccer fans who held up the banner and charged them with the use of violence or threats against groups of persons based on their national, ethnic, racial, political, or religious affiliation. In November prosecutors downgraded charges against two of the six perpetrators to publicly insulting a person based on their national, ethnic, racial, political, or religious affiliation. Charges against the other four persons were dropped. In December the prosecutor general asked the Rzeszow appeals prosecutor to review the decision to discontinue the investigation.

In August the Krakow Prosecutor's Office discontinued for a second time its investigation into racist and anti-Semitic incidents during a 2008 soccer match, on the grounds that the perpetrators could not be identified and the anti-Semitic content

was a case of soccer fan rivalry. The prosecutor had closed his initial investigation for similar reasons in December 2009, but a Krakow court upheld a request by a deputy justice minister that it be reopened. During the match, fans of the Cracovia team allegedly imitated monkey noises and shouted anti-Semitic slogans when African players came on the field.

Societal discrimination against Roma continued. There were reports that some local officials discriminated against Roma by not providing adequate social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education. In a November 2009 report, the UN Committee on Economic, Social, and Cultural Rights expressed concern about continued widespread discrimination against Roma in the country in such areas as employment, education, land tenure, access to welfare benefits, housing, and health care.

On July 30, a large group of persons converged on a housing complex in Limanowa where a Romani family lived. According to media reports, the incident was triggered when a dog owned by the family attacked a pregnant woman on the street nearby. Police turned the group back and made no arrests. Local government and Roma community representatives indicated that this particular family was associated with a history of altercations in the area.

The Roma Association reported that despite government assistance programs, many Romani children did not attend public school either because of financial constraints or due to fear that teachers would encourage assimilation and discourage traditional practices. However, according to the Ministry of the Interior and Administration, 2,762 of the 3,297 Romani children between the ages of six and 16 were enrolled in school in 2009.

The Roma Association stated that inadequacies in Romani children's education made it impossible for Roma to end their poverty. Approximately 80 percent of Roma were unemployed. A 2002 national census recorded approximately 12,700 Roma. According to the Ministry of Education, the number of segregated classes for Romani children has been substantially reduced. In 2008 the news daily *Dziennik* reported that in six cities with a large Roma population, Romani children were taught in segregated classes, ostensibly because they did not speak fluent Polish. The education level in such classes was reportedly lower than in mainstream classes. Following the reports, the education minister inspected all district offices with oversight of separate classes for Roma and ordered that Romani children be fully integrated with other children.

The Government allocated approximately 10 million zloty (\$3.4 million) annually to a special program for Roma. It included educational and other projects to improve health and living conditions and reduce unemployment. The program also focused on civic education and provided grants for university and high school students.

In October 2009 a separate class for Romani children was started in a Poznan preschool. The idea originated with a local Roma foundation to improve education for Romani children and to ease their transition to public schools. Opponents of the project asserted that any type of segregation of Romani children would be detrimental; however, proponents claimed that many Romani children did not feel comfortable attending integrated schools.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The constitution provides all persons the right to equal treatment and prohibits all forms of discrimination in the political, social, and economic spheres. There are no laws that criminalize sexual orientation or behavior.

Organizations representing LGBT persons reported that discrimination was common in schools, the workplace, hospitals, and clinics. For example, LGBT persons were sometimes prevented from donating blood due to the perception that HIV/AIDS is prevalent in the LGBT community. During the year there were some reports of skinhead violence and societal discrimination against LGBT persons. There are several LGBT organizations operating in the country, with a focus on preventing discrimination against LGBT persons and promoting tolerance.

The EU Fundamental Rights Agency's November report about the rights of LGBT persons in EU states recognized the country's progress in improving the situation of LGBT persons. The report also identified areas for further improvement, including the issuance of certificates that would allow LGBT persons to register their relationships in other EU member states and creation of an office to deal with issues regarding equal treatment on the basis of sexual orientation.

In May 2009 the NGO Campaign against Homophobia reported that the level of hate speech against persons based on their sexual orientation was still high.

On May 15, an estimated 500 persons took part in Krakow's sixth annual March for Tolerance to call for an end to prejudice against gays and lesbians. The event took place without major incident, due in part to the presence of more than 200 po-

lice officers and city guards. The All Poland Youth association organized a small counterdemonstration. Some counterdemonstrators threw eggs at police officers protecting the marchers.

On July 17, Warsaw hosted the EuroPride parade, an annual event drawing participants from around Europe to promote LGBT rights. Approximately 8,000 local and international activists participated in the parade without serious incident. A group of 300 counterdemonstrators from the National Radical Camp and All Poland Youth association attempted to interrupt the event by throwing eggs, bottles, and stones at the participants. Police stopped 236 persons and arrested nine.

*Other Societal Violence or Discrimination.*—There were few reports of discrimination against persons with HIV/AIDS. According to the Government's AIDS Center, one incident of discrimination was reported during the first seven months of the year. The case involved discrimination against a person with HIV/AIDS in the workplace.

On March 10, an administrative court in Gdansk overturned a 2007 decision to dismiss a police officer for being HIV positive. The judgment followed a November 2009 Constitutional Court ruling that a 1991 Interior Ministry regulation requiring immediate dismissal of an HIV positive police officer was unconstitutional.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including civilian employees of the armed forces, police, and border guard, have the right to establish and join independent trade unions without previous authorization or excessive requirements. Foreign and migrant workers also have the right to unionize.

While many workers exercised this right, in practice many small and medium-sized firms discriminated against those who attempted to organize. Newly established small- and medium-sized firms were generally nonunion, while privatized, formerly state-owned enterprises frequently continued union activity. Approximately 15 percent of the workforce belonged to unions.

All workers have the right to strike except those deemed to be in essential services, such as security forces, the Supreme Chamber of Audit, police, border guard, and fire brigades. These workers had the right to protest and seek resolution of their grievances through mediation and the court system. Cumbersome procedures made it difficult to meet all of the legal technical requirements for strikes in many cases.

Labor courts acted slowly in deciding the legality of strikes, while sanctions against unions for calling illegal strikes and against employers for provoking them were minimal. Unions alleged that laws prohibiting retribution against strikers were not enforced consistently and that the small fines imposed as punishment were ineffective deterrents to employers.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions to conduct their activities without interference; however, in practice the Government failed to protect this right at small- and medium-sized companies. The law provides for and protects enterprise-level collective bargaining over wages and working conditions. A tripartite commission composed of unions, employers, and government representatives was the main forum that determined minimum national wage and benefit increases in areas such as the social services sector. Approximately 14 percent of the workforce was covered by collective bargaining agreements.

Key public sector employers could not negotiate with labor without the extensive involvement of the ministries to which they were subordinate. The law provides for parties to take group disputes to formal mediation, then to the Board of Social Arbitration in either the district court or Supreme Court depending on the number of employers involved, and, as a last resort, to strike. By law employers are obligated to notify a district inspection office in the region about a group dispute in the workplace. During 2009 the State Inspection Office registered 433 disputes, compared with 5,433 disputes in 2008. Authorities attributed the sharp reduction to a drop off in the number of disputes involving teachers, as well as anxiety over job security during a time of economic instability.

The law prohibits antiunion discrimination; however, labor leaders reported that employers frequently discriminated against workers who attempted to organize or join unions, particularly in the private sector.

In December 2009 a labor court in Pabianice ruled in favor of the *Officina Labor* Company in a wrongful termination dispute. A local trade union claimed that *Officina Labor* illegally fired representatives of the newly formed union's board. The company argued that they received notification of the union's formation after the firings had taken place. The court ruled that the company was not required to rehire the employees, but suggested the employees could claim compensation for dis-

crimination. A related case addressing the termination of the trade union chairperson was ongoing.

Discrimination typically took the forms of intimidation, termination of work contracts without notice, and closing the workplace. The law did not prevent employer harassment of union members for trade union activity; there were unconfirmed reports that some employers sanctioned employees who tried to organize unions. Managers also asked workers in the presence of a notary public to declare whether they were union members.

There are no special laws or exemptions from regular labor laws in export processing zones.

In April 2009 a labor court in Ciechanow issued its first ruling in the case of union employees who claimed they were harassed and wrongfully terminated from Dong Yang Electronics. The court ordered the company to rehire one employee and pay compensation for court costs and one month's salary. Workers claimed company officials intimidated them during a 2008 strike ballot and then refused to acknowledge the validity of a second, secret, ballot, in which employees unanimously approved the strike. Dong Yang subsequently gave a raise to employees who did not strike and dismissed 200 other employees, including three unionists, replacing them with fixed-contract workers. There were an additional 180 cases pending before the court.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that women and children were trafficked to the country for commercial sexual exploitation and that men and boys were increasingly trafficked for labor in the agricultural sector. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, including forced or compulsory labor, and the Government generally enforced the law in practice. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The law prohibits the employment of children under the age of 16, with exceptions in the cultural, artistic, sporting, and advertising fields when parents or guardians and the local labor inspector give their permission. Persons between the ages of 16 and 18 may work only if they have completed middle school, the proposed employment constitutes vocational training, and the work is not harmful to their health.

The State Labor Inspectorate reported that increasing numbers of minors worked, and many employers underpaid them or paid them late. During the first half of the year, the inspectorate conducted 325 investigations involving 2,222 underage employees (16 to 18 years of age), compared with 514 inspections involving 2,581 underage employees during the same period in 2009. Fines totaling 104,750 zloty (\$35,513) were levied in 91 cases.

The majority of the 2,222 employees found to be underage worked in commercial enterprises, restaurants, and the construction, repair, and processing industries.

*e. Acceptable Conditions of Work.*—The national monthly minimum wage of 1,317 zloty (approximately \$444), which took effect in January did not provide a decent standard of living for a worker and family. The large size of the informal economy and the low number of government labor inspectors made enforcement of the minimum wage difficult. A large percentage of construction workers and seasonal agricultural laborers from Ukraine and Belarus earned less than the minimum wage.

The law provides for a standard workweek of 40 hours, with an upper limit of 48 hours including overtime. The law requires premium pay for overtime hours, but there were reports that this requirement was often ignored. The law provided for workers to receive at least 11 hours of uninterrupted rest per day and 35 hours of uninterrupted rest per week.

The law defines strict and extensive minimum conditions to protect worker health and safety. It empowers the State Labor Inspectorate to supervise and monitor implementation of worker health and safety laws and to close workplaces with unsafe conditions. However, the inspectorate was unable to monitor workplace safety adequately. In 2009 the Government Statistics Office reported less than 90,000 victims of workplace accidents, a decrease of 17,000 from 2008. The inspectorate investigated 2,354 accidents in which there were 2,951 injuries, including 505 workers killed and 969 persons seriously injured. Employers routinely exceeded standards for exposure to chemicals, dust, and noise. According to the inspectorate, lack of professional experience, necessary safety precautions, and organization were the leading causes of workplace accidents. The majority of accidents occur in mining, trade, and services.

The law permits workers to remove themselves from dangerous working conditions without losing their jobs; however, they were unable to do so in practice without jeopardizing their employment.

## PORTUGAL

Portugal, including the Azores and Madeira islands, has a population of 10.7 million and is a constitutional democracy with a president, a prime minister, and a parliament elected in multiparty elections. National parliamentary elections in September 2009 were free and fair. Security forces reported to civilian authorities.

There were human rights problems in some areas. Police and prison guards occasionally beat or otherwise abused detainees and prisoners, incarcerated minors were not held separately from adults, pretrial detainees were held with convicted criminals, and prison conditions were poor. Other problems included violence against women and children, discrimination against women, and trafficking in persons for sexual exploitation and forced labor.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, according to media reports security forces shot and killed at least four persons during the year. The Government investigated all cases of killings by security forces. In one case, a rapper, Nuno “Snake” Rodrigues, died during a car chase. After the investigation, the police officer involved was accused of manslaughter and was awaiting trial at the end of the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were credible reports of excessive use of force by police and of mistreatment and other forms of abuse of detainees by prison guards.

In March 2009 the Council of Europe’s Committee for the Prevention of Torture (CPT) released a report on the 2008 visit to a number of prisons and detention centers in the country. During the visit the delegation received numerous allegations of physical and verbal mistreatment of detainees by law enforcement officials and expressed concern over the large number of nonstandard objects (baseball bats, a plastic pistol, telescopic batons, and cudgels) it found in rooms used by police for interrogations.

There were credible reports, including in the media, of excessive use of force by members of the security forces. During the year the Inspectorate General of Internal Administration (IGAI) investigated reports of mistreatment and abuse by police and prison guards. Complaints included physical abuse, threatening use of firearms, excessive use of force, illegal detention, and abuse of power. The majority of the complaints were against the Public Security Police (PSP) and the Republican National Guard (GNR)—314 and 207 complaints, respectively, in 2009, the most recent year for which statistics were available. The IGAI investigated each complaint, and punishments for officers found to have committed abuses ranged from temporary suspension to prison sentences. During 2009, 562 investigations against all security forces took place. Types of punishment handed down included letters of reprimand, temporary suspension of duties, prison sentences, mandatory retirement with wage cuts, and discharge from the security forces.

*Prison and Detention Center Conditions.*—There were reports that guards mistreated prisoners at some prisons. Other problems included overcrowding, inadequate facilities, poor health conditions, and violence among inmates. There were high rates of HIV/AIDS and hepatitis C in the country’s prisons.

In 2009, the latest year for which data are available, there were 56 deaths in the country’s prisons. According to the Directorate-General of Prison Services, 40 were caused by illness and the other 16 by suicide. The majority of deaths due to illness were caused by infectious diseases associated with drug abuse; approximately 10 percent of the prison population has HIV/AIDS, and more than half of these (57 percent) are also infected with hepatitis C. A 2008 report by the office of the Ombudsman for Justice considered the country’s prison death rate generally high compared to European standards.

In its 2009 report the CPT stated it received a number of allegations of physical mistreatment of prisoners by custodial staff at the Monsanto high security and

Coimbra central prisons, as well as, to a lesser extent, the Oporto Central Prison. The allegations involved punches, kicks, and blows with batons to prisoners after they had been brought under control, in some cases apparently requiring medical treatment for the prisoner.

According to the Directorate-General of Prison Services, on October 15, there were 11,573 prisoners and detainees in the country's prisons (94.7 percent men and 5.3 percent women), 95 of whom were youths between 16 and 18 years old (94 men and one woman). The maximum number of prisoners facilities can accommodate is 11,921. During the year the prison system operated at 95.8 percent of capacity. There was a youth prison in Leiria, but elsewhere in the prison system juveniles were sometimes held with adults. Pretrial detainees were held with convicted criminals.

Under the Government's "open regime" system, prisoners may earn the right to work outside of the prison and to see their families on a regular basis.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

An ombudsman can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and recordkeeping procedures to provide assurance that prisoners do not serve beyond the maximum sentence for the charged offense.

The Government permitted visits by independent human rights observers, and prisons were visited during the year by university researchers and news media.

Most of the guidelines and legislative proposals the Government adopted in 2004 to reform the prison system were not applied in practice. However, some improvements were made during the year, including the implementation of a revised plan for the prevention and control of circulation of drugs, the approval and implementation of an improved health-care manual, an increase in the number of volunteer programs, and an increase in professional training courses.

Due to a considerable increase in predicted total costs, the Government cut back on the five-year prison reform plan adopted in 2008. Only four of the 10 new prisons originally projected will be built, and two rather than three will be renovated. The goal of the reform was to increase security, improve detainee conditions, rationalize financial and human resources, and improve working conditions of prison staff.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—There were approximately 50,000 law enforcement officials, including police and prison guards. The Ministries of Internal Administration and Justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the GNR, the Foreigners and Borders Service (SEF), and the PSP. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The Judiciary Police are responsible for criminal investigations and report to the Ministry of Justice.

An independent ombudsman chosen by parliament and the IGAI investigate complaints of abuse or mistreatment by police. However, nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and the Ministry of Internal Administration.

*Arrest Procedures and Treatment While in Detention.*—The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and the authorities generally followed the guidelines. Persons can be arrested only on a judicial warrant, except that law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody.

In the country's legal system, the investigating, or examining, judge is a central figure. Investigating judges direct inquiries into severe crimes or complex inquiries. As members of the judiciary, they are independent and outside the domain of the executive branch. They are separate from the prosecutors of the Public Prosecutors Office, who are supervised by the Ministry of Justice. Under the law an inves-

investigating judge determines whether an arrested person should be detained, released on bail, or released outright.

Bail exists, but detainees are not released on their own recognizance. Depending on the severity of the crime, a detainee's release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police did not always inform detainees of their rights. The Government assumed legal costs for indigent detainees.

A suspect may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention for most crimes is a maximum of four months; if a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes, such as murder, armed robbery, terrorism, violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

A suspect in investigative detention must be brought to trial within 14 months of being charged formally. If a suspect is not in detention, there is no specified deadline for going to trial.

In its 2009 report the CPT noted that few detained persons had an effective right of access to legal counsel during police custody. While police registers indicated that detainees were informed of their right to an attorney, a considerable number of detained persons complained that, in fact, they had not been informed of their rights. In some police stations there was a "striking discrepancy" between the number of detainees who were recorded as having been informed of their rights and the number who actually exercised their rights.

Lengthy pretrial detention remained a problem. As of October 15, 2,289 individuals (20 percent of the prison population) were in preventive detention, an increase from the previous year. The average detention time was eight months; approximately 20 percent of preventive detainees spent more than one year in incarceration. Lengthy pretrial detention is usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. If a detainee is convicted, pretrial detention counts against a prison sentence. If found innocent, a detainee has the right to request compensation.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

Observers, including the media, business corporations, and legal observers, estimated the backlog of cases awaiting trial to be at least a year.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right in practice. All defendants are presumed innocent. Jury trials are rare in criminal cases. When the crime in question is punishable by a prison sentence whose maximum limit is more than eight years, either the public prosecutor or the defendant may request a jury trial. Juries consist of three judges and four public members.

Trials are public. Defendants have the right to be present at their trial and to consult with an attorney upon arrest, at government expense if necessary. They can confront and question witnesses against them, present evidence on their own behalf, and have access to government-held evidence. Those convicted have the right of appeal. The law extends these rights to all citizens and foreign residents.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) found against the Government in 15 cases. Some cases involved multiple violations of the Government's obligations under the European Convention on Human Rights. Eight involved the length of proceedings, six the right to own property, five the right to effective legal recourse, and two the freedom of expression. In 2009 the ECHR issued 17 judgments that found at least one violation by the Government. The judgments found 10 violations involving protection of property, three violations involving length of legal proceedings, and two violations each of the right to a fair trial and freedom of expression. The Government complied with the court's decisions.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. All persons, both citizens and foreign residents, have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Civil cases do not have jury trials. There are administrative as well as judicial remedies for alleged wrongs.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. According to the European Federation of Journalists, the law requires journalists to surrender confidential information and to disclose sources in criminal cases. Thus far, however, the statute has been neither invoked nor tested.

*Internet Freedom.*—There were neither government restrictions on access to the Internet nor reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to International Telecommunication Union statistics for 2009, approximately 48 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status. The Government has established a system for providing protection to refugees, and it is active and accessible.

The Government considers other EU countries to be safe countries of origin. In accordance with EU law, it returned applicants for asylum to their country of entry into the EU for adjudication of their requests.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

In addition to refugees and applicants for political asylum, the Government also provided temporary protection to individuals who may not qualify as refugees. The country granted humanitarian protection to 45 persons in 2009 and to 18 persons in the first six months of the year. In 2009 the country granted asylum to 14 persons and, during the first six months of 2009, to three persons.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In September 2009 the country held national parliamentary elections that were considered free and fair. The Office for Democracy and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) assessed the conduct of the elections positively but noted that independent candidates were barred from the contest in contravention of the country's OSCE commitments and that there were some problems with voters' lists. Political parties operated without restriction or outside interference.

Madeira last held elections in 2007. The most recent elections in the Azores were in 2008. Both were considered free and fair.

The law reserves to each gender a minimum of one-third of the places on electoral lists in national, local, and European parliamentary elections. There were 68 women

in the 230-member parliament and five women in the 17-seat cabinet. There was one member of a minority group in the parliament; there were none in the cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were no reports of corruption in the executive or legislative branches of the central government during the year. However, there were media reports of corruption involving local government officials.

The highest profile corruption cases involved two city mayors, Valentim Loureiro and Isaltino Morais. In July 2009 Loureiro, the Social Democratic Party mayor of Gondomar and chairman of the board of the country's professional soccer league, was given a suspended prison sentence of three years and two months for corruption and influencing soccer referees. After Loureiro appealed, the higher court replaced the sentence with a fine of 30,000 euros (\$40,000). In August 2009 Morais (Independent), the mayor of Oeiras, was sentenced to seven years in prison for tax evasion, abuse of power, corruption, and money laundering and was fined 463,000 euros (\$620,000). His appeal resulted in a reduction of the prison sentence to two years, an acquittal of the charge of abuse of power, and a reduction of the fine to 197,266 euros (\$264,336).

Public officials were subject to financial disclosure laws. The Central Directorate for Combating Corruption, Fraud, and Economic and Financial Crime is the Government agency responsible for combating corruption.

The constitution and law provide for public access to government information, and the Government provided access in practice for citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The country has an independent human rights ombudsman appointed by parliament who is responsible for defending the human rights, freedom, and legal rights of all citizens. The ombudsman's office operated independently and with the cooperation of the Government.

The ombudsman had adequate resources and published mandatory annual reports as well as special reports on such problems as women's rights, prisons, health, and the rights of children and senior citizens.

The parliament's First Committee for Constitutional Issues, Rights, Liberties, and Privileges exercises oversight over human rights problems. It drafts and submits bills and petitions for parliamentary approval. During the year new laws went into effect in areas including protection of common-law marriages, enforcement of prison sentences, and regulation of immigrant workers and minors born in the country to immigrant parents.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, and social status, and the Government effectively enforced these prohibitions.

*Women.*—The law makes rape, including spousal rape, illegal, and the Government generally enforced the law when the victim chose to press charges and the cases were not settled out of court through mediation by both parties' lawyers. During 2009, the latest year for which data is available, 188 cases of rape were reported to the Association for Victim Support (APAV), a nonprofit organization that provides confidential and free services nationwide to victims of any type of crime; 139 of the cases were linked to domestic violence. In 2008, 193 such cases were reported (132 linked to domestic violence).

Violence against women, including domestic violence, continued to be a problem. Penalties for violence against women range up to 10 years' imprisonment.

During 2009, 15,904 domestic violence crimes were reported to the APAV, for a total of 6,682 cases; 88 percent of the victims were women. According to NGOs and media reports, there were 41 deaths related to domestic violence during the year.

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecuted persons accused of abusing women; however, traditional societal attitudes discouraged many abused women from using the judicial system. According to data from the Ministry of Justice, in 2008, the last year for which data

was available, 1,157 individuals were convicted of domestic violence crimes, of a total of 2,430 domestic violence court cases.

The Government encouraged abused women to file complaints with the appropriate authorities and offered the victim protection against the abuser. In addition legislation allows third parties to file domestic violence reports. The Government's Commission for Equality and Women's Rights operated 14 safe houses for victims of domestic violence and maintained an around-the-clock telephone service. Safe house services included food, shelter, and health and legal assistance. The Government-sponsored Mission Against Domestic Violence conducted an awareness campaign against domestic violence, trained health professionals, proposed legislation to improve legal assistance to victims, increased the number of safe houses for victims of domestic violence, and signed protocols with local authorities to assist victims.

Sexual harassment is a crime. Penalties for sexual harassment range from one to eight years in prison. If perpetrated by a superior in the workplace, the penalty is up to two years in prison, or more in cases of aggravated coercion.

The Commission on Equality in the Workplace and in Employment, composed of representatives of the Government, employers' organizations, and labor unions, examines, but does not adjudicate, complaints of sexual harassment. During the year reporting of sexual harassment rose. In 2007 more than 300 cases of sexual harassment were reported to the Authority for Labor Conditions (ACT) of the Ministry of Labor and Social Solidarity; three of these resulted in the dismissal of the perpetrator.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception. According to the UN Population Fund (UNFPA), 67 percent of women used some kind of contraception. UNFPA statistics stated that skilled attendants assisted all childbirths in the country in 2009, the last year for which data is available, and that there were seven maternal deaths per 100,000 live births in the country in the same year. Women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men.

The civil code provides women full legal equality with men; however, in practice women experienced economic and other forms of discrimination. According to 2009 National Statistics Institute data, women made up 47 percent of the working population and were increasingly represented in business, science, academia, and the professions, but their average salaries were approximately 23 percent lower than men's.

The State Secretary for Equality addresses, among other topics, problems such as economic discrimination and the integration of women into the mainstream of society.

*Children.*—Citizenship is derived by birth within the country's territory and from one's parents.

Child abuse was a problem. The APAV reported 611 crimes against children under the age of 18 during 2009, the latest year for which data was available. Approximately 90 percent of the cases involved domestic violence.

On September 3, a Lisbon court convicted six of seven defendants charged in a high-profile, child sexual abuse case involving a pedophilia ring at the state-run Casa Pia children's home. The convicted defendants were sentenced to prison terms ranging from five to 18 years. Long-time Casa Pia driver Carlos Silvino, the primary defendant, was convicted on 126 counts (including sexual abuse, procuring children for abuse, and pornography), sentenced to 18 years in prison, and ordered to pay each of his 20 victims 15,000 euros (\$20,100). Television personality Carlos Cruz was convicted of three counts of sexual abuse against two children, sentenced to seven years in prison, and ordered to pay each of his victims 28,000 euros (\$37,500). Former ambassador Jorge Ritto was convicted of three crimes, was sentenced to more than six years in prison, and was ordered to pay his one victim 25,000 euros (\$33,500). The other three defendants were convicted of two to four crimes each and sentenced to between five and seven years in prison. All six of the convicted defendants announced that they would appeal. The seventh defendant, Gertrudes Nunes, who allegedly allowed her home to be used for abuse, was acquitted. The country's longest-ever criminal trial had more than 900 witnesses, including 32 victims, and lasted more than eight years.

There were reports that Romani parents used minor children for street begging.

Statutory rape is a crime. Minimum age for legal consensual sex is 16 years of age. Penalties for statutory rape range up to 10 years in prison. The law prohibits child pornography; penalties range to eight years in prison.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child ab-

duction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—The Jewish community in the country was estimated at 3,000. There were no reports of anti-Semitic acts during the year. The Government does not collect such statistics, and none was reported to the ombudsman.

There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services or other areas. The Government effectively enforced the law. The law also mandates access to public buildings for persons with disabilities, and the Government implemented these provisions in practice; however, no such legislation covers private businesses or other facilities.

The Ministry of Labor and Social Solidarity oversees the National Bureau for the Rehabilitation and Integration of Persons with Disabilities, which is responsible for the protection, professional training, rehabilitation, and social integration of persons with disabilities, as well as for the enforcement of related legislation.

*National/Racial/Ethnic Minorities.*—The Government estimated the Romani population of the country to be between 40,000 and 50,000 persons.

On April 29, the European Committee of Social Rights accepted a complaint from the European Roma Rights Center (ERRC) which alleged violations of the European Social Charter by the Government. The ERRC claimed that the Government's resettlement programs for Roma excluded persons not included in the original census of informal Romani encampments, provided inadequate financing of rehousing projects, failed to be implemented by local authorities, and perpetuated spatial and social segregation of Roma because resettlement areas were located on the outskirts of cities, with poor infrastructure, limited or no access to public services, and often inadequately sized dwellings. In addition the complaint accused the Government of failing to improve the "deplorable" living conditions in informal Romani encampments, which frequently lacked access to potable water, electricity, sewage removal, and sanitary facilities. On November 30, the Government submitted its official response to the case.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—During the year a number of gay pride parades took place in the country with no reported incidents.

There was no official or societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care. On August 4, according to the NGO ILGA-Portugal, the state secretary for equality called on the Portuguese Blood Institute to remove questions about sexual orientation from questionnaires filled out by blood donors.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law recognizes workers' right to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice; members of the armed forces are excluded from this provision. Approximately 35 percent of the workforce was unionized. The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

The law provides for the right to strike, and workers exercised this right in practice. If a long strike occurs in an essential sector such as justice, health, energy, or transportation, the Government may order strikers back to work for a specified period. The Government has rarely invoked this power. Police may join unions and have recourse within the legal system, but they may not strike.

*b. The Right to Organize and Bargain Collectively.*—The constitution and the labor code recognize and protect the right to bargain collectively, and these laws were effectively enforced. Collective bargaining was freely practiced. Collective bargaining agreements covered approximately 90 percent of the workforce.

The law prohibits antiunion discrimination, and there were few reports that it occurred.

There are two foreign trade zones in the island autonomous regions of Madeira and the Azores. There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred. Women, men, and children were trafficked for forced labor. Men from Eastern Europe (typically from Ukraine, Moldova, Russia, and Romania) and African Portuguese speaking countries were, through fraud, coercion, and debt bondage, subjected to conditions of forced labor in the farming and construction industries. Police and NGOs have also reported that family networks brought approximately 50 to 100 Romani children to the country and forced them to work as street beggars. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace.

The minimum working age is 16 years old. The ACT of the Ministry of Labor and Social Solidarity registered four cases of child labor during the first six months of 2009. In recent years there has been a greater social consciousness of child labor problems, increased awareness through government campaigns, and a reinforcement of investigations. However, there were reports that Romani parents used minor children for street begging.

The Government's principal entity to investigate and respond to reports of illegal child labor is the ACT. The ACT sponsors and finances the Integrated Program for Education and Professional Training, which attempts to return minors who are victims or at risk of child labor to school. During the year the program worked with 2,500 students, 70 percent of whom were boys; approximately 51 percent of the students were in the 16- to 17-year age group and 46 percent were in the 13- to 15-year age group. The Ministry of Labor and Social Solidarity is responsible for enforcing child labor laws, and generally did so effectively.

*e. Acceptable Conditions of Work.*—The minimum wage, which covers full-time workers, rural workers, and domestic employees who are 18 years of age and older, was 475 euros (approximately \$637) per month and did not provide a decent standard of living for a worker and family. According to the European Working Conditions Observatory, 10 percent of employed persons were at risk of poverty. However, widespread rent controls and subsidies on basic food and utilities raised the standard of living. Most workers received higher wages; in 2008 the Ministry of Labor and Social Solidarity calculated the average monthly salary of workers, excluding public servants, to be 1,072 euros (approximately \$1,436).

The legal workday may not exceed 10 hours, and the maximum workweek is 40 hours. There is a maximum of two hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours' rest between workdays. Premium pay for overtime worked on a rest day or public holiday is 100 percent; overtime performed on a normal working day is paid at a premium of 50 percent for the first hour and 75 percent for subsequent time worked. The Ministry of Labor and Social Solidarity effectively monitored compliance through its regional inspectors.

Employers are legally responsible for accidents at work and are required by law to carry accident insurance. The ACT develops safety standards and is responsible for their enforcement. The ACT's inspectors sufficiently and regularly monitored these standards both proactively according to regulations and advanced scheduling, and reactively in response to complaints filed. Inspection findings were generally effectively enforced. According to the ACT there were 115 deaths from work-related accidents in 2009. Workers injured on the job rarely initiated lawsuits, as insurance policies covering medical and compensation costs covered the majority of workers. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively enforced this right.

---

## ROMANIA

Romania is a constitutional democracy with a multiparty, parliamentary system and a population of approximately 22.2 million. The bicameral Parliament (Parlament) consists of the Senate (Senat) and the Chamber of Deputies (Camera Deputatilor); both are elected by popular vote. The November-December 2009 presi-

dential elections were judged generally free and fair. Security forces reported to civilian authorities.

There were reports that police and gendarmes mistreated and harassed detainees and Roma. Prison conditions remained poor. The judiciary lacked impartiality and was sometimes subject to political influence. Property restitution remained extremely slow, and the Government failed to take effective action to return Greek Catholic churches confiscated by the former Communist government in 1948. A restrictive religion law remained in effect. Government corruption remained a widespread problem. There were continued reports of violence and discrimination against women as well as child abuse. Occasional anti-Semitic incidents involving the desecration of religious property occurred, along with some lightly attended events hosted by extremist organizations. Persons were trafficked for labor, sexual exploitation, and forced begging. Government agencies provided inadequate assistance to persons with disabilities and neglected persons with disabilities who were institutionalized. Societal discrimination against Roma; gay, lesbian, bisexual, and transgender persons; and persons with HIV/AIDS, particularly children, remained problems.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, there were reports that police officers shot and killed at least one man.

On April 6, a police officer fired his weapon in an attempt to stop a car with three suspects during an attempted theft in the locality of Glodeanu Silistea, Buzau County. The suspects did not stop the car and one of them, a 20-year-old person, was shot and died at a hospital later the same day. Police, coordinated by a prosecutor, opened an investigation into the manner in which the officer used his weapon. The officer was under criminal investigation for murder at the year's end.

In April a court in Galati sentenced a police officer who shot a 28-year-old man, Ciprian Musat, in the village of Oancea, Galati County, in August 2009 to an eight-year term in prison and ordered the payment of 37,000 lei (approximately \$11,500) to the victim's family. In November, following separate appeals from the prosecutor's office and the defendant, the Court of Appeal in Galati increased the jail term to 10 years and the compensation to 55,000 lei (approximately \$17,000). The case was before the High Court of Cassation and Justice at year's end.

In September 2009 a Bucharest police officer shot a 31-year-old man, Sorin Parvu, in Braila, having mistaken him for an individual who had committed a killing. Parvu died the following day. The Prosecutor's Office to the Court of Appeal in Galati initiated a criminal investigation into Parvu's death. In April, Parvu's wife complained to the Association for the Defense of Human Rights in Romania-Helsinki Committee (APADOR-CH) about the pace of the investigation. After she repeatedly requested information about the progress of the investigation, the Prosecutor's Office informed her on May 12 that the case had been sent to the Prosecutor's Office to the High Court of Cassation and Justice. APADOR-CH urged the Prosecutor's Office to speed up the investigation. In June the Prosecutor's Office to the High Court of Cassation and Justice started the criminal prosecution of the police officer for murder.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports from nongovernmental organizations (NGOs) and the media that police mistreated and abused detainees and Roma, primarily through excessive force and beatings. There were also reports that some personnel in state institutions mistreated abandoned children with physical disabilities and subjected children in state orphanages to lengthy incarceration as punishment for misbehavior (see section 6, Persons with Disabilities).

Pretrial detainees complained to human rights NGOs that police beat them during pretrial investigations.

There were no developments in the alleged beating of Emil Baboi by police in January 2009, or in the July 2009 case the use of tear gas by police following a raid in a Romani neighborhood in Piatra Neamt.

There were no developments in the 2008 cases in which police allegedly beat an individual in Campulung Muscel, a group of Roma in Satu Mare, and an individual in Bucharest.

*Prison and Detention Center Conditions.*—Prison conditions remained harsh and at times did not meet international standards. The Government permitted monitoring visits by independent human rights observers, and such visits occurred during the year. During the year authorities improved conditions in some prisons.

As of December 28, according to the National Administration of Penitentiaries of the Ministry of Justice, there were 28,218 persons, including 463 minors, in prison or juvenile detention facilities in a system with a stated capacity of 34,896 beds. Although, according to the official figures, overcrowding did not represent a serious problem overall, there were prisons where the standard of 43 square feet per prisoner recommended by the Council of Europe's Committee for the Prevention of Torture (CPT) was not observed.

The media and human rights organizations reported that the abuse of prisoners by authorities and other prisoners continued to be a problem. According to media and NGO reports, prisoners frequently assaulted and abused their fellow inmates, and prison authorities tried to cover up such incidents. During the year the media reported that one prisoner, Constantin Sandu, died on June 4 in Galati penitentiary after being restrained by the prison guards. An internal investigation by the National Administration of Penitentiaries revealed that 16 members of the prison staff had treated prisoners poorly and that those in higher positions tolerated their subordinates' abuse of office. On August 5, two prison guards who allegedly beat the prisoner were arrested for manslaughter. Their superior, who did not report the incident, was arrested for complicity.

According to human rights NGOs, there was some progress with regard to the implementation of the four detention regimes: closed, semiclosed, semiopen, and open. Prisoners assigned to semiopen and open regimes reportedly began to benefit from placement in the type of prison appropriate to their sentence. However, APADOR-CH criticized the placement of some prisoners in prisons far from their hometowns because prisoners were not allowed to receive packages by mail.

Other NGOs stated that detention conditions did not improve during the year, a situation that prison authorities attributed to a shortage of funds.

The Government continued efforts, including through partnerships with NGOs, to alleviate harsh conditions; to improve the condition of detention rooms; to provide more daily activities, training courses, and educational programs to prisoners; and to deter the spread of HIV and tuberculosis.

In September 2009 the country's representative in the World Health Organization declared that the tuberculosis control program was successfully implemented in penitentiaries and that the proportion of prisoners suffering from tuberculosis had fallen to 2 percent.

In 2009 APADOR-CH reported that prison meals did not provide the minimum necessary calories, that water at some prisons was unsuitable for drinking, and that the kitchens in many facilities were infested with mold. In addition, according to APADOR-CH, the practice of labeling certain prisoners as "dangerous" remained a problem in the absence of clear standards for such classification. Prisoners labeled dangerous were subjected to a variety of restrictions beyond those experienced by the general prison population and had no right to appeal that determination. NGOs also criticized the practice of subjecting prisoners to multiple punishments for a single act of misbehavior.

APADOR-CH continued to criticize the conditions in police detention facilities, noting poor sanitation conditions, the lack of health care and medication, the presence of surveillance equipment in detention rooms, the lack of natural light, and the absence of activities for those detained. Some prisons did not provide for the confidentiality of discussions between prisoners or detainees and their lawyers in person or via telephone.

The Government permitted prison visits by human rights observers, foreign government officials, and media representatives, and such visits took place during the year. A CPT delegation carried out a periodic visit to the country on September 5-16. The report of the delegation's visit was not released as of year's end. However, in October the CPT sent the Government a document stating that in general detention conditions met CPT requirements and that the detainees' rights were respected. There were allegations of mistreatment in some prisons, and some prisoners complained about restrictions of the right to visits and about violence among detainees. Following the CPT delegation's visit, according to the Ministry of Justice, the National Administration of Penitentiaries took measures to improve the poor conditions in the juvenile detention unit at Rahova Prison. It moved the minors to other prisons and performed extensive repair work during the last two months of the year.

The regulations allow all religious groups unrestricted access to prisoners.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally respected these prohibitions.

*Role of the Police and Security Apparatus.*—The Ministry of the Administration and Interior is responsible for the national police, the gendarmerie, the border police, the Office for Immigration, the General Directorate of Information and Internal Protection (which oversees the collection of intelligence on organized crime and corruption), and the General Anticorruption Directorate. The national police agency is the Inspectorate General of Police, which is divided into specialized directorates and has 42 regional directorates for the counties and the city of Bucharest. The internal intelligence service also collects information on major organized crime, major economic crimes, and corruption.

While police usually followed the law and internal procedures, police impunity remained a problem. Complaints of police misconduct were handled by the internal disciplinary councils of the units where the reported officers worked.

Police reform continued during the year, and the police increased the hiring of women and minorities. According to police statistics, at the end of the year 12 percent of the 54,786-person police force were women and 1.2 percent, including 104 Roma, represented members of ethnic minorities. A project to promote equal opportunities for national minorities for a career in the police structures was implemented in Cluj during the year. Police also used Romani mediators to facilitate communication between Roma and the authorities and to assist in crises. A handbook, *Police and Roma/Sinti Population: Good Practices in Building Trust and Understanding*, was published during the year as a tool for the implementation of the Action Plan for Roma and Sinti of the Organization for Security and Cooperation in Europe (OSCE).

*Arrest Procedures and Treatment While in Detention.*—The law provides that only judges may issue detention and search warrants, and the Government mostly respected this provision in practice. The law requires authorities to inform detainees at the time of arrest of the charges against them and their legal rights. Police must notify detainees of their rights in a language they understand before obtaining a statement. Detainees must be brought before a court within 24 hours of arrest. The law provides for pretrial release at the discretion of the court. A bail system also exists; however, it was seldom used in practice. Every detainee has the right to counsel and in most cases had prompt access to a lawyer of their choice. Indigent detainees were provided legal counsel at public expense. Under proper procedure, the police officer should inform the detainee upon detention or arrest that he has the right not to declare anything before a lawyer is present. The same police officer contacts the detainee's lawyer or the local bar association to arrange for a lawyer. The detainee meets with the lawyer before the first interview, and they have the right to discuss in private. The lawyer is present during the interview or interrogation. Detainees also had prompt access to their families.

The law allows police to take any person who endangers the public, other persons, or the social order to a police station. There were allegations that police often used this provision to hold persons for up to 24 hours. Since the person was not formally detained or arrested, the right to counsel was not observed. APADOR-CH criticized this provision, stating that it leaves room for abuse. Human rights NGOs complained that the authorities were frequently able to listen to discussions between detainees and their attorneys in police detention facilities.

A judge may order pretrial detention for periods of up to 30 days, depending upon the status of the case. The court may extend these time periods; however, pretrial detention may not exceed 180 days. Courts and prosecutors may be held liable for unjustifiable, illegal, or abusive measures.

In October police signed protocols of cooperation with five human rights NGOs that will have access to detention facilities and will be entitled to have confidential discussions with detainees.

*Amnesty.*—During the year President Basescu pardoned one 26-year-old woman on humanitarian grounds.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government technically respected judicial independence in practice. However, the judiciary lacked the public's trust that judges were accountable and did not serve political or financial interests. There was a widespread public perception that the judiciary was corrupt, slow, and often unfair.

The court of original jurisdiction in a case is determined by the nature of the offense and by the position a defendant may hold in public service. According to a report by the European Commission released in July, the country "did not show sufficient political commitment to support and provide direction to the reform process and demonstrated a degree of unwillingness within the leadership of the judiciary to cooperate and take responsibility." The report also stated that "only limited progress has been achieved since the Commission's last report in terms of improving

the efficiency of the judicial process and the consistency of judicial decisions.” The report noted there was some progress during the year, such as the adoption of civil and criminal procedure codes as well as a multiyear strategy for reforming the judiciary.

NGOs and public officials frequently criticized the judicial system during the year. The judiciary’s oversight body, the Superior Council of Magistrates (CSM), failed to create procedures for addressing potential conflicts of interest among its members. It also failed to identify and discipline misconduct consistently—a significant part of its mandate. The CSM’s practice of assigning magistrates to nonjudicial positions within the judiciary and appointing them to various government agencies also contributed to depleting the already understaffed courts and prosecutors’ offices. The return by the High Court of Cassation and Justice of case files to prosecutors for additional investigation contributed to frequent delays in court procedures and increased the chances of political interference in the judicial process. Observers also expressed concern over a lack of judicial impartiality, noting that some members of the parliament continued to practice as defense attorneys, mostly through their law firm associates. In December the Senate validated the election of 11 members to the CSM. Four of the 11 members were reelected even though the law prohibits reelection, and two members (representing civil society) were deemed to have conflicts of interest. The Senate’s action was challenged in the Constitutional Court.

*Trial Procedures.*—The constitution and the law provide a presumption of innocence until a final judgment by a court. Trials are open to the public. The law does not provide for trial by jury. Defendants have the right to be present at trial. The law provides for the right to counsel and to consult with the attorney in a timely manner. The law requires that the Government provide an attorney to juveniles in criminal cases; in practice local bar associations provided attorneys to indigents and were compensated by the Ministry of Justice. Defendants may confront or question witnesses against them, present witnesses and evidence on their behalf, and have a court-appointed interpreter. Defendants and their attorneys have access to government-held evidence relevant to their cases. Both prosecutors and defendants have a right of appeal.

The law provides that civilian prosecutors should investigate crimes by national police and prison employees. Military prosecutors continued to try cases involving military personnel. Civilian prosecutors try other cases involving “state security” but not military personnel; military courts may not try civilians according to the law. Crimes by the gendarmerie continued to fall under military jurisdiction. In previous years local and international human rights groups criticized the handling of cases by military courts, claiming that military prosecutors’ investigations were unnecessarily lengthy, biased, and often inconclusive. Some lawyers claimed that these investigations only served to discredit the reputations of their clients rather than hold them accountable for any actual wrongdoing.

In October the parliament adopted a law to accelerate judicial procedures.

The law extends the rights to a fair trial to all citizens.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) issued 136 judgments that found a government violation of one or more rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms. Of these, 72 judgments referred to the right to a fair trial; 61 to the right to property; 21 to the right not to be subjected to torture, inhuman or degrading treatment (16 of them referred to inadequate prison conditions); and 15 judgments involved the right to freedom and safety. The judgments ordered the Government to pay plaintiffs a total of approximately 3.6 million euros (\$4.8 million).

On January 12, the ECHR ruled that a Greek Catholic parish in Sambata (Bihor County) had suffered discrimination on religious grounds and ordered the Government to pay 15,000 euros (\$20,100) in compensation. The ECHR ruled that the parish had not enjoyed effective access to a court because of its affiliation with the Greek Catholic Church.

On October 12, the ECHR ruled on the first case against the Government regarding property restitution. The ECHR ruled that the country’s property restitution system violated two articles of the European Convention on Human Rights. The ruling suspended all similar Romanian cases before the ECHR during the year and required the Government to take measures to remedy the restitution problem within 18 months, i.e., to establish an effective mechanism of restitution and compensation. The ruling did not identify consequences if the Government failed to fix the problem.

During the year the ECHR issued judgments against the Government in three cases involving freedom of the press (see Section 2.a.).

*Civil Judicial Procedures and Remedies.*—Civil courts functioned in every jurisdiction and operated with the same degree of judicial independence as criminal courts. Administrative and judicial remedies were available for violations of human rights by government agencies.

Litigants sometimes encountered difficulties enforcing civil verdicts because the procedures for enforcement of judgment orders were impractical and caused delays.

*Property Restitution.*—Under the law claims for property seized by the Communist-era government had to be filed with the National Restitution Agency in 2001-2003. Of the 202,267 claims filed for restitution of buildings, 120,739 were resolved by the end of the year. Of the resolved claims, 44,066 claims were rejected; 51,114 claims qualified for restitution with equivalent property; 5,455 claims were resolved by restitution in kind and compensation; 277 claims qualified for combined measures (i.e., restitution in kind plus compensation with other assets); 973 claims qualified for allocation of other assets and compensation; 1,848 claims qualified for compensation with other assets or services; and 17,006 claims were resolved by return of the properties in kind. A February 2009 amendment to the nationalized houses law bars the restitution in kind of houses that were bought by tenants in good faith. Under the law rightful owners would receive only compensation for their property.

On December 3, the prime minister set up an interministerial committee tasked with simplifying the restitution process and making it more effective. This followed an ECHR judgment in October in a case against the country (see Section 1.e., Regional Human Rights Court Decisions).

Organizations representing former owners continued to assert that inertia at the local level hindered property restitution. In many cases local government officials continued to delay or to refuse to provide necessary documents to former owners filing claims. They also refused to return properties in which county or municipal governments had an interest.

In June the Government enacted an emergency ordinance, which suspended cash payments to claimants for two years. Recipients were still able to receive stock in a property fund.

There were numerous disputes over many churches that the Orthodox Church did not return to the Greek Catholic Church despite court orders to do so.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government for the most part respected these prohibitions in practice. Nevertheless, there was a widespread perception that illegal surveillance still occurred, and there were credible media reports that authorities engaged in electronic eavesdropping in circumstances that violated these prohibitions.

The law permits the use of electronic eavesdropping both in criminal cases and for national security purposes, but the investigating prosecutor must first obtain a warrant from a judge. In exceptional circumstances, when delays in getting the warrant would seriously affect a criminal investigation, prosecutors may begin interception without a judicial warrant. However, they must submit a request for retroactive authorization within 48 hours. Under the national security law, a prosecutor may authorize the issuance of a warrant for an initial period of six months, which can be extended indefinitely in three-month increments without judicial approval. Some human rights NGOs noted the contradictions between the two sets of laws in the requirement to obtain judicial approval for wiretaps.

The lawsuit filed by businessman Dinu Patriciu against the Romanian Intelligence Service (SRI) for illegally tapping his telephones continued. On November 4, the Constitutional Court rejected the claim of unconstitutionality filed by the High Court of Cassation and Justice on March 26 while it was hearing the SRI's appeal regarding three articles of the law on the protection of classified information.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Journalists and private citizens could criticize government authorities, including those at senior levels. There were isolated instances when authorities intimidated or censored the press or verbally attacked journalists.

Laws restricting freedom of speech continued to cause concern among the media and NGOs. Insulting the state insignia (the coat of arms, national flag, or national anthem) is an offense punishable by imprisonment. The religion law includes a provision that forbids acts of "religious defamation" and "public offense to religious

symbols." The law also prohibits public denial of the Holocaust. There were no prosecutions or convictions under any of these statutes during the year.

The independent media were active and expressed a wide variety of views without overt restriction. However, politicians and others with close ties to various politicians and political groups either owned or indirectly controlled numerous media outlets outside of the capital, and the news and editorial tone of these outlets frequently reflected the views of the owners. The tendency towards the concentration of national news outlets in the hands of a few wealthy individuals continued.

During the year there were a number of instances when public officials and politicians insulted or harassed journalists.

On March 10, Romanian EU parliamentarian George Becali made vulgar comments about Cornelia Popescu of the online newspaper ZIUA Veche. Popescu had asked Becali about statements he had made to the press about his financial assets that contradicted the declaration of assets Becali had submitted to the European Parliament. Becali or his bodyguards reportedly made insulting or threatening statements to journalists on other occasions.

In April an unknown group made death threats to journalist Catalin Docea of Ziarul Vaii Jiului after Docea conducted several investigations into connections between police, local administration, and members of criminal organizations. Docea provided evidence to prosecutors about the threats, but at year's end no one had been charged. On December 13, Docea wrote in an article that the police had not conducted any investigation based on the threat evidence he submitted.

In May the Convention of Media Organizations protested as an infringement on the freedom of expression and a violation of ECHR jurisprudence a court decision that forced newspaper Evenimentul Zilei and three other national newspapers to print a nine-page court ruling in their pages. The ruling referred to two articles printed in 2005 in which Evenimentul Zilei criticized a journalist's practices as unprofessional.

During the year the ECHR found violations by the country of freedom of expression as provided under the European Convention on Human Rights in three cases. By the end of the year the Government paid compensation to the plaintiffs in two of the cases; the status of the third was unknown.

In March the ECHR ruled that the Government should compensate journalist Dan Florian Papaianopol in the amount of 7,213 euros (\$9,665) for a violation of his freedom of speech. In 2000 a domestic court sentenced Papaianopol to pay compensation to a school director who was the subject of an article he authored in the Scoala Romaneasca magazine.

Also in March the ECHR overturned a domestic court ruling involving photo-journalist Andrei Antica of Romania Libera. In January 1999 that newspaper published an article implicating several politicians and senior officials in the bankruptcy of an American company to which the Government had made financial contributions. A local court ordered Antica to pay damages to a businessman related to the case. The ECHR stated in its decision that Antica's right to freedom of expression had been violated because the disputed article concerned a subject of general interest.

In June the ECHR ruled that the Government should pay 10,000 euros (\$13,400) to writer, journalist, and NGO activist Gabriel Andreescu. In 2001 Andreescu spoke at a news conference about the connections between the Communist-era secret police, known as the Securitate, and Andrei Plesu, a member of a government team investigating the Securitate files after the fall of Communism. Plesu filed a complaint in a domestic court, which forced Andreescu to pay damages to Plesu. In its decision the ECHR stated that Andreescu, who writes for 22 magazine, did not have a fair trial and that his right to freedom of expression had been violated.

*Internet Freedom.*—There were no reported government restrictions on access to the Internet or substantiated reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

The Internet was widely available in the country, and costs decreased due to competition. Internet cafes were widely available nationwide. According to International Telecommunication Union statistics for 2009, approximately 37 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events; however, there were reports that a few local officials interfered with these activities.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and the law provide for freedom of assembly, and the Government generally respected this right in practice. The law provides that unarmed citizens may

assemble peacefully but also stipulates that meetings must not interfere with other economic or social activities and may not be held near such locations as hospitals, airports, or military installations. Organizers of public assemblies must request permits in writing three days in advance from the mayor's office of the locality where the gathering would occur. The permits were generally approved. Delays or changes of location of the assembly sometimes occurred. Whether the reasons for these delays or changes were political was often impossible to determine.

*Freedom of Association.*—The constitution and the law provide for freedom of association, and the Government generally respected this right in practice. However, the law prohibits fascist, communist, racist, or xenophobic ideologies, organizations, and symbols (such as statues of war criminals on public land). Political parties are required to have at least 25,000 members to have legal status, a number some NGOs criticized as excessively high.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. The law on asylum, based on EU legislation, prohibits the expulsion, extradition, or forced return of any asylum-seeker at the country's border or from within the country's territory but does not extend these protections to aliens and stateless persons who planned, facilitated, or participated in terrorist activities as defined by international instruments to which the country is a party.

The law provides for the concept of safe countries of origin, and aliens coming from such countries have their asylum applications processed in an accelerated procedure. EU member states are considered safe countries of origin as are other countries specified by an order of the Minister of Administration and Interior at the proposal of the National Office for Refugees. Criteria defining safe countries of origin are the number of asylum applicants granted protection; observance of human rights; observance of democratic principles, political pluralism, and free elections; and the existence of operational democratic institutions to monitor human rights.

The Government's Emergency Transit Center in the city of Timisoara received refugees while they awaited processing and final transit to a receiving country. During the year 139 refugees arrived at the center and 290 departed (many of them arrivals from 2009). According to the UNHCR, conditions fully met international standards.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened based on their race, religion, nationality, membership in a particular social group or political opinion. There were still concerns that the law does not give rejected applicants enough time to prepare appeals and pursue them through the courts.

During the year the Government started to implement several programs for refugees, such as an EU-funded effort to strengthen the capacity of authorities to manage issues related to asylum, and a project sponsored by the UNHCR and the European Refugee Fund to improve the quality of the asylum system.

The UNHCR's "quality initiative" program, begun in 2008 and aimed at improving the quality of the country's decision-making on asylum matters, continued during the year. While conditions have improved somewhat from prior years, asylum seekers still faced difficulties with access to specialized health care, partially because of the lack of interpreters. Social assistance in reception centers, including spare-time activities, was not always sufficient; and some asylum seekers felt they did not receive enough information or legal assistance.

In 2009 the Romanian National Council for Refugees (CNRR) began to implement a project funded by the European Refugee Fund to improve the quality of counseling, legal assistance and interpreting services for asylum applicants. The CNRR employed and trained legal advisers in regional centers, provided additional interpreters, revised informational materials for asylum seekers, and translated the information into 14 languages to make the leaflets more accessible.

The Government implemented an EU directive that provides for "subsidiary protection," or protection to persons who do not qualify as refugees but are nevertheless granted protection because they cannot return to their countries for fear of serious

risks to their lives. Under the law refugees and those granted subsidiary protection enjoy access to employment, basic services, education, the courts and police protection equal to that of citizens. However, the law requires those receiving subsidiary protection to wait for a longer period of time than refugees to acquire citizenship, a provision viewed as discriminatory by the former. The Government may also extend “temporary protection” to persons arriving from conflict areas. Finally, the law provides for the status of a “tolerated person,” an alien who no longer has the right to stay in the country but cannot leave for “objective reasons” such as unclear nationality or the lack of flight connections. Tolerated persons have no social or economic rights. The Government also has a voluntary repatriation program for refugees and rejected asylum seekers.

According to the Immigration Office, by the end of November 830 foreigners applied for asylum. Of these, 81 received refugee status and 25 subsidiary protection. During the same period, 61 foreigners received “tolerated person” status and 443 foreigners were taken into public custody. There were no cases of temporary protection being extended during the year to individuals who may not qualify as refugees.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—In November and December 2009 the country held national elections for president. Despite irregularities, including numerous allegations of vote buying and of multiple voting, the elections were judged free and fair. The OSCE report on the November election found it to be “generally conducted in conformity with OSCE commitments and international standards for democratic elections, as well as with national law.” These irregularities did not appear to favor one political party over another. In the second round, incumbent Traian Basescu won the election with 50.3 percent of votes cast.

Parliamentary elections, last held in 2008, are based on a complex single-representative-district voting system for both the Senate and the Chamber of Deputies. The media, NGOs, and government officials criticized the voting system, which assigns parliamentary seats to party members based on a complicated formula, for being too difficult for most voters to understand and for awarding seats to party members who finished second or third in their district.

Political parties can operate without restriction or outside interference. The law requires political parties to register with the Bucharest Tribunal and to submit their statutes, program, and a roster of at least 25,000 signatures. Among these 25,000 “founding members” there must be individuals from at least 18 counties, including Bucharest, with a minimum of 700 persons from each county. The party statutes and program must not include ideas that incite war, discrimination, hatred of a national, racist, or religious nature, or territorial separatism.

Organizations representing ethnic minorities may also field candidates in elections. If the minorities in question are “national minorities,” defined as those ethnic groups represented in the Council of National Minorities, their organizations must meet requirements similar to those for political parties. For organizations representing minorities not represented in the parliament, the law sets more stringent requirements than those for minority groups already represented in the parliament; they must provide the Central Electoral Bureau with a list of members equal to at least 15 percent of the total number of persons belonging to that ethnic group as determined by the most recent census. If 15 percent of the ethnic group amounts to more than 20,000 persons, the organization must submit a list with at least 20,000 names distributed among at least 15 counties plus the city of Bucharest, with no fewer than 300 persons from each county.

While the law does not restrict women’s participation in government or politics, societal attitudes presented a significant barrier. There were 38 women in the 334-seat Chamber of Deputies and eight women in the 137-seat Senate. At year’s end there were only two women in the 17-member cabinet and no women among the prefects (governors appointed by the central government) of the 42 counties.

According to the constitution each recognized ethnic minority is entitled to have one representative in the Chamber of Deputies even if the minority’s organization cannot obtain the 5 percent of the vote needed to elect a deputy outright, but only if the organization received votes equal to 10 percent of the average number of votes nationwide necessary for a deputy to be elected. Organizations representing 18 minority groups received deputies under this provision. There were 49 members of minorities in the 471-seat parliament, nine in the Senate and 40 in the Chamber of Deputies. At the end of the year, there were four members of minorities (all ethnic

Hungarians) in the 17-member cabinet. Ethnicity data was not available for members of the Supreme Court.

Ethnic Hungarians, represented by the Democratic Union of Hungarians in Romania, an umbrella party, were the sole ethnic minority to gain parliamentary representation by passing the 5 percent threshold. Only one Romani organization, the Roma Party-Pro Europe, was represented in the parliament, by one member of parliament. Low Romani voter turnout likely resulted from a lack of awareness, inability to demonstrate an established domicile, and absence of identity documents.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. The World Bank's corruption indicators suggested corruption was a problem. In 2007, as part of the country's agreement on accession to the European Union, the European Commission established a Cooperation and Verification Mechanism (CVM) to monitor the country's progress in reforming the judicial branch and fighting corruption.

The National Anticorruption Directorate (DNA) investigates and prosecutes high-level corruption, including cases involving members of the parliament and government officials. Both the head of the DNA and the general prosecutor (attorney general) were considered effective. The DNA head was appointed to a second three-year term in February 2009. The general prosecutor was appointed to a second three-year term in October 2009.

A simple majority of the parliament must approve investigations of ministers who are sitting members of the parliament, while the president must approve investigations of ministers who are not serving in the parliament. The CSM has to approve searches, detention, and preventive arrests of judges and prosecutors.

In March the Senate approved the preventive arrest of one of its members on charges of influence peddling. In April the CSM approved the preventive arrest of a Supreme Court justice involved in the same case. In December the Chamber of Deputies rejected the DNA's two requests for approval of investigations against one former minister, the first for the search of his official computer, and the second to extend the investigation in the same case. As of year's end the Chamber of Deputies had not approved a request from the DNA for the preventive arrest of a deputy on charges of blackmail and other corruption offenses.

Authorities' ineffective response to corruption remained a focus of intense public criticism, political debate, and media scrutiny throughout the year. NGOs and the media continued to assert that no major case of high-level corruption had yet resulted in judgments involving prison sentences. However, the number of verdicts involving corruption offenses, including sentences to time in prison, increased significantly during the year. During the year courts sentenced a member of the Senate, five mayors, one vice mayor, one senior prosecutor, and 22 police officers and non-commissioned officers to prison.

The DNA continued its coordination with antifraud units in various ministries. The General Directorate for Anticorruption (DGA) of the Ministry of Administration and Interior, which investigates alleged corruption within the ministry, maintained a telephone hotline to receive tips from the general public regarding corrupt officers. In December cooperation between the DNA, the DGA, and the Ministry of National Defense resulted in the DNA's prosecution of two high-ranking officers of the Ministry of National Defense and three other persons on charges of abuse of office, bribery, and influence peddling. The Antifraud Department attached to the Prime Minister's Office continued to investigate cases involving the misuse of EU funds. The Ministry of National Defense also maintained its own antifraud section. However, according to the CVM report, "within institutions few steps appear to have been taken to strengthen practical implementation and awareness of whistle-blowing policies."

Little progress was made in 30 cases filed by the DNA in earlier years against former government ministers, deputy ministers, and members of the parliament. The lack of progress was due in one instance to a legislative decision to block the investigation; the High Court of Cassation and Justice dismissed some other cases; and others were delayed while defendants' claims of unconstitutionality or violations of legal procedures (called "claims of illegality") were adjudicated. Of the 30 cases, one was initiated in 2005, nine in 2006, six in 2007, nine in 2008, and five in 2009.

In the first 10 months of the year, the DNA sent 155 cases involving 698 defendants to the courts. The persons charged were one former prime minister, two members of the Senate, six judges including a Supreme Court justice, three senior prosecutors, two subprefects, 18 mayors, five vice mayors, 28 police officers and non-commissioned officers, 15 commissioners of the Financial Guard, four commissioners

of the Environmental Guard, and six managers of state-owned companies. In the same period, in response to cases brought by the DNA, the courts issued 103 nonfinal verdicts involving 291 defendants, 67 final verdicts involving 128 defendants, and 18 final verdicts of acquittal involving 32 defendants.

In August the parliament amended the law governing the Constitutional Court to end the practice of automatically suspending trials while constitutional challenges were under consideration (interlocutory appeals). In November a law designed to accelerate judicial processes and trials came into effect, banning the suspension of trials when challenges of illegality were filed in criminal cases. The law also restricted the use of challenges on procedural grounds.

Police corruption contributed to citizens' lack of respect for the police and led to a corresponding disregard for police authority. Low salaries and the absence of incentives and bonuses led to personnel shortages and contributed to the susceptibility of individual law enforcement officials to bribery. Instances of high-level corruption were referred to the DGA, which continued to publicize its anticorruption telephone hotline to generate prosecutorial leads for corruption within the police force; however, some of the local police departments ("inspectorates") did not adequately publicize the anticorruption hotline.

The law empowers the National Integrity Agency (ANI) to administer and audit financial disclosure statements for all public officials and monitor conflicts of interest. The ANI law stipulates that the ANI can identify "significant discrepancies" (more than 10,000 euros, or \$13,400) between an official's income and his assets.

In April the Constitutional Court declared significant portions of the ANI statutes to be unconstitutional. The parliament failed to restore ANI's powers immediately. After the CVM report singled out the weakening of ANI as a violation of commitments the country made during its EU accession process, the Government made a concerted effort to restore the agency's powers. In late August the parliament reinstated the requirement for comprehensive, public financial disclosure statements but also made more cumbersome the procedure by which ANI can initiate seizure of assets when significant discrepancies are found.

The law provides for public access to government information related to official decision making; however, human rights NGOs and the media reported that the law was inadequately and unevenly applied. Procedures for releasing information were arduous and varied greatly by public institution. Many agencies did not make public the annual performance reports that the law requires. NGOs and journalists continued to file requests regularly in court to gain access to official government information.

In May the Romanian Academic Society won a case against the state-controlled EXIM Bank for the declassification of a public procurement contract, and against the Privatization Agency for the declassification of the contract to privatize a local carmaker. In August the Institute for Public Policy won a court case against the parliament for the release of information on members' expenditures on their constituent offices. In October the Center for Legal Resources (CRJ), a human rights NGO, won two cases regarding access to public information: one against the Presidency, which refused to hand over to the NGO copies of financial disclosure statements and conflict of interest statements for 2008; and the other case against the Rovinari Energy Complex, which refused to give the NGO copies of decisions from the company's board of administration for the period 2004-2008.

Although the Government ordered the intelligence services to release the files of the Communist-era Securitate intelligence service, the powers of the National College for the Study of Securitate Archives (CNSAS) remained limited because the law governing the CNSAS law does not permit it to issue verdicts that identify individuals as Securitate collaborators. In June the Constitutional Court ruled that the lustration, or "de-Communization" law that the parliament passed in May was unconstitutional. The president asked all government ministries to make their employees' incomes public on-line. Of 15 ministries, eight responded to the president's call by year's end.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The Government cooperated during the year with international governmental organizations and permitted visits by UN representatives and other organizations. During the year there were visits by the UN special rapporteur on human rights

of migrants and EU Commission representatives to assess the situation of the judiciary. The latter released two reports (see section 1.e.).

The Office of the Ombudsman had limited power and no authority to protect citizens' constitutional rights in cases requiring judicial action. The office handled 7,016 complaints during the first nine months of the year. The NGO Romani CRISS criticized the Office of the Ombudsman for failing to address the cases the NGO brought to its attention.

The National Council for Combating Discrimination (CNCD) is an independent governmental agency under parliamentary control. During the year the CNCD received 478 public complaints of discrimination. It resolved 117 of these complaints by the year's end. Of the complaints, 97 involved alleged discrimination on the basis of nationality, ethnicity, and race, and six involved discrimination on religious grounds. The CNCD received 54 complaints regarding discrimination against Roma.

The Ombudsman's Office and CNCD operated with the Government's cooperation and for the most part without government or party interference. After the CNCD's activity was blocked for almost eight months due to staffing shortages, the parliament on April 20 appointed six new members to CNCD's board, allowing the CNCD to resume its activity. Neither agency received adequate resources, although both enjoyed public trust. The CNCD was generally regarded as effective, while most observers regarded the Office of the Ombudsman as much less effective. Both the CNCD and the Ombudsman's Office issue yearly activity reports.

Romani CRISS criticized the appointment of CNCD board members proposed by political parties, arguing that this violated the principle of the body's independence and that some of the appointees lacked expertise in the human rights area. Romani CRISS also criticized the CNCD's delays in ruling on some of its complaints.

Each chamber of the parliament has a human rights committee. Their task is to draft reports on bills that pertain to human rights-related issues. Their members, however, are members of the parliament who usually express the views of their political parties.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law forbids discrimination based on race, gender, disability, ethnicity, language, or social status, among other categories. However, the Government did not enforce these prohibitions effectively, and women as well as Roma and other minorities were often subjected to discrimination and violence.

*Women.*—Rape, including spousal rape, is illegal. The prosecution of rape cases was difficult because the law requires a medical certificate and a witness, and a rapist could avoid punishment if the victim withdrew the complaint. The successful prosecution of spousal rape cases was more difficult because the law requires the victim personally to file a criminal complaint against the abusive spouse and does not permit other parties, such as police, relatives or support organizations, to file a complaint on the victim's behalf. The law provides for three to 10 years' imprisonment for rape; the sentence increases to five to 18 years if there are aggravated circumstances. According to police statistics, during the year perpetrators were sent to court in 886 rape cases; there was no information on the number of resulting convictions.

Violence against women, including spousal abuse, continued to be a serious problem, according to NGOs and other sources. The Government did not effectively address it. The law prohibits domestic violence and allows police intervention in such cases. However, the law on domestic violence was difficult to apply because it contradicts the criminal procedures code and does not provide for the issuance of restraining orders. According to the General Directorate for Child Protection (DGPC), in 2009, 4,185 women and 816 men were victims of domestic violence. During the same period 35 women and 27 men died as a result of domestic violence. In a nationwide survey conducted by the Center for Urban and Rural Sociology in 2008, 21.5 percent of women reported having been subjected to domestic violence at least once in their lives, and 11.1 percent reported experiencing domestic violence during the year prior to the survey.

While the criminal code imposes stronger sanctions for violent offenses committed against family members than for similar offenses committed against others, the courts prosecuted very few cases of domestic abuse. Many cases were resolved before or during trial when alleged victims dropped their charges or reconciled with the accused abuser. In cases with strong evidence of physical abuse, the court can prohibit the abusive spouse from returning home. The law also permits police to penalize spouses with fines of 100 lei to 3,000 lei (\$31 to \$936) for various abusive acts.

In July the National Authority for the Protection of Family and Children's Rights, established in December 2009 under the Ministry of Labor, Family, and Social Protection, was downgraded to a general directorate within the ministry under the

name of the DGPC. The DGPC is in charge of children's issues and domestic violence.

At the end of 2009, 50 government- and privately-run shelters for victims of abuse provided free accommodation and food for periods of between seven days and three months, and 27 centers provided legal and psychological counseling. There were also two rehabilitation centers, two centers to inform and sensitize the population, and six counseling centers for perpetrators. However, the centers were insufficient and unevenly distributed, and some parts of the country lacked any kind of assistance.

The law prohibits any act of gender discrimination, including sexual harassment. Penalties vary significantly depending on whether the act is criminal or not and range from fines—between 400 lei and 8,000 lei (\$125 and \$2,500)—to imprisonment for three months to two years. Although the problem exists, public awareness of it continued to be low. No effective programs existed to educate the public about sexual harassment.

In February university professor and criminal expert Tudorel Butoi stated that most of the women assaulted in streets, parks, and elevators had a provocative attitude. Several NGOs filed a complaint against Butoi with the CNCD, which decided in October that Butoi's statement was discriminatory and sanctioned him with an admonition.

The law provides for the right to information, education, and services for reproductive health without any discrimination, as well as the right to access modern family planning methods. Nevertheless, Romani women had a difficult time accessing reproductive health services. The Ministry of Health provided free contraceptives to rural residents, students, the unemployed, and women who had an abortion in a public hospital. NGOs noted the absence of a national strategy regarding reproductive rights, the lack of sexual education in schools, and the country's high number of teen pregnancies.

The number of HIV-positive mothers who gave birth to live infants increased to 207 births in 2009, the last year for which data was available, from 68 in 2007 and 161 in 2008, according to the National Institute for Infectious Diseases Matei Bals.

HIV-positive women reported to the Euroregional Center for Public Initiatives (ECPI) that they had difficulty accessing maternal health care in maternity hospitals due to discrimination by medical personnel. They asserted that they experienced degrading treatment, breaches of confidentiality, segregation, and denial of cesarean sections. ECPI noted that the medical staffs of obstetrics and gynecology units did not appear to understand and apply the clinical guidelines for the management of pregnancy in HIV-positive women that the Ministry of Health adopted in 2009.

According to UN Population Fund statistics, the maternal mortality rate was 27 per 100,000 births in 2008.

The ECPI criticized the fact that the results of Health Ministry investigations of maternal deaths are not made public.

A journalist's investigation conducted in the fall revealed a series of shortcomings in the maternal health care available in public hospitals. The report revealed unsanitary conditions, lack of equipment (e.g. incubators for newborns), high neonatal mortality rates, a high number of premature births, a small number of obstetricians, shortages of medicine, and mistreatment of women giving birth. The ECPI received information that in some hospitals pregnant women were automatically tested for HIV prior to giving birth without informed consent and without prior counseling, although HIV testing is voluntary under the law.

In August six newborn babies died in Giulesti hospital following a fire in the maternal ward that was reportedly caused by a defective air conditioning system, inattentive staff, and locked doors.

The law provides female employees reentering the workforce after maternity leave the right to return to their previous or a similar job. Government grants helped support mothers with 24 months of paid leave at 85 percent of the mother's average income during the previous 12 months and a monthly allowance for children. A report released in September 2009 by the Society of Contraception and Sexual Education indicated, however, that pregnant women might still suffer unacknowledged discrimination in the labor market.

Under the law women and men enjoy equal rights, including under family law, property law, and in the judicial system. In practice the Government did not enforce these provisions, and authorities did not devote significant attention or resources to women's problems. In July the Government's Agency for the Equality of Opportunities was downgraded to a directorate in the Ministry of Labor, Family, and Social Protection. Women occupied few influential positions in the private sector, and differences between the salaries of women and men continued to exist in most sectors of the economy. According to several surveys including one from the National Statis-

tics Institute, women were paid approximately 10-15 percent less than men doing the same work. According to the Ministry of Labor, Family, and Social Protection, women faced disadvantages in education; access to the labor market, social, political, and cultural life; and participation in decision-making. According to the ministry many of these difference stemmed from segregation of labor (i.e. women work mostly in fields where salaries are lower), traditions, and stereotypes.

During the year the DGPC, in partnership with NGOs, implemented programs to prevent and curb domestic violence and to provide better conditions for domestic violence victims.

*Children.*—Citizenship is derived by birth from at least one Romanian citizen parent. Birth registration was not universal, and some children were denied public services as a result. The most common reason that children were not registered at birth was that parents did not declare the child's birth to authorities, sometimes because the parents lacked identity documents or residence papers, or because the birth took place abroad in countries where parents were present illegally. Most such children had access to schools, and authorities assisted in obtaining birth documents for unregistered children. However, the education of unregistered children depended on the decision of school authorities. Undocumented children also faced difficulties in getting access to health care.

There were reports that Romani children were effectively segregated from non-Romani students and subject to discriminatory treatment (see section 6, National/Racial/Ethnic Minorities).

Child abuse and neglect continued to be serious problems, and public awareness of them remained poor. The media reported several severe cases of abuse or neglect in family homes, foster care, and child welfare institutions. According to the DGPC, during the first nine months of the year, child welfare services identified 8,142 cases of child abuse, neglect, and exploitation. These findings resulted in the provision of rehabilitation services in 5,103 cases, medical services in 331, educational services in 529, and legal assistance in 3,164. Of the 2,281 children who were identified as abused during this period, authorities separated 323 from the abusive families. During the year the Ministry of Labor, Family, and Social Protection started to implement a project costing 14.3 million euros (approximately \$19 million), jointly funded by the Government and the Development Bank of the Council of Europe. The project's goal is to develop a community-based services network at local levels to prevent the separation of children from their families and to reintegrate children already separated from their families.

In the first nine months of the year, according to official statistics, parents abandoned 1,015 children in maternity hospitals. NGOs claimed that the official statistics did not accurately account for many abandoned children and that many children living in state institutions were never officially recognized as abandoned.

According to DGPC, at the end of September there were 808 homeless children nationwide. NGOs working with homeless children believed there were two or three times that number. NGOs noted that the number of homeless children declined but only because many of the children reached adulthood—they remained on the streets.

In most cases the legal age of marriage is 18, although girls as young as 15 may legally marry in certain circumstances. Illegal child marriage was common within certain social groups, particularly the Roma. There was no estimate regarding the extent of the practice, and information about individual cases surfaced only from time to time in the media. In September the Pro Europa League, a human rights NGO working on a project on early or forced marriages financed by the Ministry of Health, reported that while such marriages continued to take place in some Romani communities, they declined in number.

Trafficking in girls remained a problem. According to the Ministry of Administration and Interior, 99 of the 379 victims of trafficking reported during the first half of the year were girls. There also were isolated cases of children who prostituted themselves for money without third-party involvement.

The criminal code stipulates 3- to 10-year jail sentences for sexual acts with minors under 15 years of age, the age of consent. The display, selling, dissemination, renting, distribution, and production of child pornography is punishable by five to 10 years in jail and, if coercion is used, by 15 to 20 years in jail.

While the law prohibits the abuse and neglect of children, the Government has not established a mechanism to identify and treat abused and neglected children and their families.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

According to Hope and Homes for Children Romania, the country's branch of a British NGO, which works in partnership with the Government to close orphanages, 256 orphanages in the country housed 11,000 children. The NGO noted that conditions in the orphanages improved with the support of EU funding and assistance from NGOs working in the field of child protection. However, staffing in orphanages remained insufficient, and the self-financing of such institutions was limited. In October a group of British journalists visited an orphanage in Bistrita and noted improper living conditions, malnourished children who were sedated or tied to their beds, and the absence of sufficient activity for the children. Media reported instances in which children from orphanages were reportedly kidnapped and sold to human traffickers who then forced them to steal and beg in Italy.

*Anti-Semitism.*—According to the 2002 census, the Jewish population numbered 5,785. Acts of anti-Semitism, including vandalism against Jewish sites, continued during the year with no appreciable change in the range of 10-12 per year of previous years. In most cases the Federation of Jewish Communities notified authorities, but perpetrators were often not identified.

The NGO Center for Monitoring Anti-Semitism in Romania (MCA Romania) continued to criticize authorities for playing down anti-Semitic vandalism, usually attributing the acts to children, drunks, or persons with mental disorders. MCA Romania noted that Jewish establishments appeared to be targets of choice for vandals and asserted that police investigations of such acts were not thorough. MCA Romania also criticized the lack of prosecutions that might deter future acts. During the year independent observers reported the existence of swastikas on the elevator doors and walls of some blocs of apartments as well as on the fence of a school in Bucharest.

On April 13, unidentified individuals stole property from the administrative building of a Jewish cemetery in Bucharest. On April 16, unidentified individuals broke into the chapel of the stone-carving workshop of a different Jewish cemetery in Bucharest. In both cases the Jewish Communities Federation filed complaints with Bucharest police. There were no developments in these cases by year's end.

In April local media reported that unidentified individuals drew swastikas on the walls of several buildings and a memorial in Galati and that the local authorities attributed the vandalism to rebellious teenagers, not pro-Nazi individuals.

During the night of May 3, a group of young persons threw stones at the house of the guard of the Jewish cemetery in Craiova. A member of the Jewish community called police, who took steps to restore order in the area. There were no reports of arrests.

In July the National Bank of Romania (BNR) issued a commemorative coin depicting late Patriarch Miron Cristea, who led the Romanian Orthodox Church between 1925 and 1939 and was prime minister from 1938 to 1939. During the latter period Cristea was responsible for revising the citizenship law, stripping approximately 225,000 Jews of their Romanian citizenship. Many of these persons subsequently died during the Holocaust. MCA Romania, the National Institute to Study the Romanian Holocaust Elie Wiesel, the Holocaust Memorial Museum of Washington, the Anti-Defamation League, and other organizations unsuccessfully urged the BNR to withdraw the coin. Both the BNR and the Orthodox Church argued that the coin was part of a collectors' series of five coins (featuring five late patriarchs) celebrating the Orthodox Church's 125th anniversary. The BNR established a commission to study the issue. On August 19, the commission decided not to withdraw the coin on the grounds that the coin "should not be related to Patriarch Cristea's short activity as prime minister."

In October and November, MCA Romania addressed letters to the Gendarmerie units in Galati and Constanta, requesting that their local troop regiments, which bore the names of two generals who were war criminals involved in the deportation of Jews during the World War II, be changed. In November the Gendarmerie units in both localities responded that they had started the procedures necessary to change the names.

On October 25, the prosecutor's office of the Constanta Court of Appeals decided not to prosecute Constanta Mayor Radu Mazare for marching onto a public stage dressed as a Nazi officer, accompanied by his 15-year-old son dressed as a Nazi soldier. The incident occurred in July 2009 at a fashion show at the beach resort of Mamaia. During the year before the decision, authorities closed the case and then reopened it and referred it to the Constanta branch of the Division in Charge of Organized Crime and Terrorism (a specialized department of the Prosecutor General's Office). The investigating prosecutor's decision to close the case definitively after concluding that Mazare's gesture was not a crime since it was committed in the interest of art.

There were no reported developments in the 2008 desecration of 131 gravestones in a Jewish cemetery in Bucharest, in which the police named as suspects four students ages 13 to 15, or in the April 2009 desecration of 20 gravestones in a Jewish cemetery in Botosani, in which police suspected four 14- to 16-year-old students.

Extremist organizations occasionally held high-profile public events with anti-Semitic themes. The New Right Organization, the Professor George Manu Foundation, and the Party for the Nation continued to sponsor events, including religious services, symposia, and marches, commemorating leaders of the pre-World War II era Legionnaire Movement. Such events took place during the year in Sibiu on January 13 and May 25, Braila on March 14, Ramnicu Sarat on September 22, and Tancabesti on November 28. They attracted small numbers of persons.

On May 13, four Greek Catholic priests in Dragomiresti, Maramures County, dedicated a memorial cross commemorating heroes of both world wars and anticommunist fighters, many of them pro-Nazi and anti-Semitic legionnaires. The family of an anticommunist fighter erected the cross.

On June 15, the 121st anniversary of the death of national poet Mihai Eminescu, Greater Romania Party (PRM) Secretary General Gheorghe Funar stated that Eminescu was killed by Jews who did not like his political writing and poems. He added that a Jewish doctor poisoned the poet with mercury. The executive director of the National Institute to Study the Romanian Holocaust Elie Wiesel labeled the statement anti-Semitic and underscored that Funar did not offer any evidence to support his allegations.

MCA Romania and the National Institute to Study the Romanian Holocaust Elie Wiesel criticized a Romanian documentary film entitled *The Portrait of the Fighter as a Young Man*, which was produced with state funding and shown at several international festivals. The film presented the activity of an anti-Communist group led by Ion Gavrilă Ogoranu, a member of the right-wing, fascist Legionnaire Movement.

MCA Romania repeatedly warned that anti-Semitic, racist, xenophobic, and nationalistic views continued to be distributed via the Internet.

During the year the extremist press continued to publish anti-Semitic articles. The New Right movement and similar organizations and associations continued to promote the ideas of the Iron Guard (an extreme nationalist, anti-Semitic, pro-Nazi group that existed in the country in the interwar period) in the media and on the Internet. Organizations with extreme right-wing views also republished inflammatory books from the interwar period.

During the year the publications of the extreme nationalist PRM headed by Corneliu Vadim Tudor continued to carry statements and articles containing strong anti-Semitic attacks.

The law prohibits denial of the Holocaust in public; however, there were no prosecutions under this statute during the year.

During the year public and private television stations broadcast talks shows that expressed anti-Semitic views and attitudes. On November 13, during a talk show televised nationally, well known journalist Ion Cristoiu spoke about Corneliu Zelea Codreanu, the founder of the Legionnaire Movement, who was widely known for harsh anti-Semitism and violence. Cristoiu stated that Codreanu had been "the most honest and honorable Romanian politician from the interwar period" and called him a "Romantic hero." MCA Romania criticized the show and its producer. Several dozen intellectuals and public figures encouraged the president of the national television station, Alexandru Lazescu, to dissociate the station from Cristoiu's statements. In his reply Lazescu regretted that Cristoiu's statements hurt the feelings of those who had been affected by the violence, anti-Semitism, and crimes against mankind of that "black period" of the country's history, "for which the Legionnaire Movement is considered responsible." Lazescu noted that the television's Ethics and Arbitration Commission would consider this issue. On December 9, the National Audiovisual Council publically admonished the national network for having violated the principle of maintaining the balance by providing a plurality of opinions.

Extremists such as Ion Coja, a professor at the University of Bucharest, continued to deny publicly and on the Internet that the Holocaust occurred in the country and that the country's leader during World War II, Marshal Ion Antonescu, participated in Holocaust atrocities in territory administered by the country.

The Government continued to make progress in its effort to expand education on the history of the Holocaust in Romania. The study of the Holocaust is included in history courses in the seventh, ninth, 11th, and 12th grades. On various occasions throughout the year, high-level officials continued to make public statements against extremism, anti-Semitism, xenophobia, and Holocaust denial.

The law to combat anti-Semitism and to prohibit fascist, racist, and xenophobic organizations includes the oppression of the Roma as well as the Jews in its definition of the Holocaust.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against all persons in employment, education, access to health care, or the provision of other services. However, the Government did not fully implement the law, and discrimination against persons with disabilities remained a problem.

The law mandates accessibility for persons with disabilities to buildings and public transportation. In practice the country had few facilities specifically designed to accommodate persons with disabilities, and persons with disabilities could have extreme difficulty navigating city streets or gaining access to public buildings. However, the number of buildings with facilities for persons with disabilities did increase during the year.

According to reports by human rights NGOs, the procedures for commitment, the living conditions, and the treatment of patients in many psychiatric wards and hospitals did not meet international human rights standards and were below professional norms.

In August the CPT issued a report on its follow-up visit to the Nucet Social-Medical Center and Oradea Psychiatric Hospital. At Nucet the delegation found a lower death rate among patients than in 2006 during their last visit, but also continuing indications of neglect such as apparently underweight patients and the lack of inquests into the deaths of some of them. It recommended that patients be given more private space for their possessions and more opportunity to walk around outside. At Oradea the CPT delegation found significant improvements in the juveniles' section but continued poor maintenance, poor sanitary conditions, and understaffing in the adult section.

In October the CRJ expressed concern about the Government's failure to consult with the representatives of persons with disabilities on matters that could have an impact on their right to life and dignity. The CRJ urged the prime minister to consult on draft legislation involving persons with disabilities.

Twice during 2009 the CRJ visited 16 state institutions for persons with mental disabilities (psychiatric wards and hospitals) to assess whether human rights were being observed. In most such institutions the CRJ found overcrowding; underqualified staff; inadequate staff knowledge of the legal requirements regarding such institutions; shortages of staff and medicines; insufficient food; violation of patient privacy; patient neglect; failure to observe patients' human dignity; failure to implement the procedures to resolve the patient complaints; failure to implement regulations regarding involuntary institutionalization and informed consent; patients unaware of their rights; disregard for the legal regulations governing the detention and isolation of patients (for example, patients were tied to their beds for long periods of time); excessive sedation of patients; poor hygienic conditions; and lack of activities and recreational programs. There was no information regarding the Government's response to these findings.

In September 2009 the media reported that a patient in the psychiatric ward in Poiana Mare died following the alleged ingestion of a disinfectant. The hospital was known for its particularly poor conditions and the fact that more than 150 patients died there in 2002-2004. In May, after repeated complaints by 13 psychiatric doctors at the institution who accused its director of poor management of the hospital's funds, lack of interest in procuring equipment and medication, and failure to punish the auxiliary staff for inadequately treating patients, the hospital fired the director. The facility continued to operate at full capacity at the end of the year.

During the year there were no reports that the Government took action to close or to improve the situation of patients in several state institutions for persons with disabilities where harsh conditions were the subject of a BBC documentary in December 2009.

During the year the Government, through the DGPC, started a project to implement good practices to assist children and young persons with special needs in state institutions.

Some minors were sent to psychiatric hospitals without the consent of their legal guardians. According to human rights NGOs, there was no system to ensure that government-run care institutions observed the rights of children with mental disabilities.

*National/Racial/Ethnic Minorities.*—Observers estimated that there were between 1.8 and 2.5 million Roma in the country, approximately 10 percent of the total population. However, the most recent official census, taken in 2002, reported

535,000 Roma, or 3 percent of the population. An August 2008 government survey estimated that Roma numbered approximately 1.2 million, or 5.7 percent of the population. According to NGOs, earlier government figures were low because many Roma either did not reveal their ethnicity or lacked any form of identification.

Discrimination against Roma continued to be a major concern. Romani groups complained that police brutality, including beatings and harassment, was routine. Both domestic and international media and observers widely reported societal discrimination against Roma.

On October 24, some villagers set a Romani family's house on fire in the village of Rares (Harghita County). The fire started at a stable, killing a horse and 10 poultry, with material damages amounting to 40,000 lei (\$12,500). Villagers complained that they had filed complaints about the Romani family repeatedly, and the police did not resolve them. The Romani family fled the house after the incident. At the end of the year three villagers were under investigation by the police for violation of domicile and destruction of property.

Stereotypes and use of discriminatory language against Roma were widespread; journalists and several senior government officials made statements that were viewed as discriminatory by members of the Romani community. In February a press release by the Ministry of Foreign Affairs stated that, during a meeting with a French state secretary, Foreign Minister Teodor Baconschi mentioned the "natural, physiological crime problems in some Romanian communities, in particular, within the communities of Romanian citizens of Romani origin." Several NGOs labeled the speech racist due to the association of Roma with crime, demanded Baconschi's resignation or dismissal, and filed a complaint with the CNCD. Several days later, during a meeting with representatives of the Roma, Baconschi reportedly mentioned a meeting he had with Romani intellectuals several years earlier and stated "you can say anything about them, but not that they are imbeciles." In November the CNCD decided that Baconschi's statement was discriminatory, admonished him, and recommended that he speak more carefully in the future.

On March 9 and September 28, Member of the European Parliament Gigi Becali, leader of the right-wing New Generation Party and owner of the Bucharest soccer team Steaua, called George Copos, the owner of a rival team, Rapid, a "Gypsy." On March 15, Becali stated that without Rapid the "national soccer championship would be whiter," an allusion to the fact that the Rapid Soccer club is located in a Romani neighborhood. The management of Rapid urged the CNCD to punish Becali's statements. The CNCD had fined Becali for calling Rapid's fans "Gypsies" in November 2009; Becali challenged the fine in court, and the hearing, which began in June, did not conclude by year's end. Racist slogans were frequently displayed during soccer games across the country.

In June the CNCD admonished Iulian Urban, the vice president of the Senate's Legal Committee, for discrimination against the Roma for posting anti-Romani messages on his blog in 2009. Upon hearing about the CNCD admonition, Urban stated, "The Gypsies have defeated me," and stated that he would challenge the decision in court.

On September 8 and 9, in interviews on national television and radio, President Basescu stated that the decision to change the name of "Gypsy" to "Roma" was wrong because it generates confusion among Europeans. Magdalena Matache, the director of Romani CRISS, stated that the president's statements could contribute to negative attitudes toward Roma.

In an interview with B1 television in September, President Basescu, speaking of France's expulsion of Roma, insinuated that the country's Roma allowed their children to beg while the parents were often stealing, "What they do here, they wanted to do in France as well." He also was quoted as saying, "It seems that there are Gypsies who believe that moving from one place to another means to work."

In September a member of the Chamber of Deputies, Silviu Prigoana, submitted to the Senate a legislative initiative proposing to use the word "Gypsy" instead of "Roma" in the official documents. While the Ministry of Foreign Affairs, the National Roma Agency, the Ministry of Culture, the Interethnic Relations Department, the Government's Secretariat General, and the CNCD opposed the bill, the Romanian Academy voiced its support, arguing that the term "Gypsy" represents the "correct name of this transnational population." On November 30, approximately 200 persons participated in a protest organized by six Romani NGOs in front of cabinet headquarters. The media reported on December 5 that the Government would back the legislation.

On September 22, during a debate in the Senate on a draft law regarding the commemoration of the Roma's emancipation from slavery, lawmaker Puiu Hasotti stated that the Roma themselves asked to be enslaved when they were no longer able to pay their taxes. He denied that the term Gypsy was pejorative, adding that

well known artists have used the term in their songs and paintings, and that many European nations continue to use the term.

In October former professional tennis player Ilie Nastase stated publicly that he supported the French president's policy of sending Roma back to their home countries, adding that he would send Romania's Roma to the ethnic-Hungarian-majority county of Harghita "to change the ethnic configuration of this region." In December the CNCD fined Nastase 600 lei (\$187) for his discriminatory statements.

During an official visit to Slovenia on November 3, President Basescu stated that the country had failed to integrate nomadic Roma, which was difficult since "very few of them want to work." He added that "many of them traditionally live on what they steal." David Mark, executive director of Roma Civil Alliance, an umbrella organization of Romani NGOs, stated that Basescu's statement was "full of racial prejudices." The CRJ criticized the president's statements, which it stated harmed the dignity of Roma and were profoundly discriminatory.

There were no developments in the criminal complaint filed with the prosecutor's office by Romani CRISS regarding an incident in April 2009 when fans of the Dinamo soccer team shouted anti-Romani slogans and displayed anti-Romani banners during a game against the rival team Rapid.

In the November 2009 complaint against First Vice President Ludovic Orban of the National Liberal Party, who publicly referred to Roma as Gypsies, the CNCD ruled in December that his statement was discriminatory and sanctioned him with an admonition.

According to media reports, evictions of members of the Romani community continued to occur in Bucharest, Timisoara, Resita, and other localities during the year. In January, Amnesty International alleged that, because of forced evictions, Roma had no option but to live next to garbage dumps, sewage treatment plants, or industrial areas on the outskirts of cities. In the evictions and resettlements they lost their possessions, social networks, and access to work and state services. In July, Amnesty International urged the local authorities of Baia Mare to stop their planned eviction of the approximately 1,100 Roma from the settlement of Craica, where the Roma had built illegal houses and cardboard huts on public land. In November the vice mayor of Baia Mare stated that the Roma from Craica would be moved next spring to a newly built area.

NGOs reported that Roma were denied access to, or refused service in, many public places. Roma also experienced persistent poverty, poor access to government services, a shortage of employment opportunities, high rates of school attrition, inadequate health care, and pervasive discrimination. According to the year's Social Inclusion Barometer, 45 percent of Roma who work did not have a stable job. NGOs and the media reported that discrimination by teachers and other students against Romani students served as an additional disincentive for Romani children to complete their studies.

Despite a March order by the Ministry of Education forbidding segregation of Romani students, there were reports of Romani children's being placed in the back of classrooms, of teachers ignoring Romani students, and of unimpeded bullying of Romani students by other schoolchildren. In some communities authorities placed Romani students in separate classrooms or even in separate schools. During 2009 Romani CRISS identified school segregation cases in Albeni, Corabia, Cugir, and Polovraci. The NGO also filed complaints with the CNCD regarding a case in Magheru, identified in 2009, in which a kindergarten teacher refused to enroll twin Romani children for several years. In December 2009 Romani CRISS began a project, planned for 90 schools, through which Romani and non-Romani students, parents, and the teaching staff would participate in intercultural activities. The NGO Ovidiu Rom worked to assist and encourage Romani children in the school enrollment process. The NGO also continued its national public awareness campaign "scoala te face mare" ("school makes you great"), which it started in June 2009, to promote the importance of school enrollment to families and children. During the year the main goal of "Scoala te face mare" was to encourage early education and convince parents to send their children to kindergarten.

A research project by the Impreuna Agency for Community Development conducted in April and May in 100 schools revealed that Romani children received lower quality education, experienced discrimination from both non-Romani colleagues and the teaching staff, were segregated, and had a higher dropout rate than non-Romani students (6.7 percent of Romani children, compared to 4.3 percent of non-Romani students). The main reasons for dropping out of school were material shortages such as lack of school supplies and clothes (44 percent), poor grades (16 percent), lack of the parental interest in sending their children to school (9 percent), and early marriage (4 percent).

Roma also experienced difficulty accessing health care. In 2009 Romani CRISS filed a complaint with the CNCD against a family doctor in the village of Vartop, who allegedly refused to treat Romani patients or treated them superficially. In 2009 Romani CRISS reported that, in the maternity wards in Cluj and Galati, there were instances of hospital employees' entering "Gypsy" in a child's birth certificate under "nationality of the mother," even though these individuals were Romanian citizens. Romani CRISS filed complaints with the CNCD.

In May, July, and September 2009, the Romani Center for Health Policies SASTIPEN (SASTIPEN) filed complaints against a gynecologist at the hospital in Targu Neamt, Neamt County, for allegedly denying access to medical services to three Romani women. Based on the October 2009 decisions of an investigative commission and the ethics council of the hospital (which considered only one of the three cases), the county's Doctors' Council initially decided in October 2009 not to investigate the cases and in April exonerated the doctor of any responsibility. On August 30, SASTIPEN challenged the Doctors' Council's decision, and on November 2, the case was sent to the higher Commission of Discipline of the National Doctors' Council, where it remained at year's end. In 2009 SASTIPEN also filed a separate complaint with the CNCD. On July 7, the CNCD resolved one of the September 2009 complaints, deciding that the doctor's behavior was discriminatory and sanctioning him with an admonition.

A project to assess the access of Roma to public health care, developed by SASTIPEN and the Bucharest-based Institute for Public Health, revealed that, although 87 percent of the respondents declared they have a family doctor, access to medical services remained low due to lack of financial resources, discrimination on the part of medical personnel, and the Roma's own lack of awareness about access to public health care services. The project studied 45 Romani communities between November 2009 and November 2010.

A Romani CRISS survey of 935 doctors conducted in the spring indicated that about 70 percent of Roma go to family doctors only in the case of an acute disease and only 9.2 percent have medical check-ups.

Romani communities were largely excluded from the administrative and legal systems. According to Open Society Institute (OSI) research conducted in 2007, 4.9 percent of Roma lacked birth certificates. Among non-Romani citizens, fewer than 1 percent lacked birth certificates. Similarly, surveys in 2007 and 2008 indicated that between 1.9 and 6 percent of Roma lacked identity cards, compared to 1.5 percent of non-Roma. During 2009 the Ministry of the Administration and Interior issued identity cards and civil status documents to 16,470 persons, of whom 1,752 were Roma. The lack of identity documents excluded Roma from participating in elections, receiving social benefits, accessing health insurance, securing property documents, and participating in the labor market. Roma were disproportionately unemployed or underemployed. According to the Barometer for Social Inclusion 2010, 60 percent of Romani households lived on less than the minimum wage. The average monthly income of Romani households was 657 lei (\$205).

NGO observers noted Romani women faced both gender and ethnic discrimination. Romani women often lacked the training, marketable skills, or relevant work experience to participate in the formal economy. According to a 2006 OSI report, only 26 percent of Romani women interviewed were part of the workforce. The average monthly income of Romani women surveyed was 106 lei (\$33).

Romani CRISS and the Impreuna Agency for Community Development criticized the ineffectiveness of the Government's 2001-2010 national strategy for the improvement of the situation of Roma.

According to government reports, 88 projects subsidized by the European Social Fund and aimed mostly at the social integration of the Romani persons were in progress at the end of the year. A total of 216,358,433 euros (\$290 million) was allocated to these projects.

The National Agency for Roma is tasked with coordinating public policies for Roma. Romani NGOs, however, criticized the scope of this agency's responsibilities, noting that they are too broad and often overlap with the activities of other government bodies.

According to the most recent census, from 2002, ethnic Hungarians are the country's largest ethnic minority with a population of 1.4 million.

In the Moldavia region, where the Roman Catholic, Hungarian-speaking Csango minority resides, the community continued to operate government-funded Hungarian-language classes. According to the Association of Csango Hungarians in Romania (AMCM), 986 students in 16 localities received Hungarian-language classes during the 2010-11 academic year. In 24 localities the AMCM sponsored daily educational activities in the Hungarian language. In some other localities, such as Luizi Calugara and Tuta, requests for Hungarian language classes were denied. The

AMCM complained that there was no Hungarian-speaking school inspector at the School Inspectorate of Bacau County.

Internet discussion forums continued to include discrimination and hate speech most frequently targeting Jews, ethnic Hungarians, Roma, and LGBT individuals in discussion forums during the year.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits discrimination based on sexual orientation; however, NGOs reported that police abuse and societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons was common and that open hostility prevented the reporting of some harassment and discrimination. Members of the gay and lesbian community continued to voice concerns about discrimination in public education and the health care system. During the year the NGO ACCEPT provided legal and health counseling dealing with transgender issues to 12 persons. The NGO reported that the number of complaints by members of its community about harassment of gay men by authorities increased during the year. Several members reported that police and gendarmerie raids took place in public places known to be meeting areas for gay men, and that police behavior was abusive. These raids mostly occurred in public parks, with police or gendarmes asking all men to show their identification, questioning them about the reason for their presence, making offensive comments regarding homosexuality, and threatening to arrest them.

During the year several individuals complained to ACCEPT that police raided the Bucharest North Railway Station and the surrounding neighborhood and abused persons they suspected of being gay. Complainants stated police used offensive language regarding their sexual orientation, handcuffed them, threatened or used physical violence such as beatings, forced them to clean toilets, and fined them for disturbing public order. According to one individual who requested legal assistance from ACCEPT, police did not show their identification badges.

After a four-year-long lawsuit, a court ruled in November that the National Administration of Penitentiaries should pay moral compensation amounting to 50,000 euros (\$67,000) for discrimination based on sexual orientation. An individual represented by ACCEPT filed a lawsuit against the National Administration of Penitentiaries in 2006 complaining that the institution had failed to protect him from acts of sexual violence, harassment, threats, and discrimination committed by fellow prisoners while he was in jail in 2004-05.

No developments were reported in the February 2009 beating and assault on a transgender person in Bucharest or the reported verbal abuse of the same person by taxi drivers in March 2009.

There were two officially registered LGBT organizations, ACCEPT and LGBTeam. Other LGBT groups lacked legal status and generally kept a low public profile.

On May 22, between 200 and 300 persons participated in the annual “march of diversity” gay pride parade in Bucharest. Local authorities mobilized approximately 400 police to protect the participants, and the parade ended without violent incidents. There were some claims that individuals who wanted to participate in or watch the parade were discouraged from doing so because of the police barricades. The New Right, an extreme-right nationalistic group opposed to homosexuality and claiming a Christian orientation, sponsored a “march for normalcy” antigay rally on the same day as the march for diversity, but at a different time and location. They chanted virulently antigay slogans. Prior to May 22, a group of NGOs called for a ban on the gay parade. Some of these NGOs, including the Alliance of Families from Romania and the Christian Orthodox Forum, sponsored a “march for the family,” which gathered approximately 150 participants. The Orthodox Church criticized both the gay parade and the New Right march, saying that both organizations sought publicity and did not have the church’s blessing. A senator, Iulian Urban, called the gay pride parade a “direct threat to the Romanian family.”

In February, EU Parliamentarian Gigi Becali, the owner of the Steaua soccer team, stated that he would not accept the transfer of a soccer player to Steaua because he was allegedly gay. ACCEPT filed a complaint with the CNCD. In April during a press conference, Becali tore up the notification received from the CNCD regarding this complaint and declared, “There will never be any homosexual player at Steaua.” In December the CNCD admonished Becali for statements defaming the gay community.

*Other Societal Violence or Discrimination.*—Under the law HIV-infected persons have the right to confidentiality and to adequate treatment. However, discrimination against persons with HIV/AIDS impeded access to routine medical and dental care, and authorities rarely enforced laws prohibiting this form of discrimination.

Breaches of confidentiality involving individuals' HIV status were common and rarely punished.

Observers noted widespread discrimination faced by children with HIV/AIDS and authorities' failure to protect them from discrimination, abuse, and neglect.

Doctors reportedly refused to treat children and youths with HIV/AIDS. Medical personnel, school officials, and government employees did not maintain confidentiality of information about the children.

More than half of HIV-infected adolescents were sexually active; they frequently experienced reduced access to facilities for reproductive health care and the prevention of HIV and sexually transmitted infections. The Government provided access to antiretroviral therapy; however, stigma and discrimination against persons with HIV/AIDS frequently impeded their access to education, other medical care, government services, and employment. Fewer than 60 percent of HIV-positive children and adolescents attended some form of schooling.

According to the National Commission Fighting against AIDS, at the end of the year 10,924 persons had HIV/AIDS. During the year 275 new cases were identified. According to the National Union of Organizations of Persons with HIV/AIDS (UNOPA), of the 10,000 HIV-positive persons in the country, more than 7,000 were between the age of 18 and 22. Many of them were targets of social discrimination. Many of these individuals were believed to have a low level of formal education because they dropped out of school due to stigmatization, discrimination, or disease. UNOPA carried out a project aimed at giving vocational training to HIV-positive young persons in order to help them find jobs.

In a report published in June that assessed the situation of HIV-positive persons, UNOPA concluded that many of these persons had to discontinue treatment because of the insufficient funds for HIV medications from the National Health Insurance House. The report also revealed difficulties in accessing dental and gynecology services. According to UNOPA only a small number of HIV-positive persons had jobs because of their fear of applying for work and their belief that coworkers might find out about their disease or that they were not up to the challenges of regular work.

In September 2009 an NGO filed a complaint with the Iasi Doctors' Council and the CNCD against a doctor who refused to issue a document required to assign a place in a student hostel to an HIV-positive student, arguing the risk of contamination. Although the Doctors' Council ruled the doctor's action did not constitute an unethical or discriminatory act, the CNCD decided in November 2009 that the act in question was discriminatory and sanctioned the doctor with an admonition.

*Incitement to Acts of Discrimination.*—There were no reports of propaganda in government or government-controlled media that attempted to justify or promote ethnic hatred or violence. However, various government officials made statements throughout the year that contributed to ethnic stereotyping of Roma (see section 6, National/Racial/Ethnic Minorities).

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution allows workers to form and join independent labor unions without prior authorization, and workers freely exercised this right. However, employees of the Ministry of National Defense, most employees of the Ministry of Administration and Interior, most employees of the Ministry of Justice, prison personnel, and intelligence personnel did not have the right to unionize. Approximately 40 percent of the workforce was unionized; however, that number continued to decline. The majority of unionized workers belonged to one of the five main national trade union confederations. Only a small percentage of agricultural workers belonged to unions.

The right to form unions was generally respected in practice. Union officials stated that registration requirements stipulated by law were complicated but generally reasonable. However, unions objected to the requirement that they submit lists of prospective union members with their registration application. Since employers also had access to this list, union officials feared that this could lead to reprisals against individual unionized employees, hindering the formation of new unions.

The law allows unions to conduct their activities without interference, and the Government protected this right in practice. However, unions complained about excessive political influence at workplaces in public institutions. The alleged interference included appointment of managers for political reasons and instances where politically connected managers received prior information about supposedly unannounced labor inspections.

Although the law permits strikes by most workers, lengthy and cumbersome requirements made it difficult to hold strikes legally. Unions may strike only if all arbitration efforts have failed and employers are given 48 hours' notice. Unions complained that they must submit their grievances to government-sponsored arbitration

before initiating a strike and that the courts had a propensity to declare strikes illegal. Companies may claim damages from strike organizers if a court deems a strike illegal. Judges, prosecutors, some justice ministry staff, and employees of the intelligence service and the Ministries of National Defense, and Administration and Internal Affairs do not have the right to strike.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers the right to bargain collectively, but government control of many industrial enterprises and the absence of independent management representatives hindered collective bargaining. Only enterprises employing more than 21 persons may negotiate collective agreements. Collective labor contracts covered approximately 80 percent of the workforce at the branch and unit levels. National collective labor contracts are negotiated every four years. The main employers' associations, trade unions, and the Government last negotiated a national collective labor contract for 2007-2010. However, contracts resulting from collective bargaining were not consistently enforced.

The law has specific provisions against antiunion discrimination, which were generally respected. However, the International Trade Union Confederation reported that some companies, including foreign companies, employed tactics such as spreading antiunion propaganda, intimidating trade union members, and making employment conditional on a workers' agreement not to join a union. Public sector employees of one union federation informed the union that management had threatened them not to join street protests. Unions stated that many public and private sector employees were afraid to pursue disputes in court for fear of losing their jobs.

There are no exemptions from regular labor laws in the country's six free trade zones and 31 disadvantaged zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Persons, primarily local women and children, and women and children from Moldova, Colombia, and France, were trafficked within and to the country for begging, and petty theft. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace; however, the Government did not consistently enforce these laws in practice, and child labor occurred.

The minimum age for most forms of employment is 16 years, but children may work with the consent of parents or guardians at age 15. The law prohibits minors from working in hazardous conditions. The law provides a basis for the elimination of hazardous work for children and includes a list of dangerous work and sanctions for offenders. Parents whose children carry out hazardous activities are required to attend parental education programs or counseling and can be fined between 100 and 1,000 lei (\$32 to \$320) for failure to do so. Persons who employ children for hazardous tasks can be fined 500 to 1,500 lei (\$156 to \$468).

Minors over the age of 15 who are enrolled in school are also prohibited from performing activities that might endanger their health, morality, or safety. The activities are included on a list approved in 2007 pursuant to an EU directive. Children under the age of 16 who work have the right to continue their education, and the law obliges employers to assist in this regard. Children aged 15 to 18 may only work six hours per day and up to 30 hours per week, provided their school attendance is not affected. In practice, however, reports indicated that many children did not attend school while working. Minors cannot work overtime or during the night, and they have the right to an additional three days of annual leave.

Child labor, including begging, selling trinkets on the street, and washing windshields, remained widespread in Romani communities, especially in urban areas. Children as young as five engaged in such activities.

The DGPC in the Ministry of Labor, Family, and Social Protection is mandated with monitoring and coordinating all programs for the prevention and elimination of the worst forms of child labor.

Of the 964 confirmed cases of child labor reported in 2009, 604 (62.7 percent) were in urban areas and 360 (37.3 percent) in rural areas; 434 of the victims were girls (45 percent) and 530 were boys (54 percent); 749 victims (77.7 percent) were under 14 years of age and 215 (22.3 percent) were between 15 and 18. The confirmed cases involved bonded labor (65 cases), begging (642 cases), victims of domestic trafficking (42 cases), external trafficking (29 cases), working without a labor contract (44 cases), forced labor (45 cases), prostitution (23 cases), working in the street (41 cases), and other illicit activities (22 cases). See also the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The Ministry of Labor, Family, and Social Protection can impose fines and close factories for child labor exploitation. However, enforcement of all but extreme viola-

tions tended to be lax. Employers who violated child labor laws were generally fined by the Labor Inspectorate but were not prosecuted in court. There were no reports during the year of anyone being charged in court with violating child labor laws; in practice judges did not consider violations of the child labor law to be criminal offenses.

The law requires schools to notify social services immediately if children miss class to work. Social services have the responsibility to reintegrate such children into the educational system. The Government conducted information campaigns to raise awareness of child labor and children's rights among children, potential employers, school officials, and the general public.

*e. Acceptable Conditions of Work.*—Beginning in January 2009 the gross minimum wage was 600 lei (approximately \$187) for a full-time schedule of 170 hours per month, or approximately 3.75 lei (\$1.17) per hour. The minimum wage for skilled workers was 20 percent higher. During the year the minimum wage was briefly raised to 705 lei (\$220 a month), then reduced to the previous level of 600 lei (\$187) in order to comply with the country's agreement with the International Monetary Fund (IMF).

In the first six months of the year, based on a new Unitary Salary Law that came into force on January 1, the minimum wage for public sector employees was 705 lei (\$220) per month. Following the country's agreement with the IMF, the Government invoked a constitutional provision for enacting special temporary measures under extraordinary circumstances to cut salaries of public sector employees by 25 percent as of July 1.

The minimum monthly wage did not provide a decent standard of living for a worker and family. The Ministry of Labor, Family, and Social Protection successfully enforced minimum wage rates. In practice many employers paid supplemental salaries under the table to reduce both the employees' and employers' tax burdens. However, this practice negatively affected employees' future pensions and their ability to obtain commercial credit.

The law provides for a standard workweek of 40 hours or five days. Workers are entitled to overtime pay for weekend or holiday work or work in excess of 40 hours, which may not exceed 48 hours per week averaged over one month. The law requires a 24-hour rest period in the workweek, although most workers received two days off per week. The Ministry of Labor, Family, and Social Protection effectively enforced these standards. Union leaders complained that overtime violations were the main problem facing their members, since employees were often required to work more than the legal maximum number of hours and the overtime compensation required by law was not always paid. This practice was especially prevalent in the textile, banking and finance, and construction sectors. Union officials alleged that a majority of on-the-job accidents occurred during such compulsory, uncompensated overtime.

The law provides penalties for work performed without a labor contract in either the formal or informal sectors of the economy. Employers who use illegal labor may be jailed or fined up to 100,000 lei (\$31,200). During the year enforcement was lax, due not only to corruption within the Labor Inspectorate but also because both employers and employees could benefit from lower taxes by working without a labor contract or by receiving a supplemental salary under the table.

The Ministry of Labor, Family, and Social Protection is responsible for establishing and enforcing safety standards for most industries but lacked trained personnel to do so effectively. Employers often ignored the ministry's recommendations, which were usually implemented only after an accident occurred. Workers had the right to refuse dangerous work but seldom invoked it in practice.

---

## RUSSIA

The Russian Federation has a centralized political system, with power concentrated in a president and a prime minister, a weak multiparty political system dominated by the ruling United Russia party, and a bicameral legislature (Federal Assembly). The Federal Assembly consists of a lower house (State Duma) and an upper house (Federation Council). The country has an estimated population of 142 million. Security forces generally reported to civilian authorities; however, in some areas of the Northern Caucasus, there were serious problems with civilian control of security forces.

There were numerous reports of governmental and societal human rights problems and abuses during the year. The restrictions on political competition and interference in local and regional elections in ways that restricted citizens' right to

change their government continued. There were reports of: attacks on and killings of journalists by unidentified persons for reasons apparently related to their activities; physical abuse by law enforcement officers, particularly in the North Caucasus region; and harsh and often life-threatening prison conditions. Arbitrary detention and politically motivated imprisonments were problems. The Government controlled many media outlets and infringed on freedoms of speech and expression, pressured major independent media outlets to abstain from critical coverage, and harassed and intimidated some journalists into practicing self-censorship. The Internet remained by and large free and provided citizens access to an increased amount of information that was not available on state-controlled media. The Government limited freedom of assembly, and police at times used violence to prevent groups from engaging in peaceful protest. Rule of law and due process violations remained a problem.

Corruption was widespread throughout the executive, legislative, and judicial branches, and officials often engaged in corrupt practices. Corruption in law enforcement remained a serious problem. Political and executive influence on the judicial system was observed in some high-profile cases. The Government made it difficult for some nongovernmental organizations (NGOs) to carry out their work. Unidentified assailants physically attacked NGO leaders who took positions opposed to government policies or private interests. Security services and local authorities at times fabricated grounds for legal justification for searches and raids on civil society groups. Violence against women and children, including domestic violence, remained a significant problem. Trafficking in persons continued to be a significant problem. During the year xenophobic, racial, anti-Semitic, and ethnic attacks and hate crimes, particularly by skinheads, nationalists, and right-wing extremists, continued to be significant problems. There were instances of societal discrimination, harassment, and violence against religious and ethnic minorities. There continued to be some governmental and widespread social discrimination against persons with disabilities, ethnic minorities, and dark-skinned immigrants. Worker rights were limited. Labor activists reported police used intimidation techniques against union supporters, including detention, interrogations, and provocation of physical confrontation.

The conflict between the Government and insurgents, Islamist militants, and criminal forces in the North Caucasus led to numerous human rights violations by all parties, who reportedly engaged in killing, torture, abuse, violence, and politically motivated abductions, often with impunity. In Dagestan and Kabardino-Balkariya, the number of attacks on law enforcement personnel increased markedly. Violence generally decreased in Chechnya and Ingushetiya in comparison with 2009, but there were some high-profile attacks on regional government targets. The number of persons killed in the region declined slightly from 2009; however, the number of injured, especially among civilians, increased significantly. Thousands of internally displaced persons (IDPs) in the region lived in temporary centers that failed to meet international standards.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports the Government or its agents committed politically motivated killings and other arbitrary killings, particularly in the Caucasus region (see section 1.g.). In many cases the Government did not punish the perpetrators.

In the Caucasus areas of conflict, there were numerous killings during the year by both authorities and militants (see section 1.g.).

On January 20, Tomsk resident Konstantin Popov, who was arrested for public intoxication, died in police custody after policeman Alexey Mitayev beat him and shot him in the genitals. Authorities arrested Mitayev and charged him with assault and abuse of authority. Mitayev faced 10 years in prison on charges of “intentional infliction of a grave injury leading to death by negligence” and “exceeding official powers with the use of force.” On January 22, the Kremlin fired the chief of the Tomsk police force, General Viktor Grechman, in reaction to the killing. First Deputy Prosecutor Aleksander Buksman called for the control of holding cells for drunks to be transferred to the health and social development ministry.

The Ministry of Defense reported 14 deaths as a direct result of hazing during the year (see section 1.c.). However, the Committee of Soldiers’ Mothers estimated the actual number of deaths during the year due to violence among soldiers, including those who died in hospitals, upon discharge or because of lack of medical care, to be approximately 2,000. As in past years, human rights observers noted that few of the persons accused in such incidents were prosecuted or otherwise held accountable.

According to the publication *Kommersant*, in May, Roman Suslov, a 21-year-old draftee, was found hanged on a train bound for his military posting. Although the army claimed he committed suicide, Suslov's body showed clear signs of violent death and no signs of hanging. Suslov had sent a text message to his parents on the day of his death warning of the brutal conditions in the military, writing "they will either kill me or make me disabled." The authorities opened an investigation only after repeated demands by his parents.

On May 31, Albert Kiyamov fell to his death out of a fourth story barracks window, five days after reporting for military duty. Although the death was ruled a suicide, Kiyamov had endured days of beating and humiliation at the hands of his sergeant, Sergey Lugovets, against whom criminal charges were filed.

There was a report of a death during the year related to denial of medical care in a pretrial detention center. On April 30, Vera Trifonova died after awaiting trial for more than four months in the Matrosskaya Tishina pretrial detention center. The lead investigator in the criminal case against her was charged with criminal negligence. Human rights observers charged that she was denied treatment for her worsening condition in order to force her to make a false confession (see section 1.c.).

No charges resulted from an investigation into the 2009 death in a Moscow pre-trial detention prison of lawyer Sergei Magnitskiy (see section 1.c.).

On April 12, Moscow judge Eduard Chuvashov was shot and killed in the stairwell of his apartment in central Moscow. In February he had imposed stiff sentences on several members of the White Wolves fascist organization, finding nine of them responsible for 11 killings. This group was reportedly linked with the nationalist group Combat 18. Chuvashov had earlier convicted members of another nationalist group of killing 20 persons and attempting to kill 12 others. At year's end no suspects were apprehended in the case.

According to the Glasnost Defense Foundation, a number of journalists were killed during the year, possibly for reasons related to their professional activities. The Government officially reopened investigations into the killings of several journalists from previous years (see section 2.a.), although by year's end there were arrests only in one case, that of the lawyer Stanislav Markelov and *Novaya Gazeta* reporter Anastasiya Baburova. Many of the killings were related to the conflict in the North Caucasus (see section 1.g.).

On December 23, the Moscow city prosecutor's office filed a criminal case against Nikita Tikhonov and Yevgenia Khasis, who were arrested in November 2009 and charged with the January 2009 shooting death of human rights lawyer Stanislav Markelov and journalist Anastasiya Baburova. The attack occurred shortly after Markelov held a press conference to criticize the early parole of Colonel Yuriy Budanov, who in 2000 raped and strangled an 18-year-old Chechen girl. The prosecutor's office charged the pair with murder. Both individuals were reportedly closely associated with the Russian nationalist group Russian Way.

There were no developments in the January 2009 fatal beating of 20-year-old activist Anton Stradymov in Moscow. Stradymov was a member of the National Bolshevik group. He had also participated in a number of "dissenters marches," a form of political opposition protest begun in 2006.

There were no developments in the shooting death in November 2009 by unknown persons of antifascist activist Ivan Khutorskoy.

There were no developments in the October 2009 killing of prominent Ingush human rights activist Maksharip Aushev or the December 2009 killing of several of his relatives. Despite the promise of Ingushetiya's president, Yunus-Bek Yevkurov, that there would be a vigorous investigation of Aushev's killing, no arrests were reported.

There were no developments in the December 2009 killing of Gennadiy Prudetskiy director of the charity Social Defense for Victims of Repression. Investigators believed his shooting death could be related to his work with the charity.

There were no developments in the cases of Muslim religious scholars Saihadji Saihadjiev, Nustap Abdurakhmanov, and Akhmed Hadjimamedov, who were abducted and killed in 2008 in Dagestan.

Rebel forces committed extrajudicial killings in the conflicts in the North Caucasus area (see section 1.g.).

*b. Disappearance.*—Reports of politically motivated disappearances in connection with the conflicts in the Northern Caucasus continued. According to Caucasian Knot, an online Russian news agency specializing in reporting on the Caucasus, there were 52 cases of kidnappings or illegal detentions in the region, and only 16 of those persons were confirmed to have returned home (see section 1.g.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, there were numerous, credible

reports that law enforcement personnel engaged in torture, abuse, and violence to coerce confessions from suspects, and there were allegations authorities did not consistently hold officials accountable for such actions. There is no law defining torture, and prosecutors are only able to bring charges of simple assault or exceeding authority against police suspected of engaging in torture.

Physical abuse of suspects by police officers usually occurred within the first few hours or days after arrest. Some of the methods reportedly used included beatings with fists, batons, or other objects. A February 2009 report by the commissioner for human rights (ombudsman) noted that one-third of the complaints submitted to his office involved human rights violations by law enforcement authorities.

On February 11, police in Bashkortostan detained Dmitry Apanin, a fifth-year university student. News reports indicated officers mistook Apanin's severe stutter for evidence of intoxication and took him to a detoxification center. There, he was allegedly beaten, which resulted in breaking one of his spinal vertebrae.

On June 17, police in Dagestan beat human rights lawyer Sapiyat Magomedova at a police precinct after she tried to gain access to a client.

On August 31, Kstovo police allegedly beat 17-year-old Nikita Kaftasev, after detaining him on suspicion of committing an unspecified crime. The boy was dropped off at a city hospital the next morning, where he underwent emergency surgery; he reportedly sustained permanent damage to his genitals.

Security forces at times beat journalists and protesters (see sections 2.a. and 2.b.). During the year, reports by refugees, NGOs, and the press suggested a pattern of police beatings, arrests, and extortion when dealing with persons who appeared to be of Caucasus, Central Asian, African, or Romani ethnicity.

In June a Moscow court dismissed the case against former Yukos Oil Company vice president Vasily Aleksanyan due to an expiration of the statute of limitations. Aleksanyan, who was charged with assisting Yukos in tax evasion in 2006 but never tried, was HIV positive and had been diagnosed with lymphatic cancer and tuberculosis. He initially was held in a prison, rather than a hospital, but was released in 2009.

On February 11, the chair of the Investigative Committee—a federal autonomous investigative body—Aleksandr Bastrykin ordered the reopening of a 2008 police beating case of several young men near Moscow's Sokolniki Metro Station. Police reportedly used billy clubs and electric shock in the beating. According to the Web site *avtonom.org*, a case had been opened against the police but later closed due to a lack of evidence.

There continued to be instances of attacks on political and human rights activists, critics of government policies, and persons whom the Government considered supportive of the opposition. For example, government forces engaged in the conflict in the North Caucasus reportedly tortured and otherwise mistreated civilians, as well as participants in the conflict (see section 1.g.).

In March Amnesty International reported an attack on Vadim Karastelev, a member of the Novorossisk Human Rights Committee. He was severely beaten by two men outside his home. The attack occurred a day after his release from police detention, where he had been under arrest for seven days for an administrative offense—organizing a demonstration and allegedly disobeying police orders. Karastelev had earlier distributed leaflets calling for public support for police reform and support for former policeman Aleksey Dymovskiy, who is widely known for his Youtube video calling on President Medvedev to reform the police. According to police in Novorossisk, one person was detained in connection with the attack, which police investigators described as an act of "hooliganism." (see section 1.d.).

On October 25, unknown assailants beat Sochi activist Mikhail Vinyukov with metal rods. He was treated for a concussion, stab wounds, severe lacerations, and bruises, among other injuries. Observers linked the attack to Vinyukov's work on anticorruption issues. Vinyukov is the head of a branch of the NGO White Tape, whose manifesto is to protect citizen rights and interests. According to the Other Russia Web site, Vinyukov's life was threatened after he released a recording of a conversation between the head of the Sochi Resort Service and Tourism Department, Vladimir Shiroky, and the director of the Lagarevsky Rest Tourism Company, Galina Panaetova, which led to Panaetova's arrest for bribery.

On November 4, unknown assailants attacked environmental activist Konstantin Fetisov with baseball bats outside his apartment building, fracturing his skull. Observers linked the attack to Fetisov's participation in the campaign to preserve the Khimki forest. According to the Moscow Times, on December 27, police detained Andrei Chernyshev, Andrei Kashirin, and Vyacheslav Kovalyov in connection with the beating. Chernyshev, who is a department head of the property management committee in the Khimki City Hall, is suspected by the authorities of hiring the other two unemployed men to commit the beating.

There was no indication the authorities were investigating the attack on human rights activist and former parliamentarian Lev Ponomaryov in April 2009.

There was no indication authorities were investigating the April 2009 attack on Stanoslav Yakovlev, a member of the Solidarity opposition party, or the July 2009 shooting assault on Albert Pchelintsev, a local anticorruption activist and freelance journalist from the Khimki region.

In December 2009 police arrested the deputy head of the Khabarovskiy Kray Prosecutor's Office, Viktor Basov, for allegedly raping three juvenile girls. An investigator opened a criminal case against Basov, but the Khabarovsk Kray chief prosecutor refused to proceed. A federal prosecutor reopened the case, and Basov began his trial for rape in October.

Reported abuses against military servicemen, particularly "dedovshchina," and the violent hazing of junior recruits in the military and other security services increased in the first half of the year. According to military officials, from January through May, such incidents increased by 150 percent compared with the same period in 2009. The newspaper *Vedmosti* reported that during the same period, approximately 1,167 conscripts were hazed. Earlier in the year, the commander of the Siberian Military District told reporters that there was no dramatic decrease in such offenses as had been expected by military officials following the reduction in the period of mandatory military service to 12 months. Soldiers serving on contracts reportedly replaced senior soldiers as the main perpetrators of hazing. Such mistreatment often included beatings and extortion. According to the chief military prosecutor of the Russian Federation, Sergey Fridinskiy, more than 2,000 servicemen were convicted during the year of hazing recruits.

In an interview with *Argumenty I Fakty*, Chief Military Prosecutor Sergey Fridinskiy said the number of hazing cases in the armed forces in 2010 increased by 18 percent over 2009. He believes the increase is related to a more than double increase in the number of conscripts. Supervising officers are also to blame, he noted. In 2009 Committee of Soldiers' Mothers regional committees reported receiving 9,523 complaints of hazing mistreatment of servicemen from 20 regions of the country, similar to previous years. The complaints mostly concerned beatings, but also included sexual abuse, torture, and enslavement. Soldiers often did not report hazing to unit officers or military prosecutors due to fear of reprisals, since in some cases officers allegedly tolerated or even encouraged hazing as a means of controlling their units. Such cases were usually investigated only following pressure from family members, NGOs, or the media.

Several deaths occurred as a direct or indirect result of military hazing during the year (see section 1.a.).

On September 16, a young recruit, Andrei Starkov, was found dead in a military unit in Khabarovsk Krai. Starkov began his military service in June but was found hanging with no visible injuries. Investigators stated they had no evidence his death was caused by hazing, but his girlfriend and parents reported he had shown no signs of suicidal or abnormal behavior.

During the previous year, seven soldiers had been found hung in military units in Khabarovsk Krai, and in only one of these cases did the military accept responsibility for the recruit's death.

There were no developments in the investigation of the October 2009 hanging death of 19-year-old private Denis Kostenko of Volgograd in Khabarovskiy Kray.

The human rights ombudsman, as well as the Committee of Soldiers' Mothers, stated there was a growing problem with young men being forced to sign contracts to serve in the military forces. According to the Committee of Soldiers' Mothers, 10 soldiers had filed complaints with their organization regarding being forced to sign military service contracts.

According to the Committee of Soldiers' Mothers, there were approximately 2,000 criminal cases related to violence amongst soldiers filed with the Ministry of Defense during the year. As in the past, hazing problems were reported to be particularly common in units that had previously served in areas of military conflict.

Rebel forces engaged in the conflict in the North Caucasus region reportedly tortured and otherwise mistreated civilians, as well as participants in the conflict (see section 1.g.).

*Prison and Detention Center Conditions.*—Prison conditions in many facilities remained extremely harsh and at times life threatening. Authorities permitted some monitoring by independent nongovernmental observers. Refusal by authorities to provide needed medical attention resulted in at least one death during the year (see section 1.a.). The Ministry of Justice's Federal Service for the Execution of Sentences (FSIN) administered most of the penitentiary system from Moscow. According to an official FSIN prison survey conducted in February, 862,300 persons were in custody, including 8,500 juveniles and 55,300 women. Of these, 734,300 were held

in labor colonies and 129,800 in pretrial detention centers. Detainees were held in five basic forms of custody: temporary police detention centers, pretrial detention facilities (SIZOs), correctional labor colonies (ITKs), prisons designated for those who violate ITK rules, and educational labor colonies (VTKs) for juveniles.

Conditions in SIZO pretrial facilities varied considerably, but many remained extremely harsh and posed a serious threat to health and life. In past years official statistics generally recorded several thousand prisoner deaths per year in SIZOs. Health, nutrition, ventilation, and sanitation standards remained low. Overcrowding was common, but the Federal Prison Service reported that by February, approximately 129,800 suspects were being held in pretrial detention facilities, a significant reduction from the previous year.

Sergey Pysin, the lead investigator in the criminal case against Vera Trifonova who died on April 30 after awaiting trial for more than four months in Moscow's Matrosskaya Tishina pretrial detention center, was charged with criminal negligence. Trifonova, a businesswoman, suffered from severe diabetes, chronic kidney failure, was nearly blind, and required a wheelchair. Human rights observers claimed she was denied treatment for her worsening condition to force her to provide false testimony. President Medvedev ordered an investigation and the deputy head of the investigative committee for the Moscow Oblast reportedly was fired.

Russian-born Latvian national Grigoris Spektors, who was accused of an economic crime, was denied critically needed medical treatment for diabetes and gangrene in a prison medical facility during the year and instead was incarcerated in Pretrial Detention Center Number Four. When Spektors was able to pay five million rubles (\$161,000) for bail, the bail was increased to 18 million rubles (\$582,000). Spektors was subsequently released and was undergoing treatment in Riga, Latvia, at year's end.

The case of Sergey Magnitskiy, a pretrial detainee who died while in police custody in November 2009, continued. In July Investigative Committee Head Aleksandr Bastrykin opened a criminal case against Interior Ministry (MVD) personnel who had initially overseen the Magnitskiy case. Authorities were purportedly moving slowly because important persons were implicated (see section 4).

In January eight prison employees of the IK-1 (penal colony number 1) in Kopeysk, Chelyabinsk Oblast, were charged with brutality for the beating deaths of four inmates in 2008 while trying to end a riot. In October 2009 investigators in Chelyabinsk charged the head of the Oblast's FSIN, Vladimir Zhidkov, and 17 subordinates with deliberately covering up the killing. Zhidkov faced either a fine of 200,000 rubles (\$6,613) or a prison term of two years. A trial began on June 30 and continued at year's end.

Most convicted prisoners were imprisoned in correctional labor colonies, which provided greater freedom of movement than SIZOs; however, at times guards humiliated and beat prisoners, according to Amnesty International. The country's prisons, distinct from correctional colonies, are penitentiary institutions for those who repeatedly violate the rules in ITKs.

Federal standards call for a minimum of approximately 43 square feet per inmate, which is less than the 75-square-foot standard set by the European Convention on Human Rights. Widespread overcrowding remained a problem; however, the NGO Penal Reform International reported some progress in meeting this standard. President Medvedev moved to reduce the prison system's chronic overcrowding problem by issuing more pardons than his predecessor, and in August the Government implemented a broader use of punishment short of prison for persons convicted of lesser crimes.

As of July, according to FSIN data, approximately 41 percent of persons incarcerated in the federal prison system had some type of illness. However, in August the General Prosecutor's Office stated that 90 percent of inmates have health problems, and there were 1.2 million cases of illness. Approximately 67,000 inmates had mental disorders, 40,000 had active tuberculosis, and 55,000 had HIV. Statistics for the number of drug and alcohol addicts in prison were not available for 2010. Tuberculosis infection rates were far higher in detention facilities than in the population at large. Some defense attorneys reported the risk of contracting a disease in prison is very high and that some lawyers feared meeting with their clients for fear of contracting illness, such as tuberculosis. The European Court of Human Rights (ECHR) has entered various judgments against the country for failing to provide adequate medical care and not providing humane conditions and adequate space per prisoner.

Abuse of prisoners by other prisoners continued to be a problem. Violence among inmates, including beating and rape, was common. There were elaborate inmate-enforced caste systems in which certain groups, including informers, homosexuals, rapists, prison rape victims, and child molesters were considered "untouchables" (the lowest caste) and treated harshly. Prison authorities provided little or no protection.

As of June 2009, 62 VTKs held 8,500 juvenile prisoners. Conditions in the VTKs were significantly better than in the ITKs, but some juveniles in the VTKs and juvenile SIZO cells reportedly were beaten or raped. While juveniles were generally held separately from adults, there were two prisons in Moscow and one in St. Petersburg where children and adults were not separated.

The law regulating public oversight of detention centers allows public oversight commission representatives to visit the facilities and has been operational in at least 70 regions since the fall of 2009. Regional NGOs are active in the commission's work. Additionally, since the April 2009 signing of a decree by Interior Minister Rashid Nurgaliyev, human rights groups have been allowed to monitor conditions of arrest and detention for pretrial detainees.

However, the decree lacked firm instructions on its implementation, leaving the discretion to cooperate to authorities. The decree also required that officials be present during any discussions of conditions with prisoners. The liberal newspaper *Noviye Izvestiye* reported in October 2009 that the law had achieved mixed results, with some prison officials highly cooperative and others obstructionist, although in the latter case human rights advocates attributed the problem to lack of education among prison officials about the new law.

Human rights observers were able to visit most of the country's 765 prison and detention facilities. Since 2004 authorities have refused to grant the International Committee of the Red Cross (ICRC) access under its standard criteria to persons detained as part of the conflict in Chechnya, and the ICRC as of year's end still did not have any access to these detention facilities.

According to the NGO Memorial, during the year the human rights group Committee of Societal Observers visited detention centers in the North Caucasus, where they documented continuing abuses.

According to observers, persons convicted for minor offenses may often spend six months in prison before having a chance for parole.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, in practice they remained problems.

*Role of the Police and Security Apparatus.*—The Ministry of Interior, the Federal Security Service (FSB), and the office of the prosecutor general (Procuracy) are responsible for law enforcement at all levels of government. The FSB is responsible for security, counterintelligence, and counterterrorism, but it also has broader law enforcement functions, including fighting crime and corruption. The Procuracy has authority over the FSB, and the Investigative Committee, an independent body, has the authority to investigate crimes of individuals in the FSB. The national police force, under the Ministry of Interior, is organized at the federal, regional, and local levels.

In February the magazine *New Times* published accusations that the special purpose police detachments (OMON) employed slave labor and had permission to use excessive force when disbanding unauthorized demonstrations (see section 2.a.).

On March 10, legislators from the state Duma security committee sent an official request to Prosecutor General Yuriy Chayka to provide an explanation for an incident in which the Moscow traffic police used civilians' vehicles with persons inside as a human roadblock to stop a car carrying suspected armed criminals. Stanislav Sutyagin, one of the men whose car was damaged, told his story on Youtube. Sutyagin noted the traffic police later informed the car owners that since the criminal vehicle got away, they would not be compensated for their car damages.

A new law empowered the FSB to issue warnings to individuals whom they believe to be creating the conditions for a criminal act "against the country's security." The new law imposes fines and detention of up to 15 days for individuals judged to have hindered the work of an FSB employee.

According to the Ministry of Interior Web site, MVD officials committed 125,000 offenses during the year (21 percent more than in 2009). Of this number, an estimated 63,000 involved misconduct or disciplinary violations, and 4,171 criminal cases against police officers were initiated.

On January 22, Aleksey Dymovskiy, a former police officer who gained notoriety for his Youtube video in which he accused the Novorossiysk police force of corruption, was arrested and charged with defrauding the police department of 24,000 rubles (\$775). He was held in pretrial detention for two months, and then released (see section 4).

On July 1, authorities released Tatyana Kazakova, mayor of the Siberian village of Listvyanka, whom the FSB had arrested in 2008, accused of abuse of office and election irregularities, and held for more than two years in pretrial detention. Observers alleged her arrest may have been ordered in retaliation for her request for a criminal inquiry into an FSB-owned resort. The federal children's ombudsman,

Pavel Astakhov, called the Government's refusal to allow Kazakova's children to visit her during detention a "major injustice" and declared she was being persecuted, a charge echoed by the Siberian human rights ombudsman. Kazakova was found guilty of a felony, but her six-year sentence was suspended in September.

On August 2, police in Tatarstan detained human rights lawyer Rustem Vliullin for two days. Vliullin claimed one officer from the counterextremism department beat him and another officer threatened to kill him. He was arrested after videotaping police when they stopped his client for a traffic violation. He was never charged with a crime, and he filed a suit against the police.

*Arrest Procedures and Treatment While in Detention.*—By law an individual may be taken into custody for up to 48 hours without court approval if arrested at the scene of a crime, provided there is evidence of the crime or a witness. Otherwise a court-approved arrest warrant is required. After their arrest, detainees are typically taken to the nearest police station, where they are informed of their rights. Police are required to document in writing the grounds for the detention. This document is to be signed by the detainee and the police officer within three hours of detention. Police must interrogate the detainee within the first 24 hours of detention. Prior to interrogation the detainee has the right to meet with an attorney for two hours. No later than 12 hours after detention, police must notify the prosecutor. They must also notify the detainee's relatives unless a prosecutor issues a warrant to keep the detention secret.

Police are required to release a detainee after 48 hours, subject to bail conditions, unless a court decides to prolong custody in response to a motion filed by police no later than eight hours before the expiration of the 48-hour detention period. The defendant and attorney must be present at the court hearing. By law police must complete their investigation and transfer the case file to a prosecutor for arraignment within two months of a suspect's arrest, although a court may extend a criminal investigation for up to six months in cases classified as complex. With the personal approval of the prosecutor general, a judge may extend that period up to 18 months. According to some defense lawyers, these time limits were frequently evaded by formally sending the case to court for adjudication. This action effectively extends the 18-month time limit.

Amendments to the Criminal Procedure Code adopted in April imposed new limits on pretrial detention in cases involving "entrepreneurial" (i.e., white-collar) crimes. The amendment also widened the definition of economic crimes and allowed bail to be offered at any time through real property, rather than cash or securities. While it is difficult to accurately measure the amendment's impact, available information seems to indicate a significant decrease in pretrial detention. According to Russian Supreme Court Justice Lebedev, in the first six weeks after the passage of the amendment, courts approved less than 50 percent of detention applications, in contrast to the 90 percent approval rate prior to the law. According to an editorial in the newspaper *Vedimosti*, the total number of accused persons held in pretrial detention dropped by 10 percent—from 131,400 to 120,100, in the first nine months of the year. However, some lower courts appeared to disregard the amendments by simply defining the charged crimes as "nonentrepreneurial," thereby exempting them from the scope of the new law. This disregard was possibly due to illicit pressure on judges by corrupt business parties who initially "commissioned" the cases.

Legal limitations on detention were generally respected outside of the North Caucasus; however, there were exceptions. There were reports of occasional violations of the 48-hour limit for holding an arrestee. At times authorities failed to write the official detention protocol within the required three hours after the actual detention and held suspects longer than the legal detention limits. In April legislation was adopted to provide remedies in domestic courts for persons with grievances over prolonged detention (see section 1.e.).

There were reports that police, in obtaining defense counsel for detainees, obtained defense counsel friendly to the prosecution. These "pocket" defense attorneys agreed to the interrogation of their clients in their presence while making no effort to defend their clients' legal rights. The general ignorance of legal rights on the part of both defendants and their legal counsel contributed to the persistence of these violations. In many cases, especially in more remote regions, defense counsel was not available for indigent defendants.

Judges occasionally suppressed confessions of suspects if they were taken without a lawyer present. They also at times freed suspects who were held in excess of detention limits, although they usually granted prosecutors' motions to extend the detention period for good cause. The Supreme Court overturned a number of cases in which lower court judges permitted prolonged detention on what the Supreme Court deemed inadequate grounds.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judicial branch did not consistently act as an effective counterweight to other branches of the Government. Judges remained subject to influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases, such as the Khodorkovskiy case.

The law requires judicial approval of arrest warrants, searches, seizures, and detentions. This approval requirement was generally honored, although the process of obtaining the judicial warrants was occasionally subverted by bribery or political pressure.

The Investigation Committee, formerly located within the Office of the Prosecutor General, is now an independent agency, overseeing the investigation of many serious cases. The Investigation Committee chief is appointed directly by the president.

Despite recent increases in judges' salaries, reports of judges accepting bribes continued. For the first half of the year, the Supreme Qualifying Collegium of Judges removed one judge from office for a disciplinary offense and warned another. This collegium is charged with certifying appointments to the judiciary and judges' promotions. Regional qualifying collegia during this period disciplined 163 judges for disciplinary violations, including 155 judges of the courts of general jurisdiction and eight arbitrazh (commercial court) judges. In addition, a considerable number of judges each year are allowed to leave office on their own initiative without any question of discipline being raised formally.

The Supreme Court stated in April that 40 percent of criminal cases presented to the upper court in 2009 suffered from judicial errors. The reported main sources of these errors were poor qualifications of judges in the lower courts and improper classification of crimes as criminal rather than administrative. The head of the Supreme Court, Vyacheslav Lebedev, called for stricter selection of future judges, noting that 60 to 70 judges each year are dismissed.

Authorities did not provide adequate protection for witnesses and victims from intimidation or threats from powerful criminal defendants. In May 2009 the Ministry of Interior estimated nearly half of the approximately 10 million witnesses in criminal cases suffered threats or violence from criminal elements; they noted the existence of the witness protection program was little known among the population.

In February 2009 a Moscow judge, Olga Kudeshkina, publicly criticized Moscow's judicial system, alleging widespread improper influence on rulings and calling it an "instrument for settling political, commercial, or personal scores." She was subsequently dismissed from her position. She appealed her case to the European Court of Human Rights (ECHR), which in August awarded her 10,000 euros (\$13,400).

In June 2009 the Council of Europe issued a report, based on interviews with judges, prosecutors, defense lawyers, and defendants, which asserted that judges routinely received intimidating telephone calls from superiors instructing them how to rule in specific cases, with particular emphasis placed on delivering convictions at any cost. The report stated defense attorneys were frequently threatened and corporations were at the mercy of corrupt law enforcement officials. Among the cases detailed in the report was one of a Moscow region judge who was dismissed and told publicly by a United Russia Duma deputy that she "ought to be shot" after voiding the results of a local election.

*Trial Procedures.*—Trials typically are conducted before a judge without a jury (bench trials). The defendant is presumed innocent. The defense is not required to present evidence and is given an opportunity to cross-examine witnesses and call defense witnesses. Defendants who are in custody during the trial are confined to a caged area in the courtroom and must consult with their attorneys through the bars. Defendants have the right of appeal.

The law provides for the use of jury trials for a limited category of crimes in higher-level regional courts.

During the year the ECHR on multiple occasions found the country in violation of provisions of the European Convention on Human Rights related to trial procedures. The court found 84 violations by the country involving the right to a fair trial and 29 violations involving proceedings that exceeded a "reasonable" length of time.

According to the Novosti Web site, in December Prime Minister Putin opined jury trials are "ineffective" and can be influenced by clan or ethnic interests. In 2008 the State Duma enacted, and the president signed, a law providing that certain crimes, including terrorism, espionage, hostage taking, and mass disorder, would be heard by panels of three judges rather than by juries.

In July 2009 the Government began using plea bargaining in criminal cases. Plea bargains reduced defendants' time in pretrial detention, reduced the average prison sentence by one third, and allowed courts and prosecutors to devote their resources to other cases.

Prior to trial defendants are provided a copy of their indictment, which describes the charges in detail. They are also given an opportunity to review their criminal file following the completion of the criminal investigation. Defense attorneys are allowed to visit their clients in detention, although sometimes conditions reportedly make it difficult for attorneys to conduct meaningful and confidential consultations with their clients. Some defense lawyers claimed their conversations were monitored electronically by informants, and that sometimes prison authorities didn't provide them with access to their clients. They also claimed that investigators hired "pocket attorneys" who simply advised defendants to confess, thereby preventing the defendant from obtaining real legal representation.

The law provides for the appointment of an attorney free of charge if a suspect cannot afford one; however, this provision was often ignored in practice. The high cost of competent legal service means lower-income defendants often lacked competent representation. There were few defense attorneys in remote areas of the country. Public centers, staffed on a part-time basis by lawyers, continue to offer free advice on legal rights and recourse under the law; however, they are not permitted to handle individual cases. The federal government funded a limited experimental system of legal assistance for indigent persons in 10 regions.

*Political Prisoners and Detainees.*—Authorities selectively detained and prosecuted members of the political opposition. On December 31, during a Strategy 31 demonstration for the right of freedom of assembly, authorities arrested opposition figures Boris Nemtsov, Ilya Yashin, Eduard Limonov, Vladimir Tor, and Konstantin Kosyakin. Charges ranged from failure to comply with a police directive to hooliganism.

Human rights organizations and activists also identified the following individuals during the year as political prisoners: Aleksey Sokolov, Igor Sutyagin, Zara Murtazaliyeva, Valentin Danilov, Mikhail Khodorkovskiy, and Platon Lebedev. Igor Sutyagin was released during the year.

In August, in what his lawyers described as a serious human rights violation, authorities transferred Aleksey Sokolov, the head of Sverdlovsk-based NGO Legal Basis, which highlights corruption and abuse in prisons, to an unspecified Krasnoyarsk Krai penitentiary by order of the FSIN. On September 5, Sokolov reported that while in transit, the head of the Novosibirsk detention center beat him. Sokolov stated he was ordered to put in writing he had initiated the fight. Despite his injuries, Sokolov did not receive medical attention for eight days. Sokolov was arrested in May 2009 and convicted on charges of having committed a burglary five years earlier. Sokolov had received warnings local authorities would "find a reason" to imprison him if he continued his human rights work (see section 5).

According to his legal representatives, Sokolov had little or no access to his family and legal representation. Sokolov's case was filed in the ECHR in December 2009 and was awarded priority status in April. On December 14, the Sosnovoborsk city court rejected Sokolov's motion for conditional early release. Despite letters supporting his motion from the Russian Human Rights Ombudsman, the Helsinki Group, Amnesty International, and the Russian Public Chamber, the judge reportedly based her decision on two disciplinary infractions: Sokolov's reading a book at the wrong time of day and his drinking tea with a cellmate in remembrance of Sokolov's recently deceased father.

Valentin Danilov continued serving a 13-year prison sentence for allegedly transferring classified technology to China, although colleagues and supporters asserted the information in question was declassified more than a decade before his arrest.

Former Yukos owners Mikhail Khodorkovskiy and Platon Lebedev continued to serve eight-year prison sentences following their initial 2005 convictions for fraud and tax evasion. Although a number of high-profile witnesses had testified that the new charges against Khodorkovskiy and Lebedev were baseless, both men were found guilty on December 30 and subsequently given the maximum possible sentence by the court. They will be eligible for release in 2017. The ECHR heard arguments in claims by Yukos against its expropriation by the Government in March.

The arrest, conviction, and subsequent treatment of Khodorkovskiy and Lebedev raised concerns about due process and the rule of law, including the independence of courts. Some observers believed that, while the original charges against Khodorkovskiy may have had some merit, he was selectively targeted for prosecution because of his politics. Others have speculated that he was targeted to strip his assets and those of Yukos and acquire them on behalf of government and business interests. A week before the court reached the verdict, Prime Minister Putin commented about the case that "a thief belongs in jail," which some observers called pressure on the court.

In March the ECHR agreed to hear Khodorkovskiy's approximately three trillion-ruble (\$98 billion) claim against the Government that his rights were violated. The

damage claimed is the estimated amount that Yukos would have been worth if its properties had not been stripped away in 2007.

*Regional Human Rights Court Decisions.*—By law any person in the country may bring allegations to the ECHR concerning human rights violations covered by the European Convention on Human Rights that occurred after 1998, provided they have exhausted “effective and ordinary” appeals in the country’s courts. This condition was usually satisfied by two appeals (first and cassation) in courts of ordinary jurisdiction or three (first, appeal, and cassation) in the commercial court system. The ECHR received more than 40,000 complaints involving the country. During the year the ECHR ruled against the state in 217 of 415 cases. The Demos Center reported in January 2009 that state agencies enforced ECHR rulings approximately 60 percent of the time. When they did, the Government generally paid financial judgments ordered by the ECHR in a timely fashion; however, it rarely carried out judicial orders from the ECHR or made corresponding changes in domestic legislation and practice required by ECHR decisions. The Government also issued blanket refusals in response to ECHR requests for disclosure of the domestic case files relating to alleged gross violations in Chechnya. The ECHR criticized this failure of disclosure. In March the Government ratified Protocol 14 of the European Convention on Human Rights, designed to streamline the process by which the ECHR examines cases and thus reduce its backlog of six to nine years. The protocol entered into force on June 1.

In May and June, the ECHR ruled that the Government must provide financial compensation to victims’ family members for its complicity in the 2000 and 2002 killings and disappearances of a number of Chechens (see section 1.g.).

A Human Rights Watch (HRW) report released in September 2009 concluded that the central government had failed to act on any of the ECHR rulings that called on it to investigate the 115 rulings on human rights violations in Chechnya, almost all of which found the country responsible for serious human rights violations and failure to investigate the crimes. HRW researched 33 of the cases and found that the Government had not brought a single perpetrator to justice. According to HRW, the number of rulings on human rights violations in Chechnya increased to 150 this year, and in almost all cases, the authorities refused to investigate.

Persons considering applying to the ECHR for redress of grievances could be intimidated by a past pattern of harassment toward applicants. Amnesty International and other human rights groups reported past reprisals against applicants to the court, including killings, disappearances, and intimidation. According to press reports and human rights NGOs, as of September 2009 at least six applicants to the ECHR had been killed or abducted.

*Civil Judicial Procedures and Remedies.*—The legislation on Compensation to Citizens Whose Right to a Fair Trial and Right to Enforcement of a Judgment within a Reasonable Time Have Been Violated became law on May 4. The law was expected to reduce the substantial number of cases brought to the ECHR from Russia, since 30 percent of these concern the right to a fair trial. The law allows petitioners to request “reasonable” financial compensation for violation of “reasonable” time limits in the consideration of criminal and civil cases, including the enforcement of judgments.

Although the law provides mechanisms for filing lawsuits against authorities for violations of civil rights, these mechanisms often do not work well in practice. For example, the law provides that a defendant who has been acquitted after trial has the right to compensation from the Government. In reality, however, human rights activists claimed compensation is avoided through procedural means, such as leaving cases in pending status, without closing them. As a result, Russians who believe their civil rights have been violated typically seek redress in the ECHR, after a Russian court finds against them.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and it forbids officials from entering a private residence except in cases prescribed by federal law or on the basis of a judicial decision. The law also prohibits government monitoring of correspondence, telephone conversations, and other means of communication without a warrant and prohibits the collection, storage, utilization, and dissemination of information about a person’s private life without his or her consent. While these provisions were generally followed, there were allegations that government officials and others engaged in electronic surveillance without judicial permission and entered residences and other premises without warrants.

Law enforcement agencies have legal access to telephone records, including personal information of cell phone owners, and require providers to grant the Ministry of Interior and the FSB 24-hour remote access to their client databases. In past

years, some experts asserted this access was unconstitutional; however, the practice has not been challenged in court. Authorities are able to monitor telephone calls in real time through the Law on Operational Search Activity.

The Government requires Internet service providers to provide dedicated lines to the security establishment, enabling police to track private e-mail communications and monitor Internet activity. In January 2009, the Ministry of Information and Communication officially required telecommunications companies and Internet service providers to allow the FSB to tap telephones and monitor information over the Internet. The ministry maintained that no information would be accessed without a court order. There were no new wiretapping cases during the year.

*g. Use of Excessive Force and Other Abuses in Internal Conflicts.*—Violence continued to spread in the North Caucasus republics, driven by separatism, interethnic conflict, jihadist movements, vendettas, criminality, and excesses by security forces. Dagestan, Kabardino-Balkaria, and North Ossetia witnessed a significant increase in violence, while Ingushetiya, Chechnya, and Karachayev-Cherkessia saw a decrease from the previous year. The Government used security forces to try to impose order, created a regional public council, and allocated 50 billion rubles (\$1.5 billion) for social and economic assistance projects.

Rebels also continued to commit human rights abuses, including major acts of terrorism.

*Killings.*—There were numerous killings during the year by both government forces and militants.

Russian government officials often provided contradictory data on such casualties, while nongovernmental sources were inconsistent as well. Russian Federation Deputy Prosecutor General Sydoruk, for example, stated that as of December, 300 militants had been killed, including 16 rebel leaders; additionally, the deputy prosecutor stated that 218 law enforcement and military personnel had been killed and 536 injured in the unrest. This was an 11 percent increase over 2009. According to other public media reports, there were 918 killings during the year by both authorities and militants, and nearly 800 civilians were killed or wounded as well—a 30 percent increase from 2009.

Caucasian Knot, an online Russian news agency specializing in reporting on the Caucasus, reported that during the year, fighting in the North Caucasus resulted in 1,710 casualties, the majority of which occurred in Chechnya, Dagestan, and Ingushetiya. A total of 754 persons were killed and 956 were wounded; 349 of those killed were alleged militants, 225 were security service personnel, and the remaining 180 were civilians. Dagestan was the deadliest region in the North Caucasus. Almost 700 persons were killed or wounded there, and nearly 150 isolated clashes involving security forces and militants took place, as did more than 100 bombings or explosions.

Among the attacks, on January 6, in Makhachkala, a car carrying 220 pounds of TNT exploded at the gates of a military field camp killing five policemen and wounding 19. In Chechnya, 37 rebel bombings, 12 suicide bombings, and 62 armed clashes killed 127 persons, including 44 security personnel, 80 rebel insurgents, and three civilians, and wounded 123 persons, including 93 security officials and 30 civilians. On October 19, three suicide bombers attacked the Chechen parliament building, killing two policemen and one watchman.

In North Ossetia, three rebel attacks killed 24 persons, including two security personnel, two rebels, and 20 civilians, and injured 202 persons, including 35 law enforcement personnel and 167 civilians. On September 9, a suicide bomber drove a car into the central Vladikavkaz market and detonated it, killing 19 persons and injuring 160. In Ingushetiya there were 40 bombings, two suicide attacks, and 103 firefights, which killed 31 security personnel, 63 rebels, and 40 civilians, and wounded 133 government officials and 59 civilians. In Kabardino-Balkaria, there were 41 bomb attacks and one suicide bombing, which killed 23 government personnel, 25 rebels, and 31 civilians. Approximately 16 security personnel and 47 civilians were injured. In Stavropol three attacks killed two rebels and eight civilians and injured 79 persons.

Deputy Chechen Interior Minister Roman Edilov reported 87 rebels were killed in Chechnya, including three rebel military commanders, and 220 had been arrested during the year. On December 20, the Ministry of Interior estimated 80 rebels had been killed and 180 arrested in the first 11 months of the year in Chechnya. Both estimates indicated a decrease in violence from 2009, when 177 rebels were killed and 213 arrested.

Civilians suffered as a result of actions by both rebels and security personnel. In Dagestan, nine children were killed by stray gunfire during a counterterrorist operation in the village of Kirovaul in the Kizilyurt District on December 6.

There continued to be reports of indiscriminate use of force by security personnel resulting in numerous deaths. Security forces generally conducted their activities without regard for due process or civilian casualties and with apparent impunity from investigation or prosecution for their conduct.

For example, on February 11-12, according to NGO Memorial, security forces killed at least four civilians in Ingushetiya in the course of an operation against rebels. The authorities claimed the inhabitants of the area had been warned in advance of the operation and the four had been caught in cross fire with terrorists. Memorial cited local residents as saying they had not been warned and describing the killing of the victims as separate actions not related to firing on terrorists. Chechen ombudsman Nurdi Nukhazhhiyev supported the Government's claim but doubted the objectivity of a government investigation. He alleged that "hundreds of crimes committed by the Russian military against Chechen civilians have not been investigated."

There were also killings by rebels. For example, on May 13, in Dagestan, five persons were killed when a vehicle carrying telecommunications workers was attacked with two bombs and gunfire from unknown persons, according to a press account. The personnel were on their way to repair a cell phone tower damaged in a fire the day before. The gunmen reportedly declared at the end of the attack that as soon as the communications center was repaired, they would attack it again.

According to NGO Interfax, on June 8, an official of a madrassa in Dagestan was shot and killed. Authorities detained a suspect identified as "an active supporter of radical Islamism." On the same day also in Dagestan, Interfax reported a judge, Abdurakhym Gamzatov, was fatally shot in his home.

On September 7, unknown gunmen in Kabardino-Balkaria ambushed and killed district judge Dzhulber Bykov in his car. Political observers tied the killing to Bykov's professional activities.

According to the Glasnost Defense Fund, 12 journalists were killed during the year. The Web site Journalists-in-Russia.org listed 11 journalists killed, seven of them possibly for reasons associated with their work (see section 1.a.). Reporters Without Borders listed only one killing of a journalist.

On May 11, according to the Glasnost Defense Foundation, Shamil Aliyev, founder and head manager of Priboi and Vatan radio stations and director of the TNT-Makhachkala television network, was shot and killed in Makhachkala. Unknown assailants attacked his car with submachine guns, leaving Aliyev and his bodyguard dead and his driver wounded. No arrests were made by year's end.

On August 11, according to the Glasnost Defense Foundation, Magomed Sultanmagomedov, editor in chief of Makhachkala TV, was shot and killed in Makhachkala, when unknown assailants attacked his car with submachine guns. No arrests were made in connection with the case.

In November a trial began in Vienna of three persons, Otto Kaltbrunner (formerly known as Ramzan Edilov), Suleiman Dadayev, and Turpal-Ali Yesherkayev, who were alleged to have been accomplices in the shooting death in Vienna in January 2009 of Umar Israilov. Israilov, a former bodyguard of Chechen President Ramzan Kadyrov, became a critic of Kadyrov's rule and filed a complaint with the ECHR stating he had witnessed Kadyrov torturing prisoners and that Chechen authorities and Kadyrov had also beaten and tortured him and his family. According to the European Center for Constitutional and Human Rights, an expert witness testified at the Vienna trial that Israilov's alleged killer, Letscha Bogatirov, was promoted by the Kadyrov government following the assassination as a reward for his actions. The trial was scheduled to continue in 2011.

There were no arrests or indications of continuing investigation in the August 2009 abduction and killing in Chechnya of Zarema Sadulayeva and Alik Dzhabrailov, charity workers who ran the Grozny-based NGO Save the Generation.

There were no arrests or indications of a continuing investigation into the 2008 killing of three Chechen brothers, Zurab, Akhdan, and Alvi Ilaev, nor was there any indication authorities were investigating the 2008 killing in Makhachkala of Telman Alishayev, a journalist from the Islam-focused television station TV Chirkey.

On May 12, the ECHR ruled the Russian government must pay 225,000 euros (\$301,500) in compensation for its complicity in the killing of four Chechens and the disappearance of another.

On June 17, Caucasian Knot reported the ECHR concluded security authorities were responsible for the disappearances and deaths of seven Chechens in 2002. The ECHR ordered the Government to pay 470,000 euros (\$630,000). Hasan Batayev, Zaur Ibragimov, Magomed Temurkayev, Rizvan Ismailov, Said-Ali, and Haron Musayevi were taken from their homes in Grozny by armed masked men. Usman Mavlyueva was kidnapped at a checkpoint.

There were no reports of further developments in the following 2009 killings of civilians, police, and government officials by rebels or unknown persons: the March shootout between police and insurgents in Dagestan in which five officers and 12 rebels were killed; the March abduction and killing of a police officer in the Vedeno Region of Chechnya; the April grenade attack on the home of Criminal Police Chief Alikhan Geroyev of Sunzhenskiy District, Ingushetiya, which killed both Geroyev and his sister; the June killing of Adilgirey Magomedtagirov, the chief of the Dagestan Ministry of Interior; the July killing in Nazran of Magomed Gadaborshev, head of the Ingush Republic's criminal investigation department; the July shooting death of Isapil Ozdoeyev, the head of a city-level Ministry of Interior department; the July abduction, torture, and killing of Batyr Albakov in Ingushetiya; the August shooting death of Ingush construction minister Ruslan Amerkhanov; the August killing of 25 persons and wounding of 280 at an Ingush police station in Nazran; and the August attack in which 10 men shot and killed four officers in Buinaksk, Dagestan, and then shot and killed seven women in a nearby sauna.

Federal forces and their opponents in Chechnya made extensive use of anti-personnel mines in Chechnya. During the year the estimated area in Chechnya covered with mines ranged from 34,600 to 59,300 acres, according to Kommersant and Nezavisimaya Gazeta.

*Abductions.*—Government personnel, rebels, and criminal elements continued to engage in abductions in the North Caucasus. Officials and observers disagreed on the numbers of victims. Human rights groups believed the numbers of abductions were underreported due to the reluctance of victims' relatives to complain to authorities due to fear of reprisal. According to a report on the Web site Caucasian Knot, during the year approximately 50 persons were kidnapped or unlawfully detained by armed parties in the North Caucasus, and only 16 were freed. Allegedly, there was no accountability for government forces involved in abductions. There were continued reports abductions were followed by beatings or torture to extract confessions and that abductions were conducted for political reasons. Criminal groups in the region, possibly with links to rebel forces, frequently resorted to kidnapping for ransom.

On March 3, according to the Investigation Committee, a special unit for missing persons was set up in Chechnya and received reports regarding the kidnapping of more than 200 persons by military and MVD personnel between 1999 and 2003.

At the same time, security forces under the command of Chechen President Kadyrov allegedly played a significant role in abductions, either on their own initiative or in joint operations with federal forces. Human rights groups reported these forces were frequently suspected of being responsible for disappearances and abductions, including those of family members of rebel commanders and fighters.

Security forces in Chechnya, Dagestan, and Ingushetiya frequently abducted or detained individuals for several days without immediate explanation or charge, according to human rights groups. Caucasian Knot reported that rather than issuing a summons for criminal offenses, security forces preferred to seize suspects at home or while traveling.

On May 13, according to the NGO Memorial, police in Ingushetiya arrested Magomed Garbakov after security forces partially destroyed his home during a search in which approximately 217,000 rubles (\$7,000) and personal items were reportedly stolen. Garbakov has not been seen since, and his family has not been informed of the charges against him.

On August 8, Russian and Ingush security forces raided the home of the Mutsolgov family and abducted 15-year-old Magomed Mutsolgov, beating his father in the process. The child was held for two days and reportedly tortured with electric shocks. Caucasian Knot noted the case might be related to Magomed's older brother, who was killed by the FSB in July.

In October 2009 a procurement and logistics assistant for the Danish Refugee Council, Zarema Gaisanova, was abducted from her home in Grozny. Amnesty International asserted that law enforcement officials carried out the abduction. Her whereabouts remained unknown at year's end. The Danish Refugee Council (DRC) reported that eye-witnesses and other human rights organizations stated that a special security operation involving either Chechen leader Ramzon Kadyrov or a security unit named after him took place, in which Zarema Gaisanova was taken away in a military vehicle. The NGO Memorial criticized the criminal investigation into the matter as poorly executed and incomplete. The DRC met in April with the Russian Ombudsman for Chechnya, who stated that he would look into the disappearance, but there was no further information on his efforts.

An investigation continued into the abduction in St. Petersburg in December 2009 of two brothers and two uncles of slain activist Maksharip Aushev.

There were no developments in the 2008 abduction case of Mokhmadalakh Masaev, a Muslim preacher accused of “salafism.”

*Physical Abuse, Punishment, and Torture.*—Armed forces and police units reportedly frequently abused and tortured persons in holding facilities where federal authorities sorted out rebels and persons suspected of aiding them from civilians.

In Chechnya and Ingushetiya, there continued to be reports of torture by government forces.

For example, on April 27, police in Ingushetiya detained 20-year-old Zelimkhan Chitigov. He was held for two days before being charged with weapons possession, for a grenade found in his room, which his family maintained was planted by police. According to NGO Memorial, Chitigov was brutally beaten while in custody and subjected to electric shocks and other forms of torture. Chitigov remained in police custody but in a hospital, where he was being treated for brain and spinal cord injury, burns, and other serious injuries.

There was a report of a continued arson campaign. The Chechen arson campaign began in 2008 following explicit threats by Chechen President Kadyrov and by Grozny Mayor Muslim Khuchiyev of burning down houses belonging to families whose sons were suspected of joining the insurgency. Human rights activist Natalya Estemirova was working on a documentary on the arson campaign when she was killed in July 2009 (see section 1.a.). According to the testimony of Human Rights Watch representative Tanya Lokshina, the latest incident in the arson campaign occurred in Shali on March 16.

The Independent Commission on Human Rights in the Northern Caucasus, headed by the chairman of the State Duma Committee on Legislation, continued to hear hundreds of complaints, ranging from destruction or theft of property to rape and killing; however, the commission was not empowered to investigate or prosecute alleged offenders and referred complaints to military or civil prosecutors. Almost all complainants alleged violations of military discipline and other crimes by federal and Chechen Republic forces.

Chechnya Human Rights Ombudsman Nurdi Nukhazhiyev continued the practice of his predecessor in not cooperating with the area’s leading NGO, Memorial.

*Other Conflict-Related Abuses.*—Throughout 2009 security forces conducted security sweeps and passport checks at temporary settlements in Ingushetiya housing IDPs from Chechnya (see section 2.d.). At times these sweeps reportedly led to human rights abuses or disappearances. In February 2009 the Office of the UN High Commissioner for Refugees (UNCHR) reported that Chechen authorities had begun visiting approximately 2,500 Chechen IDPs in 22 temporary shelters in Ingushetiya and urging them to return to Chechnya, sometimes with verbal threats. The UNHCR reported different forms of pressure on IDPs continued during the year.

Human rights groups visited illegal detention centers for internally displaced persons in Chechnya and other locations in the North Caucasus where they documented continuing abuses. Chechen Republic security forces reportedly maintained secret prisons in Tsentoroi, Gudermes, and other locations. HRW reported that it had detailed descriptions of at least 10 unlawful detention facilities. Human rights groups reported that officers of the federal Ministry of Interior’s Second Operational Investigative Bureau illegally detained and tortured persons in its Grozny offices.

Authorities this year continued to refuse to grant the Red Cross access, under its standard criteria, to persons detained as part of the conflict in Chechnya. This denial has been in effect since 2004.

## *Section 2. Respect For Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press; however, in practice government pressure on some media persisted in coverage of select controversial issues, resulting in numerous infringements of these rights.

While the Government generally respected citizens’ right to freedom of speech, state-controlled media frequently ignores critical voices with regard to the conduct of federal forces in the North Caucasus, human rights, high-level corruption, and opposition political views. Some regional and local authorities took advantage of the judicial system’s procedural weaknesses and overly broad laws to detain persons for expressing views critical of the Government.

On July 7, authorities formally charged Oleg Orlov of the NGO Memorial with “slander” for accusing Chechen President Ramzan Kadyrov of complicity in the 2009 killing of human rights activist and journalist Natalya Estemirova. Human rights advocates and international observers criticized the case against Orlov as an infringement of free speech. On September 13, Orlov went on trial in the Khamovnicheskiy Court in Moscow; Orlov’s trial was scheduled to continue in 2011.

With some exceptions, judges appeared unwilling to challenge federal and local officials who sought to prosecute critics. These proceedings on occasion resulted in large fines.

On September 16, the state-owned news agency RIA Novosti refused to allow the members of the newly established opposition coalition, For Russia without Tyranny and Arbitrariness, to hold a press conference on the agency's premises. While the agency had previously agreed to lend its premises, it cancelled the event an hour and a half before its scheduled time. Opposition figures claimed the cancellation was politically motivated.

In some cases the Government used direct ownership, or ownership by large private companies with government links, to control or influence some major national media and regional media outlets, especially television. During the year the Government reportedly used its leverage to restrict dissemination of information about issues deemed sensitive, including coverage of opposition political parties and official corruption. Several times during the year, there were reports on Ekho Moskvyy and other independent media outlets about self-censorship in the television media, particularly on issues critical of the Government. Print, Internet and radio media were more free and independent in comparison. Russian television journalist Leonid Parfyonov decried self-censorship in the media, stating in a November speech that "journalists are not journalists at all, but bureaucrats, following the logic of service and submission."

International observers criticized the unbalanced access to the media, particularly television, for candidates in local elections in March and October, noting that, as in previous elections, United Russia candidates were given favored media access. Observers also noted numerous press freedom abuses, including harassment of media outlets, legislative limitations, lack of equal access to information, and arbitrary application of rules.

More than 60 percent of the country's 45,000 registered local newspapers and periodicals were owned directly by the Government or by state-owned/state-controlled companies. The largest daily newspaper was independently owned, but several other influential national newspapers were owned by the Government, by persons with ties to the Government, or by state-owned companies. Many publications without government connections maintained editorial independence and resisted selective attempts by the Government to influence their reporting.

The federal government owned one of the six national television stations and had a controlling interest in one other; state-owned or state-affiliated companies owned controlling interests in three others; and the Moscow city administration owned the sixth. Approximately two-thirds of the other 2,500 television stations in the country were completely or partially owned by the federal and local governments. As a result, the television media often offered constrained editorial content, in particular, avoiding any content critical of the Government.

International media continued to face some impediments to their ability to operate freely. Since 2007 authorities have curtailed stations broadcasting Radio Free Europe/Radio Liberty (RFE/RL) and Voice of America (VOA) news programs, except for stations in Moscow and St. Petersburg, which continued to broadcast RFE/RL and VOA programs.

Government-controlled media consistently provided one-sided coverage of President Medvedev and Prime Minister Vladimir Putin.

The Government maintained ownership of the largest radio stations, Radio Mayak and Radio Rossiya, both of which adhered to government positions in their news reporting. Ekho Moskvyy radio, despite being majority-owned by the state-controlled corporation Gazprom, provided broader coverage and independent editorial comment, often sharply critical of the Government, and a platform to members of the opposition. The Government also owned the national news agencies ITAR-TASS and RIA-Novosti.

According to the media freedom NGO Glasnost Defense Foundation (GDF) there were 58 attacks against journalists during the year, approximately the same level as in 2009. In most cases, according to the GDF, the mistreatment appeared to have been at the initiative of local officials.

A number of journalists were assaulted and several were killed during the year; frequently the attacks were directly related to the journalists' professional activities, although it was not always clear whether this was the case. According to the GDF, this year 12 journalists were killed, although other sources listed fewer. Most cases of high-profile killing and kidnapping of journalists were unresolved. In March 2009 the Center for Journalism in Extreme Situations reported 40 cases of unresolved killings of journalists since 2003. NGOs supporting independent media characterized beatings of journalists by unknown assailants as "routine," noting that those

who pursued investigative stories on corruption and organized crime found themselves at greatest risk.

For example, on May 31, police in Moscow detained and allegedly beat Gazeta.ru correspondent Aleksandr Artemyev for attending an opposition rally in support of freedom of assembly. The rally had been prohibited by Moscow city authorities. Police broke Artemyev's arm in two places. His attempts to seek criminal prosecution of the police were not successful.

On April 26, unidentified assailants in Sochi severely beat Arkadiy Lander, editor in chief of the local newspaper Mestnaya. He suffered severe head injuries and was hospitalized. Lander's colleagues believed that the attack was in response to the newspaper's frequent criticism of city authorities and corruption. The police investigation into the attack produced no results by year's end.

On May 18, an unknown attacker in Tomsk fired several shots from a nonlethal weapon at Mark Minin, director of a local television station, without attempting to rob him. According to Minin, the attack could have been ordered by individuals he featured on his television programs.

On November 6, journalist and blogger Oleg Kashin was severely beaten outside his Moscow home by two attackers. It is possible that the attack was connected to his work, as he had reported on the controversial Khimki Forest road construction project and Kremlin-sponsored political youth movements and had engaged in a public dispute with Pskov Governor Andrei Turchak. He also exposed Russian Youth Agency Head Vasilii Yakemenko's alleged indiscretions with an underage girl. The Young Guard, a Kremlin-based youth group, had publically threatened Kashin on its Web site, citing the journalist in a column headlined "Journalist-Betrayers Should Be Punished." President Medvedev ordered the Prosecutor General's Office and the Interior Ministry to investigate. There were no arrests by year's end.

On November 4, Khimki Forest opposition activist Konstantin Fetisov was attacked with a bat and suffered a skull fracture after leaving a police station following questioning by the police regarding Khimki Forest protests. Fetisov remained in a coma, and three persons were arrested in connection with the attack.

On November 5, the editor of the Saratov Journal, Sergey Mikhayilov, was attacked. According to the Guardian newspaper, following a critical news story, Mikhayilov stated that a member of the Duma texted him: "Your activity will not be without consequences." Police stated that they do not believe the attack was related to Mikhayilov's work.

On November 8, two men attacked Zhukovsky Vesti reporter Anatoly Adamchuk outside his newspaper's offices. He was hospitalized with a head injury, and his thumb drive was stolen. According to Adamchuk's colleagues, he stated that the attackers repeatedly stated the name of his newspaper while beating him. Adamchuk had written about the felling of local forests prior to an on air show. Moscow police claimed that Adamchuk faked this attack and hired two persons to stage it.

The Murmansk Interior Criminal Investigation Department announced they believed that the January 2009 shooting death in Murmansk of Shafiq Amrakhov, editor of the online news site RIA-5151, was connected to his business activities and not his work as a journalist. Amrakhov was shot in the stairwell of his home.

There were no developments in the investigation into the March 2009 death of Sergey Protazanov, journalist for the newspaper Grazhdanskoye Soglasie (Civic Agreement), who was attacked by unknown assailants in the Moscow suburb of Khimki. His colleagues indicated that he had been working on a story about the local administration's alleged violations of electoral law.

There were no developments in the investigation into the April 2009 attack on Vyacheslav Yaroshenko, editor in chief of the Rostov-on-Don newspaper Korruptsiya I Prestupnost (Corruption and Crime). Yaroshenko died of his injuries in June 2009. His colleagues believed he was killed in revenge for his investigative reporting on corruption among local authorities.

On February 26, the lead investigator of the abduction and killing in July 2009 of prominent journalist and human rights activist Natalia Estemirova announced that authorities knew who had killed her but were unable to make an arrest.

There were no developments in the investigation into the August 2009 shooting death of Dagestani journalist Abdulmalik Akhmedilov in Makhachkala by unknown assailants. Akhmedilov had criticized federal forces and local law enforcement officers for suppressing religious and political dissent; he was also known for his investigative reporting into assassinations of Dagestan officials.

There were no developments in the investigation into the November 2009 death Olga Kotovskaya of Kaskad TV in Kaliningrad, who fell from the 14th floor of a building. Kotovskaya had just won a court case to regain control of her television station, which had a reputation for objective news reporting. Officials initially

claimed that her death was suicide but a week later opened a criminal investigation for killing.

In May two men went on trial in Dagestan charged with the 2008 killing of Gadzhi Abashilov, head of the local branch of the Russian State Television and Radio Company in Makhachkala. In June the Dagestan Supreme Court ordered further investigation into the case, citing legal violations by the investigators. In August investigators released both suspects from custody, stating that the maximum allowable term of pretrial detention had expired. Law enforcement authorities and Abashilov's colleagues believed that his killing was related to his journalistic work, including his reporting on the situation in Dagestan.

There were no reports of progress in the following cases: the 2008 attack on Miloslav Bitokov, editor in chief of the *Gazeta Yuga* newspaper in the North Caucasus Republic of Kabardino-Balkaria; the 2008 beating of independent Khimki journalist Mikhail Beketov, publisher of the weekly *Khimkiskaya Pravda*; the 2008 beating of several journalists during a series of protests over planned increases in tariffs on imported cars; and the 2008 attack on Zhanna Akbasheva, a correspondent for the Regnum News Agency in Karachay-Cherkessia, who wrote about corruption and press freedom issues.

In June the Investigative Committee, formerly under the Prosecutor's Office extended the term of the investigation into the 2006 killing of prominent investigative journalist Anna Politkovskaya until February 2011. The Investigative Committee announced that it had identified more suspects in the case, and asked a number of EU countries for help apprehending them. In October the Investigative Committee charged Sergey Khadzhikurbanov, a former police officer who is serving a prison term for extortion, with organizing the killing of Politkovskaya. Khadzhikurbanov was among the three defendants acquitted of the same charges in 2009. In June 2009 the Supreme Court overturned a February 2009 lower court decision to acquit four suspects, including former FSB officer Pavel Ryaguzov in Politkovskaya's killing.

In April the Investigative Committee maintained that the suspected perpetrator of the 2004 killing of Paul Klebnikov, the former editor in chief of *Forbes Russia*, remained at large. The Prosecutor's Office reactivated the formerly frozen investigation into the journalist's death. Suspects Musa Vakhayev and Kazbek Dukuzov were found not guilty of the killing in 2006. Marat Valeev, another defendant in the case, was cleared of the charges and released from custody in December 2009.

On September 16, the Investigative Committee resumed its investigation into the 2003 death of Yuriy Shchekochikhin, a member of the State Duma and deputy editor of the newspaper *Novaya Gazeta*. Investigators exhumed Shchekochikhin's body and unsuccessfully tested tissue samples to detect any signs of poisoning. Investigators initially had endorsed official findings that Shchekochikhin died of an allergic reaction to an unknown substance. At the time of his death, Shchekochikhin was investigating allegations of FSB responsibility for a series of 1999 apartment building bombings and the purported involvement of senior security officials and the prosecutor general's office in smuggling goods through FSB storage facilities.

Government officials occasionally responded to negative coverage by taking legal action against journalists and media outlets. Although the law prohibits courts from imposing damages in libel and defamation cases that would bankrupt a media organization, one NGO reported that local courts did not always respect the law in practice.

On March 29, a court in Tula ordered the local newspaper *Rubezh* to pay 500 thousand rubles (\$16,100) to settle a libel case filed by Tula Region Governor Vyacheslav Dudka in connection with a story the newspaper published about corruption in the local government.

On September 2, police conducted the latest of several raids on the offices of *New Times* magazine that were connected with an article, entitled "Slaves of the OMON," alleging abuses and corruption within the OMON (special purpose police units). The article included interviews with unnamed sources within OMON; police demanded that the magazine turn over documents and recordings that would identify the sources. On May 12, the Moscow City Court, concurring with an earlier Tverskoy District Court decision, ordered the seizure of the documents and recordings as evidence in a libel case authorities brought against the magazine. The *New Times*' editor provided a transcript of the interviews to the police during the raid, but refused to name the sources or surrender the recordings, citing laws providing for protection of journalists' sources.

On September 8, Sergey Mikhaylov, editor in chief of the Altai region newspaper *Listok*, which is often critical of regional authorities, went on trial on charges of libel and inciting ethnic hatred based on two articles that contained phrases that local authorities deemed offensive. Investigators searched Mikhaylov's apartment

and confiscated his computer. Mikhaylov's colleagues argued that the case against him was politically motivated.

On September 9, the Supreme Court of Dagestan rejected a lawsuit filed by local authorities in June 2009 seeking to shut down the independent Dagestan weekly Chernovik because of its alleged support for extremist views. In April, a court rejected a suit by the former chairman of the Presidential Council for Human Rights, Ella Pamfilova, against the newspaper *Nezavisimaya Gazeta*, claiming that the paper had insulted her honor, dignity, and reputation. The court's decision reaffirmed the right of the press to criticize the Government and the manner in which members of the Government perform their duties.

In January the Moscow prosecutor's office reversed the Moscow city police directorate's refusal to open a libel case filed by Chechen leader Ramzan Kadyrov against *Novaya Gazeta* editor in chief Dmitriy Muratov and three other journalists of the newspaper for publishing an investigative article in February 2009 about the killing in Vienna of Kadyrov's former bodyguard, Umar Israilov (see section 1.a.). Kadyrov dropped his case in February after the first court session.

On January 19, prosecutors in Samara closed a criminal case against Sergey Kurt-Adzhiyev, the editor of the local edition of *Novaya Gazeta*, who was fined 15,000 rubles (\$496) in 2008 for using unlicensed software on his office computer. Kurt-Adzhiyev appealed the sentence, and further examination of the case ordered by the court revealed prosecutorial violations, as well as new exculpatory evidence. However, the Samara edition of *Novaya Gazeta* continued to be unable to publish; investigators confiscated all of its computers in 2007.

Officials at all levels used their authority, sometimes publicly, to restrict or limit the effectiveness of journalists who criticized them. One method was to deny the media access to events and information, including denying filming opportunities and statistics theoretically available to the public. On May 16, police prevented a correspondent of the GTRK Kuban television station from covering a public rally in Krasnodar. The correspondent was taken to a police station and released after several hours. On May 31, police in Moscow detained several journalists, including correspondents of *New Times*, *Radio France Internationale*, *Novaya Gazeta*, and *ITAR-TASS*, who attempted to cover a rally in support of freedom of assembly that had been prohibited by city authorities.

There were no known cases of reporters being detained in Chechnya. Journalists in Chechnya, however, continued to face pressure and restrictions. There were minor instances of journalists being briefly detained in other North Caucasus republics. The editor of the *Dosh* journal, Israpil Shovkhalov, was briefly detained on March 9 by the authorities in Ingushetiya. A correspondent of the weekly publication *New Business* was detained on March 2 for a short time while covering a protest in Makhachkala. The Government continued to use legislation and decrees to curtail media freedom. The law provides an expansive definition of extremism and gives law enforcement officials broad authority to suspend media outlets that do not comply with the law's restrictions. Media freedom advocates asserted that officials used the law to restrict criticism and label independent reporters as extremists. Authorities may close any organization deemed extremist by submitting charges to a court, which the organization concerned cannot challenge.

As in previous years, the antiextremism law was applied to media outlets and activists. *Novaya Gazeta* was warned for an article examining Russia's right-wing radical groups, and *Vedemosti* was warned for an article on female suicide bombers. These warnings discouraged coverage of these controversial topics by other news outlets.

The Justice Ministry continued to expand its list of "extremist" materials during the year to include more than 700 items, up from 467 in 2009. The list included materials produced by Jehovah's Witnesses and Scientologists; the works of Muslim scholar Said Nursi; a picture of Winnie the Pooh wearing a swastika; a flag with a cross; and the Web site *Samizdat*, which was similar to Wikipedia and which had more than 500,000 subscribers. Some analysts asserted that the vague definitions of "extremism" were expanding the list to the point of discrediting the concept altogether.

Officials or unidentified individuals sometimes used force or took extreme measures to prevent the circulation of publications not favored by the Government. For example, on March 10, police in Vladimir seized copies of the newspaper *Vechernaya Ryazan*, which carried campaign advertising by the local branch of the Russian Liberal Democratic Party. The police claimed that the publication of advertising involved legal violations. On March 17, prosecutors in Vladivostok seized copies of the local opposition newspaper *Protestnoye Dvizheniye*, which published an open letter to the local prosecutor. On May 28, police in Kemerovo stopped a vehicle carrying copies of the local newspaper *Sovetskiy Kuzbass* and seized all the copies, claiming

that the newspaper's issue included articles with extremist content. On September 7, police in Korolev seized copies of the newspaper Khimkinskaya Pravda, stating that the newspaper had to be "checked for extremist material."

Copies of the report *Putin. Results. 10 Years*, written by former deputy prime minister Boris Nemtsov and former deputy energy minister Vladimir Milov, were confiscated on several occasions. On August 25, local police from Murmansk detained two activists from the Solidarity opposition movement when they attempted to transfer the publication from a train to their vehicle. Approximately a thousand copies reportedly were confiscated by the Murmansk police for analysis for the presence of "extremist literature." Police in St. Petersburg confiscated 200,000 copies of the publication on June 15 and 17 but later released them after determining that the literature was not extremist.

According to the GDF and other media NGOs, authorities continued to engage in selective investigations into intellectual property rights violations (i.e., use of pirated software) to confiscate computers and pressure opposition media across the country. On September 13, Microsoft announced that it would create a unilateral software license for NGOs and independent media in a number of countries, including Russia, to prevent authorities from using antipiracy enforcement as a pretext to pressure NGOs.

A 2006 warning to the media against referring to the National Bolshevik Party without indicating that it was banned remained in place. The media were informed that omitting to mention the party's illegality could be considered dissemination of false information and lead to the "application of restrictive, precautionary, and preventive measures."

According to the GDF and media NGOs, some authorities used the media's widespread dependence on the Government for transmission facilities, access to property, and printing and distribution services to discourage critical reporting. The GDF reported that approximately 90 percent of print media organizations relied on state-controlled organizations for paper, printing, or distribution, and many television stations were forced to rely on the Government (in particular, regional committees for the management of state property) for access to the airwaves and office space. The GDF also reported that officials continued to manipulate the price of printing at state-controlled publishing houses to apply pressure on private media rivals. It noted that this practice was more common outside the Moscow area.

*Internet Freedom.*—The Government did not restrict access to the Internet. Internet use in Russia grew exponentially during the year to between 40-50 million users. There was a growing use of social networking, blogs, and increasing reliance on the Internet as an alternative news source. Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail, but traffic reportedly was monitored by the Government. The Government continued to employ a "system for operational investigative measures," which required Internet service providers to install, at their own expense, a device that routes all customer traffic to an FSB terminal. The system enabled police to track private e-mail communications, identify Internet users personally, and monitor their Internet activity. Although legislation formally protects individual privacy, prohibiting wiretapping of any kind without a court order, there appeared to be no mechanism to prevent FSB access to e-mail traffic or private information. Authorities were not required to give telecommunications companies or individuals documentation on targets of interest prior to accessing information.

There was widespread and growing access to the Internet through home, work, and public venues. Approximately 35 to 40 percent of adults had Internet access with a far larger percentage in Moscow and St. Petersburg. In contrast to other forms of media, the law does not require sites to register as mass media, and unregistered sites were not subject to administrative sanctions. Internet forums, including blogging services, increasingly served as the most open media vehicles in the country for expressing political views. Nonetheless, some bloggers were investigated or charged for their Internet postings based on extremely broad definitions of prohibited activities, such as "extremism" or inciting hatred, as well as libel. In addition the law allows authorities to hold bloggers liable for comments that others post on their blogs. In April 2009 authorities issued warnings to mass-information Internet sites against negative coverage of government news.

On August 10, police in Ufa arrested bloggers Nikolay Shvetsov, Sergey Orlov, Konstantin Nesterov, and Igor Kuchumov on charges of extremism and fomenting ethnic hatred in their blogs for quoting a book criticizing Bashkortostan President Murtaza Rakhimov.

On July 28, a court in Komsomolsk-na-Amure ordered the local Internet service provider Rosnet to block access to five popular Web sites, including You Tube and web.archive.org, which authorities stated contained extremist video materials and

Adolf Hitler's *Mein Kampf*. Rosnet appealed the verdict, and in September the higher court altered the controversial ruling and listed particular pages with "extremist materials" that have to be blocked instead of the whole resource.

On June 15, the Supreme Court issued a ruling that allows authorities to demand that media organizations remove from their Web sites material posted by users that authorities deem extremist, slanderous, or liable to incite hatred. At least four bloggers were investigated or prosecuted during the year, according to Reporters Without Borders.

On May 15, authorities shut down a discussion community on the popular social network VKontakte that discussed the consequences of the deadly accident at the Rapsadskaya coal mine. According to the GDF, law enforcement officers demanded that popular blogger Marina Litvinovich, who managed the community, provide them with the site password, which they used to make the community unavailable for access.

On March 19, authorities ordered the Web site March 20 to close down for publishing "extremist" content. The Web site published information about plans for Day of Wrath protest rallies in various cities held by opposition movement activists. According to RiaNovosti, Solidarity movement member Olga Kumosova claimed that the site was used for the purpose of planning protest slogans and the closure was illegal.

On January 15, the Tatarstan Supreme Court confirmed the sentence issued to Tatar writer and journalist Irek Murtazin. In November 2009 a court in Kazan sentenced Murtazin to 21 months in prison on charges brought by Tatarstan President Mintimer Shaimiev that included "disseminating false information" about the president and "violating his privacy" by suggesting in a 2008 blog that Shaimiev had died while vacationing in Turkey.

According to the Global Voice Online Web site, there were multiple instances of Internet censorship during the year. In July the Ingushetiyan authorities were able to block the popular blogging site LiveJournal on a local Internet server, and in August the local authorities blocked the Tulksiye Pryaniki Web site that was critical of the authorities. After the December 11 ethnic riots in Manezh Square in Moscow, the popular Vkontakte Web site removed what it characterized as dangerous content in cooperation with the police and FSB.

In May 2009 Sverdlovsk authorities brought a criminal libel case against a LiveJournal blogger with the pen name "Father Christmas," who was critical of the Sverdlovsk police and the security cadre of the mayor. In June 2009 a court in Ufa, Bashkortostan, ordered local Internet service providers to block access to the revinform blog on LiveJournal because of its allegedly extremist content. The court cited as an example of extremist content an article from a local opposition newspaper posted on the blog, which reported on top-level corruption in the local government.

*Academic Freedom and Cultural Events.*—The Government generally did not restrict academic freedom; however, human rights and academic organizations believed that the continued imprisonment of physicist Valentin Danilov and others inhibited academic freedom and contact with foreigners on subjects that authorities might deem sensitive.

There were reports of pressure on teachers, academics, and scholars.

On December 29, Kabardin ethnographer Aslan Tsipinov was shot and killed outside his home near Nalchik, Kabardino Balkaria. North Caucasian insurgents later claimed responsibility for the killing, explaining that they killed Tsipinov because he sought to corrupt young Muslims by reviving ancient pagan rituals.

On July 12, according to press reports, Yuri Samadurov, former director of the Sakharov Center, was fined 200,000 rubles (\$6,500) on charges of inciting ethnic and racial hatred in a 2007 exhibit held at the center that displayed works banned by Russian museums. The curator of the exhibition, Andrei Yerofeev, was fined 150,000 rubles (\$4,800). The prosecution had originally asked for prison sentences.

On March 16, according to NGO and media reports, authorities arrested Svyatoslav Bobyshev and Yevgeny Afanasyev, two professors at Baltic State Technical University in St. Petersburg, and accused them of spying and passing state secrets to Chinese citizens. The two professors reportedly remained in detention at the Lefortovo maximum-security prison in Moscow. A court agreed in September to extend their detention for a further four months.

On November 13, historian Igor Pykhalov was attacked outside his home by unknown assailants. Reports suggest that Pykhalov was targeted because of his controversial pro-Stalinist views and his writings on Stalin's deportation of persons indigenous to the North Caucasus.

In May 2009 President Medvedev announced the formation of a Committee against the Falsification of History, which was dedicated to countering statements

denigrating the role of the Soviet Union in the victory over Nazism. In connection with this initiative, a small number of professors in Moscow universities reported receiving instructions to submit their teaching materials to the university administration for examination as to whether they were violating the proposed law. At year's end, no further pressure on teachers was reported.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly, but local authorities continued to restrict this right in practice. According to the human rights NGO AGORA, more than 3,160 civil activists were arrested following public events during the year.

In December 2009 the Duma passed a law increasing the severity of punishment for anyone found guilty of illegally interfering with the flow of traffic. The law increased the fine from 2,500 rubles (\$83) to 100,000 rubles (\$3,300) or two years in prison. Human rights activists viewed this as a move to restrict freedom of assembly. However, human rights advocates generally welcomed President Medvedev's veto of the proposed legislation "On Amendments to the Federal Law On Gatherings, Meetings, Demonstrations, Marches, and Pickets" that would have prevented those who received minor administrative fines from registering and participating in rallies. The president declared that the provisions would infringe on the right of assembly provided in the constitution.

On November 10, President Medvedev signed into law a modified bill, which requires that requests for permission to demonstrate be filed no less than three days before the proposed event. Such types of protest actions involve a smaller group of activists voicing disapproval of one specific issue and picketing in the vicinity of the offices of the Government authority with which the activists take issue. The law also regulates the use of major streets, highways, and railroads as venues for public protests.

The law requires notification for public meetings, demonstrations, or marches by more than one person, but in practice municipal government treated this as a permitting process which must be requested between five and 10 days before the event. During this type of protest, many speakers take part and the size of the protest group is much larger than that for a picket. Local elected and administrative officials selectively denied some groups permission to assemble or offered alternate venues that were inconveniently located.

Demonstrations that took place without official permission were often broken up by police, who frequently detained demonstrators. In an August interview, Prime Minister Putin called these unsanctioned demonstrations "provocations" and stated that those who participate in them should expect to "take a cudgel to the head."

On January 15, members of the Moscow Oblast Duma rejected an amendment to legislation on demonstrations and public gatherings that would have required government permission to hold a solitary protest. Representatives of the Yabloko Party conducted pickets in front of the Moscow Oblast Duma against this initiative.

In July and August, police dispersed several demonstrations in connection with the movement to protect the Khimki forest near Moscow from destruction to make way for a proposed highway. On July 28, police detained nine environmental activists who had been camping in the forest after construction began on the project. On August 2, police detained 50 persons at an unsanctioned protest in the forest, including Yabloko Party leader Sergey Mitrokhin. Another protest was dispersed on August 10 outside of the Moscow Oblast administration building. Authorities granted permission to hold a much larger protest on August 22.

In connection with these rallies, Human Rights Ombudsman Vladimir Lukin expressed disagreement with the Government's position that the authorities have the legal right to deny groups permission to demonstrate, countering that, in his view of the constitution, activists should only have to notify the authorities of their activities beforehand. Sergey Mironov, the speaker of the upper house of the State Duma and leader of minority party Just Russia, supported the right of activists to demonstrate peacefully and called the police actions toward participants "cruel."

On August 22, political activist Lev Ponomaryov and Solidarity opposition coalition leaders Boris Nemtsov and Mikhail Shneyder were detained for more than 12 hours in Moscow on the charge that they conducted an unsanctioned march. Local authorities had agreed to permit the opposition to hold a "rally" to mark National Flag Day, but refused to permit a "march." When the participants began to move down the street with a Russian flag, police arrested them. On August 26, Ponomaryov and Shneyder were sentenced to three days of administrative arrest.

On September 7, a Moscow court convicted Lev Ponomaryov of "insubordination" to a police officer and sentenced him to four days of administrative arrest in connection with his participation in an unsanctioned protest on August 12 at which demonstrators demanded the resignation of Moscow's then mayor, Yuriy Luzhkov.

On October 31, authorities in Moscow for the first time allowed human rights proponents to hold a “Strategy 31” rally on Triumfalnaya Square to demonstrate support for Article 31 of the constitution, which provides for freedom of assembly. This was the first time the Strategy 31 opposition movement’s protests were allowed. More than 1,500 persons attended, nearly double the number authorized by authorities; security forces were generally restrained. For most of the year and throughout 2009, authorities in Moscow employed various pretexts to deny human rights activists permission to hold Strategy 31 demonstrations on the last day of each 31-day month. On several occasions, police detained persons who gathered to protest the denials. According to a Vedomosti press report, the deputy head of the Moscow Interior Office stated that the mere presence of a sign displaying the number “31” was grounds for arrest. After detaining dozens of individuals at January and March rallies, state security forces were especially violent in their suppression of the May 31 peaceful protest, arresting at least 152 persons and reportedly beating many in jail. In response to the police actions, Human Rights Ombudsman Vladimir Lukin characterized the actions of the security personnel as “disproportionate” and “unreasonably brutal” and the detention of the protesters as “illegal.”

Many observers noted a selective and consistent pattern of encouraging rallies friendly to the Government—while preventing politically sensitive demonstrations. On the same day as the January Strategy 31 rally, United Russia organized progovernment rallies, which were the only demonstrations to receive coverage on state-run television news channels. Some demonstrators at the progovernment rallies told news media that they had been pressured to attend, and one student stated that he would receive class credit for his attendance.

*Freedom of Association.*—The law provides for freedom of association, and the Government respected this right with a number of significant exceptions.

Public organizations must register their bylaws and the names of their leaders with the Ministry of Justice. Several organizations have been forced in the past to suspend activities while registration was pending. Restrictions were applied in a discriminatory and selective manner to some NGOs, particularly those receiving foreign funding or involved in issues of political opposition or in human rights monitoring.

The finances of registered organizations are subject to investigation by the tax authorities, and foreign grants must be registered. A 2008 prime ministerial decree reduced the number of foreign organizations whose grants were exempt from taxation from 101 to 12 and imposed an annual registration process on those that met the proposed requirements. Many NGOs interpreted the decree as a further step to restrict foreign funding of NGOs. Authorities subjected some NGOs with foreign funding to lengthy financial audits or delayed the registration of their foreign-financed programs. The financial investigations were particularly burdensome, and some NGOs, particularly smaller NGOs with limited organizational capacity, stated that it restricted their activities.

Between September 13 and 16, prosecutors conducted an extensive inspection campaign of approximately 40 NGOs, in what many observers called an attempt to intimidate and disrupt these groups (see section 5). Just as suddenly as the inspections began, they ended, with no further action.

The law provides a basis for government oversight of NGO activities, including ensuring their compliance with stringent registration requirements, a particular problem for the branch offices of foreign NGOs. The law also provides a basis for the oversight of extensive reporting requirements for NGOs concerning their programs and activities, as well as for government enforcement of limitations on the participation of foreign citizens. Authorities selectively used the regulations to harass certain NGOs.

In July 2009 following complaints by NGOs about the burdensome nature of requirements imposed upon them, the law was amended to revoke the Justice Ministry’s authority to arbitrarily demand documents from domestic NGOs; it further provides that flaws in documentation would not be grounds to annul, but only to suspend, a domestic organization’s registration and removes “threats to national unity and identity” from the list of reasons for denying registration. The amendment also simplified reporting forms for domestic NGOs and required them to be inspected by the Government once every three years, rather than annually. None of these amendments applied to foreign NGOs.

There were no reports during the year that political parties had their registration revoked or denied.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the Department of State’s 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the Government placed restrictions on freedom of movement within the country and on migration. The Government generally cooperated, with some exceptions, with the UNHCR and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

All adult citizens must carry government-issued internal passports while traveling domestically and must register with the local authorities within a specified time of their arrival at a new location. Authorities often refused to provide governmental services to individuals without internal passports or proper registration. The official grace period for registration given to an individual arriving in a new location is 90 days. Darker-skinned persons from the Caucasus or of African or Asian origin were often singled out for document checks. There were credible reports that police arbitrarily imposed fines on unregistered persons in excess of legal requirements or demanded bribes from them.

Although the law gives citizens the right to choose their place of residence freely, many regional governments continued to restrict this right through residential registration rules that closely resembled Soviet-era regulations. Citizens moving permanently must register within seven days in order to reside, work, or obtain government services and benefits or education for their children in a specific area. Citizens changing residence within the country, migrants, and persons with a legal claim to Russian citizenship who moved to the country from other former-Soviet republics often faced great difficulties or simply were not permitted to register in some cities. The registration process in local police precincts was often corrupt. There were frequent reports of police expecting bribes to process registration applications and demanding them during spot checks for registration documentation.

In the aftermath of the December race-fueled Manezh riots in Moscow, Prime Minister Putin met with soccer fans and suggested that rules for internal migration and registration should be tightened.

The law provides for freedom to travel abroad, and citizens generally did so without restriction. Citizens with access to classified material, however, needed to obtain police and FSB clearances to receive a passport for international travel.

The law prohibits forced exile, and the Government did not employ it. The law provides all citizens with the right to emigrate, and this right was respected.

*Internally Displaced Persons.*—The UNHCR reported that there were 75,323 IDPs in the country as of December 31, mainly in the North Caucasus. At year's end, 16,518 IDPs remained displaced to Ingushetiya by Chechnya's second conflict, according to the UNHCR. Of these, 13,852 persons lived in private quarters, while 2,666 resided in temporary settlements. The UNHCR reported that Ingushetiya was also home to 10,047 IDPs from Prigorodny, North Ossetia. As of July, 2,578 Chechen IDPs were living in Dagestan, with an estimated 188 living in temporary settlements and temporary accommodation centers within Chechnya proper and 2,390 in private settlements. Also as of July, nearly 22,193 forced migrants from South Ossetia, Georgia, remained in North Ossetia; another 20,193 were from the conflict in the early 1990s, and 2,000 were displaced as a result of the August 2008 conflict, according to the UNHCR.

Although sources differed on the exact figures, approximately 46,000 IDPs returned from Chechnya to Ingushetiya and Dagestan in the last six and a half years. Authorities discontinued use of negative incentives—including deregistration from IDP rolls, cancellation of food assistance, and utility cuts to temporary settlements—used in 2009 to induce often-unwilling IDPs in Ingushetiya to return to Chechnya; however, the Ingushetiya office of the Federal Migration Service refused to accept any claims for reinstatement on its registration lists. Authorities maintained a policy of compensating persons who lost housing in military operations; however, compensation was typically inadequate to insure long-term shelter for beneficiaries.

*Protection of Refugees.*—The laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In practice the Government provided some protection against the expulsion or return of persons to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, the responsible agency, the Federal Migration Service, did not maintain a presence at airports or other border points. Asylum seekers thus had to rely on the good will of border guards and airline personnel to call immigra-

tion officials to the scene or else face immediate return to their countries of origin, including in some cases to countries where a well-founded fear of persecution could be demonstrated.

Sixteen self-identified Somali asylum seekers, who in March 2009 attempted to transit Moscow's Sheremetyevo Airport without documents, spent several months living in the airport's transit zone, at times compelled to beg for food from airline passengers. The group's men, women, and children had difficulty accessing the system for applying for asylum and obtained basic social services only through the UNHCR's intervention. At the end of the year, six of these asylum seekers remained at Sheremetyevo Airport. All of the applicants were rejected for asylum; some were appealing, while several returned to Somalia.

By law the decision of a Migration Service official could be appealed to a higher-ranking authority or to a court. During the appeal process, the applicant received the rights of a person whose application for refugee status was being considered. A person who did not satisfy the criteria for refugee status, but could not be expelled or deported for humanitarian reasons, could be granted temporary asylum after submitting a separate application.

The Government rarely granted convention status to those who managed to present their asylum applications to the migration service. The UNHCR and NGOs stated that asylum seekers at times faced detention, deportation, fines by police, and racially motivated assaults.

The UNHCR, the International Organization for Migration, and NGOs assisted the Government in trying to develop a more humane migration management system. The Federal Migration Service cooperated well with international organizations to provide training for its officers throughout the country to insure they understood refugee law.

For asylum seekers who were allowed into the country to pursue their claims, the refugee law provides the right to temporary accommodations. However, there was only one facility with such accommodations in the country, located in Ocher, in Perm Region, far from major cities where asylum seekers concentrated. There were no reception centers at border points. The Federal Migration Service and its territorial branches are obliged by law to cover travel expenses to centers for holders and seekers of refugee or temporary asylum status. However, the law was not respected in practice, and the trip to the center was usually funded by the UNHCR or the individual involved.

While federal law provides for education for all children, regional authorities occasionally denied access to schools to children of asylum seekers if they lacked residential registration. However, when parents encountered difficulties enrolling their children in schools, authorities generally cooperated with the UNHCR to resolve the problem. Authorities frequently denied migrants the right to work if they did not have residential registration. Refugees also may not legally work if they are not registered and cannot obtain registration unless they have an employer or landlord willing to register them.

Human rights groups continued to allege that authorities made improper use of international agreements that permitted them to temporarily detain persons with outstanding arrest warrants from other former-Soviet states. This system, enforced by informal ties among senior law enforcement officials of the countries concerned, permitted detention for up to one month while the prosecutor general investigated the nature of the warrants. Human rights groups asserted that these arrangements were employed to detain, and possibly repatriate, opponents of the Governments of other former Soviet republics without legal grounds.

In June the "Ivanovo Uzbeks," a group of 13 persons arrested in 2005, received permission to depart the country to take up offers of asylum in Sweden. In 2008 the ECHR had ordered authorities not to return the 13 to Uzbekistan and to pay each 15,000 euros (\$20,100) in restitution for two years spent in detention for alleged involvement in violent unrest in Andijan, Uzbekistan. According to the UNHCR, six men and their families have departed for Sweden, and seven men and their family members, altogether consisting of 26 persons, were expected to depart in early 2011. Two other Uzbek families included in the departure list to third countries were resettled in Sweden in September and November.

*Stateless Persons.*—Citizenship is derived both by birth within the country's territory within certain restrictions and from one's parents. A child becomes a citizen at birth if both parents are citizens; if one parent is a citizen and the other one is stateless; if one parent is a citizen and the other is a foreigner and the child was born on the territory of the country; or if both parents are foreigners or stateless and the child was born on the territory of the country and there is concern the child might become stateless. At year's end the UNHCR preliminarily estimated that there were 44,000 stateless persons, based on data from local authorities and NGOs.

Federal Migration Service statistics indicated at the end of 2008 that 21,443 stateless persons were registered in the country.

In Krasnodar Kray, at least several hundred (with some estimates as high as 5,000) Meskhetian Turks, Batumi Kurds, Hemshils, and Yezidis, both political and environmental refugees, and their descendants, remained without Russian passports and were denied the right to register as residents, which deprived them of all rights of citizenship and prevented them from working legally, leasing land, or selling goods. The law in Krasnodar Kray that defines illegal migrants includes stateless persons.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully in regularly scheduled national and regional elections; however, citizens could not exercise this right in practice, as the Government limited the ability of opposition parties to organize, register candidates for public office, access the media, or conduct political campaigns.

*Elections and Political Participation.*—On March 14, regional and local elections were held in 76 of the federation's 83 regions and were marked by irregularities, including the misuse of absentee ballots, vote buying, and busing in of voters, according to the election monitoring NGO, GOLOS. The Communist Party also claimed that in the Krasnodar Region, United Russia buses police cadets to vote for their candidate in the mayoral elections where they were not registered.

In the October 10 regional and municipal elections, opposition parties continued to complain of a variety of electoral violations, including denial of candidate registration and ballot box manipulation. Regional and municipal elections held in March and October 2009 were also marred by violations, including interference with election monitors, intimidation of voters, and ballot box stuffing.

In 2008 the country held presidential elections in which Dmitry Medvedev, the candidate of the ruling United Russia Party, received 70 percent of the vote. Observers from the Parliamentary Assembly of the Council of Europe stated that the elections were not free or fair. GOLOS reported massive, widespread violations, as with the Duma elections held in 2007. The Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media reported numerous media freedom violations during the parliamentary and presidential elections. Electoral violations and problems observed by GOLOS included an "unprecedented" number of absentee ballots, collective voting under pressure, multiple voting, and vote-counting irregularities. GOLOS observers, however, reported that voting procedures were well-organized and that the secrecy of voting was mostly respected. In both the presidential and parliamentary elections, official delays in issuing visas and restrictions on the activities of the mission led the OSCE's Office for Democratic Institutions and Human Rights to decline to send observation missions.

The law gives the president significant indirect influence over the Federation Council, since regional leaders selected by the president in turn appoint half of its members. Political parties that win elections to regional parliaments may propose candidates for the head of a region, but the selection is still subject to the president's and the regional legislature's approval.

Since 2004 the president has had the authority to nominate regional governors, subject to confirmation by regional legislatures. If a regional legislature fails to confirm the president's nominee three times, the president may dissolve the legislature. The federal president also has the power to remove regional leaders in whom he loses confidence, including those who were popularly elected. In September President Medvedev exercised this power in removing Yury Luzhkov, the long-serving and three times popularly elected mayor of Moscow (the positions of mayor in Moscow and St. Petersburg have a status similar to that of governor). On October 21, the Moscow City Duma confirmed Medvedev's pick, Sergey Sobyenin, as the new mayor.

In 2009 legislation was enacted to allow city legislatures and governors to remove popularly elected mayors (as of 2006 approximately one-third of the country's municipalities were headed by elected mayors, according to a government Web site). In June the Murmansk City Council removed Mayor Sergey Subbotin from office, and mayors of several small cities have been removed in similar fashion. Smolensk Mayor Eduard Kachanovskiy was removed from office due to charges of extortion, and possibly influenced by his refusal to obey an earlier United Russia request to withdraw from elections for the party's preferred candidate. In February Smolensk Governor Sergey Antufyev called for the abolishment of the Smolensk direct mayoral elections, stating that "popular elections are a risk."

A March 2009 law requires that to obtain legal status, a political party must have at least 45,000 members with at least 450 in each of half of the country's regions and 250 members in each of the remaining regions. This is proven by gathering signatures. The law slightly relaxed earlier minimum membership requirements that made it difficult for smaller parties to register. The law envisions a further reduction in the requirement (to 40,000 members overall and 400 in each of half of the regions) by 2012. An additional law passed in June allows a political party to avoid the requirement for signatures altogether if it enjoyed political support in at least one-third of the country's regions.

While parties represented in the Duma may nominate a presidential candidate without having to collect and submit signatures, prospective presidential candidates from political parties without Duma representation must collect two million signatures from supporters throughout the country to register to run for president. These must be submitted to the Central Election Commission (CEC) for certification. An independent candidate is ineligible to run if the CEC finds more than 5 percent of the signatures to be invalid.

Political parties receiving 5 percent of the national vote are entitled to representation in the Duma. The election law provides for a party list system and prohibits electoral blocs. There is no minimum voter turnout requirement. The election law prohibits the observation of federal elections by nonpartisan domestic groups, making it difficult for NGOs to observe elections. In April 2009 the Duma passed a law described as giving equal broadcast time on electronic media to all political parties represented in the Duma. Observers noted that the law would limit broadcast time for the United Russia Party's leaders when they spoke in their party capacity, not as government officials, and that the broadcast time in question related to discussion of party affairs rather than policy issues.

The law prohibits early voting and negative campaigning and provides a number of criteria for removing candidates from the ballot, including for vaguely defined "extremist" behavior. The executive branch and the prosecutor general have broad powers to regulate, investigate, and disqualify political parties. Other provisions limit campaign spending, set specific campaign periods, and provide for restrictions on campaign materials.

There were 63 women in the 450-member State Duma and nine women in the 166-member Federation Council. There were three female ministers. Two of the 83 regional leaders were women. Three of the 19 judges on the Constitutional Court were women. None of the political parties was led by a woman.

Information on the ethnic composition of the State Duma and the Federation Council was not available. National minorities took an active part in political life; however, ethnic Russians, who constitute approximately 80 percent of the population, dominated the political and administrative system, particularly at the federal level.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government acknowledged that it had not enforced the law effectively, and many officials continued to engage in corrupt practices. Corruption was widespread throughout the executive, legislative, and judicial branches at all levels of government. Manifestations included bribery of officials, misuse of budgetary resources, theft of government property, kickbacks in the procurement process, extortion, and improper use of official position to secure personal profits. The NGO Information Science for Democracy (INDEM) continued to assert that corruption was also widespread in other official institutions, such as the higher education system, health care, the military draft system, and the municipal apartment distribution system. INDEM also estimated in a 2009 report, and asserted during the year, that bribes and corruption cost the country the equivalent of 33 percent of the country's gross domestic product.

Legislation enacted in December 2008 defined corruption and set forth key principles for combating it. It requires government officials to submit financial statements, restricts their employment at entities where they had prior connections, and requires reporting of actual or possible corrupt activity. Implementation of the legislation, however, was still incomplete. Although some agencies, such as the Ministry of Justice, issued implementing regulations defining conflict of interest in certain situations, not all agencies issued implementing regulations. On February 26, the Office of the Prosecutor General established principles and procedures for evaluating the anticorruption aspects of draft laws and regulations in order to avoid inconsistencies and eliminate loopholes. Beginning on April 30, judges were required to submit income and asset declarations to their courts. During the year the Government instituted mandatory anticorruption training for public officials through the Academy of State Service. Russia has been a state party to the UN Convention

against Corruption (UNCAC) since 2006 and is a member of the Group of Countries against Corruption. Due to its UNCAC obligations, the Government has altered domestic legislation.

The law makes giving and receiving bribes punishable by up to 12 years of incarceration; a person who pays a bribe is relieved of criminal liability if the bribe was extorted or if the individual voluntarily informs law enforcement authorities about it. While there were prosecutions for bribery, a general lack of enforcement remained a problem. Investigations of bribery and other corrupt practices are conducted by the Ministry of Interior and the FSB, both of which were themselves widely perceived as corrupt.

The Global Competitiveness Report 2010-11, compiled by the World Economic Forum, cited corruption as the country's most problematic factor for doing business. The country's score in Transparency International's Corruption Perception Index worsened. The country scored poorly on other measurements of transparency and corruption as well, including judicial independence, fairness in the decisions of government officials, the transparency of government policymaking, and the influence of organized crime.

In a statement issued on October 27, the Interior Ministry reported that bribery increased by 17.5 percent from January to September, compared with the same period of 2009 and the average bribe increased 1.5 times to more than 42,500 rubles (\$1,400). The statement cited alleged corruption by many officials at the federal, regional, and local level, including four serving and former deputy governors and five regional ministers.

Prosecutors charged some high-level officials with corruption during the year; however, most government anticorruption campaigns were limited in scope and focused on lower-level officials. Allegations of corruption were also used as a political tactic.

According to Investigative Committee head Alexander Bastrykin, corruption charges were brought against 120 investigators and 12 prosecutors during the year. Corruption charges were also brought against 48 lawyers, eight members of election commissions, 214 deputies of municipal councils, 310 municipal officials, 11 deputies of regional parliaments, one State Duma deputy, and three judges. Ten department heads and 26 deputy department heads reportedly faced administrative charges for unacceptable investigative work, and three were dismissed for violation of authority.

On July 1, a new federal law came into force requiring courts of general jurisdiction to disclose information on the activity of judges. In August the Institute for the Development of Freedom of Information released the results of a survey on preliminary implementation of the law, based on several types of basic information about court operations and the availability of such information on court Internet sites or by telephone. According to the survey results, which were reported widely in the press, basic data such as the working hours of court offices, names and contact information of court officials and staff, and court addresses were still in many cases unavailable or difficult to obtain.

In November 2009 Sergey Magnitsky, who was a lawyer for the firm that represented Hermitage Capital, died in a Moscow prison, where he was being held on tax evasion charges. It was widely believed that the charges were fabricated and that his imprisonment was a result of his testimony that Interior Ministry officials Artyom Kuznetsov and Pavel Karpov stole 5.50 billion rubles (\$179 million) in a tax fraud scheme (see section 1.a.). In October Oleg Silchenko, the Interior Ministry investigator who was responsible for the investigation, was promoted to lieutenant colonel. In November the Interior Ministry presented an award to officers connected to the initial investigation of the tax evasion charges against Magnitskiy. Police officials also leveled new accusations—that Magnitskiy himself had been guilty of the tax fraud.

In June Interior Ministry investigator Oleg Silchenko, who reportedly played a key role in the jailing of lawyer Sergey Magnitskiy, sought to disbar Alexander Antipov, a lawyer who replaced Magnitskiy at Hermitage Capital. According to a 2009 report in *Bloomberg BusinessWeek*, lawyers at three separate firms hired by Hermitage Capital were subject to criminal investigations in 2009, and their offices were raided by police.

Corruption also exacerbated illegal logging and hunting, further complicating the country's efforts to enforce environmental standards. On May 27, Pyotr Diyuk, the Vladivostok-based director of the Primorye Regional Forestry Department, was placed on temporary administrative leave after a nationally televised investigative report showed him discussing rampant corruption in his region's forestry sector with an undercover journalist on a hidden camera. In the interview, Diyuk corroborated independent reports of widespread illegal logging facilitated by bribes to forestry and customs officials. The televised report showed video footage of what presenters

claimed to be customs and forestry officers accepting bribes in exchange for falsified export permits. First Deputy Prime Minister Viktor Zubkov announced in June that the Government planned to send a special investigative commission to the Primorye Region to examine the substance of Diyuk's allegations. By year's end the Government had not released the results.

There were reports that corrupt officials largely controlled illegal hunting and trafficking in endangered and protected species through the issuance of licenses and other permits in return for bribes and other illegal benefits. On June 22, the Prosecutor General's Office announced charges in an investigation that followed the January 2009 crash of an Mi-171 helicopter in the Altai. Evidence at the crash site revealed the involvement of senior officials in hunting endangered argali sheep. Three passengers who participated in the illegal hunting expedition were charged with illegal hunting. However, authorities did not announce corruption charges in the case.

According to the press, a June report by the Audit Chamber found evidence of corruption in the preparations for the country's participation in the 2010 Winter Olympics in Vancouver, which cost more than 6.2 billion rubles (\$200 million). In a statement introducing its report, the Audit Chamber indicated that Olympic preparations were "inefficient, imperfect, and involved corruption."

Police corruption was pervasive. There were credible reports that police imposed fines on, and demanded bribes from unregistered persons (see section 2.d.). It was widely believed that they received bribes from persons involved in prostitution.

In November 2009 Novorossiysk Ministry of Interior Major Aleksey Dymovskiy made a video request to Prime Minister Putin to address widespread corruption among law enforcement officers. Although the video attracted nationwide attention, authorities did not investigate Dymovskiy's allegations. Instead, in January they charged him with abuse of office and fraud. His wife alleged that investigators tried to plant drugs in his home during a raid. He was subsequently released but lost a suit for slander filed by the chief of police of Novorossiysk and was ordered to pay 108,000 rubles (\$3,500) in damages. In an interview with the New York Times, Dymovskiy acknowledged taking bribes himself. He asserted that authorities were aware that police had to augment their low salaries from other sources. He described a practice considered common: at the end of a shift officers must turn over a portion of their bribes, 700-3,000 rubles (\$25 to \$100) a day to the "cashier," a senior member of the department. Dymovskiy asserted that if officers did not pay up, they were disciplined.

In February Vadim Karastelyov, a Novorossiysk human rights activist who assisted in Dymovskiy's defense, was arrested as he was distributing pamphlets asking residents to attend a rally for Dymovskiy and was jailed for a week for promoting an unauthorized demonstration. Immediately after his release, two strangers beat him, causing a skull fracture, but did not try to rob him. Although after his apprehension one of Karastelyov's attackers stated that he acted out of personal animosity, many human rights observers believed that Karastelyov was attacked because of his support for Dymovskiy.

The law authorizes public access to all government information unless it is confidential or classified as a state secret. Refusal by authorities to provide access to open information, or to classify information as a state secret without cause, has been successfully contested in court in a few cases. However, access to information often remained difficult and subject to prolonged bureaucratic procedures. Under a law signed in February 2009, officials are required to disclose within 30 days of a citizen's request any information controlled by the Government that is not considered a state secret. Those seeking information must file their requests via the Internet. Officials who do not comply may be fined or imprisoned for up to five years if the withholding of information causes serious bodily harm, as was the case in the Chernobyl disaster. Although the law was billed as comparable to freedom of information laws in other countries, observers expressed concern that officials would use the "state secrets" provision to deny citizens access to information arbitrarily. There were no reports of court cases implementing this law during the year. INDEM reported that journalists were generally granted access to such information upon request.

Bloggers, such as Aleksey Navalniy, have increasingly become sources for revealing corruption. Navalniy published a series of detailed reports and materials outlining corruption in the construction of major energy pipelines in Russia. As a result of his efforts, authorities opened an investigation into the allegations.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic and international human rights groups operated in the country, investigating and publicly commenting on human rights problems, but official harass-

ment continued, and the operating environment for these groups remains restricted. Authorities increasingly harassed NGOs that focused on politically sensitive areas. Other official actions and statements indicated a lack of tolerance for unfettered NGO activity, particularly by those NGOs that received foreign funding or reported on human rights violations. NGOs operating in the Northern Caucasus were severely restricted. However, at times government and legislative officials recognized and consulted with some NGOs, primarily those focused on social issues, and some NGOs participated, with varying degrees of success, in drafting legislation and decrees. Some officials, including Human Rights Ombudsman Vladimir Lukin and the former and current chairs of the Presidential Council for Promoting the Development of Institutions of Civil Society and Human Rights (Human Rights Council), Ella Pamfilova and Mikhail Fedotov, regularly interacted and cooperated with NGOs.

According to the NGO Agora, there has been a five-fold increase in the cases of harassment of civil activists between 2006 and 2010. During the year 603 cases of persecution of activists were counted in 50 regions of the country, up from 308 in 2009. In 2006 there were 118 such cases.

During the year some senior officials made critical statements that contributed to, and reflected, increased suspicion of NGO activity. In July Chechen President Ramzan Kadyrov referred to human rights activists and NGO Memorial as “enemies of the people, enemies of the law, enemies of the state.” The president’s first deputy chief of staff, Vladislav Surkov, has questioned the loyalty of some human rights NGOs that covered human rights issues or received foreign funding.

On May 19, President Medvedev met with human rights activists, and listened to their criticisms of Kadyrov’s government. On June 23, a Russian delegation to the Council of Europe’s Parliamentary Assembly approved a draft resolution on Russia’s actions in the North Caucasus, which stated that “human rights violations and the climate of complete impunity were bound to foster the rise of extremist movements.”

There were several dozen large NGO umbrella organizations, as well as thousands of small grassroots NGOs. In the regions, NGO coalitions continued to focus their advocacy on such causes as the rights of the disabled and entrepreneurs, environmental degradation, violations by law enforcement authorities, local corruption, and the conflict in the North Caucasus.

The law regulating NGOs requires them to register with the Ministry of Justice. They are required to submit periodic reports to the Government that disclose potentially sensitive information, including sources of foreign funding and detailed information as to how they used their funds. Since foreign funding remained a sensitive issue for the security services, NGOs indicated that they were increasingly cautious about accepting this support, and in many cases those that continued to do so either restricted their activities to less sensitive issues or suffered harassment by the FSB. Many NGOs rely on foreign funding due to insufficient financial support from within the country. In June 2009 the measures recommended by a working group convened by President Medvedev resulted in a decrease in the registration requirements for NGOs.

Observers believed that the Government selectively applied the NGO law to target certain NGOs, such as human rights organizations, whose activities they regarded as hostile to the authorities. The law on extremism was also employed to restrict the activities of NGOs and criticism of the Government. The law defines extremist activity to include public libel of a government official or his family, as well as public statements that could be construed as justifying or excusing terrorism. During the year officials applied the libel law against NGOs and individuals. Since 2008, amendments to this law have enabled authorities to act upon an accusation of extremism without evidence or a court order; however, in practice, outside of the North Caucasus, this generally did not lead to detention without court proceedings.

The local affiliates of foreign NGOs faced more stringent registration requirements than purely domestic ones. Most NGOs with foreign ties that met the requirements for continuing operation in the country were subject to a 2009 prime ministerial decree that removed their tax-exempt status, making their grants taxable.

Officials are authorized to scrutinize NGOs intrusively, and the law gives NGOs only limited procedural protections. Under the law the Ministry of Justice has discretion to deny registration or to request that the courts close organizations, based on vague and subjective criteria.

Authorities continued to apply a number of indirect tactics to suppress or close domestic NGOs, including creative application of various laws and harassment in the form of investigations and raids. One tactic was selective investigations of alleged use of pirated software as a pretext for confiscating computers and pressuring

NGOs and media (see section 2.a.). For example, on January 7, according to media reports, four plainclothes police officers raided the offices of Baikal Environmental Wave, an NGO opposing the Government's decision to reopen an old paper mill on Lake Baikal. Stating that they had received a complaint about unlicensed software on its computers, police seized all 12 of the group's computers and its Web server, making it difficult for them to operate for a period of time. Baikal Wave's leaders told one newspaper that they had known that the authorities used such raids to pressure advocacy groups, so they had made certain that all their software was legal. They showed the raiding officers receipts and other evidence that the software was not pirated. However, a supervising police officer issued a report on the spot, stating that illegal software had been uncovered. According to the environmentalists, they had attached certificates of authenticity onto their machines, but noticed, as the machines were being removed, that the stickers were gone. In July the equipment was returned.

Between September 13 and 16, the Moscow prosecutor's offices carried out a series of coordinated inspections of approximately 40 NGOs. Many NGOs received faxes demanding that documents be submitted in an unrealistically short period of time. These documents included registration papers, minutes of meetings, accounting information, and tax and reporting documents. In some cases the NGOs were given until the following morning to supply the required documents. However, following foreign and domestic criticism, the Government appeared to call off its inquiry.

At times authorities refused to cooperate with NGOs that were critical of their activities. Chechen Human Rights Ombudsman Nurdi Nukhazhiyev continued his predecessor's practice of not cooperating with the area's leading human rights NGO, Memorial. He and Chechen President Kadyrov spoke out publicly against the NGO. Smaller Memorial centers throughout the country reported that city administration officials frequently instructed landlords not to rent them office space.

Official pressure continued against the Novorossiisk local human rights organization Committee for Human Rights. In March Amnesty International reported an attack on one of its members, Vadim Karastelev, who was beaten and suffered a concussion, reportedly for supporting a police officer, who had spoken out against police corruption (see sections 1.c. and 4).

As of year's end, the ECHR had not ruled on Stanislav Dmitriyevskiy's appeal of his 2006 conviction in a domestic court for inciting racial and ethnic hatred. At the time of his conviction, Dmitriyevskiy was head of the Russian-Chechen Friendship Society, which advocated negotiations between the Government and Chechen rebels to settle the Chechen conflict. The incitement charge was based on Dmitriyevskiy's publishing statements by Chechen rebel leaders.

In the Jewish Autonomous Republic and some areas in Primorskiy Krai, local governments worked with NGOs to encourage citizen participation in local self-governance. In Astrakhan government officials worked closely with local NGOs devoted to building civil society.

Some international NGOs maintained small branch offices within Chechnya staffed by local employees. Following the 2009 killing of Natalya Estemirova (see section 1.a.), almost all NGOs left Chechnya or temporarily closed their operations there due to fear for their safety and ability to operate.

Government human rights institutions continued to promote the concept of human rights, to challenge the activities of some local governments that violated human rights, and to intervene in selected abuse complaints. Ombudsman Lukin commented on a range of human rights problems, such as police violence, prison conditions, the treatment of children, and hazing in the military. During the year Lukin criticized intolerance and the growing wave of ethnic and religious hatred.

In his 2009 annual report, Ombudsman Lukin stated that his effectiveness was limited because he was not empowered to propose human rights legislation. He also noted the difficulty of getting some government officials to respond to inquiries from his office. Lukin's office has used its influence to draw attention to human rights problems in prisons. Many leaders of human rights NGOs continued to note that Lukin was generally effective as an official advocate for many of their concerns, despite the legal constraints on his position.

The Ombudsman's Office includes several specialized sections responsible for investigating complaints. As of September 2009, 47 of the country's 83 regions had regional human rights ombudsmen with responsibilities similar to Lukin's; their effectiveness varied significantly.

The Human Rights Council continued to include prominent human rights advocates strongly critical of the Government's human rights record. In May the council met with President Medvedev, Federal District Representatives for the North Caucasus Aleksandr Khloponin, and Deputy Chief of Staff Vladislav Surkov to discuss human rights in the Northern Caucasus. Medvedev urged the region's leaders

to work closely with civil society. Mikhail Fedotov succeeded Ella Pamfilova as head of the council in October.

Despite a 2008 law apparently intended to increase its authority, many observers did not consider the 126-member Public Chamber of the Russian Federation to be an effective check on the Government. Some prominent human rights groups declined to participate in the chamber from the beginning due to concern that the Government would use it to increase control over civil society.

In January the State Duma ratified Protocol 14 to the European Convention on Human Rights, permitting the ECHR to streamline the pace of its work in the face of a seven-year backlog of cases. The Government had previously blocked passage of this protocol due to the ECHR's numerous rulings criticizing violations of basic human rights in the country. The Government had ignored more than 100 court rulings that found the Government responsible for killings, abductions, and torture in Chechnya, according to Human Rights Watch.

In April 2009 Interior Minister Rashid Nurgaliyev signed a decree allowing rights groups to monitor conditions of arrest and detention for those being held in pretrial detention. According to some observers, there has been some success associated with the decree. In Moscow a committee comprising civil society members has generally been permitted to observe some detentions. However, increasingly members of such committees consisted of police personnel rather than human rights activists, reducing its usefulness as an accountability tool. According to other activists, there has not been as much compliance with this decree outside of Moscow, and there has been a level of unsatisfactory compliance for those not yet serving a criminal sentence. The decree also lacked firm instructions on a mechanism to implement the plan, effectively giving law enforcement authorities discretion as to whether to cooperate. The decree also required that law enforcement authorities be present during any discussions of conditions with detainees (see section 1.c.).

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, language, social status, or other circumstances; however, the Government did not effectively enforce these prohibitions.

*Women.*—Rape is illegal, and the law makes no distinctions based on the relationship between the rapist and the victim. Spousal or acquaintance rape was not widely perceived as a problem by society or law enforcement authorities. Women were unlikely to report cases of rape by persons they knew. According to NGOs, many women did not report rape or other violence due to social stigma and lack of government support. Rape victims may act as full legal parties in criminal cases brought against alleged assailants and may seek compensation as part of a court verdict without initiating a separate civil action. While members of the medical profession assisted assault victims and sometimes helped identify an assault or rape case, doctors were often reluctant to provide testimony in court. According to the MVD, 4,624 rapes or attempted rapes were committed in the first 11 months of the year, a 6.1percent decrease from 2009.

The penalty for rape is three to six years' imprisonment for a single offender, and four to 10 years if the crime is committed by a group of persons. The perpetrator receives eight to 15 years if a victim is underage, and 12 to 20 years if a victim died or was under 14 years of age. According to NGOs, law enforcement personnel and prosecutors did not consider spousal or acquaintance rape a priority and did not encourage reporting or prosecuting such cases. NGOs reported that local police officers sometimes refused to respond to rape or domestic violence calls until the victim's life was directly threatened.

Domestic violence remained a major problem. As of March 2009, the Ministry of Interior maintained records on more than four million perpetrators of domestic violence. The Duma's Committee on Social Defense reported that there were 21,400 murders during the year, two-thirds of which were of women who died in domestic disputes, up 50 percent since 2002. The Interior Ministry reported that at least 34,000 women were domestic violence victims each year, meaning a woman died every 40 minutes at the hands of a husband, boyfriend, or other family member. However, the reluctance of victims to report domestic violence meant that reliable statistical information on its scope was impossible to obtain. Official telephone directories contained no information on crisis centers or shelters. There are only about 25 women's shelters across Russia, with beds for a total of about 200 women, according to Moscow's Anna National Center for the Prevention of Violence.

There is no legal definition of domestic violence. Federal law prohibits battery, assault, threats, and killing, but most acts of domestic violence did not fall within the jurisdiction of the Prosecutor's Office. According to a March 2009 study by the Smolensk-based Center for Women's Support, police often provided lackluster and inad-

equate responses to calls reporting domestic violence, at times suggesting that cases wait until morning. According to NGOs, police were often unwilling to register complaints of domestic violence and frequently discouraged victims from submitting them. A majority of cases filed were either dismissed on technical grounds or transferred to a reconciliation process conducted by a justice of the peace, whose focus was on preserving the family rather than punishing the perpetrator. Civil remedies for domestic violence included administrative fines and divorce. The Center for Women's Support asserted that many perpetrators of domestic violence themselves belonged to law enforcement agencies.

Female inmates in the prison system faced particular challenges. According to the NGO Penal Reform International (PRI), as of April there were approximately 864,000 female inmates in 45 special prison colonies and detention centers. Although these inmates faced the same poor living conditions as male prisoners, the PRI reported that in prison women had much less access to health care programs for tuberculosis or substance abuse treatment.

Human Rights Watch reports that "honor killings" were a continuing problem in some areas, such as the Caucasus, although it was difficult to estimate an exact number of victims.

Some observers noted that the country was a destination for sex tourism. Police worked closely with at least one foreign government to ensure the prosecution of sex tourists.

The law does not prohibit sexual harassment, which remained a widespread problem. NGOs operating hotlines reported that women routinely sought advice on the problem. The lack of legal remedies and limited economic opportunities caused many women to tolerate harassment. Authorities have successfully prosecuted only two sexual harassment cases since 1992.

The Government officially recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. While there are no legal restrictions on access to contraceptives, some reproductive rights advocates reported that the atmosphere for their work was difficult. International family planning organizations were unable to operate in the face of opposition from the Government and from the Orthodox Church, making access to family planning limited, especially outside of big cities. The Government explicitly encourages women to have as many children as possible to counteract the country's demographic problems (the country's population has declined by six million since the end of the Soviet Union). According to UN estimates, the maternal mortality ratio in the country was 39 deaths per 100,000 live births in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Although the constitution states that men and women have equal rights and opportunities to pursue those rights, women encountered discrimination in employment. Job advertisements often specified gender and age groups. Some even specified desired physical appearance and preference for applicants who were open to intimate relations with their prospective supervisors. Employers often preferred to hire men to save on maternity and childcare costs and avoid the perceived unreliability associated with women with small children. The labor market was characterized by gender discrimination in compensation, professional training, hiring and dismissal, and career promotion. However, such discrimination was often very difficult to prove. According to both RosStat, the federal state statistics service, and the Center for Labor Studies (of the Higher School of Economics), in 2007 women earned 35 percent less than men, although some more recent studies have provided a lower estimate. There is no government office devoted to women's legal rights. The women's rights NGO Peterburgskaya Egida reported that instances of pregnant women or those with children under three years of age being fired by their employers and denied social allowances increased in recent years.

The 2002 census indicated that 62 percent of women in the country had higher education, compared to 50 percent of men, and that women made up more than 50 percent of university tutors and professors. Women ran approximately 30 percent of medium-sized businesses and 10 percent of big businesses in the country. A March 2009 study by Price-Waterhouse-Coopers (PWC) found that the number of women taking managerial positions had grown from 30 to 40 percent since the onset of the economic crisis. Another PWC poll revealed that 90 percent of chief accountants, 70 percent of human resources senior managers, and 50 percent of chief financial officers were women. In May 2009 the Supreme Court rejected a St. Petersburg woman's appeal to drive metro trains; she had filed a discrimination suit after being turned down for the job because of her gender. Article 253 of the labor code specifies that female workers should not perform "hard physical jobs and jobs with harmful or dangerous labor conditions, or work underground except in nonphysical jobs or

sanitary and consumer services.” According to the NGO Peterburgskaya Egida, this article had resulted in a list of 456 professions that legally exclude women, including diver, gas rescue worker, paratrooper, and firefighter. Women made up approximately 10 percent of the workforce of the federal and regional governments.

Although polygamy is illegal, the Chechen government has encouraged men to take more than one wife, has encouraged women and girls to wear headscarves when in public (schools, universities, and government offices), and threatened the jobs of some unmarried women, should they choose to stay single. According to NGOs, bride kidnapping was another prevalent practice in the North Caucasus. Backed by local ancient tradition, it had reportedly grown as an acceptable reason to abduct and rape young women, whether they were returned to their families married or not. Often in these cases, the young women are forever “sullied” as they are no longer virgins and cannot enter a legitimate marriage.

In June HRW received credible reports of individuals, including law enforcement agents, pelting uncovered women on the streets of Grozny with paintball guns and threatening future brutality should they not cover themselves. At least one of the women had to be hospitalized as a result. In an interview with the television station Grozny on July 3, Chechen President Kadyrov expressed unambiguous approval of this practice by professing his readiness to “award a commendation” to the men who engaged in these activities. In August HRW reported receiving numerous accounts of the harassment of women in the streets of the capital by groups of men claiming to represent the Islamic High Council (muftiat) of the republic. They reportedly were joined by young men who pulled on the women’s sleeves, skirts, and hair and accused them of being dressed like harlots. In two instances reported to HRW, members of Chechen law enforcement bodies were among the perpetrators.

*Children.*—By law citizenship is derived from parents at birth or from birth within the country’s territory if the parents are unknown or if the child cannot claim the parents’ citizenship. As a rule all newly born babies are registered at the local civil registry office where parents live. One of the parents must apply for registration within a month of the birth date, and on the basis of the medical certificate of the hospital where the baby was born, a birth certificate is issued.

Although education was free to grade 11 and compulsory until age 15 or 16, regional authorities frequently denied school access to the children of persons not registered as residents of the locality, including Roma, asylum seekers, and migrants.

Child abuse was a widespread problem. In June 2009 the Duma passed a law that increased the maximum sentence for rape of a minor to 20 years. It also increased the penalties for child molestation and the distribution of child pornography. The law specifies that the maximum penalty for child molestation, if certain aggravating factors are present, is 20 years and for the distribution of child pornography, up to 10 years if aggravating factors are present.

Children, particularly the homeless and orphans, were exploited for child pornography. While authorities working on the issue viewed child pornography as a serious problem, the law prohibiting it lacked important details, and authorities seldom invoked it. The law does not define child pornography, criminalize its possession, or provide for effective investigation and prosecution of cases of child pornography. Courts often dismissed criminal cases because of the lack of clear standards. When a court convicted a suspect, it frequently imposed the minimum sentence, often probation. Authorities investigated and prosecuted relatively few cases involving child pornography, creating an environment in which it proliferated.

In 2008, the latest year for which figures were available, authorities registered 356 cases of the distribution of child pornography, opened preliminary investigations into 159 (an increase of 17.6 percent over the previous year), and brought indictments in 157. In 2009 the number of investigations increased to 259. However, an MVD official noted that, while the performance of MVD officers investigating pornography had improved, the trade in child pornography remained strong. In March an MVD spokesman stated that a hotline for reporting instances of child pornography received 10,000 calls in 2009, leading to the shutdown of 3,000 distribution channels, including 300 shut down outside the country by cooperating foreign law enforcement agencies.

The Government has created two federal resources to respond to the threat of child pornography through the Internet: the Russian Safer Internet Center, established in 2008 with a hotline to receive information on illegal content sources, and the Friendly Runet Foundation created in 2009 with the direct participation of the Interior Ministry, which also has a hotline for reporting Internet sources with illegal content.

In 2009 NGOs began a project entitled, Prevention of Sexual Exploitation of Children in the Russian Federation, with support from the European Commission. The three-year project is a joint initiative led by the Syostry call center in Moscow, the

Perm Center for Violence Prevention, and the Far Eastern Center in Support of Social Initiatives in the Russian Far East, which intended to put in place a system for training social workers, police, and educators in their regions on the prevention of violence against children, the provision of support for victims, and the early identification of sexual violence.

Citing MVD statistics, a Public Chamber representative said in May that each year nearly 120,000 children were orphaned, and each day, 200-220 were taken away from neglectful parents. The representative estimated that 600,000 children were located in different types of institutional and foster care. In a 2008 report, the NGO Children's Rights estimated that approximately 40,000 children ran away from home annually to escape abuse and neglect and that 20,000 orphans fled similar conditions in orphanages. The report, as updated in February 2009, corroborated the MVD statistics of approximately 120,000 new orphans every year.

The NGO Children's Rights estimated that 2 percent of the country's children were neglected or lived on the streets. Police attempted to return approximately 70 percent of them to a home or institution. According to *Rossiskaya Gazeta*, a government publication, the number of children living in extreme poverty fell from 3.1 percent in November 2008 to 1.4 percent in November of 2009. According to Investigative Committee head Alexander Bastrykin, during the year 100,000 children were the victims of serious crimes, a decrease from 126,000 child victims in 2008. An estimated 20,000 minors were missing at the end of the year, including 5,000 small children.

Homeless children often engaged in criminal activities, received no education, and were vulnerable to drug and alcohol abuse. Some children on the streets turned to, or were forced into, prostitution, often to survive. According to a 2010 report by the Foundation for Assistance to Children in Difficult Life Situations, juveniles in 2009 committed 94,700 crimes, a decrease from 116,100 committed in 2008.

Although there was no nationwide telephone hotline for reporting child abuse, the Presidential Administration, in conjunction with foreign governments, provided grants through the National Charity Foundation to local NGOs, such as the National Foundation for the Prevention of Cruelty to Children, to train staff on and strengthen local hotlines for child abuse across the country.

In March 2007 the Government implemented its flagship child welfare program, Children of Russia. During the year this program continued the construction and renovation of orphanages and centers for disabled children and detention centers for juvenile offenders. The program also focused on the comprehensive rehabilitation and social integration of disabled children in a family environment and supplied children's rehabilitation centers with equipment.

The Foundation for Assistance to Children in Difficult Life Situations was established in 2008 by presidential order. The program has provided more than 1.7 billion rubles (\$56.3 million) to cofinance 109 programs in 50 regions and to finance 307 projects in 63 regions.

In September 2009 President Medvedev established the post of Ombudsman for the Rights of Children and appointed Aleksey Golovan, a well-known human rights activist, to the post. In December the president replaced Golovan with lawyer and Public Chamber member Pavel Astakhov. According to the *Moscow Times*, authorities dismissed Golovan at the behest of Russian Orthodox groups who objected to his support for a juvenile justice system separate from the one for adults. The responsibilities of the children's ombudsman include following the activities of state agencies at the federal level, ensuring the observance of the rights of children, and writing an annual report similar to that of Ombudsman Lukin.

Regional ombudsmen for children operated in 25 regions with the authority to conduct independent investigations relating to the violation of children's rights, inspect any institutions and executive offices dealing with minors, establish councils of public experts, and conduct an independent evaluation of legislation affecting children. In a number of schools in the Moscow and Volgograd Oblasts, there were school ombudsmen dealing with children and families and identifying potential conflicts and violations of the rights of children.

According to 2007 data from the Moscow Department of Social Security, 12 percent of street children in shelters had run away from orphanages or residential facilities. Law enforcement officials reportedly abused street children, blamed them for unsolved crimes, and committed illegal acts against them, including extortion, illegal detention, and psychological and sexual violence.

Then children's ombudsman noted in a September 2009 interview with *Vremya Novostei* that approximately 160,000 of the country's orphans lived in orphanages and suffered from "psychological and emotional neglect."

Russia is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international child abduction, please

see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—An estimated 250,000 Jews lived in the country, constituting less than 0.25 percent of the population, according to government sources and various Jewish groups. Some researchers believed that the number was underreported due to the hesitation of some Jews to publicly identify their background.

Although Jewish leaders reported improvements in official attitudes towards Jews, anti-Semitism remained a problem at the societal level. Violent attacks against Jews were infrequent, with only a few episodes occurring during the year.

According to a May 24 report from Jewish.ru, soccer fans from St. Petersburg angry about their team's loss in a game held in Rostov-on-Don beat up Roman Kosarev, a Jew, and shouted anti-Semitic epithets. Authorities began an investigation and promised to bring those responsible to justice. There were no further developments by year's end.

There continued to be reports across the country of vandals desecrating Jewish synagogues and cemeteries and defacing Jewish religious and cultural facilities, sometimes combined with threats to the Jewish community, although the amount of vandalism is generally decreasing. The SOVA Center, an NGO that seeks to combat extremism and nationalism, registered six acts of anti-Semitic vandalism. There has been a reduction in vandalism due to a decrease in the activities of nationalist groups Russian Way and Resistance, which had been very active in these crimes.

On March 12, anti-Semitic slogans were written in graffiti on the walls of a synagogue in Izhevsk. Two minors were charged in the incident. On April 20, Adolf Hitler's birthday, anti-Semitic graffiti appeared in several parts of Ulyanovsk, according to the Federation of Jewish Communities of Russia. Anti-Semitic graffiti and leaflets appeared frequently in many regions, including at a Communist Party meeting in Ulyanovsk on May 1.

The SOVA Center also reported desecrations of graves in Jewish cemeteries in Nizhny Novgorod, Makhachkala, and Kaliningrad in 2009. Officials often classified these crimes as "hooliganism." In many cases in which local authorities prosecuted cases, courts imposed suspended sentences. In some cases, however, the hate crime motive was taken into consideration. According to the Moscow Bureau for Human Rights, law enforcement officials were investigating vandalism in Voronezh, where 20 gravestones in a local Jewish cemetery were knocked down on July 27. On October 7, anti-Semitic inscriptions appeared on a Jewish synagogue in Barnaul. At year's end the local police were investigating the incident.

On June 22, an explosion next to a synagogue in Tver took place in the middle of the night, damaging the exterior of the building but causing no casualties. The governor of the Tver Region announced that he would take the investigation of the attack under his personal control. As of the end of the reporting period, there was no further information on the attack.

On October 28, a Moscow Court sentenced a 22-year old neo-fascist with links to the Nationalist Socialist Society to life imprisonment for killing 15 persons, some of whom were Jewish. According to the head of the Ministry of Interior Scientific Research Institute, there are more than 150 neo-Nazi groups in Russia, and the number was rising.

In September 2009 skinheads in Khabarovsk threw Molotov cocktails into a synagogue and into the house of a policeman who had been investigating cases of extremism. Khabarovsk Anti-extremist Department police detained the group, and criminal proceedings were opened against two of the suspects. They faced up to five years' imprisonment for the synagogue attack and up to life imprisonment for the attack on the police officer.

Anti-Semitism on television or in other mainstream media was infrequent and was more likely to appear in low-circulation newspapers or in pamphlets. However, according to the Moscow Bureau of Human Rights (MBHR), anti-Semitic material on Russian-language Internet sites increased during the year.

There were several instances in which the Government successfully prosecuted individuals for anti-Semitic statements or publications. On March 12, a court in Izhevsk gave a one-year suspended sentence to neo-Nazi Russian National Unity member Andrey Mokrushin for painting swastikas and anti-Semitic threats on the walls of a local Jewish community center, according to the Union of Councils for Jews in the Former Soviet Union. On February 3, a court sentenced the editor of the anti-Semitic newspaper Orthodox Rus to three years in a prison colony for inciting ethnic and religious hatred for distributing an anti-Semitic film, *Russia with a Knife in the Back*.

On May 27, a court fined a Novosibirsk man 1,000 rubles (\$33) for distributing the Nazi propaganda film *Eternal Jew*. On July 9, a Tyumen court dismissed incite-

ment charges against college professor Svetlana Shestakova for a series of lectures in which she claimed that Jews ritually kill Christian children. The court dropped the charges due to the expiration of a statute of limitation, according to the Union of Councils of Former Soviet Jews.

On June 30, the editor of the newspaper Russian Truth was fined 450,000 rubles (\$14,720) for inciting ethnic hatred in a 2006 publication entitled Why don't people like the Jewish mafia?

The Government has publicly criticized nationalist ideology and expressed support for legal action in response to anti-Semitic acts. However, the Liberal Democratic Party organized a July 10 Duma roundtable called "On the Question of Recognizing the Genocide of the Russian People," which resulted in a declaration blaming the "international Zionist financial mafia for genocide against the Russian people."

Federal authorities, and in many cases regional and local authorities, facilitated the establishment of new Jewish institutions. Vladimir Putin, both as president in 2008 and subsequently as prime minister, publicly criticized anti-Semitism and supported the establishment of the Museum of Tolerance by the Federation of Jewish Communities of Russia. Work continued on a 2.7 billion ruble (\$89 million) complex on land donated by the Moscow city government to house the museum as well as Jewish community institutions, including a school and a hospital.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—Several laws prohibit discrimination against persons with disabilities or mandate their equal treatment; however, the Government generally did not enforce these laws. Citizens with disabilities continued to face discrimination and denial of equal access to education, employment, and social institutions. The situation for persons with disabilities reportedly worsened following the replacement of government in-kind subsidies for such items as transportation and medicine with cash payments in 2004. Some affluent regions, such as Moscow, preserved benefits for persons with disabilities at preexisting levels, while most other regions provided a limited number of benefits, such as free transportation. According to information provided by a leading NGO working on disability rights, persons with mental disabilities were severely discriminated against in both education and employment. In addition, the conditions of guardianship imposed upon them by courts deprived them of practically all personal rights.

In May 2009, the daily *Moskovskiy Komsomolets* reported that there were 13 million persons with disabilities. In 2006 the human rights ombudsman stated that in the previous 10 years more than 120,000 persons have become disabled as a result of military actions and war injuries, and according to the NGO *Perspektiva*, the number continued to grow as a result of new conflicts. Persons with disabilities generally were excluded from the social and political life of their communities and isolated from mainstream society. However, there were several Duma deputies with disabilities, and lobbying in favor of persons with disabilities to improve legislation occurred. A joint study released in May 2009 by the Public Chamber and EU representatives found that 20 percent of respondents considered persons with disabilities to be burdens on society. Forty percent of the disabled surveyed reported that they experienced social problems, in particular insults and hostility. At the same time, disability rights activists believe that some attitudes were changing for the better. An August 27 rally in Moscow, in which many wheelchair users and celebrities participated, attracted three times as many participants as the same rally did in 2009; the rally was supported by many officials and was covered by all major television and radio stations, newspapers, and blogs.

Conditions in institutions for adults with disabilities were often poor, with unqualified staff and overcrowding. The residents were mainly "graduates" of similar institutions for children. Institutions rarely attempted to develop the abilities of residents, who were frequently confined to the institutions and sometimes restricted in their movement within the institutions themselves.

Federal law on the protection of persons with disabilities requires that buildings be made accessible to persons with disabilities, but authorities did not enforce the law, and in practice most buildings were not accessible. A reporter for *Noviye Izvestiye* estimated in a September 2009 article that 10 to 30 percent of Moscow's buildings were inaccessible to persons with disabilities. Likewise, only 8 percent of the city's 36,000 street crossings were completely equipped for the disabled. Although accessibility requirements were imposed in 1995, efforts to realize them have been undertaken in earnest only in the last three to five years.

There are laws establishing employment quotas for persons with disabilities at the federal and local levels; however, some local authorities and private employers continued to discourage such persons from working, and there was no penalty for

failure to honor quotas. Human rights NGOs made some progress in persuading foreign companies in larger cities, including Moscow, to consider persons with disabilities as potential employees, and the Moscow city government reportedly encouraged employers to hire persons with disabilities. In September the NGO Perspektiva reported that the onset of the economic crisis had worsened employment prospects for persons with disabilities; however, Perspektiva had no statistics on the scope of the problem.

In 2008 the ombudsman's office reported that approximately 640,000 of the country's persons with disabilities were children. Authorities generally segregated such children from mainstream society through a system that institutionalized them until adulthood. Observers concluded that issues of children's welfare often were ignored, and there were few means of addressing systemic problems of abuse. Human rights groups alleged that children with disabilities in state institutions were poorly provided for and, in some cases, physically abused by staff members. "Graduates" of state institutions also often lacked the necessary social, educational, and vocational skills to function in society. According to a 2006 report by the Prosecutor General's Office, half of the more than 600,000 children with disabilities in state care lacked medicines, hearing aids, and wheelchairs. The NGO Children's Rights confirmed in September 2009 that this situation had not changed. There appeared to be no legal mechanism by which individuals could contest their commitment to a facility for persons with disabilities. The assignment of categories of disability to children with mental disabilities often followed them through their lives. The labels "imbecile" and "idiot," which were assigned by a commission that assesses children with developmental problems at the age of three and signifies that a child is uneducable, were almost always irrevocable. Even the label "debil" (slightly retarded) followed an individual on official documents, creating barriers to employment and housing after graduation from state institutions. This designation was increasingly challenged in the case of children with parents or individual caregivers, but there were few advocates for the rights of institutionalized children.

Youths with disabilities not in institutions faced significant barriers to education, including a lack of access to schools. According to the May 2009 Public Chamber study, only 3 percent of children studied under conditions analogous to mainstream students, and 87 percent of higher education institutions did not accept students with disabilities. Education authorities often tried to keep youths with disabilities out of school due to lack of special programs. Parents of children without disabilities often were averse to their children studying with children with disabilities. Rights activists stated, however, that attitudes toward including disabled children in mainstream schools were changing, with such children being admitted to schools in many places around the country, although the numbers are still small.

There have been mixed results in attempts to accommodate children with disabilities in educational facilities. According to Perspektiva, part of the problem is due to the absence of a formal federal-level definition of inclusive education for persons with disabilities and the fact that the law does not contain a clear mechanism to ensure inclusiveness in education. On April 28, the Moscow City Duma passed a law on The Education of Persons with Disabilities in Moscow, which observers contended created some improvements in education for persons with disabilities.

Perspektiva noted that rather than provide special equipment that would allow a visually impaired child to attend class, the school administration in Stavropol recommended that the child receive education at home. In response to a complaint filed by lawyers on behalf of the student's family, the school revoked its initial recommendation and provided the needed equipment as well as a staff member to escort the child to classes.

The mother of a student wheelchair user appealed to the education department in Nizhny Novgorod to provide a wheelchair-accessible environment at the State University. After being denied her request, during the following two years, the parent unsuccessfully petitioned the governor, the Nizhny Novgorod Department of Education, and the regional ministry of education for wheel-chair access at the university before abandoning her efforts, reportedly for fear of attracting harm to her son.

The mother of an 11-year-old wheelchair user was initially unsuccessful in her campaign in Butovo to have the student's new school accommodate his special mobility needs for his classes on the third and fourth floor of the school. It was primarily due to the public appeal and rally organized by the NGO Perspektiva and coverage by the media that authorities eventually built a chair lift in the school.

According to government reports, of approximately 450,000 school-age children with disabilities, an estimated 200,000 did not receive any education. Of the 250,000 who received an education, 140,000 attended regular schools, 40,000 studied at home, and 70,000 attended special education schools. Because special education

schools constituted only 3 percent of all schools, most children with disabilities could not study in the communities where they lived and were isolated from other members of the community.

The election laws contain no special provisions concerning the accessibility of polling places, and the majority of polling places were not accessible to persons with disabilities. However, the law provides for mobile ballot boxes to be brought to the homes of the disabled.

The mandates of government bodies charged with protecting human rights included the protection of persons with disabilities. These bodies carried out a number of inspections in response to complaints from disability organizations and, in some cases, appealed to the responsible agencies to remedy individual situations. Inspections by the Ombudsman's Office of Homes for Children with Mental Disabilities continued to disclose severe violations of children's rights and substandard conditions. According to the Moscow Department of Education, there are approximately 26,000 children with disabilities in Moscow, but only the special needs of 100 children with disabilities in secondary level education have been accommodated. According to *Perspektiva*, federal funding for social support of the disabled from 2006-10 was 310 million rubles (\$10 million), and a subprogram for rehabilitation of those disabled due to violent conflict was 9.58 million rubles (\$333,000). Federal grants to non-governmental organizations serving the disabled in 2010 alone totaled 800 million rubles (\$27.8 million), and the Moscow government reportedly spent 36.5 billion rubles (\$1.27 billion) between 2007 and 2009 on its Social Integration of Disabled Persons and Other Persons with Disabilities program. The federal government plans to spend 46 billion rubles (\$1.6 billion) over five years through its Accessible Environment program to improve access for the disabled.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination based on nationality; however, government officials at times subjected minorities to discrimination. Recent years saw a steady rise in societal violence and discrimination against minorities, particularly Roma, persons from the Caucasus and Central Asia, dark-skinned persons, and foreigners. The number of reported hate crimes increased during the year, and skinhead groups and other extreme nationalist organizations fomented racially motivated violence. Racist propaganda remained a problem during the year, although courts continued to convict individuals of inciting ethnic hatred by means of propaganda. In December, in the wake of the death of an ethnic Russian after a street brawl involving ethnic Russians and persons of Caucasus origin, Moscow experienced widespread racial rioting by thousands of participants that the authorities were often unable to control. Several dozen individuals of Central Asian and Caucasus appearance were attacked and severely beaten in the capital. President Medvedev condemned the nationalist violence. Some high-level government officials initially failed to do so, and some appeared to give legitimacy to the demands of the nationalists, placing the blame on foreign migrants.

A number of studies released in March 2009 by independent NGOs and advocacy groups, such as the Tajik Migrant Workers Union, found widespread problems of unpaid laborers with no legal recourse.

Persons of color complained of unequal treatment at the hands of authorities. In Moscow authorities subjected persons of color, especially those of Central Asian and Caucasus appearance, to far more frequent document checks than others and frequently demanded bribes from those lacking documents.

According to the Moscow Protestant Chaplaincy's Task Force on Racial Violence and Harassment, police in Moscow consistently failed to record the abuse of African minorities, and did not charge the alleged attackers with any crime or issue copies of police reports to the alleged victims. In one case this year, a policeman refused to record an attack on a Congolese student in Moscow because the event took place on a Friday, the day in question was a holiday and "this is Russia." On another occasion, the police allegedly told a Cameroonian victim that it was too late in the evening to make a police report and to come back the next day. When the victim returned the following day, the police attempted to twist the events and claim that the victim was actually the attacker.

Twenty-four racially motivated attacks on Africans were reported this year in Moscow, according to the SOVA Center. In one March attack, two unknown men attacked a man from Cameroon with knives, hospitalizing him for three weeks.

In Bashkortostan, authorities required applicants for new identity documents to state their ethnic origins, contrary to the constitution, which states that "no one shall be forced to identify and state their ethnicity." Some officials appeared to stoke societal antipathy toward migrant workers from Central Asia by making statements imputing greater criminality to migrants than to citizens. In May 2009 Federal Investigative Committee head Aleksandr Bastrykin commented to an interviewer that migrants were to blame for the majority of crimes in society. In December hundreds

of members of the Young Guard, a youth wing of the United Russia Party, rallied in Moscow to demand the expulsion of millions of nonethnic Russian labor migrants.

Skinhead violence continued to be a serious problem. Skinheads primarily targeted foreigners, particularly Asians and individuals from the Northern Caucasus, although they also expressed anti-Muslim and anti-Semitic sentiments. According to the Ministry of Interior, neo-fascist movements had approximately 15,000 to 20,000 members, more than 5,000 of whom were estimated to live in Moscow. However, the ministry stated that if the category were expanded to include "extremist youth groups" in general, the number was closer to 200,000 countrywide. In February 2009 the MBHR estimated that there were as many as 70,000 skinhead and radical nationalist organizations, compared with a few thousand in the early 1990s. Skinhead groups were most numerous in Moscow, St. Petersburg, Nizhniy Novgorod, Yaroslavl, and Voronezh. The three most prominent ultranationalist groups—the Great Russia Party, the Slavic Union Movement, and the Movement against Illegal Immigration—claimed, respectively, 80,000, 10,000, and 20,000 members. However, membership claims by these underground organizations were difficult to verify.

Police investigation of cases that appeared to be racially or ethnically motivated was frequently ineffective. Authorities were at times reluctant to acknowledge the racial or nationalist element in the crimes, often calling attacks "hooliganism." Many victims met with police indifference, and immigrants and asylum seekers who lacked residence documents recognized by police often chose not to report attacks. According to the SOVA Center, willingness to recognize crimes as hate crimes varied widely depending on the personal views of the local prosecutor; the center noted that the number of hate crimes prosecuted in Moscow increased significantly after a new prosecutor took office in 2008.

The SOVA Center reported a general increase in the amount of racially motivated violence. According to SOVA data, there were 400 racially motivated attacks during the year, resulting in 37 deaths and 363 injuries, an increase from 19 persons killed and 167 injured in 2009. The SOVA Center stated that during the year, 273 persons were convicted for crimes motivated by "aggressive xenophobia," of whom 154 were imprisoned. In most cases the attackers wore skinhead attire or proclaimed nationalist slogans.

According to the SOVA Center, on February 3, Konstantin Dushenov, editor of an ultranationalist newspaper, *Rus Pravoslavnyaya*, was found guilty of inflaming racial hatred and sentenced to three years in jail.

A June 2009 report by SOVA noted that, in addition to their more traditional targets, neo-Nazis were increasing their attacks on law-enforcement personnel. For example, on April 12, Moscow judge Eduard Chuvashov was shot to death in his central Moscow apartment complex. He had presided over high-profile trials of fascists, including the ultranationalist White Wolves gang and the Ryno-Skachevsky group. The White Wolves had been charged with killing non-white victims and the Ryno group with killing 20 persons and targeting migrants.

On April 30, a Moscow city court outlawed the neo-Nazi Slavic Union group, declaring it extremist.

On May 14, a grenade was thrown into a Muslim-owned store in St. Petersburg. It is suspected that the crime was racially motivated. On May 17, a popular ethnically Brazilian Soviet-era actor, Tito Romalio, was attacked and later died. It was suspected that the crime was racially motivated as well.

On July 27, the Tver city court sentenced neo-Nazi Russian National Unity group member Dmitry Orlov to life in jail for four killings and multiple assaults stemming from hate crimes committed between 2005 and 2006.

On July 29, four teenagers in St. Petersburg were found guilty by the Vyborgskiy District Court of St. Petersburg of inflaming ethnic hatred and attacking a group of Asians. One victim died from the attack, and the killer was sentenced to a seven and one-half years in prison. The other three perpetrators received suspended sentences of three to four years.

In August 2009 FSB officers arrested Anton Mukhachev, one of the suspected co-founders of the extreme nationalist organization Northern Brotherhood and its Internet-based game *Bolshaya Igra*, and charged him with incitement to ethnic hatred. Mukhachev remained in detention at year's end. An investigation into his alleged crimes was completed in the summer, but a trial has not yet been scheduled. The group's Internet-based game is no longer online. Many online nationalists expressed support for Mukhachev, with some threatening revenge against authorities.

On June 17, 10 members of an extremist youth group were arrested in connection with the December 2009 killing of a Ghanaian citizen.

There were no reports of further developments in several 2009 attacks that appeared to be racially motivated, including: the February attack by three youths in St. Petersburg on an African student at the Bonch-Bruyevich Telecommunications

University, the May skinhead attack on an Indian restaurant in Moscow, and the October killing of a young Kyrgyz man on Bolshoy Cherkizovskiy Street in Moscow.

There were no reports of arrests or prosecutions related to the following 2008 cases: the skinhead attack on Kyrgyz and Vietnamese students at a Ufa university, the incendiary attacks by masked perpetrators on a group of Tajik guest workers in Moscow, the attack on a Turkmen embassy official by 10 neo-Nazis, and the attack near Moscow against two Tajik workers, one of whom was beheaded.

There were developments in some ethnically motivated killings from previous years. In February 2009 the trial began of the Borovikov gang, whose members were charged with seven killings motivated by ethnic hatred between 2003 and 2006. Fourteen skinheads were involved, and nine were arrested. Of the two leaders of the gang, only Aleksey Voevodin is on trial; the other, Dmitriy Borovikov, was shot and killed by militiamen while resisting arrest in 2006. The case consists of 13 episodes of criminal activities of the gang. Due to extensive delays in the investigation and trial, the Government was forced to release several of the accused. The trial for the remaining accused continued at year's end; several witnesses and victims have been threatened according to SOVA.

Six persons of North Caucasus origin were convicted and sentenced in connection with the 2006 ethnic rioting in Kondopoga, Karelia. Their sentences ranged from three to 22 years' imprisonment.

There were indications that the Government took ultranationalism seriously as a potential threat to the social order. However, in a March 20 interview with Interfax, Federal Migration Service deputy head of the International and Public Relations Directorate Konstantin Poltoranin dismissed the idea that xenophobia and ethnic intolerance had reached a dangerous level. According to Poltoranin, "To say that in Russia foreign citizens are being victimized en masse is stupid. These are isolated incidents." During the Manezh square riots, on multiple occasions, police effectively protected members of ethnic minorities who had been targeted for attack by neo-nationalist groups.

Human rights organizations expressed concern that Romani children in the education system experienced discrimination. According to the NGO Anti-Discrimination Center Memorial, a number of schools refused to register Romani students on the grounds that they lacked documents, while others segregated Romani students or placed them in classes designed for children with learning disabilities because of their ethnicity.

*Indigenous People.*—The law provides for support of indigenous ethnic communities, permits them to create self-governing bodies, and allows them to seek compensation if economic development threatens their lands. Groups such as the Buryats in Siberia and ethnic groups in the far north (including the Enver, Tatarli, Chukchi, and others) continued to work actively to preserve and defend their cultures as well as their right to benefit from the economic resources of their regions. Most asserted that they received the same treatment as ethnic Russians, although some groups claimed that they were not represented, or were underrepresented, in regional governments.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Homosexuality was decriminalized in 1993; however, the gay and lesbian communities continued to suffer from societal stigma and discrimination. Gay rights activists asserted that the majority of gays hide their orientation due to fear of losing their jobs or their homes, as well as the threat of violence. However, there are active gay communities in Moscow and St. Petersburg. Medical practitioners reportedly continued to limit or deny gay and lesbian persons health services due to intolerance and prejudice. According to recent studies, gay men faced discrimination in workplace hiring practices. Openly gay men were targets for skinhead aggression; police often failed to respond out of indifference. A few gay rights organizations operated but did so out of public view.

In Moscow authorities banned permits for a gay pride parade for the fifth year. Moscow's then mayor Yury Luzhkov, described gay pride marches as "satanic." However, on May 29, rights activists in Moscow, employing stealth tactics, managed to hold a rally in the center of Moscow despite a ban imposed by the city's authorities. The protesters walked for approximately six-tenths of a mile and left when they saw police. There were no reports of attempts to stop the activists. A few hours later another march took place in northwest Moscow. On the same day, representatives of the Russian Orthodox, Protestant, Muslim, and Buddhist communities made statements in support of then mayor Luzhkov's position and against public actions by sexual minorities.

Five participants in a gay rights rally at the Hermitage Museum in St. Petersburg were arrested for taking part in an unauthorized event on June 26. The police also

arrested 20 men who reportedly planned to attack the demonstrators. All were released the next day.

According to Nikolay Alekseyev, a leader of Moscow's gay community, in September he was kidnapped from an airport by persons he believed to be security personnel and held for two days outside Moscow where he was threatened and verbally abused by plainclothes officers. Alekseyev expressed the belief that this was an effort to get him to drop lawsuits against Russia filed with the ECHR (see section 1.b.).

Societal animosity toward gays remained strong. In 2008 two youths killed a man they perceived to be gay. Police arrested both individuals, and at year's end they remained under investigation. On October 30, an estimated 1,000 protesters staged a rally in Moscow against gay parades, the legalization of same-sex marriages, and immorality. According to press reports, the rally was organized by a number of Orthodox organizations; many participants carried signs, among them ones that read: "A gay parade will never be held in Moscow." The protest followed a ruling earlier in the month by the ECHR that found the city's ban on gay pride parades to be in violation of the European Convention on Human Rights.

The city of St. Petersburg gave permission to hold a gay rights parade/demonstration on November 20. According to the human rights Web site GayRussia.ru, this was the first legally sanctioned gay demonstration in the country's history. There was a large turnout by antigay demonstrators, who threw eggs and shouted insults, and the demonstration was broken off after 40 minutes due to violence.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS often encountered discrimination. A federal AIDS law includes antidiscrimination provisions but frequently was not enforced. HRW reported that HIV-positive mothers and their children faced discrimination in accessing health care, employment, and education. Persons with HIV/AIDS found themselves alienated from their families, employers, and medical service providers. According to the NGO GayRussia.ru, the Government no longer requires HIV tests for visitors who apply for short term tourist visas or business visas for one year or longer, so long as the total stay in Russia is not greater than three months per year.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers the right to form and join unions, but government policy limited its exercise in practice. For example, by law, the Federal Registration Service should consider a union officially registered once it has submitted the requisite documents. In practice, however, labor experts asserted that the documents a union must submit vary among regional offices of the service, and the offices often find fault with the papers provided for minor, bureaucratic reasons.

The Federation of Independent Trade Unions of Russia (FNPR)—the largest union organization in the country—reported that approximately 45 percent of the workforce was unionized, a decline from approximately 55 percent in 2006. As of June, its membership of 24.7 million (35 percent of the workforce), constituted a majority of unionized workers.

By law labor unions are independent of government bodies, employers, political parties, and NGOs. Interference by government authorities in union activities is prohibited. However, labor activists reported that police regularly used widespread intimidation techniques against union supporters, including detention, extensive interrogations, and provocation of physical confrontation.

Police and prosecutors often questioned union activists based on written orders from the regional office of the FSB. Union activists also alleged that police pressured them to become informants.

On July 13, Ministry of Interior Senior Police Lieutenant Mikhailova met with Denis Litvin, the chair of the Interregional Union of Autoworkers' affiliate, at his workplace, Tagro, which produces food processing equipment. During the meeting Mikhailova accused Litvin of falsifying union documents and demanded a list of union members and information on his friends and labor activists, which he refused to supply. On July 30, Tagro security staff detained Litvin and threatened him with physical violence if he did not stop distributing union information and "stirring up people." In September, after Litvin won a court case against management for antiunion discrimination, management fired him instead of implementing the court ruling.

In January the Labor Confederation of Russia and All-Russia Confederation of Labor filed a joint complaint against the Government with the International Labor Organization's Freedom of Association Committee. The complaint, later joined by leading unions, documents violations that took place from 2006 to 2009, including: violations of trade union rights and civil liberties, violations of workers' right to es-

establish organizations without prior authorization, discrimination based on union membership and union activities, refusal by employers to recognize newly formed unions, denial of union leaders' access to members' workplaces, violations of the right to bargain collectively, government interference in trade union activities, and absence of an established system to defend trade union rights.

In February 2009 unidentified assailants attacked Yevgeniy Ivanov, chair of the independent Interregional Union of Autoworkers' General Motors (GM), near his home in a suburb of St. Petersburg. In November 2009 GM terminated Ivanov. In December 2009 Ivanov filed a request with the district court for the restoration of his position and monetary compensation. In March the court ruled in favor of Ivanov, restored him to his position, and ordered GM authorities to pay him 106,000 rubles (\$3,500) in compensation.

The National Union of Mineworkers (NUM) continued to seek the release of Valentin Urusov, a miner allegedly framed and imprisoned in 2008 after recruiting employees of the Alosa Diamond Mining Company to join a union. According to NUM, Urusov was sentenced to six years of hard labor on a fabricated charge of drug possession. In May 2009 the Yakut Supreme Court initially released Urusov and ordered another investigation; but the court subsequently upheld the conviction with a reduced sentence of five years. Despite a continuing review of the case by the prosecutor general at the request of the Public Chamber, Urusov's status remained unchanged at year's end.

The law establishes the right to strike, but that right was difficult to exercise. The majority of strikes were considered technically illegal because they violated one or more of a complex set of procedures governing disputes. The law requires the provision of a minimum level of essential services if a strike could affect the safety or health of citizens. The labor code prohibits strikes in the military and emergency response services. In addition, it prohibits strikes in essential public service sectors, including utilities and transportation, or strikes that would threaten the country's defense and safety or the life and health of its workers. According to the FNPR, the legal preparation for a strike takes at least 40 days.

As of November the State Statistics Service had not registered any strikes. Independent commentators, on the other hand, noted a significant number of protest actions. The Center for Social and Labor Rights (Moscow) registered 102 protests in the first half of the year, which included 44 protest actions that involved the complete or partial cessation of work. The majority of labor disputes occurred in the manufacturing sector, particularly in machine-building enterprises. In 2009 the primary causes of labor disputes were wage arrears (more than 50 percent), layoffs (21 percent), and company reorganization or closure (18 percent).

The law prohibits reprisals against strikers; however, employers frequently engaged in reprisals, including threats of night shifts, denial of benefits, blacklisting, and termination. Courts may confiscate union property to cover employers' losses in the event that a declared strike continued after it was ruled illegal. Solidarity strikes and strikes on issues related to state policies also are prohibited. The courts have upheld most employers' requests to declare a strike illegal.

In June 2009 approximately 700 employees of the Bogdanovich Porcelain Factory in Sverdlovsk Oblast participated in a spontaneous demonstration in protest of the termination of plant operations resulting from a cutoff of gas supplies. The two leaders of the factory's trade union, who were elected after the demonstration, initiated a counterclaim in the Bogdanovich District Court to combat administrative cases that had been filed against them for the "illegal initiation of a strike." Although the demonstration did not disrupt public order, regional law enforcement forces were brought in just in case. The 99,000 ruble (\$3,200) cost of the militia forces was billed to the trade union leaders. The case was not resolved by year's end.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining but favors larger, established unions over newer, smaller unions or professional "craft" unions. Employers were slow to recognize newly formed unions. In addition, they often accepted union requests for collective bargaining reluctantly and failed to provide union representatives with financial reports. In 2009 the FNPR reported that 87 percent of its enterprises had collective bargaining agreements. Some companies tried to use the excuse of financial difficulties to avoid concluding new agreements or disregarded the existing ones in violation of labor legislation norms.

The law prohibits antiunion discrimination, but management continued to harass union leaders and employees at the local level. State agencies with responsibility for overseeing the observance of labor legislation frequently failed to fulfill their responsibilities. Although unions were occasionally successful in courts, in most cases the management of companies that engaged in antiunion activities was not penalized.

On June 15, workers at St. Petersburg Faurecia, a French producer of plastic parts for Ford, Renault, Volkswagen, and other auto manufacturers, formed a union. On the morning of June 18, they notified the management that the union had been established; by the evening of the same day, the union leader, Alexei Lyaushko, was fired. The local union filed a court case for Lyaushko's reinstatement.

Union members at the Progress aircraft plant in Arsenyev complained to the plant's administration that salary levels had not been reviewed in three years. Wages at the plant were lower than the regional average and approximately half that of workers in similar companies. When negotiations with the administration were unsuccessful, the union appealed to the Arsenyev City Court, which denied the trade union's appeal in February. The Primorskiy Kray Court, however, ruled in July that the union was justified in its demand for higher wages in accordance with labor code salary regulations. As a result, the plant's administration had to increase wages according to the appropriate indexation level. According to the union, the raise had to be more than 60 percent. On August 17, the union issued a statement, asserting that its members were "under pressure and discrimination in wage payment, organized by the plant's administration." One worker stated that those who complained about wages no longer received bonus payments, as had been the case prior to the court case, and that the administration did not allow them to work overtime.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Men, women, and children from Russia are subjected to conditions of forced labor in Russia, including work in the construction industry, in textile shops, and in agriculture, according to the National Foundation for the Prevention of Cruelty to Children and UNICEF's Russia Office.

For additional information, see the Department of State's annual Trafficking in Persons Report at <http://www.state.gov/g/tip>.

Military personnel have been investigated in the past for the labor exploitation of military conscripts under their command. Men from the Far Eastern part of the country were subjected to conditions of debt bondage and forced labor, including in the agricultural and fishing sectors. Men, women, and children, including those from foreign countries, including Belarus, Kyrgyzstan, Tajikistan, Uzbekistan, Ukraine, and Moldova, were subjected to conditions of forced labor, including work in the construction industry, in textile shops, and in agriculture.

According to different estimates from BBC News and the Vneshmarket Web site, between 1,500 and 21,000 men and women from North Korea were subjected to conditions of forced labor, specifically in the construction, agriculture, and logging sectors.

The law prohibits forced or bonded labor by children; however, such practices reportedly occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace, including laws against compulsory labor; however, authorities did not effectively implement laws and policies that would protect children, nor did the Government appear to consider child labor to be a problem. In urban areas the employment of children occurred primarily in the informal sector—retail services, selling goods on the street, washing cars, and making deliveries. In rural areas children worked in the agriculture sector.

The law prohibits the employment of children under the age of 16 in most cases and regulates the working conditions of children under the age of 18, including prohibiting dangerous nighttime and overtime work. The law permits children, under certain conditions and with the approval of a parent or guardian, to work at the age of 14. Such work must not threaten the child's health or welfare.

The Federal Labor and Employment Service (FLES) is responsible for inspecting enterprises and organizations to identify violations of labor and occupational health standards for minors. Local police only investigated in response to complaints. FLES reported 10,000 violations of child labor laws in 2008 (the latest statistics available), noting that the victims often received little pay and suffered from unsafe working conditions. FLES noted that most of the abuses it discovered occurred in the industrial, trade, and agricultural sectors. According to FLES, employers paid 1.5 million rubles (\$49,600) in fines for violating child labor laws in 2008.

*e. Acceptable Conditions of Work.*—The legal minimum wage was 4,330 rubles (\$143) per month. The minimum wage was not sufficient to provide a decent standard of living for a worker and family.

According to official statistics (Federal Statistics Service), in the first three quarters of the year, 13.5 percent of the population (18.9 million persons) had incomes

below the minimum subsistence level. This was a decrease from the first three quarters of 2009, when the figure was 14.0 percent of the population or 19.7 million people. The subsistence level set by the Government is 5,707 rubles (\$195) a month.

In March and April, employees of the Kushva Mechanical Shop Ltd. and Amur Machine Building Plant in Sverdlovsk Oblast filed criminal cases against their employers. Under pressure due to economic instability and significant wage arrears, the management of both enterprises had demanded that employees take out personal loans and lend the borrowed money to their employers "for factory needs." Threatened with dismissal, the employees had complied. To date, the borrowers (employees) have not paid the employees back. Challenged with increasing salary debts and growing bank interest, the employees appealed to the ombudsman and the general prosecutor of Sverdlovsk Oblast. The conflicts have proven difficult to resolve, however, due to scant factual evidence of employer pressure other than employees' testimony.

In March construction workers on projects related to the 2014 Olympic Games in Sochi began a hunger strike to protest unsanitary living conditions and months of unpaid wages. The back wages were paid within two weeks.

In August a group of workers in Kirov conducted a hunger strike to protest poor living conditions in a workers' dormitory run by a tire factory.

In November hundreds of autoworkers in Taganrog went on unregistered strike to protest two months of unpaid wages.

The law provides for a standard workweek of 40 hours with at least one 24-hour rest period and requires premium pay for overtime or work on holidays. Information was insufficient to determine the extent to which employers observed these standards in practice.

The law establishes minimum conditions for workplace safety and worker health. The FLES is responsible for enforcement. However, the Government did not allocate sufficient resources to enforce these standards effectively. In many cases factory workers did not have adequate protective equipment and clothing, enterprises stored hazardous materials in open areas, emergency exits were locked, and smoking was permitted near flammable substances. The FLES reported that occupational incidents caused more than 3,190 deaths, including those of 278 women and two minors in 2009, and that unsatisfactory working conditions directly or indirectly caused up to 40 percent of all diseases among workers. In 2008 the Health Ministry initiated a two-year program to improve working conditions and worker safety in an attempt to transition from a reactive policy to one of proactive management of hazards to workers' health.

The law gives workers the right to remove themselves from hazardous or life-threatening work situations without jeopardizing their continued employment; however, the Government did not effectively enforce this right. Many companies employing workers in hazardous conditions awarded bonuses based on worker productivity, which could encourage workers to jeopardize their safety for higher salaries.

In May two explosions caused by the accumulation of methane gas and a concealed underground fire at the Rapsadskaya coal mine in Kemerovo Oblast claimed the lives of 68 miners and rescue workers. Poor compliance with safety regulations reportedly led to the explosions. Following the incident, government officials blamed Rapsadskaya management for basing wages on output and offering productivity bonuses that encouraged the suppression of methane detection systems. Prosecutors initiated a criminal case against the mine's director on the grounds that he violated safety regulations.

The law entitles foreigners working legally in the country to the same rights and protections as citizens. However, Human Rights Watch noted in a May 2009 report that many employers in the construction sector, in which migrant laborers often worked, did not enforce safety standards, nor did they provide migrant workers with mandatory insurance or medical treatment. For example, press reports during the year cited multiple claims by workers of poor housing and nutrition, as well as long, 13-hour workdays on construction sites associated with the 2012 Asia-Pacific Economic Cooperation Forum in Vladivostok.

---

## SAN MARINO

The Republic of San Marino, with a population of approximately 30,000, is a multiparty democracy. The popularly elected unicameral Great and General Council (parliament) selects two of its members to serve as captains regent (cochiefs of state). They preside over meetings of the Council and the Congress of State (cabinet), which has no more than 10 other members (secretaries of state) selected by

the council. Parliamentary elections, last held in 2008, were considered free and fair. Security forces reported to civilian authorities.

There were some reports of violence against women.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted visits by independent human rights observers. The country does not have an ombudsman for detained persons.

Prisoners and detainees have reasonable access to visitors and are permitted religious observance practices. During the year prisoners and detainees submitted no complaints concerning treatment or conditions to officials. The Government monitors prison conditions and there were no media reports criticizing prison authorities.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the civil police, the Gendarmerie, and the National Guard, and the Government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. The law provides a detainee with the right to a prompt judicial determination of the legality of the detention, and the authorities generally respected this right in practice. There is a well-functioning bail system. Detainees are allowed prompt access to family members and to a lawyer of their choice; the state provides legal assistance to indigent persons.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public and are presided over by a single judge. There are no provisions for a jury trial. Defendants have the right to be present and to consult with an attorney even during preliminary investigations. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf. They have access to government-held evidence relevant to their cases. They enjoy a presumption of innocence and have the right to two levels of appeal.

In case of legal actions against military personnel, a civil judge is temporarily given a military grade and assigned to an ad hoc military tribunal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Civil Judicial Procedures and Remedies.*—Judges act independently and impartially on civil matters, and administrative as well as judicial remedies exist for alleged wrongs, including human rights violations.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. As of January the country had 17,000 Internet users.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for these rights, and the Government generally respected them in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government was committed to cooperating with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—While the law does not provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the Government has a system for providing protection to refugees. In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Government may grant refugee status or asylum by an act of the cabinet. There were no requests for asylum during the year.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—Parliamentary elections, held in 2008, were considered generally free and fair. The Pact for San Marino, a Center-Right coalition led by the Christian Democratic Party, won 35 of the 60 seats in the Great and General Council.

Political parties could operate without restriction or outside interference.

Nine women were elected to the Great and General Council in the November elections, and two women were in the 10-member Congress of State, including the head of government (secretary of state for foreign affairs.)

There were no members of minorities in the Government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption. However, there were no reports of corruption by public officials during the year. Public officials are subject to financial disclosure requirements.

The law provides for public access to government information, and the Government provided access for citizens and noncitizens through the Great and General Council's Web site.

There were no known cases of corruption involving public officials.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights organizations, although the Government did not restrict their formation. The Government declared itself open to investigations by international nongovernmental organizations (NGOs) of alleged human rights abuses; there were no known complaints or requests for investigations during the year.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government effectively enforced it.

*Women.*—Rape, including spousal rape, is a criminal offense, and the Government effectively prosecuted persons accused of such crimes. The penalty for rape is two to six years' imprisonment. In the case of aggravating circumstances, the penalty is four to 10 years' imprisonment. There were no reports of rape during the year.

The law prohibits violence against women, and the Government effectively enforced it. The penalty for spousal abuse is two to six years' imprisonment. In the case of aggravating circumstances, the penalty is four to 10 years' imprisonment. According to official sources, there were 24 pending cases of violence against women during the year.

Sexual harassment is prohibited, and the Government effectively enforced the law. There were no reports of sexual harassment during the year.

Women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. There was no reported economic discrimination against women in pay, employment, or working conditions.

Couples and individuals have the right to decide the number, spacing, and timing of their children and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception and skilled attendance at delivery and in postpartum care were widely available. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections.

*Children.*—Violence against or abuse of children was uncommon. According to government sources, there were three pending cases of violence against minors.

The minimum age of consent is 18 years, and the penalty for sexual acts with a minor is imprisonment from six months to three years. The penalty increases to two to six years if the act involves a child under 14 years of age or a child under 18 with physical or mental disabilities. The law punishes not only child pornography performances, works, or material, but also anyone trading in or providing or in any way distributing child pornography material. The law punishes anyone distributing information aimed at enticing or sexually exploiting children under the age of 18. The penalty for this type of crime is imprisonment from two to six years, which is increased to four to 10 years if the act involves sexual intercourse or if it has been committed to the detriment of a child under 14 years of age or a child under 18 with physical or mental disabilities.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Trafficking in Persons.*—In 2009 there were no confirmed reports that persons were trafficked to, from, or within San Marino.

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services, and the Government effectively enforced these provisions. There were no reports of societal discrimination against persons with disabilities. The Ministry for Territory has not fully implemented a law that mandates easier access to public buildings by persons with disabilities, and many buildings were inaccessible.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were no reports of discrimination based on sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—By law all workers (except those in the Gendarmerie and National Guard) are free to form and join independent unions of their choice, and workers exercised this right. The law sets the conditions to establish labor unions. Union members constituted an estimated 50 percent of the workforce, which numbered approximately 15,000 citizens plus 6,000 workers who resided in Italy. The law allows all civilian workers, including the civil police, the right to strike, and workers exercised this right. A “conciliatory committee” composed of representatives from labor, business, and government generally resolved complaints of antiunion discrimination amicably.

*b. The Right to Organize and Bargain Collectively.*—The law prohibits antiunion discrimination and allows unions to conduct their activities without interference, and the Government protected this right in practice. Collective bargaining agreements have the force of law and are applicable to all workers, whether unionized or not. Negotiations were conducted freely, often in the presence of government officials by invitation from both unions and employer associations.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace. The minimum age for employment is 16, and the Ministry of Labor

and Cooperation granted no exceptions. The law does not limit children between the ages of 16 and 18 from any type of legal work activity. According to the labor unions there are no specific provisions for minors. However, the labor unions are presently negotiating with the Government to increase the minimum age for employment to 18 years old. The Government devoted adequate resources and oversight to child labor policies, and the Ministry of Labor and Cooperation effectively enforced compliance with the law.

*e. Acceptable Conditions of Work.*—The national minimum wage (i.e., the lowest wage applicable to an 18-year-old worker) is 9.69 euros (approximately \$12.98 per hour). According to NGOs, this amount did not provide a decent standard of living for a worker and family who did not own their own home. However, 90 percent of citizens owned their own homes, and wages generally were higher than the minimum provided by law.

The law sets the workweek at 36 hours in the public sector and 37.5 hours for industry and private businesses, with 24 consecutive hours of rest per week mandated for workers in both categories. The law requires a premium payment for overtime and allows a maximum of two hours of overtime per day. The Department of Labor conducted 3,223 inspections in 2007 (latest publicized data) of laws and industry contracts that prohibit excessive compulsory overtime.

The Government set safety and health standards, and the judicial system effectively enforced these standards. Most workplaces complied with the standards. However, there were exceptions, especially in the construction industry, where some employers did not consistently abide by safety regulations, such as work hour limitations and use of personal safety devices. There was one serious on-the-job injury in August, resulting in the death of a worker on the premises of a company that offers cleaning services. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment. However, according to press reports, enforcement was lacking in the informal sector, which employed a growing number of foreign workers.

---

## SERBIA

The Republic of Serbia is a multiparty parliamentary democracy with approximately 7.5 million inhabitants. Boris Tadic was reelected president in February 2008. In May 2008 voters elected a new parliament in which some minority ethnic parties won seats. Observers considered both elections to be mostly in line with international standards. Security forces reported to civilian authorities.

During the year the following human rights problems were reported: physical mistreatment of detainees by police; inefficient and lengthy trials; harassment of journalists, human rights advocates, and others critical of the Government; limitations on freedom of speech and religion; lack of durable solutions for large numbers of internally displaced persons (IDPs); corruption in legislative, executive, and judicial branches of government including police; government failure to apprehend the two remaining fugitive war crimes suspects under indictment of the International Criminal Tribunal for the former Yugoslavia (ICTY); societal violence against women and children; societal violence and discrimination against minorities, particularly Roma and the lesbian, gay, bisexual, transgender (LGBT) population; and trafficking in persons.

One significant human rights achievement was marked at the October 10 Pride Parade, when the Government affirmed the freedom of assembly of the LGBT community. Unlike previous years, the Government worked closely with planners to prepare for the event, and police successfully protected the marchers despite widespread violent protests by extremist groups.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, because the police did not maintain a centralized record of police shootings, it was unclear exactly how many fatalities occurred through police shootings.

On May 26, Ivan Stojadinovic was acquitted of charges in connection with the 2008 death of Knjazevac municipal court president Dragisa Cvejic due to lack of evidence. Police suspected that Cvejic's killing was politically motivated, due to his work as a judge.

No developments were reported in the investigation into the 2008 death of Ranko Panic, who died after police allegedly beat him at a protest demonstration against the arrest and transfer of Radovan Karadzic to the ICTY. There were no reports that authorities completed disciplinary proceedings opened against six officers from Belgrade, Nis, and Novi Sad, including a senior commander, for exceeding their authority during the demonstration.

There were no developments during the year in the 2008 request by the Special Prosecutor's Office for further investigation into the 1999 killing of prominent independent journalist Slavko Curuvija, owner of the *Dnevni Telegraph* newspaper and *Evropljanin* magazine.

The special war crimes chamber of the Belgrade District Court continued to try cases arising from crimes committed during the 1991-99 conflicts in the former Yugoslavia and two cases from World War II.

On September 12, the war crimes prosecutor indicted Toplica Miladinovic, Srecko Popovic, Slavisa Kastratovic, Boban Bogicevic, Zvonimir Cvetkovic, Radoslav Brnovic, Vidoje Koricanin, Veljko Koricanin, and Abdulah Sokic for killing 41 civilians during the 1999 war in Kosovo. The nine were suspected of committing war crimes against ethnic Albanian civilians in the western Kosovo village of Cuska to drive them from their homes.

In December the Council of Europe released a report written by human rights rapporteur Dick Marty which alleged that members of the Kosovo Liberation Army (KLA) organized the murder and subsequent organ trafficking of Serbian and Kosovo Albanian prisoners both during and after the conflict in Kosovo in 1999. The report called on Serbia, Kosovo, and Albania to cooperate closely with the EU Rule of Law Mission (EULEX) in support of the investigation, and the country's authorities pledged their cooperation with any investigation.

In March 2009 the war crimes prosecutor filed a request for an investigation against five former members of the 37th Squad of the Special Police Unit on the suspicion that they committed war crimes against civilians and prisoners of war in Kosovo in 1999. Those named in the request included Zoran Nikolic, Dragan Milenkovic, Zoran Markovic, Nenad Stojkovic, as well as Radoslav Mitrovic, who was acquitted in the Suva Reka war crimes trial. War crimes spokesman Bruno Vekaric announced that information related to the case was gathered in the course of a police investigation and from a request filed in March 2009 by the nongovernmental organization (NGO) Humanitarian Law Center (HLC) to bring charges against 15 members of the 37th Squad.

On December 15, the trial chamber of the War Crimes Department of the Higher Court in Belgrade confirmed a previous judgment, sentencing Radojko Repanovic to 20 years in prison for his participation in the 1999 killing of 48 ethnic Albanians in Suva Reka, Kosovo. The court had previously upheld sentences of Sladjan Cukaric to 20 years in prison, Miroslav Petkovic to 15 years, and Milorad Nisavic to 13 years. The principal defendant, former commander of the 37th Squad of the Special Police Unit, Radoslav Mitrovic, as well as Nenad Jovanovic, and Zoran Petkovic were acquitted. The war crimes prosecutor dismissed charges against the eighth defendant, Ramiz Papic.

On June 16, the War Crimes Chamber of the Belgrade Appellate Court affirmed the convictions and sentences of three members of the Scorpions, a Serbian paramilitary unit. Dragan Medic, Dragan Borojevic, and Miodrag Solaja were found guilty of violating the rules of international law when they killed 14 ethnic Albanians, including seven minors, in the town of Podujevo in 1999. The verdict against a fourth defendant, Zelko Djukic, was reversed and the case returned to a lower court for a retrial.

On November 29, the Appeals Court of the War Crimes Chamber overturned the acquittal of Sreten Popovic and Milos Stojanovic, two former members of the police unit accused of involvement in the disappearance and subsequent killing of three U.S. citizen brothers, Ylli, Mehmet, and Agron Bytyqi, in 1999. The court ordered that the two receive a new trial at a lower level.

The trial of 17 members of the so-called Gnjilane group of the KLA that began in September 2009 continued in the War Crimes Chamber. In June 2009 the war crimes prosecutor filed an indictment charging them with crimes related to the deaths of at least 80 Serbs, Roma, and Albanians, as well as rape, in the region near Gnjilane, Kosovo, in 1999.

There were no developments in the December 2009 indictment against Dusko Kesar on charges that he participated in the killing of three Muslim civilians in Prijedor, Bosnia and Herzegovina, in 1994. The indictment stated that Kesar, as a member of a Republika Srpska Ministry of Internal Affairs reserve unit, killed Faruk Rizvic, Refik Rizvic, and Fadila Mahmuljin.

The trial of Sasa Djilerdzica and Goran Savic for war crimes against civilians in Zvornik, Bosnia and Herzegovina, in 1992 was still underway at year's end.

The trial of Branko Popovic, leader of the self-proclaimed "interim government of the Serbian municipality of Zvornik," and Branko Grujic on charges including the 1992 imprisonment, inhumane treatment, and death of more than 700 persons, 270 of whom have been exhumed from mass graves in Crni Vrh and Grbavci, continued at year's end.

On July 27, a court in London denied Serbia's request to extradite Ejup Ganic for war crimes related to a 1992 attack on Yugoslav People's Army forces in Dobrovoljacka Street in Sarajevo that led to the deaths of at least 18 persons. The allegations included war crimes against prisoners of war and the use of illegal means of warfare. The presiding judge found that the extradition request represented either "incompetence by the country's prosecutors or a motive for prosecuting that is based upon politics, race, or religion." The Ministry of Internal Affairs maintained an arrest warrant for Ganic and the other 18 persons suspected of the crime.

The investigation announced in November 2009 regarding five individuals suspected of committing war crimes in Bosnia and Herzegovina in July 1992 continued with separate financial investigations. The charges alleged that the suspects imprisoned, mistreated, and killed at least 23 Romani civilians in Skocic, Malesic, Petkovci, and Drinjaca villages in the Zvornik municipality.

On November 1, the War Crimes Department of the Higher Court in Belgrade sentenced Stanko Vujanovic to nine years in prison for committing war crimes against the civilian population in Vukovar, Croatia, in 1991. The prosecutor alleged that Vujanovic, as a member of the Vukovar Territorial Defense Unit, killed four persons and seriously injured another. On March 12, the war crimes chamber sentenced Vujanovic to 20 years' imprisonment in the separate Ovcara case (see below).

On June 23, the war crimes chamber sentenced former member of the Vukovar Territorial Defense Unit, Damir Sireta, to the maximum prison term of 20 years for participation in the killing of more than 200 Croatian prisoners of war at the Ovcara farm near Vukovar, Croatia, in 1991. On September 20, the Appellate Court's War Crimes Chamber upheld the conviction but reduced the sentence to 15 years.

On June 23, the Belgrade Higher Court's War Crimes Department sentenced Milorad Lazic and Nikola Konjevic to three years in prison and Mirko Marunic to two years on charges that they inhumanely treated Mirko Medunic, a Croatian police officer who had surrendered in Medak, Croatia, in 1991. A fourth defendant, Perico Djakovic, was acquitted of the charges.

In April authorities issued an arrest warrant for U.S. citizen and alleged former Gestapo member Peter Egner who was accused of crimes, including genocide, related to the killing of 17,000 Serb civilians at the Staro Sajmiste concentration camp between 1941 and 1943. Egner subsequently died.

There were no developments concerning the 2008 extradition request from Hungary of Sandor Kepiro for war crimes allegedly committed in Novi Sad in 1942.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

In cooperation with neighboring countries, the International Commission on Missing Persons, and other international organizations, the Government continued to make modest progress in identifying missing persons from the Kosovo conflict.

During the year the International Committee of the Red Cross (ICRC) chaired four meetings of the Working Group on Persons Unaccounted for in Connection with Events in Kosovo, which included government representatives from both Serbia and Kosovo. The total number of persons still unaccounted for from the Kosovo conflict stood at 1,822 at year's end. During the year only 54 cases were closed. Of these, 52 remains were identified and handed over to families in Kosovo and Serbia.

According to the ICRC, families in Serbia claimed that almost 1,300 relatives were still missing at year's end in Bosnia and Herzegovina, Croatia, and Kosovo stemming from regional conflicts.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, police at times beat detainees and harassed persons, usually during arrest or initial detention for petty crimes.

On July 10, a plainclothes police officer beat Borko Burmazovic in a gambling parlor in Zemun. Burmazovic was hospitalized with nonlife-threatening injuries. No charges were filed in the incident, which was captured on security camera video; prosecutors stated they were awaiting the results of an internal control investigation.

The 2008 case against Police Inspector Miljan Komnenovic, the subject of three brutality complaints filed by the Committees for Human Rights in Serbia, was discontinued without the issuance of an indictment.

There were no developments in the investigation into the 2008 incident in which unidentified plainclothes police officers in Brus allegedly beat three youths detained on suspicion of robbing a gas station.

There were no developments in the 2008 case in which four Valjevo police officers allegedly beat and abused Goran Z., Aleksandar S., and Zarko Dj. at the Valjevo police station or in the 2008 case in which three police officers in Arandjelovac allegedly beat college student Nemanja Mijaljevic after he failed to obey a command to stop his vehicle at a checkpoint.

The trial of Milan Zivanovic on charges of grave offenses against general safety and aggravated larceny in connection with the 2008 attacks on foreign embassies was put on hold in November 2009 while a court expert determined whether Zivanovic was too intoxicated to be culpable. Zivanovic was released on bail.

*Prison and Detention Center Conditions.*—Prison conditions varied greatly between facilities.

Prison overcrowding remained a problem which the Government recognized. On March 26, Ombudsman Sasa Jankovic told parliament's Justice and Administration Committee that the country's prisons, which were built for a capacity of 7,000, held 12,000 inmates, with prisoners sleeping on the floor. On June 9, Deputy Ombudsman Milos Jankovic said prison living conditions were "humiliating, and, as such, contain elements of torture." He recommended expanding prison capacities, improving health care, and enhancing prisoners' cooperation with the social services with a view to prisoners' reintegration in society.

Sanitation varied between and within facilities but was generally poor. Higher-security "closed" wards sometimes lacked natural light and proper ventilation. In one prison that lacked dining facilities, inmates ate in their cells, resulting in unsanitary conditions.

In some prisons inmates continued to complain of dirty and inhumane conditions. The quality of food varied from poor to minimally acceptable, and health care was often inadequate.

Women made up approximately 3 percent of the prison population, and juveniles made up 1 percent. While there was no evidence of mixing male and female populations, youth and adult populations lacked proper separation at the juvenile reformatory in Valjevo. There were no reports of different treatment for women or gender-based violence.

In April a report by the Helsinki Committee for Human Rights in Serbia (HCS) which focused on a juvenile detention facility in Valjevo and a district prison in Leskovac found markedly different conditions in the prisons' food and kitchens. While the reformatory's kitchen was clean and followed health standards, the Leskovac kitchen was unclean and the staff did not prepare the food in a sanitary manner. The HCS report noted that food at the Leskovac prison was of low quality and insufficient quantity.

Both prisons in the HCS report had sufficient medical personnel. The Leskovac facility had arrangements with local healthcare facilities when there was not around-the-clock care. However, the prisons were not adequately prepared to treat the large number of drug addicts in their populations. Supplies of medicines were sometimes insufficient. Prisoners in the reformatory also complained that they did not receive local anesthetic during dental care.

There was no new evidence of abuse by prison guards, although statistics on injuries were not well kept. Guards were poorly trained in the proper handling of prisoners.

Although the length of phone calls was sometime limited, prisoners had ample opportunity to contact their families. There was no evidence that government and prison authorities restricted NGO access to prisons. However, inmates in the Leskovac facility alleged that prison authorities censored letters sent to NGOs or legal authorities.

Permission for religious observance varied among facilities. The Valjevo facility prepared special meals for Muslims and Orthodox Christians and allowed them to fast in accordance with their faiths. Deputy Ombudsman Milos Jankovic noted "self-censorship" among Muslim prisoners with regard to practicing their faith openly. Prisons sometimes segregated minorities, particularly Roma.

The Government permitted the ICRC and local independent human rights monitors, including the HCS, to visit prisons and to speak with prisoners without the presence of a warden. The ombudsman has the right to visit prisoners and make recommendations concerning prison conditions. The authority of the ombudsman

does not extend to the judiciary, and he cannot represent prisoners or detainees to consider alternate punishment.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government mostly observed these prohibitions.

*Role of the Police and Security Apparatus.*—The country's approximately 43,000 police officers are under the authority of the Ministry of Internal Affairs. The police are divided into four main departments that supervise 27 regional secretariats (and a Coordination Department for Kosovo and Metohija) reporting to the national government. The effectiveness of the police force was uneven.

While most police officers were Serbs, the force included Bosniaks (Slavic Muslims), ethnic Hungarians, ethnic Montenegrins, a small number of ethnic Albanians, and other minorities. The police force in southern Serbia was composed primarily of Serbs, although there were a small number of ethnic Albanian officers.

There was a widespread belief that impunity was a problem among police. The police internal control unit has 21 investigators who examine complaints against the police, and many observers noted that the quality of police internal investigation seemed to be improving. From January through August, 307 criminal charges and 2,600 administrative proceedings were brought against police, compared with only 262 and 103, respectively, brought during the five years from 2003-08. The Government generally did not provide training to the police on corruption or human rights issues, but it facilitated training from various international actors.

During the year there were reports that police failed to respond to societal attacks against minority groups (see section 6).

*Arrest and Detention.*—Arrests were generally based on warrants, although police were authorized to make warrantless arrests in limited circumstances, including well founded suspicion of a serious crime. The law requires an investigating judge to approve any detention lasting longer than 48 hours, and authorities respected this requirement in practice. Bail was allowed but rarely used; detainees facing charges that carried possible sentences of less than five years were often released on personal recognizance.

Articles 27, 29, and 33 of the constitution provide that police must inform arrested persons immediately of their rights, and authorities respected this requirement in practice.

The law provides access for detainees to counsel, at government expense if necessary, and authorities often respected this right in practice. Family members were normally allowed to visit detainees. Suspects detained in connection with serious crimes can be held for up to six months without being charged. The law prohibits excessive delays by authorities in filing formal charges against suspects and in opening investigations; however, such delays occurred regularly. Due to administrative backlogs, authorities frequently held such persons for the full six-month period allowed before charging them.

The law prohibits police use of force, threats, deception, and coercion to obtain evidence, and such evidence is not permissible in court; however, police sometimes used these means to obtain statements.

The law limits the length of pretrial detention from indictment to the conclusion of a trial to two years for most cases, but allows detention for up to four years for crimes that carry up to the maximum penalty (40 years in prison). The law sets two years as the maximum detention permitted after an appellate court vacates the judgment of a trial court. Nonetheless, prolonged pretrial detention was a problem. Due to inefficient court procedures, some of which were required by law, cases often took extended periods to come to trial; once begun trials often took a long time to complete.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary; however, the courts remained susceptible to corruption and political influence. Observers believed that judicial reform, particularly the replacement of judges appointed during the Milosevic era, was essential to eliminate corruption. The country passed five reform laws in 2008, the most controversial of which came into effect during the year. The new laws effectively require every judge to be reselected, allowing the High Court Council (HCC) to reappoint the most effective judges. While most observers lauded the goals of the law, the process was widely criticized for lack of transparency.

Judges and prosecutors, particularly those handling organized crime and war crimes, continued to receive death threats.

War crimes prosecutor Vladimir Vukcevic and his associates in the Office of the War Crimes Prosecutor continued to receive death threats from within the country and abroad; on April 10, his office reported receiving 69 threats. Also in April, Justice Minister Snezana Malovic and Special Prosecutor for Organized Crime Miljko

Radisavljevic received death threats believed to have come from associates of accused organized crime figure Darko Saric. The threats were made after the special organized crime prosecutor indicted Saric and his group on suspicion of cocaine smuggling.

In August the press reported that Vladana Vukcevic-Jovanovic received death threats from soccer hooligans following her decision to sentence Partizan fan group leader Milos Radisavljevic to 16 months in prison for endangering the safety of B92 reporter Brankica Stankovic.

There were no developments in the October 2009 report by Belgrade district court Judge Velimir Lazovic that an unidentified Belgrade lawyer had threatened that he would not be reelected as a judge if he "was not careful." Lazovic was the presiding judge in the trial of Uros Misic, a soccer fan charged with attempted murder for an attack on a police officer during a 2007 match. In October 2009 the Office of the State Prosecutor announced that it would investigate the threat, which it equated to an attempt to obstruct justice.

The courts were inefficient. Although the system of recordkeeping made it difficult to assess accurately case backlogs or court efficiency nationwide, cases could take years to be resolved.

Causes of delay and backlog in the courts included an insufficient number of judges in the main courts, failure of postal workers to serve subpoenas and other court documents, failure of police to execute arrest warrants, failure of prisons to bring prisoners to court for scheduled hearings, issuing indictments or scheduling hearings without complete and thorough investigations, excessive continuances of court hearings, a lack of professional court administration, and failure to invest in professional personnel and modern infrastructure. In many cases, unwieldy procedures required by the law contributed to delays.

Beginning in January, trials were further delayed by the implementation of judicial reform, during which the judicial system was restructured and judges were reselected. Courts spent January and February moving files, staff, and judges to new locations and introducing judges to new roles. In May inmates at a prison in Novi Sad led a daylong protest against lengthy court proceedings resulting from judicial reform.

On January 1, the HCC took supervisory authority over almost all aspects of court operations based on the package of reform laws passed in 2008. In 2009 the HCC's only responsibility was the selection of all judges in the country's judiciary. Approximately one-third of sitting judges were not reappointed. After the HCC announced its selections in December 2009, a number of judges and the Judges' Association criticized the HCC for a lack of transparency, in particular regarding the selection criteria, and called for the HCC to provide a justification to those judges not chosen. Hundreds of the judges who were not appointed filed complaints with the Constitutional Court. On July 16, in response to these complaints, the Constitutional Court ordered the HCC to draft individualized responses to applicants who were not selected. In one case the Constitutional Court ordered the HCC to reconsider the application. In August the Judges' Association announced that several former judges would file complaints with the European Court of Human Rights (ECHR) because the Constitutional Court was unable to protect the rights of judges who were not reselected. On December 7, Justice Minister Snezana Malovic announced that every judge would be interviewed and each decision reexamined.

*Trial Procedures.*—The constitution provides for the right to a fair trial. Trials are usually public, but they can be closed if the trial judge determines it is warranted for the protection of morale, public order, national security, the interest of a minor, or privacy of a participant. The testimony of a state-protected witness may also be grounds for closing a trial to the public. There are no juries. The law stipulates that defendants are presumed innocent, have the right to have an attorney represent them at public expense, and have the right to be present at their trials. Defendants have the right to access government evidence and to question witnesses. Both the defense and the prosecution have the right to appeal a verdict. The Government generally respected these rights in practice.

The special war crimes chamber continued trying war crimes cases (see section 1.a.). According to the law, evidence gathered by special investigative techniques is admissible.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the ECHR found nine violations by the state of the European Convention on Human Rights. Most of the cases involved procedural delays and length of court proceedings. The majority of cases settled out of court also dealt with judicial delays. In 2009 the ECHR issued

16 judgments that found at least one violation of the convention by the state. The Government generally paid compensation ordered by ECHR decisions.

*Civil Judicial Procedures and Remedies.*—The constitution establishes an independent and impartial judiciary in civil matters, and citizens can bring lawsuits seeking damages for or cessation of a human rights violation. Remedies usually involved monetary awards.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions; however, the Government interfered with privacy and correspondence. While the law requires the Ministry of Internal Affairs to obtain a court order before monitoring potential criminal activity and police to obtain a warrant before entering property except to save persons or possessions, police occasionally failed to respect these laws.

On June 29, parliament adopted the Law on Electronic Communication. Under the new law, telecommunications operators are obliged to retain for one year data about the source and destination of a communication; beginning, duration, and end of a communication; type of communication; and terminal equipment identification and location of the customer's mobile terminal equipment. This retained data can be accessed by intelligence agencies without court permission. A court order is still required to access the contents of these communications. Both the ombudsman and the commissioner for information of public importance and personal data protection opposed the new law.

Most observers believed authorities selectively monitored communications, eavesdropped on conversations, read mail and e-mail, and tapped telephones. Human rights leaders also believed that their communications were monitored.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and The Press.*—The constitution provides for freedom of speech and of the press; however, the constitution specifically allows restrictions on speech “to protect rights and reputation of others, to uphold the authority and objectivity of the court, and to protect public health, morals of a democratic society, and national security of the Republic of Serbia.” There were reports of government interference with freedom of speech and press, mostly at the municipal level. In most cases, individuals could criticize the Government publicly or privately without reprisal.

Parliament approves the budget of the independent Republic Broadcast Agency (RBA), which has broad authority to revoke radio and television station licenses without the right of appeal. However, the RBA did not revoke any national broadcasting licenses during the year.

Most print and broadcast media were independent and privately owned, although the state maintained extensive media resources, and the privatization of municipally owned media was not yet completed. Some newspapers did not make their ownership public, leading observers to question their independence. Radio-Television Serbia (RTS), a public media outlet funded by mandatory subscription, was a major presence, operating two television channels as well as Radio Belgrade. The RTS's coverage was usually objective, although the Government had considerable influence over the RTS and the public service Radio Television of Vojvodina. In addition many television stations relied on the state-owned agency Tanjug for news. The independent news agencies BETA and FONET complained that state financing gave Tanjug an unfair commercial advantage.

Binding RBA instructions required the RTS to broadcast parliamentary sessions live, despite the RTS's complaints that it suffered financial and advertising losses as a result. The RTS managing board stated that the order directly interfered with its editorial policy. Parliament occasionally cancelled or postponed its sessions when the RTS was not able to broadcast them due to conflicting contractual commitments. In 2008 the mission of the Organization for Security and Cooperation in Europe (OSCE) to Serbia expressed concern that the RBA's decision was not in accordance with European standards of media freedom.

Independent media organizations were generally active and expressed a wide range of views; however, some media organizations experienced threats or reprisals for publishing views critical of the Government.

During the year some reporters and media organizations were victims of vandalism, intimidation, and physical attacks for coverage and portrayal of views unpopular with the Government and right-wing elements of society, such as the capture and extradition of war crimes fugitives.

There were no developments in the case of Dejan M. from Pancevo, who was arrested and released in February 2009 for sending threatening e-mails to inde-

pendent radio B92's Kaziprst show host Danica Vucenic, her family, and other employees of B92 and their families.

The trial in Belgrade of Milan Savatric, Nikola Lazic, and Stefan Milicevic in connection with the July 2008 attack on B92 cameraman Bosko Brankovic continued at year's end.

On August 5, Milos Radisavljevic, leader of one of the Partizan soccer team's fan clubs, was sentenced to 16 months in prison for threatening B92 journalist Branka (Brankica) Stankovic at a soccer game in December 2009. Stankovic, the host of B-92's investigative journalism program Insider, received anonymous threats in response to an expose examining the ties between violent hooligans and sports fans' clubs. The trial court in Belgrade dismissed charges against other soccer hooligans on April 22, but on August 4, the court of appeal overturned the decision and returned the case to the trial court for further proceedings.

Police investigations and judicial processes involving assaults on journalists were often long and inefficient. One local assessment of the country's laws determined that, although the legal framework was mostly harmonized with international standards, local courts in practice often diverged from the ECHR in application of article 10 of the European Convention on Human Rights, which provides for freedom of expression.

On July 24, Teofil Pancic, a journalist for the independent weekly Vreme and Radio Free Europe and an outspoken critic of extremist nationalism and sports hooliganism, was beaten with a metal bar on a crowded bus. Danilo Zuza and Milos Mladenovic, who are believed to be associated with extremist nationalist groups, were arrested and sentenced to three months incarceration. Prosecutors announced that they would appeal the sentence, as the legally proscribed penalty for the crime is six months to five years.

Human rights activists charged that they were subjects of smear campaigns in the majority of media for expressing criticism of the Government or challenging the popular narrative about the country's role in the wars of the 1990s.

*Internet Freedom.*—There were no government restrictions on access to the Internet, e-mail, or Internet chat rooms; however, as in previous years, there were some isolated reports that the Government monitored e-mail. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to an Ipsos Strategic Marketing report in May, 51 percent of households had access to the Internet.

On June 29, parliament adopted the Law on Electronic Communication, which obliges telecommunications operators to retain for one year data on the source and destination of communication for use by government agencies (see section 1.f.).

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedoms of assembly and association, and the Government usually respected these rights in practice.

In contrast to 2009, organizers from the LGBT community were permitted to hold a pride parade, which had extensive security protection from the Government.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—According to official statistics of the Serbian Commissariat for Refugees (SCR), 210,146 displaced persons from Kosovo resided in the country, mainly Serbs, Montenegrins, Roma, Ashkali (an Albanian-speaking ethnic group considered by outsiders as similar to Roma but self-identifying as a separate group with cultural distinctions from Roma), Gorani, and Bosniaks who left Kosovo as a result of the 1998-99 conflict. As of the end of August, according to the SCR, approximately 3,164 displaced persons from Kosovo remained in 41 official collective centers in Serbia. Those not in collective centers were generally settled in private accommodations. Many IDPs did not have access to government services due to a lack of identification documents, which could be difficult to acquire if adequate

paperwork was not available when a child was born. The country's laws and policies generally protect IDPs in accordance with the UN Guiding Principles on Internal Displacement. Although the Government continued to close collective centers, many displaced persons remained in minimally habitable facilities originally constructed for temporary accommodation rather than for long-term occupancy.

Without an official identification card from the Government, displaced individuals were not able to access services, but the Government did allow displaced persons access to assistance from NGOs and international organizations.

The law requires all residents of the country to record changes of residency and to appear in person at the place of their prior registration to remove themselves from the registry. In order to meet this requirement, many IDPs were required to travel to former Kosovo civil registries that are currently scattered throughout Serbia to deregister. According to the UNHCR, some IDPs of Roma, Ashkali, Egyptian, and Gorani ethnicity were arbitrarily prevented from deregistering their Kosovo address and reregistering a new address in the country, despite meeting legal requirements. Without an authorized local address in the country, individuals were ineligible for health insurance, social welfare, and public schooling. NGOs provided legal assistance to displaced persons from Kosovo to register residency successfully.

The Government continued to pay minimum wage salaries, including social and pension contributions, to displaced persons who were in the Kosovo government and state-owned enterprises before mid-1999 and who were not employed during the year. Displaced persons who found a job permanently lost eligibility for government assistance. The Government's investigation into the eligibility of displaced persons who were recipients of such payments continued at year's end. There were approximately 22,000 officially registered displaced Roma in the country. However, the UNHCR estimated that 40,000 to 45,000 displaced Roma, many of whom presumably lacked personal documents necessary to register their status, were living in the country. While some displaced Roma lived in government-supported collective centers, living conditions for Roma (both local and displaced) were generally extremely poor. Local municipalities often were reluctant to accommodate them. If Roma did stay, they often lived in unauthorized, isolated, informal settlements without electricity, water, sanitation, or other public services near major cities or towns.

While government officials continued to make public statements that displaced persons from Kosovo should return to Kosovo, senior government officials also claimed that it was unsafe for many to do so. Many Roma believe they may be at risk if they return, claiming that Kosovo Albanians and the Government assumed that many Roma displaced from Kosovo were Serb collaborators during the Kosovo conflict. Approximately 600 individuals who had been living in displacement centers in the country returned to Kosovo during the year.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government established a system for providing protection to refugees. The country was a transit country for a mixed flow of migration toward Western Europe. The majority of registered asylum-seekers disappeared before an initial decision was made on their applications and sometimes before interviews were conducted.

The Government in law and practice provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Asylum-seekers had freedom of movement in the country after establishing their identity and filing an application for asylum. They were eligible for public assistance, including accommodation and food, but they did not have the right to employment until recognized as refugees through the country's refugee status determination process.

The SCR controlled the country's sole asylum center, which had capacity for approximately 80 persons. At the end of August, there were 34 asylum-seekers in the asylum center.

The SCR is also responsible for status determination and care of refugees from the former Federal Republic of Yugoslavia. During the year the SCR provided 680 construction kits and 495 income-generation grants to secure durable solutions for refugees and IDPs that were valued at 2.24 million euros (\$3 million) and intended to provide 3,676 refugee and IDP families in 139 municipalities with durable solutions for housing. According to official SCR statistics, 86,155 refugees from Croatia and Bosnia and Herzegovina resided in the country, while the Government estimated that approximately 200,000 to 400,000 former refugees were naturalized but not socially and economically integrated into the country. Approximately 900 refugees lived in collective centers throughout the country.

The Government also provided temporary protection (refugee status on a *prima facie* basis) to individuals from former Yugoslav republics who may not qualify as refugees. The refugee status of individuals from the Socialist Federal Republic of Yugoslavia continued to be regulated under the 1992 Decree on Refugees.

*Stateless Persons.*—The country's law states that citizenship is derived from one's parents. According to the local UNHCR office, 146 stateless persons were granted permanent residence in the country during the year. The UNHCR also reported 16,700 actual stateless persons due to existing legislative gaps in the process of civil registration and lack of documentation. Lack of information, administrative fees, cumbersome and lengthy procedures, difficulty of obtaining documents, the lack of an official recognized residence, and sometimes the need to go to court to prove origin and identity prevented effective enjoyment of citizenship rights for these persons. These problems disproportionately affected the Romani, Ashkali, and Egyptian communities, particularly displaced persons from Kosovo, although they also affected others who were destitute and living in isolated areas.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—The country held two rounds of presidential elections in January and February 2008 and parliamentary elections in May 2008, resulting in the creation of a pro-EU government. The OSCE and other election observers, including domestic organizations, judged these elections to have been mostly free and fair.

Political parties mostly operated without restrictions or outside interference. However, in its final report on the 2008 parliamentary elections, the OSCE Limited Election Observation Mission noted that some aspects of the campaign went beyond the acceptable limits for a democratic society, in particular when death threats to senior officials were reported. The mission reported the display of a large number of posters in Belgrade that could be interpreted as advocating the assassination of top state officials.

There were 56 women in the 250-seat parliament. The speaker and three of six parliamentary vice presidents were women. There were five women in the 27-member cabinet. The law on elections of members of parliament requires parties' election lists to include at least 30 percent women, and political parties participating in the 2008 elections observed this provision.

The law exempts ethnically based parties from the 5 percent threshold required for a political party to enter parliament. Seven members of national minorities, including ethnic Hungarians, Bosniaks, and Albanians, were elected to parliament. Two members of ethnic minorities, both Bosniaks, were in the 27-member cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There was a widespread public perception of government corruption at all levels. According to World Bank governance indices and surveys by the UN Development Program, corruption was a problem in 2009.

The private sector considered corruption in the commercial courts to be widespread. Land transfers often were difficult to conclude, leading many in the private sector to allege administrative corruption. It was unclear, however, to what extent these problems were due to corruption rather than bureaucratic inefficiency.

On January 10, the Anticorruption Agency began operating. The agency is an independent state body that reports to the parliament and is responsible for implementing the national anticorruption strategy and overseeing issues related to conflict of interest and financial disclosure. The agency replaced the Republic Board for Resolving Conflicts of Interest and has no independent enforcement capacity. On June 11, the agency published asset declarations of 700 government officials; however, due to the low figures that many leading politicians reported, there was widespread public doubt about the accuracy of the declarations.

One provision of the Anticorruption Agency's mandate requires officials who hold multiple government positions to decide which one of these they would perform. After a prolonged debate, on July 28, the parliament passed amendments to the Anticorruption Law that allow officials to hold multiple, directly elected state functions for a two-year transition period. The Anticorruption Agency and the Council of Europe's Group of States against Corruption opposed the amendments.

On June 1, prosecutors indicted former minister of defense Prvoslav Davinic for abuse of office in connection with his allegedly signing a contract worth 4.6 billion dinars (\$55.9 million) in 2005, thereby exceeding his authority. On September 16, prosecutors indicted Davinic again for abuse of office for having given a ship worth 4.1 million dinars (\$50,000) to the Regional Center for Underwater Demining in Montenegro. Davinic resigned as minister of defense in 2005 due to his implication in a scandal involving purchases of body armor.

On June 29, police arrested four doctors, including Nenad Borojevic, the director of the Oncology and Radiology Institute in Belgrade, and three representatives of foreign pharmaceutical companies in connection with a bribery scandal. The four doctors were accused of having received one million euros (\$1.3 million) in bribes from the country's representatives of Roche, PharmaSwiss, and AstraZeneca in exchange for ordering the purchase of cytostatic cancer drugs from the companies. Press also reported that doctors overprescribed the drugs to increase the amount of drugs purchased. In November police arrested seven additional suspects as part of the same investigation. The new suspects included doctors in Sremska Kamenica, Kragujevac, Nis, and Belgrade, as well as two additional representatives of Merck Pharmaceuticals. The proceedings against all suspects were still in the investigative phase at the end of the year.

There were reports of authorities' failing to act in response to detailed reports of suspected corruption. There were isolated reports of high-profile politically motivated investigations. During the year authorities made some arrests for corruption and continued the prosecution of high-profile cases from previous years.

There were no reports of developments in the following corruption cases: the cases of the 19 persons attached to the army and arrested in February and March 2009 for giving and receiving bribes and committing fraud related to obtaining state-owned apartments and medical and social security benefits; the cases of the eight persons arrested in February 2009 in Belgrade, Valjevo, and Vrhpolje for corruption related to misappropriation of National Investment Plan funds; the case of the 35 persons, including 18 police officers, arrested in March 2009 in Novi Pazar, Raska, and Kraljevo for giving and receiving bribes, smuggling oil, meat, alcoholic and non-alcoholic beverages, and other goods across the border between the country and Kosovo, and illegal possession of weapons and narcotics; the June 2009 case of Vesna Stevanovic, a Nis Municipal Department registrar, accused of accepting bribes in exchange for issuing expedited or false citizenship, birth, death, and marriage certificates; and the case of 13 police officers and six customs officers who were arrested in December 2009 on bribery and abuse of power charges.

The trial of former Zrenjanin mayor Goran Knezevic and 21 other defendants that began in October 2009 on charges of criminal association, abuse of office, and accepting and offering bribes continued throughout the year.

In June 2009 the Republic Board for Resolving Conflicts of Interest recommended that the deputy mayor of Belgrade, Milan Krkobabic, resign for failing to submit mandatory financial disclosure; at the end of the year, Krkobabic remained in his position.

The Government has not fully implemented the access to information law and generally did not provide access in practice. The law provides for public access to information of "legitimate public importance" (with many exceptions) and establishes an independent commissioner for information of public importance selected by parliament to handle appeals when government agencies reject requests for information.

At the end of the year, the Commissioner for Information of Public Importance and Personal Data Protection began to receive public information reports from the 3,000 government offices and institutions that are required to file them annually. Of the 698 offices that submitted reports by the end of the year, 51 percent produced and posted Information Booklets on their Web sites, 56 percent organized training for employees on implementation of the Law on Free Access to Information of Public Importance, and 73 percent provided and maintained Web sites.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of independent domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. However, these groups were sometimes subjects of criticism, harassment, and threats by nongovernmental actors for expressing views critical of the Government or contrary to nationalist views regarding Kosovo, the ICTY, and the wars of the 1990s. Prominent independent human rights groups included the HCS, the HLC, the Lawyers' Committee for Human Rights, the Fund for

an Open Society, the Youth Initiative for Human Rights, and the Belgrade Center for Human Rights.

There were no further developments, and none were expected, in the 2008 incident in which two persons accosted and threatened HCS head Sonja Biserko.

The Government cooperated with international governmental organizations and during the year hosted visits by OSCE High Commissioner on National Minorities Knut Vollebaek, a delegation of the OSCE ambassadors, ICTY Chief Prosecutor Serge Brammertz, and others.

The Office of the National Ombudsman continued to operate without government or party interference. Ombudsman Sasa Jankovic reported that his office had more cases of human rights violations than it could follow, and governmental institutions followed his recommendations in approximately 70 percent of cases. The ombudsman issues an annual report on his activities and special reports on issues of concern. Vojvodina Province had its own ombudsman who operated independently during the year. According to the Ministry of Human and Minority Rights, 14 of the country's 169 municipalities had ombudsmen. The national ombudsman opened branch offices in two municipalities with majority Albanian populations.

On July 28, parliament passed rules of procedure that established the Committee on Interethnic Relations and the Committee on Gender Equality. The Working Group for Children's Rights was transformed into a special working body, the Standing Committee for Children's Rights. Most observers believe the policy significance and value of the committees are limited.

The Government continued to make progress on its cooperation with the ICTY. In December ICTY Chief Prosecutor Serge Brammertz stated in his semiannual report to the UN Security Council that the country has continued to respond adequately to the tribunal's requests for assistance and provided access to documents, archives, and witnesses. However, two ICTY suspects, Ratko Mladic and Goran Hadzic, remained at large, and the ICTY continued to insist on their arrest. Brammertz reported that decisive and intensified action by the operational services and political authorities was critical for obtaining the arrest of the two fugitives.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status, and the Government made efforts to enforce these prohibitions effectively. However, discrimination against women and ethnic and sexual minorities, trafficking in persons, and violence against women and children were problems. On May 5, parliament elected the first commissioner for equality, Nevena Petrusic.

*Women.*—Rape, including spousal rape, is punishable by up to 40 years in prison. Advocates believed that only a small percentage of rape victims reported their attacks due to fear of reprisals from their attackers or humiliation in court. Few spousal rape victims filed complaints with authorities. Women's groups believed that sentences were often too lenient in practice. Out of 78 cases of rape tried during the year, 63 resulted in convictions.

Violence against women was a problem. While high levels of domestic violence were generally understood to persist, there were no reliable statistics on the extent of the problem. Research by NGOs concluded that domestic violence was widespread; every second woman suffered from some form of psychological violence, and every third from physical abuse by a family member. In 92 percent of these cases, the perpetrator was the victim's husband or partner. The Autonomous Women's Center reported that on average 1,000 women per year turned to it for help. According to Women against Violence Network, 24 women (two of them minors) were killed in the first seven months of the year and, in almost 80 percent of the cases, the suspects were the victim's husband, partner, father, or son.

Domestic violence is punishable by up to 10 years' imprisonment. The law provides women the right to obtain a restraining order against abusers. Such cases were difficult to prosecute due to the lack of witnesses and evidence, and the unwillingness of witnesses or victims to testify. The few official agencies dedicated to coping with family violence had inadequate resources. The NGO community played the primary role in combating violence against women. NGOs operated shelters for female victims of violence, and the Government continued to provide financial support to safe houses for victims of family violence throughout the country. The national broadcasting service RTS ran a media campaign to prevent domestic violence. Osvit, a Nis-based NGO, operated a Romani-language telephone hotline for female victims of domestic violence or abuse.

Sexual harassment was a common problem. The law makes sexual harassment a crime punishable by up to six months imprisonment for a simple case and up to one

year's imprisonment for abuse of a subordinate or dependent. Public awareness remained low, and few complaints were filed during the year.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There was a National Center for Family Planning, and local health centers frequently also had family planning centers. There are no restrictions on the right to access contraceptives. On April 6, Katarina Sedlecki, the head of the National Center for Family Planning, told the media that youths lacked adequate information on the importance of the use of contraceptives. The Government provided free child-birth services. Women used nurses and midwives for prenatal and postnatal care unless the mother or child suffered more serious health complications. According to 2008 UN estimates, the rate of maternal deaths in maternity wards in the country was eight per 100,000 live births. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV.

Women have the same legal rights as men, including under family law, property law, and in the judicial system. These rights were to a great degree enforced in practice. During the year the Government's Council for Gender Equality, the parliamentary Committee for Gender Equality, the Ministry of Labor and Social Policy's Directorate for Gender Equality, gender equality mechanisms and institutions in Vojvodina, local committees for gender equality, and the deputy ombudsman worked with NGOs to raise public awareness of gender equality problems. On August 26, the Government adopted an Action Plan for Implementation of the National Strategy for Improvement of Status of Women and Gender Equality 2010-15. The law on gender equality provides equal opportunities and treatment for men and women in employment and requires state bodies to provide that the less-represented gender occupy at least 30 percent of the positions in each organizational unit, including management. Research by the employment Web site found that women earned 8.5 percent less than men, but also noted sectors such as marketing, business administration, and accounting in which women earned more than men.

Traditional views of gender roles, particularly in rural areas, resulted in discrimination against women. In remote rural areas, particularly among some minority communities, women could not effectively exercise their right to control property.

The social status of women was generally considered inferior to that of men, and women were not well represented in the business world. Women over 50 years of age who lost their jobs due to the economic crisis had more difficulty finding work than men of a similar age, and more women than men became unemployed as a consequence of economic crisis. According to a survey by the Bureau of Statistics, the unemployment rate for women was 20.4 percent, as compared to 18.3 percent for men. Thirty percent of managers and 20 percent of chief executive officers were women. Only 12 women sat on the administrative boards of companies. Maternity leave is provided by law; however, there were reports that private companies did not always meet legal obligations. NGOs reported that some childless women felt discriminated against during the hiring process because employers feared they would take maternity leave in the future.

*Children.*—Citizenship is derived from one's parents. The law on birth records regulates universal birth registration, but according to the UN Children's Fund (UNICEF), 5 percent of Romani children were not registered at birth. Subsequent birth registration remains unregulated. Children who are not registered do not have access to public services such as health care.

Education was free through secondary school but compulsory only through primary school. There was no difference in the treatment of girls and boys at the primary, secondary, and postsecondary levels; however, cultural norms and economic hardship discouraged some children from attending school.

While the law provides that government clinics offer free medical care, including free medicines from a limited list of covered drugs, there were reports that corruption resulted in restricted access to medication for some. Romani children often faced difficulties in accessing health care.

Child abuse was a problem. Children were often victims of family violence, and peer violence among children was on the rise. Girls were victims of sexual violence. According to available data, child abuse, including sexual violence, was also on the rise. Children in the country were exposed to verbal or physical abuse on a daily basis, and many children were exposed to alcohol, drugs, and violence.

While teachers were instructed to report suspected child abuse cases, they often did not do so. Police usually responded to complaints, and authorities prosecuted child abuse cases during the year. In several court cases, defendants were found

guilty of child abuse and sentenced to imprisonment. Psychological and legal assistance was available for victims. Children also were accommodated in safe houses for victims of family violence.

Child marriage was a problem in some communities, particularly among Roma and in rural areas of southern and eastern Serbia. In the Romani community, boys and girls generally married between the ages of 14 and 18, with 16 years old as the average age. Boys generally married a few years later than girls, and some girls married as early as 12 years of age. Recent information indicated that the number of Romani child marriages was declining while the number of child marriages in the general population was growing. Child marriages occurred among individuals from all economic and social backgrounds.

The minimum age for consensual sex is 14 years old. The criminal code sets penalties for statutory rape ranging from three to 12 years in prison. If the statutory rape is qualified as particularly severe, punishment ranges from five to 15 years' imprisonment. If the rape results in the victim's death, the perpetrator is sentenced to a minimum of 10 years in prison.

The law prohibits child pornography. Using a child to produce pornographic materials or for a pornographic show is punishable by six months to five years in prison. Selling, showing, exhibiting, or otherwise making child pornography available publicly or electronically is punishable by up to two years' imprisonment.

Children in orphanages and institutions were sometimes victims of physical and emotional abuse by caretakers and guardians and suffered sexual abuse by peers.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—While the law bans hate speech, translations of anti-Semitic literature were available from ultranationalist groups. Approximately 100 different anti-Semitic books were sold in bookshops. Right-wing youth groups and Internet forums continued to promote anti-Semitism and use hate speech against the Jewish community.

Holocaust education continued to be a part of the school curriculum at the direction of the Ministry of Education, and the role of the collaborationist National Salvation government run by Milan Nedic during the Holocaust was also debated as part of the secondary school curriculum. There was a tendency among some commentators to minimize and reinterpret the role of national collaborators' movements during World War II and their contribution to the Holocaust in the country.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution prohibits discrimination against persons with disabilities in employment, education, access to health care, and the provision of other state services. The Government generally enforced the law. However, lack of access to older public buildings and public transportation was a problem. The law mandates access for persons with disabilities to new public buildings, and the Government generally enforced this provision in practice.

The law prohibits physical, emotional, and verbal abuse in all schools, and there were no reports of abuse in special education facilities.

The Center for Independent Living (CIL), a disability rights NGO, reported that most persons with disabilities lived isolated from their communities and that facilities for their education and care were nonexistent or inadequate.

Unemployment remained a serious problem for persons with disabilities; in April it was reported to be 87 percent. A lack of workplace accommodations combined with overall high unemployment made it difficult for persons with disabilities to obtain work. While there were no reports of overt discrimination against persons with mental or physical disabilities, the CIL reported that it was difficult to detect discrimination because employers usually gave other reasons for not hiring persons with disabilities.

On May 23, the Law on Employment of Persons with Disabilities went into effect, requiring companies with more than 20 employees to hire persons with disabilities.

The Ministries of Labor and Social Policy, Education, and Health all had sections with responsibilities to protect persons with disabilities. The Ministry of Labor and Social Policy had a broad mandate to conduct liaison with NGOs, distribute social assistance, and monitor laws to provide that the rights of disabilities were protected in new legislation. The Ministries of Health and Education offered assistance and protection in their respective spheres.

*National/Racial/Ethnic Minorities.*—A report on the country by the European Commission against Racism and Intolerance in 2008 noted the existence of a climate

of hostility toward national and ethnic minorities, who constituted 25 to 30 percent of the country's population and included ethnic Hungarians, Bosniaks, Roma, Slovaks, Romanians, Vlachs, Bulgarians, Croats, Albanians, and others. Sixty-eight out of 169 municipalities in Serbia are multiethnic.

Roma, who constituted 1.4 percent of the population in the 2002 census but whose actual number was estimated at 5.4 percent according to the Ministry of Human and Minority Rights, continued to be the most vulnerable minority community. Roma were the targets of verbal and physical harassment from ordinary citizens, police violence, and societal discrimination.

On October 7, the city of Belgrade evicted 36 Roma from an informal settlement on Vojvodjanska Street to clear land for construction. According to NGO reports, the Government did not provide alternative accommodation or legal assistance.

During the year there were reports of violence against members of minority groups. In January in Temerin in Vojvodina, there were two separate attacks on two Hungarians, who were beaten after they told assailants they were Hungarians. Police identified assailants in the first incident.

On June 11, following the killing of a Serbian teenager by a Romani resident, violent protests against Roma broke out in the Jabuka village in Vojvodina. For several days, Serbs from the village demonstrated in front of Romani homes, throwing rocks and chanting anti-Romani slogans. The gendarmerie only reacted to protect Roma after four days of protest. Police arrested six individuals for incitement of racial and national hatred and intolerance. Five were being tried at the end of the year.

There were also numerous reports of vandalism and graffiti against minorities. For example, on April 16, unknown assailants in Backi Monostor in Vojvodina sprayed the Democratic Association of Croats in Vojvodina with chauvinistic anti-Croatian graffiti.

There were no developments and none were expected in the March 2009 incidents in which unidentified individuals speaking Serbian attacked Eliot Balog, a Hungarian, in Sombor and approximately 15 youths attacked Congor Ka, also a Hungarian, in Temerin.

The investigation continued into an April 2009 series of attacks on Roma in the town of Cacak.

There were no further developments, and none were expected, in the 2009 cases of League of Social Democrats of Vojvodina leader Nenad Canak and his deputy, Bojan Kostres, who received threatening letters from an unidentified source warning them to withdraw from politics within a month or be killed. The party reported the threats to the police and demanded a thorough investigation.

In September 2009 the state prosecutor, Slobodan Radovanovic, submitted a request to the Constitutional Court to prohibit the right-wing group Obraz and the nationalist movement "1389" from actions that were intended to undermine the constitutional order violently, violate human and minority rights, and incite racial, ethnic, or religious hatred. The case was pending at year's end.

Many Roma continued to live illegally in squatter settlements lacking basic services such as schools, medical care, water, and sewage facilities. According to UNICEF, Romani children were one-third as likely to live to their first birthday as other children. While the educational system provided nine years of free, mandatory schooling, including a year before elementary school, ethnic prejudice, cultural norms, and economic hardship discouraged some Romani children from attending school. In August the Ministry of Education hired Romani teaching assistants for 26 schools across the country.

Ethnic Albanian leaders in the southern municipalities of Presevo, Bujanovac, and Medvedja continued to complain that ethnic Albanians were underrepresented in state institutions at the local level.

The Government took some steps to counter violence and discrimination against minorities. It operated a hotline for minorities and others concerned about human rights problems. Civic education classes offered by the Government as an alternative to religion courses in secondary schools included information on minority cultures and multiethnic tolerance. The law allows official use of the native language and alphabet of any national minority that constitutes 15 percent of the population in a given area, but representatives of the Albanian and Czech communities complained that the software used to produce identity documents would not accept characters not contained in the Serbian alphabet.

On June 6, elections for National Minority Councils (NMC) were held. Nineteen minority communities voted in direct elections. Three minority communities chose their NMC representatives through indirect elections. Following several unsuccessful attempts to form the Bosniak minority council, on December 8, Minister for Human and Minority Rights Svetozar Ciplic announced that new elections for that

council would be held in early 2011. The NMCs have broad competencies over education, mass media, culture, and the use of minority languages.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—Violence and discrimination against members of the LGBT community were serious problems. While attacks happened frequently, few were reported publicly because victims feared further harassment.

On August 12, police arrested Christian Zivanovic for stabbing and robbing two German citizens, Dominic Miller and a minor. Zivanovic told police he attacked them because they were “acting like members of the gay population.”

During the October 10 Pride Parade in Belgrade, approximately 6,000 rioters (mostly soccer hooligans and nationalist extremists) attempted to attack and disrupt the parade, injuring 147 police and inflicting approximately \$1.4 million in property damage. When police prevented them from reaching the parade, they attacked several buildings, including foreign embassies and political party headquarters.

Societal perceptions of homosexual conduct and attitudes towards the LGBT population continued to be negative. According to a survey done in March by the Center for Free Elections and Democracy and the Gay Straight Alliance (GSA), 56 percent of the population believed homosexuality posed a threat to society, 67 percent believed it to be a disease, 20 percent supported or justified violence against LGBT persons, and 5 percent were ready to use violence to combat homosexuality. Several neo-Nazi Web sites, nationalist Web forums, and Facebook pages based in the country hosted anti-LGBT forums and groups.

Members of the LGBT community continued to be targets of attacks. LGBT organizations reported that many violent attacks against the LGBT community were not reported to police because the victims did not believe their case would be addressed properly and wanted to avoid further victimization from the police or publicity generated by their complaint.

In March 2009 a group of approximately five masked individuals broke windows and attempted to enter the Student Cultural Center in Kragujevac during a press conference held by the GSA to present its annual report on gay rights in the country. The GSA alleged that the attackers had been emboldened by the Government's decision to withdraw a draft law against discrimination from parliamentary procedure in response to pressure from the Serbian Orthodox Church and right-wing groups. On March 14, police arrested three individuals in connection with the incident, but there was no additional information available at year's end.

In May 2009 the district prosecutor in Belgrade declined to file criminal charges in connection with the 2008 attack by a group of approximately 20 youths wearing surgical masks and hoods on participants in a gay rights festival in Belgrade. In July the NGO Labris initiated a civil suit on behalf of one of the victims; the case was pending at year's end.

Although the broadcasting law prohibits discrimination on the grounds of sexual orientation, some media carried slurs against LGBT persons. The tabloid press continued to publish articles with hate speech against the LGBT population and interviews with homophobic right-wing groups.

*Other Societal Violence or Discrimination.*—There are 2,440 persons registered as infected with the HIV virus. NGOs reported acts of discrimination against persons with HIV/AIDS, including job loss and harassment by neighbors. NGOs and some health workers also reported that some medical workers discriminated against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The constitution provides for the right of workers to join or form unions of their choosing. This right is subject to restrictions, including approval by the Ministry of Labor and Social Policy and a statement from the employer that the union leader is a full-time employee, which reportedly was tantamount to a requirement of employer approval. The state-affiliated Confederation of Autonomous Trade Unions of Serbia (CATUS), a federation of unions formed during the country's socialist period and supported by the Milosevic regime, outnumbered independent labor unions in the public sector. However, independent trade unions were able to organize and address management in state-owned companies on behalf of their members. In the state-owned sector, 55 to 60 percent of workers were unionized, while in the private sector, 13 to 15 percent were unionized. In newly privatized companies, up to 35 percent of workers belonged to unions.

The constitution and law allow unions to conduct their activities without interference, and the Government protected this right in practice.

The constitution provides for the right to strike except by persons delivering essential services, such as public utilities, radio and television broadcasting, food pro-

duction, healthcare, education, social services, military and intelligence services, work in the chemical, steel, and metals industries, and the postal service. Employees in essential services constituted more than 50 percent of the workforce and had to announce planned strikes at least 10 days in advance and to ensure that a “minimum level of work” was provided. Workers frequently exercised the right to strike, especially in the first part of the year. According to some estimates, a total of 40,000 to 50,000 workers throughout the country were on strike at some point during the year.

*b. The Right to Organize and Bargain Collectively.*—The constitution guarantees the right to work, to unionize, and to strike, and the labor law protects the right to bargain collectively. This law was effectively enforced and collective bargaining was freely practiced. The law requires collective bargaining agreements for any company with more than 10 employees. However, in order to negotiate with a private employer, a union must represent 15 percent of company employees. In order to negotiate with the Government, a union must represent 10 percent of all workforce employees. Collective bargaining agreements covered approximately 40 percent of employed workers.

The law prohibits discrimination on the basis of trade union membership but does not expressly prohibit discrimination for trade union activities and establishes no specific sanctions for antiunion harassment. During the year the independent trade union Nezaivnost continued to allege discrimination against trade unions and violations of workers’ rights. There were no updates in the 2008 trade union discrimination case that Nezaivnost initiated at the Traval Tire Factory in Krusevac, when the management of the company and CATUS refused to recognize that Nezaivnost represented a portion of the workforce and excluded it from collective bargaining negotiations. Nezaivnost alleged that similar situations existed in all large state-owned companies where CATUS had special ties with politically appointed management teams, citing as an example the state power company EPS, where Nezaivnost had not been able to establish a presence, despite repeated efforts since 2004.

According to the NGOs Felicitas and Center for Democracy, the most common worker’s rights violations were work performed without an employment contract; nonpayment of salary, overtime, and benefits; employers’ withholding maternity leave allowances; discrimination based on sex and age; discrimination against persons with disabilities; unsafe working conditions; and general harassment. Workers fired for union activity have a legal right to reinstatement. According to Nezaivnost, with the help of the Ministry of Labor and Social Policy’s Labor Inspectorate, the trade union continued to gain reinstatement of several of its members who had been previously fired for union activities.

There are no special laws or exemptions from regular labor laws in the country’s three export-processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The constitution prohibits forced and compulsory labor, including by children; however, children, primarily from the Romani community, were forced to beg and commit petty theft. Also see the Department of State’s Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Children were forced, often by their families, to beg and commit petty crime. Many of these children lived in substandard housing conditions without access to education. The law penalizes with prison terms of three months to five years parents or guardians who force a minor to engage in begging, excessive labor, or labor incompatible with his or her age. The Family Care and Social Welfare Department within the Ministry of Labor and Social Policy also addressed the social problems in the Romani community that led to forced labor.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws protecting children from exploitation in the workforce in industries but did not have authority to check informal workplaces or individual households. In urban areas, children, primarily Roma, worked in the informal sector as street vendors and car washers. In villages and farming communities, underage children commonly worked in family businesses. In Romani communities, families sometimes forced their children into manual labor or begging.

For information on trafficking in persons, including persons trafficked for forced labor and slavery, also see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The minimum age for employment is 15 years old, and youths under 18 years old require written parental or guardian permission for employment. The labor law stipulates very specific working conditions for youths and limits their workweek to 35 hours. Penalties include fines of up to 780,000 dinars (approximately \$9,534).

According to the Ministry of Labor and Social Policy’s Labor Inspectorate, which is responsible for enforcing the child labor laws, during the year inspectors did not

register any violations involving employment of youths under the age of 18 without parental permission.

*e. Acceptable Conditions of Work.*—The minimum wage for the period between January and June was set at 15,840 dinars (approximately \$194) per month. The minimum wage did not provide a decent standard of living for a worker and family. In companies with a trade union presence, the union generally monitored effective enforcement of the minimum wage. This was not the case in smaller private companies where employers were either unwilling or unable to pay minimum wages and mandatory social benefits. These companies often employed unregistered workers, that is, workers “off the books,” for whom the employer did not pay social and pension contributions and to whom the employer paid a cash salary directly without recording the transaction. Most unregistered workers did not report labor violations because they feared losing their jobs. The Labor Inspectorate is responsible for enforcing the minimum wage.

The average monthly net salary in November was approximately 34,591 dinars (approximately \$422).

Unlike in previous years, wage arrears were no longer reported to be substantial and widespread.

The standard workweek of 40 hours prescribed by the labor law was generally observed in state-owned enterprises but not in private companies. The law provides that an employee may not work overtime for more than four hours a day or for more than 240 hours in a calendar year. For an eight-hour workday, one 30-minute break is required. At least 12 hours of break are required between shifts during a workweek, and at least 24 hours of break are required over a weekend.

Collective agreements were the primary means of providing premium pay for overtime. However, the labor law requires that the premium for overtime work be at least 26 percent of the salary base, as defined by the relevant collective bargaining agreement. Trade unions within a company are the primary agents for enforcing overtime pay; however, the labor inspectorate also has enforcement responsibilities. The inspectorate did not always enforce labor regulations.

The law requires companies to establish a safety and security unit to monitor observance of safety and security regulations; however, in practice these units often focused on rudimentary aspects of safety, such as purchasing soaps and detergents, rather than on providing safety equipment for workers. Workers did not have the right to remove themselves from situations that endangered their health or safety without jeopardy to their employment. The Labor Inspectorate was responsible for worker safety and health, and it increased inspections and preventative measures during the year.

## SLOVAKIA

The Slovak Republic, with a population of approximately 5.4 million, is a multiparty parliamentary democracy led by a prime minister and a 150-member Narodna Rada (National Council). Voters elected the head of government, Prime Minister Iveta Radicova of the Slovak Democratic and Christian Union, to a four-year term in 2010. President Ivan Gasparovic, the head of state, was reelected for a five-year term in 2009. Both elections were considered free and fair. Six political parties, four of which form the governing coalition, participate in the National Council. Security forces reported to civilian authorities.

Notable human rights problems included some continuing reports of police mistreatment of Romani suspects and lengthy pretrial detention; concerns about the integrity of the judiciary, corruption in national government, local government, and government health services; violence against women and children; trafficking in women and children; and societal discrimination and violence against Roma.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and the law prohibit torture and other cruel, inhuman, and degrading treatment or punishment, and the Government generally respected these provisions in practice.

Nongovernmental organizations (NGOs) and members of the Romani community cited a continuing trend of mistreatment of Romani suspects by police officers during arrests and while in custody. The Council of Europe's Committee for the Prevention of Torture (CPT) conducted a monitoring visit in 2009. The CPT noted that the situation in the country had improved from that observed on previous visits, despite recurring complaints from detainees about excessive force. The CPT also urged the Government to investigate all allegations of involuntary sterilization of Romani women promptly and thoroughly, and educate doctors about their criminal liability for performing sterilization without consent.

According to reports by NGOs, in July police officers in Senec beat and injured a Roma man who refused to sign what he claimed was a false confession to robbery charges.

The district court in Kosice accepted prosecution charges against 10 police officers accused of abusing six Romani boys (ranging in age from 11 to 16) in Kosice following the alleged theft of a purse. Videotapes of the incident, leaked to the media in April 2009, showed the officers forcing the boys to strip naked, kiss, and hit each other. The trial started in November, and was pending at year's end. The representative of the boys, Poradna lawyer Vanda Durbakova, has asked the court for non-pecuniary damages of 30,000 euros (\$40,200) for each victim's family. She says the boys were exposed to humiliation and cruel and inhumane treatment. Seven of the 10 policemen have been suspended from duty.

Police continued to provide special training on Romani culture and language to officers working in districts with Romani communities in the Kosice and Presov regions. The Bratislava branch of postsecondary schooling for police also offered an elective course in Romani language and culture.

*Prison and Detention Center Conditions.*—Prison and detention center conditions met most international standards; however, overcrowding continued to be a problem. There were on average 8,844 persons in prison in 2009. There are five minimum security prisons in the country that, according to the Ministry of Justice, operated at between 101 and 124 percent capacity in 2009.

Prisoners were able to express complaints without censorship, and a public defender of rights, or ombudsman, is available for their legal aid. The ombudsman is elected by parliament and does not report receiving political interference in his work.

On February 11, the CPT released a report on its March-April 2009 visit to the country. The findings of the 2009 visit indicated that "in general, there has been an improvement in the treatment of persons deprived of their liberty by law enforcement officials, as compared to previous visits to Slovakia by the CPT." Specifically, there were fewer allegations of ill-treatment; nevertheless, there were several allegations of physical ill-treatment of detained persons by police officers, related to "the excessive use of force during apprehension, and the infliction of slaps and kicks immediately after the person had been brought under control."

The Government permitted visits by independent human rights observers. Observers expressed concern that no independent group or NGO regularly monitored prison conditions.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police has sole responsibility for internal and border security and reports to the Ministry of Interior. The head of the police force reports directly to the interior minister, who has the authority to recall any member of the police. Human rights observers believed police were occasionally reluctant to accept the testimony of certain witnesses, particularly Roma, women, and homeless persons, and often failed to investigate cases involving Roma and other minorities promptly and thoroughly.

In June 2009 authorities arrested six police officers following an investigation that indicated they had been working as security guards in a brothel in Senec. The officers involved were removed from the police force.

The most common charge authorities brought against police officers was abuse of power; other charges included battery, assault and battery, and illegal intrusion into private homes. In 2009 authorities charged 171 police officers with crimes; in 61 of these cases, the crime was abuse of power. Disciplinary action ranged from fines to expulsion from the police force.

During a June 2009 visit of the Chinese president to Bratislava, the police refrained from intervening when violent clashes between Slovak protesters and supporters of the Chinese president erupted. NGOs subsequently filed a complaint against the Ministry of Interior for failing to protect the rights of the protesters.

Then Prime Minister Fico publicly supported the police, and the ministry dismissed the complaint.

Human rights training remained on the curriculum at police training facilities.

*Arrest Procedures and Treatment While in Detention.*—The constitution and the law stipulate that a person can only be taken into custody for explicit reasons and must be informed immediately of the reasons for detainment. A written court warrant is required for arrest. The court must grant a hearing to a person accused of a crime within 48 hours (or a maximum of 72 hours for “serious cases,” defined as violent crimes, treason, or other crimes with a sentence of at least eight years) and either release or remand the individual. There was a bail system in place that functioned effectively. Detainees have the right to consult with an attorney immediately and must be notified of this right. The Government provides free counsel to indigent detainees. Attorney visits were allowed as frequently as necessary. The law allows monthly family visits upon request.

If remanded by a court, the accused is entitled to an additional hearing within 48 hours, at which time the judge must either release the accused or issue a written order placing the accused in custody. The authorities respected these provisions in practice.

Criminal court procedures mandate that the total time of detention (pretrial plus trial) cannot exceed 12 months in the case of minor offenses, 24 months for regular crimes, 36 months for severe crimes, and five years for crimes in which the expected sentence is 25 years or a life sentence. In addition, pretrial detention cannot account for more than half of the total detention time. In cases with extenuating circumstances, the Supreme Court may extend pretrial detention to four years. Delays in court procedures and investigations frequently led to lengthy detentions during both the pretrial and trial periods. According to 2009 statistics, pretrial detainees accounted for approximately one-quarter of the total prison population; detainees were held on the average for 123 days at the district court level and 299 days at the regional court level. From January to July 2010 authorities held 1,091 individuals in pretrial detention.

The law allows plea bargaining, which reduced the backlog of court cases. During 2009 plea bargaining resolved 6,856 cases, compared with 5,741 cases in 2008. During the first half of the year, plea bargaining was used to resolve 4,120 cases.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, in practice problems with corruption, official intimidation of judges, inefficiency, and a lack of integrity and accountability continued to undermine judicial independence. In some cases the judiciary was subject to high-level influence and pressure by the judicial hierarchy. In some cases, judges felt they faced attempts to influence decision making as well as intimidation via disciplinary actions from the Judicial Council. Military courts were abolished in 2009.

In May the Constitutional Court ruled seven to six that the Special Court, designed to hear cases of official corruption and those related to high-ranking government and political figures and organized crime, was unconstitutional. In June the parliament passed a bill to create a new specialized court to hear corruption cases. Under the new law, judges’ salaries were reduced, and judges were no longer required to have security clearances. These changes addressed the Constitutional Court’s reasoning for declaring the Special Court unconstitutional. Some judges stated that they felt pressure to rule against the Special Court.

There were also reports of inconsistent decision making and substitution of judges to influence court decisions.

In June 2009 former Justice Minister Stefan Harabin was elected president of the Supreme Court. Several NGOs mounted a campaign against his election, citing his personal contacts with a person suspected of organized drug-related criminal activity. They also criticized his misuse of disciplinary actions as tools to intimidate and harass judges. More than 12,000 persons signed the petition. Several judges also filed a Constitutional Court claim against his election, which remained pending at year’s end.

There were reports that higher levels of judicial hierarchy misused their power and issued instructions to individual judges on how they should decide specific cases.

In 2009 Bratislava district court judge Marta Laukova filed a criminal complaint against her superior in which she claimed that her superior ordered her to release a criminal from pretrial detention, a clear constraint on her judicial independence. Laukova did not follow the order and was subsequently transferred from the criminal law department and subjected to other forms of intimidation, including frequent workplace inspections. Laukova’s health condition declined sharply, and while she was in the hospital, the Judicial Council decided, for the first time in the country’s

history, that her medical insurance payments would be suspended. The Judicial Council stated that her sickness was “purposeful.” In September Judge Laukova died in the hospital. The Judicial Council posthumously awarded Laukova medical compensation.

Disciplinary actions taken against judicial delays appeared to be highly inconsistent. In some cases judges faced suspension for delaying cases, while in other, similar cases there was no action taken. Suspension was considered a severe action, as suspended judges are prohibited from entering the court building, receive only one-third of their salary, and their cases are assigned to other judges.

District court judge Juraj Babjak, former judge of Slovak Constitutional Court and author of several critical articles about the state of the judiciary, faced disciplinary action for alleged delays during the year. Although he had communicated to the president of his district court that it was impossible to deal with cases he was assigned because of their number and complexity, the court’s president filed disciplinary action against him proposing demotion to a lower court. The case was pending with the disciplinary court.

In April former Supreme Court Senate chairman and judiciary critic Jozef Kandra resigned from his post, reportedly due to pressure he faced from disciplinary proceedings against him. Kandra presided over the case against the so-called “acid gang” that dissolved the corpses of its victims in acid. Supreme Court president Stefan Harabin initiated disciplinary proceedings against Kandra for court delays. In his defense, Kandra noted that the cases he dealt with were complex, containing tens of thousands of pages. The law does not specify the period of time that would constitute a court delay; critics asserted that Harabin did not apply such a strict standard evenly to all judges, but rather only against critics of the judiciary. A disciplinary hearing on March 17 found Kandra guilty of procrastination in court proceedings and decided to decrease his wage.

Other judges faced disciplinary and criminal actions after having openly criticized Supreme Court president Harabin. Judge Katarina Javorcikova, a spokesperson of the Society for Open Judiciary (ZOJ), which publicizes cases of judicial intimidation, faced a criminal investigation initiated by former Justice Minister Viera Petrikova. However, the police investigation did not find sufficient evidence to prosecute Javorcikova.

The Judicial Council initiated disciplinary proceedings against district court judge Stanislav Sojka for a letter he wrote to President Ivan Gasparovic voicing concern over the integrity of the judicial system and of Supreme Court judge Peter Paluda. Sojka was also suspended from duty after he filed a criminal complaint against Harabin for misuse of power.

With the exception of the Constitutional Court, courts employed a computerized system for random case assignment to increase transparency. There were reports that this system was subject to manipulation. The watchdog NGO Fair Play Alliance filed a criminal and disciplinary motion against the president and the vice president of the Supreme Court for allegedly manipulating the electronic assignment system. Supreme Court president Harabin subsequently filed a criminal motion against Fair Play Alliance Director Zuzana Wienk for false accusation, which remained pending at year’s end.

In 2008-09 more than 500 judges (out of a total of 1,400) submitted claims of “wage discrimination.” The mass court claims submitted by the judges raised serious concerns about the ethics of some members of the country’s judiciary as well as the potential impact on the state budget. The disgruntled judges asserted that they had been discriminated against because judges sitting on former Special Court to combat corruption and organized crime had higher salaries. Many members of the public perceived the claims as illegitimate and driven by the judges’ envy and greed. According to media reports, the judges’ claims had been organized by senior officials in the judiciary. Justice Minister Viera Petrikova and the Supreme Court president Harabin openly supported the judges’ claims. Justice Minister Viera Petrikova had also filed a claim for wage discrimination, even though she was also a defendant in the case. Petrikova was replaced by Lucia Zitnanska in July when the new government took office.

In some of the wage discrimination cases, district courts awarded judges compensation up to 90,000 euros (\$120,000). Critics and members of the public noted that individual judges’ wage discrimination complaints were being decided by colleagues who had filed similar complaints, suggesting serious conflicts of interest and calling into question the impartiality of court proceedings.

In June 2010 a judicial disciplinary senate ruled that veteran judge Anna Benesova be demoted for allegedly prohibiting the recording of court proceedings in one of her cases. Consequently, the Judicial Council, presided over by Stefan Harabin, decided that judge Benesova will be demoted not to a lower court in her

home city Bratislava, but to a district court in Levice more than 60 miles away. Instead of working there, Benesova decided to retire.

Benesova asserted that the real motive for her demotion was her unwillingness to decide in favor of Supreme Court president Harabin in a libel case against daily newspaper SME. Following Benesova's suspension from the Bratislava Regional Court in 2008, the judge who replaced her in the Harabin v. SME case ruled in Harabin's favor and ordered SME to pay him 33,134 euros (approximately \$44,400). Witnesses at her disciplinary hearings testified that Benesova did not prohibit the recording; normally in such cases judges received only minor or no sanctions.

In September 2009, 105 judges sent a letter to the president, prime minister, the chairman of the National Council, the justice minister, and the Judicial Council protesting the improper use of disciplinary panels against independent judges, particularly for critics of Harabin. The judges did not receive a response. In an open statement in October 2009, signed by the same 105 judges, they wrote about "an atmosphere of fear" in conducting their work within the judiciary.

*Trial Procedures.*—Defendants enjoy a presumption of innocence. They are also presumed innocent during the appeals process, meaning that a person found guilty by a court does not serve his imposed sentence nor pay any fine until the final decision on his appeal is reached. Persons charged with criminal offenses are entitled to fair and public trials and have the right to be informed of the charges against them. The law does not provide for jury trials. A panel of three judges is obligatory in criminal cases and in civil cases at the regional court and Supreme Court levels. However, NGO observers stated that judicial corruption often resulted in lengthy court delays and improper handling of police investigations. Defendants have the right to be present, consult in a timely manner with an attorney (at government expense if indigent), access government-held evidence, confront witnesses against them, and present witnesses and evidence on their own behalf. Defendants have the right to refuse self-incrimination, and may appeal adverse judgments.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—There were 569 complaints filed against the state before the European Court of Human Rights (ECHR) in 2009, up from 488 in 2008. The ECHR ruled on 69 cases in 2009. In 38 rulings, the court found a violation of the European Convention on Human Rights; of these, 29 violations concerned "reasonable time" requirement for civil and criminal proceedings. Out-of-court settlements were reached in another 10 cases. In total, the Government paid 512,000 euros (\$686,000) to applicants as compensation in 2009. Approximately 1,300 complaints filed against state remain unresolved. The court issued 12 rulings against the state during the year.

Three forced-sterilization civil suits that predated the 2005 law prohibiting such sterilizations were filed with the ECHR in 2004. Two were still pending at year's end.

In April 2009 the ECHR ruled in favor of eight Romani women who suspected they had been sterilized without their knowledge. The hospitals where the procedures had been performed allegedly denied the women access to their medical records, and the ECHR ruled that this denial of access was a violation of privacy; the allegation of uninformed sterilization was not at issue. Four of the women subsequently received access to their medical files; at least one of them discovered she had been sterilized. The remaining four women continued to be denied access to their medical records. In 2007 the Ministry of Health informed the NGO Poradna, which had assisted the women in preparing their legal case, that the women's medical records were lost. After numerous unsuccessful civil proceedings, the plaintiffs were each awarded 3,500 euros (\$4,690) in damages.

*Civil Judicial Procedures and Remedies.*—Citizens have unrestricted access to an independent judiciary to bring lawsuits in civil matters including human rights violations. Courts that hear civil cases were subject to the same delays as criminal courts and were often perceived by the public as corrupt. Administrative remedies are available in certain cases. The National Center for Human Rights has the authority to provide mediation for cases of discrimination and to represent claimants in court.

The Office of the Public Protector of Rights (ombudsman) determined that 157 of the approximately 2,528 complaints received in 2008 constituted violations of the rights of the claimants, most of which involved delays in court proceedings. The ombudsman's office continued providing free legal services throughout the country by holding traveling legal clinics in cooperation with individual municipalities.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and the law prohibit such actions, and the Government generally respected these prohibitions in practice.

Police must present a warrant before conducting a search or within 24 hours afterwards.

Romani advocacy groups pressured the Government to acknowledge and compensate victims for past involuntary sterilization practices on Romani women in public health facilities. Patients legally are required to submit written requests at least 30 days before sterilizations are performed; however, criminal charges cannot be filed for offenses that took place prior to 2005, when the law took effect. No victims of involuntary sterilization or sterilization without informed consent received financial redress for sterilization in the country's court system.

According to the NGO Poradna (Center for Civil and Human Rights), which helped alleged victims prepare cases, several civil court cases had been filed. In one case, three Romani women claimed that they were sterilized without informed consent. In 2006 the Constitutional Court ruled that regional-level prosecutors had violated the constitution and the European Convention on Human Rights by improperly closing the investigation of the original claim and awarded each of the claimants 50,000 koruna (approximately \$2,380). The court instructed the prosecution to reopen its investigation in 2007, but the investigation did not yield any new results. Poradna filed another appeal with the Constitutional Court, which was pending at year's end. Two additional cases were pending at regional courts following appeals, and four cases were pending before appeal courts.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and the law provide for freedom of speech and of the press; while the Government generally respected these rights in practice, in some instances the Government limited these rights, including attempts by government officials to impede criticism and to limit actions of extremist groups.

The law prohibits the defamation of nationalities, punishable by up to three years in prison, and denying the Holocaust, which carries a sentence of six months to three years in prison.

The independent media were active and expressed a wide variety of views, although media, especially state-owned television, were subject to political influence. The three public media outlets, STV (television), Radio SRo, and TASR news agency, received state funding and were headed by political appointees. There were reports that directors of Slovak Public Television exerted pressure in the news department to provide favorable coverage of governing coalition events and activities. In October 2009 the director of state-supported STV intervened to halt the broadcast of an investigative report critical of a social enterprise project subsidized by the Ministry of Labor. While the report ultimately aired following a decision by the governing body, the STV council did not renew the contract of the journalist who prepared the report that the director had challenged.

Both the 2008 act on broadcast fees and the 2007 audiovisual law increased broadcast media's dependence on state funding and the perceived schism between print and broadcast media.

In October a study by the Slovak Syndicate of Journalists and the Pan-European University School of Mass Media indicated that the number of journalists who reported feeling pressure from media owners and managers that infringed on their freedom of expression had decreased from 55.5 percent in 1997 to 47.7 percent during the year.

In 2008 a media law went into effect that required publishers to print responses to any "statement of fact that impinges on the honor, dignity, or privacy of a natural person, or the name or good reputation of a legal entity." The law required publishers to print replies on the same page and space as the original article, regardless of whether the original statement was factually correct. Journalists and publishers opposed the law because it could force them to print official government responses without the opportunity for a counter response. The Organization for Security and Cooperation in Europe's representative on freedom of the media stated that, instead of complying with established standards in such cases, the Government was forcing the media to become subject to "political give and take" that violated the country's international commitments to protect the freedom of its media. Members of government took several actions that observers believed were intended to pressure the media to curtail reporting critical of the Government.

In November 2009 former Prime Minister Fico used the right of reply provisions in the media law to respond to a commentary from the daily SME, which alleged that he had been part of a privileged group during the communist era in the coun-

try. SME printed Fico's reply on its opinion page. Media analysts and publishers noted that, when the media law passed, Fico said that he would not use it, as it was designed to protect ordinary citizens from the press.

Criminal penalties for defamation exist under the penal code, but these provisions were rarely used.

Members of the Government, judiciary, and political elites targeted the press in a number of civil defamation lawsuits, which often required the press to pay large sums of money. The International Press Institute and other observers expressed concern that this financial risk could lead to media self-censorship. Courts made multiple decisions in favor of political elites, despite compelling evidence of the veracity of the reports for which media outlets were being sued.

In May the Supreme Court filed a suit seeking 200,000 euros (\$268,000) in non-pecuniary damages from the private radio station Radio Express for its report concerning the renovation costs for a bathroom at the Supreme Court. The court's president, Stefan Harabin, filed the complaint on behalf of the Supreme Court at the First Bratislava District Court. The complaint asserted that the reconstruction of the bathroom next to the office of the Supreme Court president did not cost 32,700 euros (\$43,800) as news reports claimed, but 2,279 euros (\$3,053). The sum of 32,700 euros (\$42,500) figure applied to the overall cost of reconstructing the Supreme Court president's offices.

The radio obtained the story from the daily newspaper Pravda, whose publishing house Perex was also sued for damages of 200,000 euros (\$268,000) by the Supreme Court. The journalists claimed that the Supreme Court did not respond clearly to their requests for information, which were filed according to the law. Pavol Mudry, the director of the International Press Institute (IPI) Slovakia, was reported as saying that the Supreme Court was not guarding against damages to its reputation but was aiming to eliminate media outlets that make the court uncomfortable.

In May 2009 then-justice minister and current President of the Supreme Court Stefan Harabin sent letters to three publishers and one radio station requesting out-of-court settlements of 200,000 euros (\$268,000) from each of them to compensate for articles and statements published in 2008-09 that allegedly damaged his reputation. He did not seek an apology or printed corrections. Harabin had previously won several libel lawsuits against the media, a fact he highlighted in the letters to the media outlets. Observers expressed concern that the former minister's objective was to intimidate and extort the media rather than to restore his reputation. The Association of Publishers of the Periodical Press in Slovakia issued a statement claiming Harabin was "demanding exorbitant sums... higher than those awarded by courts in the cases of the gravest health injuries or deaths."

In July the Bratislava District Court ruled against former Prime Minister Fico in his case against Petit Press, the parent company of leading daily SME, for damages allegedly incurred by publication of a cartoon on its opinion page. The cartoon depicted the former prime minister in a doctor's office, with the doctor examining an X-ray of his neck and implying he was spineless. In his lawsuit, Fico stated that, while he was suffering unbearable physical pain from an injury, SME was misusing his image and mocking his suffering, which harmed his dignity and reputation. Fico's appeal of the verdict remained pending at year's end.

In December 2009 former Prime Minister Fico held a press conference in which he accused the media of conspiring against him, attacking his family, and "operating like the mafia." The publishers of the country's leading dailies responded with a joint article refuting Fico's claims of conspiring against him. The article stated "what is equally offensive are the continuing and escalating attacks against journalists ... The media and journalists are doing nothing other than what is customary in a democracy. The prime minister naturally has the right to use all legal means for his defense. ... However, he does not have the right to incite an atmosphere of aggressiveness toward the media and journalists in society."

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mails or Internet chat rooms; however, police monitored Web sites hosting hate speech and attempted to arrest or fine the authors. The law defines hate speech as speech that publicly threatens an individual or group based on nationality, ethnicity, race, skin color, or that publicly incites the restriction of rights and freedoms of such an individual or group. Individuals and groups could otherwise engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was generally available across the country.

According to International Telecommunication Union statistics for 2010, approximately 74 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution and the law provide for freedom of assembly, and the Government generally respected this right in practice. However, there were complaints against the interior ministry that police officers did not intervene adequately to address violence at demonstrations, as was the case during May's inaugural gay pride parade in Bratislava.

*Freedom of Association.*—The constitution and the law provide for freedom of association, and the Government generally respected this right in practice. However, the law requires organizations to pay a nominal registration fee and stipulates that those registering as foundations have “substantial” financial resources of 6,000 euros (approximately \$8,040) to operate.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has an established system for providing some protection to refugees. The Government granted 14 asylum seekers refugee status out of 822 applicants in 2009, in contrast with 2008, when 909 asylum seekers applied and the Government granted refugee status to 22 applicants. While the asylum law gives officials broad authority to reject applicants based on technical errors in their applications, in practice this was not a problem.

Consistent with EU legislation, the country does employ the concept of a safe country of origin and transit, but is still required to ensure that an asylum seeker's individual well-being is not threatened in a non-EU “safe third country.”

In practice, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In April, however, the Government extradited an Algerian national and alleged terrorist, Mustafa Labsi, back to Algeria despite an interim measure issued by the ECHR that specifically stated that Labsi should not be expelled to Algeria until he exhausted all legal avenues for his asylum claim, including the Constitutional Court. Labsi was extradited before he had time to appeal to the Constitutional Court. Referring to the ECHR interim measure, then-Interior Minister Robert Kalinak stated that even if Slovakia were to be fined, it would only amount to a “couple thousand euros.”

The Government accepted refugees from third countries and provided basic facilities and services to encourage integration. Language training and work permits were available for refugees and asylum applicants with extended stays.

In July 2009 the Government, UNHCR, and the International Organization for Migration signed an agreement to temporarily house 98 Palestinian refugees from Iraq. The refugees arrived in August 2009 and were expected to stay for six months in an asylum facility in Humenne and be provided with accommodation, food, and medical care while their applications for permanent asylum elsewhere were processed. By February, all 98 refugees had been relocated to a third country.

The Government also provided temporary protection to individuals who may not qualify as refugees. The law provides for temporary protection, classified as “tolerated residence,” which is granted if asylum is denied and the individual is not eligible for deportation to his or her country of origin due to administrative problems or fear for the person's safety. In 2009, 97 individuals were granted subsidiary protection, up from 65 persons in 2008.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and the law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—On June 12, citizens voted six political parties into the National Council in free and fair elections. Four of the six parties then

formed the governing coalition, led by the country's first female prime minister, Iveta Radicova. Voter turnout was over 50 percent.

In April 2009 President Ivan Gasparovic, the head of state, was reelected for a five-year term in the second round of voting in an election that was also considered to be free and fair.

Political parties operated without restriction or outside interference. A political party must receive at least 5 percent of the ballots cast to enter the National Council. In the 2010 elections, voters had the option of marking a preferential vote for an individual candidate on a political party list in addition to voting for a party.

There were 24 women in the 150-seat National Council, 41 women on the 79-seat Supreme Court, and two women in the 13-member cabinet, including the prime minister.

The law prohibits collecting information on ethnicity, and it was not possible to determine the precise number of members of minority groups in government. The party Most-Hid ("bridge") holds 14 seats in the National Council, of which seven are ethnic Hungarians. Some ethnic Romani individuals and parties were successful at winning representation at the local and regional levels; however, Roma were consistently underrepresented in government service, and no Roma were in the National Council.

In November 2009 the country held elections for the chairmanships and parliamentary seats in the eight regional governments. Voter turnout was 22.9 percent. For the first time in the country's history, two ethnic Romani candidates were elected to the regional parliaments.

In the eastern part of the country, there were often allegations of vote buying, particularly in Romani settlements, during all elections.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not always implement the law effectively, and some officials engaged in corrupt practices with impunity. There were also concerns, particularly in the business sector, about the privatization of justice. Some NGO governance experts reported that court proceedings have become a contest of vested interests and connections to the judicial powers. While the country has financial disclosure laws, compliance was the exception rather than the rule. The World Bank's Worldwide Governance Indicators also reflected that corruption remained a problem.

Instances of police corruption and misconduct were also reported, primarily the extortion of bribes during traffic stops. Headed by a director who reports directly to the interior minister, the Bureau for the Inspection Service of the Police Corps is responsible for investigating police abuses. Cases may be initiated by the inspection service, the police corps, the police department's organized crime unit, and individual citizens, among others.

The most grievous cases of corruption involved the Ministry of Environment and the Ministry of Construction and Regional Development, which were both headed by the ultra-nationalist Slovak National Party (SNS), a coalition partner of the ruling SMER ("direction") party until July 2010. Former Prime Minister Fico closed the Ministry of Environment because he considered the situation irreparable, and the Ministry of Agriculture took over its functions, until the new government reestablished the ministry in September.

International companies reported multimillion dollar losses that they settled out of court simply because of lack of a credible legal remedy, and cronyism was cited as the country's primary competitive disadvantage.

Following its formation in July, the new government launched its reform agenda by requiring disclosure of all contracts, invoices, and financial transactions relating to the public on the Internet and introducing electronic auctions as a mandatory form of procurement. However, the Government had not prosecuted most of the egregious corruption scandals that had emerged under the previous government.

In April the European Commission (EC) formally questioned whether the winner of the National Highway Company's (NDS) tender to build an electronic toll-collection system had enjoyed an "unfair advantage." The NDS had awarded the tender to the highest bidder, SanToll-Ibertax, a Slovak entity, for 852.1 million euros (\$1.1 billion). The system was plagued by glitches when it began operating in January.

According to a report submitted by EC auditors in March the "presence of indicators of serious fraud was identified" in some of the social enterprises created by former Labor Minister Viera Tomanova. The eight regional social enterprises received 95 percent of their funding from the state to provide training and employment for persons in regions with high unemployment. However, according to the Slovak Governance Institute, the social enterprises were established "in direct contradiction with the existing EU legislation on state aid." As of January, the social

enterprises had received 11.3 million euros (\$15.1 million) in public funds. The new government abolished the projects due to the perceived lack of transparency and corruption allegations.

In May Slovak investigators met their foreign counterparts to discuss new findings in the investigation of the sale of Slovak surplus carbon dioxide emission quotas. The country was believed to have lost at least 40 million euros (\$53.6 million) in a deal in which the environment ministry, then under the political control of Slovak National Party, sold rights to emit 15 million tons of carbon dioxide at approximately half the market price.

The Ministry of Interior is responsible for developing the Government's overall strategy for combating corruption, with a specific focus on investigation and enforcement. The Special Court is responsible for most prosecution efforts (see section 1.e.). The general prosecutor, who is appointed by parliament and independent of the executive and judicial branches, also plays a leading role in prosecuting corruption. The Government Office of the Slovak Republic, which answers to the prime minister, also plays a role in developing anticorruption legislation and regulations.

The law provides for public access to government information; however, NGOs cited a need for greater public awareness of the responsibility of government to provide information. During the year both the Constitutional Court and the Judicial Council restricted access to information. The Government often declined to provide information, reacted with extreme delays to requests, or released only heavily redacted information. In one case, the Government released a contract for the sale of carbon dioxide emission quotas with the names of the buyers, the quantity of quota units, and the price redacted. The reason given was that the information was protected by confidentiality clauses in the contracts. In several such cases, authorities released the information after widespread critical media coverage.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Most NGOs were independent, although the Slovak National Center for Human Rights receives its budget from the parliament, and was thus semi-independent. Government officials were generally cooperative, although NGOs reported that at times government officials seemed to view their activities with suspicion or mistrust.

The country has an 11-member parliamentary Human Rights Committee, which was not particularly active during most of 2010. It did, however, have a public hearing on what some members of the committee determined to be inadequate government action on the 2006 case of an alleged attack on ethnic Hungarian university student Hedviga Malinova. In July, Anna Belousovova, of the SNS took over the chairmanship of the committee, the only committee in parliament chaired by the SNS, which many interpreted as ironic, due to SNS Chairman Jan Slota's infamous verbal slurs against minorities.

The office of the ombudsman is headed by Pavel Kandrac, who submits an annual report on human rights problems to the president. In submitting the 2009 annual report in April, Kandrac reportedly asked for expanded powers. In general, Kandrac's work has not been the subject of executive interference, but on the other hand, human rights activists do not consider his office to be very effective. Kandrac focuses primarily on the issue of court delays and, to a lesser extent, children's rights. During the year his office did not comment on Roma issues, serious problems in the judiciary, or other human rights violations.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and the law prohibit discrimination based on race, gender, disability, language, or social status; the Government made efforts to enforce these prohibitions in practice. All government agencies are required to create special favorable conditions for groups who are victims of discrimination, including but not limited to, employment, education, and vocational training.

*Women.*—The law prohibits rape, including spousal rape. Although the Government enforced the law effectively, rape was an underreported problem according to NGOs and academics. In 2009 there were reports of 142 rapes, and 396 cases of sexual abuse. There were 37 convictions for rape in 2009, and 16 convictions in the first six months of 2010. Rape victims had access to shelters and counseling offered by NGOs and government-funded programs.

Domestic violence against women continued to be a problem. The law prohibits domestic violence; however, it was widespread, and activists claimed that the Government did not enforce the law effectively. A joint study performed by the Ministry

of Labor, Social Affairs, and Family and the Public Policy Institute concluded that one of every five women was a victim of domestic violence. In 2008 parliament passed a law providing police with greater tools to combat domestic violence; the law allows police to prohibit suspected offenders from reentering the domicile where the victim resides for 48 hours after an incident was reported. In 2009 there were 1,028 convictions for crimes that involved domestic violence. During the same period, there were 192 convictions for abuse of a member of household. In the first six months of 2010, there were 508 convictions for crimes that involved domestic violence, and 95 convictions for abuse of a member of household. The law provides stricter sentences for violence directed toward members of the same household and allows for continued criminal prosecution even when a spouse drops charges. Domestic violence is punishable by two to 12 years' imprisonment. Domestic violence often was underreported due to the social stigma associated with being a victim; crime statistics did not adequately reflect the extent of the problem.

Under a national action plan to combat violence against women for 2009-12, government ministries and local governments were tasked with increasing awareness about domestic violence through public media campaigns and training of health practitioners on identification of domestic violence victims.

The law defines sexual harassment as unlawful discrimination. There were few statistics available to measure the frequency or severity of the problem. The National Center for Human Rights received approximately 18 reports of sexual harassment in the workplace in 2009. During the first nine months of the year, the center received seven reports of sexual harassment.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Contraception is widely available, however, the costs must be covered by the individual; they are not covered by the public health services. According to NGOs, the high cost of oral contraception in the country and the lack of public subsidization constitutes a significant barrier to access. According to the Ministry of Health, use of oral contraception is increasing (from 2 percent in 1988 to 20.5 percent in 2005). According to the Population Reference Bureau (PRB), 66 percent of married women between the ages of 15 and 49 use modern methods of contraception. Between the ages of 15 to 18, women must have the approval of their parents and gynecologist to obtain a prescription for oral contraception; they must pay the costs privately.

Child mortality rates were very low. According to the PRB, 100 percent of births are attended by skilled attendants. The law on public health care coverage provides comprehensive reproductive health services for women. According to estimates compiled by international organizations, there were approximately six maternal deaths per 100,000 live births in the country in 2008.

Sexual education is offered at all levels of schools, and the Government's goal is to reduce unwanted youth pregnancies by 50 percent. However, NGOs noted that the quality of sexual education is very low, and is not mandatory. The country has a low incidence of HIV/AIDS infection and women and men are treated equally for sexually transmitted infections, including HIV.

Women and men are equal under the law, including family law, property law, and in the judicial system; however, discrimination against women remained a problem in practice. Although women are legally protected from discrimination in the labor market, NGOs reported that many women had been dismissed from their jobs upon becoming pregnant. The equal opportunity office in the Ministry of Labor, Social Affairs, and Family worked in an advisory capacity to ensure the legal rights of women. The Council of the Slovak Republic for Gender Equality, established at the end of 2008, approved a National Gender Equality Strategy for 2009-13.

The Ministry of Labor and Social Affairs reported that women's 2009 wages were an average of 21 percent lower than those of men. According to outside experts and the Ministry of Labor, the reported wage differences were due to low participation of women in higher-paid management positions and large numbers of women working in low-paid occupations such as education, healthcare, social work, and light industry. The Ministry of Labor also noted that the wage gap was the result not of differences in base wages, but in bonuses which were provided in a less transparent manner.

NGOs continued to advocate increased opportunities for the political participation of women, who were underrepresented in almost all spheres of public power. In 2008 women accounted for 6.2 percent of senior government officials, 20 percent of the National Council, and equally low numbers in regional authorities.

*Children.*—Citizenship is acquired by birth to at least one citizen parent, regardless of where the child is born. Each domestic birth is recorded at the local vital statistics office. If the child is born in a foreign country, the foreign birth certificate

must be notarized, translated, and recorded with a special vital records office administered by the Ministry of Interior.

While education is universal, free through the postsecondary level and compulsory until the age of 15, Romani children exhibited a lower attendance rate than other children. Although Romani children comprised only 15 percent of the total number of children under the age of 16, they were disproportionately enrolled in "special" schools for children with mental disabilities, despite diagnostic scores that were often within the average range of intellectual capacity. In many special schools, the registered student body was nearly 100 percent Roma, according to NGO reports.

The Government did not provide data on the percentage of these students who were from Romani households, as it does not collect ethnic data. In the 2009-10 school year, there were 24,920 students enrolled in special schools and 10,529 enrolled in special classes within regular schools. The Government reported that 36 percent of students in special schools were from socially disadvantaged, primarily Roma, households. According to a September 2010 report by Amnesty International, Romani children comprised 85 percent of the students in special schools. Regular schools in the same communities had very few Romani students, especially at the secondary school level. A special school education did not provide Romani children the knowledge or certification necessary to continue to higher education institutions.

In September Amnesty International (AI) released an update to its 2008 report on school segregation. In the 2008 report, AI featured the town of Pavlovce nad Uhom, where 99.5 percent of the special school students were Roma, some of whom previously functioned at an acceptable level in the mainstream elementary school prior to their transfer. AI also found that Romani parents were offered cultural and financial incentives regardless of the presence of a mental disability to send their children to what was locally known as the "gypsy" school. AI's investigation found that authorities lacked proper assessment procedures for enrolling students in special schools. Following publication of the 2008 report, the Government's School Inspection Service reportedly conducted an audit of 10 percent of all special schools to determine if proper enrollment procedures were followed; no irregularities were found. During the year AI found that, although the school's pupils were still 99.5 percent Romani, the overall enrollment of the school had dropped.

In August the Government adopted a program calling for an end to segregation of Romani children in special schools. In 2008 the Government had passed a law that addressed some of the problems through reform and new programs, specifically eliminating motivational scholarships based on performance and replacing them with attendance-based financial incentives. It also provided for the creation of "zero year" classes, which offer one year of state-funded prekindergarten education to children from socially disadvantaged families. During the 2009-10 school year, 3,134 children participated in the "zero year" program, an increase of 25 percent over the previous year. NGO observers expressed the view that the program was a successful model but that it needed to be expanded further to be effective.

Child abuse remained an underreported problem according to child advocates. The Government continued to increase training programs to reduce the instance of child abuse and implemented a publicity campaign to raise awareness of the issue. A number of children's foundations operated programs for abused or disabled children (or both).

The Government's National Action Plan for Children for 2009-12, funded through the Government budget, focused on training of social workers and other professionals dealing with children, as well as public education campaigns against corporal punishment and sexual abuse of children.

Child prostitution is prohibited; however, according to the UN, it remained a problem in Romani settlements with the worst living conditions. Most of the perpetrators were other Roma.

According to the criminal code, 15 is the minimum age for consensual sex. Rape and sexual violence carry penalties of five to 25 years' imprisonment, depending upon the injury or harm caused the victim and the motive.

The production, distribution, or possession of child pornography is also a crime; the penalties for breaking the law range from two to 20 years' imprisonment.

As of June there were approximately 5,000 children in institutional care, the majority of whom were Roma. Of the 4,100 children in long-term care, nearly 800 were with foster families, a proportion that had increased steadily over the previous decade. According to law, children under the age of three must be cared for by foster families rather than being placed in orphanages. For the remainder of children, orphanages served as long-term care facilities rather than short-term residences. Activists claimed that orphans had difficulty integrating into society at age 18 and faced an elevated risk of falling victim to trafficking. The Ministry of Labor and Social Affairs operated small-group homes for young adults aging out of foster care.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—Jewish community leaders and 2001 census data estimated the size of the Jewish community at approximately 3,000 persons.

Organized neo-Nazi groups, estimated to have 500 active members and several thousand additional sympathizers, promoted anti-Semitism and harassed and attacked other minorities. Jewish community leaders expressed concern that some media coverage in the country exhibited anti-Semitic undertones.

In November 2008 the cabinet approved a penal code amendment that would toughen penalties for extremist acts. President Gasparovic vetoed the amendment, stating that it did not sufficiently define extremism and extremist acts. NGOs also expressed concern that the amendment's ambiguity could be misinterpreted or misused to repress perceived enemies of government including NGOs or media. In June parliament overrode the veto, and the amendment took effect in September. The amendment provides penalties of two to six years' imprisonment for individuals convicted of membership in an extremist group and three to eight years' imprisonment for production of extremist materials.

There were numerous reported acts of anti-Semitism. Police arrested individuals in Roznava, Nitra, Kolinany, Dolne Obdokovca, and other towns for painting swastikas on public buildings or propagating fascist ideology.

In 2007 two young men were arrested and charged with defamation against an ethnic group; the men shouted Nazi slogans at the Bratislava rabbi and his son as they were leaving a synagogue. The case was pending trial at year's end.

While direct denial of the Holocaust was uncommon, expressions of support for the World War II-era Slovak fascist state, which deported tens of thousands of Slovak Jews, Roma, and others to their deaths in German concentration camps, occurred during the year.

In March approximately 250 persons gathered in front of the presidential palace in Bratislava to commemorate the 71st anniversary of the founding of the wartime fascist Slovak state in 1939 and pay respect to its president, Jozef Tiso, who was executed for treason after World War II. Immediately before the extremists commemorated Tiso, human rights activists organized a march to promote tolerance, also in front of the presidential palace.

The Nation's Memory Institute (UPN) provided access to previously undisclosed records of the Slovak regimes from 1939-89, and in past years politicians such as the Slovak National Party Chairman Jan Slota made efforts to abolish it. In April 2009 parliament elected Arpad Tarnoczy, former chairman of the Union of Anti-Communist Resistance (ZPKO) and known for his pro-Tiso sentiments, to the UPN supervisory board. The ZPKO published a newsletter, *Svedectvo* (Testimony), that Jewish community officials criticized for advocating the wartime fascist state. Tarnoczy previously unveiled a monument to Jozef Kirchbaum, a leader of the war time fascist Hlinka Guard.

The Ministry of Interior pursued violent extremist groups, and police monitored Web sites hosting hate speech and attempted to arrest or fine the authors. The Government also continued implementing its action plan to fight discrimination, racism, xenophobia, and anti-Semitism. During the year the Government organized educational programs on minority and human rights issues. High school and university curricula promoted tolerance, and students could also compete in annual essay contests that focused on human rights issues.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. Persons with disabilities were able to vote and participate in civic affairs. In practice, however, experts reported that access to buildings and higher education remained a problem, and laws to provide assistance to students with disabilities have not been implemented with regard to school facilities or educational materials. There were reports that persons with severe physical disabilities received less than the minimum wage in some instances.

NGOs reported limited resources for psychiatric care outside of Bratislava, a lack of community-based psychiatric care, and mechanisms to monitor human rights violations against persons with such disabilities. Psychiatric institutions and hospitals, which fall under the purview of the Ministry of Health, continued to use cage beds to restrain patients. The law prohibits both physical and nonphysical restraints in

social care homes, managed by the Ministry of Labor, Social Affairs, and Family. Several NGOs conducted public education campaigns on mental illness and worked cooperatively with the health ministry.

NGOs have operated a project on patient advocacy in selected psychiatric wards throughout the country since 2007. They have reported no complaints from patients regarding the use of cage beds in the facilities.

A patient in a psychiatric facility in Pezinok was reportedly chained to his bed from February to July 2009. The Ministry of Health believed the physical restraint was lawful and necessary to protect facility staff, although several international NGOs expressed concern and dissatisfaction with this treatment.

While the Government enacted legislation in 2007 requiring television stations to provide "voiceover broadcasting" for blind viewers, this provision has not been implemented by any Slovak broadcaster. While the law defines mandatory standards for access to buildings, NGOs noted that they had not been fully implemented, although access to privately owned buildings improved more rapidly than access to state buildings.

The Council for Citizens with Disabilities, cochaired by the deputy prime minister and the minister of labor, social affairs, and family, served as a governmental advisory body regarding persons with disabilities. NGO representatives also participate in the council.

*National/Racial/Ethnic Minorities.*—Government and societal discrimination against Roma and individuals of non-European ethnicity was a common problem. Roma were the second largest ethnic minority with a population of 90,000 according to the 2001 census. Experts estimated that the Romani population was actually between 350,000 and 500,000. The discrepancy was attributed to Roma identifying themselves as Hungarians or Slovaks.

Racially motivated attacks on minorities (Roma and others) were widely reported throughout the year, but investigation of attacks and law enforcement varied by jurisdiction. During 2009 there were 24 convictions for racially motivated violence. During the first half of the year, there were 14 convictions for racially motivated violence.

Roma were particularly singled out for violence, and police detained numerous individuals for attacks against Roma motivated by racial hatred. There were also reports that police mistreated Roma. In March 2009 police officers in Kosice abused six Romani boys in detention (see section 1.c.).

Skinhead and neo-Nazi violence against Roma and other minorities continued to be a serious problem. The League of Human Rights Activists (LPR) reported that although police were increasingly responsive in their efforts to monitor and control the skinhead movement, the problem persisted. The LPR also reported receiving e-mail and telephone threats from skinheads.

Several non-Romani minorities as well as foreigners were also victims of racially motivated attacks.

In June, four neo-Nazis attacked an African-American man on a tram in Bratislava. The police responded quickly and detained the attackers.

Extreme right, nationalist, and neo-Nazi groups continued to hold events designed to intimidate minority groups. Dressed in uniforms similar to those of the Hlinka Guards (the fascist wartime militia), the groups' members held marches and rallies to commemorate the wartime fascist state and to spread messages of intolerance against ethnic and religious minorities.

An alleged 2006 attack and subsequent perjury charges against Hedviga Malinova, an ethnic Hungarian university student in Nitra, continued to draw media attention. Two young men allegedly physically assaulted Malinova after hearing her speak Hungarian. The district prosecutor discontinued the investigation after two weeks, concluding that Malinova had lied. Amid media and NGO criticism, the Constitutional Court rejected Malinova's multiple appeals, and in 2007 police formally charged Malinova with perjury. In September 2009 Peter Labas, the dean of the Comenius University Medical Faculty, issued a report stating that Malinova's injuries were self-inflicted; several doctors listed as expert witnesses on the report subsequently contradicted the evaluation and asked to have their names removed from it, casting doubts on the report's integrity. In November 2009 Prosecutor General Dobroslav Trnka asked Labas to supplement the report with additional information to assuage doubts raised over its accuracy. In October 2010 the Human Rights Committee of parliament convened a hearing to question the prosecutor general about delays in the case that had already been pending for four years. Trnka responded that Labas' response was still incomplete; thus his office took no additional action on what Trnka referred to as a "banal" case during the year. The case remained pending at year's end.

The Slovak National Center for Human Rights reported receiving 987 complaints of discrimination from January to September; in 2009, the Center received 1,571 complaints. In most of these cases, the claims involved labor-related discrimination, especially concerning hiring processes. Other discrimination complaints concerned the provision of goods and services, social and health care, and education. One NGO criticized the length of time it took for the center to issue required legal opinions on claims of discrimination.

Widespread discrimination against Roma continued in employment, education, health services, housing, and loan practices. Activists frequently alleged that employers refused to hire Roma, whose unemployment rate was estimated to be between 80 and 90 percent.

A case of alleged employment discrimination involving two Romani women received widespread media attention during the year. The pair, sisters who had higher education degrees, had attempted to find work as teachers but were reportedly refused by numerous schools due to their ethnicity. In September at least in part because of this extensive coverage, the media reported the women had received employment offers at a private college.

NGOs reported numerous cases of social discrimination against Roma during the year, including restaurants and other businesses refusing to serve Romani customers.

Local authorities and groups forced evictions of Romani inhabitants or blocked them from obtaining construction permits or purchasing land. Many Romani settlements lacked normal infrastructure, access to clean water, and proper sewage systems.

In August apartment owners in Michalovce built a 25-meter-long wall to connect with walls built earlier by the local municipality and which representatives claimed would be used for sports and to prevent noise. However, some criticized the wall as an attempt to divide local Roma from non-Roma. In September another wall was erected in Presov to separate the Stara Tehelna settlements inhabited by mostly Romani citizens from the area of the city inhabited primarily by non-Roma.

The law prohibits defamation of nationalities in public discourse; however, authorities enforced this law only when other offenses, such as assault or destruction of property, were also committed. There were instances of public officials at every level defaming minorities and making derogatory comments about Roma. Inflammatory speech by government officials continued to increase tensions between ethnic Hungarians and ethnic Slovaks.

In June 2009 parliament amended the State Language Act to allow the Government to impose fines on government institutions, civil servants, and legal persons who did not provide information required by law in Slovak. The amendment included a provision permitting the Ministry of Culture to levy fines of up to 5,000 euros (approximately \$6,700) on institutions for noncompliance. Members of the ethnic-Hungarian minority criticized the amendment as discriminatory and a restriction on their right to free speech, which the culture minister defended as an effort to extend and promote the use of the Slovak language. In response to criticism, the new government made changing the law a priority, and parliament passed an amendment in December that drastically reduced the instances in which an institution can be fined.

The Government made efforts to address violence and discrimination against Roma and other minorities, although some critics worried that judges lacked sufficient training in the relevant laws. The Government continued to implement its action plan against xenophobia and intolerance, which included a special police unit to monitor extremist activities. A commission consisting of NGOs, police, and government officials advised police on minority issues.

In August the Government appointed Miroslav Pollak, a non-Roma with extensive NGO experience in social field work, the plenipotentiary for Romani affairs. His appointment drew criticism from some Romani NGOs. The Government made only limited progress on its national minority strategy, which incorporated a wide range of education, employment, housing, and social integration policy recommendations from the Romani advocacy community. While the Government allocated approximately 200 million euros (approximately \$268 million) of EU structural funds to projects that specifically addressed the needs of the Romani community, NGOs complained that none of the funds had been spent and that the Government lacked a comprehensive approach to Romani integration.

The plenipotentiary maintained five regional offices to supervise the implementation of governmental policy on Romani issues, support infrastructure development, and cooperate with municipalities and villages to improve interaction between Roma and non-Roma. The Ministry of Labor, Social Affairs, and Family assigned specially trained social workers to Romani settlements to assist with government paperwork

and to advocate the importance of education and preventive health care. The Ministry of Health trained Romani-speaking health care assistants to improve the community's access to health services.

During the year the Government had a national antidiscrimination plan. The office of the deputy prime minister for human rights served as the secretariat for the Council of National Minorities and the Government Council for NGOs.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—According to gay rights advocates, prejudice and official and societal discrimination persisted, although no official cases were available for citation.

On May 22, there was a well-attended gay pride parade in Bratislava, which was in part supported by the international community. Shortly after the event began, a group of approximately 50 skinheads marched to within 20 feet of where introductory speeches were occurring. The neo-Nazis chanted slogans and tossed a smoke bomb into the crowd near a group of foreign dignitaries. In response, parade organizers altered the route. In the press scrutiny that followed, Interior Minister Robert Kalinak attributed the problems with the pride parade to its organizers, who "failed to provide appropriate protection against extremists, "such as by hiring their own private security guards." The only thing the organizers achieved, Kalinak asserted, was good advertising for neo-Nazis. The organizers refuted the assertion, noting they had discussed security with the police months in advance.

Officials at times expressed discriminatory views. In December 2009 Jan Slota, the chairman of the Slovak National Party and then governing coalition member, stated: "We're strictly against any promotion of these sick (referring to same-sex) relationships. when I see those transvestites having their parades, strutting down the street naked and presenting this as a fashion.I consider this to be outrageous and sick."

Lesbian, gay, bisexual, and transgender persons organizations existed and operated without impediments and lobbied for legal rights.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join independent unions of their choice except in the armed forces, and workers exercised this right in practice. Labor unions estimated that 17 percent of the work force was unionized; business associations believed the actual figure was less than 10 percent. The law provides unions the right to strike with advance notice when collective bargaining fails to reach an agreement or to support other striking employees' demands (solidarity strike). The unions generally exercised these rights in practice without restrictions. The law prohibits dismissing workers legally participating in strikes; however, strikers were not ensured protection if a strike was considered illegal or unofficial. Civil servants in essential services and members of the military may not strike.

*b. The Right to Organize and Bargain Collectively.*—The law provides for unions to conduct their activities without interference, and the Government generally protected this right in practice. The law provides for the right to organize and bargain collectively, and workers exercised these rights in practice.

According to an Employment Ministry survey conducted in 2008, 24.47 percent of all employees were organized in unions.

There are no special laws or exemptions from regular labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. For more information, see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Police have responsibility for investigating forced labor and trafficking.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law provides for the protection of children from exploitation in the workplace; however, there were reports that Romani children in some settlements were exploited for commercial sex. NGOs reported that most Romani victims, including children with disabilities, were exploited by family members or other Roma.

The minimum age for employment is 15, although children under that age may perform light work in cultural or artistic performances, sports events, or advertising activities if it does not affect their health, safety, or schooling. The National Labor Inspectorate and Public Health Office must approve, determine the maximum hours for, and set conditions for child labor under the age of 15. Children younger than

16 may not work more than 30 hours per week; children who are 16 and 17 are limited to 37.5 hours per week. Children under the age of 18 are not allowed to work underground, work overtime, or perform work that is inappropriate for their age or health.

District inspection units received and investigated child labor complaints. If a unit determined that a child labor law or regulation had been broken, it turned the case over to the national inspection unit of the Ministry of Labor, Social Affairs, and Family. Enforcement was consistent across all communities.

Child labor in the form of begging was a problem in some communities; there were also isolated reports of children forced into prostitution, often by family members.

*e. Acceptable Conditions of Work.*—The minimum wage, of 307.7 euros (\$ 412) per month, provided a decent standard of living for a worker and family in rural areas of the country, but not in urban areas.

The law mandates a maximum workweek of 48 hours including overtime, with 30-minute breaks after six hours of work or after four hours for employees younger than 18, and rest periods of at least 12 hours between shifts. Trade unions, local employment offices, and the Ministry of Labor, Social Affairs, and Family monitored observance of these laws, and authorities effectively enforced them.

The law establishes health and safety standards that the office of labor safety generally enforced. Workers have the right to refuse to work in situations that endanger their health and safety and may file complaints against employers in such situations. In August, 20 miners died in an underground explosion in Handlova; a methane gas explosion caused the disaster. The leadership of the mines remained unchanged, and three separate teams, one from the district mining authority in Prievidza, the second from the economy ministry and the third from the police, had not released the results of their investigations by year's end.

Workers have the right to refuse work that endangers their life or health without risking the loss of their employment, and they exercised this right in practice. Employees who work under conditions that endanger their health and safety are entitled to "relaxation" leave in addition to standard leave.

---

## SLOVENIA

Slovenia is a parliamentary democracy and constitutional republic with a population of approximately two million. Power is shared between a directly elected president (head of state), a prime minister (head of government), and a bicameral parliament composed of the National Assembly (lower house) and the National Council (upper house). On October 10, the country held free and fair multiparty local elections. Security forces reported to civilian authorities.

There were reports of trial delays and cursory procedures for review of asylum applications. Societal violence against women, trafficking in women and girls, discrimination against Roma, violence against gays and lesbians, and discrimination against former Yugoslav residents without legal status were also problems.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices, and there were no reports that government officials employed them.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards. The Government permitted independent human rights observers to perform monitoring visits, and such visits occurred monthly during the year.

The total number of prisoners as of November was 1,336, of whom 943 were convicted persons and 344 were detainees. There were 59 female and 12 juvenile prisoners.

Out of the 13 prisons in the country, only four have a capacity for holding more than 100 inmates. New facilities at Dob Prison increased its capacity by 174 places. The country has also adopted a "weekend prison" program for convicted persons serving sentences of up to three years, who are not convicted of sexual offenses, and

who maintain regular employment during the week. No abuses of the weekend prison system were reported during the year.

The ombudsman reported that prison overcrowding was most severe at Dob Prison (at 175 percent of its capacity) but that the new facility relieved this problem. The second-most overcrowded facility is Ljubljana Prison, which held 240 inmates while having a capacity for 128.

In July the ombudsman investigated a complaint that an inmate in Maribor prison filed about the use of force against him. The ombudsman concluded that unnecessary force had resulted in minor injuries to the prisoner.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

There is an ombudsman who can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding, address the status and circumstances of confinement of juvenile offenders, and improve pretrial detention, bail, and recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the offense with which they were charged.

The Government permitted local and international human rights groups, the media, or the International Committee of the Red Cross to monitor prison conditions independently. No such monitoring occurred during the year.

During the year the Government continued work to increase the capacity of a prison located in Dob, which during the year held 496 inmates, 183 more than its capacity.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Police are centrally organized under the supervision of the Ministry of Interior. The ministry oversees the drafting of basic guidelines, security policy, and regulations governing the work of the police. It monitors police performance, with an emphasis on protecting human rights and fundamental freedoms. The police provided effective law enforcement.

The law provides for a three-person government committee that includes two representatives of civil society organizations to review allegations of police abuse. The committee does not have authority to conduct independent investigations, and it relies on information that the Ministry of Interior or police investigators provided. The committee usually forwarded its findings to the State Prosecutor's Office.

As of September the police internal investigation division investigated 55 allegations of police, prosecutorial, and judicial misconduct.

*Arrest Procedures and Treatment While in Detention.*—Police generally apprehended persons taken into custody openly with warrants that either a prosecutor or judge issued. Authorities can detain persons for 48 hours before charging them. Authorities must also advise detainees in writing within 48 hours of the reasons for their arrest. Upon arrest, detainees have the right to contact legal counsel of their choice, and authorities generally respected this right in practice. The Government provided indigent detainees with free counsel and generally allowed them prompt access to family members. The law also provides safeguards against self-incrimination.

Once authorities charge a suspect, pretrial detention may last for up to four months, depending on the severity of the alleged criminal act. An investigative judge must certify the charges. Once trial procedures have begun, authorities may extend the total period of detention for up to two years. Authorities must release persons detained more than two years while awaiting trial or while their trial is ongoing pending conclusion of their trial. Lengthy pretrial detention was not a widespread problem, and authorities generally released defendants on bail except in the most serious criminal cases.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice. The law provides the right to a trial without undue delay; however court backlogs continued at times to result in lengthy trial delays. As of June, there was a backlog of 266,221 cases. The Government's "Lukenda" project continued to boost the efficiency of the judiciary, reducing court backlogs and lowering the average processing time from 14.1 months to 6.1 months. The Government extended the Lukenda project until 2012.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. The judicial system was overburdened and lacked administrative support; resulting in frequent delays in the judicial process. In many cases ongoing criminal trials took from two to five years.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Courts Decisions.*—On July 13, the European Court of Human Rights (ECHR) issued a judgment that found against the country for one violation of Article 8 (right to a private and family life) and one violation of Article 13 (right to an effective remedy) of the European Convention on Human Rights. The decision in the case of Kuric v. Slovenia concerned the applicants' complaint that authorities prevented them from the possibility of acquiring Slovenian citizenship, and/or from preserving their status as permanent residents, as a result of which they have faced almost 20 years of extreme hardship. The applicants belonged to a group of citizens of the former Yugoslavia whose permanent residency status in Slovenia was erased in 1992. The ECHR concluded that it was necessary to legislate and regulate adequately the situation of the individual applicants by issuing them with retroactive permanent residence permits.

These individuals, the "erased," began acquiring Slovenian permanent residency. The erased were frequently identified as stateless persons who lacked citizenship; however, most of the erased always had citizenship, but lacked permanent residency.

During the year the parliament adopted the Law on Settling the status of citizens of other countries, successor states of the former Yugoslavia in the Republic of Slovenia, on the basis of which the Ministry of Interior began issuing decrees on recognition of the status of permanent residency to persons whose status was erased in 1992. During the year the ministry issued decrees to several dozen individuals.

In 2009 the ECHR issued seven judgments that found at least one violation of the European convention by the state.

The Government complied with ECHR judgments from 2009 during the year. All of them were related to the period in Slovenia before the adoption of the Act Regulating the Protection of the Right to a Fair Trial without Undue Delay (in 2006).

*Civil Judicial Procedures and Remedies.*—The constitution and law provide for an independent and impartial judiciary in civil matters, including damages for, or cessation of, human rights. As with criminal matters, court backlogs sometimes resulted in lengthy or delayed trials.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and law provide for freedom of speech and of the press, and the Government generally respected these rights in practice. Reports of indirect government influence on the media decreased during the year.

The penal code criminalizes the promotion of "national, race, or religious discord or intolerance or the promotion of superiority of one race over others." There were no reports that authorities charged any individuals or publications under this provision during the year.

Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede criticism.

The independent media were active and expressed a variety of views, and international media operated freely. Private investment and advertising supported the major print media; however, the Government owned substantial stock in many companies that were shareholders in the major media houses.

The Government operated a "media pluralization" fund intended to ensure that media reflected a diversity of viewpoints. The Commission for Pluralization of Media (under the Ministry of Culture) publishes tenders for co-financing different media projects through the Fund for Pluralization.

The law provides criminal penalties for defamation that harms a person's honor or name; there were no reports of any prosecutions for defamation during the year. In March there was one conviction issued by the Court of Ljubljana for defamation and the penalty was a fine of 5,000 euros (\$6,700). During the year the police investigated several cases of suspicion of defamation.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Inter-

net, including by electronic mail. Internet access was widely available. According to International Telecommunication Union statistics for 2009, approximately 65 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution and law provide for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The law provides for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

Border police who apprehend persons who then seek asylum have the duty to process applications and transfer the person to an asylum home. There were some reports during the year that border police refused to perform this task.

The law permits asylum seekers to change their asylum applications if there are considerable changes in their circumstances; however, as of year's end, this provision had not been implemented.

The law provides asylum seekers with the right to appeal decisions on their applications, but authorities did not inform many asylum seekers of this right.

To expedite asylum cases and terminate quickly those asylum cases that applicants themselves abandon, asylum seekers must sign a statement renouncing their asylum claim during the 24 hours when they are in the "pre-reception" area of the asylum home, awaiting the filing of their asylum application. This precautionary document is only to allow officials to close cases when asylum seekers do not pursue their asylum claims—claims that would otherwise create a backlog of paperwork and procedure to close down. This precaution is not part of asylum law, but has been observed in practice by the Peace Institute of Ljubljana, which specializes in asylum cases.

If asylum seekers leave the pre-reception area before the application is filed, they are not considered asylum seekers and can be deported or detained in the Aliens Center. After an asylum application is filed, asylum seekers are free to go, but are expected to return to the asylum home every evening. If they are absent for more than three days, their asylum claim is deemed withdrawn, and the authorities consider the asylum seeker to have left Slovenia. If the claimant returns to the asylum home after the three-day period, his/her status changes to that of a nonresident alien, and he/she is subject to deportation.

Amnesty International (AI) and the UNHCR expressed concern that the law provides for accelerated asylum procedures with few safeguards and that its exclusion clauses and broad detention powers could lower the country's asylum standards.

There are no policies or laws that deny asylum based on country of origin.

In practice the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the Government did not provide temporary protection to persons who did not qualify as refugees.

*Stateless Persons.*—Citizenship is derived from the parents with certain limitations when the child is born outside Slovenian territory. Naturalization is also possible. There were no reports of problems with immediate birth registration.

According to UNHCR data, there were 4,090 stateless persons in the country at the end of 2009. However, this number consisted entirely of nonethnic Slovenes (Bosnians, Croatians, Macedonians, Montenegrins, and Serbs), who were Yugoslav citizens living in the country at the time of its independence from Yugoslavia and whose residency status in Slovenia was "erased" in 1992 after they failed to apply for residency by the administrative deadline. Since they or their parents were born

in other former Yugoslav republics, the Government considered most of these “erased” persons to be citizens of other countries rather than stateless. As “illegal aliens,” the Government annulled their identity documents, and they had no rights to education, health care, housing, work permits, pensions, or other government benefits and programs.

In the second half of the year, the Government began retroactively recognizing the residency status of the “erased” inhabitants of Slovenia on the basis of the Law on Settling of the Status of Citizens of Other Socialist Federal Republic of Yugoslavia Successor States. The Government determined that “erased” persons who had left the country or were expelled while their status was undecided had forfeited their ability to prove continued ties to Slovenia and thus their ability to establish residency under the law. The law does not address the citizenship status of the “erased.”

There were no reports of violence or discrimination against stateless persons.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—On October 10, the country held free and fair local elections.

Political parties operated without restriction or outside interference.

There were 12 women in the 90-seat National Assembly and one woman in the 40-seat National Council. There were five women in the 18-member cabinet.

There were two members of minority groups in the National Assembly and none in the National Council or in the cabinet. The constitution provides the indigenous Italian and Hungarian minorities the right, as communities, to have at least one representative in the National Assembly. However, the law does not provide such rights to any other minority group.

Twenty distinct Romani communities, each designated indigenous at the local level, are entitled to a seat on their local municipal council. After four years of non-compliance, in January, Grosuplje became the final municipality in the country to comply with the law, electing a Roma to the city council.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively; however, officials sometimes engaged in corrupt practices.

The public perceived corruption to be a widespread problem. Only the highest-level government officials—approximately 5,000 of the country’s 80,000 public employees—were subject to financial disclosure laws. During the year the Independent Commission for the Prevention of Corruption received 1,271 cases of suspected corruption and found 266 out of the 824 cases they reviewed during the year to be credible (some of the 824 will likely have been cases from earlier years).

At year’s end the investigation continued of several officials, including former prime minister Janez Jansa, former minister of defense Karl Erjavec, former chief of the military staff Albin Gutman, and private individuals in Finland and Slovenia for corruption related to the 2007 Ministry of Defense purchase of armored vehicles from a Finnish defense contractor.

The commission played an active role in educating the public and civil servants about corruption; however, it claimed it had neither adequate staff nor funding to fulfill its mandate and assess all cases of suspected corruption that it received during the year. Over the past year the commission forwarded 211 suspected cases of corruption to police and 38 to prosecutors and 79 cases to other state institutions, including cases received in 2009 but not processed until during the year.

During the year the Independent Commission for the Prevention of Corruption referred five credible reports of police corruption or corruption-related criminal acts to police and the state prosecutor for further investigation. Three of them were found to be without sufficient grounds, one was forwarded to the Supreme State Prosecutor, and one remained under investigation by police. There were allegations of prosecutorial corruption relating to the investigation into bribery in an arms procurement case.

The law provides for free public access to all government information, and the Government provided access for citizens and noncitizens alike, including foreign media. The Government may deny public access only to classified information, personal data protected by privacy laws, and other narrowly defined exceptions.

The Office of the Government Information Commissioner reported an increase in complaints that state institutions were unresponsive. During the year the office received 231 complaints against decisions of state institutions and 360 complaints under the Law on Access to Public Information.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The constitution provides for an independent human rights ombudsman to monitor violations of human rights, especially when perpetrated by persons in positions of public authority. The ombudsman prepares an annual report on the human rights situation and provides the Government with recommendations. Individuals can file complaints with the ombudsman as a means of seeking nonjudicial aid in the case of a human rights violation. In July the ombudsman presented the 2009 report to the president and prime minister.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status, and the Government generally enforced these prohibitions effectively.

*Women.*—Rape, including spousal rape, is illegal. During the year SOS Helpline, a nongovernmental organization (NGO) that provided anonymous emergency counseling and services to domestic violence victims, estimated that one in seven women was raped during her lifetime but that only 5 percent sought assistance or counseling. In particular, victims rarely reported spousal rape to authorities. Police actively investigated reports of rape and prosecuted offenders. The penalty for rape was one to 10 years in prison. There were 35 reported criminal acts of rape in the first half of the year, 40 reported criminal acts of sexual violence, 14 reported criminal acts of sexual abuse of the weak, and 149 criminal acts of sexual attack on a minor under the age of 15.

Although no accurate statistics were available, violence against women, including spousal abuse, occurred and was generally underreported. In the first half of the year, the police processed 3,422 cases of criminal acts against a spouse, a family member, and children (170 cases of kidnapping of minors, 1,337 cases of domestic violence, and 390 cases of parental negligence and child abuse). Police reported an increase in criminal acts of domestic violence, parental negligence, and child abuse, mainly due to changes in the law and improved expertise in responsible institutions. There were no laws specifically prohibiting domestic violence, however, and authorities prosecuted the crime using assault statutes, which provide for penalties of up to 10 years' imprisonment in the case of aggravated and grievous bodily harm.

SOS Helpline estimated that 25 percent of women had experienced domestic violence. The NGOs SOS Helpline and Kljuc provided support hotlines, and SOS Helpline reported receiving 3,417 calls during the year. The Government fully funded eight crisis centers for children and adolescents with a total of 68 beds, with one of those centers specializing in children who were six years old or less. The Government also partially funded 29 shelters, safe houses, and maternity homes that offered 397 beds. Shelters, safe houses, and crisis centers specifically for women and children provided 258 beds in 19 locations, and maternity homes provided 139 beds in 10 locations. The Government worked with NGOs on domestic violence cases, including providing shelters and social work centers. When police received reports of spousal abuse or violence, they generally intervened and prosecuted offenders. The police academy offered training on domestic violence.

The law prohibits sexual harassment in the entire workforce; however, it remained a widespread problem. Until the end of September, 16 criminal acts of sexual harassment were reported.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children. They also have the information and means to do so free from discrimination, coercion, and violence. There was access at no cost to contraception and to skilled attendance during childbirth, including essential obstetric and postpartum care. The UN Population Fund estimated the 2008 maternal mortality rate at 18 deaths per 100,000 live births. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

The law provides for equal rights for women, and there is no official discrimination against women in family law, property law, or the judicial system. The Office of Equal Opportunities protected the legal rights of women. While the average

length of unemployment was the same for men and women, women frequently held lower paying jobs. Women's earnings averaged 93 percent of those of men.

*Children.*—Citizenship is derived from the parents with certain limitations. A child is granted Republic of Slovenia citizenship by birth provided that, upon birth, the child's mother and father are Slovenian citizens, upon birth, one of the child's parents is a Slovenian citizen and the child is born on the territory of the Republic of Slovenia, or upon birth, one of the child's parents is a Slovenian citizen while the other parent is unknown and/or of unknown citizenship, and the child is born in a foreign country. Naturalization is also possible. There were no reports of problems with immediate birth registration.

While education for children is compulsory through grade nine, school attendance and completion rates by Romani children remained low. Poverty, discrimination, lack of parental and familial permission or support, and language problems continued to be the main barriers to the participation of Romani children in education programs. AI reported that the Romani literacy rate was 10 percent. A number of Roma reported that their children attended segregated classes and that authorities selected them in disproportionate numbers to attend classes for students with special needs. The European Social Fund, working through the Ministry of Education, continued a program to fund 26 Romani educators to work with teachers and parents.

During the year the Government implemented a bilingual primary school curriculum for Romani children developed in 2008. The Government continued funding efforts to codify the Romani language.

Child abuse was a problem. During the year 201 criminal acts of sexual abuse of a child under the age of 15 were reported to authorities.

Child marriage occurred within the Romani community; however, it was not a widespread problem.

Trafficking in children, mainly teenage girls transiting the country, was a problem. The law provides special protection for children from exploitation and mistreatment, and the Government generally enforced the law in practice.

The law penalizes the possession, sale, purchase, or propagation of child pornography. The law criminalizes statutory rape with a sentence of six months to five years, and sets the minimum age of consent for sexual relations at 15. If the victim is determined to be especially vulnerable, the sentence is set at a minimum of three years with no maximum. If the perpetrator is a teacher, the penalty is from one to eight years in prison.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There are approximately 300 Jews in the country. Jewish community representatives reported some prejudice, ignorance, and false stereotypes of Jews propagated within society, largely through public discourse. There were no reports of anti-Semitic violence or overt discrimination.

The Government promoted antibias and tolerance education in the primary and secondary schools, and the Holocaust is a mandatory topic in the contemporary history curriculum. On January 27, Prime Minister Pahor attended "Shoah-We Remember," a memorial held in the country's only synagogue, which is located in Maribor. On September 5, the Jewish community, with the support of local government officials, held the fifth annual European Day of Jewish Culture festival. President Turk was the honorary patron for the celebrations held in Ljubljana, Maribor, and Lendava.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other government services, and the Government generally enforced these provisions in practice. The law mandates access to buildings for persons with disabilities. The Government implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications, but modification of public and private structures to improve access continued at a slow pace, and many buildings were not accessible in practice. The Ministry of Labor, Family, and Social Affairs has primary responsibility for protecting the rights of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The law provides special rights and protections to indigenous Italian and Hungarian minorities, including the right to use their own national symbols and access to bilingual education. Each minority has the

right for each to be represented as a community in parliament. Other minorities do not have comparable special rights and protections.

The Government considered ethnic Serbs, Croats, Bosnians, Kosovo Albanians, and Roma from Kosovo and Albania to be “new” minorities, and the special constitutional provisions for “autochthonous” (indigenous) minorities did not apply to them. The new minorities faced varying degrees of governmental and societal discrimination with respect to employment, housing, and education.

Many Roma lived apart from other communities in settlements that lacked such basic utilities as electricity, running water, sanitation, and access to transportation. According to Roma Association officials, 68 percent of Romani settlements were illegal. Organizations monitoring conditions in the Romani community have noted in recent years that Roma exclusion from the housing market was a problem and that the unemployment rate among Roma reached 98 percent, and that illiteracy rates among Roma remain at 90 percent.

In March the Government enacted a five-year national program of measures to improve educational opportunities, employment, and housing for the Roma. NGOs and community group representatives reported some prejudice, ignorance, and false stereotypes of Roma propagated within society, largely through public discourse. AI and the Roma Council reported that public school officials in Novo Mesto required Romani students to shower, using school facilities before classes, subjecting them to ridicule and humiliation.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits discrimination based on sexual orientation; however, societal discrimination was widespread, and isolated cases of violence against homosexual persons occurred. Recent data on the problem’s scope was not available. The NGO Society for the Integration of Homosexuals also reported that the police did not specify whether crimes were directed at homosexual persons, so hate crime data was unavailable.

On July 3, the 10th annual gay pride parade in Ljubljana took place with the support of local government officials, although there were reports that bystanders shouted homophobic slurs at participants and antigay graffiti and stickers were seen in various locations around the city. Organizers reported satisfactory police presence during the parade. One individual was assaulted prior to last year’s gay pride parade, and in March three individuals were sentenced to 18 months in prison for the attack. At that sentencing, about 100 people in black masks gathered in front of the Ljubljana District Court to protest the “excessive punishment” of the attackers. The victim of the assault stated that the protesters were not friends of the accused, but rather associates of the extreme right.

*Other Societal Violence or Discrimination.*—There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers to form and join unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice.

All workers, including police and military personnel, are eligible to form and join labor organizations. Approximately 30 percent of the workforce was unionized.

The law provides for the right to strike without government interference, and workers exercised this right in practice. The law prohibits retaliation against strikers, and the Government effectively enforced this provision in practice.

The law restricts the right of some public sector employees to strike, primarily the police and members of the military services, and provides for arbitration to ensure due process and protection of these workers’ rights.

*b. The Right to Organize and Bargain Collectively.*—The law allows unions and workers to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to bargain collectively, and it was freely practiced; however, the law requires that 10 percent of the workers in an industry sector be union members before collective bargaining can be applied to the sector as a whole. Both general collective bargaining agreements and collective bargaining agreements that focused on a specific business segment covered all workers.

There were few reports of antiunion discrimination. During the year workers from the company Salonit Anhovo who became disabled from on-the-job contact with asbestos established a union, and the company immediately fired the union’s first president, Stojko Simcic.

There are no special laws or exemptions from regular labor laws in the country’s eight export economic zones and the one free customs zone at the port of Koper.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor; however, there were reports that such practices occurred. Women were trafficked for forced prostitution. Please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace; the Government effectively enforced these laws.

The minimum age for employment is 15; however, younger rural children often worked during the harvest season and performed other farm chores. The law limits working hours and sets occupational health and safety standards for children; the Government effectively enforced these provisions in practice. Urban employers generally respected the age limits.

The Ministry of Labor, Family, and Social Affairs is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating violations of the law. Enforcement practices were generally effective.

*e. Acceptable Conditions of Work.*—The national monthly gross minimum wage of approximately 734 euros (\$984) provided a decent standard of living for a worker and family. From September 27 to October 13, public employees, including police, held a strike to protest the salary freeze that the Government introduced.

The law limits the workweek to 40 hours and provides for minimum annual leave of 20 days and a mandatory rest period of at least one day per week. Collective agreements regulated premium pay for overtime and were not standardized. The law limits maximum overtime to eight hours per week, 20 hours per month, and 170 hours per year. The Ministry of Labor, Family, and Social Affairs is responsible for monitoring labor practices and has inspection authority; police are responsible for investigating violations of the law. Authorities enforced the laws effectively, except in some cases involving migrant workers.

According to a complaint filed by the Association of Free Trade Unions of Slovenia (AFTUS) with the International Labor Organization (ILO) Committee of Experts, migrant workers were often orally notified to perform forced and excessive overtime in violation of labor law provisions limiting overtime and specifying methods to formally request it. The AFTUS also noted that foreign nationals in the country on employment permits were made more vulnerable to exploitation in terms of overtime, wages, rest periods, and annual leave by virtue of being tied to the employer who provided the permit.

According to the ILO's 2010 Report, inspectors also found numerous violations of the law with respect to migrant workers, especially in the construction industry, which employed approximately 50 percent of such workers. These workers came primarily from Bosnia and Herzegovina, Serbia, and Montenegro. Violations included the practice of employers' illegally trading foreign workers who were in the country on the basis of employment permits. The ILO and AFTUS also raised concerns that some migrant workers, especially seasonal laborers, lived in substandard housing conditions segregated from the national population and lacking minimum standards, in violation of the 2007 Principle of Equal Treatment Act.

The law requires employers to provide social security payments for all workers. The Legal Aid Society reported that employers of migrant workers sometimes did not deduct social security from paychecks, leaving unknowing workers without a future pension or access to social services.

Special commissions under the Ministry of Health and the Ministry of Labor, Family, and Social Affairs set standards for occupational health and safety for all workers. The ministry's Inspector General Department conducted more than 18,053 inspections in 2009, with 9,690 enforcement actions, including fines, prosecutions, and resolution of conditions resulting from those inspections. Workers had the legal right to remove themselves from dangerous work situations without jeopardy to their continued employment, and authorities effectively enforced this right.

---

## SPAIN

The Kingdom of Spain, with a population of approximately 47 million, is a parliamentary democracy headed by a constitutional monarch. The country has a bicameral parliament: the General Courts or National Assembly, consisting of the Congress of Deputies (lower house), and the Senate (upper house). The head of the largest political party or coalition was usually named to head the Government as president of the Council of Ministers, the equivalent of a prime minister. The national election held in 2008 was free and fair. The Spanish Socialist Workers Party

(PSOE) won the multiparty election, and Jose Luis Rodriguez Zapatero was re-elected president. Security forces reported to civilian authorities.

There were some reports that security forces abused suspects and mistreated migrant children in detention centers. Prisons were overcrowded, and authorities delayed legal assistance and the arraignment of arrested persons before a judge. Government corruption occurred, particularly at the provincial and municipal levels. Domestic violence, trafficking in persons, and societal discrimination against Muslim groups were reported. Jewish groups reported isolated acts of vandalism and anti-Semitism, and there were incidents of societal violence against other minorities.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

On March 16, the Basque separatist terrorist group ETA killed one person in an attack in a small town outside Paris, France. During the year authorities arrested 58 ETA members as well as seven persons allegedly involved in ETA's street violence campaign. In addition, 22 members were arrested in France and eight in other countries. The Office of the General Prosecutor reported that during 2009 there were 49 trials of persons directly or indirectly related to ETA. Courts handed down 49 sentences that affected 113 persons, 86 of whom were convicted and 27 acquitted.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and laws prohibit such practices, and the Government generally respected this prohibition; however, there were reports of police mistreatment and impunity.

The Coordinator for the Prevention of Torture (a group of Spanish human rights nongovernmental organizations (NGOs), universities, and bar associations) reported that in 2009 there were 242 reports of torture or mistreatment involving 624 complainants, up from 520 complainants in 2008. According to the group, 64 of the complaints involved cases against local police authorities; 43 against the national Guardia Civil; 197 against the national police authorities; 190 against the Catalonia local police, the Mossos d'Esquadra; 46 against the Ertzaintza (Basque authorities); and 65 against prison staff. The autonomous regions with the highest number of complaints were Catalonia (215), Basque Country (104), Madrid (103), Andalucía (81), Galicia (47), and Valencia (34). The number of reports involving the Mossos d'Esquadra increased from 45 in 2008 to 190 in 2009. The majority of these complaints were related to student demonstrations in Barcelona in May 2009, when police clashed with students and others over plans to increase tuition and enact new higher education legislation. The 215 complaints in Catalonia relate to 36 cases.

In February 2009 the Prosecutors' Office initiated an investigation into allegations of mistreatment brought by 85 persons detained in Madrid's internment center for foreigners. The detainees complained that authorities forced them to undress, beat them, and threatened them. They also claimed that the food served contained sedatives. A Ministry of Interior spokesman rejected the accusation, stating that international institutions that had inspected the facilities (including a delegation of the European Parliament) had approved of the living conditions.

There were new developments in the case of 15 members of the Guardia Civil accused of torturing ETA members Igor Portu Juanean and Martin Sarasola Yarzabal during their arrest in 2008. On December 30, the San Sebastian Court sentenced four of the Civil Guards—Sargent Juan Jesus Casas, Corporal Jose Manuel Escamilla, Corporal Sergio Martinez, and agent Sergio Garcia—to a total of 11 years in prison between them and prohibited them from serving in a public position for 40 years. The court acquitted the other 11 defendants. The court ordered the Civil Guard to pay 18,000 euros (approximately \$24,120) in compensation to Portu and 6,000 euros (\$8,040) to Sarasola.

On July 26, the Supreme Court annulled the original sentence against four Catalan police officers who allegedly assaulted a detainee in 2007. In 2009 the Barcelona court found that the officers had not mistreated the complainant or perjured themselves, as the prosecutor claimed, but did find them guilty of using excessive force. Three of the officers were fined 600 euros each (approximately \$800) and ordered to compensate the complainant 1,610 euros (\$2,160). The Supreme Court accepted the appeal by the Prosecutor's Office and issued a new sentence that maintained both the 600-euro fine and 1,610-euro compensation but absolved one of the officers of mistreatment. The Supreme Court also absolved all four police officers of committing crimes of moral integrity, torture, and falsifying documents.

According to the 2009 report by the Coordinator for the Prevention of Torture, there were 624 complaints against security forces and jail functionaries for abuse of authority, 45 more than in 2008. The report indicated that in 2009 a total of 11 persons died while in police custody, 28 died in jail, and two minors died while in detention centers for youth.

*Prison and Detention Center Conditions.*—Prison and detention center conditions met most international standards, and the Government permitted visits by independent human rights observers.

Prisons were overcrowded, with an overall inmate-per-cell ratio of approximately 1.7 for cells that were designed for one inmate. During the year there were six new prison facilities under construction. According to the 2010 UN Universal Periodic Review of Spain, the Government budget for renovating and expanding prison facilities through 2012—involving the construction of 18,000 new cells of different types in 46 new centers—was 1.6 billion euros (\$2.2 billion).

As of October there were a total of 75,503 inmates in prison, of which 14,751 were in custody while awaiting trial. Approximately eight percent of the prison population was female. There were four facilities exclusively for female prisoners. Juveniles (those under the age of 18) were sent to separate detention centers.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. In addition, authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The Government generally investigated and monitored prison and detention center conditions.

Between March 3 and May 7, the National Mechanism for the Prevention of Torture made 54 unannounced inspections to detention centers throughout the country and reported no irregularities or signs of mistreatment. Prisoners can file complaints regarding mistreatment with the national ombudsman, who will investigate complaints but does not have authority to take corrective measures directly.

On September 24, the minister of interior reported that 5,000 volunteers and 500 nongovernmental organizations (NGOs) were assisting prison inmates and that 17,500 inmates were enrolled in education programs, of whom 700 had obtained a university degree.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the armed forces and civil guard, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Police forces include the national police and the Guardia Civil, both under the authority of the central government, as well as municipal police and police forces under the authority of Catalonia and the Basque Country regional governments. All police forces operated effectively, with isolated reports of corruption.

*Arrest Procedures and Treatment While in Detention.*—The law provides that police may apprehend suspects with probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions, police may not hold a suspect for more than 72 hours without a hearing.

Detainees generally were promptly informed of the charges against them, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. The law provides detainees the right to consult a lawyer. However, there were often lengthy delays between the time a detained person first requested a lawyer and the time the lawyer arrived at the place of detention. The state provided legal counsel to indigent detainees.

In certain rare instances involving acts of terrorism, the law allows authorities to detain persons for up to five days prior to arraignment with the authorization of a judge. In these cases a judge also may order incommunicado detention for the entire duration of police custody.

The law stipulates that suspects held incommunicado have the right to an attorney and medical care, but they are neither allowed to choose an attorney nor see a physician of their choice. The court-appointed lawyer is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer.

In March 2009 the UN special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concern about incommunicado detention wherein certain terrorist suspects can be held

for up to 13 days prior to arraignment without the right to confer privately with their attorney of choice.

During the year the Government continued to implement preventive measures to safeguard the rights of detainees held incommunicado, including the application of protocols and continuous video surveillance in the detention facilities and interrogation rooms.

Lengthy pretrial detention was a problem. As of October approximately 20.5 percent of the 75,503 persons in prison were pretrial detainees. Under the law, authorities may not detain suspects for more than two years before putting them on trial unless a judge authorizes a further delay, which may extend to four years. In practice pretrial detention was usually less than one year.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, and there is a nine-person jury system. Defendants have the right to be represented by an attorney (at government expense if indigent), confront witnesses, present witnesses on their behalf, and have access to government-held evidence. Defendants enjoy a presumption of innocence and the right to appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Courts Decisions.*—In 2009 the European Court of Human Rights (ECHR) issued 11 judgments that found at least one violation by the state of the European Convention on Human Rights. The violations involved the right to a fair trial (five violations), length of judicial proceedings (three violations), inhuman or degrading treatment (one violation), no punishment without law (one violation), right to respect for private and family life (one violation), and discrimination (one violation).

On September 28, the ECHR ordered the Government to pay 23,000 euros (\$30,800) to ETA member Mikel San Argimiro Isasa for not having undertaken an “effective investigation” of the alleged torture he suffered when arrested in Madrid in 2002 for placing a bomb under a police car. The court indicated that the state violated article 3 (prohibition of torture) of the European Convention on Human Rights from a procedural point of view because of the lack of an effective investigation. The decision also held that the state did not violate the article from a substantive point of view (i.e., through mistreatment of San Argimiro) because the court could not establish that San Argimiro was tortured.

The Government complied with ECHR decisions and paid compensation ordered by the court. Spanish case law also makes repeated references to ECHR’s case law, and in some instances the Government implemented new procedures or legislation following an ECHR decision. In response to an ECHR decision against the Government for unduly lengthy criminal proceedings, the Government enacted a law in December that allows the undue length of a criminal proceeding to be cited as a mitigating circumstance that may reduce a sentence.

*Civil Judicial Procedures and Remedies.*—An independent and impartial judiciary exists for civil matters, and there is access to a court to bring lawsuits seeking damages for a human rights violation. Violations of human rights can be pursued either criminally or, if committed by the administration in other than a criminal offense, administratively. The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media remained active and expressed a wide variety of views without restriction. Individuals could criticize the Government publicly or privately without reprisal, and the Government did not attempt to impede such criticism.

The law provides that persons who provoke discrimination, hatred, or violence against groups or associations for racist, anti-Semitic, or other references to ideology, religion or belief, family status, membership within an ethnic group or race,

national origin, sex, sexual orientation, illness, or disability, may be punished with imprisonment of one to three years.

The law prohibits, subject to judicial oversight, actions including public speeches and the publication of documents that the Government interprets as glorifying or supporting terrorism. During the year the Office of the General Prosecutor filed eight cases in the courts under this law.

Unlike in previous years, there were no reports of new ETA threats against journalists. However, previous ETA threats against journalists have not been publicly recanted.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Authorities monitored Web sites for material containing hate speech and advocating anti-Semitism. In November National Police officers arrested three members of an extreme right-wing group in Barcelona who used the Internet to spread Nazi ideology. The police seized flags, books, and clothing related to the ideology, as well as several weapons.

At year's end, the Barcelona court had several open investigations involving hate crimes on the Internet and one case against a rock group spreading neo-Nazi messages through their music. On June 16, Aitor R.E. was sentenced to two years in prison for promoting genocide through the Internet. This was the first time a sentence was issued for promoting hatred on the Internet.

There were no reports that the Government monitored e-mail or Internet chat rooms.

According to International Telecommunication Union statistics for 2009, approximately 63 percent of the country's inhabitants used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees, in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees. Potential asylum seekers were effectively able to exercise their right to petition authorities. In a 2009 report, however, the national ombudsman noted that complaints related to irregularities in the handling and reporting of some deportation cases had not declined significantly.

Asylum seekers are not automatically rejected solely because of their country of origin. All asylum petitions are reviewed individually, and there is an established appeals process available to petitioners.

In practice the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Asylum and Subsidiary Protection Law provides protection for up to three years for persons who do not meet the criteria for refugee status but face dangers such as torture or the death penalty if returned to their countries of origin. The law includes gender and sexual orientation as conditions for granting asylum; makes free legal assistance available to asylum seekers; provides a single process for both asylum and subsidiary protection (if asylum is denied, subsidiary protection will be automatically considered); contemplates family reunification for asylum seekers; allows asylum requests to be accepted at an embassy or consulate; and provides for the resettlement of refugees in neighboring countries in some cases.

In 2009 there were 2,999 asylum applications in the country. According to the Spanish Commission for Refugee Assistance, this figure represented a 33.6 percent decline from 2008 and was the lowest number of applications since 1989.

The Ministry of Foreign Affairs runs the Program for Assistance and Protection of Human Rights Defenders at Risk. Under this program, human rights defenders who face persecution and death threats can move to the country for a time period ranging from six months to two years, depending on the circumstances. During the year the country accepted 22 persons from a variety of countries into the program; for the first time, two individuals gained entry into the program on account of defending lesbian, gay, bisexual, and transsexual (LGBT) rights.

There were no reports of restrictions on refugees' access to employment, health care, housing, education, law enforcement, or judicial redress. The country does accept refugees for resettlement from third countries and provides protections with the assistance of NGOs such as the Spanish Commission for the Assistance to Refugees.

On January 29, the Council of Ministers approved a 2.9 million euros (\$3.9 million) program for 2010-2012 for the resettlement of 75 refugees in Spain. The selection of the refugees for this program will be handled by the General Directorate of Interior Policy and the General Directorate for the Integration of Immigrants.

During the year the country received 3,632 undocumented migrants by boat. This reflected a steady decline in undocumented migrants arriving in the country, from 13,000 in 2008 and 7,299 in 2009. The number of illegal immigrants who were deported to their home countries or denied entry at borders during the year was 30,163, a 20.9 percent decrease from 2009.

There were problems with the treatment of unaccompanied migrant and refugee children. On October 1, the UN Committee on the Rights of the Child released a report asking the Government to improve the conditions under which unaccompanied minors are either admitted into the country or deported. With regard to the October 2009 Asylum Law that addresses special circumstances for the protection of unaccompanied minors, the committee noted that those circumstances only apply to non-EU minors and recommended that the Government extend such protection to all minors, following international standards.

The Government has three emergency centers—La Esperanza, Tegueste, and Arinaga—on the Canary Islands which housed approximately 276 children. According to a June 2010 Human Rights Watch (HRW) report, these centers put children at an increased risk of violence and limited their opportunities for integration into local communities. HRW identified systemic factors that increase the risk for children in these three emergency centers: the absence of an occupancy limit for emergency centers, the lack of confidential complaints mechanisms, and insufficient monitoring and oversight. The report also noted, however, that the children in these centers now generally enjoyed access to education and vocational training opportunities outside the centers and that emergency centers facilitated children's rapid insertion into training programs through language classes starting right after their arrival.

In 2009 there were no unaccompanied children deported to their home country. In 2008 the Constitutional Court recognized children's right to defend themselves in court, irrespective of their guardians' decision.

The Government also provided temporary protection to individuals who may not qualify as refugees. According to UNHCR statistics for 2009, the country granted refugee status to 179 persons. An additional 162 persons received subsidiary protection.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2008 the Socialist Party won national elections that were considered free and fair; Jose Luis Rodriguez Zapatero was elected president of the Council of Ministers. Governmental power was shared between the central government and 17 regional governments.

Political parties operated without restriction or outside interference, and linguistic and cultural minorities had representation and participated in both local and national political parties.

There were 129 women in the 350-seat Congress of Deputies, 83 women in the 263-seat Senate, and nine women in the 17-member Council of Ministers.

The Government did not keep statistics on the ethnic composition of the parliament, but linguistic and cultural minorities were represented. The Catalan parliament included a member of Moroccan origin. There were Muslim political parties

in the city enclaves of Ceuta and Melilla in North Africa. Roma had little representation in government.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

On July 6, the president of the Popular Party in Alicante, Jose Joaquin Ripoll, and 10 other persons were arrested for extortion, influence peddling, fraud, bribery, breach of trust, and concealment. The trial had not begun by year's end.

On September 27, the trial began for nearly 100 former Marbella city officials, businessmen, real estate agents, and other defendants arrested in 2005 on charges of granting illegal building and construction permits in exchange for bribes. This was the largest corruption case ever brought to court involving city hall officials.

The constitution provides for an ombudsman who investigates claims of police abuse. In 2009 the national ombudsman filed 269 ex officio judicial complaints, up from 253 complaints in 2008. During 2009 the ombudsman network processed 22,276 complaints, 4,461 of which were related to matters of justice, defense, and internal affairs.

There were no developments reported during the year in the 2009 case involving a member of the Civil Guard who was charged with money-laundering activities and involvement with Galician drug-traffickers. The accused was also suspected of having provided documents from his post at the Spanish embassy in Morocco to third parties in an attempt to discredit a criminal judge in A Coruna. While the case was pending, the Government transferred the officer to the financial department.

In December a counternarcotics and organized crime lieutenant of the Civil Guard in Malaga was arrested in a counternarcotics operation conducted by the Civil Guard's Department of Internal Affairs.

Public officials are subject to financial disclosure laws. The Ministry of Public Administration is responsible for managing and enforcing the Law of Conflicts of Interest. The Government also has a code of good governance that applies to all senior government officials.

The law mandates public access to government information, and the Government generally granted access to citizens and noncitizens, including foreign media.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens. In 2009 the Ministry of Equality established the Council for the Promotion of Equal Treatment and Nondiscrimination due to Racial or Ethnic Origin.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, disability, language, or social status, and the Government generally enforced it effectively.

*Women.*—The law prohibits rape, including spousal rape, and the Government effectively enforced the law. It also prohibits violence against women, and independent media and government agencies paid close attention to gender violence.

According to judicial statistics, during the second quarter of the year, women filed 34,256 complaints of abuse against their husbands, male partners, or former partners, an increase of 5.4 percent from the first quarter. Immigrant women remained the group most vulnerable to gender violence: although they constituted 11.4 percent of the female population in the country, they applied for 34 percent of the 9,890 protection orders during the second quarter of the year.

During the year 71 women were murdered as a result of domestic violence, an increase from 55 in 2009.

The law establishes prison sentences of six months to a year for domestic violence, threats of violence, or violations of restraining orders, with longer sentences if serious injuries result. According to 2009 statistics from the General Counsel of the Judicial Power, 80 percent of gender-related cases resulted in a conviction.

More than 50 offices provided legal assistance to victims of domestic violence, and there were 454 shelters for battered women. A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance. As of October the hotline took calls in Spanish, French, German, Arabic, Bulgarian, Chinese, Por-

tuguese, Romanian, and Russian. During the first six months of the year, the hotline received 32,612 calls.

As of October there were 103 specialized courts dealing exclusively with domestic violence cases, an increase from 83 in 2008.

Female genital mutilation (FGM) is prohibited. In Catalonia the law requires that a doctor examine immigrants considered to be in danger of FGM when they travel to and from their countries of origin. Parents whose children were determined to have been subjected to FGM risked losing custody. Catalan regional police had procedures to prevent FGM through the early detection of potential victims, immediate reporting of possible cases to appropriate authorities, and, when possible, preventing the travel of potential victims. Catalan regional police prevented the genital mutilation of 55 girls in 2009 and of additional 21 girls between January and September 2010.

The law prohibits sexual harassment in the workplace; however, harassment was reported to be a problem.

Couples and individuals decide freely and responsibly the number, spacing, and timing of their children and enjoy the information and means to do so free from discrimination, coercion, and violence. Obstetric and postpartum care is provided under the national health plan. According to statistics compiled by the World Health Organization in 2009, there were approximately six maternal deaths per 100,000 live births in the country. Contraception is easily accessed, including emergency contraception, which is available without a doctor's prescription.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Women's Institute worked to ensure the legal rights of women, combat economic discrimination, and integrate women into the professional workplace. The unemployment rate for women (20.6 percent) continued to be higher than for men (19.7 percent). Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men. According to a June 2010 report from the National Statistics Institute, women in the country earned 21.9 percent less than men. Access to health care is a fundamental right under the constitution regardless of gender, and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

*Children.*—Citizenship is derived from one's parent. In rare cases when a child born within the country does not acquire his or her parents' nationality, the country will grant nationality.

There were reports of child abuse. According to the Ministry of Equality, approximately 800,000 children were victims of domestic violence, either as witnesses or as direct victims. During the year 15 children were murdered, four of them as a result of gender-related violence.

In February 2009 the national ombudsman issued a report on the mistreatment of children in protection centers for migrant children. Although there is no unified registry on the mistreatment of children in the country, data provided by the autonomous regions suggested that between 15 percent and 18.5 percent of children had been mistreated in the various centers. The ombudsman asserted that many of these centers violated children's rights and reported incidents of tying up children and prohibiting their attendance at school or recreation. The report indicated that many institutions practiced isolation measures and that 75 percent of the institutions administered drugs to minors to alleviate agitation. There were reports of children being forced to undress for authorities without sufficient justification. Children in detention centers complained that they were not allowed sufficient visits from family members and that calls they received were not private. After visiting 27 of the 58 centers in the country, the ombudsman pointed to a lack of staff training and insufficient salary as key factors contributing to the alleged mistreatment.

Following the ombudsman's report, the Ministry of Education announced that it would work with the autonomous regions throughout the country to draft a common set of regulations for the centers, since enforcement is the responsibility of the regional government.

Trafficking of teenage girls for commercial sexual exploitation remained a problem. The minimum age for consensual sex in the country is 13. If deceit is used in gaining the consent of a minor under the age of 16, an individual can be charged upon parental complaint. The law specifically provides that an individual who, by use of deceit, commits sexual abuse against a person over the age of 13 but under 16 will be punished with imprisonment for one to two years or an equivalent fine. Nonconsensual sexual abuse is defined as sexual acts committed against persons under 13 years, unconscious persons, or mentally ill persons.

The law prohibits child pornography. The penal code criminalizes both using a minor "to prepare any type of pornography material" and producing, selling, distrib-

uting, displaying, or facilitating the production, sale, dissemination, or exhibition, of “any type” of child pornography by “any means.” Knowingly possessing child pornography is also penalized, carrying a potential prison sentence of up to one year. The penalty for the production, sale, or distribution of pornography in which a child under 18 years of age has been involved is imprisonment from one to four years, or up to eight years if the child is under 13. During the year approximately 320 persons were arrested for crimes related to child pornography through the Internet and cell phones.

Penalties for recruiting children or persons with disabilities into prostitution is imprisonment from one to five years (previously it was one to four years); if the child is under the age of 13, the term of imprisonment is four to six years. The same sentence applies to those who seek child prostitutes. The penalty for pimping children or persons with disabilities into prostitution is imprisonment from four to six years and, if the minor is under 13, the term of imprisonment is five to 10 years. The penalty for recruiting children or persons with disabilities for child pornography is one to five years’ imprisonment; if the child is under the age of 13, imprisonment is five to nine years. In addition, individuals who contact children under the age of 13 through the Internet for the purpose of sexual exploitation face imprisonment of one to three years.

The penal code criminalizes the “abuse and sexual attack of minors” under the age of 13. The penalty for sexual abuse and assault of children under the age of 13 is imprisonment from two to 15 years, depending on the nature of the crime.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State’s annual on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html> as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—According to Jewish community leaders, while violence against members of the approximately 48,000-member Jewish community was rare, anti-Semitic incidents, including graffiti against Jewish institutions, continued.

On March 1, the media reported that the Israeli Embassy in Madrid had received letters from elementary school children from various public schools in Madrid accusing Israel of killing children. Israeli media accused Spanish schools of inculcating anti-Semitism.

In March a Barcelona court sentenced Pedro Varela to a 33-month prison sentence for distributing materials that justified genocide. He was also fined 2,880 euros (\$3,860) and ordered to destroy all books and objects seized in his bookstore. These included items such as a bust of Hitler, a swastika, military hats, pictures, and national socialist posters. His store sold books that justified political regimes which sought to destroy a racial group and which despised Jewish and other minorities.

On June 9, 19 members of the neo-Nazi group Blood and Honor were found guilty of illicit possession of arms and for inciting hate for racist and anti-Semitic reasons. As of year’s end, they were awaiting sentencing and the prosecutor was seeking sentences that ranged from two to five years in prison.

On September 9, as part of an initiative to raise awareness and promote tolerance, the Government released its first official report on anti-Semitism in the country. The report outlined findings from its survey research and highlighted the Government’s commitment to combat anti-Semitism.

On November 22-25, the Ministry of Foreign Affairs and Casa Sefarad-Israel, in cooperation with Holocaust memorial institutions in Germany and France and the Spanish General Counsel of Advocates, organized a seminar for 25 leading Spanish jurists concerning the legal dimensions of the Holocaust and their implications for the treatment of legal issues in the present day. The seminar included meetings with German and French experts as well as Spanish diplomats.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, access to information technology and communication, including social media, and the provision of other state services, and the Government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions; however, levels of assistance and accessibility differed between regions. The Ministry of Labor and Social Affairs is responsible for protecting the rights of persons with disabilities.

The law provides for fines for discrimination against disabled persons of up to one million euros (\$1.3 million). In July 2009 the Government adopted its third plan of

action for persons with disabilities. The program has a 2.5 billion euro (\$3.4 billion) budget, and the funds are used to provide tax-free pensions and job training for disabled persons, as well as to maintain services and build centers for the disabled. The plan was intended to further promote the autonomy of persons with disabilities and supplement the plan of action for women with disabilities (2005-2008) and the first national accessibility plan (2004-2012).

*National/Racial/Ethnic Minorities.*—There were instances of societal violence and discrimination against members of racial and ethnic minorities, and the Government undertook efforts to combat the problem.

During the year the Government-sponsored Network of Centers for Assisting Victims of Discrimination received 235 complaints of discrimination, of which 39 percent were from the African community, 20 percent from the Romani community, and 17 percent from the Latin American community; 24 percent of the complaints were related to discrimination based on unequal access to goods and services in both the public and private sector, 22 percent were against security forces, and 17 percent were related to discrimination in the workplace. The 2010 Raxen Report of the Movement against Intolerance estimated that there were approximately 4,000 racially motivated crimes in the country each year and over 200 xenophobic Web sites.

Groups continued to call for the justice system to adequately address the racial component of crimes. The 2010 European Commission against Racism and Intolerance (ECRI) report on the country recommended that the Government improve its monitoring systems by collecting, tracking, and publishing data on acts of racism and racial discrimination.

In October the Barcelona prosecutor for hate crimes and discrimination opened a case against the Popular Party's leader in Badalona for distributing campaign materials linking ethnic Romani immigrants to crime and insecurity. The prosecutor opened a similar investigation against the leader of the anti-immigrant Platform for Catalonia political party for calling for the expulsion of all Muslims from the country.

In July the Madrid Court sentenced Roberto Alonso de la Varga to 10 years in prison for a 2007 attack on Miwa Buene, a Congolese citizen, that left him a paraplegic. The court deemed that racism was an aggravating circumstance.

Although the Romani population continued to face various forms of discrimination, there have been improvements.

According to the domestic NGO Fundacion Secretariado Gitano (FSG), Roma continued to face discrimination in access to employment, housing, and education. The Romani community, which the FSG estimated to have a population of 650,000, experienced substantially higher rates of unemployment, poverty, and illiteracy than the general population. During the first six months of the year, the Network of Centers received 47 complaints of discrimination from the Romani population. In 2009 the FSG received 111 complaints of social discrimination from the Romani population.

According to the 2010 ECRI report, some immigrant and Romani children experienced discrimination in equal access to education and the ECRI had received consistent reports of "ghetto" schools of immigrant or Romani children and discriminatory practices in admissions procedures that enabled publicly funded private schools to pick and choose students. The report noted that the Government had taken positive steps to address such discrimination by enacting laws to regulate and monitor student admissions to public and publicly funded private schools.

The ECRI's 2010 report on the country stated that 85 percent of Roma did not complete high school. The FSG annual report in 2009 found that 70 percent of Roma over the age of 16 were illiterate and only 30 percent of Romani children regularly attended school. To counter this, the Government agreed on 126 measures to prevent early dropouts.

According to the 2010 ECRI report on Spain, the Government has addressed the social exclusion of Roma in a largely successful manner, and Romani organizations reported to the ECRI that the situation of Roma had improved considerably over the previous 10 years.

Acceder, a program aimed at expanding social inclusion through labor market integration, promoted equal opportunity for the Romani population. The program promoted labor-contract employment as an alternative to self-employment and as a vehicle for building social inclusion. Approximately 65.5 percent of the 51,173 persons served at the program's 48 employment centers since 2000 were Roma, and 50 percent were women. More than 36,047 work contracts had been signed.

According to the ECRI's 2010 report, the Government's 2010-12 Plan for Roma Development, which was aimed at promoting social inclusion, nondiscrimination, and equal treatment, has an annual budget of 6.5 million euros (\$8.7 million).

During the year the Government sponsored the Network of Centers for Assisting Victims of Discrimination, an initiative that consisted of eight NGOs representing

a wide spectrum of racial and ethnic minorities in the country. The network provided support services to victims of discrimination in areas such as education, housing, health, and employment. Services included access to professionals for legal advice, filing police reports and lawsuits, mediation, and conciliation.

In 2008 the Government adopted a law creating a human rights plan of action with 172 measures, many of which related to the abolition of racism and intolerance. Specific measures called for the adoption and implementation of a strategy to fight racism and xenophobia, educational programs for media to combat hostile or discriminatory perceptions and stereotypes, and collaboration with public and private media on sensitization and promotion of human rights. The Government has completed several of the measures, including the release of a comprehensive report that is updated yearly, *Evolution of Racism and Xenophobia in Spain*, and the publication of the *Practical Guide for Media Professionals: Media Treatment of Immigration Issues*.

According to the ECRI's 2010 report, the country continued to develop initiatives based on the 172 measures adopted in 2008, including the creation of support resources for victims of discriminatory, racist, or xenophobic aggression, analysis of citizens' attitudes toward immigration, public awareness campaigns at regional and local levels, and training and awareness programs for police. Abdelhamid Beyuki, the Spanish member of the ECRI, stated that the Government had taken significant steps to combat racism and xenophobia and to promote the integration of immigrants. During 2009-2010, the Government enacted its transnational project, *Living Together: European Citizenship against Racism and Xenophobia*.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The lesbian, gay, bisexual, and transgender (LGBT) community was widely accepted throughout the country. LGBT organizations were numerous, and there were no reported impediments to their operation.

From June 25 through July 4, Madrid celebrated Gay Pride, culminating in a July 3 parade in which more than one million persons participated in a secure celebration. The parade was authorized by authorities, and police provided sufficient protection to marchers.

*Other Societal Violence or Discrimination.*—There were no reports of major societal violence or discrimination against persons with HIV/AIDS.

The controversy regarding official language policies continued, with some persons complaining that policies in Catalonia interfered with receiving an education in the country's majority language, Castilian Spanish. Likewise, there were instances of Catalan speakers raising concerns that the Catalan language was not equally favored.

On December 22, the Supreme Court ruled that Castilian Spanish must become a "vehicular language" or lingua franca in Catalonia's educational system. The decision involved three separate cases of Spanish-speaking parents pursuing legal action against the Catalan education system. The ruling came during the transition to the new Catalan government. Both the outgoing and incoming administrations defended the existing education model and maintained that the decision pertained to three individual cases and that no changes were needed in Catalan language policies. Catalan leaders in favor of the existing language-immersion model claimed that students could become equally proficient in Catalan and Spanish.

On September 14, the Catalan parliament approved a decree that will require new full-time professors at public and private universities to take a language examination before they are hired to prove that they have "C-level" (medium-high oral and writing communication level) proficiency in Catalan. The decree permits universities to exempt full-time research staff or professors teaching in a foreign language from the requirement. To prevent the loss of talented professors, universities can, in some cases, delay the test for up to two years after the actual date of hire. Some universities and educators criticized the decree as discriminatory, especially if the language of instruction is not Catalan.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law allows workers, including foreign and migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers did so in practice. However, military personnel and national police forces do not have the right to join unions, and judges, magistrates, and prosecutors are not free to join the union of their choice.

Approximately 17.4 percent of the workforce was unionized. The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to strike, and workers

exercised this right by conducting legal strikes. Any striking union must respect minimum service requirements negotiated with the respective employer.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, including for all workers in the public sector except military personnel, and it was freely practiced. Public sector collective bargaining includes salaries and employment levels, but the Government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors, covering approximately 70 percent of the workforce.

Employers frequently hired new employees under temporary work contracts. The International Trade Union Confederation (ITUC) stated that although in theory workers on temporary contracts were covered by collective bargaining agreements, in practice more and more workers were individually negotiating directly with employers and managers and undermining the collective bargaining process. The ITUC further noted that 63 percent of temporary workers were immigrants.

The law prohibits discrimination by employers against trade union members and organizers; however, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing.

There are no special laws or exemptions from regular labor laws in the three special economic zones in the Canary Islands, Ceuta, and Melilla.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that children were trafficked for forced begging. Men were also trafficked for forced labor, mainly in agriculture and construction. Migrant women and children from Romania and Bulgaria remained particularly vulnerable to labor exploitation in agriculture and forced begging. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies to protect children from exploitation in the workplace, and these laws were generally enforced. However, there were reports that children were trafficked for forced begging. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The statutory minimum age for the employment of children is 16. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs has primary responsibility for enforcement of the minimum age law and enforced it effectively in major industries and the service sector. The ministry had difficulty enforcing the law on small farms and in family-owned businesses, where some child labor persisted. Laws prohibiting child labor were enforced effectively in the special economic zones.

*e. Acceptable Conditions of Work.*—The national minimum wage of 633.30 euros (\$849) per month generally did not provide a decent standard of living for a worker and family. The Ministry of Labor and Social Affairs effectively enforced the minimum wage.

The law provides for a 40-hour workweek, with an unbroken rest period of 36 hours after each 40 hours worked. By law overtime is restricted to 80 hours per year unless collective bargaining establishes a different level. Premium pay is required for overtime.

The National Institute of Safety and Health in the Ministry of Labor and Social Affairs has technical responsibility for developing labor standards, and the Inspectorate of Labor has responsibility for enforcing the law through inspections and judicial action when infractions are found. Unions criticized the Government for devoting insufficient resources to inspection and enforcement. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively enforced this right; however, employees with short-term labor contracts generally did not understand that they had such legal protections.

---

## SWEDEN

The Kingdom of Sweden is a constitutional monarchy with a multiparty parliamentary form of government. The population is approximately 9.4 million. Legislative authority rests in the unicameral parliament (Riksdag). In national elections in September, voters reelected the center-right coalition led by the Moderate Party as a minority government. The elections were free and fair. The king is the largely

symbolic head of state. The prime minister is the head of government and exercises executive authority. Security forces reported to civilian authorities.

Reported human rights problems included incidents of use of excessive force by police, extended isolation and restricted exercise for persons in pretrial detention, government surveillance and interference, abuse of women and children, incidents of anti-Semitism, trafficking in persons, and anti-Islamic or xenophobic discrimination and crimes.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed arbitrary or unlawful killings.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that police used excessive force.

The national prosecutor's office for police cases received 4,824 reports of misconduct during the year. The reports covered all police employees, both officers and civilians, and involved incidents that occurred on active service and outside of work. The majority of the incidents took place while the police employee was on duty, and 15 percent of the reported cases were accusations that on-duty officers had used more violence than the situation required.

*Prison and Detention Center Conditions.*—Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. However, lengthy pretrial detention was a problem.

Three persons committed suicide while in prison or detention during the year. In April the Prison and Probation Service opened an internal investigation into the suicide of an Afghan man in the Gavle detention center in May 2009. The Council of Europe's Committee for the Prevention of Torture (CPT) visited the detention center after the incident and questioned why the person had not been admitted to a psychiatric clinic.

According to the Prison and Probation Services, prison and detention centers were meant to hold a maximum of 6,990 prisoners and detainees. On November 1, the total number of prisoners and detainees was 6,567, including juvenile and female prisoners.

Restrictive conditions for prisoners held in pretrial custody remained a problem. According to the Swedish Prison and Probation Service, in July approximately 45 percent of pretrial detainees were subject to extended isolation or to restrictions on mail delivery or exercise. According to authorities they took this step when detainees' contact with persons outside the detention center could risk destroying evidence or changing statements, thereby imperiling the ongoing investigation.

In December the CPT published the report of its visit to the country in June 2009. During the visit the CPT delegation monitored conditions in the country's police establishments, prisons, the Swedish Migration Board, and psychiatric and juvenile establishments. The report expressed concern about the impact of prolonged periods of isolation and segregation on the mental health of inmates. For example, it noted that 62 of the 136 remand prisoners at the Gothenburg Remand Prison were liable to restrictions, some being subjected to periods of isolation ranging from six to 18 months. The report stated that the overwhelming majority of remand prisoners met by the delegation during its visit had been given no explanation of the reasons for the restrictions and that many considered the only reason they were prohibited from contact with their family members was to "break" them.

The CPT report also noted that immigration detainees were still sometimes held in remand prisons, on occasion for lengthy periods of time, after having been removed from centers operated by the Swedish Migration Board because of the heightened security risk they presented to themselves and others. The CPT believed that a prison is, by definition, not an appropriate place to hold persons who are neither suspected nor convicted of a crime.

In January the Government's official response to the report stated that the imposition of restrictions on prisoners is an exceptional measure rather than the rule.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to several judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investiga-

tions in a publicly accessible manner. The Government investigated and monitored prison and detention center conditions.

The justice ombudsman, who worked independently from the Government, performed 11 prison inspections during the first nine months of the year. The national Red Cross and church associations may also visit prisoners, but may not monitor or inspect the prisons. The justice ombudsman can serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; and improving pretrial detention, bail, and record-keeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense.

The construction of 500 new detention and prison cells during the year helped mitigate overcrowding.

*d. Arbitrary Arrest or Detention.*—The constitution and law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—The national police and the national criminal police are responsible in practice for law enforcement and general order within the country. The Security Service is responsible for national security related to terrorism, extremism, and espionage. The armed forces are responsible for external security. The Ministry of Justice provides the funding and the letters of instruction for police activities, but it does not control how they perform their work. According to the constitution all branches of the police are independent authorities. The chancellor of justice, who is a nonpolitical civil servant appointed by the Government, acts as the Government's ombudsman in the supervision of the police, and takes action in cases where the chancellor suspects abuse. In addition, the Security and Integrity Commission can review the work of the Security Service upon an individual's request and initiate its own investigations if the commission suspects that the Security Service has collected and used personal data wrongfully.

The chancellor of justice decided that the National Police Board should pay 2,144 kronor and 26,343 kronor (approximately \$318 and \$3,899) respectively, based on verdicts regarding wrongful treatment of personal data and wrongful procedures when sequestering a person's apartment.

Civilian authorities maintained effective control over the national police and the Security Service, and government authorities had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—The law requires warrants issued by duly authorized officials for arrests, and the Government generally respected this requirement in practice. Persons can be and are arrested without a warrant if they are caught committing a crime or if they are suspected of having committed a crime that is being investigated. A person who is believed to be drunk or under the influence of drugs and intends to drive any vehicle may be arrested without a warrant. Police must file charges within six hours against persons detained for disturbing the public order or considered dangerous and within 12 hours against those detained on other grounds. Police may hold a person for questioning for six hours or up to a maximum of 12 hours if necessary for the investigation. After questioning, the level of suspicion determines whether the individual will be arrested or released. A court order is not needed to hold a person for as long as 12 hours. If a suspect is arrested, the prosecutor has 24 hours (or three days in exceptional circumstances) to request continued detention. An arrested suspect must be arraigned within 48 hours, and initial prosecution must begin within two weeks, unless extenuating circumstances exist. Authorities generally respected these requirements.

There is no system of bail; however, courts routinely released defendants pending trial unless they were considered dangerous or there was a risk that the suspect would leave the country. Detainees may retain a lawyer of their choice; in criminal cases, the Government is obligated to provide an attorney, regardless of the defendant's financial situation. Detainees are afforded prompt access to lawyers and to family members. A suspect has a right to legal representation when the prosecutor requests his detention beyond 24 hours (or three days in exceptional circumstances). Prompt access to family members can be influenced by the type of crime that the suspect is accused of committing. Sometimes a suspect is not allowed any contact with family members if it could jeopardize the investigation.

Following its visit to the country in June 2009, the CPT delegation noted that the right of notification of custody was often delayed "in the interests of the investigation" until a person has been remanded to custody by a court. In its January response, the Government stated that, under the law, police should notify the close

relatives of persons whom police have apprehended as soon as possible without detriment to the investigation and with the wishes of the apprehended person. However, such notice may not be given against the wishes of the apprehended person without extraordinary reason.

The CPT's report also expressed concern about the situation of juveniles in police custody, "who apparently may be questioned without the presence of their parents or social welfare representatives." In its response, the Government stated that the parent or guardian of a person less than 18 years of age suspected of an offense for which the minimum punishment is imprisonment for at least six months is to be immediately informed and invited to police questioning, unless this would be detrimental to the inquiry or there are otherwise special reasons not to do so. According to the National Police Board, there are few exceptions to this rule.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence. Trials are generally public. Juries are used only in cases involving freedom of the press or freedom of speech. In other cases, judges or court-appointed civilian representatives make determinations of guilt or innocence. Cases of a sensitive nature, including those involving children, child molestation, rape, and national security, may be closed to the public. The court system distinguishes between civil and criminal cases. Defendants have the right to be present at their trials and to consult an attorney in a timely manner. In criminal cases the Government is obligated to provide a defense attorney. A "free evidence" system allows parties to present in court any evidence, regardless of how it was acquired. Defendants can confront or question witnesses against them and present witnesses and evidence on their behalf, and defendants and their attorneys have access to government-held evidence relevant to their cases. If convicted, defendants have the right of appeal.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—During the year the European Court of Human Rights (ECHR) found four violations by the Government of its obligations under the European Convention on Human Rights. Of these, two involved the deportation of asylum seekers to their native countries, and one dealt with due process. In 2009 the ECHR found one violation, involving denial of the right to a fair trial, by the Government. According to statistics from the Council of Europe for 2009, the latest year for which data is available, the Government complied with one judgment of the ECHR within the six-month deadline, two after the deadline, and one was late by less than six months.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. There is no specific court for human rights violations, and human rights cases are tried in the general court system. Citizens can appeal to the ECHR in matters related to the state.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution and law prohibit such actions, and the Government generally respected these prohibitions in practice.

The National Defense Radio Establishment (FRA) may monitor international cable traffic with the prior approval of a special court. Under this law, only government ministries and the armed forces may commission surveillance from the FRA. During the year courts issued 2,216 permits for wiretapping and camera surveillance, an increase of 44 percent from 2009. The courts denied 11 permit applications.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law criminalizes expression considered to be hate speech and prohibits threats or expressions of contempt for a group or member of a group based on race, color, national or ethnic origin, religious belief, or sexual orientation. Penalties for hate speech range from fines to a maximum of four years in prison.

The Sweden Democrats launched a television commercial as part of their election campaign that multiple persons reported to the chancellor of justice as violating hate speech laws. On October 1, the chancellor ruled the case did not involve racial

agitation, and no further investigation was conducted. The television commercial was never aired in its original version, as the television station decided it violated its own hate speech rules. In a separate incident, charges were filed against the publisher of a Web site affiliated with a Swedish neo-Nazi magazine for allowing a reader comment with racial slurs to remain on the site. The chancellor of justice concluded that the comment amounts to agitation against ethnic groups and filed charges against the site's publisher for violating press freedom laws. The case was not concluded by the end of the reporting period.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. According to statistics from the Swedish Post and Telecom Agency, approximately 91 percent of the country's inhabitants had access to the Internet in their homes.

In the early part of the year, the European Commission filed a complaint against the Government for not implementing a directive requiring communications providers to retain data specified in the directive for a period of between six months and two years. The center-right governing coalition has agreed to retain the data for six months, but a vote has not yet occurred.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution and law prohibit forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

During the year the UNHCR continued to criticize the Government's lengthy turnaround times for asylum applications and its deportation of Iraqi refugees.

The Government denied asylum to persons who had transited other European Union (EU) countries or countries with which it maintained reciprocal return agreements before arriving in Sweden. It deported such persons to those countries. In most instances the persons who were deported had passed through, or had asylum determinations pending in, other EU countries and were returned in accordance with EU law. The Government authorized financial repatriation support for asylum seekers who had been denied residence in the country in the amount of 30,000 kronor (\$4,440) per adult and 15,000 kronor (\$2,220) per child, with a maximum of 75,000 kronor (\$11,100) per family. During the year the Government provided repatriation support to 1,422 persons, most of them of Iraqi origin.

In 2008 the country established a repatriation agreement with Iraq. During the first nine months of the year, the Government forcibly repatriated 493 Iraqis. The UN (through the UNHCR) and nongovernmental organizations such as Amnesty International criticized the country and the migration minister in connection with the forced repatriations.

In practice, the Government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Asylum seekers can appeal rulings of the Migration Board to two special migration appeals courts. Unsuccessful asylum seekers could and did appeal their cases to the ECHR.

During the year the ECHR issued two decisions against the Government involving its treatment of asylum seekers.

The Migration Board provided temporary protection to 57 individuals who did not qualify as refugees.

*Stateless Persons.*—Citizenship is derived from one's parents. According to UNHCR data, there were 7,758 stateless persons in the country in 2009, the last year for which data was available. The large number related to the influx of immigrants and the birth of children to stateless parents, who remained stateless until one parent acquired citizenship. The majority of the stateless population came from the Middle East (the Gaza Strip, the West Bank, Lebanon, Syria, and Iraq) and Somalia.

Once stateless persons are granted permanent residence, they may obtain citizenship through the same naturalization process as other permanent residents. The timeframe for gaining citizenship is generally four to eight years, depending on the individual's grounds for residency, ability to establish identity, and lack of a criminal record.

There is no legal discrimination against stateless persons in employment, education, housing, health services, marriage or birth registration, access to courts and judicial procedures, or owning land or property.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In the national elections in September, citizens elected for a second term the center-right coalition led by the Moderate Party. The coalition did not gain a full parliamentary majority and is a minority government. The Sweden Democrats, a political party advocating strict immigration rules, entered into parliament for the first time, having received 5.7 percent of the votes and won 20 out of the 349 seats in parliament.

Political parties operated without restrictions or outside interference.

After the elections in September the number of women in parliament decreased for the first time since 1991, from 165 to 157. There were 11 women in the 24-member cabinet.

No official statistics on minority representation in government were available because the law prohibits the Government from holding information about the racial or ethnic background of its citizens. However, media reports stated that the number of immigrant parliamentarians increased in the September elections.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. A special unit in the prosecutor's office worked on cases involving corruption. In September an additional prosecutor was added to the unit, which initiated 30 investigations during the year, resulting in 28 persons being prosecuted. Public officials and political parties are subject to financial disclosure laws.

The constitution and law provide for public access to government information, and the Government generally granted access in practice to citizens and noncitizens, including foreign media. The public has the right of access to government documents unless they are subject to secrecy laws, according to which information may be withheld if its release poses a threat to national security or to individual or corporate privacy.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. At the national level, the country has seven ombudsmen: four justice ombudsmen; the chancellor of justice; the children's ombudsman; and the discrimination ombudsman with responsibility for ethnicity, gender, transsexual identity, religion, age, sexual orientation, and disabilities. There are normally ombudsmen down to the municipal level as well. The ombudsmen enjoyed the Government's cooperation and operated without government or party interference. They had adequate resources and were generally considered effective. The children's ombudsman published a report on the conditions at the country's special child and youth care institutions. The discrimination ombudsman published three reports, on indicators for human rights, discrimination in the housing market, and experiences from discriminations. Government officials often were cooperative and responsive to the views of the ombudsmen.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution and law prohibits discrimination based on race, gender, age, disability, language, social status, or sexual orientation.

On September 30, after the Government amended the country's antidiscrimination laws, the European Commission ended legal proceedings against the country for incorrectly implementing EU rules on equal treatment in employment on the basis of religion, belief, disability, age, and sexual orientation. The new law against discrimination merges a scattered number of discrimination laws into one. It also establishes new grounds for financial compensation.

*Women.*—Rape, including spousal rape, is illegal, and the Government enforced the law effectively. The law stipulates more severe penalties for repeated crimes and for cases in which the perpetrator had a close relationship to the victim. Penalties range from two to 10 years in prison. The National Council for Crime Prevention (NCCP) reported 5,860 rapes during the year, compared with 6,084 in 2009.

The NCCP reported approximately 27,200 cases of assault against women during the year. During the same period, 333 lethal crimes were reported, but figures confirming how many of these were homicides, accidents, or natural deaths were not available at the end of the reporting period. Authorities apprehended and prosecuted abusers in most cases.

The law provides victims with protection from contact with their abusers. When necessary, authorities helped victims to protect their identities or obtain new identities and homes. According to official statistics, approximately 1,000 persons, mostly women, received such services. Both national and local governments helped fund volunteer groups that provided shelter and other assistance for abused women. Both private and public organizations ran shelters and operated hotlines.

Official figures showed that 27 percent of girls and women with a non-Swedish background faced restrictions at home that could be seen as honor related. In real numbers, this represented approximately 100,000 girls and women. The NCCP determined that the Government's strategy to deal with men's violence against women overall improved the quality of the Government's services. Honor-related violence exclusively involved immigrants from Muslim countries; police concentrated on educating police officers and prosecutors to increase awareness of the problem and improve its detection and prevention. During the year county administration boards used a grant of 36 million kronor (\$5.3 million) from the Ministry for Integration and Gender Equality to work against honor-related oppression. At year's end there were no reports of the results of these programs.

The Ministry for Foreign Affairs continued to encourage citizens to report suspicions of sex tourism to the country's diplomatic missions abroad. A police criminal investigator was stationed in Bangkok to provide liaison between Nordic authorities, and police in Laos, Vietnam, Cambodia, and the Philippines.

The law prohibits sexual harassment, and the Government generally enforced this law in practice. Employers who do not investigate and intervene against harassment at work may be liable for damages to the victim. There are no criminal penalties for this crime.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. There was easy access to contraception. According to data from the UN Population Fund for 2008, the latest year for which data is available, 75 percent of the country's women used some method of birth control, of which 65 percent used modern methods, including male and female sterilization, IUD, the pill, injectables, hormonal implants, condoms, and female barrier methods. The maternal mortality rate was estimated to be five per 100,000 live births. Access to prenatal care, maternal health services, including skilled attendance during childbirth, was widely available, as was access to essential obstetric and postpartum care and family planning practices. Women were diagnosed and treated for sexually transmitted infections, including HIV, equally with men.

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system. Some sectors of the labor market, including the financial sector and high-ranking positions in both the public and private sectors, still showed significant gender disparities in terms of salaries, especially in male-dominated occupations. Women's salaries averaged approximately 85 percent of men's, adjusting for age, education, and occupational differences.

The discrimination ombudsman investigated complaints of gender discrimination in the labor market. Complaints could also be filed with the courts or with the employer. Labor unions generally mediated in cases filed with the employer. There were 39 discrimination complaints related to pregnancy during the year.

In 2009 the Government appointed a committee to promote gender equality in higher education. With a budget of 60 million kronor (\$8.9 million) until the end of the year, the committee focused on combating gender-based subject choices and reversing the trend toward fewer male students in higher education. It also addressed gender differences in terms of study rates, dropout rates, propensity to complete a degree, career opportunities in research, and representation at executive levels in higher education. The committee funded 37 projects at educational institutions in the country. The committee found that providing educational institutions with qualitative goals for the most part increased gender equality. Suggestions included a yearly equality bonus to institutions that demonstrate gender equality and a more supportive role by the Swedish National Agency for Higher Education in the field of equality.

*Children.*—Citizenship is derived from one's parents. Children born in the country are registered in the tax authority's population register.

Child abuse was a problem. The NCCP reported 11,530 cases of abuse of children under the age of 15 during the year, an increase of 4 percent compared with 2009. The NCCP reported 2,530 cases of child rape of children under the age of 18 during the year, compared with 1,911 reported cases in 2009.

The law prohibits parents or other caretakers from abusing children mentally or physically. Parents, teachers, and other adults are subject to prosecution if they physically punish a child, including slapping or spanking. Children have the right to report such abuses to police. The usual sentence for such an offense is a fine combined with counseling and monitoring by social workers. Authorities may remove children from their homes and place them in foster care. On December 1, the parliament approved a strategy aimed at strengthening the rights of children.

The law criminalizes "contact with children for sexual purposes," including Internet contact intended to lead to sexual assault. It covers children under 15; penalties range from fines to one year in prison. The minimum age for consensual sex is 15. The law prohibits child pornography; penalties range from fines to six years in prison.

The law prohibits the repatriation of foreign children if they lack proper documents to prove their identity and national origin. The migration board turned children arriving in the country alone over to social services in their municipality of residence, where a legal guardian was appointed to assist them. In June the UN Committee on the Rights of the Child expressed concern over the authorities' failure to sufficiently consider the best interests of children seeking asylum and the large number of unaccompanied children disappearing from reception centers. In November the Government announced it would form a commission to review the system for dealing with unaccompanied asylum-seeking children and their housing needs.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>, as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—Leaders of the Jewish community estimated that there were 20,000 Jews in the country. Several anti-Semitic incidents were reported in Malmo and Stockholm, including rocks thrown at a Jewish community center and two bomb threats. In conjunction with the Gaza flotilla incident on May 31, leaders of the Jewish community reported that several of its members received threats via e-mail, text messages, and telephone calls. Anti-Semitic statements increased in blogs and Internet forums.

In January the regional newspaper, *Skanska Dagbladet*, ran a series of articles on the Jewish community in Malmo. In response, Mayor Ilmar Reepalu reportedly asserted that Malmo's Jews bore part of the responsibility for the attacks against the community since they failed to criticize Israel's action in Gaza in 2009 and added, "We accept neither anti-Semitism nor Zionism." Reepalu subsequently claimed he was deliberately misquoted. However, on February 21, the British Sunday Telegraph quoted Reepalu as saying, "There have been no attacks on Jews and, if Jews here [in Malmo] want to move to Israel, they are free to do so." Reepalu faced heavy criticism. After meeting with the Jewish community, Reepalu stated he realized the seriousness of the situation with hate crimes against Jews in Malmo.

During the year the newspaper *Dagens Nyheter* reported that "furious" Swedish climbers were demanding changes to the names of rock-climbing routes in the Jarfalla area, some of which bore names related to Nazis and the Holocaust, such as "Himmler," "Kristallnacht," "Third Reich," "Crematorium," and "Swastika." Most of these nicknames were given between 1987 and 2001, but the press only picked

up the story during the year. One of the climbers involved in the original naming told the press that he picked the name because he thought the route was “horrible” and had to be “defeated.” Despite general agreement—including from the Swedish climbing community—that the names were offensive, the private publishers of the climbing guide have not yet changed them. By custom, climbers who blaze routes name them, sometimes leading to highly insensitive monikers across the world, including in North America.

The Swedish Civil Contingencies Agency cooperated with religious communities on a national level to promote dialogue and to prevent conflicts leading to anti-Semitic incidents. In June the NCCP presented its annual study on hate crimes in 2009, including anti-Semitic, anti-Islamic, and other religion-related hate crimes. In 2009 there were 591 reports of hate crimes involving religion, of which 250 were anti-Semitic crimes (42 percent of religion-related hate crimes), up from 159 in 2008. Of the hate crimes involving religion in 2009, 15 percent reportedly had a white-supremacist motive, an increase of 3 percent from 2008.

The NCCP’s report stated that crimes against persons and damage of property/graffiti were the most common offenses related to religion. The most frequent anti-Semitic crimes were against persons with 130 reported incidents in 2009. According to the report, 28 percent of anti-Semitic crimes were ideologically motivated. Religious hate crimes more frequently occurred in religious places or at home. The victim rarely knew the perpetrator, and the majority of both suspects and victims were men. By March police completed investigation of 50 percent of the hate crimes involving religion that were reported during 2008. Approximately 2 percent of these hate crimes were still under investigation, and police dropped 48 percent for lack of evidence or failure to meet the standards of a hate crime.

Representatives from the national unit to train police officers to detect hate crimes visited high schools to raise awareness of hate crimes and encourage more victims to report abuses. Information for victims of hate crimes was available in several languages, and interpreters were provided to facilitate reporting. In March the Skane police appointed a special investigator for hate crimes in each of the five sub-regions within the Skane police district.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits employers from discriminating against persons with physical, sensory, intellectual, and mental disabilities in hiring decisions and prohibits universities from discriminating against students with disabilities in making admissions decisions. No other specific law prohibits discrimination against persons with disabilities. The discrimination ombudsman is responsible for protecting the rights of persons with disabilities.

The law on discrimination does not cover accessibility. Regulations for new buildings require full accessibility. Similar requirements exist for some, but not all, public facilities; many buildings and some means of public transportation remained inaccessible.

The number of reports of discrimination against persons with disabilities increased during the year. There were 965 reports of governmental discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services; most of the cases involved lack of access to public buildings. Difficulty in accessing apartments, restaurants, and bars generated the most frequent reports of societal discrimination against persons with disabilities. Many cases were handled by mediation procedures rather than through formal court hearings.

*National/Racial/Ethnic Minorities.*—Approximately 1.3 million persons in the country were foreign-born, with the largest groups originating from Finland, the former Yugoslavia, Iraq, and Iran. According to figures from Statistics Sweden, 98,801 persons immigrated to the country during the year.

In October 2009 the chancellor of justice decided to prosecute a man for incitement to racial hatred for distributing stickers that stated, “Swedish women are being raped. What are you doing about it?” and portrayed a rapist of foreign origin with a rope around his neck. On April 13, the chancellor decided not to initiate a pre-investigation.

Police registered reports of xenophobic crimes, some of which were related to neo-Nazi or white-power ideology. Police investigated and the district attorney prosecuted race-related crimes. Official estimates placed the number of active neo-Nazis and white supremacists at approximately 1,500. Neo-Nazi groups operated legally, but courts have held that it is illegal to wear xenophobic symbols or racist paraphernalia or to display signs and banners with inflammatory symbols at rallies, since the law prohibits incitement of hatred against ethnic groups.

Anti-Islamic behavior is a growing problem that affects both Arab and Somali immigrants. Although nationwide statistics for 2010 were not yet available, police from Skane, the region in southern Sweden where many of the anti-Islamic incidents occurred, reported anti-Islamic hate crimes increased more than 500 percent, from seven in 2009 to 45 in 2010. In 2009, 194 of the hate crimes committed were anti-Islamic crimes (33 percent of religion-related hate crimes), down from 272 in 2008.

The most frequent anti-Islamic crimes were crimes against persons, with 129 reported incidents in 2009, and 31 reported cases of agitation against an ethnic group. According to the report, 1 percent of anti-Islamic crimes were ideologically motivated.

During the year there were reported shootings of mosques throughout the country. The Muslim community has reported several of its members have been verbally harassed, and derogatory graffiti has been found on mosque walls.

The discrimination ombudsman received 760 complaints regarding discrimination due to ethnicity during the year.

The Government estimated the Romani population at approximately 50,000. There is a special delegation for Romani problems consisting of representatives of Romani origin, experts on Romani problems, and representatives from Romani associations. The delegation worked to improve the situation of Roma in society and addressed such problems as social, political, and economic discrimination. In July the delegation reported that a majority of Roma lived as outcasts, unemployment reached 80 percent, elementary education was rare, and average life expectancy was significantly lower than the country's average.

The discrimination ombudsman handled 12 mediation and court cases involving Roma during the year. On June 14, the discrimination ombudsman reached a conciliated settlement in a case in which a Romani woman accused a property owner for "not wanting Roma to buy apartments among his properties." The woman received 25,000 kronor (\$3,700) in compensation. As of September, authorities had deported at least 38 Roma from the Stockholm region. Civil rights defenders and Council of Europe Commissioner for Human Rights Thomas Hammarberg, referring to the poor conditions to which they were forced to return, criticized the Government and the Migration Board for deporting Roma to Romania and, in particular, to Kosovo.

The law recognizes Sami (formerly known as Lapps), Swedish Finns, Tornedal-Finns, Roma, and Jews as national minorities. The Government supported and protected minority languages by law.

*Indigenous People.*—The approximately 20,000 Sami in the country were represented by a 31-member Sami-elected administrative authority called the Sami parliament. Sami are not represented as a group in the country's parliament, but as full citizens, they have the right to vote in the country's elections and to participate in the Government, including the country's parliament if elected or appointed. The Sami parliament acts as an advisory body to the Government and has limited decision-making powers in matters related to preserving the Sami culture, language, and schooling. The national parliament and government regulations govern the Sami body's operations.

Longstanding tensions between Sami and the Government over land and natural resources persisted, as did tensions between Sami and private landowners over reindeer grazing rights. Certain Sami have grazing and fishing rights, depending on their tribal history. Sami continued to press the Government for exclusive access to grazing and fishing, although the Sami parliament focused more on the preservation of the Sami culture than on exploitation of natural resources.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—During the year there were isolated incidents of societal violence and discrimination against homosexual conduct. For 2009 the NCCP reported 1,090 hate crimes based on sexual orientation, 1,060 with a homophobic, biphobic, or heterophobic motive, and 30 with a transphobic motive.

In July the annual weeklong Gay Pride Festival took place in Stockholm. A government working group promotes equal rights for lesbian, gay, bisexual, and transgender persons.

*Other Societal Violence or Discrimination.*—There were no reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law entitles all workers, including armed forces and police, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised this right in practice. An estimated 75 percent of the five million-person workforce belonged to trade

unions. The law allows unions to conduct their activities without interference, and the Government protected this right in practice.

The law also provides for the right to strike as well as for employers to organize and conduct lockouts; workers and employers exercised these rights in practice. Public sector employees enjoy the right to strike, subject to limitations in the collective agreements protecting the public's immediate health and security.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and workers exercised this right in practice. Approximately 80 percent of the workforce was covered by collective bargaining agreements. The law prohibits antiunion discrimination, and there were few reports that it occurred during the year.

There are no special laws or exemptions from regular labor laws in the country's foreign trade zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Children were in some cases forced to beg or commit petty theft. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws and policies (including those on acceptable working conditions) to protect children from exploitation in the workplace, and the Government effectively implemented these laws and policies in practice. The law permits full-time employment from the age of 16 under the supervision of local authorities. Employees under the age of 18 may work only during the daytime and under supervision. Children as young as 13 may work part time or perform light work with parental permission. Union representatives, police, and public prosecutors effectively enforced these restrictions.

Children continued to be trafficked for forced begging and petty theft. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*e. Acceptable Conditions of Work.*—There is no national minimum wage law. Wages were set by annual collective bargaining agreements. Nonunion establishments generally observed these contracts as well. Substantial benefits (for example, childcare) provided by social welfare entitlement programs assured even the lowest-paid workers and their families a decent standard of living.

In 2009, following a poor berry season, approximately 200 Thai seasonal berry pickers returned home with work-related debts incurred in Thailand. As a result, in January berry pickers were given the same visa status as other temporary workers, and the regulations surrounding their employment in Sweden improved. Under the new regulations, the employer—whether foreign or domestic—must offer conditions of employment that are on par with the country's collective agreements and the work must be on such a scale that the workers earn a minimum wage of 16,372 kronor (\$2,423) a month. However, even with the new regulations, several problems occurred during the year, mostly due to the failure of foreign companies that provided foreign workers to Swedish companies on contract to respect the conditions of employment. In one case involving a domestic employer, a group of Vietnamese workers locked up five managers in protest of not receiving pay according to the contract, partly due to a lower supply of berries than promised by the employer. The Vietnamese workers were not arrested and were allowed to leave Sweden. In September, due to another poor berry harvest, many foreign workers allegedly did not earn the money promised by foreign companies and faced difficulties returning home. The Swedish Red Cross and other local charities helped some pay for their return airfare.

The legal standard workweek is 40 hours or less. Both the law and collective bargaining agreements regulate overtime and rest periods. The maximum allowable overtime per year is 200 hours. The amount of overtime compensation was normally regulated by the collective agreement; it varied by workplace and could also depend on whether the overtime occurred during the regular workweek, during a weekend, or on a bank holiday. Payment for overtime could take the form of money or time. The law requires a minimum period of 36 consecutive hours of rest, preferably on weekends, during a period of seven days. The law also provides employees with a minimum of five weeks' paid annual leave. The Government effectively enforced these standards.

The Work Environment Authority, a government-appointed board, issued occupational health and safety regulations, and trained union stewards and safety ombudsmen. Government inspectors monitored them. Safety ombudsmen have the authority to stop unsafe activity immediately and call in an inspector. These rules were effec-

tively enforced. In law and practice, workers can remove themselves from situations that endangered their health or safety without jeopardizing their employment.

## SWITZERLAND

The Swiss Confederation, population 7.9 million, is a constitutional republic with a federal structure. Legislative authority resides in a bicameral parliament (Federal Assembly), consisting of the Council of States and the National Council. Free and fair elections to parliament took place in 2007. Parliament chooses the executive leadership (the Federal Council), which during the year consisted of a coalition of five parties. Security forces reported to civilian authorities.

There were reports that police at times used excessive force, occasionally with impunity. Other human rights problems were lengthy pretrial detention, instances of societal discrimination against Muslims, anti-Semitic incidents, violence against women, trafficking in persons, and discrimination against minorities.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings; however, security forces shot and killed one person during the year.

On the night of April 18, a group of young men from France stole three cars in the canton of Fribourg. When the stolen vehicle approached a police roadblock at high speed, one officer fired seven shots. Five bullets hit the car killing an 18-year-old passenger. The investigative judge from Fribourg opened a criminal investigation for homicide but left open the possibility that the charge might be reduced to involuntary manslaughter depending on the information developed. The case was pending at year's end.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution prohibits such practices; however, there were reports that individual police officers occasionally used excessive force.

A report published on May 25, by the UN Committee Against Torture (UNCAT) referred to allegations of police misconduct involving the use of excessive force against foreigners, especially in asylum detention centers and during deportation operations. The committee noted that only a minority of complaints of violence or mistreatment by the police resulted in prosecutions or charges, and few resulted in compensation being offered to victims or their families. The UNCAT recommended the Government ensure that each canton create an independent mechanism empowered to investigate allegations of police violence.

The UNCAT also noted that the law regulating the use of force by federal and cantonal police performing duties on behalf of the federal government does not provide for the presence of human rights observers or independent physicians during deportation flights. An amendment to the Foreign National Act to include the creation of an effective forced return monitoring system as required by the European Community's Return Directive was scheduled to enter into force on January 1, 2011. Authorities investigated and prosecuted a number of cases of alleged mistreatment by police officers.

On October 12, the Federal Court confirmed the verdict of the cantonal Court of Neuchatel against a police officer for negligent injury during an August 2007 incident. While arresting a suspect, the police officer involved applied handcuffs too tightly, causing nerve damage in the individual's hands. The court fined the police officer and required him to pay court costs of 4,000 Swiss francs (\$4,269).

On October 15, three police officers from Lausanne were acquitted of charges of abuse of authority, assault, and causing bodily harm by negligence during a 2008 interrogation of two young men suspected of having set fire to a police van. One of the men alleged he was physically accosted, while the second stated he was bitten on the arm by a police dog and sprayed with pepper spray by a police officer. The president of the court determined that the police had acted appropriately and exercised proportionate use of force in the context of the inquiry. The president stated that the second individual had created a dangerous situation by not keeping his distance from the police dog despite clear orders from the police.

In a second trial on December 12, the Lausanne District Court dropped all charges against five police officers accused of assaulting and abusing a 16-year-old Eritrean youth in 2006 due to the complainant's lack of credibility. The court's find-

ing confirmed an initial January 2009 court decision. The boy charged that police had originally arrested him for insulting a police officer and later released him in a wooded area, where one of the officers allegedly sprayed him with pepper spray.

*Prison and Detention Center Conditions.*—Prison and detention center conditions generally met international standards, and the Government permitted visits by independent human rights observers.

On March 10, a Nigerian asylum applicant who had been denied asylum died at the Zurich airport while awaiting forcible repatriation to Nigeria. An ensuing official report concluded that the death was the result of an existing heart condition and revealed that the asylum seeker had been on hunger strike for 45 days prior to the deportation. Following the incident, the Federal Office for Migration suspended all deportation flights and paid the individual's family 50,000 Swiss francs (\$53,362). Zurich's general prosecutor was investigating the case at year's end.

On March 11, Skander Vogt, a detainee in the Bochuz Prison in the canton of Vaud, died of smoke inhalation after setting fire to his mattress. Transcripts of phone conversations between prison officials, police, and rescue services published by the media showed that prison staff delayed intervening until the arrival of special police units. By the time the special unit opened the door to his cell, Vogt had died. At the end of the year, an investigative judge closed the independent investigation due to lack of sufficient evidence of any wrongdoing by the medical staff, the supervisors, or the prison's director. In addition to this case, there were isolated suicides in prisons and detention centers.

During the year 6,181 persons were in prison or detention centers (31 percent were remanded for custody, 61 percent for convicted crimes, 6 percent under compulsory measures in accordance with the federal law on foreigners, and 2 percent for other reasons). Of the total, 347 were women (5.6 percent) and 39 were juveniles (0.6 percent).

The occupancy rate of detention facilities was 92.5 percent during the year; however, prison overcrowding continued to be a serious problem in such major urban areas as Zurich, Bern, and Geneva. Geneva's Champ-Dollon Prison was the country's most crowded; designed for a maximum of 270 occupants, the prison housed 600 during the year.

According to statistics released in 2009 by the Federal Department of Justice, the number of minors in preventive detention increased by 20 percent between 2005 and 2008. Of the minors in preventive detention, 998 were males between the ages 15 to 18 years, and 165 were females. There were also 48 minors under 15.

Prisoners and detainees had reasonable access to visitors and were permitted to observe and practice their respective religions. They were allowed to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated such allegations.

The penal code states that police authorities may only detain young offenders for a minimal period but does not explicitly state the length. It also requires that juvenile offenders be held in reform schools or separate wings of prisons where they can receive educational support; however, a study by the Justice Ministry published in 2007 found that during investigative detention juveniles often were held with adults and kept in prisons rather than reform schools.

In October 2009 the Federal Council appointed an independent 12-person National Commission for the Prevention of Torture with a mandate to undertake regular visits and inspections of conditions in prisons and detention facilities. The commission visited detention centers in the canton of Valais on May 27 and 28 and the Hindelbank Women's Detention Center in the canton of Bern on June 11 and 12.

The Government permitted independent monitoring of prison conditions by local and international human rights groups, the media, and the International Committee of the Red Cross. There was no ombudsman at the national level, but a number of cantons instituted cantonal ombudsmen and mediation bodies, which served on behalf of prisoners and detainees to address the conditions and circumstances of their detention.

At the end of August, authorities inaugurated a new wing with 40 cells at the Bellechasse Prison in Fribourg. The canton of Geneva, whose prisons were the most crowded, began construction of a new penal institution for the treatment of mental disorders and for confinement in November 2009. Other projects in Geneva included extension of the existing Champ-Dollon Prison, which started on November 29, and La Brenaz Prison. On February 2, the canton of Vaud selected the project for the construction of a new juvenile prison center in Palezieux, designed to accommodate offenders from the French-speaking part of the country, with a scheduled completion date of 2013. Authorities in the canton of Zurich constructed new prisons for juveniles during the year.

*d. Arbitrary Arrest or Detention.*—The constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over police forces, which the cantons primarily organized and administered with federal coordination. The Federal Office of Police, in addition to performing coordination and analytical functions, can pursue its own investigations under the supervision of the attorney general in cases of organized crime, money laundering, and corruption. The Government has effective mechanisms to investigate and punish abuse; however, in past years there have been some allegations of impunity.

*Arrest Procedures and Treatment While in Detention.*—By law criminal suspects must be apprehended on the basis of warrants issued by a duly authorized official unless police are responding to a specific and immediate danger. In most cases authorities may not hold a suspect longer than 24 hours before presenting him to a prosecutor or investigating magistrate who must either bring formal charges or order the detainee's release; however, asylum seekers and other foreigners without valid documents may be detained up to 96 hours without an arrest warrant. There is a functioning bail system, and courts granted release on personal recognizance or bail unless the magistrate believed the person charged to be dangerous or a flight risk. A suspect may be denied legal counsel at the time of detention and initial questioning but has the right to choose and contact an attorney before charges are brought. The state provides free legal assistance for indigents charged with crimes for which imprisonment would be a possible punishment. Access to family members may be restricted to prevent tampering with evidence, but law enforcement authorities are required to inform close relatives promptly of the detention.

In some cases, lengthy pretrial detention was a problem. In 2009 approximately one-third of all prisoners were in pretrial detention, and the average length of such detention was approximately 50 days. All cases of prolonged pretrial detention are subject to review by higher judicial authorities. The country's highest court has ruled that pretrial detention must not exceed the length of the expected sentence for the crime for which a suspect is charged.

*e. Denial of Fair Public Trial.*—The constitution provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The constitution provides for the right to a fair trial, and the judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. Trials are public. Juries are used only in the most serious cases, including murder. Defendants have the right to be present and to consult with an attorney in a timely manner, and an attorney is provided at public expense if defendants face serious criminal charges. Defendants have the right to confront or question witnesses and to present witnesses and evidence. They have the right to appeal, ultimately to the highest court, the Federal Tribunal. Authorities generally respected these rights in practice and extended them to all citizens.

The military penal code requires that war crimes and violations of the Geneva Conventions be prosecuted only when defendants have close ties with the country. Normal civilian rules of evidence and procedure apply in military trials. The military penal code allows the appeal of any case, ultimately to the Military Supreme Court. Any licensed attorney may serve as a military defense counsel, but in most cases, defendants used attorneys assigned by the courts. Under military law, the Government pays for defense costs. Civilians charged with revealing military secrets, such as classified military documents or classified military locations and installations, may be tried in military courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—On June 10, the European Court of Human Rights (ECHR) ruled that the state had violated Article 5 of the European Convention on Human Rights in the case *Borer v. Switzerland*. In 1997 the applicant was sentenced to 11 years in prison for murder and theft and was ordered to undergo psychotherapeutic treatment. During his incarceration he demonstrated severe mental problems and refused psychotherapy. Upon completion of his sentence in 2006, the applicant was kept in detention because of the high risk of his becoming a repeat offender. The ECHR ruled that the provisional detention after completion of the applicant's sentence had no specific legal basis and that authorities had violated the applicant's right to liberty and security under the European convention.

On June 10, in the case *Schwizgebel v. Switzerland*, the ECHR ruled that the refusal to authorize adoption mainly on account of the applicant's age was not dis-

criminary. After adopting a first child in 2002, the applicant complained that the authorities prevented her from adopting a second child because of her age. She claimed that at the age of 47 she had been subject to discrimination as compared with other women who were able to give birth. The ECHR ruled that authorities had considerable discretion to decide on such matters, and that both domestic legislation and decisions taken seemed to comply with applicable international law.

On July 7, the ECHR ruled in the case *Neulinger and Shuruk v. Switzerland* that the Federal Court violated Article 8 of the European Convention on Human Rights in ordering the Swiss mother of an abducted child to return her child to the father in Israel. The court considered that it was not in the interest of the child to return to Israel, since the child was well settled in the country.

On July 27, the ECHR ruled that the state had violated the right to respect for private and family life under the European Convention on Human Rights in the case of *Mengesha Kimfe v. Switzerland*. Swiss authorities refused to assign two rejected female asylum seekers from Ethiopia to the same cantonal reception center as their husbands so that the couples could live together until their deportation. Since Ethiopian authorities denied their return, the couples had been officially prevented from living together for five years. The court ordered the country to pay one applicant 846 euros (\$1,134) for pecuniary damages and 5,000 euros (\$6,700) for nonpecuniary damages, and the second applicant 2,330 euros (\$3,122) for pecuniary damages, 5,000 euros (\$6,700) for nonpecuniary damage, and 526 euros (\$705) for costs and expenses.

On October 28, in the case *Schaller-Bossert v. Switzerland*, the ECHR ruled that the applicant was not given the right to a fair hearing (Article 6) after contesting her termination as a teacher. The court ordered the country to pay 5,000 euros (\$6,700) for nonpecuniary damage and 8,537 euros (\$11,440) to cover costs and expenses of the applicant.

On November 9, the ECHR ruled in the case *Losonci Rose and Rose v. Switzerland* that the country had violated Article 14 in conjunction with Article 8 in refusing to allow the two applicants to keep their own surnames after their marriage. The court concluded that the rules in force in the country gave rise to discrimination between binational couples according to whether the man or the woman had Swiss nationality and ordered the country to pay the applicants 10,000 euros (\$13,400) for nonpecuniary damage and 4,415 euros (\$5,916) for costs and expenses.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. Citizens have access to a court to bring lawsuits seeking damages for or cessation of a human rights violation. Persons who have exhausted domestic courts may also apply to the ECHR.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. There was at least one conviction during the year under this law. On September 29, the Federal Court upheld a conviction against the Europe-based representative of the Turkish Workers' Party and two of his colleagues for having denied the Armenian genocide at a public event in 2007. They were found guilty of violating the law on preventing racism.

According to federal law, it is a crime to publish information based on leaked "secret official discussions." A number of cases of violation of secrecy by the press were being investigated during the year; however, there no sentences were handed down for such offenses by year's end.

*Internet Freedom.*—There were no government restrictions on access to the Internet or reports that the Government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was widely available. According to statistics compiled by the International Telecommunications Union, 77 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—Authorities generally did not restrict academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The constitution prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

In practice the Government provided protection against expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The Federal Office for Migration relied on a list of "safe countries," and would-be refugees who originated in, or transited, these countries generally were ineligible to apply for asylum.

Nongovernmental organizations (NGOs) criticized the inclusion in the "safe countries" list of some countries in Eastern Europe and Africa that they considered not sufficiently stable to justify automatic rejection. During the year the Government received asylum requests involving 15,567 persons. Authorities adjudicated 20,690 cases and granted refugee status or asylum to 3,449 persons.

The Government required asylum applicants to present documentation verifying their identity within 48 hours of completing their applications, and authorities refused to process the applications of asylum seekers who were unable to provide a credible justification for their lack of acceptable documents or show evidence of persecution. Authorities could detain uncooperative asylum seekers, subject to judicial review, for up to six months while adjudicating their applications. They could detain rejected applicants for up to three months to ensure their departure or up to 18 months if repatriation posed special obstacles. They could detain minors between 15 and 18 years of age for up to 12 months pending repatriation; however, rejected asylum seekers generally were not detained, nor were they removed from the country. They were instructed to leave voluntarily. If they refused to return voluntarily, they could be forcibly repatriated.

Amnesty International and other NGOs working with refugees continued to complain that detained asylum seekers often were effectively denied proper legal representation in deportation cases because they lacked the financial means to obtain an attorney. Authorities provided free legal assistance only in cases of serious criminal offenses. The deportation of asylum seekers is an administrative, rather than judicial, process.

On November 28, Swiss voters adopted a referendum on the automatic expulsion of foreigners convicted of serious crimes, including premeditated homicide, rape, other serious sexual offenses, violence such as armed robbery, human trafficking, drug trafficking, burglary, or welfare fraud. Both the federal government and the parliament recommended that voters reject the initiative. The Justice Ministry convened a working group that has five years to bring the initiative into effect in compliance with bilateral agreements with the European Union and Swiss national and international laws. The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention relating to the Status of Refugees and its 1967 protocol and provided it to 4,796 persons during the year; 23,471 individuals enjoyed temporary protection status in the country at the end of the year.

On September 14, the Council of States decided, following the March 3 approval of the National Council, that juvenile undocumented immigrants would in the future have the right to an apprenticeship in the country. In March the city of Lausanne opened its job training programs to four young undocumented migrants who grew up in the country.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—In 2007 citizens chose a new Federal Assembly in free and fair elections. Political parties operated without restriction or outside interference.

At the end of the year, there were 69 women in the 246-seat Federal Assembly and four women in the seven-seat Federal Council (cabinet). The proportion of female representatives in cantonal legislatures remained 24 percent. Women held approximately one-fifth of the seats in cantonal executive bodies.

There was one member of an ethnic minority, who was originally from Angola, in the 200-seat National Council.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

On October 12, the press reported that the Federal Prosecutor's Office was investigating several officials of the Federal Office for the Environment for corruption and malfeasance. The case allegedly involved two information technology companies that received contracts valued at over two million Swiss francs (\$2.1 million) in the past three years.

Members of the Federal Assembly must disclose their financial interests, professional activities, supervisory board or executive body memberships, and expert or consulting activities every year. Investigating and prosecuting government corruption is a federal responsibility. A majority of cantons also require members of cantonal parliaments to disclose their financial interests. A joint working group consisting of representatives of various federal government agencies operated under the leadership of the federal Department of Foreign Affairs to combat corruption.

The constitution requires the Government to inform the public about its activities, and government information was available to all persons living in the country, including foreign media. A transparency law provides for public access to government documents.

The November 2009 report of the UN Group of Experts on the Democratic Republic of the Congo (DRC) presented information indicating that Cronimet Central Africa AG, which was based in Switzerland, indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Government cooperated with international governmental organizations and permitted visits by UN and other international representatives.

There is no national ombudsman. Following the October 2009 recommendation of the UN Human Rights Council, the federal departments of foreign affairs and justice and police moved on September 3 to create a Swiss Competence Center for Human Rights. Based on a proposal submitted by a number of local universities in association with the Graduate Institute Kurt Boesch, the center was scheduled to begin work on January 1, 2011, with a mission to strengthen the country's capacities for implementing human rights by providing information, advice, tools, and forums for players in the field of human rights.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The constitution prohibits discrimination based on race, gender, disability, language, or social status. The Government generally enforced these prohibitions effectively.

*Women.*—Rape, including spousal rape, is a statutory offense, and the Government effectively prosecuted those accused of such crimes. In 2009 police recorded 666 instances of rape (compared with 612 in 2008) and 470 prosecutions (compared with 429 in 2008).

Violence against women was a problem. The Federal Office of Public Health published a survey in 2008 showing that 80 percent of victims of domestic violence had suffered previous assaults. Domestic violence is a statutory offense. A court may

order an abusive spouse to leave the family home as a temporary measure. Stalking is also an offense. Victims of domestic violence could obtain help, counseling, and legal assistance from specialized government agencies and NGOs or from nearly a dozen hotlines sponsored privately or by local, cantonal, and national authorities. Although women's shelters experienced an average of 70 percent occupancy, in the cantons of Basel, Bern, and Zurich half of the applicants for shelter reportedly were turned away, mostly due to a lack of space or adequate staff for dealing with severely traumatized individuals. The Interior Ministry's Federal Office for Equality between Women and Men had a special unit that focuses on domestic violence. Most cantonal police forces had specially trained domestic violence units. A majority of cantons also had special administrative units that coordinated the activities of law enforcement agencies, prosecutors, and victim assistance groups.

Forced marriage is illegal, but reportedly occurred, mainly in less integrated immigrant families, making detection and prosecution difficult. Its extent was unknown.

The law prohibits sexual harassment and facilitates access to legal remedies for those who claim discrimination or harassment in the workplace; however, special legal protection against the dismissal of a claimant is only temporary. Employers failing to take reasonable measures to prevent sexual harassment are liable for damages equal to as much as six months' salary.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. Health clinics and local health NGOs operated freely in disseminating information on family planning. There were no restrictions on access to contraceptives, and these measures were used widely. Compulsory basic health insurance covers the cost of routine examination during pregnancy and the costs related to childbirth. According to estimates compiled by international organizations, there were approximately 10 maternal deaths per 100,000 live births in the country in 2008. Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV. There were no legal, social, cultural, or other barriers limiting access to such services.

Women enjoy the same rights as men under the constitution, including in family law, property law, and in the judicial system; however, independent observers claimed that some laws, as interpreted by the courts, were discriminatory. For example, the Federal Tribunal ruled that the primary wage earner in a divorce must retain sufficient income to remain above the poverty level. Since men are the primary wage earner in most marriages, a household income too low to support both parties could force the wife and children to resort to public assistance.

The Federal Office for Equality between Women and Men and the Federal Commission on Women worked to eliminate both direct and indirect gender discrimination. Many cantons and some large cities had equality offices to handle gender issues.

Discrimination against women in the workplace is illegal, but women disproportionately held jobs with lower levels of responsibility. Women were promoted less frequently than men were and were less likely to own or manage businesses.

Under the constitution women and men are entitled to equal pay for equal work; however, a study published by the Federal Statistics Office in October showed that in 2008 women's gross salaries in the private sector were on average more than 19 percent lower than salaries for men. In the public sector women earned on average 15.5 percent less than men for the same job. In March 2009 the Government initiated a five-year project urging companies to review their salary structures to eliminate the pay gap between men and women.

*Children.*—Citizenship derives from one's parents, and citizenship may be derived from a single parent. Child abuse was a problem. In 2009 there were 1,526 reported cases of sexual assault against children, compared with 3,504 in 2008. Most of the victims were girls younger than 18 years old, and most abuse took place in the family or the immediate social environment.

The production, possession, distribution, or downloading from the Internet of pornography involving children is illegal and carries heavy fines or a maximum sentence of one year in prison.

With limited exceptions, the law designates 16 years old as the minimum age of consensual sex. The maximum penalty for statutory rape is imprisonment for 10 years.

The law does not expressly prohibit prostitution by 16- and 17- year-old minors under all circumstances, leaving these children potentially vulnerable to trafficking for commercial sexual exploitation.

Female genital mutilation (FGM) is illegal but, according to NGOs, there were reports that the practice occurred in limited numbers. The UN Children's Fund (UNICEF) estimated that there were nearly 7,000 circumcised women and girls in the country as a result of immigration from areas where FGM was practiced. During the year UNICEF continued its efforts to raise awareness of FGM. On December 16, parliament voted to add a paragraph banning FGM to the criminal code. On November 2, the State Secretariat for Economic Affairs and the NGO ECPAT Switzerland launched, in conjunction with private companies and NGOs in Germany and Austria, a trilateral public awareness campaign for the protection of children from sexual exploitation in the tourism industry.

A report issued in September 2009 by the NGO Swiss Monitoring Body for the Rights of Asylum and Alien Law alleged that authorities often overlooked the needs and well-being of children when implementing the law. For example, the report indicated that, upon the expulsion of their parents, some children who had been raised in the country and were integrated fully into its way of life were forced to move to countries where they had no connections. The Federal Office of Migration rejected the assertion, maintaining that government officials gave careful consideration to cases involving children between the age of 14 and 17 years who were well integrated into society.

During the year several NGOs expressed concern about reports of hundreds of unaccompanied foreign minors entering the country annually, claiming many have disappeared from state care after arrival. Officials asserted that there had been only a few isolated cases of missing unaccompanied minors during the year.

For information on international parental child abduction, please see the Department of State's annual Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—According to the 2000 census (the most recent official data available), there were 17,914 members of the Jewish community, constituting 0.24 percent of the population.

The Geneva-based Intercommunity Center for Coordination Against anti-Semitism and Defamation recorded 153 anti-Semitic incidents in the western, French-speaking part of the country in 2009 compared with 96 in 2008. They ranged from verbal and written assaults to offensive graffiti and acts of vandalism against Jewish property. The Swiss Federation of Jewish Communities recorded 28 anti-Semitic incidents in the German-speaking part of the country, compared to 21 incidents in 2008. The federation noted in its annual report that serious incidents such as violent attacks against Jews and denials of the Holocaust were very rare in the country.

The law penalizes public incitement to racial hatred or discrimination, spreading racist ideology, and denying crimes against humanity. On October 21, a farmer from Sigriswil was fined 3,600 Swiss francs (\$3,842) for having published anti-Semitic conspiracy theories in a local newspaper.

The country is a member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The constitution and federal law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas, and the Government generally enforced the prohibition. The law mandates access to public buildings and government services for persons with disabilities, and the Government generally enforced these provisions in practice.

The Federal Equal Opportunity Office for Persons with Disabilities promoted awareness of the law and respect for the rights of the disabled through counseling and financial support for projects to facilitate their integration in society and the labor market. The Government continued a pilot project to empower persons with severe disabilities to live on their own by providing them with additional funding to pay for assistance in their daily lives.

On the fifth anniversary of the country's Disability Discrimination Law in December 2009, Egalite Handicap, a local NGO acting on behalf of persons with disabilities, published a report noting that important steps toward equality for persons with disabilities had been taken since the entry into force of the law. At the same time, the report criticized a number of defects in the fields of construction, transport, school, professional training, and state services; in particular, it criticized cantonal differences in access to inclusive education for children with disabilities.

On September 8, Egalite Handicap filed a complaint against the low-cost air carrier Easyjet at the Federal Office of Civil Aviation and the Geneva Civil Court for

refusing to transport a man in a wheelchair without an escort on a flight from Geneva to Berlin in late 2009.

*National/Racial/Ethnic Minorities.*—Right-wing extremists, including skinheads, who expressed hostility toward foreigners, ethnic and religious minorities, and immigrants continued to be publicly active. Police estimated that the number of extremists remained steady at approximately 1,200. Statistics gathered by the Foundation against Racism and anti-Semitism indicated that the total number of reported incidents against foreigners or minorities was 112 in 2009, compared with 93 incidents recorded in 2008. These figures included instances of verbal and written attacks, which were much more frequent than physical assaults. Many of the violent incidents were clashes between right- and left-wing extremist groups. Following the November 28 adoption of the referendum on the automatic expulsion of foreigners convicted of serious crimes, left-wing protesters caused property damage at locations used by the conservative Swiss People's Party (SVP).

On August 16, the Federal Commission against Racism released a report analyzing 2009 feedback from the Consulting Network for Victims of Racism. According to the report, a significant number of cases of racism were linked to sociopolitical events, such as the antiminarets initiative or tensions in the relationship between Switzerland and Germany. Most victims of racial discrimination were from Central Europe, but a significant proportion were Swiss citizens. In 2009 the Consulting Network for Victims of Racism assisted 162 victims of racial discrimination, compared with 87 victims in 2008.

On June 19, a Swiss soldier showed his friend from Angola his army rifle in his car in Zurich. After an unknown person reported having seen two black men with a gun, the police sent an antiterror detachment and dragged the two men from their car. One police officer reportedly racially insulted the Angolan man and threatened to beat him. Police authorities were investigating the incident.

On November 26, a truck driver harassed, threatened, and physically attacked a woman wearing a headscarf at a gas station in the canton of Glarus. According to newspaper reports, a similar incident had happened a year earlier in a local supermarket.

According to the Party of Nationally Oriented Swiss (PNOS), about 100 right-wing extremists participated in the PNOS's annual meeting on November 13 in Morgarten to celebrate the historical battle of Morgarten in 1315. After the meeting, most participants attended a concert of a right-wing extremist band.

The Jenisch are recognized by the Government as a minority group. While the large majority of the 30,000 to 35,000 Jenisch in the country lived settled lives, the Roma European Rights Center reported that representatives of the several thousand who continued to pursue an itinerant lifestyle had urged the Government to carry out its promises to create new campsites and parking areas for them in recent years. A lack of proper camping facilities and transit areas reportedly forced many Jenisch to occupy land illegally. The federal government allocated 750,000 Swiss francs (\$800,000) for measures and projects between 2007 and 2011 to improve living conditions for the Jenisch.

On June 24, the Federal Commission against Racism expressed concern about the increase in hostile attitudes against Roma and urged the cantons and municipalities to create new campsites and parking areas to eliminate any systemic discrimination against them.

On June 6, a group of Roma attempted to set up a camp with about 60 cars near a highway exit in the canton of Fribourg. The landowner, who was also president of the municipality and a member of the canton's grand council, claimed the Roma were harassing citizens and causing damage to the fields. The son of the landowner spread manure on the field, up to a few meters from the caravan. The Roma chased the man away threatening him with axes and metal bars.

On June 19, an unidentified person fired two shots at a car belonging to a Rom in Ticino, destroying its rear window. A few days later, the president of the local right-wing party Lega dei Ticinesi stated that Roma should be prohibited from camping in Ticino. The Federal Commission against Racism, the Foundation against Racism and anti-Semitism, and the Society for Minorities in Switzerland expressed concern about the incident and condemned the reaction of the Lega representative.

During the year the Department of the Interior's Federal Service for Combating Racism sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and anti-Semitism.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—There were occasional reports of societal violence or discrimination based on sexual orientation.

On the occasion of International Day against Homophobia held on May 17, the Swiss gay organization, Pink Cross, reported that homosexual children from immigrant families, particularly from the Balkans, Turkey, and the Middle East, suffered heavy reprisals by their families.

Throughout the year, representatives of the Young Social Democratic Party and lesbian, gay, bisexual, and transgender (LGBT) organizations complained that gay men suffered discrimination, as they were not allowed to donate blood.

On March 2, the Swiss section of Amnesty International filed a petition to the parliament calling for the gender-based persecution of LGBT persons to be incorporated into federal law as a category of persecution qualifying an applicant for asylum in the country.

On June 9, Zurich Pride, a festival for LGBT persons, took place in Zurich with the same level of security and police presence as many other large public events in the country.

*Other Societal Violence or Discrimination.*—There were occasional reports of discrimination against persons with HIV/AIDS.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law permits all workers, including foreigners, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers exercised these rights in practice. Approximately 25 percent of the workforce was unionized.

The law allows unions to conduct their activities without interference, and the Government protected this right in practice. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. However, collective bargaining agreements commit the social partners to maintain labor peace, limiting the right to strike for the duration of the agreement, which is generally several years. The Government may curtail the right of federal public servants to strike, but only for reasons of national security or safeguarding foreign policy interests. Public servants in some cantons and many municipalities are prohibited from going on strike. There was an ombudsperson in some cantons.

*b. The Right to Organize and Bargain Collectively.*—Authorities effectively enforced the laws protecting collective bargaining. Collective bargaining agreements covered approximately 50 percent of the work force.

There were no specific laws against antiunion discrimination and employer interference. The law does not require employers to offer reinstatement to an employee who is found to have been dismissed unjustly. The law provides that a worker found to have been illegally dismissed is entitled to maximum compensation of up to six months' wages. Trade union leaders complained that this penalty was insufficient to deter abusive dismissals of union activists.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Women were trafficked for sexual exploitation and domestic labor; there were isolated reports of trafficking in children. Trafficked women often were forced into prostitution; in many cases, they were subjected to physical and sexual violence, encouraged toward drug addiction, and incarcerated. Many victims were forced to work in salons or clubs. For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The Government effectively enforced laws and policies to protect children from exploitation in the workplace; however, there were isolated reports of trafficking of children to beg and commit theft. For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The minimum age for fulltime employment is 15 years of age. Children 13 and 14 years of age may be employed in light duties for not more than nine hours per week during the school year and 15 hours at other times. The employment of youths between the ages of 15 and 18 years old is also restricted; cantonal inspectorates strictly regulated these provisions. Children are not permitted to work at night, on Sundays, or in hazardous conditions.

The Economics Ministry monitored the implementation of child-labor laws and policies, and cantonal labor inspectorates were responsible for enforcement. Cantonal labor inspectors effectively inspected companies to determine whether there were violations of the child labor laws.

*e. Acceptable Conditions of Work.*—There is no national minimum wage, which resulted in relatively low average wages for workers and employees in the clothing,

hospitality, and retail industries. A majority of the voluntary collective bargaining agreements, reached on a sector-by-sector basis, contained clauses on minimum compensation, ranging from 2,200 to 4,200 Swiss francs (\$2,348 to \$4,482) per month for unskilled workers and 2,800 to 5,300 Swiss francs (\$2,988 to \$5,656) per month for skilled employees. These wages generally provided a decent standard of living for a worker and family. According to government statistics published in April 2009, 92 percent of nearly 15,000 employers inspected, including both those participating in collective agreements and those who reached wage agreements in other ways, complied with their obligations concerning wages.

The wage differences between local and foreign workers varied significantly according to their level of skills and their residence status. Skilled short-term resident foreigners earned approximately 1,235 Swiss francs (\$1,318) more per month, and skilled resident foreigners were paid approximately 2,256 Swiss francs (\$2,408) more per month than their Swiss equivalents. The only exceptions were skilled cross-border commuters, who earned nearly as much as comparable Swiss workers. In contrast unskilled resident foreigners earned on a monthly basis approximately 616 Swiss francs (\$657) less, short-term resident foreigners approximately 1,045 Swiss francs (\$1,115) less, and cross-border commuters approximately 279 Swiss francs (approximately \$298) less than unskilled local employees.

The law sets a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period of 35 consecutive hours plus an additional half-day per week. Premium pay for overtime must be at least 25 percent; overtime is generally restricted to two hours per day. Annual overtime is limited by law to 170 hours for those working 45 hours a week and to 140 hours for those working 50 hours a week. The Government effectively enforced these regulations.

The law contains extensive provisions to protect worker health and safety. The Economics Ministry and cantonal labor inspectorates effectively enforced the law. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment, and the authorities effectively enforced this right.

---

## TURKEY

Turkey, with a population of approximately 74 million, is a constitutional republic with a multiparty parliamentary system and a president with limited powers. The Justice and Development Party (AKP) formed a parliamentary majority in 2007 under Prime Minister Recep Tayyip Erdogan. Civilian authorities generally maintained effective control of the security forces.

There were reports of a number of human rights problems and abuses in the country. Security forces committed unlawful killings; the number of arrests and prosecutions in these cases was low compared to the number of incidents, and convictions remained rare. During the year human rights organizations reported cases of torture, beatings, and abuse by security forces. Prison conditions improved but remained poor, with overcrowding and insufficient staff training. Law enforcement officials did not always provide detainees immediate access to attorneys as required by law. There were reports that some officials in the elected government and state bureaucracy at times made statements that some observers believed influenced the independence of the judiciary. The overly close relationship between judges and prosecutors continued to hinder the right to a fair trial. Excessively long trials were a problem. The Government limited freedom of expression through the use of constitutional restrictions and numerous laws. Press freedom declined during the year. There were limitations on Internet freedom. Courts and an independent board ordered telecommunications providers to block access to Web sites on numerous occasions. Violence against women, including honor killings and rape, remained a widespread problem. Child marriage persisted, despite laws prohibiting it.

During the year there were some positive developments. On April 11, the political parties law was amended to allow campaigning in languages other than Turkish, including Kurdish. On July 25, the Government amended the antiterror laws to prohibit prosecution of minors under the laws, reduce punishments for illegal demonstrations and meetings, and allow for the release of minors who had been previously convicted under the laws, resulting in the release of hundreds of children from prison. On September 12, a package of constitutional reforms was passed by a referendum; it included provisions that changed the composition of the Constitutional Court and the Supreme Board of Judges and Prosecutors; allowed appeal of decisions of the Supreme Military Council in civilian courts; established an ombuds-

man; and allowed positive discrimination in favor of women, children, veterans, persons with disabilities, and the elderly.

RESPECT FOR HUMAN RIGHTS

*Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government or its agents did not commit any politically motivated killings; however, security forces killed some persons during the year.

The domestic nongovernmental organization (NGO) Human Rights Foundation (HRF) reported that security forces caused the deaths of several persons during demonstrations.

On May 11, police officer Gultekin Sahin allegedly shot Serzan Kurt during a demonstration at Mugla University. On May 17, the police officer was arrested. Kurt died from the wounds on May 19 at a hospital in Izmir. On August 10, a Mugla court transferred the case to a court in Eskisehir. The case continued at year's end.

On May 28, the Diyarbakir prosecutor terminated the investigation into the 2009 death of Aydin Erdem after declaring he was killed by the terrorist Kurdistan Workers' Party (PKK).

There were no developments in the 2009 deaths of demonstrators Sinan Aydin, Mahsum Karaoglan, or Mustafa Dag during the year.

There were continuing reports that security forces shot and killed civilians who refused to obey a warning to stop at checkpoints. The HRF reported that 29 persons died during the year specifically for refusing to stop, a decrease from the previous year. However, the Jandarma reported that there were no such deaths at checkpoints during the year.

On February 7, the HRF said the Jandarma opened fire on a minibus that failed to obey the warning to stop in Sirmak, killing Hecer Uslu. No investigation had begun at year's end.

Human rights organizations continued to state that the Government's failure to clearly delineate in the law appropriate situations for the use of lethal force contributed to cases of disproportionate use of force. The Jandarma, however, reported that various laws and regulations define proportionate use and escalation of force and that security forces followed those rules when reacting to a situation.

Yahya Menekse died after being run over by an armored police vehicle during a demonstration in Cizre, Sirmak, in 2008. On July 29, the first session of the court case for negligence began against the police officer who was driving the vehicle. The case continued at year's end.

As of year's end, a criminal case had not been filed in the police shooting and killing of Zeki Erinc during Nevruz (Kurdish New Year) celebrations in 2008.

On June 1, a Bakirkoy court convicted 21 of the 60 suspects in the death of Engin Ceber, who died of a brain hemorrhage in 2008, reportedly as a result of a beating by security forces during his detention and later by officials in prison. Four of the officials received life imprisonment.

The appeal of the Istanbul prosecutor's decision to close the investigation of seven police officers suspected in the death of Mustafa Kurkcu in Umraniye prison in 2007 continued at year's end. The prosecutor requested acquittal for the police officers on July 26. The investigation also continued at year's end.

Approximate numbers based on reports from the security forces (military, Jandarma, and Turkish National Police (TNP)) indicated that 25 civilians were killed and 50 were injured in armed clashes related to the struggle against the terrorist PKK during the year. Approximately 108 members of the security forces were killed and 244 were injured, and 149 terrorists were killed and five were injured. Most of the clashes between terrorists and security forces occurred in the southeast. The number of civilian deaths and injuries decreased from 2009, while deaths of security forces increased.

According to the Jandarma, land mines killed 13 civilians and injured 17 during the year. The HRF, however, claimed that land mines and unattended explosives killed five civilians and injured 31 during the year.

On several occasions throughout the year, the Turkish government used military aircraft to attack areas where the PKK, a terrorist organization, was active in northern Iraq. According to press reports, one civilian was killed and two others were injured in Iraq by artillery fire on June 18.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and law prohibit such practices; however, there were reports that some government officials employed them.

Human rights organizations continued to report cases of torture and abuse in detention centers and prisons during the year. They alleged that torture and abuse largely occurred outside of detention centers in more informal venues where it was harder to document. In its report for the year, Amnesty International (AI) noted that investigations into human rights violations by police were largely ineffective and that instances of bringing officials to justice were rare. The UN Committee against Torture (UNCAT) stated in its November report that it was “gravely concerned about numerous, ongoing, and consistent allegations concerning the use of torture, particularly in unofficial places of detention.”

The HRF reported that courts investigated allegations of abuse and torture by security forces during the year. However, they rarely convicted or punished offenders. Authorities typically allowed officers accused of abuse to remain on duty during their trials. UNCAT reported in November that it was “concerned at the continuing failure of authorities to conduct effective, prompt and independent investigations into allegations of torture and ill-treatment.”

In its November progress report, the European Commission (EC) reported that security forces frequently initiated countercases for resisting arrest against persons who alleged torture or abuse and that such cases were often given priority in courts. Domestic human rights organizations agreed and claimed that this practice had a deterrent effect on the filing of abuse complaints.

The Prime Ministry’s Human Rights Presidency (HRP) received a total of 3,475 applications based on human rights violations, including torture, during the year. The HRP attributed the increase in numbers of applications to a higher level of awareness of HRP’s provincial and subprovincial offices.

According to the domestic NGO Human Rights Association (HRA), there were 202 reports of torture in the first 11 months of the year, a substantial decrease from the previous year. The HRF received 319 new allegations of torture. A number of human rights observers claimed that only a small percentage of detainees reported torture and abuse because most feared retaliation or believed that complaining was futile. There was no data available at year’s end from the TNP on alleged torture cases.

The Council of Europe’s Committee for the Prevention of Torture (CPT) and domestic human rights observers reported in 2008 that security officials mainly used methods of torture and abuse that did not leave physical signs, including repeated slapping, cold exposure, stripping and blindfolding, food or sleep deprivation, threats against detainees or their family members, dripping water on detainees’ heads, isolation, and mock executions. Human rights activists, attorneys, and physicians who treated victims stated that because of increased punishments for torture and abuse, police who engaged in these practices often did so outside of police detention centers to avoid detection.

Human rights activists maintained that those arrested for ordinary crimes were as likely to suffer torture and mistreatment in detention as those arrested for political offenses such as speaking out against the Government, although they were less likely to report abuse. According to a number of human rights groups and press reports, authorities allegedly tortured some suspects to obtain confessions, while others, such as transvestites, were regularly subject to abuse by police on “moral” grounds.

On March 5, police officer Gazi Ozuak was acquitted on charges of torturing theft suspect Zeki Simsek in 2008. Authorities ruled that videotapes of the incident indicated that police did not bear responsibility.

On May 8 and December 24, a Bakirkoy court continued the case against seven police officers for the 2007 shooting and paralysis of Ferhat Gercek while he was selling *Yuruyus*, a leftist newspaper. Gercek’s trial for resisting arrest, which carried a possible punishment of up to 15 years and four months’ imprisonment, also continued at year’s end.

Human rights organizations documented cases of prison guards beating inmates during the year. On January 5, a group of parents of 32 children being held in an Adana prison on terror charges made a press statement claiming that prison officials beat the children and rubbed salt in their wounds.

On June 21, according to the HRF, prison officials beat three inmates at the Tekirdag prison for singing “Human dignity will overcome torture.” One of the inmates filed a criminal complaint against prison officials on August 24. As of year’s end, an investigation had not begun. After filing the complaint, the three inmates were each allegedly given more than a month of solitary confinement.

As of year's end, no action had been taken in the 2008 case of Derya Bakir, who suffered fractures in both legs due to alleged cruel treatment by 20 guards when she visited her brother in prison.

As of year's end, no official action had been taken against officials in Bolu prison for the 2008 beating of Muzaffer Akengin, Deniz Guzel, and Naif Bal.

*Prison and Detention Center Conditions.*—Prison facilities remained inadequate, although conditions generally improved during the year. Underfunding and overcrowding were the major problems.

The HRF reported 32 deaths of prison inmates and five deaths in detention through October 10. According to the TNP, two inmates committed suicide during the year. The Turkish General Staff (TGS) reported there were no deaths of detainees or convicts in military prisons during the year.

As of October 27, the Ministry of Justice reported the country had 371 prisons with a designed capacity of 114,220 holding a total of 121,102 inmates, 56,988 of whom were arrestees with ongoing trials. The TGS reported 25 military prisons with a capacity of 5,300 holding a total of 767 prisoners, 556 of whom were arrestees with trials in progress.

According to the Turkish Medical Doctors' Association, prisons were not adequately staffed with doctors, and psychologists were available only at some of the largest prisons. Several inmates claimed they were denied appropriate medical treatment for serious illness. The HRF reported that 355 arrestees or convicts were denied access to proper health services during the year.

Foreigners who claimed asylum after being detained by security forces were held in "guest houses for foreigners" operated by the Foreigners' Department of the TNP. According to the Office of the UN High Commissioner for Refugees (UNHCR), detained asylum seekers reported insufficient food and medical attention and overcrowded conditions.

Detainees and convicts occasionally were held together. Inmates convicted for non-violent, speech-related offenses were sometimes held in high-security prisons.

Juveniles were generally held in separate wards from adults. On July 25, the Government amended the antiterror laws to prohibit prosecution of minors under the laws, reduce punishments for illegal demonstrations and meetings, and allow for the release of minors who had previously been tried and convicted under the laws. These amendments resulted in the release during the year of more than 200 minors and persons who had been convicted previously as juveniles. No data was provided by the Ministry of Justice at year's end as to the number of juveniles imprisoned in the country.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to see a judge once a month. Authorities at times investigated credible allegations of inhumane conditions but generally did not document the results of such investigations in a publicly accessible manner.

In late February and March, members of parliament's Human Rights Investigation Commission (HRIC) were allowed to visit and observe military prisons for the first time. The HRIC produced two reports during the year that found conditions in those prisons satisfactory. The Government permitted prison visits by representatives of some international organizations. Domestic human rights organizations and activists reported that they were not allowed to visit prisons during the year and that prison-monitoring boards composed of government officials and private persons were ineffective.

The CPT visited PKK leader Abdullah Ocalan in Imrali prison on January 26-27. Its report published on July 9 stated that the conditions of imprisonment for Ocalan had improved compared with 2007. It also noted improved access to the prison for Ocalan's lawyers and family members.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention; however, the Government at times did not observe these prohibitions.

*Role of the Police and Security Apparatus.*—The TNP, under the control of the Ministry of Interior, is responsible for security in large urban areas. The Jandarma, a paramilitary force under the joint control of the Ministry of Interior and the military, is responsible for policing rural areas. The Jandarma is also responsible for specific border sectors where smuggling is common; however, the military had overall responsibility for border control. In November the EC noted the Government's February annulment of the secret protocol on Security, Public Order and Assistance Units (commonly called EMASYA), which allowed military operations to be carried out without the consent of civilian authorities.

A civil defense force known as the village guards, concentrated in the southeast, was less professional and disciplined than other security forces. The village guards

have been accused repeatedly in past years of drug trafficking, corruption, theft, rape, and other abuses. Impunity remained a serious problem. During the year the Government reduced the number of village guards to 45,877 from 47,854 in 2009.

On April 26, a Corum court convicted six persons who were employed as village guards and reportedly used state-supplied weapons to kill 44 persons at a wedding ceremony in Mardin in May 2009. They received 44 consecutive life sentences. Three other persons received lesser sentences. Appeals of the convictions continued at year's end.

The TNP and Jandarma received specialized training in a number of areas, including human rights and counterterrorism. Thousands of security personnel received human rights training as part of their ongoing training during the year. According to the Government, the military emphasized human rights in training for officers and noncommissioned officers. A total of 32 hours of human rights training is given to Jandarma officers, noncommissioned officers, and cadets.

The Jandarma reported that three personnel were investigated for excessive use of force during the year. The investigations were ongoing at year's end. A total of 68 Jandarma personnel were expelled for various reasons during the year.

The TNP reported that, as of November, 71 judicial or administrative investigations were opened against TNP personnel for excessive use of force or mistreatment. One investigation resulted in a reprimand, and five resulted in a short-term block on promotions. Investigations were dropped in 32 incidents because there was "no need to punish." Investigations continued in 33 incidents at year's end.

*Arrest and Detention.*—Warrants issued by a prosecutor are required for arrests unless the suspect is caught in the commission of a crime. A suspect may be detained for 24 hours, with prosecutorial discretion to extend the period to 48 hours, excluding transportation time, before being arraigned by a judge. Suspects must be told of the charges against them within 24 hours. A suspect cannot, under the law, be held arbitrarily or secretly. There is a functioning bail system. After arraignment, the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order detention if the judge determines that the accused is likely to flee the jurisdiction or destroy evidence. The law provides that detainees are entitled to immediate access to an attorney and to meet and confer with an attorney at any time. The law requires that the Government provide indigent detainees with a public attorney in criminal cases where the defendant requests an attorney. In cases where the potential sentence is greater than five years, or where the defendant is a child or is disabled, a defense attorney is appointed even without the defense request. Detainees were generally allowed prompt access to family members. However, human rights organizations reported difficulties in helping families find out whether a relative had been detained because the Government refused to release such information to the organizations or the families.

Private attorneys and human rights monitors reported irregular implementation of these laws, particularly with respect to attorney access. According to a number of local bar associations, attorney access for detainees continued to vary widely across the country. In rural areas, particularly in the southeast, there were more reports of defendants not having immediate access to an attorney.

Human rights observers noted that in most cases where a defendant could not afford an attorney, one was provided. However, in terrorism-related cases an attorney was frequently not provided until after the suspect had been detained and interrogated by security forces. The HRA claimed that police often intimidated detainees who asked for attorneys, for example by telling them a court would assume they were guilty if they consulted an attorney during detention. Provincial bar associations continued to face difficulties providing attorneys because the Government was behind on compensation payments for such work.

By law, police and Jandarma may compel citizens to declare their identities without any cause.

During the year police routinely detained demonstrators for a few hours at a time. Police detained more than 1,000 members of the pro-Kurdish Peace and Democracy Party (BDP) on various occasions. Police continued to detain and harass members of human rights organizations, media personnel, and human rights monitors. Police continued to detain persons on suspicion of "membership in an illegal organization" and for "promoting terrorist propaganda."

On October 10, the first session of a case against 151 suspects, including several elected mayors, political party officials, and human rights activists, began in Diyarbakir. The suspects were charged in a 7,578-page indictment with disrupting the integrity of the state; being members and/or administrators of the Kurdish Communities Union (KCK), the political branch of the terrorist PKK; and assisting and sheltering a terrorist organization, among other charges. Human Rights Watch stat-

ed that the case raised concerns about the right of individuals to participate in political activities. The case continued at year's end.

Lengthy arrest periods before a verdict were generally a problem. The law does not set a time limit for holding suspects in custody or for completion of their trial. Judges have ordered that some suspects be held for long periods or even indefinitely without trial but with the right to come before a judge each month. The Ministry of Justice reported that the average length of time between arrest and the completion of trial was 580 days. In November the EC stated that close to half of all detainees were either awaiting trial or awaiting a final verdict on their cases. Of juveniles in detention, 88 percent were awaiting trial.

Throughout the year, prosecutors in Istanbul continued to arrest and indict prominent military, business, and media personalities on charges of plotting to foment unrest and topple the elected government as members of an alleged network known as "Ergenekon." More than 250 persons were indicted by year's end. Some opposition politicians, members of the press, human rights groups, and critics of the Government considered many of the indictments to be politically motivated. Others, including human rights groups and some supporters of the Government, claimed that the arrests had reduced pressure on journalists and human rights activists across the country. Dozens of defendants have been held for long periods, a common practice in the country, although some were released pending trial during the year.

On December 16, the first session of a trial of 195 suspects in the alleged "Sledgehammer" coup plan began. The suspects, who include active-duty military generals and civilians, were accused of obstructing the Government and plotting to overthrow it. The trial continued at year's end. Many observers saw this trial as politically motivated, similar to the Ergenekon case, while others saw it as bringing to justice those who attempted to overthrow the Government.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the judiciary was occasionally subject to outside influence. The law prohibits the Government from issuing orders or recommendations concerning the exercise of judicial power. In November the EC's progress report on the country noted that senior members of the armed forces in particular continued to make statements on judicial matters.

The High Council of Judges and Prosecutors (HSYK) selects judges and prosecutors for the country's courts and is responsible for court oversight. The constitution provides tenure for judges, but the HSYK controls the careers of judges and prosecutors through appointments, transfers, promotions, expulsions, and reprimands. The September 12 constitutional amendments expanded the number of permanent members of the HSYK from seven to 22. The amendments also called for 10 members to be directly elected by the approximately 12,000 judges and prosecutors throughout the country, while the 10 other members are appointed by the president, the Court of Appeals, the Council of State, and the Justice Academy. The remaining two members are the minister and under secretary of justice. Supporters of the changes hailed the development as a step toward an independent judiciary. Opponents, however, argued that the Government would use influence among judges and prosecutors to ensure the election of handpicked candidates to the HSYK and contended that the president would be likely to select progovernment candidates as well. The minister of justice presides over the HSYK, and at least once in the past year the minister prevented the HSYK from convening, accusing the HSYK of attempting to intervene in ongoing trials.

The close connection between public prosecutors and judges gave the appearance of impropriety and unfairness in criminal cases. Prosecutors and judges study together before being assigned by the HSYK. Once appointed, they were often housed together, frequently shared the same office space, and often worked in the same courtroom for more than five years.

According to several regional bar associations, the Government devoted insufficient resources to public defense. The associations also noted that public defense attorneys undergo less rigorous training than their prosecutorial counterparts and are not required to take an examination to demonstrate a minimum level of expertise.

Constitutional amendments adopted on September 12 allow individuals to apply directly to the Constitutional Court for redress. Previously, only the lower courts, the president, and members of parliament under certain conditions could apply to the court.

On January 21, the Constitutional Court declared unconstitutional the provision of the law allowing military personnel to be tried in civilian courts. However, the September 12 constitutional amendments contain a provision for trial of military personnel in civilian courts if the crime is committed against the state, constitutional order, or the functioning of constitutional order. The amendments provide for civilian judicial review of decisions of the Supreme Military Council. The amend-

ments also annulled the constitutional provision that prevented the trials of persons involved in the 1980 coup, including former military generals.

According to an AI report during the year, criminal defendants faced protracted and unfair trials, especially for violations of antiterror laws. The report also asserted that convictions under antiterror laws were often based on unsubstantiated or unreliable evidence.

*Trial Procedures.*—Defendants enjoy a presumption of innocence. Courtroom proceedings are public for all cases except those involving minors as defendants. Court files, which contain charging documents, case summaries, judgments, and other court pleadings, are closed to everyone other than the parties to a case. This makes it difficult to obtain information on the progress or results of court cases except through formal channels. There is no jury system; a judge or a panel of judges decides all cases. Defendants have the right to be present at trial and to consult with an attorney in a timely manner. Defendants or their attorneys can question witnesses for the prosecution and, within limits, present witnesses and evidence on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants enjoy the right to appeal, although appeals generally took several years to conclude.

International human rights organizations and the EU stated that the courtroom structure and rules of criminal procedure gave an unfair advantage to the prosecution. During a trial, the prosecutor could call any witness desired, whereas the defense had to request that the judge call a witness. Judges decided whether to ask and how to phrase defense counsel's questions but asked all of the prosecution's questions in the exact form presented. Prosecutors entered the courtroom through the same door as the judge; defense attorneys entered through a separate door. Prosecutors sat at an elevated desk at the same level as that of the judge; the defense sat at floor level.

Defendants sometimes wait several years for their trials to begin. Subsequently, trials often last several years. Proceedings against security officials often were delayed because officials did not submit statements promptly or attend trials.

In 2009 the European Court of Human Rights (ECHR) found 95 violations of the European Convention on Human Rights by the country involving length of proceedings.

The law prohibits the use in court of evidence obtained by torture; however, prosecutors in some instances failed to pursue torture allegations, forcing defendants to initiate a separate legal case to determine whether the exclusion of evidence was lawful. Human rights organizations reported that, in such instances, the primary case frequently was concluded before the secondary case was decided, leading to unjust convictions.

*Political Prisoners and Detainees.*—The HRA asserted that several thousand political prisoners from all parts of the political spectrum existed, although the Government does not distinguish them as such. The Government claimed that alleged political prisoners were in fact charged with being members of, or assisting, terrorist organizations.

According to the Ministry of Justice, from January to June, 7,217 suspects were detained on terrorism-related charges. During the same period 1,553 terrorism cases were opened against 3,333 suspects.

International humanitarian organizations were allowed access to alleged political prisoners, provided they could obtain permission from the Ministry of Justice. In practice, organizations rarely received permission.

*Regional Human Rights Court Decisions.*—Article 90 of the constitution states that "in the case of a conflict between international agreements in the area of fundamental rights and freedoms...the provisions of international agreements shall prevail." The country is signatory to the European Convention on Human Rights. Due to this provision, the country's courts are subject to the jurisdiction of the ECHR. Decisions of the ECHR bear the force of law in the country and take precedence over case decisions from the Court of Appeals or Constitutional Court.

As of November 30, there were 16,100 cases involving the country outstanding at the ECHR. As of November 22, there were 330 ECHR decisions involving the country. According to the EU's November progress report, a high number of alleged violations continued to be submitted to the ECHR.

On September 14, the ECHR ruled in a high-profile case that the country was liable for failing to protect the life and freedom of expression of Armenian-Turkish journalist Hrant Dink in 2007. The ECHR ruled that the Government failed to prevent the murder of the journalist after threats were made against him and did not carry out an effective investigation afterwards.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters. The law provides that all citizens have the right to file a civil case for compensation for physical or psychological harm suffered, including for alleged human rights violations. The September 12 constitutional amendments allow individuals to bring a case directly to the Constitutional Court. The amendments also establish the creation of an independent human rights commission and an ombudsman's office. Neither institution had been established by year's end.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The September 12 constitutional amendments protect the "secrecy of private life." The amendments state that persons have the right to demand protection and correction of their personal information and data.

The law allows for telephone tapping with a court order. Only the country's telecommunication agency is authorized to tap telephones, and only when presented with a court order directed against alleged drug traffickers, organized crime members, and terrorists. There were occasional complaints by individuals and public figures, including higher court members and politicians, that their telephones were illegally tapped without a court order.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government continued to limit these freedoms in significant numbers of cases. The EC stated in its November progress report that the law does not sufficiently guarantee freedom of expression and noted as particular concerns the high number of cases initiated against journalists, undue political pressure on the media, legal uncertainties, and frequent Web site bans.

Article 301 of the penal code criminalizes insults to the Turkish nation. The minister of justice must give permission for a case concerning article 301 to proceed. A separate legal provision forbids insulting the country's founder, Mustafa Kemal Atatürk. Prosecutors continued to conduct ideologically motivated investigations under both the constitution and the law. Other laws, such as antiterror laws and laws governing the press and elections, also restricted speech.

According to the Ministry of Justice, the minister received 352 complaints concerning article 301 during the year and rejected 342 of them. The minister gave permission for the remaining 10 cases to proceed.

Individuals in many cases could not criticize the state or government publicly without risk of criminal suits or investigation, and the Government continued to restrict expression by persons sympathetic to some religious, political, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued in the public sphere, particularly on problems relating to the role of the military, Islam, political Islam, Kurds, Alevis, and the history of the Turkish-Armenian conflict at the end of the Ottoman Empire. However, many who wrote or spoke on such topics, particularly those who criticized the military, the Kurdish problem, or the Armenian problem, risked investigation, albeit fewer than in previous years. The Turkish Publishers' Association (TPA) reported that serious restrictions on freedom of expression continued despite legal reforms related to the country's EU candidacy.

During the year authorities continued to file numerous cases against publications under antiterror laws. The HRF reported that the laws contain an overly broad definition of offenses that allows ideologically and politically motivated prosecutions. There were at least 550 cases against the pro-Kurdish daily newspaper *Ozgur Gundem* under antiterror laws. There were some convictions, but most cases remained open at year's end.

Throughout the year, police and the judiciary increased pressure on members of the BDP. Human rights activists and party officials claimed that more than 1,700 cases continued against BDP members by year's end. Most members were investigated and prosecuted for speaking in the Kurdish language or for making statements critical of the Government or in support of the PKK or its leader, Abdullah Ocalan. Many were also arrested for alleged ties with the KCK.

At the first session in October of the trial against 151 alleged members of the KCK, the suspects asked to defend themselves in the Kurdish language instead of Turkish. The court denied the request, calling Kurdish an "unknown language."

In December a Diyarbakir court rejected a request by 17 defendants to defend themselves in Kurdish in a trial for support of terrorism after returning from Iraq in October 2009. However, also in December a Sanliurfa court allowed defendants to defend themselves using the Kurdish language. This kind of inconsistency in court decisions on the use of languages other than Turkish was prevalent throughout the country.

Diyarbakir mayor Osman Baydemir continued to face more than 100 charges and investigations for use of the Kurdish language, spreading terrorist propaganda, and promoting terrorism or a criminal. Most of these cases were for Baydemir's expression of his political views or speaking in Kurdish in public events. During the year there were at least 20 acquittals and three convictions in cases against Baydemir, but he remained in his position as mayor. Many cases and appeals were pending at year's end. For example, in December Prime Minister Erdogan opened a civil case against Mayor Baydemir for "emotional damage" for a speech that Baydemir made in December 2009 to protest police operations against KCK suspects. Baydemir cursed in the speech. There had been no movement on the case at year's end.

In February, BDP member of parliament Emine Ayna sued deputy prime minister Bulent Arinc for calling her a "creature." She demanded 10,000 lira (\$6,666) compensation. The case continued at year's end.

On May 21, a Diyarbakir court indicted singer Ferhat Tunc for "spreading propaganda for the PKK" and "acting on behalf of an illegal organization" for a speech he gave at a festival in Eruh in August 2009 on the 25th anniversary of the first PKK attack. The singer faced up to 15 years' imprisonment. The case continued at year's end.

During the year the prosecutor ceased the investigation of suspected violations of article 301 against the National Police Academy for a workshop conducted in August 2009 on the Government's "Kurdish Opening" initiative aimed at addressing some concerns of the country's Kurdish citizens.

The Government owned and operated the Turkish Radio and Television Corporation (TRT). According to the High Board of Radio and Television (RTUK), as of November there were 210 local, 15 regional, and 25 national television stations and 944 local, 99 regional, and 35 national radio stations officially registered in the country. In addition, 77 television channels operated on cable networks, and the RTUK granted seven television and two radio enterprises satellite licenses and broadcast permits necessary for operation. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Kurdish-language private channels. Most media were owned by large, private holding companies that had a wide range of outside business interests; the concentration of media ownership influenced the content of reporting and limited the scope of debate. Observers noted that some media conglomerates used the media as a tool to build pressure for or against government policies.

The RTUK reported that radio and television stations were allowed to broadcast in the following languages besides Turkish during the year: Arabic, Bosnian, Circassian, and Kurdish (both Kurmanji and Zaza dialects).

The country had active privately owned print media. Hundreds of private newspapers spanning the political spectrum appeared in numerous languages, including Kurdish, Armenian, Arabic, English, and Farsi. However, authorities routinely censored media with pro-Kurdish or leftist content, particularly in the southeast, by confiscating materials or temporarily closing down the media source. According to the TNP, 21 issues of newspapers, 32 issues of magazines, and 10 books were confiscated during the year.

Prosecutors harassed writers, journalists, and political figures by bringing dozens of cases to court under various laws that restrict media freedom. However, judges dismissed many of these charges. Authorities at times ordered raids of newspaper offices, closed newspapers temporarily, issued fines, or confiscated newspapers for violating speech codes. Despite government restrictions, the media criticized government leaders and policies daily and in many cases adopted an adversarial role with respect to the Government. On October 20, Reporters without Borders cited a "frenzied proliferation of lawsuits, incarcerations, and court sentencing targeting journalists." The Solidarity Platform of Imprisoned Journalists reported that, at the end of the year, there were 43 journalists in prison, 10 of these editors in chief. Most of these journalists were being charged under antiterror laws.

On February 26, Prime Minister Erdogan made statements that many observers believed implied media owners should fire columnists whom Erdogan accused of hurting the economy with their negative reporting. These statements were seen by many as an attempt to censor the media's critical reporting on government activities. Observers reported that government officials and state bureaucrats made other statements throughout the year that were interpreted as influencing the independence of the media.

The media reported that, by year's end, more than 5,000 cases were filed against journalists covering the Ergenekon trial. Of those, more than 20 journalists were convicted. The remaining cases continued at the end of the year.

On December 2, the country's top administrative court suspended a large portion of the 2009 tax fine against the Dogan Media Group. Some observers were concerned that the Government was using the large tax fine to punish the media group because its editorial line had been considered critical of the Government and prime minister. They described the fine as having a chilling effect on journalists, which continued during the year, and reported that the Government was using it to silence opposition. Although the fine was suspended, a case regarding the validity of the fine continued at year's end.

National publications could be denied access to government officials because of their reporting. During the year a journalist from the daily newspaper Evrensel, Sultan Ozer, and at least five other journalists did not receive accreditation to the Prime Ministry after being denied in 2009 as well. The TGS did not admit to its media briefings representatives of publications which it perceived as espousing views contrary to the TGS.

There were complaints during the year against authors and publishers filed by ideologically motivated attorneys and prosecutors. Dozens of authors, writers, and publishers were on trial at year's end.

On January 11, the Court of Appeals decided that the 2008 "I apologize to the Armenians" campaign did not constitute a crime and dropped the case against the organizers.

On February 18, an Istanbul court convicted attorneys Irfan Dundar and Firat Aydinkaya to 10 months' imprisonment for a 2004 article in the Ozgur Gundem daily newspaper that reported Ocalan's comments to his attorneys. They were convicted of "making propaganda for a terrorist organization."

In April a court convicted Samil Tayyar of the daily newspaper Star and gave him a suspended term of 15 months in prison for writing about the continuing trial of the alleged Ergenekon organization. Tayyar was convicted of violating individual confidentiality, influencing the independence of the judiciary, and violating the confidentiality of preliminary investigations.

On May 13, a local court convicted Vedat Kursun, former editor in chief of the Kurdish-language newspaper Azadiya Welat for membership in a terrorist organization and violating antiterror laws in connection with 102 articles he had written in 2007 and 2008. Kursun was sentenced to 166 years in prison. In another case in December, Kursun was sentenced to another 138 years for articles he published in the same newspaper. Both cases were under appeal at year's end.

On June 4, an Istanbul court convicted Express magazine writer Irfan Aktan and editor Merve Erol under antiterror laws for spreading propaganda for a terrorist organization in a 2009 article that Aktan wrote on the Kurdish problem. Aktan was sentenced to one year and three months in prison, and Erol received a 16,600 lira (\$11,066) fine.

Several cases remained outstanding at year's end against publisher Ragip Zarakolu for publishing books deemed offensive or "dangerous" or for "spreading propaganda of a terrorist organization."

On June 10, an Istanbul court convicted author N. Mehmet Guler to one year and three months in prison for "spreading propaganda of a terrorist organization" for his book *More Difficult than Death*. Publisher Zarakolu was acquitted in the same case. On September 30, a separate case was opened against Zarakolu for publishing another book about the Kurdish issue. The case continued at year's end.

On October 26, the trial of Ogun Samast, accused of killing prominent human rights activist Hrant Dink in 2007, was transferred to Istanbul Juvenile Court under the amendments that prohibit trying juveniles under the antiterror laws. Samast was 17 when the killing occurred. The case continued at year's end.

On October 27 and December 30, an Ankara court continued the case against publisher and writer Temel Demirer for allegedly violating article 301. Demirer had been charged for a statement he made after the 2007 Dink killing that "Hrant Dink was not killed for being Armenian but for recognizing the genocide." The case continued at year's end.

On June 4, an Istanbul court acquitted Nedim Sener, who was charged with "publicizing confidential information" and "insulting government officials" in a book he published, *Dink Murder and Intelligence Lies*.

Printing houses were required to submit books and periodicals to prosecutors at the time they were published. The TPA reported that publishers often avoided works with controversial content in order to stay out of court. It also reported that the prohibition and recall of books remained a concern, although there were fewer such cases than in 2009. Several publications were recalled pending a final court decision during the year. Writers and publishers were still prosecuted on grounds of defamation, denigration, obscenity, separatism, terrorism, subversion, fundamentalism, and insulting religious values. According to the TPA, authorities inves-

tigated or opened court cases against dozens of publications and publishers during the year. The International Publishing Association stated that, at year's end, 70 persons from the literary world were on trial in the country.

On May 21, the RTUK approved an application from a private TV station in Diyarbakir to change its name to AMED-TV. "Amed" is the Kurdish name for Diyarbakir. AMED-TV began broadcasting in the Kurmanci and Zaza dialects of Kurdish, along with Turkish, Farsi, and Arabic, on May 23.

*Internet Freedom.*—The Internet was widely available in the country. It was used in schools, libraries, cafes, and other public locations, and the Government encouraged its use. There were some restrictions on Internet access. According to TurkStat, the country's national statistics authority, individuals in approximately 41.6 percent of homes in the country used the Internet during the year.

The Internet law allows the Government to prohibit a Web site if there is suspicion that the site is committing any of eight crimes: insulting Ataturk, obscenity, prostitution, gambling, or encouraging suicide, sexual abuse of children, drug abuse, or dangerous substances for health care. Upon receiving a complaint or as a result of personal observations, a prosecutor may request that a judge prohibit access to the offending site or, in an urgent situation, the Telecommunication Presidency (TP) may prohibit access. In either case, a judge must rule on the matter within 24 hours. Following a judicial order, the Internet service provider (ISP) must block access within 24 hours. If the judge does not approve the block, the prosecutor must ensure access is restored. The ISP administrators may face a penalty ranging from six months' to two years' imprisonment for failing to comply with a judicial order. The law also allows persons who believe a Web site violates their personal rights to request the TP to order the ISP to remove the offensive content. No official figures on the number of blocked Web sites were available at year's end. However, Engelliweb, an NGO working on internet freedom issues, reported that by October 31, 6,457 sites had been blocked in the country, a substantial increase over the reported numbers in 2009.

On June 7, the Ministry of Transport asked the TP to block access to certain Web sites associated with Google services and demanded that YouTube register as a taxpayer in the country. Other services, including Google Translate, Google Docs, and Google Books, were blocked because they tried to "circumvent Turkey's laws" to allow access to YouTube. Access to these services was restored at year's end.

On October 31, the TP removed the 2008 prohibition on the YouTube Web site because a video that lampooned Ataturk had been removed from the site. The site remained accessible at year's end.

On November 2, an Ankara court ordered YouTube blocked again for publishing a secretly taped video allegedly showing then head of the opposition Republican People's Party (CHP) Deniz Baykal with a woman in a hotel room. The court ordered the Web site blocked because of "obscene and immoral images." As of year's end, the TP had not acted on the court order, and the Web site remained accessible.

On August 6, the TP banned Playboy magazine's Web site without a court order, based on "a legal evaluation" of the Internet law on obscenity. The ban remained in force at year's end.

On September 17, a court ordered the TP to block the social networking site Facebook because videos posted on the site insulted Turks and Ataturk. However, the TP decided not to block the site because the offending material was removed. The site remained accessible at year's end.

Government authorities on rare occasions accessed Internet user records to protect "national security, public order, health, and decency" or to prevent a crime. Police must obtain authorization from a judge or, in emergencies, the "highest administrative authority" before taking such action and generally did so in practice.

*Academic Freedom and Cultural Events.*—There were generally no government restrictions on academic freedom or cultural events during the year; however, there was some self-censorship on sensitive topics. Restrictions on freedom of speech at times were used to limit academic freedom and cultural events.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. Significant prior notification to authorities is required for a gathering, and authorities may restrict meetings to designated sites.

The HRF reported that security forces killed two persons during demonstrations and injured 143, a substantial decrease from the previous year. There were reports that police beat, abused, or harassed demonstrators during the year. The HRF reported that police detained 1,716 and arrested 152 persons involved in demonstrations during the year. The detentions varied in length from several hours to several days.

Human Rights Watch (HRW) reported that many demonstrators were punished during the year “even if their offense was making a victory sign, clapping, shouting a PKK slogan, throwing a stone, or burning a tire.” The HRW report criticized heavily the use of antiterror laws to punish persons who were exercising their right to demonstrate peacefully.

AI reported that on June 17, Halil Savda, Gokce Otlu Sevimli, Zarife Ferda Cakmak, and Volkan Sevinc were convicted of “alienating the public from military service.” The case stemmed from their attendance at a public demonstration on January 6 and a press release in support of conscientious objector Enver Aydemir. Savda, Sevimli, and Cakmak each received prison sentences of six months; Sevimli’s and Cakmak’s sentences were suspended. Sevinc was also convicted of insulting a police officer and sentenced to one year and six months in prison, suspended.

Public events around the country celebrating the Nevruz holiday in March were generally peaceful. However, violence continued to mar demonstrations related to the Kurdish problem during the rest of the year in the southeast of the country.

A number of symbolic public events took place on April 24 to commemorate events relating to the Armenian issue and the tragic events of 1915. The gatherings were peaceful and received police protection where necessary.

Labor Day celebrations on May 1 were generally peaceful. For the first time in 33 years, celebrations were officially allowed in Taksim Square in Istanbul, which in the past was a traditional location for such celebrations.

*Freedom of Association.*—The law provides for freedom of association; however, several restrictions on this right continued in practice.

Under the law, persons organizing an association do not need to notify authorities beforehand, but an association must provide notification before interacting with international organizations or receiving financial support from abroad and must provide detailed documents on such activities. Representatives of associations stated this placed an undue burden on their operations.

According to the Third Sector Foundation of Turkey, an advocacy NGO, the criteria for NGOs to obtain public benefit status that entitles them to certain tax exemptions were restrictive and complicated. Applications for public benefit status must be approved by the Council of Ministers. The law does not allow applicants to appeal if their petitions are rejected.

*c. Freedom of Religion.*—For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, at times the Government limited these rights in practice. The September 12 constitutional amendments state that only a judge may limit the freedom to travel and only in connection with a criminal investigation or prosecution. The Government reduced substantially the number of roadway checkpoints in the southeast, where it maintained a heavy security presence. The Government generally cooperated with the UNHCR and other humanitarian organizations to provide protection and assistance to internally displaced persons, refugees (recognized as such with certain geographical limitations on country of origin), returning refugees, asylum seekers awaiting resettlement to third countries, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it.

*Internally Displaced Persons (IDPs).*—Fighting between the security forces and the terrorist PKK, which began in 1984 and continued during the year, resulted in hundreds of thousands of citizens living as IDPs in the country. Many IDPs settled permanently in cities in the west, especially around Izmir and Istanbul. According to the TNP, a total of 187,861 citizens returned voluntarily to their villages in the southeast by October.

The law to compensate IDPs allowed persons who suffered material losses during the conflict with the PKK to apply for compensation through May 2009. The EC’s November progress report stated that the Government had made continued progress on compensating losses due to terrorism and the fight against terrorism since 2004. Rejected applicants have launched numerous cases in administrative courts. Several of them applied to the ECHR. Local NGOs and regional bar associations maintained that the law included unreasonable documentation requirements and awarded levels of compensation far below standards established by the ECHR. The Government denied these claims.

Voluntary and assisted resettlements continued. In a few cases, persons could return to their former homes; in other cases centralized villages were constructed. The TNP reported it had provided compensation totaling 1.95 billion lira (approximately

\$1.3 billion) by October related to losses stemming from the fight against PKK terrorists.

*Protection of Refugees.*—The country accepts its obligations under the 1967 Protocol relating to the Status of Refugees only with respect to refugees from Europe. An administrative regulation provides for the granting of asylum or refugee status. During the year the Ministry of Interior conducted a parallel refugee status determination process subsequent to the UNHCR's determinations, affirming the latter's decisions in nearly all cases.

The Government requires that refugees who have no durable solution in the country obtain exit permission before departing for resettlement in other countries. In the past, such permission was withheld until the person paid a residence fee and any back fees and fines. In March the Ministry of Interior released guidance that the municipality where an asylum seeker resides may waive the residence permit fee for persons who are unable to pay. No data was available at year's end regarding the number of waivers granted.

In most cases, the Government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. In the first nine months of the year, 62 persons of interest to the UNHCR were deported from the country. This was a significant decrease from the previous year, when the number deported was 214. The UNHCR sometimes had difficulty gaining access to interview potential refugees if they had already been detained or arrested by security forces for illegal entry into the country.

The Government detained refugees and asylum seekers who entered the country illegally, a practice that was criticized by AI during the year. A total of 1,014 persons were detained in the first nine months of the year; 310 were registered with the UNHCR. Detainees could be held indefinitely. According to UNHCR, the majority of those detained were from Afghanistan (646) and Iran (177).

Iraqi citizens were generally able to obtain tourist visas upon arrival at airports in the country. However, some foreigners transiting the country on their way to Europe, including Iraqis, were returned to their countries of origin when immigration authorities determined they might seek asylum in Europe.

Access to the national procedure for temporary asylum was hindered by the lack of reception facilities for groups of interdicted migrants, potentially including asylum seekers, and a lack of interpreters to assist security officials.

The law does not have a strict time limit for asylum seekers or require them to present a valid identity document. The law also provides for a waiver of residence permit fees for asylum seekers in "humanitarian situations." After the issuance of a government circular in March ordering the end to fines for late registration, there were no reports of fines being imposed or enforced.

The UNHCR reported successful interventions in most cases where asylum seekers arrived lawfully in the country after transiting one or more other countries. It also reported improved access to persons in detention who wished to apply for asylum, ship stowaways who wished to apply for asylum, and persons seeking asylum while they were in the international areas of the country's airports during the year.

The Government provided temporary protection to persons who may not qualify as refugees, including persons of non-European origin. Refugees needed permission from local authorities to travel to Istanbul or Ankara, including for meetings with the UNHCR or resettlement agencies.

Human rights groups reported that nearly 200 lesbian, gay, bisexual, or transgender (LGBT) refugees from Iran were living in the country at year's end. The group reported that these refugees faced numerous problems in the country in addition to their refugee status due to their sexual orientation or gender identity.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. However, the Government restricted the activities of some political parties and leaders.

*Elections and Political Parties.*—In October 2009 the law on the election of parliamentarians was amended so that parliamentary elections are to be held every four years instead of every five.

The 2007 parliamentary elections were held under election laws that the Organization for Security and Cooperation in Europe (OSCE) found established a framework for democratic elections in line with international standards. The law requires a party receive at least 10 percent of the valid votes cast nationwide to enter parliament. Some political parties and human rights groups criticized the 10 percent

threshold as unduly high. Three parties of the 21 eligible to run crossed the threshold in the 2007 elections. Candidates who ran as independents were able to bypass the threshold.

In its observation report following the 2007 elections, the OSCE noted that despite a comprehensive legal framework for elections, a number of laws creating the potential for uncertainty and arbitrary interpretation constrained political campaigning and freedom of expression in a broader context. The OSCE also noted the positive efforts made to enhance the participation of citizens of Kurdish origin in political life.

On April 11, the political parties law and the election law were amended to allow the use of languages other than Turkish during an election campaign. While Turkish is still the primary language for election campaigns, other languages, such as Kurdish, may be used.

The military's political influence via formal and informal mechanisms declined during the year. In December the military published a statement on its Web site reminding the country that the official language was Turkish as a reaction to statements by some political leaders that they would use Kurdish in parliament and during official business. However, the president and other government officials immediately attempted to give official context to the military's statement by stating that Turkish is the official language of the country.

Political parties and candidates could freely declare their candidacy and run for election. However, the chief prosecutor of the Court of Appeals could seek to close political parties for unconstitutional activities by bringing a case before the Constitutional Court.

The September 12 constitutional amendments repealed the constitutional provision that allowed removal of a person from parliament if he or she was involved in acts that caused a political party to be closed. However, in November the EC noted in its progress report that a majority of the former Democratic Society Party and BDP members of parliament had been taken to court and that the country "still needs to align its legislation as regards procedure and grounds for closures of political parties with European standards" on freedom of association.

During the year police raided dozens of BDP offices, particularly in the southeast, and detained more than 1,000 BDP officials and members. Prosecutors also opened numerous investigations and trials against BDP members, mostly for alleged membership or support of the KCK. Jandarma and police regularly harassed BDP members through verbal threats, arbitrary detentions at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to the BDP. Although security forces released some detainees within a short period, many faced trials, usually for supporting an illegal organization or inciting separatism.

There were 48 women in the 550-seat parliament and two female ministers in the 27-member cabinet. More than 100 members of parliament and at least three ministers were of Kurdish origin.

#### *Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, the Government did not implement the law effectively, and some officials engaged in corrupt practices with impunity. The EC noted in its November report that the "scope of parliamentary immunities" in cases of corruption was "too wide" and that there were incomplete measures to ensure transparency in areas such as political party financing and election campaigns.

The Ministry of Interior suspended the Adana mayor from duty in March because of corruption allegations. Administrative and judicial investigations continued at year's end.

The law requires government officials to provide a full financial disclosure, including listing physical property, every five years; this requirement was generally fulfilled. The Prime Ministry's Inspection Board, which advises the Corruption Investigations Committee, is responsible for investigating major corruption cases. Nearly every state agency has its own inspector corps responsible for investigating internal corruption. Parliament can establish investigative commissions to examine corruption allegations concerning cabinet ministers or the prime minister. A majority vote is needed to send these cases to the courts for further action.

The law provides for public access to government information. However, the Government occasionally rejected applications on national security and other grounds, and there were no opportunities to appeal.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. Government officials were generally uncooperative and unresponsive to their views, although cooperation increased during the year. Human rights organizations and monitors as well as lawyers and doctors involved in documenting human rights violations continued to face detention, prosecution, intimidation, harassment, and closure orders for their activities. Human rights organizations reported that official human rights mechanisms did not function consistently and failed to address grave violations. During the year AI reported that some human rights defenders were prosecuted for monitoring and reporting human rights violations.

The HRA had 28 branches nationwide and claimed a membership of approximately 11,000. The independent HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana, as well as a "mobile office" in the southeastern region. It also served as a clearinghouse for human rights information. Other domestic NGOs included the Helsinki Citizens Assembly, the Human Rights Research Association, the Turkish Medical Association, the Civil Society Development Center, and human rights centers at a number of universities, among others.

The first session of the trial against Muharrem Erbey, president of the HRA in Diyarbakir and vice president of the national HRA, began on October 20 along with the other suspects in the KCK trial in Diyarbakir. The HRA and many international human rights organizations continued to claim that Erbey was arrested for his work at the HRA and as a human rights lawyer. The trial continued at year's end.

During the year the 2008 trial in an Adana court against HRA Adana secretary general Ethem Acikalin continued; he faced two years in prison for making propaganda of an illegal organization. Acikalin was charged after chanting slogans during a 2007 press meeting commemorating the death of 28 inmates during a military operation in 2000. On October 9, in another case, Acikalin was sentenced to three years in prison for statements he made regarding children who had been tried under antiterror laws. Numerous other court cases were outstanding against Acikalin at year's end. Media reports indicated that Acikalin took refuge in Switzerland in March and remained out of the country at year's end.

On June 12, a court convicted four members of HRA's Canakkale branch, including its chairman, to 18 months' imprisonment each for organizing an unauthorized "World Peace Day" gathering in 2007. An appeal remained pending at year's end.

The Government generally cooperated with international organizations such as the CPT, UNHCR, and the International Organization for Migration; however, some international human rights workers reported that the Government purposefully harassed them or raised artificial bureaucratic obstacles to prevent their work during the year.

The HRP was authorized to monitor the implementation of legislation relating to human rights and to coordinate the work of various government agencies in the field of human rights. Despite lacking a budget and sufficient resources, the HRP carried out a number of projects with the EC and Council of Europe.

During the year the HRP promoted human rights by showing short films on topics such as freedom of expression, discrimination, children's rights, and torture. The HRP maintained a no-cost emergency hotline for persons to report information on human rights violations for transmission to the appropriate government body. The HRP reported increased awareness of its activities during the year.

There were provincial human rights councils under the HRP in all 81 provinces and their constituent subprovinces. These bodies served as a forum for human rights consultations among NGOs, professional organizations, and the Government. They had the authority to investigate complaints and to refer them to the prosecutor's office. However, many councils failed to hold regular meetings or effectively fulfill their mandates. The HRA generally refused to participate on the councils, maintaining that they lacked authority and independence.

The September 12 constitutional amendments called for the establishment of an ombudsman's office and an independent human rights commission. At year's end, parliament had taken no legal steps to establish either institution.

The parliamentary HRIC received 3,200 petitions and published 15 reports from October 2009 to October 2010. These covered various complaints, such as sexual harassment in universities, the situation in state-run orphanages, and conditions in military and civilian prisons. For the first time, the HRIC was allowed to visit and evaluate military prisons during the year. The EC noted in its November report that

the HRIC focused on policymaking and the legislative process during the year as well.

*Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, religion, disability, language, or social status; however, the Government did not enforce these prohibitions effectively. The September 12 constitutional amendments allow measures to be taken to advance gender equality, as well as measures to benefit children, seniors, persons with disabilities, widows, and veterans without violating the constitutional prohibition against discrimination. The Government maintained hotlines to prevent the exploitation of women, children, persons with disabilities, and senior citizens, although some human rights groups questioned their effectiveness.

*Women.*—The law prohibits rape, including spousal rape, with prison terms of two to seven years for sexual assault. However, the Government did not effectively enforce the law. Victims often waited days or weeks to report incidents due to embarrassment or reprisals; these delays hindered effective prosecution of assailants. Human rights organizations claimed that cases of rape were heavily underreported.

Violence against women, including spousal abuse, was a serious and widespread problem both in rural and urban areas. Women's NGOs reported that more than 150,000 women were victims of domestic violence between 2001 and 2005, the latest period for which statistics were available. The law prohibits violence against women, including spousal abuse, but the Government did not effectively enforce it. The criminal code does not specifically forbid "spousal abuse" but provides punishment based on the underlying crime, such as assault, wrongful imprisonment, or threats. The civil code states that spousal abuse is a reason for granting divorce. Restraining orders were regularly issued by courts during the year to protect abused women, but human rights organizations reported that police rarely effectively enforced them. Domestic human rights organizations reported these laws were partially but increasingly effective; more women called the police emergency hotline to report domestic violence and went to police stations to file abuse reports. Some organizations reported that societal acceptance of domestic abuse in some cases contributed to underreporting.

Through October 27, the Government's hotline received 19,377 calls: 8,704 were from women, 1,658 from children, 5,807 from disabled individuals, and 512 from the elderly. The Institution for Social Services and Orphanages operated 29 women's shelters with a total capacity of 650 persons for female victims of domestic violence and rape. The municipalities operated 19 women's shelters with a capacity of 609 persons. The Government reported that provincial government offices, municipalities, and NGOs operated 54 shelters. Regulations call for women's shelters in any town with a population of more than 50,000 persons. Observers noted that there were an inadequate number of shelters, or no shelters at all, in many towns with populations of more than 50,000 persons.

Persons convicted of honor killings may receive life imprisonment. The Ministry of Justice reported that 10 cases involving 25 suspects and 18 victims of honor killings began during the year. Of these, eight cases involving 11 victims were finalized during the year, and 10 individuals were convicted. Most honor killings occurred in conservative families in the rural southeast or among migrants from the southeast living in large cities. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform such killings.

Due to penalties for honor killings, family members sometimes pressured girls to commit suicide in order to preserve the family's honor. Government officials worked with advocacy groups to hold town hall meetings and set up rescue teams and hotlines for endangered women and girls.

KA-MER, the leading women's organization in the southeast, stated that 62 women from the eastern and southeastern regions contacted it to report that their families had threatened them with honor killings. The father or husband decided the fate of the woman in the vast majority of the cases. KA-MER complained that, while in the past police had shared statistics on suicides in such situations, they did not share such information during the year.

On February 4, the father and grandfather of Medine Mimi, a teenage girl, were arrested after allegedly killing her for talking to boys. Her body was found in a hole outside a chicken pen near the family's home in Adiyaman. Mimi had been buried alive. The case continued at year's end.

On July 22, a 15-year-old boy allegedly killed his 17-year-old sister, Seyma G., in Diyarbakir after she left a women's shelter where she had been staying to escape violence at home. Her body was found half-buried in the ground after she had been

strangled to death. Police arrested the brother on July 16. The case continued at year's end.

No information was available on the investigation of Sukru Batuhan for the April 2009 honor killing of Leyla Gok in Siirt.

An appeal continued at year's end for the 2009 conviction of Muslum Bakir for the 2008 murder of his wife, whom he married in an unofficial religious ceremony.

The law provides different penalties for the crimes of sexual harassment and sexual assault, requiring two to seven years' imprisonment for sexual assault and three months' to two years' imprisonment plus a fine for sexual harassment. Women's rights activists maintained both laws were rarely enforced.

On July 23, the Court of Appeals overturned on procedural grounds the conviction of Huseyin Uzmez for sexually harassing a 14-year-old girl and disturbing her mental health. A retrial began on November 25 and continued at year's end.

Couples and individuals in most cases have the right to decide the number, spacing, and timing of children and have the information and means to do so free from discrimination. However, on March 6, the Ministry of Health promulgated regulations that made women impregnated through sperm banks liable for prosecution for giving birth to children whose lineage was unknown. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

In 2008 the UN Population Fund estimated the maternal mortality ratio in the country to be 23 deaths per 100,000 live births. Skilled attendants assisted an estimated 83 percent of all births; 71 percent of the country's population used some method of birth control, and 43 percent used modern methods of contraception, including male and female sterilization, IUDs, oral and injected contraceptives, hormonal implants, condoms, and female barrier methods.

The September 12 constitutional amendments allow measures, including positive discrimination, to be taken to advance gender equality and declared that such measures would not violate the constitutional prohibition against discrimination. Under the law, women enjoy the same rights as men; however, societal and official discrimination were widespread. The Directorate General on the Status and Problems of Women under the minister of state in charge of family affairs is responsible for promoting equal rights and raising awareness of discrimination against women.

Women continued to face discrimination in employment and were generally underrepresented in managerial-level positions in business and government. According to a November report by the EC, the levels of women's employment and their political participation nationally and regionally were low. A large percentage of women employed in agriculture and in the retail, restaurant, and hotel sectors worked as unpaid family labor. The World Economic Forum reported during the year that women earned 57 percent of what their male counterparts earned for similar work. The Government reported that men and women were offered equal opportunities in work and received equal pay for equal work.

*Children.*—There is universal birth registration in the country. Citizenship in the country is passed through blood from a child's parents. Some parents were allowed to give their children names derived from the Kurdish language during the year. However, on February 2, the ECHR upheld the country's prohibition on the use of the letters W, X, and Q, which do not exist in the Turkish alphabet, on birth certificates.

The September 12 constitutional amendments permit positive discrimination for children. The amendments also provide that the state shall take measures to protect children against exploitation. The amendments commit the Government to furthering children's welfare and to work to expand opportunities in education and health.

Education through age 14 or the eighth grade is free, universal, and compulsory. Child abuse was a problem. There were honor killings of girls by immediate family members, sometimes by juvenile male relatives.

Child marriage occurred, particularly in poor, rural regions; however, women's rights activists claimed that underage marriage became less common in the country in recent years. The law defines 17 as the minimum age for marriage, although children as young as 12 were at times married in unofficial religious ceremonies.

On December 13, police arrested a 22-year-old man in Sanliurfa who married a 13-year-old girl. Another adult man who married a 14-year-old girl was detained in the same action. A case had not begun at year's end.

There were reports that children were subject to commercial sexual exploitation. The law criminalizes sexual exploitation of children and mandates a minimum sentence of eight years in prison. A person convicted of encouraging or facilitating children into prostitution can receive a sentence between four and 10 years; if violence or pressure is involved, the sentence can be doubled.

The minimum age of consent in the country is 15. The law provides for imprisonment of six months to two years for statutory rape; the sentence is doubled if the offender is more than five years older than the victim. The law prohibits producing or disseminating child pornography and provides for a sentence of six months to two years as well as a fine.

The country is a party to the Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>.

*Anti-Semitism.*—There were some reports of anti-Semitic incidents against members of the Jewish community, which numbered approximately 23,000. Jewish leaders in the country believed that occurrences of anti-Semitism were directly related to events in the Middle East; however, Jewish community members reported that they did not feel they were held responsible for these events by most of the public. After the "Free Gaza" flotilla incident on May 31, government leaders at all levels emphasized through public speeches that Turkish Jews were distinct from both Israeli citizens and the Israeli government, and they asserted that the country's Jews should be protected. Jewish community leaders noted that after the event they received extra police protection, which prevented a few acts of vandalism against community property. Nonetheless, they expressed concerns about the rising anti-Semitism in the country.

In June an individual was arrested on charges of planning the assassination of rabbis. Although he stated that he "hated Jews" personally, he denied the accusation of planning the killings.

A variety of newspapers and television shows continued to feature anti-Christian and anti-Jewish messages, and anti-Semitic literature was common in bookstores.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The September 12 constitutional amendments allow positive discrimination based on disability status. The law prohibits discrimination against persons with disabilities in employment, education, access to health care, and in the provision of other state services; the Government generally enforced the law effectively. The law does not mandate access to buildings and public transportation for persons with disabilities, and access in most cities was extremely limited. The Administration for Disabled People under the Prime Ministry was responsible for protecting the rights of persons with disabilities.

The Ministry of Transport and Communication announced in May that 38,192 persons with disabilities would be employed by the state by year's end.

There was no movement on the investigation into Duchess of York Sarah Ferguson's documentary about the abuse of children with disabilities in two care centers. Prosecutors accused Ferguson of breaking privacy laws, and according to press reports, the Government's request to the United Kingdom to extradite Ferguson to stand trial remained pending at year's end.

According to the EC, mental health hospitals and rehabilitation centers did not provide sufficient medical care or treatment. In November 2009 the Initiative for Human Rights in Mental Health reported a need to increase the number of professional care staff, improve hygienic conditions, vary treatment beyond only antipsychotic drugs and antidepressants, and allow for greater freedom of movement.

*National/Racial/Ethnic Minorities.*—The law provides a single nationality designation for all citizens and does not recognize national, racial, or ethnic minorities. In November the EC's progress report observed the country's approach to respecting and protecting minority and cultural rights remained restrictive.

Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country's citizens identified themselves as Kurds and spoke Kurdish dialects. Kurds who publicly or politically asserted their Kurdish identity or promoted using Kurdish in the public domain risked censure, harassment, or prosecution. In practice, children whose first language is Kurdish could not be taught in Kurdish in either private or public schools.

On April 11, the political parties law was amended to allow campaigning in languages other than Turkish, including Kurdish. Several private television and radio stations were allowed to broadcast in languages other than Turkish, including Kurdish, Arabic, and Armenian, and newspapers published in Kurdish, Armenian, and Farsi were allowed to function without administrative obstacles.

On October 11, Mardin Artuklu University began a three-month Kurdish literature and culture course for 50 graduate students under its "Living Languages Institute."

The country's law is interpreted to recognize only three religious minorities—Armenian Orthodox Christians, Jews, and Greek Orthodox Christians—and no other ethnic and religious minorities, such as Alevis, Yezidis, Assyrians, Catholics, Protestants, Kurds, Jafaris, Circassians, Laz, or Roma. These other groups were prohibited from fully exercising their linguistic, religious, and cultural rights and continued to face intense pressure to assimilate.

There is no firm estimate of the number of Roma in the country. Roma continued to face persistent discrimination and problems with access to education, health care, and housing. In March the prime minister and cabinet held an unprecedented public meeting with approximately 12,000 Roma citizens in Istanbul. At the meeting, the Government discussed planned steps to improve the housing and economic situation of Roma in the country. In June the Ministry of Interior asked all governors about the housing needs of the Roma population in each province. The EC stated in its November progress report that the "Roma population continues to face socio-economic problems, such as poverty, displacement, and lack of social services in the aftermath of the demolition of Roma districts under urban renewal programs in various cities."

The European Roma Rights Center, the Helsinki Citizens Assembly, and the Edirne Roma Culture Research and Solidarity Association conducted a program during the year to train the Roma community on civil society organization and activism. Literacy courses for Roma women offered by the Roma Culture and Solidarity Association of Izmir continued. Numerous associations celebrated International Roma Day in Ankara.

In the Sulukule neighborhood of Istanbul, redeveloped housing lots began to sell for four to five times what the original mostly Roma occupants received as compensation for leaving the area. Most former residents did not choose to accept the Government's offer of new housing outside the city. In Edirne, the Government offered Roma citizens new apartment-style housing that was rejected by many in the Roma community because they considered that it did not meet their needs.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—While the law does not explicitly discriminate against lesbian, gay, bisexual, or transgender (LGBT) individuals, organizations working with LGBT persons stated that references in the law relating to "the morals of society," "protection of the family," and "unnatural sexual behavior" were sometimes used as a basis for abuse by police and discrimination by employers. The law also states that "no association may be founded for purposes against law and morality." This article was applied in attempts to shut down or limit the activities of NGOs working on LGBT matters, a fact the EC criticized in its progress report in November.

In October 2009 the Directorate of Religious Affairs (Diyanet) under the authority of the Prime Ministry released a decision declaring that homosexuality is "a behavior disorder and has been spreading in a scary way within society. . . . [H]omosexuality cannot be accepted." The decision went on to state that homosexuality "is against human nature, and it should be corrected without targeting homosexuals."

The state minister in charge of women and family affairs, Aliye Kavaf, stated on March 7 that she believed homosexuality was a "biological disorder, a disease...that needs to be treated." The EC said in its progress report in November that this sort of "negative stereotyping by political figures" could provoke further discrimination against LGBT individuals.

In December the RTUK issued a fine to Haberturk TV for broadcasting a discussion of homosexuality. The RTUK also issued a warning to ATV for a series that showed two men in bed together as a couple. The RTUK president said that because both programs presented homosexuality as "normal," the RTUK assessed that they harmed the Turkish family structure. He claimed the programs "constituted a breach of the society's national and moral values."

On May 16, nearly 300 persons marched in an antihomophobia parade in the heart of Ankara. On June 27, a LGBT pride parade and celebration in Istanbul drew more than 5,000 persons, with heavy participation and coverage by foreign observers. Smaller pride celebrations occurred in other cities. Police provided protection to some of the celebrations, and no incidents of violence were reported. According to human rights organizations, LGBT events with foreign participation generally occurred without incident while those without foreigners had much higher levels of police interference.

There were active LGBT organizations in at least seven cities in the country: Istanbul, Ankara, Izmir, Bursa, Adana, Eskisehir, and Diyarbakir. Other unofficial groups existed in smaller cities and on university campuses. All groups complained of harassment by police and government authorities. Most had problems registering as an official organization or maintaining their registration once granted. While

some university LGBT clubs were granted permission to form during the year, many groups complained that they had tried to form but had been denied permission by the university's rector.

In the fall, an LGBT group at the Middle East Technical University in Ankara applied to the university administration for status as a club. The university administration rejected their application, stating that "it is not sufficient reason to establish a club to raise consciousness and sensitivity." The group had been denied several times in the past as well.

On April 30, an Izmir court dismissed the closure case against Black Pink Triangle, an LGBT rights association in Izmir. The court declared in its ruling that LGBT persons have the same right to freedom of association as other citizens. The association was functioning normally at year's end.

LGBT groups claimed that transgender persons were significantly persecuted during the year. Although police arrested many for unauthorized prostitution, human rights organizations reported that during the year there was a significant rise in prosecutions for "offending public morals." Several groups reported that many transgender persons were fined for frequenting stores or walking on city streets, officially for "disturbing the environment" or "disrupting traffic." Police claimed they were acting on complaints they had received. LGBT organizations reported thousands of fines against transgender individuals during the year.

The HRF and LGBT organizations reported that police in many cities, especially Istanbul, Izmir, and Ankara, continued to use a "point system" whereby officers were rewarded for fining transgender persons. Many observers noted that this practice had contributed to a substantial increase in the levels of abuse of transgender persons by security forces. There was no government response to these allegations by year's end.

On May 17, uniformed police officers pulled from a vehicle and beat and arrested five transgender activists while they were driving in Ankara; one of the women was beaten unconscious. Human rights groups witnessed the bruised and bloody activists when they were released the following day. Following the attack, the police and the activists filed complaints against each other in court, the activists for mistreatment, and the police for "resisting the police." An Ankara court dropped the charges against the five activists on October 20 for lack of evidence. The investigation against the police continued at year's end.

On June 19, police assaulted and arrested three transgender persons after stopping their car in Ankara. The transgender persons were subsequently charged with "damaging public property, resisting police, and preventing police from performing their duty," but they denied the charges. On December 29, one police officer did not attend the first hearing, and the case continued at year's end. The three filed complaints against the police officers for mistreatment, but there had been no public investigation at year's end.

Halil Ibrahim Dincdag, a soccer referee who lost his job in May 2009 because of his self-identification as a gay man, filed a complaint early in the year against the Turkish Soccer Federation for wrongful termination. The first hearing had not begun at year's end.

The criminal case against Birol Can Korkmaz for the March 2009 murder of transgender activist Ebru Soykan continued at year's end.

There was no movement on the October 2009 case against police in Istanbul for harassment of transgender individuals.

The trial of Yahya Yildiz, accused of killing his son, Ahmet Yildiz, in 2008 in Istanbul in a case described as a gay "honor killing," continued at year's end.

Openly gay men were not allowed to perform military service for "health reasons" due to their sexual orientation; those requesting military exemption for reasons of sexual orientation had to undergo an invasive burden of proof and many times were denied even after proclaiming their sexual orientation and undergoing treatment and examination at several military medical facilities. LGBT groups complained that gay men were required to show photos of themselves in overtly sexual positions and to undergo thorough medical evaluations to prove their homosexuality to military officials. The groups further complained that military officials "outed" gay men to their families and communities.

*Other Societal Violence or Discrimination.*—NGOs complained that the National AIDS Commission did not have adequate funding or staffing to deal with HIV/AIDS during the year. The Positive Life Association (PLA) and other NGOs complained that the media and medical professionals often did not respect the privacy of persons with HIV/AIDS and often reported their names in the media. Many people living with HIV/AIDS reported discrimination in housing, public services and benefits, and health care. The PLA and the Human Resources Development Foundation conducted programs during the year for people living with HIV/AIDS.

*Section 7. Worker Rights*

The September 12 constitutional amendments provided for the recognition of many new labor and workers' rights. However, at year's end no legislation had been passed to legally implement these changes.

*a. The Right of Association.*—The law provides most but not all workers with the right to associate and to form unions; most workers exercised this right in practice. Certain vital public employees, such as military and police, cannot form unions. The Government maintained a number of restrictions on the right of association. The September 12 constitutional amendments provide for a person to become a member of more than one union in the same branch of work at the same time. Some viewed this amendment as being in compliance with freedom of association, while others complained that it was an effort to divide the power of organized labor.

A minimum of seven workers are required to establish a new trade union without prior approval. There are no restrictions on membership or participation of persons or unions in regional, national, or international labor organizations, but such participation must be reported to the Government. Labor law prohibits union leaders from becoming officers of or otherwise performing duties for political parties, from working for or being involved in the operation of any profit-making enterprise, and from displaying any political party logos or symbols in any union or confederation publications. Unions are required to notify government officials prior to holding meetings or rallies (which must be held in officially designated areas) and to allow government representatives to attend their conventions and to record the proceedings; these requirements were usually enforced.

Official government statistics reported the employment rate in the country as 43.6 percent. Although 58.9 percent of the labor force was unionized, union officials noted that privatization of public industry had lowered that figure substantially. Credible observers reported that the actual number of unionized workers was only 600,000.

The September 12 constitutional amendments provide for the right to strike and to engage in secondary (solidarity), political, or general (involving multiple unions over a large geographical area) strikes or in work slowdowns. The law prohibits strikes by civil servants; public workers engaged in safeguarding life and property; and workers in the coal mining and petroleum industries, sanitation services, national defense, banking, and education. Labor disputes in these sectors were resolved through binding arbitration. However, many workers in these sectors conducted strikes in violation of these restrictions with general impunity. The majority of strikes during the year were illegal according to law; while some illegal strikers were dismissed, in most cases employers did not retaliate. Unions sought to compel the Government to enforce a 2008 ECHR decision that civil servants have the right to strike.

The Ministry of Labor reported that, through September 30, there were 12 strikes involving 38 workplaces.

At year's end, an investigation continued into the alleged 2009 beating of Tekgida-Uis union member Ali Can Aykel.

*b. The Right to Organize and Bargain Collectively.*—The September 12 constitutional amendments provided for the right to collective bargaining for public employees. However, diverse government restrictions and interference limited the ability of unions to conduct their activities, including collective bargaining. Approximately 1.3 million workers, or 5.4 percent of the workforce, were under collective bargaining agreements. The law requires that, in order to become a bargaining agent, a union must represent 50 percent plus one of the employees at a given work site and 10 percent of all the workers in that particular industry. This requirement favored established unions. The International Trade Union Confederation (ITUC) claimed that the law resulted in workers in many sectors not being covered by collective agreements.

The law prohibits antiunion discrimination; however, such discrimination occurred occasionally in practice. If a court ruled that a worker was unfairly dismissed and should either be reinstated or compensated, the employer generally paid compensation to the employee along with a fine. ITUC reported that private-sector employers sometimes ignored the law and dismissed workers to discourage union activity.

There are no special laws or exemptions from regular labor laws in the country's 19 free trade and export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children; however, there were reports that women, men, and minors were trafficked for commercial sexual exploitation. Internal trafficking of citizens for both legal and illegal prostitution was reported. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—There are laws to protect children from exploitation in the workplace; however, the Government did not effectively implement them. The use of child labor was particularly notable in agriculture, carpentry, the shoemaking and leather goods industry, the auto repair industry, small-scale manufacturing, and street sales. Some parents forced their children to work on the streets selling tissues or food, shining shoes, or begging.

The law prohibits the employment of children younger than 15 and prohibits children under 16 from working more than eight hours a day. At age 15, children may engage in light work, provided they remain in school. The law provides that no person shall be required to perform work unsuitable for their age, gender, or capabilities, and the Government prohibits children from working at night or in areas such as underground mining. The law prohibits school-age children from working more than two hours per day or 10 hours per week.

The Ministry of Labor and Social Security effectively enforced these restrictions in workplaces that were covered by the labor law, which included medium- and large-scale industrial and service sector enterprises. A number of sectors are not covered by the law, including agricultural enterprises employing 50 or fewer workers, maritime and air transportation, family handicraft businesses, and small shops employing up to three persons.

Notwithstanding government enforcement of the law, child labor was widespread. In a child labor survey conducted in the fourth quarter of 2006 and released in 2007, the State Statistical Institute reported that there were 960,000 child laborers between the ages of six and 17. This figure represented a decrease over previous years. The study found that 84.7 percent of children between the ages of six to 17 attended school and that the 31.5 percent of children in that age group who were employed were also attending school at least part-time.

An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls were rarely seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas. According to the 2006 child labor survey, 40.9 percent of child labor occurred in the agricultural sector, with 52.4 percent of employed children working in rural areas, compared with 47.7 percent working in urban areas. Many children worked in areas not covered by labor laws, such as agricultural workplaces with fewer than 50 workers or the informal economy. To combat this problem, the Ministry of Education conducted a program in cooperation with the UN Children's Fund designed to provide primary education for at-risk girls. An educators union reported that one out of every 10 primary school students in some regions of the country work in the agricultural sector.

Children legally employed at small enterprises registered with a Ministry of Education training center were required to go to the center once a week for training, and the centers were obligated by law to inspect their workplaces. According to data provided by the ministry, there were 317 centers located in 81 cities; these centers provided apprenticeship training in 153 occupations.

There were reports that children were trafficked for sexual exploitation.

According to the U.S. Department of Labor's 2008 report on the worst forms of child labor, approximately 50,000 children worked on the street in 10 provinces. The Government identified the worst forms of child labor as working in the streets, in industrial sectors where their health and safety were at risk, and as agricultural migrant workers.

The Social Services and Child Protection Institution operated 37 centers in 29 provinces to assist such children. The TNP operates a hotline for reporting child exploitation and negligence. The TNP initiated a project during the year to spot street children at risk and direct them to education. In Ankara, the program provided vocational training to 70 street children between the ages of 15 and 18.

*e. Acceptable Conditions of Work.*—The national minimum wage of 760.5 lira (\$507) per month did not provide a decent standard of living for a worker and family of four. All workers covered by the labor law are also covered by the law establishing a national minimum wage. This law was effectively enforced by the Ministry of Labor Inspection Board. The Turk-Is labor confederation reported that the minimum wage was insufficient, determining that a monthly minimum of 2,826 lira (\$1,884) per household was needed to stay out of poverty and to meet a family's minimum basic needs. The OECD, on the other hand, indicated that the national minimum wage takes insufficient account of regional variations in productivity and living costs, and in any case it is among the highest in the OECD when measured against the average wage, a fact the OECD claims works against job creation in the official sector.

The law establishes a 45-hour workweek with a weekly rest day and limits overtime to three hours per day for up to 270 hours a year. Premium pay for overtime is mandated, but the law allows for employers and employees to agree to a flexible

time schedule. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service, and government sectors, which covered approximately 12 percent of workers. Workers in other sectors had difficulty receiving overtime pay, although by law they were entitled to it.

The law mandates occupational health and safety regulations; however, in practice the Ministry of Labor Inspection Board did not carry out effective inspection and enforcement programs.

There were seven mining accidents during the year that caused the deaths of 51 persons. A total of 15 workers were killed in shipyard accidents during the year.

Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, although reports of them doing so were rare. Authorities effectively enforced this right.

---

## UKRAINE

Ukraine, with a population of 45.4 million, is a multiparty, democratic republic with a presidential-parliamentary system of government. The country is governed by a directly elected president, a prime minister who heads the Cabinet of Ministers, and a unicameral parliament (Verkhovna Rada). Two rounds of presidential elections held in January and February were assessed by international and domestic observers as having met most standards for openness and fairness. The winner, former prime minister Viktor Yanukovich, was inaugurated on February 25. On October 1, the Constitutional Court reinstated the 1996 constitution, a ruling that considerably strengthened the powers of the president, including authority to dismiss unilaterally the prime minister and other government ministers. In its ruling the court stated that amendments to the 1996 constitution, which were passed in 2004 as part of a compromise to end the mass protests of the Orange Revolution, were unconstitutional because they were improperly adopted. Security forces generally reported to civilian authorities.

Human rights problems included reports of serious police abuse and deaths in custody, beatings, and torture of detainees and prisoners, harsh conditions in prisons and detention facilities, arbitrary and lengthy pretrial detention, and an inefficient and corrupt judicial system. During the year there were reports of increased government pressure on independent media outlets, limitations on freedom of assembly, and the appearance of politically motivated prosecution of opposition politicians. Corruption in government and society was widespread. There were reports that the Government's security service harassed and intimidated civil society organizations. There was some violence and discrimination against women and children, and reports of nonviolent incidents of anti-Semitism. Trafficking in persons continued to be a serious problem. Societal discrimination and violence against Roma, Crimean Tatars, and persons of non-Slavic appearance were reported. There were reports of police harassment of the gay community. Workers faced limitations on organizing and joining unions and on their ability to bargain collectively.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings; however, two persons died in police custody after allegedly being abused.

On May 18, college student Ihor Indylo died in police custody at the Shevchenkivsky District police station in Kyiv. Police representatives claimed that Indylo fell on the floor and sustained lethal head injuries because he was drunk. Indylo's relatives claimed that he was beaten by police. In October prosecutors charged officers Serhiy Prykhodko and Serhiy Kovalenko with negligence and abuse of office, including failure to determine if Indylo's detention was legal and to arrange surveillance while in custody. According to Indylo's mother and attorney, the charges against the police officers do not address how Ihor sustained the injuries which they claim led to his death. The case continued at year's end.

On September 10, the media reported that detainee Mykhaylo Stadnyk died at a district police department in Lviv. Stadnyk's relatives described multiple bruises on his body, which they asserted were a clear sign that he was tortured by police. Police representatives denied the claim, suggesting that Stadnyk was drunk and injured himself prior to his detention. The Lviv Oblast Prosecutor's Office ordered an additional forensic examination of the body to ascertain the cause of his death. The results of the investigation were pending at year's end.

On December 23, the trial of Viktor Lozynskiy began at Dniprovsky District Court in Kyiv. Lozynskiy, a former member of parliament, was charged in connection with the June 2009 death of Valeriy Oliynyk of Kirovohrad Oblast. According to police reports at the time, Lozynskiy and two other local officials pursued Oliynyk into a wooded area where they assaulted him, broke his leg, and shot him multiple times. The two officials were arrested and dismissed from their posts.

There were few developments in the Government's ongoing investigation of the 2004 dioxin poisoning of then opposition presidential candidate Viktor Yushchenko. In a December 10 interview with the *Segodnya* newspaper, Prosecutor General Viktor Pshonka stated that his office had requested new blood samples from Yushchenko because the original ones were improperly secured prior to expert examination and could not be used as credible evidence. Pshonka claimed he could not rule out that there was no poisoning. On April 13, parliament terminated the authority of a commission investigating the poisoning for failing to meet reporting deadlines. Yushchenko's spokeswoman described the move as a "natural step," adding that the commission, chaired by Party of Regions member of parliament Volodymyr Sivkovych, had spread false information about the poisoning. On April 15, then prosecutor general Oleksandr Medvedko told the *Kommersant-Ukrayina* newspaper that, without identifying those who poisoned Yushchenko, one could not determine whether the poisoning was deliberate or not.

On September 13, the Prosecutor General's Office (PGO) announced its finding that the killing of investigative journalist Heorhiy Gongadze in 2000 was ordered by Yuriy Kravchenko, the late interior minister who died in 2005 under suspicious circumstances from two gunshots to the head. Kravchenko's death was labeled a suicide. In July 2009 authorities arrested Oleksiy Pukach, a former senior ministry of internal affairs official, in connection with the Gongadze killing. Prosecutors alleged that Pukach led a group of police officers who abducted and killed Gongadze. At year's end prosecutors stated they had completed a pretrial investigation of the charges against Pukach and would deliver their findings to a court. Valentyna Telychenko, an attorney for Myroslava Gongadze, the widow of the slain journalist, stated the PGO had not allowed her to review the Pukach case files before they were sent to court. The PGO denied the claim, stating that Telychenko had ignored an invitation to review the materials. Pukach's trial had not started at year's end.

In 2008 three police officers were convicted and sentenced to long prison terms for Gongadze's killing. However, members of his family and journalists who investigated the killing continued to maintain that Kravchenko and Pukach acted on orders from senior government officials in the administration of former president Kuchma who wanted to silence the outspoken journalist.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The constitution and the law prohibit such practices; however, there were reports that police continued to abuse and torture persons in custody.

For example, the Ukrainian Helsinki Human Rights Union (UHHRU), a nonprofit coalition of human rights organizations, reported that during the year it had received 172 complaints of torture and abuse. Of that number, 90 complaints pertained to torture and abuse committed by police.

On August 16, Yakov Strogan was arrested by police in Kharkiv following an argument with his neighbor. He was detained for four days during which he alleged he was tortured. He appealed his detention to the prosecutor's office, held a press conference, and participated in hearings on his allegations. On December 9, Strogan was summoned to the Prosecutor's Office and arrested again. According to the local Kharkiv Human Rights Group, Strogan was brought to court the following day with signs that he had been beaten. The judge ruled to remand Strogan to custody, where he remains. Human rights groups and Strogan's wife called for his immediate release and an investigation into his treatment while in custody.

On December 16, Human Rights Watch (HRW) issued a report stating that asylum seekers and migrants in the country "risk abusive treatment and arbitrary detention." Although torture was "not systemic," the testimonies of refugees, migrants and asylum seekers indicated that it did sporadically occur. While conditions in some migration detention facilities improved, detainees alleged that inhuman or degrading treatment, including beatings, kicking, and food deprivation occurred. "All of these abuses took place in a climate of impunity, with victims fearful of reporting the abuse and perpetrators not held to account," the report stated.

Police officers were often poorly trained or equipped to gather evidence through investigations and depended on confessions to solve cases. The law does not clearly prohibit confessions or other statements made under duress from being introduced as evidence in court proceedings. Efforts to check these practices were made more

difficult by an ineffective system for investigating allegations of abuse and by detainees' lack of access to defense lawyers and doctors.

In a February 2009 report, the UN Working Group on Arbitrary Detention cited multiple concerns based on a monitoring visit in 2008 to 21 facilities in eight cities. Among them were "numerous, consistent, and often credible allegations from various sources...of confessions obtained under torture from detainees of the militia, the Ukrainian police force." The working group also noted that there was a low acquittal rate by the PGO when it was presented with well-founded accusations that incriminating evidence was obtained by methods that violated proper criminal procedures. For example, of some 100,000 such complaints registered in 2008, the prosecutor general considered 30 to be violations. According to the working group, "impunity for perpetrators of ill-treatment largely prevails."

During the year the European Court of Human Rights (ECHR) issued 11 decisions against the country for violation of Article 3 (inhuman or degrading treatment) of the European Convention of Human Rights. This compared with nine violations in 2009 and four in 2008.

During the year the media reported several cases of police abuse. For example, on April 1, UNIAN reported that the Odesa Oblast Prosecutor's Office and the State Security Service of Ukraine (SBU) detained five police officers in the Rozdilna District after examining a complaint that two local residents had been detained on suspicion of theft and tortured. According to the report, the prosecutor established that the victims had been beaten and electrocuted and opened a criminal case to investigate the torture allegations.

On December 21, UNIAN reported that the Lviv Oblast Prosecutor's Office completed its investigation and forwarded to court a criminal case against two police officers of the Sambir District police department who beat three detainees in an attempt to extract confessions from them.

During the year authorities prosecuted police officers who had allegedly abused persons in detention.

According to the Prosecutor's General Office, during the first nine months of the year, 39 criminal cases of police torture or inhuman and degrading treatment and were opened, and 28 cases involving 68 law enforcement officers were sent to court.

According to the Ministry of Internal Affairs, during the first nine months of the year, 520 criminal cases were opened against police officers. Of them, 418 were linked to abuse of office, of which 91 involved abuse of power. The other charges included 98 cases of exceeding authority, 101 cases of forgery, 16 cases of negligence, and 112 cases of bribery. According to the PGO, 26 law enforcement personnel were convicted of torture or inhuman treatment during the first nine months of the year.

According to Semen Gluzman of the Ukrainian Psychiatric Association (UAHRB), patients in mental health facilities remained at risk for abuse, and many psychiatric hospitals continued to use outdated methods and medicines. According to the UAHRB, insufficient funding, the absence of public watchdog councils at psychiatric hospitals, patients' lack of access to legal counsel, and poor enforcement of legal protections deprived patients with disabilities of their right to adequate medical care.

In April, Andriy Fedosov reported that an investigation by his group, Uzer (Ukrainian Organization of Users of Psychiatric Care), had uncovered poor living conditions and physical abuse in psychiatric hospitals in Crimea. Following the release of his findings, Fedosov received threatening phone calls and was beaten. According to human rights groups, police failed to investigate the threats and attack on Fedosov.

In December, Amnesty International highlighted the case of trade unionist Andriy Bondarenko, who was ordered to undergo a psychiatric examination despite no history of mental illness. Human rights groups claimed that Bondarenko was targeted for his trade union and human rights work. Investigators closed the case against Bondarenko without bringing charges but the court order to undergo an examination had not been rescinded at year's end.

There were reports of military hazing violence against conscripts in the armed forces. On January 28, a military court in Sevastopol handed down suspended prison sentences to two soldiers who beat a conscript in December 2009. According to the State Judicial Administration, 76 hazing-related guilty verdicts were issued in the first six months of the year. The PGO confirmed that in the first nine months of the year, 151 servicemen were convicted of hazing, and 115 hazing-related criminal cases involving 127 servicemen were forwarded to the courts.

*Prison and Detention Center Conditions.*—Prison and detention center conditions remained poor and generally did not meet international standards. Overcrowding; abuse; inadequate sanitation; and lack of light, food, water, and medical care were

persistent problems. The Government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

During the year human rights groups continued to call for full civilian oversight of the State Penitentiary Directorate by subordinating it to the Ministry of Justice. According to the UHHRU, the absence of rigorous and impartial public oversight in facilities controlled by the penitentiary directorate allowed for abuse of prisoners and poor conditions.

On January 21, the parliament amended the penal code, prohibiting racial, ethnic, religious, and other types of discrimination against inmates at penitentiary institutions. It added additional groups to a list of individuals authorized to visit penitentiary institutions without special permission, including the justice minister, members of the Council of Europe's Committee for the Prevention of Torture (CPT), and members of civic commissions monitoring prison conditions. The legislation also eased restrictions for prisoners serving life sentence and inmates of correctional centers. According to the amendments, which are scheduled to go into effect in 2012, the minimum living area per inmate at penitentiary facilities shall be increased from 32 square feet to 43 square feet.

As of October 1, according to the latest available statistics from the State Penitentiary Directorate, 152,315 persons were being held in facilities under its control; of these 39,137 were in pretrial detention facilities. During the first nine months of the year, 584 individuals died in custody, of which 33 were suicides and one a homicide.

According to the Ministry of Internal Affairs, approximately 198,400 persons were held in police-controlled temporary holding facilities during the first nine months of the year. The ministry confirmed 14 deaths in these facilities; 10 were reported to be by suicide and four due to illness.

On May 20, the Government's human rights ombudsman, Nina Karpachopva, expressed concern over the increasing number of detainees in pretrial detention facilities controlled by the State Penitentiary Directorate in Kyiv, Simferopol, Donetsk, Kharkiv, and Odesa. For example, 3,900 persons were held at Kyiv's Lukyanivsky detention center, which has capacity for 2,850. As a result, 2,100 detainees were forced to rotate their sleeping places with cellmates. Karpachova emphasized the need to amend government regulations to comply with the penal code by increasing the minimum living area per inmate at penitentiary facilities from 32 square feet to 43 square feet. Average space for a detainee at pretrial detention facilities was 27 square feet. Karpachopva cited a number of additional problems including old facilities that lacked ventilation, insufficient water supply, adequate lighting, and proper sewage and sanitary systems. These facilities frequently violated regulations limiting the length of detention and did not guard against the spread of tuberculosis and other infectious diseases.

On December 16, the PGO published a report about overcrowding of pretrial detention facilities of the State Penitentiary Service. According to the report, the situations at detention facilities in the Crimea, Donetsk, Luhansk, Kharkiv, and Kherson Oblasts, and in Kyiv, were described as "especially difficult."

According to the State Penitentiary Directorate (SPD), an estimated 659 persons in custody had HIV-associated tuberculosis. In tuberculosis hospitals controlled by the prison department, 42 percent of patients were terminally ill with tuberculosis, and 44 percent were terminally ill with AIDS. The State Penitentiary Directorate acknowledged that tuberculosis was a major communicable disease in its facilities because of poor conditions and inadequate medical resources for examining and treating tuberculosis-infected persons in pretrial detention facilities.

During the period from January to September, the number of prison inmates with tuberculosis declined by 5 percent compared to the same period in 2009 (from 747.6 per 100,000 inmates in 2009 to 709.7 in 2010). However, during the same time period, the number of such inmates at SPD pretrial detention facilities grew by 8 percent compared to the January-September period in 2009 (from 730.2 per 100,000 inmates in 2009 to 789.3).

Authorities stated that mandatory screening of all new inmates for tuberculosis helped to reduce infection rates; human rights organizations stated the presence of X-ray machines in several prison facilities was a positive development.

Conditions in police temporary holding facilities and SPD pretrial detention facilities were harsher than in low- and medium-security prisons. The former were often overcrowded and lacked adequate sanitation and medical facilities. As of October 1, according to the SPD, more than 309 individuals serving life sentences were held in pretrial detention facilities.

There were occasional media reports of self-inflicted injuries and violent incidents in prisons and detention centers to protest poor conditions. For example, on May 11, the Vinnytsya Human Rights Group reported that five inmates at the Kuryazh

correctional institution for minors in the Kharkiv Oblast cut their veins to protest abuse by administration of the facility.

Prisoners generally had access to visitors and were permitted religious observance, although those facing disciplinary actions were barred from receiving visitors. Prisoners and detainees were also allowed to file complaints with the ombudsman about conditions in custody, but human rights organizations noted that prison officials continued to censor or discourage complaints. By law the prosecutor and ombudsman were obliged to disclose the names of inmates who filed complaints to prison and police authorities.

The Government allowed independent monitoring of prison conditions and detention centers by local and international human rights groups. However, according to local human rights activists, mobile monitoring groups made only a few visits during first three months of the year because newly appointed police chiefs impeded their work by refusing to grant permissions for site visits.

In September 2009 a delegation of the CPT carried out a two-week visit to the country. It was the CPT's fifth visit since 1998. At year's end, the CPT did not yet release a report of its findings during the 2009 visit.

On March 18, the new minister of internal affairs, Anatoliy Mohylyov, reduced the ministry's Human Rights Monitoring Department from 31 positions to five. On March 29, President Yanukovich called the reduction "ill-considered" and called on Mohylyov to rescind it. On June 17, in a letter to UHHRU, Mohylyov described his decision as internal restructuring to improve police response to human rights violations and stated the move would reduce government expenditures and avoid a duplication of efforts. Monitoring would be conducted by freelance advisers and consultants who would assume some of the duties of dismissed personnel. However, according to UHHRU, none of its 29 member nongovernmental organizations (NGOs) were invited to consult with the new minister on the restructuring, and the minister of internal affairs's civic advisory council did not meet during the year, despite numerous calls by its members to do so. All 26 regional human rights assistants that conducted mobile monitoring of human rights conditions were fired.

On December 9, the president issued a decree to reorganize the State Penitentiary Service within the State Penal Department. However, as of year's end, it was too early to assess whether the reorganization would have any impact on conditions in prison and detention centers.

*d. Arbitrary Arrest or Detention.*—The constitution and the law prohibit arbitrary arrest and detention; however, in practice problems remained.

There was a sharp increase in charges brought against opposition politicians after the appointment of a new prosecutor general on November 4, giving rise to the appearance of selective and politically motivated prosecution by the Yanukovich government. Between November 1 and December 31, prosecutors brought charges against former prime minister Yulia Tymoshenko and more than eight high-level members of her government for abuse of office and/or misuse of state funds during their tenure. The questioning of accused individuals by government prosecutors, which often lasted for hours at a time over a period of several days, and the denial of bail in certain cases further exacerbated the perception of politically motivated prosecution (see section 4). The Government contended that the prosecutions were not targeting the opposition, and that there were many ongoing investigations of members of the governing party; however, with only a few exceptions these were low-level, career officials.

On December 12, the UHHRU and the Kharkiv Human Rights Group issued a statement that the Government's criminal prosecutions were only aimed at members of the opposition. As a result, the Government's actions "spell the effective use of criminal court proceedings for political ends, and run counter to democratic values based on equality of all before the law and undermines the foundations of criminal justice," the statement said.

On December 26, police detained former interior minister Yuriy Lutsenko in Kyiv on allegations of embezzlement, abuse of office, and forgery. The appeals court denied his petition for bail and approved the prosecutor general's request for a two-month detention. Local human rights observers and opposition commentators described Lutsenko's arrest as politically motivated, given the administrative nature of his alleged offenses. Lutsenko alleged that the prosecutor's office ignored his constitutional rights throughout the investigation, in particular, delaying access to and denying time to review case materials and creating other "artificial barriers" to his right to become acquainted with the case. Lutsenko remained in jail at year's end, and his attorney filed a case with the ECHR.

Police also questioned several civil society activists following the tax protests in November in Kyiv in which small-business owners protested outside the parliament against tax reforms proposed by the Government. At year's end at least three pro-

testers remained in custody on charges of damaging public property on Independence Square, where the demonstrators had erected tents. Other protest leaders remained free but were subject to travel restrictions (see section 2.b).

*Role of the Police and Security Apparatus.*—The Ministry of Internal Affairs is responsible for maintaining internal security and order; it oversees the police (militia) and its own armed troops. The SBU, which is responsible for internal intelligence and protecting state security, reports directly to the president. The State Tax Administration, which exercises law enforcement powers through the tax police, is accountable to both the president and the cabinet.

The law provides for civilian control of the army and law enforcement agencies and authorizes members of parliament to conduct investigations and public hearings into national security and defense issues. The human rights ombudsman is also authorized to initiate investigations into the relevant activities of security forces.

On September 24, the NGO Democratic Alliance issued a statement chronicling what it described as “pressure and intimidation” at its district branches by the SBU and the Ministry of Internal Affairs. On June 12, an SBU officer approached the chairman of the organization’s Mykolayiv Oblast branch, Yuliya Hrechka, seeking information about its activities. Three days later, SBU and Ministry of Internal Affairs representatives met with Tayisiya Plakhuta, the head of the Democratic Alliance’s Cherkasy Oblast branch, to ask about the organization’s future plans, its national leaders, and implied that she should cancel future activities. In late July the leader of the Democratic Alliance in Chernihiv, Ihor Andriychenko, received a telephone call from a person who introduced himself as an SBU officer and asked about the activities of the local Democratic Alliance branch, including the number of its registered members.

On October 4, following a visit to the country, corapporteurs Renate Wohlwend and Mailis Reps of the Parliamentary Assembly of the Council of Europe (PACE) expressed concern about the role of the SBU in monitoring civil society. In an addendum to a September 9 PACE report on the functioning of democratic institutions in the country, they wrote: “The role of the Security Services of Ukraine and its apparent involvement in the domestic political environment has become increasingly problematic and a matter of concern. We have received numerous, often substantiated and credible, reports of pressure by the SBU on journalists, politicians, and civil society activists or on people or businesses close to them. This is not acceptable in a democratic society.”

On December 23, the coordinator of the Vinnytsya Human Rights Group (VHRG), Dmytro Groisman, was charged with desecration of state symbols and disseminating pornography. Human rights groups labeled the charges as politically motivated and harassment of Groisman for his group’s work to protect refugees. The charges followed the October search of the VHRG’s offices, during which police confiscated financial documents and other material relating to refugees the group was assisting. The police also confiscated correspondence between the group and the ECHR.

*Arrest Procedures and Treatment While in Detention.*—By law authorities may detain a suspect for three days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days and thereafter grant extensions for a maximum of 18 months. The law permits citizens to contest an arrest in court or appeal it to the prosecutor. The law requires that detained persons be informed of their rights and that officials notify family members immediately concerning an arrest; however, in practice police did not follow the procedures required by law.

Lengthy pretrial detention was a serious a problem. Individuals often remained in pretrial detention for months or, in some cases, years. There were unsanctioned arrests, and investigative police at times failed to keep records or register detained suspects. According to domestic human rights organizations, the investigation process took four to five months on average.

Human rights organizations reported that police continued to use detention arbitrarily to extract evidence that could be used against detainees. Courts often extended detention to 10 days or more to allow police more time to obtain confessions. In October 2009, in a speech at a conference on police violence sponsored by the Kharkiv Human Rights Group (KHRG), Denys Kobzin, director of the Kharkiv Institute of Sociological research, reported that approximately 40 percent of detainees were held longer than the legally allowed three days.

The February 2009 report by the UN Working Group on Arbitrary Detention noted the following problems: the continued practice of detaining until trial persons suspected of minor crimes; a perceived lack of independent and effective control by the judiciary over the detention process; and unlawful restrictions on pretrial detainees, such as denying them contact with their families before court trials.

The law stipulates that a defense attorney must be provided without charge to indigent detainees from either the time of detention or the filing of charges. However, in practice this often did not occur. There were insufficient defense attorneys to protect suspects from unlawful and lengthy detention. Attorneys often refused to defend indigents for the low payment the Government provided.

The law provides for bail, but it was rarely used. Many defendants could not pay imposed bail amounts. Courts sometimes imposed travel restrictions as an alternative to pretrial confinement. However, they generally opted to place individuals in detention.

*Amnesty.*—Before leaving office in February former president Yushchenko pardoned 130 persons. There was no information about amnesty or pardons that President Yanukovich may have granted during the year.

*e. Denial of Fair Public Trial.*—The constitution and law provide for an independent judiciary; however, in practice the judiciary remained subject to political pressure, suffered from corruption and inefficiency, and lacked public confidence.

The right to a fair trial was limited by lengthy court proceedings, particularly in administrative courts, and by political pressure on judges, inadequate court funding, a shortage of qualified legal assistance for defendants, and the inability of courts to enforce their rulings. Judges also continued to complain about pressure from high-ranking politicians seeking improper resolution of cases.

The president has the authority, with the agreement of the Minister of Justice and the chair of a corresponding higher court, to establish and abolish courts of general jurisdiction, and establishes appellate commercial and appellate administrative courts. Until August, the president also determined the number of judges in the court system, and appointed and removed chairpersons and deputy chairpersons of courts.

During the year the ECHR issued 15 judgments that found the country in violation of Article 6 (right to a fair trial) of the European Convention on Human Rights. This compared with 69 judgments issued during 2009 and 61 judgments in 2008. In addition, the ECHR issued judgments that found 60 violations regarding length of proceedings and 43 violations regarding the right to liberty and personal security, compared with 35 and 27 judgments, respectively, in 2009, and 32 and 14 in 2008.

All courts, except for the Supreme Court, were funded through the State Judicial Administration, which was also responsible for staffing. The Ministries of Justice and Education were responsible for training judges. The judiciary's lack of adequate staff and funds contributed to inefficiency and corruption and increased its dependence on the executive branch.

On May 31, President Yanukovich issued a decree appointing SBU Chief Valeriy Khoroshkovsky as a member of the High Council of Justice, a move that was widely criticized by legal experts and civil society leaders. On December 16, following months of criticism about the apparent conflict of interest, the president issued a follow-up decree dismissing Khoroshkovsky from the council, stating that he did so at Khoroshkovsky's request.

On July 7, parliament adopted a new Law on the Judicial System and Status of Judges. Under the law a new High Specialized Court for Examination of Civil and Criminal cases was established, which greatly reducing the powers of the Supreme Court and the number of Supreme Court justices. The legislation also gave the 20-member High Council of Justice a more prominent role in nominating and dismissing judges, chairpersons and deputy chairpersons of courts except for the Supreme Court. Under the law the number of judges in a court is determined by the Minister of Justice upon the proposal of the State Judicial Administration.

In their addendum to the PACE report on October 4, corapporteurs Wohlwend and Reys highlighted concerns expressed by the opposition and other interlocutors over the enlarged powers of the High Council of Justice. They noted the Venice Commission's statement that the legislation creates "an evident danger of politically motivated nominations to the High Council of Justice guided by political considerations."

Human rights activists and legal experts criticized the legislation for undermining the independence of the judiciary. On July 12, in an open letter to the president, Supreme Court Chairman Vasyl Onopenko warned that the new legislation would increase political pressure on judges.

On September 14, the president signed a decree abolishing appellate military courts and local military courts. Legal experts welcomed the abolition.

On September 21, four new justices appointed by President Yanukovich to the 18-member Constitutional Court were sworn in to begin nine-year terms, a move that legal observers noted gave the president a majority of loyal judges who would be more sympathetic to his proposals. The appointments followed the resignation of

four Constitutional Court justices days earlier, at least one of whom stated that he was put under pressure to resign.

On October 1, the Constitutional Court in a closed-door ruling announced that amendments adopted during the 2004 Orange Revolution to the 1996 constitution were unconstitutional because procedures used to adopt them violated the constitution. The court reinstated the 1996 constitution, which granted greater powers to the presidency.

In their October 4 report addendum, PACE corrapporteurs Wohlwend and Rebs stated: "The fact that these four newly appointed judges reportedly tipped the decision in favor of Mr. Yanukovich will only add to the controversy surrounding this (Constitutional Court) decision and allegations that the current authorities intend at all cost to monopolize power in the country."

*Trial Procedures.*—The constitution includes provisions for a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, these rights were limited by the absence of implementing legislation, which left a largely Soviet-era criminal justice system in place. Defendants are presumed innocent; however, high conviction rates called that assumption into question.

The constitution provides for juries, but a jury system has not been implemented. Most cases are decided by judges who sit alone, although trials on charges carrying a maximum sentence of life imprisonment, the highest penalty in the criminal justice system, were heard by two judges and three public assessors who have some legal training.

By law a trial must begin no later than three weeks after criminal charges are filed with the court; however, this requirement was rarely met by the overburdened court system. Months could pass before a defendant was brought to trial. Complicated cases could take years to go to trial.

The law specifies that a defendant may consult a lawyer in private; however, human rights groups reported that officials occasionally denied this attorney-client privilege. The law also requires free legal counsel for all defendants, but free counsel was often unavailable.

To protect defendants, investigative files must contain signed documents attesting that defendants were informed of the charges against them, of their right to an attorney at public expense, and of their right not to give evidence against themselves or their relatives. Appeals courts may dismiss convictions or order new trials if these signed documents are missing; however, officials sometimes verbally and physically abused defendants to obtain their signatures.

By law trials are held in public, and defendants have the right to confront witnesses. However, courtroom space was often limited, and media personnel were at times not able to attend and report on court proceedings.

The law permits the names and addresses of victims and witnesses to be kept confidential if they were at risk of being intimidated into withdrawing or changing their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives, but human rights organizations claimed that this system continued to be ineffective.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—Once they have exhausted domestic legal remedies, citizens may apply to the ECHR for the redress of grievances involving an alleged infringement of rights under the European Convention on Human Rights.

During the year the ECHR handed down 107 judgments against the country, and a reported 10,800 applications from the country remained pending before the court at year's end. Most of the judgments involved violations of the right to a fair trial, violation of property rights, and unduly lengthy proceedings. In 2009 the ECHR issued 126 decisions against the country, all of which found at least one violation of the European Convention on Human Rights.

According to the Government's ECHR commissioner, Yuriy Zaitsev, during the first 11 months of year, the ECHR issued 68 rulings in cases involving the country. The Government enforced 76 of the rulings involving prohibition of torture, the right to liberty and security of person, the right to a fair trial, the right to respect for private and family life, and the right to an effective remedy. Some of the enforced rulings covered 2009 court decisions.

Independent observers noted that, while the Government paid damages to those who won ECHR cases involving financial issues, it failed to institute reforms to address the root causes of many of the cases brought before the court.

*Civil Judicial Procedures and Remedies.*—The constitution and laws give citizens the right to challenge any decisions, actions, or omissions of national and local government officials that violate their human rights. However, the right of redress was limited by an inefficient and corrupt judicial system.

Potential victims may also file a collective legal challenge to legislation that they believe may violate basic rights and freedoms. Citizens may appeal to the human rights ombudsman and may take cases to international bodies, such as the ECHR.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The constitution prohibits such actions; however, in practice authorities generally did not respect these prohibitions.

By law the SBU may not conduct surveillance and searches without a court-issued warrant. The PGO has the constitutional responsibility to ensure that all law enforcement agencies observe the law. Citizens have the legal right to examine any dossier concerning them in the possession of the SBU and the legal right to recover losses resulting from an investigation. However, authorities generally did not respect these rights in practice because implementing legislation had not been enacted, and many citizens were not aware of their rights or that their privacy had been violated by authorities.

On March 13, UNIAN reported that, during a meeting of the interagency coordinating council to combat corruption and organized crime, SBU chief Valeriy Khoroshkovsky requested the Supreme Court to allow courts to sanction with one approval the monitoring of all telephone numbers rather than one telephone number of a suspect. The Supreme Court approved the request on June 4. Supreme Court Chairman Vasyl Onopenko stated that, on average, courts issue 20,000 such approvals every year. However, despite increased surveillance activity, he stated there was no discernible improvement in the number of solved criminal cases or their quality. Human rights groups expressed concern that the SBU may abuse such court approvals to intercept telephone conversations of the Government's critics.

On July 5, the Lviv-based newspaper *Vysokyi Zamok* quoted its sources as stating that district state administrations in the Lviv Oblast were gathering information about political affiliation of local business managers and self-government representatives, the "degree of their influence on voters," and their preferred candidate in the recent presidential election.

In 2009 there were some media reports of allegations of privacy interference and illegal surveillance by government authorities. For example, the weekly newspaper *Dzerkalo Tyznia* reported in April 2009 that appeals courts reviewed 25,086 requests by law enforcement agencies (mostly by the SBU, the Ministry of Internal Affairs, and tax police) for permission to intercept information, seize correspondence, or use other technical means to obtain information. According to newspaper, these types of requests amounted to restrictions of the constitutional rights of citizens.

During the year the ECHR issued six judgments that found violations by the country of the right to respect for family and private life under Article 8 of the European Convention on Human Rights, compared with four in 2009, and one in 2008.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The constitution and laws provide for freedom of speech and of the press; however in practice government pressure on the media intimidated journalists and media owners in some cases into practicing self-censorship. Following changes in government leadership after the presidential elections, there were numerous reports that central authorities attempted to direct media content. There were also reports of intimidation and violence against journalists by national and local officials.

Individuals could criticize the Government publicly and privately, and independent and international media were active and expressed a wide variety of opinions.

Private media outlets generally operated free of direct state control or interference; however, both independent and state-owned media increasingly demonstrated a tendency toward self-censorship on matters that the Government deemed sensitive. Although private newspapers operated on a commercial basis, they often depended on their owners (political patrons or wealthy businessmen with government connections) for revenue and did not enjoy editorial independence.

According to the Ukrainian Association of Press Publications, in 2009 approximately 4,200 print publications were regularly published in the country. Among them were 2,400 newspapers (including 52 dailies) and 1,700 magazines, with 1,550 having primarily nationwide distribution.

On March 11, President Yanukovich appointed Valeriy Khoroshkovsky as head of the SBU. Khoroshkovsky was also the de facto owner of Inter Media Group, the parent company of Inter TV, the most popular news and entertainment channel in

the country. According to Khoroshkovsky, his wife controlled the company and its operations.

On April 2, President Yanukovich disbanded the national free speech commission that had been an official part of the Office of the President. On April 20, the commission decided to continue as a self-governed and independent expert body with the purpose of implementing European media standards in the country.

Beginning in April, international observers and media watchdog groups issued a range of statements expressing concern about the deterioration of media freedom. For example, on April 15, Reporters without Borders expressed “dismay and alarm” over the status of press freedom since the January-February presidential elections. On April 29, the EU released a statement on media freedom in the country that voiced concern over cases of harassment and violence against journalists.

According to the Institute for Mass Information (IMI), a local, nonprofit media-watchdog, at least 33 journalists and publications were subjected to physical attacks or intimidation during the first nine months of the year, compared with 31 incidents reported in 2009. As in the previous year most cases occurred at the local level and were often attributed to individual politicians, businessmen, or organized criminal groups.

On March 23, unknown assailants severely beat Vasyl Demyaniv, chief editor of the Kolomyiskyi Visnyk newspaper in Kolomyia. Demyaniv stated he believed the attack was related to his media activities.

On April 8, police officers ejected television reporter Serhiy Kutrakov of Novyi Kanal from an exhibition at the Ukraine House in Kyiv. Kutrakov filed a legal complaint, but a Kyiv court on July 12 rejected it. Kutrakov appealed the court decision, which was pending at year’s end.

On April 12, an unidentified man beat Boris Braginskyi, a reporter for 9 Telekanal in Dnipropetrovsk, outside of his apartment. Braginskyi stated he believed the attack was related to his work because the assailant did not take any of his belongings.

On June 15, there was a scuffle between STB television journalist Serhiy Andrushko and President Yanukovich’s security detail at the Agro 2010 exhibition. The guards did not admit Andrushko to the exhibition. When he asked for their names, and stated he would record them with his mobile phone, the guards twisted his hands behind his back and threw him onto the ground. The State Guard Directorate later apologized to Andrushko for unwarranted use of force. He filed a complaint over the incident, but it was denied.

On August 11, Vasyl Klymentyev editor in chief of the newspaper Novy Styl, disappeared in Kharkiv and was presumed dead. The paper had written about corruption among law enforcement officers and others in the Kharkiv region. On August 20, President Yanukovich took personal control of the case and ordered top law enforcement officials to make every effort to find him. However, at year’s end little progress on the case was reported.

There also were numerous expressions of concern and public protests by local activists, journalists, and NGOs against what they characterized as a return to censorship.

On May 21, over 200 media representatives and community activists meeting in Kyiv launched the “Stop Censorship!” movement to resist all efforts at censorship, including self-censorship, by media owners. In the weeks leading up to “Stop Censorship!” protests, journalists at two popular television stations, 1+1 and STB, released letters protesting censorship by station management, claiming that management either blocked or interfered with reports about the political opposition as well as news critical of the Yanukovich administration.

On May 27, the news Web site Forum proUA reported that 41 percent of newspaper publishers interviewed by the Association of Independent Regional Publishers stated the publishing business had become more difficult in April due to government interference, pressure on journalists and editors, and vendors refusing to disseminate publications critical of the authorities.

On June 4, visiting PACE Monitoring Committee corapporteurs Wohlwend and Reps stated that they had received reports of an increasing number of violations of human rights and the right of freedom of speech.

On June 8, a Kyiv court ruled in a case brought by the Inter Media Group that broadcast licenses had been improperly awarded in January to independent stations TVi and Channel 5. The channels accused SBU Chief Khoroshkovsky, the de facto owner of Inter Media Group and Inter TV, of using his position to influence the court’s decision. There were counter allegations that TVi and Channel 5 had paid bribes to receive the additional licenses. On August 30, an appeals court upheld the decision and went beyond the original ruling by stripping TVi of all its broadcast licenses, which it had renewed along with the new licenses in January.

On July 27, Walid Arfush, the deputy head of UT-1, the national state television company, stated in an interview that the channel had a duty to report on the activities of the Government in a positive light. "There is a lot of talk about creating a public television station, and some say that UT-1 should not be connected with the authorities. But I think UT-1 should be partisan in favor of the authorities," Arfush was quoted as telling UNIAN.

On August 18, the state tax administration in Crimea froze the bank accounts of Chernomorskaya TV for alleged financial violations involving barter deals. Chernomorskaya TV is an independent, opposition-owned station known for its criticism of local and national authorities. The station was previously in conflict with local authorities in 2006 and 1999.

On September 1, Reporters without Borders released a report based on a three-day fact-finding mission to the country in July. The report, *Temptation to Control*, described numerous incidents of violence and harassment against journalists and media companies. The report also emphasized the conflict of interest between Khoroshkhovsky's status as both SBU chief and media owner.

On September 9, the Council of Europe's PACE report on the Functioning of Democratic Institutions in Ukraine also expressed concern about developments that could undermine media freedom and pluralism and called on authorities to "refrain from any attempts to control directly or indirectly the content of reporting in national media."

On October 13, following a two-day visit to the country, Dunja Mijatovic, the media freedom representative of the Organization for Security and Cooperation in Europe (OSCE), noted public assurances by the authorities to preserve media freedom, but cautioned that results were lacking. She stated that recent cases of violence and intimidation of journalists, including the August 11 disappearance of Novy Styl reporter Vasyl Klymentyev and physical attacks against journalists had a "chilling effect on the media climate."

According to local media NGO IMI, private agreements exist between the authorities and media owners to restrict media content. For example, to preserve their business assets owners instruct their television channels and publications to avoid criticism of the president and his administration. The IMI also stated that communal and municipal state-funded media are under huge pressure. Print materials have to praise local governors, and often the articles must be approved by the corresponding local headquarters of the ruling Party of Regions.

The IMI also emphasized that political parties frequently ordered placement of stories in regional print media while law enforcement agencies did not investigate this breach of law. Some journalists maintained that low salaries encouraged some reporters to supplement their incomes with undocumented payments from benefactors seeking to influence news reporting.

Inadequate media access to government-held information was a problem, particularly outside of the capital. The IMI, the UHHRU, and the Committee for Monitoring Freedom of Press in Crimea asserted that most government agencies regularly denied requests by journalists and NGOs for basic public interest information.

Libel is considered a civil offense, and the law limits the amount of damages that may be claimed in libel lawsuits; the press can publish inoffensive, nonfactual judgments, including criticism, without penalty. In February 2009, the Supreme Court adopted a resolution on judicial practice in defamation cases, reiterating that public officials enjoy less protection from criticism than average individuals, emphasizing the importance of distinguishing between factual information and value judgments, and encouraging courts to refer to the ECHR's practices.

On June 26, the president signed a privacy law, scheduled to enter into force in January 2011, which could significantly complicate the work of journalists and expose them to criminal prosecution. According to the IMI, the law would require journalists to request permission before publishing virtually any information about a person other than his or her name. High-level politicians and officials are exempted, but other public figures are not.

Local media observers continued to express concern over high monetary damages that were demanded, and sometimes awarded, for alleged libel. Government entities and public figures in particular continued to use the threat of civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press and investigative journalists.

For example, on October 5, the Kyiv Circuit Court of Appeals upheld a lower-court ruling that Olha Snitsarchuk and Channel 5 should pay member of parliament Yuriy But 20,000 hryvnias (\$2,500) for pain and suffering. But had sued Snitsarchuk for 100,000 hryvnias (\$12,500), claiming he suffered severe psychological shock and had been in treatment because Snitsarchuk referred to him as a deserter or renegade in a December 2009 report. But was one of the first members

of parliament to quit Tymoshenko's party in 2008. However, But declined to accept the court ruling for damages after widespread criticism and ridicule of his claim.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail; however, law enforcement bodies engaged in Internet monitoring.

On March 27, police in Kyiv questioned blogger Olena Bilozerska about her coverage of demonstrations by opposition activists the previous month. Police searched her apartment and computer. Bilozerska asserted that she was a registered journalist and therefore the search was illegal; her attempt to file a legal complaint was denied.

On July 30, the SBU summoned blogger Oleg Shynkarenko to discuss statements on his blog that could be interpreted as a threat to the life of President Yanukovich. Shynkarenko apologized on his blog and stated he had not meant to issue a "call to kill the president." The SBU compelled Shynkarenko to sign a pledge that he would not write similar statements in the future.

According to International Telecommunication Union statistics for the year, 34 percent of the country's inhabitants had access to the Internet.

*Academic Freedom and Cultural Events.*—There was at least one case of government restrictions on academic freedom.

On September 8 in Lviv, the SBU detained the head of the museum "Prison at Lontskoho Street," Ruslan Zabily, alleging that he intended to give away state secrets. The museum is dedicated to victims of Soviet and Nazi rule. According to Zabily, his laptop and two hard discs were confiscated, he was questioned about his contacts with foreign academics, and he was advised to find new employment. Zabily, who is a historian, stated the confiscated data included declassified information about activities of the Ukrainian Insurgent Army, a partisan militia that fought against both Soviet and German forces in World War II, and about the Soviet-era dissident movement. The status of the case against Zabily was pending at year's end due in part to national and international criticism about the SBU's handling of the incident.

*b. Freedom of Peaceful Assembly and Association.—Freedom of Assembly.*—The constitution provides for freedom of assembly, but in some instances regional governments infringed on these rights. Since there is no national law governing freedom of assembly, the Code of Administrative Justice and case law prevailed. Local authorities sometimes invoked a Soviet-era decree on freedom of assembly that was more restrictive than the constitution.

The constitution requires that organizers inform authorities in advance of planned demonstrations. In compliance with the Soviet-era decree, authorities at times stipulated that organizations must apply for permission at least 10 days beforehand. In most cases permits were granted, and in practice unlicensed demonstrations were common and generally occurred without police interference, fines, or detention, although there were several notable exceptions.

On May 19, the rector of the Lviv-based Ukrainian Catholic University, Borys Gudziak, publicized a meeting with an SBU officer. According to Gudziak, the security official recommended that the university warn students that they would be prosecuted for involvement in any "illegal activities." According to the rector, such illegal activities included "not only violent acts but also, for example, pickets blocking access to the work place of government officials or any protests not sanctioned by authorities."

On May 28, Kharkiv police detained 10 to 12 environmental activists who were protesting the city's decision to cut down trees in a central park. Two of the activists, Andrei Yevarnitsky and Denis Chernega, were sentenced to 15 days of detention for disobeying police orders. The sentence was subsequently reduced to nine days. Amnesty International declared the two activists to be "prisoners of conscience," asserting that their rights to freedom of expression and assembly were curtailed.

On August 2, the KHRG stated that there had been more violations of freedom of peaceful assembly during the year under the Yanukovich administration than during the entire 2007-09 period. The KHRG estimated that during the first 100 days of the new government the oblast-level and national media alone released more than 350 reports criticizing police for such violations that occurred during that period.

On October 14, Oleksiy Verentsov and Ihor Tanichkevych were detained after taking part in an approved protest rally near the Lviv Oblast Prosecutor's Office. The two were released after several days of detention. The prosecutor subsequently filed

charges against Tanichkevych, which carry a prison sentence, after he challenged the legality of the detention. The case was pending at year's end.

In December two organizers of huge demonstrations against the Government's proposed changes to the tax code, Oleksandr Danylyuk and Serhiy Melnychenko, were questioned by police about their role in the protests. Media reports quoted Danylyuk as stating that law enforcement bodies, through their investigations and questioning, were attempting to "terrorize" activists and society at large.

Investigators questioned at least four additional protesters, two of whom remained subject to travel bans at the year's end. At least three protesters remained in custody on charges of damaging public property on Independence Square, where the demonstrators had erected tents. In addition, employees of the Pact Office in Simferopol, a local civil society organization, were questioned as to whether their civic engagement activities were training participants to organize protests.

*Freedom of Association.*—The constitution and the law provide for freedom of association; while the Government generally respected this right in practice, some restrictions remained. There were extensive registration requirements for organizations; however, there were no reports that the Government used them during the year to disband existing organizations or to prevent new ones from being formed.

The law places restrictions on organizations that advocate violence or racial and religious hatred or that threaten public order or health. In January 2009 SBU spokesperson Maryna Ostapenko confirmed that the security service had completed a pretrial investigation in the criminal case against a separatist organization, the Popular Front Sevastopol-Crimea-Russia, and forwarded it to the court. In December 2009 the Crimean Appellate Court handed down a four-year suspended prison sentence to Semen Klyuyev, a Popular Front member. On March 4, the Supreme Court overturned the December ruling, returning the case to the Appellate Court for review.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights. The Government worked with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection to asylum seekers, stateless persons, and other persons of concern.

Citizens who wished to travel abroad were able to do so freely. Exit visas were not required. The Government could deny passports to individuals in possession of state secrets, but denials were rare and could be appealed.

The law prohibits forced exile, and the Government did not employ it.

*Protection of Refugees.*—The laws provide for granting of asylum or refugee status, and the Government has established a system for providing protection to refugees; however, in practice authorities failed to provide effective protection for refugees.

The constitution provides for asylum; however, there were no laws to implement the granting of asylum. Refugees residing in the country for three years may apply for citizenship. In 2009, 52 refugees acquired citizenship.

On July 7, the Government abolished the State Migration Service (SMS). It was established in June 2009 on the basis of the Ministry of Internal Affairs' Citizenship and Immigration Department and the State Committee on Nationalities and Religions (SCNR).

The SCNR retained authority for citizenship, immigration, asylum, and refugee procedures, while the Ministry of Internal Affairs and the State Border Guard Service (SBGS) continued to combat illegal migration. However, on December 9, the president abolished the SCNR and re-instated the SMS as part of wide-ranging administrative reforms to reduce the size of government.

Before it was abolished in July, the SMS received 524 asylum claims during the first seven months of the year; however, no asylum decisions were issued from mid-2009 through July. Some human rights activists had welcomed the decision to close the SMS, stating that it could help revitalize procedures to review more than 1,000 pending refugee cases.

In December, Human Rights Watch described the country's asylum system as "dysfunctional." Administrative courts responsible for reviewing appeals of denied asylum applications were overwhelmed by a backlog of cases, while the Kyiv Administrative Court of Appeal postponed its review of deportation appeals until 2012. According to HRW, 5,397 asylum applications were filed between 2007 and 2009. Of that number, only 284 were granted asylum.

The Government provided some protection against the expulsion or return of refugees to a country where there is reason to believe their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group and political opinion. However, there were some exceptions.

In May an Afghan family requesting asylum in the country was denied entry at Boryspil Airport. In June and July, following a request by the Uzbek government, the authorities detained Uzbek citizens Umid Khamroyev, Kosim Dadakhanov, Shodilbek Soibzhonov, and Utkir Akramov, who were seeking political asylum. On July 26, the ECHR ordered the Government not to return the four asylum seekers. The Government complied with the order.

In 2009 the UNHCR recorded 16 incidents of refugee expulsion, compared to 12 in 2008. Incidents included cases in which individuals were denied access to the territory of the country.

In August 2009 new regulations initiated by the SBGS took effect that require foreign nationals transiting the country to Western Europe and stateless persons to have in their possession no less than “70 subsistence levels” (12,620 hryvnia or \$1,570) to sustain their stay in the country. On September 2, the UNHCR stated that this change “should not affect access to the asylum procedure and undermine the nonrefoulement principle.”

Human rights groups noted that the current law on refugees does not provide protection for war refugees, victims of indiscriminate violence, or failed asylum seekers who could face the threat of torture or loss of life or freedom if deported. According to informed observers, several allegedly failed Chechen asylum seekers were kept in pretrial detention facilities, at least two were recognized as refugees under the UNHCR’s mandate. In one case the individual had been accepted for resettlement in an EU member state. Despite numerous demarches by the resettlement country and the UNHCR, the individual has remained in detention for more than two years.

According to the UNHCR and local human rights groups, the complicated and burdensome registration system often left asylum seekers without documents during the protracted review of their cases and the appeal process. This left them vulnerable to frequent police stops, detention, and fines. Refugees and asylum seekers, who frequently came from Africa and Asia, were at times victims of xenophobic attacks. Asylum seekers in detention centers were sometimes unable to apply for refugee status within prescribed time limits and had limited access to legal and other assistance. The problem was further complicated by the lack of access to qualified interpreters to complete registration documents.

During the year the UNHCR and local NGOs worked with approximately 100 unaccompanied children seeking asylum. The majority were not registered with asylum authorities and were unable to access appropriate services and care, leaving them vulnerable to exploitation and abuse.

According to the UNHCR, there were 2,334 refugees in the country as of July 1. Of these, 53 percent were from Afghanistan, 27 percent from the former Soviet Union, and 11 percent from African countries.

The country remained a destination and transit country for migrants. According to the SBGS, 15,667 irregular migrants were identified in the first nine months of the year, an 18 percent drop compared with the same period in 2009. Of that number, 13,576 were not allowed into the country, and 1,260 were apprehended when illegally crossing the border. According to the SBGS, 13 Chechens, 16 Uzbeks, and two Belarusians were also apprehended in the first nine months of the year.

According to the Ministry of Internal Affairs, 350 detained irregular migrants were held in two new facilities in Chernihiv and Volyn oblasts, compared with 751 in 2009. According to the SCNR, two temporary holding facilities for refugees, in Odesa and Zakarpattia oblast, were not sufficient for providing temporary housing to refugees.

There are no legal provisions for voluntary return. However, the local office of the International Organization for Migration (IOM), in cooperation with the SBGS and the Ministry of Internal Affairs, continued to operate a Program on Assisted Voluntary Return to help stranded migrants and failed asylum seekers to repatriate to their countries of origin. Five local NGOs in the Mukachevo, Chernihiv, Odesa, Kharkiv, and Volyn oblasts participated in the voluntary return program. In 2009, 11 persons of concern to the UNHCR voluntarily departed the country.

*Stateless Persons.*—According to the law citizenship is derived by birth, territorial origin, naturalization, restored citizenship, and adoption. Dual citizenship is not allowed.

According to UNHCR estimates, there were approximately 52,000 stateless persons in the country. In addition, there were an estimated 4,500 formerly deported Crimean Tatars who returned to Crimea but had not registered as citizens, as well as smaller numbers from the separatist region of Abkhazia and Georgia.

Stateless persons also included an unknown number of persons who either lived in the country for decades but failed to clarify their citizenship status after the collapse of the Soviet Union in 1991 or who arrived in the country as students or visitors both before and after 1991. Many did not obtain residency documents or take other steps to register according to the regulations of their country of origin.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The constitution and the law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

*Elections and Political Participation.*—On January 17, the first round of presidential elections took place. International and domestic observers assessed the vote as having met most international standards. As no candidate received 50 percent of the vote, the two candidates with the most votes—Viktor Yanukovich and Prime Minister Yulia Tymoshenko—faced each other in a runoff election on February 7. Observers again assessed the run-off election as largely free and fair. Yanukovich was inaugurated president on February 25.

On March 11, the president's Party of Regions, together with two other parties and 16 nonaligned members of parliament (MPs) established the "Stability and Reform" governing coalition composed of 235 MPs to replace the coalition led by Tymoshenko. Opposition MPs and independent observers asserted that the new majority had been formed illegally in violation of established rules and procedures because a coalition could only be composed of factions, not individuals.

On April 8, the Constitutional Court ruled that the procedures used to form the Party of Regions-led coalition was constitutional, stating that individual MPs have the right to take part in forming parliamentary coalitions.

On October 1, the Constitutional Court ruled that the changes to the constitution enacted following the Orange Revolution violated the procedures for amending the constitution, thereby reinstating the 1996 constitution, which granted greater powers to the presidency (see section 1.e).

On July 10, parliament adopted a new law for the conduct of the elections on October 31 for local councils and mayors of cities, towns, and villages. Election observers and international experts cited the law as a source of problems on election day. In September President Yanukovich ordered revisions to the law that lessened or eliminated some of the problems such as, blocking the participation of new parties, were lessened or eliminated by the revisions ordered by President Yanukovich in September. However, other aspects of the election law and regulations challenged the placement of names of some candidates on ballots, allowed for reported cases of improper use of administrative resources during the electoral campaign, established an unbalanced membership in the electoral commission, and created complicated registration and voting procedures.

While international and local election observers recognized some improvements in the conduct of the October 31 local elections compared to previous local elections, they concluded that overall it did not meet standards for openness and fairness set by the presidential elections earlier in the year.

Observers noted shortcomings such as, insufficient training for electoral commission members, which contributed to procedural violations and organizational problems. In particular, the registration of fraudulent Batkivshchyna Party candidate lists led to the disqualification of all Batkivshchyna Party candidates in the Kyiv and Lviv oblast council elections, preventing the main opposition party from running for election in regions where it had considerable support. Election observers also reported incidences of law enforcement authorities' pressuring monitors and candidates, and election officials selectively barring or removing candidates from ballots.

There were 36 female members of the 450-seat parliament, and a woman held the post of secretary of the National Security and Defense Council. The 18-member Constitutional Court included one female justice.

The exact number of minorities in parliament and the cabinet was not available due to privacy laws.

Crimean Tatar leaders continued to call for changes in the electoral law that would give them greater representation in the Crimean and national parliaments. The law does not allow for the creation of regional political parties, and Crimean Tatars had to join national political parties or blocs. Only one Crimean Tatar was a member of the national parliament.

According to Refat Chubarov, the deputy leader of the Crimean Tatar Mejlis (governing body), Crimean Tatars, who make up 13 percent of the population of Crimea, occupied eight seats in the 100-member Crimean Mejlis, and had approximately

1,000 members in city, district, and rural councils in Crimea. The Mejlis was not legally recognized by national authorities.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption; however, corruption was ineffectively prosecuted, and penalties were rarely imposed. Corruption remained a pervasive problem and was widespread in the executive, legislative, and judicial branches of government and in society.

Officials, including high-ranking officials, often engaged in corrupt practices with impunity. On October 5, at a meeting with foreign investors in Kyiv, Drago Kos, the president of the Group of States against Corruption (GRECO), stated he saw no improvements in the country's anticorruption efforts since the Yanukovich government took office.

On April 22, the president announced that the PGO had opened more than 30 criminal cases on charges of embezzlement of state funds by members of the previous government. Opposition politicians claimed the charges were politically motivated.

On June 24, the SBU detained the former head of the Customs Service, Anatoliy Makarenko, as a suspect in a criminal case related to damages allegedly caused to the country in connection with the seizure of 11 billion cubic meters of gas by former prime minister Tymoshenko's government from gas intermediary RosUkrEnergo in 2009.

On July 12, the Interfax Ukraine news agency reported that the Pechersk District Court in Kyiv had approved the arrest of Ihor Didenko, the former first deputy head of national oil and gas company Naftohaz Ukrainy, on suspicion of misappropriation or embezzlement through abuse of office also related to the seizure of 11 billion cubic meters of gas by former prime minister Tymoshenko's government from gas intermediary RosUkrEnergo in 2009.

On October 18, former economy minister Bohdan Danylyshyn was detained in the Czech Republic after the country's prosecutor general opened a case against him for abuse of office in connection with procurement procedures at Boryspil Airport. As of year's end, Czech authorities had not made a determination on whether to deport Danylyshyn.

In December prosecutors arrested a number of former senior government officials with ties to opposition leader and former prime minister Tymoshenko, including Georgy Filipchuk, Yevhen Korniychuk, Mykola Petrenko, and Yuriy Lutsenko (see section 1.d.).

Tymoshenko herself was called in for questioning by authorities on at least nine occasions in December over charges that she misused funds from the sale of carbon credits and that there were irregularities in the her government's purchase of vehicles subsequently used for her presidential campaign. Former First Deputy Prime Oleksandr Turchynov was also called in for questioning at least six times in the last four months of the year.

Numerous domestic and international observers also raised concerns that, while the Government had a right and a duty to investigate corruption, prosecution should not be selective or politically motivated. These observers noted that the Government's targeting, with few exceptions, of senior officials connected with the previous government gave the appearance of politically motivated prosecution of political opponents.

In response the Government noted that Bohdan Presner, a former deputy environment minister in the Azarov government, was also under arrest for bribery. His case remained ongoing at year's end.

On April 14, the Kyiv Appeals Court upheld a March ruling by a lower court to close criminal corruption cases against Ihor Bakai, former head of the State Management of Affairs Department and Naftohaz, the state gas and oil company. The cases were opened in 1998 and 2000. Observers attributed the dismissal of the cases to Bakai's political connections with the new administration.

Police corruption remained a problem. The PGO reported that in the first nine months of the year 609 criminal cases of corruption were opened against law enforcement officers. Criminal cases involving 10 prosecutors and 318 police officers were forwarded to court.

According to the PGO, in the first nine months of the year, 71 appointed and elected officials and civil servants at all levels of government were found guilty of criminal offenses related to corruption and bribery.

Judges are immune from prosecution and may not be detained or arrested unless parliament rescinds their immunity. During the first nine months of the year, the PGO confirmed that it had initiated 22 corruption cases against judges, and forwarded 25 corruption cases against judges to court. During the year 14 judges were

found guilty of wrongdoing; eight were convicted of bribery; three of knowingly issuing an unjust decision; and three of abuse of power or office. Of these, four were sentenced to prison and seven were placed on probation.

During the first nine months of the year, military prosecutors opened 119 criminal cases for corruption, of which 21 involved law enforcement personnel and 98 involved other officials.

A June 2009 survey by the PACE project, "Promoting Active Citizen Engagement to Combat Corruption in Ukraine," found that almost 63 percent of respondents stated they had been involved in corrupt transactions with government officials in the previous 12 months. The survey also found increased public support for more active anticorruption programs and increasing criminal charges for corrupt government employees.

On June 21, the PGO approved an indictment of Ihor Zvarych, the former head of the Lviv Administrative Court of Appeals. The ruling was forwarded to the Supreme Court to determine jurisdiction for a trial. Parliament stripped Zvarych of immunity in 2008 after an investigation found evidence that he accepted a bribe of 800,000 hryvnia (\$100,000) and discovered eight million hryvnias (\$1 million) at his home. He was arrested in March 2009 on charges of abuse of office, bribery and fraud, and remains in pretrial detention.

The constitution and the law authorize public access to government information unless it pertains to national security. Government bodies are required to respond to requests within 10 days and to provide information within 30 days. Denials can be appealed to a higher level at the agency concerned and then to a court. However, it remained difficult to gain access to official information. Government officials often did not understand the law and at times created bureaucratic procedures to withhold information.

#### *Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, unlike in previous years, there were numerous complaints of government pressure and intimidation. Government officials were not uniformly cooperative or responsive to their views.

During the year the SBU discontinued meetings of its advisory council consisting of political leaders, NGO activists, and independent experts which had aimed to provide civilian oversight and increase the transparency of SBU activities. While the council continued to exist in principle, as of the end of the year, it had not met since February.

On June 26, Niko Lange, the local representative of the Konrad Adenauer Foundation, was detained at Boryspil airport upon his arrival in the country and held without explanation for 10 hours before being allowed entry. On July 30, UNIAN reported that the PGO had announced that the State Border Guard Service had detained Lange on SBU instructions because of his alleged interference in the country's internal affairs.

On September 6, the International Renaissance Foundation (IRF) issued a statement that several NGOs it supported had received requests for information from the SBU. The foundation appealed to the authorities, emphasizing that it did not support any political party or political activities, only initiatives aimed at electoral processes to ensure fairness. On September 8, the head of the Presidential Administration, Sergiy Lyovochkin, told the media that the SBU's interest in IRF's activities was not part of a large-scale investigation into NGOs, but a one-time inquiry. However, despite increased attention by the SBU, domestic NGOs continued to criticize openly the Government's human rights performance.

The Government generally cooperated with international organizations, including the UN, the OSCE, and the Parliamentary Assembly of the Council of Europe. For example, PACE rapporteurs visited the country several times during the year, as did the OSCE's representative on media freedom, among others.

The constitution provides for a human rights ombudsman, officially designated as the parliamentary commissioner on human rights. On June 29, the parliament amended the ombudsman's term in office from five to seven years. However, the change did not apply to term of the current ombudsman. In June 2009 Commissioner Nina Karpachova presented a constitutionally mandated report to parliament on the human rights situation in the country in 2006 and 2007. The report is required annually but has only been produced five times since the office was established in 1998.

Human rights groups criticized the report for being outdated, and the ombudsman for poor cooperation with human rights organizations and for not opening regional

offices. They also expressed concern that government bodies failed to provide proper responses to the ombudsman's requests. Nevertheless, they also noted that the ombudsman's office became more transparent by increasing media coverage of its activities and by updating information on its Web site on a more regular basis.

According to the Office of the Human Rights Ombudsman, 75,386 persons filed 32,884 complaints with the office in the first 11 months of the year. Of that number, approximately 45 percent related to civil rights, in particular the right to a fair trial, abuse by law enforcement personnel, and timely implementation of court rulings. The remainder involved social rights (13.2 percent); economic rights (23.9 percent); individual rights (10.8 percent) including right to life, respect for personal integrity, and prohibition of torture in detention; and religious rights (10.9 percent).

A parliamentary committee on human rights, national minorities, and interethnic relations continued to operate during the year, but its activities were not publicized. The committee's subcommittees work on issues such as interethnic relations, gender policy, indigenous peoples, national minorities and ethnic groups, deported persons, victims of political repression, ethnic policy, prevention of domestic conflict, refugees, and migration.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, gender, language, social status, or other circumstances; however, both governmental and societal discrimination persisted, and the Government did not effectively enforce the prohibitions.

*Women.*—The law prohibits rape but does not explicitly address spousal rape. A law against “forced sex with a materially dependent person” may allow prosecution for spousal rape. According to the Ministry of Internal Affairs, during the first nine months of the year, police recorded 516 incidents of rape or attempted rape, a decrease of 13.7 percent compared with the same period in 2009.

Domestic violence against women remained a serious problem. Spousal abuse is illegal but was common. Advocacy groups asserted that the percentage of women subjected to physical violence or psychological abuse at home remained high. According to Donetsk Regional League of Business and Professional Women, domestic violence annually resulted in 100,000 days of care at in-patient hospital facilities, 30,000 trauma unit cases, and 40,000 doctor visits; up to 40 percent of calls to police involved complaints about domestic violence.

The law permits the administrative arrest of a person for up to five days for—offenses related to domestic violence. On December 2, parliament adopted amendments to the Code of Administrative Offenses introducing community work of 40-60 hours as a possible punishment for domestic violence.

According to women's NGO La Strada-Ukraine, the Ministry for Family, Youth, and Sports continued to work with NGOs and civil society. However, on December 9 the president merged the Ministry for Family, Youth, and Sports with the Ministry of Science and Education to form a new Ministry of Education, Youth, and Sports. It was unclear at year's end what impact the reorganization would have on women's issues.

Persistent gender stereotypes continued. For example, on March 19, replying to a question about the lack of women in new Cabinet of Ministers, Prime Minister Azarov stated that “carrying out reforms in Ukraine is not a women's business.” On March 22, leaders of six women's and gender rights advocacy groups sent a letter to Human Rights Commissioner Karpachova expressing concern over Prime Minister Azarov's comments. The women asserted that the statement was discriminatory under the Law on Equal Opportunities of Men and Women and ran counter to article 38 of the constitution because it restricted the right of women to participate in politics and governance.

On March 9, Kateryna Levchenko of La Strada-Ukraine and Olena Suslova of Women's Information Center filed a lawsuit against the prime minister at the Pechersky District Court in Kyiv accusing him of making a statement that violated gender equality. In June the court rejected the case, stating that the prime minister's comments were protected under freedom of speech. Levchenko filed an appeal in December.

During the first six months of the year, the Ministry of Family, Youth, and Sports, the Ministry of Internal Affairs, and their regional offices recorded 53,785 complaints of domestic violence, including 48,097 allegations of violence against women, and 5,265 reported incidents of violence against men.

As of July 1, according to the Ministry of Internal Affairs and the Ministry for Family, Youth, and Sports, 70,473 persons were under police supervision for domestic violence, compared with 65,684 in 2009.

Police issued 2,085 warnings and 3,724 injunctions for protection related to domestic violence in the first six months of the year. The Ministry of Internal Affairs

also reported that in the first eight months of the year 4,622 families were put under supervision for domestic violence. During the same period of time, administrative charges were brought against 2,555 individuals for domestic violence and for disobeying injunctions of protection.

The law requires the Government to operate a shelter in every major city, but in practice it did not, in part due to the lack of municipal funding.

According to the Ministry for Family, Youth and Sports there were 21 centers for social-psychological assistance and nine centers for medical and social rehabilitation in 19 oblasts, Crimea, and the cities of Kyiv and Sevastopol, which had capacity for 342 persons. During the first nine months of the year, these centers provided assistance to 1,194 persons, of whom 91 adults and 96 children had been victims of domestic violence. NGOs operated additional centers for domestic violence victims in Vinnytsia, Donetsk, Zhytomyr, Odesa, Chernihiv, Poltava, Sumy and Khmelnytskyi oblasts.

According to women's advocacy groups, private and municipally funded shelters were not always accessible. Some did not function throughout the year, and shelters in Kyiv did not admit women who were not registered as Kyiv residents. Government centers offered only limited legal and psychological assistance to victims of domestic violence.

Sex tourism remained a problem; however, there were no official statistics on its extent. During the year a local feminist group, FEMEN, held demonstrations against the increase of sex tourism in the country. In February 2009 then interior minister Yuriy Lutsenko stated in an interview with *Segodnya* that "Ukraine is becoming a paradise for sex tourism."

The law on equal rights and opportunities qualifies sexual harassment as discrimination; however, women's rights groups asserted that it does not contain an effective mechanism to protect against sexual harassment. Women's groups reported that there was continuing, widespread sexual harassment in the workplace, including coerced sex.

While the law prohibits forced sex with a "materially dependent person," which includes employees, legal experts regarded the safeguards against harassment as inadequate. La Strada-Ukraine operated a national hotline for victims of violence and sexual harassment.

The Government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children. Health clinics and local health NGOs were permitted to operate freely in disseminating information on family planning under the guidance of the Ministry of Health. There are no restrictions on the right to access contraceptives.

Quality prenatal and postnatal care remained inaccessible to many women because state-funded clinics were underfunded and lacked quality equipment, and services in private clinics were expensive. However, according to data from the Population Reference Bureau (PRB), 99 percent of births occurred in the presence of skilled personnel. PRB's data indicated that the maternal mortality rate was 19 per 100,000 births. Some of the reproductive health concerns affecting the system included rapidly growing rates of sexually transmitted infections including HIV/AIDS, poor quality sexual and reproductive health services in state-funded hospitals, low awareness of modern contraceptives, and the expense of high-priced medical services in private clinics that made them inaccessible to large groups of local residents.

Romani rights groups reported that Romani women experienced racial discrimination in standards of medical care and lacked access to information on health matters.

Men and women received equal access to diagnosis and treatment for sexually transmitted infections, including HIV, but local health NGOs and clinics reported that women were more likely than men to seek treatment and refer their partners.

Under the law women enjoyed the same rights as men, including equal pay for equal work, a principle that generally was observed. However, industries dominated by female workers had the lowest relative wages. The labor code sets the retirement age for women at 55 and for men at 60. Women received lower salaries due to limited opportunities for advancement and the types of industries in which women were employed.

*Children.*—Citizenship is determined by birthplace or by parentage. A child born on the territory of the country in a family of stateless persons residing permanently in the country is a citizen. The law requires that parents register a child within a month of birth.

While education was free, universal, and compulsory until age 15, the public education system continued to suffer from chronic underfunding, and children from poor families continued to drop out of school before turning 15.

More than 20,000 children did not attend school, according to a 2009 report by a coalition of 14 children's rights NGOs. The report, which covered the period 2002-08, was presented to the UN Committee on the Rights of the Child. Many children were employed in agriculture and illegal coalmines or, in some cases, forced by their parents to beg. NGOs reported that a lack of schooling remained a significant problem among the rural population and within the Romani community. In some cases rural schools were closed due to the small number of school-age children, forcing children to travel long distances, often at personal expense, to attend schools in other villages.

Children continued to be victims of violence and abuse. According to the Ministry of Internal Affairs, in the first eight months of the year, 8,156 minors were victims of crime, including 45 of intentionally inflicted bodily injury. The PGO confirmed that, in the first nine months of the year, 52 crimes involving child rape and attempted rape were recorded; 87 minors were raped, compared with 110 during the same period in 2009.

In January 2009 the parliament adopted amendments to the criminal and criminal procedural codes that established criminal liability of up to three years in custody for forcing children into begging.

Romani rights groups reported that early marriages involving girls under 18 were common within the Romani community.

Commercial sexual exploitation of children remained a serious problem. Domestic and foreign law enforcement officials reported that a significant portion of Internet child pornography continued to originate in the country.

On January 20, parliament adopted amendments to prevent the spread of child pornography. The amendments introduced an internationally recognized definition of child pornography, which allowed law enforcement agencies to identify relevant evidence. In addition, the amendments allowed courts to limit access to Web sites that disseminate child pornography and increased financial penalties and prison sentences for offenders.

On June 1, the parliament amended the Criminal Code to increase from eight to 10 years the minimum imprisonment term for child rape. The amendment also increased to 15 years the maximum prison term for persons "satisfying sexual passion in perverted forms." Molesting children under 16 is punishable by imprisonment for up to five years. The same offense committed against a child under 14 is punishable by imprisonment for a term of five to eight years.

According to the Ministry for Family, Youth and Sports, the number of street children dropped from 42,000 in 2005 to approximately 22,000 in 2009 and 14,720 during the first nine months of this year as a result of government efforts. The ministry reported that as of September there were 88 children shelters across the country in all oblasts and the cities of Kyiv and Sevastopol. The shelters have a capacity for 3,370 children; during the first six months of the year, 6,977 children came to these shelters.

The country is party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport-4308.html>.

*Anti-Semitism.*—An estimated 103,600 Jews lived in the country, comprising approximately 0.2 percent of the population, according to government census data and international Jewish groups. Local Jewish leaders estimated the number of persons with an ethnic Jewish heritage to be as high as 370,000.

There were a number of acts of anti-Semitism, some involving vandalism of Jewish property. According to the Association of Jewish Organizations and Communities of Ukraine's (VAAD) there were nine incidents of vandalism during the year compared with 19 incidents in 2009, and 13 in 2008. There were no reports of violent incidents of anti-Semitism.

In April a Jewish cemetery in Ternopil was desecrated. Other vandalism included the August 12 desecration of a Jewish cemetery in Pavlohrad, paint thrown on a Jewish community building in Sumy on October 12, the November 17 and November 19 desecrations of Holocaust monuments in Kirovograd and in Sevastopol, and paint thrown on the walls of a synagogue on December 9 in Sumy.

As of year's end there were no reports that authorities had identified suspects or made arrests in cases of vandalism against Jewish property in 2009, including swastikas on the walls of Jewish Charity Center in Melitopol, Nazi symbols on the front door of the Kyiv office of the Hebrew Immigrant Aid Society, and paint splashed on the monument marking the birthplace of Rabbi Menachem Schneerson in Mykolayiv.

During the year members of marginal populist and nationalist parties and organizations continued to make occasional extremist, intolerant, and anti-Semitic statements.

In January unidentified individuals in Sudak, Crimea were reported to have passed out leaflets calling for genocide against Jews in the country. As of the end of the year, there had been no further developments in the incident.

On September 10, the Prosecutor's Office in Zakarpattia closed an investigation into charges of hate speech against Serhiy Ratushnyak, the former mayor of Uzhhorod. Citing findings by legal and linguistic experts, the prosecutor stated Ratushnyak's comments made in 2009 reflected his opinion about Jews and could not be described as hate speech. Ratushnyak was charged in August 2009 with inciting ethnic hatred, hooliganism, and abuse of office after he allegedly used anti-Semitic rhetoric and attacked a campaign worker for a rival presidential candidate. Ratushnyak, who was known for making racist and intolerant comments, ran as a marginal candidate in the presidential elections.

On November 10, the National Television and Radio Broadcasting Council issued a warning to the Kherson Television and Radio Company about racist and anti-Semitic remarks made by former city councilman Serhiy Kyrychenko in 2009 on a local radio show, Vik. In frequent appearances on the program Kyrychenko accused Jews of robbing the country's people and plotting to enslave Ukrainians and exterminate Slavs. The Kherson Oblast Prosecutor's Office also opened a criminal case against Kyrychenko on charges of inciting interethnic hatred. In December the prosecutor completed a pretrial investigation and sent the case to court.

Anti-Semitic articles continued to appear in small publications, although their number and circulation continued to decline. According to VAAD, 46 anti-Semitic articles were published in major print media outlets in 2009, compared with 54 in 2008 and 542 in 2007.

VAAD said the sharp decrease in anti-Semitic publications was due primarily to concerted political and social pressure by NGOs, the Government and the Jewish community on the Academy of Personnel Management (MAUP). In previous years, MAUP, a private higher-education institution, accounted for nearly 90 percent of all anti-Semitic material, but has now ceased the publications.

In November 2009 according to media reports, self-described "writer and philosopher" Vyacheslav Gudin told a group of 300 persons that 15 Ukrainian children who had been adopted in Israel were taken to Israeli medical centers and used for "spare parts." He further asserted that 25,000 Ukrainian children had been taken to Israel over the previous two years to harvest their organs. His allegations, which mirrored past anti-Semitic "blood libel" claims, were circulated on the Internet by radical right-wing groups. Members of the Odesa Jewish community called on the prosecutor's office to investigate the ZaZUBR group, which had published Gudin's materials in its newspaper, ZaZUBRina, and on its Web site. Prosecutors opened a case but did not bring charges against anyone involved. In addition, the Government reportedly opened an investigation into the validity of Gudin's remarks; however, at year's end no further information was available about the details of the investigation.

Senior government officials and politicians from various political parties continued efforts to combat anti-Semitism by speaking out against extremism and social intolerance, and by criticizing anti-Semitic acts.

The SCNR, together with the Ministry of Foreign Affairs, Ministry of Internal Affairs, State Border Guard Committee, State Customs Service, State Committee for Tourism, and other agencies, cooperated to support Jewish pilgrimages to the burial site in Uman of Rabbi Nakhman, founder of the Bratslav Hasidic movement. According to Jewish leaders approximately 23,000 pilgrims traveled to Uman in September. Growing numbers of Jewish pilgrims have been visiting burial sites of prominent spiritual leaders in Medzhybizh, Berdychiv, and Hadyach.

According to the Government the SBU acted to prevent at least six hate crimes in 2009 and 2010, including illegal activities by skinhead groups in Cherkassy and Dnepropetrovsk and an attack on the cultural center Hesed Haim in Sumy.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and other state services; however, the Government generally did not enforce these laws.

The Government estimated the number of persons with disabilities at between 2.4 and 2.7 million; however, NGOs working on disability rights asserted that the real number of disabled was twice the Government's estimate. The Government did not track the number of children with disabilities. NGOs complained that the lack offi-

cial data limited their ability to lobby for more government assistance to children with disabilities.

According to the law employers must allocate 4 percent of employment opportunities to persons with disabilities. NGOs noted that many of those employed to fill these positions received a nominal salary to meet the requirement but did not really work at their companies. During the first six months of the year, 4,233 persons with disabilities received jobs through government employment-placement services, according to the Ministry of Labor and Social Policy. The Ministry of Education confirmed that there were 398 specialized secondary schools and boarding schools with a total of 46,480 children, including 54 specialized secondary schools in which 5,608 children with disabilities studied while staying with their families. In addition the Ministry of Education confirmed that there were 484 classes for children with disabilities in general secondary schools. These classes served 5,652 children.

Advocacy groups maintained that, despite existing legal guarantees, most public buildings remained inaccessible to persons with disabilities. As a result, access to essential services and activities such as employment, education, health care, transportation, and financial services remained difficult. NGOs expressed concern over the lack of programs to promote the integration of students with disabilities into the general student population and noted that the lack of needs assessment programs by state-funded employment centers led to the placement of graduates with disabilities in inappropriate jobs.

*National/Racial/Ethnic Minorities.*—The constitution and law prohibit discrimination based on race, skin color, and ethnic and social origin. Mistreatment of minority groups and harassment of foreigners of non-Slavic appearance remained a problem, although NGO monitors reported that hate crime incidents continued to decrease.

Incitement to ethnic or religious hatred is a criminal offense; however, human rights organizations stated the requirement to prove actual intent, including proof of premeditation and intent to incite hatred, made its legal application difficult. Police and prosecutors generally prosecuted racially motivated crimes under legal provisions dealing with hooliganism or related offenses. Article 161 of the criminal code criminalizes deliberate actions to incite hatred or discrimination based on nationality, race, or religion, including insulting the national honor or dignity of citizens in connection with their religious and political beliefs, race, or skin color.

The Government acknowledged that racism and ethnically motivated attacks were a problem; however, some officials continued to minimize its seriousness, maintaining that xenophobia was not a problem and that violent attacks were isolated incidents.

No official statistics were available on the number of racially motivated attacks. However, the Diversity Initiative monitoring group, a coalition of international and local NGOs headed by the IOM mission in Kyiv, reported four attacks involving four victims during the first nine months of the year. This number compared with 26 attacks during 2009 and 63 in 2008. The attacks involved a Kuwaiti and three African asylum seekers and foreign students. The attacks occurred in Kyiv, Simferopol, and Odesa; none was fatal.

According to the Diversity Initiative, police did not initiate criminal cases in any of the four attacks they documented during the year.

According to the PGO, during the year prosecutors forwarded to court two criminal cases based on Article 161. SBU investigators continued pretrial investigation in one case. During the first nine months of the year, two persons were found guilty of violating Article 161, compared with four in 2009 and three in 2008.

In December 2009 then president Yushchenko signed into law amendments to the criminal code that increased penalties for hate crimes. Accordingly, premeditated killing on grounds of racial, ethnic, or religious hatred carries a 10- to 15-year prison sentence. Parliament also established a fine from 3,400 to 8,500 hryvnias (\$425 to \$1,060) or up to five years in prison for hate crimes.

Advocacy groups asserted that police occasionally detained dark-skinned persons and subjected them to far more frequent and arbitrary document checks; at times victims of xenophobic attacks were prosecuted for acting in self-defense.

On December 13, the media reported that Berkut police officers detained journalist Mustafa Nayem on suspicion that he was a Caucasus national. According to the reports, police confiscated Nayem's mobile phone and took him to a local precinct. He was released with an apology from the head of the precinct. Two investigations into the incident continued at year's end.

Some of the most active xenophobic groups were the unregistered Ukrainian National-Labor Party, the Patriot of Ukraine organization, the Ukrainian Movement against Illegal Immigration, White Power-Skinhead Spektrum, the country's branch

of Blood and Honor, and the World Church of the Creator Ruthenia. Such groups appeared to be marginal and poorly organized.

Roma continued to face governmental and societal discrimination. Romani rights groups estimated the country's Romani population to be between 200,000 and 400,000; however, official census data placed the number at 47,600. The discrepancy was due in part by lack of legal documentation and poor record keeping in the Romani community. According to SCNR, there were 88 Romani NGOs, of which three were national.

A 2008 study by Chirikli Roma Women Foundation indicated that almost 70 percent of Roma had experienced a violation of their rights and that the majority did not know how to defend their rights or with whom to lodge complaints. According to Romani rights groups, two-thirds of Roma were illiterate, 15 percent were infected with tuberculosis, and 60 percent of Romani children in Zakarpattia were infected with tuberculosis. One-third of Roma had no funds to pay for medicine and doctors' services.

Representatives of Romani and other minority groups claimed that police officials routinely ignored and sometimes abetted violence against them and referred to Romani ethnicity in crime reports. However, the Roma Congress of Ukraine noted diminished ethnic profiling by police as a result of involvement of Romani rights groups.

There were fewer reports of government cooperation with the Romani community than in 2009. The chairman of the Roma Congress of Ukraine, Petro Hryhorychenko, was formerly a member of the presidential council on ethnic-national policy and a member of the NGO advisory council with the State Committee on Nationalities and Religions (SCNR). On April 2, President Yanukovich abolished the council as part of his effort to cut bureaucracy. On December 9, the president also abolished the SCNR as part of broad administrative reforms and reassigned its duties to the Ministry of Culture.

The constitution provides for the free development, use, and protection of Russian and other minority languages. According to the Ministry of Education, 2,217 educational facilities used Russian as the main language of instruction, serving nearly one million schoolchildren. According to ministry figures, 1.3 million students studied Russian as a separate subject in secondary schools, and more than 165,000 secondary school students studied Russian as an extracurricular course.

Ukrainian and Crimean Tatar minorities in Crimea continued to complain of discrimination by the ethnic Russian majority on the peninsula and in Sevastopol. They urged that the Ukrainian and the Crimean Tatar languages be given a status equal to Russian. In 2009 the head of the Crimean Republican Committee for Nationalities and Deported Citizens reported approximately 264,500 registered Crimean Tatars in the country. The SCNR reported 260,873 Tatars living in Crimea, Kherson Oblast, and Sevastopol.

In November 2009 the SCNR reported that the Government had allocated 28,276 million hryvnias (approximately \$3.5 million) for the resettlement and integration of Crimean Tatars, including housing construction. According to Crimean Tatar Mejlis, Crimean Tatars resided in 300 settlements on the Crimean peninsula, and authorities allocated 53 million hryvnias (\$6.6 million) for their integration. According to the Ministry of Education, 439 children studied the Crimean Tatar language in separate groups in preschool facilities. There were 15 secondary schools with Crimean Tatar as the main language of instruction; 17,725 students studied Crimean Tatar as a separate subject in secondary schools; 5,153 secondary school students studied Crimean Tatar as an extracurricular course.

Crimean Tatars asserted that discrimination by local officials deprived them of equal opportunities for employment in local administrations and that propaganda campaigns, particularly by pro-Russian groups, promoted hostility against them. On August 28, in a speech to the Qurultai (a Crimean Tatar national convention) Mustafa Jemilev, the chairman of the Crimean Tatar Mejlis, claimed there had been a significant increase in discrimination against Crimean Tatars since the presidential election.

In December, Radio Liberty reported that the Crimean Prosecutor's Office accused the head of Mejlis's Secretariat, Zair Smedlyaev, of organizing mass disorders and refusing to comply with police orders. The case was initiated in 2006 but only sent to court in December. Smedlyaev claimed that the prosecutor's actions were "an attempt to intimidate the Crimean Tatar people."

On December 25, the Spiritual Directorate of Muslims in Crimea stated that a fire at a mosque under construction in Myrne village in Crimea may have been attempted arson. According to the group the fire was "a deliberate attempt to destabilize interfaith peace in Crimea." The local fire department opened an investigation in the incident.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The lesbian, gay, bisexual, and transgender (LGBT) community continued to suffer societal stigma and discrimination. Those who openly declared their sexual orientation experienced discrimination in education, the workplace, and access to medical treatment and to information on the prevention of HIV/AIDS.

According to the registered LGBT rights group Nash Mir (Our World), law-enforcement representatives were involved in 35 of 79 identified instances of discrimination against gays during the year. The group also maintained that police mistreated and collected personal data on gays, while the Ministry of Internal Affairs ignored homophobic attitudes among its personnel.

Among the incidents documented by Nash Mir was the illegal detention by police of a man in Chernivtsi who was accused of frequenting a gay meeting place. Police photographed the man and took his fingerprints.

In another incident police in Mykolayiv interrogated a gay man as part of an investigation into the killing of a gay man. The police insulted him and threatened to expose his sexual orientation if he did not provide contact information of other homosexual persons he knew.

On November 20, according to the LGBT group Insight, approximately 10 men broke into a movie screening organized by the group on the Transgender Day of Remembrance and attacked the audience with teargas. One of the organizers who attempted to block the attackers was beaten. Police investigated the incident as hooliganism, while members of the LGBT community urged the police to open a hate-crime investigation. The case remained open at year's end.

*Other Societal Violence or Discrimination.*—Persons with HIV/AIDS faced discrimination and at times lacked access to treatment. In a 2008 study, the Joint United Nations Program on HIV/AIDS estimated that 1.6 percent of Ukrainians between the ages of 15 and 49 were HIV positive. The Ministry of Health estimated the number of HIV-positive persons to be approximately 156,000, of whom 30,000 were diagnosed with AIDS.

According to a country report by HRW, the Ukrainian National AIDS Center reported 13,039 newly registered cases of HIV infection in the first eight months of 2009, nearly half among intravenous-drug users.

The All-Ukrainian Network of Persons Living with HIV continued to note that persons with HIV/AIDS faced discrimination in the workplace, job loss without legal recourse, harassment by law enforcement officials and prosecutors, social isolation, and stigmatization.

In July an HRW researcher published an op-ed in the British newspaper *The Guardian* in which he reported that under President Yanukovich there had been “an increasing number of law enforcement attacks on [drug] substitution treatment programs” that jeopardized the country's progress to limit the spread of HIV among the intravenous drug-user population. Local NGOs echoed these complaints and asserted that law enforcement officials were illegally collecting information on drug treatment patients to determine their HIV status.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions without previous authorization or excessive requirements, and this right was generally respected in practice. There were no reliable estimates of the percentage of the workforce that belonged to a trade union.

To function, a union must be registered by the Government. Unions reported that the registration process was extremely burdensome, entailing visits to as many as 10 different offices and payments of fees. The International Trade Union Confederation characterized the registration requirement as “a restriction unacceptable by international labor standards.”

While by law the registration process did not change, unions reported an increasingly restrictive implementation of the process. Unions reported that during the year authorities denied the registration of several regional confederations without merit and questioned the legitimacy of another regional confederation that had successfully registered three years previously.

By law all trade unions have equal status, and the establishment of a trade union does not require government permission. However, unions affiliated with the Federation of Trade Unions (FPU), which inherited assets from Soviet-era unions, have enjoyed an advantage in organizing workers.

Unions not affiliated with the FPU, including the Confederation of Free Trade Unions of Ukraine (CFTU), continued to be denied a share of the former Soviet trade unions' real estate and financial holdings. These included social insurance benefit funds, which gave the FPU a benefit that independent unions could not

offer. Leaders of non-FPU trade unions and some government officials claimed that the FPU improperly sold some Soviet-era assets to thwart their future distribution. While a 2007 parliamentary moratorium on the FPU's sale of property remained in place, a commission formed during the previous administration to inventory union assets was dissolved by the current government in June.

In August police arrested four union leaders of the Ilyich Iron and Steel Works of Mariupol, seized union materials, and locked the union's office, charging them with fraud and other offenses. Union representatives claimed that the company's management orchestrated the arrests to block a planned rally by the union.

In March 2009 the administration of the Sumy customs office seized the offices of the independent trade union Spravedlyvist, which represented customs personnel, and illegally took possession of their stamp, seal, and official documents. The administration claimed that the local trade union office was illegally located in the Sumy customs offices. The union leader was fired following this incident. Following her appeal, a court ruled that she should be reinstated; however, the decision reportedly has not been enforced.

In 2009 the FPU and the regional department of the Ministry of Health withheld bonuses and used tactics such as increased scrutiny by tax and labor inspectors to pressure members of a new trade union at a clinic in Chernihiv to join the FPU instead. Although the union leader was reinstated after being fired, the deputy leader's case for reinstatement after dismissal was still pending in court.

The law provides for the right of workers to strike on condition that a strike does not jeopardize national security, public health, or the rights and liberties of others. The right was generally respected in practice. The right to strike does not apply to personnel of the PGO, the judiciary, the armed forces, the security services, law enforcement agencies, the transportation sector, or public servants. Personnel from these entities may seek redress through the judicial system. Federations and confederations are not entitled to strike. A strike may be organized only if two-thirds of the workers of an enterprise vote for it, which trade unions considered to be an unfairly high threshold.

*b. The Right to Organize and Bargain Collectively.*—The law permits trade unions to organize and participate in collective bargaining, but these rights were not always respected in practice.

There were no reliable statistics on the percentage of workers covered by collective agreements.

Union representatives reported that an independent health care union attempted to join a branch collective bargaining agreement concluded with an FPU affiliate but in June was denied without justification.

Members of CFTU-affiliated unions claimed that management sometimes forced them to carry out additional assignments without compensation or threatened them with dismissal if they refused to leave their unions. There were continuing complaints that FPU-affiliated unions deducted union dues from the salaries of workers who had chosen to join a different union.

During the year unions reported that Epicenter, a home improvement chain, harassed persons attempting to engage in union activities. According to representatives, the head of the union was arrested under false pretenses. When the police dropped the case for lack of evidence, the union leader tried to return to work but was told that he had been fired. While he subsequently won his court case against dismissal, Epicenter ignored the decision. Although the union continued to exist, representatives reported that Epicenter management refused to recognize the union or agree to begin collective bargaining.

The law calls for joint worker-management commissions to resolve differences over wages, working conditions, and the rights and duties of management at the enterprise level. However, the commissions were not always effective in practice and sometimes were dominated by management and union representatives co-opted by management. Although the law provides the right to collective bargaining, the manner in which the law was applied prejudiced the bargaining process against newer unions and favored FPU-affiliated unions.

Renouncing membership in an FPU-affiliated union and joining a new union was bureaucratically onerous and typically discouraged by management.

In 2009 an employer reportedly refused to recognize a newly established trade union at an agricultural company. Reports indicated that the company continued to refuse to begin collective bargaining and that the union's leader suffered harassment, including lawsuits filed by the company against him and visits from police demanding to examine the union's financial and other documents.

The law provides for the National Mediation and Reconciliation Service to mediate labor disputes.

There were no exemptions from labor laws in export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits all forms of forced or compulsory labor, including by children; however, there were reports that women, men, and children were trafficked for labor. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

Trafficked women were used as housekeepers, seamstresses, dishwashers, or workers at small and large manufacturing plants. Some women with small children and persons with disabilities were trafficked abroad for begging. The International Organization for Migration identified 442 cases of men and women exploited for their labor during the first nine months of the year.

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, but the Government did not always effectively enforce the law.

The labor code sets 16 as the minimum age for most employment. Children 15 years of age may with a parent's consent perform "light work," but the law does not clearly define the term. Children can legally do some forms of work beginning at age 14 as part of an apprenticeship in the context of vocational educational training.

The Child Labor Division of the State Labor Inspectorate under the Ministry of Labor and Social Policy is responsible for enforcing child labor laws. The Department of Children's Affairs in the Ministry of Family, Youth, and Sport, and the Police Department for Children's Affairs in the Ministry of Internal Affairs have the responsibility of identifying children in the informal sector involved in the worst forms of child labor. The ministry's Antitrafficking Department is responsible for the enforcement of laws against child trafficking.

The worst forms of child labor were found primarily in the informal sectors, including on family farms and at open-air markets.

Children also were used for commercial sexual exploitation, including production of pornography. Also see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)

Enforcement remained inadequate to deter violations. The State Labor Inspectorate reported it monitored 447 enterprises in August and September. During the inspections it identified 140 working children who were 14 or 15 years of age and 39 who were under 14. Almost all cases of labor involving children under the age of 14 were in the agricultural sector. The inspectorate found approximately the same number of children under the age of 14 involved in child labor as in 2009.

On August 13, the newspaper *Novosti* reported that police arrested a resident from the Odesa Oblast for organizing the production of charcoal using child labor. Police found three children, age 13 to 17 years, working in an indoor plant. Police opened a criminal case.

Police brought trafficking charges (as opposed to less severe child labor charges) in the February 2009 case of a man from Kherson Oblast who forced nine teenagers from Zakarpattia to work on his farm 10 to 16 hours a day without pay while housing them in a poultry barn. NGOs successfully lobbied to have the case tried in Zakarpattia so that the children could testify, despite efforts of the defendant to keep the case in Kherson.

There were no reported developments regarding labor violations discovered by inspectors in Chernivtsi Oblast or regarding cases noted in 2008. One NGO reported is the difficulty for persons not party to a criminal or administrative case to find information regarding its disposition.

*e. Acceptable Conditions of Work.*—On December 1, the Government increased the monthly minimum wage to 992 hryvnias (\$124). The minimum wage did not provide a decent standard of living for a worker and family. The State Labor Inspectorate is responsible for enforcing the minimum wage but was unable to monitor all employers. Many workers, particularly in the informal sector, received wages far below the established minimum.

During the year wage arrears increased in the first half of the year but decreased in July. According to the State Statistics Committee, arrears stood at 1.8 billion hryvnias (\$228 million) at the end of June but had decreased to 1.34 billion hryvnias (\$169 million) by December. Most arrears accumulated in industry, but also significantly accrued in construction, transport, communications, and agricultural enterprises.

The law provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. The law provides for double pay for overtime work and regulates the number of overtime hours allowed. However, regulations covering rest periods, maximum hours, and overtime were not always effectively enforced.

Although the law contains occupational safety and health standards, the standards were frequently ignored in practice. Lax safety standards and aging equipment

caused many injuries on the job. During the year 11,698 workplace injuries were reported, as compared with 12,370 in 2009; these included 644 job-related fatalities, compared with 675 in 2009.

There were 131 mining fatalities during the year, compared with 151 in 2009. There were 4,888 coalminers reported injured during the year, compared with 5,251 during the same period in 2009.

The law provides workers the right to remove themselves from dangerous work without jeopardizing their continued employment; however, trade unions reported that in practice asserting this right would result in retaliation or perhaps dismissal. Some unions reported good cooperation with government labor inspectors.

For example, the CFTU signed a memorandum of understanding (MOU) with the Labor Inspectorate to cooperate more closely. The MOU gave local union leaders and health and safety specialists the right to inspect places of work jointly with labor inspectors. Unions report that these joint inspections have proved especially important in the mining sector.

---

## UNITED KINGDOM

The United Kingdom of Great Britain and Northern Ireland (the UK), with a population of 62.3 million, is a constitutional monarchy with a multiparty, parliamentary form of government. Citizens elect representatives to the House of Commons, the lower chamber of a bicameral legislature. They last did so in free and fair elections on May 6. Members of the upper chamber, the House of Lords, occupy hereditary or appointed seats. Security forces reported to civilian authorities.

There were some reports of police misconduct and that police, military personnel, and employees of government contractors occasionally abused detainees and other persons. There were also reports of overcrowded prisons and inadequate prison infrastructure. Societal problems included discrimination against religious minorities and mistreatment of women, children, ethnic minorities, lesbian, gay, bisexual, and transgender persons, and persons with disabilities. Trafficking of persons was also reported.

Bermuda is a UK overseas territory with a population of 62,000. A governor represents the queen on the island; Bermuda's constitution provides for internal self-government, while the British government retains responsibility for external affairs, defense, and security. Citizens elect representatives to the House of Assembly, most recently in free and fair elections in 2007. The governor, the premier, and the opposition appoint members to the Senate. The premier is head of government and is chosen from among the elected members of the governing party. The constitution and the Human Rights Act of 1981, as amended, protect the human rights of inhabitants of Bermuda, with the exception of protection against discrimination based on sexual orientation.

### RESPECT FOR HUMAN RIGHTS

#### *Section 1. Respect for the Integrity of the Person, Including Freedom From:*

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports that the Government or its agents committed any politically motivated killings; however, the nongovernmental organization (NGO) Inquest reported three deaths of persons in police custody during the year, one fewer than in 2009.

In September in Northern Ireland, the International Monitoring Commission (IMC) released a report on its inquiry into the killing of Loyalist Volunteer Force leader Billy Wright, whom republican prisoners in the Maze Prison shot and killed in 1997. The report concluded that there was no state collusion in the killing, but the Government acknowledged that failings within the prison regime had “facilitated” its occurrence.

Proceedings continued in cases involving allegations of government involvement, collusion, or culpability in killings during the conflict in Northern Ireland between the 1970s and 1990s. In June Lord Saville published the report of his independent inquiry into the 1972 deaths of 14 civil rights protesters shot by the British Army in Londonderry, also known as “Bloody Sunday.” Lord Saville’s inquiry found that the deaths and injuries were “unjustifiable.”

The public inquiry begun in 2008 into the death in 2003 of Iraqi civilian Baha Mousa, who suffered 93 injuries while in the custody of British troops in Iraq, finished taking oral evidence on October 14. Drafting of the final report continued at the end of the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and authorities did not usually engage in them; however, there were allegations that members of the military services were at least complicit, if not participants, in the mistreatment of detainees overseas; that individual police officers occasionally abused detainees; and that guards under contract to immigration authorities abused deportees while returning them to their home countries. Police are subject to oversight by the Independent Police Complaints Commission, which investigates charges of abuse and has the power to punish police officers if abuse is found.

A July 2009 report by a consortium of NGOs documented the claims of more than 300 persons who accused the private contractors of physical and sexual assault and racial abuse. Dame Nuala O'Loan, former police ombudsman for Northern Ireland, was instructed to reopen 50 cases that the Government previously classified as unsubstantiated to address the appropriateness of using private contractors and whether the use of "reasonable force" was appropriate in dealing with failed asylum seekers. The Guardian stated that the official inquiry report released in March determined that the UK Border Agency (UKBA) did not have "proper processes in place to investigate claims of mistreatment of failed asylum seekers." The inquiry also concluded that private contractors did not engage in systematic abuse of deportees.

There were a number of allegations that the intelligence services colluded in the abuse of citizens or residents overseas. On July 6, Prime Minister Cameron announced a formal inquiry into the allegations, with the proceedings set to last for 12 months.

In September 2009, the latest date for which data is available, the Independent Police Complaints Commission issued statistics for 2008-09 indicating that approximately 7,679 complaints of sexual assault, serious nonsexual assault, and "other assault" were made against police, which represented an increase of approximately 4 percent from the previous year. Investigations were initiated in 57 percent of the serious nonsexual assault complaints, 47 percent of the sexual assault complaints, and 37 percent of the other assault complaints in 2008-09. Of the investigations that were resolved in 2008-09, the complaints were found to be substantiated in 10 cases of serious nonsexual assault, six cases of sexual assault, and 108 cases of other assault.

*Prison and Detention Center Conditions.*—Prison conditions mostly met international standards, and the Government permitted visits by independent human rights observers; however, overcrowding remained a problem. The NGO Inquest indicated that 52 persons committed suicide in prison during the year, as did 24 detainees on remand.

On June 20-21, a delegation from the Council of Europe's Committee for the Prevention of Torture (CPT) visited Radislav Krstic, convicted by the International Criminal Tribunal for the former Yugoslavia and serving his sentence in the UK, after he was reportedly attacked in his cell in Wakefield Prison by other inmates.

According to the Ministry of Justice, the prison population in England and Wales on August 31 was 85,200 in facilities designed to accommodate 85,986. The Prison Reform Trust released a report, based on government statistics, stating that 88 out of 140 prisons held more than the "certified normal accommodation." The Scottish Prison Service announced that the prison population reached a daily average of 7,835 inmates in prisons designed for approximately 6,600. The Northern Ireland Prison Service reported that the prison population on December 27 was 1,412, housed in three prison facilities with a total capacity of 1,513. The Bermuda Department of Corrections reported on October 12 that the prison population on the island was 277 in facilities with a capacity of 373. England, Wales, and Scotland continued early release programs for nonviolent offenders in an effort to reduce overcrowding.

At times juveniles, including some under the age of 16, were held together with adult prisoners. Although rare, there were instances when pretrial detainees were lodged with convicted prisoners due primarily to overcrowding.

In Northern Ireland the governor of the high-security Maghaberry Prison, who had been in that position for five months, resigned in December 2009 in the wake of a series of critical reports regarding the prison's operations and investigations into the 2008 suicide of inmate Colin Bell. The head of the Northern Ireland Prison Service, Robin Masefield, resigned on November 30, after the Prison Officer's Association in Northern Ireland called for Masefield and two other prison officials to resign over their handling of staff disciplinary actions following the Colin Bell suicide. Maghaberry prisoners tied to republican paramilitary organizations staged "dirty protests" (a protest in which excrement and other unhygienic material is thrown around) against conditions in the prison, specifically related to restrictions of movement, body searches, and restrictions placed on outside visitation rights. Northern

Ireland prisoner ombudsman Pauline McCabe stated in her 2009-10 annual report that “there is general recognition that change is needed across Northern Ireland’s prisons.”

Prisoners had reasonable access to report allegations of inhumane conditions and were permitted religious observance.

The Prisons and Probations Ombudsman (PPO) for England and Wales investigates complaints from prisoners and detainees held in immigration detention centers. All deaths that occur in prison, immigration centers, and probation hostels fall under the PPO’s purview and are investigated. The PPO received 4,641 complaints from July 2009 to July 2010, an 8 percent increase from the previous year.

In February more than 50 female detainees went on a hunger strike for three weeks in the Yarl’s Wood detention center alleging mistreatment by guards and prolonged detention.

The media reported that in September an army inspector found British military detention facilities to “be in compliance with international law,” although some soldiers lacked proper training on the treatment of prisoners.

The Government permitted independent monitoring of prison conditions by local and international human rights groups, the media, the International Committee of the Red Cross, and the independent International Center for Prison Studies based at Kings College London.

On March 15-26, a CPT delegation visited prisons, detention centers, and other facilities on the Channel Islands for the first time. On Jersey, the delegation noted that access to an attorney was immediate only for very serious crimes, such as rape or murder, and that some detention cells had inadequate natural light, ventilation, and access to drinking water. On Guernsey, the delegation noted allegations of the use of excessive force by police during arrest, and that 17-year-olds were treated as adults.

*d. Arbitrary Arrest or Detention.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, critics charged that some procedures justified by the Government as necessary to combat terrorism constituted precharge detention. Currently, the Government can hold terrorism suspects in precharge detention for up to 28 days.

*Role of the Police and Security Apparatus.*—Civilian authorities maintained effective control over the regional police forces, and the Government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

*Arrest Procedures and Treatment While in Detention.*—In most cases police may make an arrest only if they have reasonable grounds for suspecting a person has committed or is about to commit one or more listed “arrestable offenses,” or if a police officer believes an arrest is necessary to prevent physical injury or damage to property.

The law allows police chiefs to grant auxiliary nonpolice officers “enforcement powers,” including the right to issue citations and fines for minor violations of public order, and to request the names and addresses of persons stopped in the street. Participants in this program wear police uniforms and carry identification while on duty. As of 2008, the most recent date for which data are available, 23 police forces granted enforcement powers to 1,600 civilians in community safety programs. Human rights groups and opposition politicians called the practice a civil rights violation and a move towards excessive surveillance.

Police may detain an ordinary criminal suspect for 96 hours without charges. Detention for more than 24 hours must be authorized by a senior police official, and detention of more than 60 hours requires the approval of a magistrate. Only terrorism suspects may be detained without charge for longer than 96 hours. Authorities may hold terrorism suspects for up to 28 days before formally charging them with a crime. All detainees are entitled to counsel during this period. The law permits the extended detention of foreigners suspected of being terrorists but who cannot be deported immediately because of the risk they would be tortured or executed in their countries of destination. The Government continued to hold a number of detainees deemed dangerous but not deported due to concerns about torture in their home countries. Such individuals may appeal their designation as terror suspects.

To combat the rise in gang and gun crime in Bermuda, the Government enacted the Police and Criminal Evidence Amendment (No. 2) Act in August (effective in the summer of 2011), increasing to 66 hours the length of time suspects can be held in police custody without being charged. A senior police officer reviews the case at 42 and 54 hours and in each review must be satisfied that the investigation is being conducted expeditiously and diligently. A magistrate may order a further 30 hours of detention to give police time to complete their investigation. Under the new legis-

lation police may also deny bail to suspects as young as 16 years of age, a change from the previous age designation of 18. For those arrested on firearms or ammunition offenses, the Firearms Amendment Act of 2010 passed in July authorizes police to apply for a warrant of detention to hold suspects without charge for 14 days and also allows police to apply for a second 14-day warrant. Police may use the time to gather evidence or obtain forensic results from overseas, but not to question suspects.

In July Bermuda enacted the Court of Appeal Amendment Act, allowing prosecutors to take previously tried cases to the Court of Appeal when new and compelling evidence, such as DNA, comes to light. The law applies to defendants acquitted of murder, found guilty on a lesser charge, or whose cases were discharged.

In the UK the law gives defendants awaiting trial the right to bail, except for those judged to be flight risks, likely to commit another offense, suspected terrorists, or in other limited circumstances. Detainees may make telephone calls and have legal representation, including government-provided counsel if they are indigent.

The law permits a judge (or the home secretary, with a judge's permission) to impose "control orders," which include a range of restrictions up to house arrest on individuals suspected of involvement in terrorism-related activities, regardless of nationality or perceived terrorist cause. Control orders may be renewed on an annual basis. The Government used control orders to keep terrorism suspects under arrest without allowing suspects to know the charges against them or to see the Government's evidence. The Law Lords ruled in June 2009 that the Government's refusal to allow two defendants to know the charges against them was a violation of the Human Rights Act. In February Parliament's Human Rights Joint Committee noted the need for changes in the control orders regime to make it "human rights compatible" and stressed that the cost of lengthy litigation and infringement on individuals' right to liberty was too great to be sustainable. Like other aspects of the Government's antiterror legislation, the control order system was under government review during the year.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected judicial independence in practice.

*Trial Procedures.*—The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence. Criminal proceedings must be public except cases in juvenile court or those involving public decency or security. In a trial under the Official Secrets Act, the judge may order the court closed, but sentencing must be public.

The law generally allows for jury trials. In England and Wales the law provides for judge-only trials when there is a "real and present danger that jury tampering would take place." In Northern Ireland trials by jury are the norm. However, as in the case of England and Wales, nonjury trials may be held in cases involving possible intimidation of juries. Scotland allows jury trials in criminal and civil cases. Bermudian law provides for jury trials in criminal cases and for trial by judge in civil cases.

Defendants have the right to be present at their trials and to consult with an attorney in a timely manner. Indigent defendants have the right to free counsel of their choice, with some exceptions. Defendants may question witnesses against them. Defendants have access to government-held evidence relevant to their cases, with some exceptions, including instances in which information pertaining to a suspect relates to national security. The NGO Justice claims this practice has increased during the past decade.

"Intercept evidence"—evidence collected by electronic interception—is not admissible in a court of law. The police claimed that divulging their methods and sources would hamper their effectiveness. Human rights organizations and prominent politicians asserted that the inadmissibility of intercept evidence led the Government to use administrative or nonjudicial means to detain criminal suspects who could not otherwise be prosecuted. Defendants have the right to appeal to successively higher courts.

*Political Prisoners and Detainees.*—There were no reports of political prisoners or detainees.

*Regional Human Rights Court Decisions.*—The Government was involved in 44 decisions of the European Court of Human Rights (ECHR) from January to November. In 2009 the ECHR issued 14 judgments, each of which found one or more violations by the state of the European Convention on Human Rights, including seven violations of the prohibition of discrimination, three violations of the right to liberty and security, four violations involving the length of legal proceedings and the right

to respect for family and private life, and two violations involving the right to a fair trial and freedom of expression.

In January the ECHR determined that the police power to “stop and search” violated two defendants’ right to a private and family life and that the “discriminatory use” of the power was a “real consideration” when determining the outcome of the case. In July the Government ceased using the stop and search power as originally defined under antiterror legislation.

In 2008 the ECHR ruled that indiscriminate retention of DNA and fingerprint data of 850,000 persons who were arrested but never charged was not in line with article 8 of the Human Rights Convention. In November the home secretary announced a new DNA retention system that permits the destruction of DNA from persons never charged with a crime.

In October the Scottish Supreme Court ruled that allowing suspects to be held and questioned for six hours without access to a lawyer breached the European Convention on Human Rights. The Scottish Parliament passed legislation requiring suspects to have immediate access to legal counsel, but extended the time a suspect can be detained from six to 12 hours with the possibility of a 12-hour extension.

*Civil Judicial Procedures and Remedies.*—There is an independent and impartial judiciary in civil matters, including access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative remedies were also available.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

The use of electronic surveillance requires the approval of the home secretary, who authorizes an “interception warrant,” which must name or describe either a person or a single set of premises where the interception is to take place. However, in limited circumstances the home secretary may issue a “certified” interception warrant, eliminating the requirement to specify a person or premises. Certified warrants are intended only for communications with overseas parties. They include communications channeled through a foreign Internet service provider (ISP). An independent “interception of communications commissioner” oversaw interception warrants, and the Investigatory Powers Tribunal investigated public complaints of surveillance abuses. In July one case was decided in favor of the complainant.

The law requires service providers to retain records of all users’ landline, cellular telephone calls, and Internet activity for one year. Intelligence and law enforcement agencies, emergency services, and a number of other governmental bodies may request the data but must demonstrate a legitimate need for the information to protect public safety and ensure compliance with the law. Critics claimed that in practice agencies may self-authorize warrants and that the ability to intercept communications was too broad.

In April the Government announced that it would not create a centralized database that would store all communications data collected by communications service providers. Human rights groups had been critical of plans to do so.

Bermuda enacted the Telecommunications Amendment Act in July requiring telecommunications companies to install equipment enabling police to monitor, pursuant to a warrant, landlines, mobile telephones, and the Internet and provide police with a database of customer names, addresses, and phone numbers. Police officers already had the power to intercept landline messages if the police commissioner and the governor ruled it in the public interest to do so. The new law provides the additional capacity to fine carriers up to \$10,000 per day for noncompliance.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government respected these rights in almost all cases. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. Individuals could criticize the Government publicly or privately without reprisal. The independent media were active and expressed a wide variety of views without restriction. However, the law also prohibits the use of “threatening words or behavior” toward a religious, ethnic, or racial group. The prohibition applies specifically to words, behavior, or displays of written material; publishing or distributing written material; the public performance of a play; distributing, showing, or playing a recording; broadcasting or including a program in a program service; or the possession of written materials or recordings with intent to display, publish, distribute, or include such materials in a program service.

Judges may issue media suppression orders to prevent the publication of information about trial proceedings or other topics.

Court decisions have established that the Government may legally prohibit possession of materials providing practical assistance to terrorists, such as the al-Qa'ida Manual, the Terrorist's Handbook, the Mujahideen Poisons Handbook, and a number of military manuals.

In June Anthony Bamber was cleared of all charges in connection with his arrest, along with three other persons, for distributing leaflets blaming Muslims for the heroin trade in Ireland and the country in 2008. The Crown Prosecution Service advised police that while racist (most UK Muslims are of South Asian or African descent), the leaflets were protected speech. The three other persons did not face charges.

In Bermuda, local newspapers, television stations, and a radio station created a voluntary Media Council to raise journalistic standards, elevate accountability, and provide an effective forum for grievances against the media. The effort sought to forestall creation of a legislatively mandated media review group that they believed could have imposed censorship.

*Internet Freedom.*—There were no government restrictions on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. There were no reports that authorities routinely monitored e-mail or Internet chat rooms. However, the law permits communications data surveillance, including of Internet usage, in the interests of national security, to prevent or detect a crime or in the interests of public safety. Authorities did not publicly discuss details of their monitoring activities. By law all ISPs must retain records of Internet usage for one year.

The Internet was widely available throughout the country and available at no cost in public libraries. Approximately 84 percent of the population used the Internet.

*Academic Freedom and Cultural Events.*—There were no government restrictions on academic freedom or cultural events.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—For a complete description of religious freedom, see the 2010 International Religious Freedom Report at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt)

*d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons.*—The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the Government generally respected these rights in practice. The Government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations to provide protection and assistance to refugees, asylum-seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the Government did not employ it in practice.

*Protection of Refugees.*—The country's laws provide for the granting of asylum or refugee status, and the Government has established a system for providing protection to refugees.

Based in part on the EU's "Dublin procedure," the Government placed the burden of proof on asylum seekers who arrived from "safe countries" of origin, based on a list promulgated by the home secretary, who passed through a country where they were not considered to be at risk, or who remained in the country for a period of time before seeking asylum. The law permits authorities to remove an asylum applicant to another country that is deemed responsible for adjudicating an applicant's claim.

In practice the Government provided protection against the return of persons to a country where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. However, on November 10, Amnesty International called on European governments not to return asylum seekers to Iraq because of the allegedly dangerous security situation there. The group claimed that on September 22 the British, Swedish, and Norwegian governments "forcibly returned" over 50 Iraqis to their home country.

The Government may also provide temporary protection to individuals who may not qualify as refugees under the categories of humanitarian protection and discretionary leave. However, at the end of 2009, the most recent year for which figures were available, the Government provided protection to no such persons according to UNHCR.

On February 23, Human Rights Watch alleged that the country's "fast track" system for handling asylum requests "is not rigorous enough to meet basic standards

of fairness,” especially for women. The group stated that the system did not give women sufficient time to gather evidence to support their claims of fleeing mistreatment and called for the abolition of the system.

*Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

*Elections and Political Participation.*—Free and fair elections to the House of Commons took place on May 6. Political parties operated without restriction or outside interference. After observing the national election, the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe concluded that the election “was administered in a transparent and professional manner and demonstrated an open, pluralistic, and highly competitive process.”

There were 143 women in the 650-seat House of Commons and 164 women in the 777-seat House of Lords. There were four women in the prime minister’s cabinet. An additional 15 women held other ministerial posts. There was one woman among the 11 justices of the Supreme Court.

There were 27 members of ethnic minorities in the House of Commons. The number of members of ethnic minorities in the House of Lords was not available; there was one member of an ethnic minority in the Cabinet.

Bermuda held free and fair elections in 2007. There were seven women in the 36-seat House of Assembly and six women in the 11-member Senate. Five women served in the 13-member Cabinet.

*Section 4. Official Corruption and Government Transparency*

The law provides criminal penalties for official corruption, and the Government generally implemented these laws effectively. There were reports of government corruption during the year; however, there were no reports of police corruption during the year.

Following a parliamentary allowances scandal more than a dozen members of Parliament declared they would not run for reelection in May. The Independent Parliamentary Standards Authority, which began operation in September 2009, imposed clear rules on what members of Parliament can claim as an expense and publishes expense claims of members.

In February the Serious Fraud Office reached an agreement with the country’s largest defense contractor, BAE Systems, which included a guilty plea by BAE for violating the law and a payment of 30 million pounds (approximately \$45 million) to benefit the people of Tanzania.

The law provides for public access to information, and authorities generally granted access to citizens and noncitizens, including foreign media. There are exceptions to the availability of government information, including those relating to national security and defense, personal privacy, and possible risks to health and safety. In some instances authorities are not obliged to indicate whether relevant information exists; however, according to authorities, they are obliged to state the reason for refusing a request. There are no fees for requesting information; however, there may be a bill for materials and postal fees. Government agencies may refuse a request if the cost to the Government will exceed 450 or 600 pounds (approximately \$730 or \$955), depending on the agency. There was a mechanism to appeal denials.

In July Bermuda enacted the Public Access to Information Act (PATI), which establishes a mechanism through which the public may access information. The Government appointed three individuals to make PATI operational.

The November 2009 and 2008 reports of the UN Group of Experts on the Democratic Republic of the Congo (DRC) presented information indicating that Afrimex and Amalgamated Metals Corporation (AMC), which were registered in the UK, directly or indirectly funded conflict and perpetrators of human rights abuses in the eastern DRC. AMC announced in September 2009 that it had ceased purchasing minerals from the DRC.

*Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Equality and Human Rights Commission (EHRC), an independent body funded by the Government to protect and promote human rights in the country, enjoyed the Government's cooperation and operated without government interference. It had adequate resources and functioned effectively. The EHRC produced numerous reports on various human rights matters. In October the EHRC's first-ever triennial review (*How Fair is Britain?*) concluded that England and Wales were a more diverse and "fair place" than 20 years earlier. However, some groups, including Roma, Travellers, and other migrants, were still likely to experience prejudice and much more likely than others to fare poorly in education, work, and public life.

Parliament has a Joint Committee on Human Rights, composed of 12 members selected from the House of Lords and the House of Commons. The committee undertook inquiries into human rights matters in the country and scrutinized legislation affecting human rights. The committee produced reports on the Government's control order policy, the EHRC, children's rights, and human rights in the private sector.

#### *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The law prohibits discrimination based on race, nationality, gender, sexual orientation, or disability, and the Government generally enforced the law effectively. The EHRC has a mandate to combat discrimination based on race, sex, religion and belief, sexual orientation, and age.

*Women.*—Rape, including spousal rape, carries a maximum penalty of life imprisonment. According to the British Crime Survey (BCS), in 2009-10 police recorded 43,579 sexual crimes. The large majority of these crimes were perpetrated against women. Of the most serious cases where the gender of the victim was identified, women were victims of 13,991 cases of rape, an increase of 13 percent from the previous year, and 19,873 cases of indecent or sexual assault. The Government acknowledged that its 6 percent conviction rate in rape cases was low. The Government estimated that one in 20 women in the country had been raped.

The law prohibits domestic violence, including spousal abuse, and authorities strictly enforced the law in cases reported to them. The courts imposed punishment ranging up to life imprisonment; however, violence against women continued to be a problem. The law provides for injunctive relief, personal protection orders, and protective exclusion orders (similar to restraining orders) for female victims of violence.

According to the 2009-10 BCS, 7 percent of women (and 4 percent of men) were victims of domestic abuse during the year. The BCS estimated that in 2009-10 approximately 14 percent of all violent crime in England and Wales was domestic and that 30 percent of all violent incidents against women were domestic. Scotland police recorded 51,926 incidents of domestic violence in 2009-10, a 4-percent decrease from the previous year.

NGOs raised concerns that some police officers were not adequately trained to identify and respond when women sought protection.

The Government provided shelters, counseling, and other assistance for victims of battery or rape and offered free legal aid to battered women who were economically dependent on their abusers. The Government operated 29 sexual assault resource centers.

In Bermuda, aggravated sexual assault is a felony carrying a maximum penalty of life imprisonment, and serious sexual assault has a maximum penalty of 30 years' imprisonment. Sexual assault by a person with AIDS, HIV, Hepatitis B, or other sexually transmitted diseases also carries a maximum penalty of 30 years' imprisonment. Police reported two serious sexual assaults (rapes) against women during the year, but both complaints were withdrawn. Police estimated 20-30 reported incidents of domestic abuse per month, approximately five of which involved physical violence. Of these, only two or three were official complaints moving forward to prosecution. Several NGOs provided assistance to abuse victims.

On October 18, the Bermudian government appointed a new Women's Council to empower women and improve the quality of life for women, families, and society.

Police and NGOs estimated that approximately a dozen honor killings occurred during the year, although there were no formal statistics. Many observers regarded honor killings as the extreme end of a spectrum of violations of human rights that included abductions, forced abortions, imprisonment, mental and physical abuse, and rape. Honor killing was generally considered an "imported crime," since a majority of the incidents involved families from Asia, Turkey, Algeria, and Nigeria. Many of the crimes involved hiring outside "hit men"; in other instances the perpetrator was the youngest member of the family, whom older family members supervised.

In September police in Scotland announced a public campaign to address honor-based crimes, including abduction, assault, threats, killing, and forced marriage.

Forced marriages continued to be a problem, although their extent remained unknown. In 2009, the last year for which data was available, the Forced Marriage Unit's helpline received 770 calls or e-mails, a 16 percent increase over the previous year. The law criminalizes forced marriage and makes taking individuals out of the country on false pretenses roughly equivalent to kidnapping. The law provides for the annulment of marriages made outside of the country against the will of one partner. A person must be at least 21 years of age to sponsor a spouse for a marriage visa, and intending sponsors of such visas must register their intent to seek the visa before traveling abroad. Authorities believed that young adults often traveled on what they expected to be a vacation to the home country and were subsequently pressured into marriage and applying for the spouse's visa. The law requires schools, social services, and police to receive training about this problem and to take steps to combat it, ranging from increased truancy monitoring to assisting young persons who seek their help without parental input.

The law prohibits sexual harassment and provides penalties of up to five years' imprisonment; authorities followed up on the isolated complaints that were filed.

Couples and individuals enjoy the basic right to decide freely and responsibly the number, spacing, and timing of their children and to have the information and means to do so free from discrimination, coercion, and violence. According to data from the 2009 UN Population Fund report, the maternal mortality rate was 12 per 100,000 live births. Skilled attendants assisted in 99 percent of births in the country. The percentage of women using contraception was 84 percent. Women have access to prenatal, obstetric, and postpartum care through the National Health System and can freely choose to have a midwife present during childbirth. The Department of Health had a National Support Team for Sexual Health, which worked to provide universal access to contraception to prevent sexually transmitted diseases and unwanted pregnancies. There was also an Infant Mortality Support Team to improve the health of infants and mothers after birth.

Women enjoy the same legal rights as men, including rights under family and property law and in the judicial system; however, in practice women experienced some discrimination. The World Economic Forum estimated that women in the UK earn 67 percent of what men earn. The Government passed the Equality Act in April, containing measures to address the gender pay gap and other equality problems.

There was a cabinet-level Minister for Women and Equalities. The EHRC supported women by enforcing equality legislation and actively promoting gender equality.

*Children.*—All births must be registered within 42 days in the district where the baby was born, and unregistered births were uncommon. Local authorities have procedures for the late registration of babies whose births were not registered within 42 days. A child born in the UK receives the country's citizenship at birth if one of the parents is a British citizen or legally settled resident.

Child abuse remained a problem, although there were no reliable figures on its prevalence. In Northern Ireland it is a criminal offense to fail to report most offenses against children. England, Wales, and Scotland do not have such laws; however, civil servants charged with the care, education, and welfare of children are "responsible" for their protection. The minister of state for children and families coordinated government policy concerning children and young persons in England and Wales. In Northern Ireland the Commissioner for Children and Young People performed the same function. In Scotland the Ministries of Education, Children and Early Years, and Housing and Communities supervised similar programs designed to protect and assist minors.

Female genital mutilation (FGM) is illegal. The maximum penalty for aiding, abetting, counseling, procuring, or carrying out this practice is 14 years' imprisonment. FGM was most often practiced by immigrant or refugee groups on girls aged seven to nine from Eritrea, Ethiopia, Somalia, West Africa, and Yemen. The BCS estimated that 141 cases of FGM and FGM-related blood poisoning occurred in 2009-10.

The statutory rape law makes it illegal for a person over the age of 18 to have sex with a person under 16 years old, unless the younger person is over 13 and the adult reasonably thought the younger person to be over 16. Penalties range from fines to 14 years' imprisonment. The law prohibits child pornography and provides for a maximum sentence of 10 years' imprisonment.

The law prohibits child sex tourism and allows authorities to prosecute citizens or residents for offenses committed abroad. Individuals were arrested outside the country and in some cases jailed on such charges, but, according to the charity End

Child Prostitution, Child Pornography, and Trafficking Children for Sexual Purposes, there were only a few cases of prosecution in the country since the early 1990s, and there were no reports of prosecutions during the year.

Penal reformers and children's groups continued to criticize the Government's reliance on antisocial behavior orders (ASBOs), civil "warnings" that may limit children's access to a geographic area or impose tailored curfews and fines. ASBOs were introduced to prevent youths from interacting with the courts and youth services as a result of minor infractions. However, youth who subsequently violate ASBOs could be arrested and enter the criminal system. Opponents contended that the ASBOs led to criminal records for youth whose behavior in the past would have been seen as "kids being kids." According to one expert, more than 1,000 youths had been incarcerated for violating the ASBOs since their inception in 2000. Critics claimed that police were too quick to issue the orders for such minor infractions as excessive loudness or congregating in large numbers, violations that some children's advocates described as inevitable. Some experts contended that a third of youths receiving the orders had mental or behavioral problems that did not permit them to understand the orders.

In July the prison service manual on restraint techniques to use on children as young as 12 years old was made public after a five-year legal battle. The Ministry of Justice stressed that restraint by force was a last resort for prison staff.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at <http://travel.state.gov/abduction/resources/congressreport/congressreport—4308.html>, as well as country-specific information at <http://travel.state.gov/abduction/country/country—3781.html>.

*Anti-Semitism.*—The Jewish population numbered approximately 300,000. There was a small spike in anti-Semitic incidents after the Gaza flotilla incident on May 31. The Community Security Trust, a group that tracked anti-Semitic activity, reported 74 anti-Semitic incidents in June alone with 28 occurring in the first week of the month. Anti-Semitic acts from January to June were fewer than during the same period in 2009 (the year of the conflict in the Gaza Strip) but continued to be slightly higher than in 2008. The incidents included property damage, threats, abusive behavior, and mass-produced or mass-mailed anti-Semitic literature.

In September researchers from the Simon Wiesenthal Center discovered dozens of anti-Jewish Facebook pages from the UK and other countries. The group said that Facebook officials were "very cooperative" in disabling the sites.

According to the BBC, in October vandals sprayed "Nazi graffiti" on the doorstep of the UK Holocaust Center.

In November, BBC Panorama determined that about 5,000 pupils were being taught the official Saudi national curriculum in UK schools. Education Secretary Michael Gove said that there was no place for anti-Semitic or homophobic lessons in British schools.

*Trafficking in Persons.*—For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*Persons With Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to health care, or the provision of other state services or areas. It mandates access to buildings for persons with disabilities, and the Government effectively enforced this requirement in practice.

The law requires that all public service providers (except in the transportation sector) make "reasonable adjustments" to ensure their services are available to persons with disabilities. The law forbids employers from harassing or discriminating against job applicants or employees with disabilities.

The mandate of the EHRC included work on behalf of persons with disabilities to stop discrimination and promote equality of opportunity. The commission provided legal advice and support for individuals, a hotline for persons with disabilities and employers, and policy advice to the Government. It may also conduct formal investigations, arrange conciliation, require persons to adopt action plans to ensure compliance with the law, and apply for injunctions to prevent acts of unlawful discrimination.

A briefing paper produced by the UK Learning Disabilities Observatory suggested that persons with learning disabilities face many health inequalities and have a disproportionately higher risk of health disorders. The group noted the need for promoting "health literacy" among persons with learning disabilities by increasing access to information, appointment times, and the number of regular health checks.

*National/Racial/Ethnic Minorities.*—The law prohibits racial discrimination, but Travellers (a distinct nomadic ethnic group with its own history and culture), as

well as persons of African, Afro-Caribbean, South Asian, and Middle Eastern origin, at times experienced mistreatment on racial or ethnic grounds.

The law authorizes police to order Travellers' caravans to move on from any rest area or other roadside location. Travellers' organizations also reported that local governments across the country sought to evict them from so-called "illegal encampments." In a high-profile case that has continued for more than five years, Travellers fought an eviction order by the town council of Basildon (Essex) to remove them from the Dale Farm Traveller Settlement. As of the end of the year, the eviction did not take place.

During the year the British Crime Survey recorded 10,221 racially or religiously aggravated crimes and 23,235 incidents of racially or religiously aggravated harassment, public fear, alarm, or distress.

During 2009-10 the Police Service of Northern Ireland (PSNI) reported a 15-percent increase in sectarian incidents, from 1,595 in 2008-09 to 1,840 in 2009-10. These included vandalism of Protestant Orange Order halls, Roman Catholic churches, and Gaelic Athletic Association sports facilities.

In Northern Ireland, the trial of the persons charged in the killing of Kevin McDaid in May 2009 was still pending, as was the trial of McDaid's sons, who were arrested on charges of assaulting one of those accused of killing their father. In July two men were arrested in connection with the unresolved McDaid case for intimidation and making threats to kill witnesses.

The PSNI also noted a 5 percent increase in racially motivated incidents, from 990 to 1,038 over the year prior to March 31. Families of Indian, Filipino, and eastern European descent were targeted in racially motivated attacks in the greater Belfast area. In June vandals burned vehicles belonging to Indian and Filipino residents in the Whiteabbey area of Belfast. Physical assaults against Asian immigrants in the area were also reported.

*Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity.*—The law prohibits discrimination and harassment based on sexual orientation; however, sporadic incidents of homophobic violence were reported. The law encourages judges to impose a greater sentence in assault cases where the victim's sexual orientation is a motive for the hostility, and many local police forces demonstrated an increasing awareness of the problem and trained officers to identify and moderate these attacks. Dozens of gay pride marches and other activities took place in locations throughout the country legally and with no interference by the authorities. During the year 20 Bermudians took part in the London Pride parade, protesting Bermuda's failure to outlaw discrimination based on sexual orientation.

According to the Crown Prosecution Service, 1,373 homophobic crimes were referred to it in 2009-10, of which 66 percent resulted in charges being pressed. The service prosecuted 1,152 homophobic cases, 81 percent of which resulted in a conviction. In Northern Ireland, the PSNI noted a 2 percent decrease in homophobic incidents in the past year.

According to the BBC, the Forced Marriage Unit reported an increase in the number of cases of forced marriage among lesbian, gay, bisexual, and transgendered teenagers.

A report published during the year by the NGO Stonewall stated that lesbian, gay, and bisexual asylum seekers experienced "significant disadvantages" because of their sexual orientation. Stonewall claimed that, by "fast tracking" these more complex cases and denying them quickly, UKBA staff did not give applicants time to talk openly about their sexual orientation.

*Other Societal Violence or Discrimination.*—There were no reports of violence against persons with HIV infection during the year. In September in Wales, the chair of the Equality and Opportunity Committee hosted a debate on the committee's report on discrimination against HIV patients by healthcare providers and professionals. The report called for better training for healthcare professionals who treat HIV patients and for an HIV public awareness campaign.

#### *Section 7. Worker Rights*

*a. The Right of Association.*—The law provides for the right of workers, except those in the armed forces, public sector security services, police forces, and freelance or agency work, to form and join independent unions without previous authorization or excessive requirements, and workers exercised this right in practice. Approximately 26 percent of the workforce was unionized. Coverage was most widespread in the public sector, where almost 60 percent of workers were unionized. In contrast, 17 percent of private sector workers in manufacturing, transport, and distribution trades were unionized. The law allows unions to conduct their activities without in-

terference, and the Government protected this right in practice. Workers have the right to strike and freely exercised it during the year.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected in law and was freely practiced. Unions and management typically negotiate collective “agreements,” which are less formal than collective bargaining contracts. Collective agreements are considered “implied” individual work contracts and are legally enforceable as such. They covered approximately 35 percent of the workforce. In 2009 an investigation by the Information Commissioner’s Office (ICO) revealed evidence of trade union “blacklisting” in the construction industry. The ICO successfully prosecuted and effectively closed down the company involved in the blacklisting. There were no reported instances of antiunion discrimination during the year.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The Government prohibits forced and compulsory labor, including by children; however, there were reports of forced labor by men, women, and children. Women, men, and children were trafficked to and within the country for labor exploitation and worked as domestic servants in private homes, beggars, pickpockets, and drug couriers, and in sweatshops, restaurants, agricultural and rural settings, construction, and catering. See the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip).

*d. Prohibition of Child Labor and Minimum Age for Employment.*—The law protects children from exploitation in the workplace, and the Government generally enforced these laws effectively; however, there were some reports that unaccompanied foreign children, including girls from China, were subjected to sexual exploitation and forced labor. Vietnamese organized-crime gangs subjected hundreds of young children, many from Vietnam and China, to debt bondage and forced them to work on cannabis farms. (See the Department of State’s annual Trafficking in Persons Report at [www.state.gov/g/tip](http://www.state.gov/g/tip)).

The law prohibits the employment in any capacity of children under 13. Those under 16 are not permitted to work in an industrial enterprise, including transportation or street trading; their work hours are strictly limited and may not interfere with school attendance. Children under 16 may work as part of an educational course. Children aged 13 to 16 must apply for a work permit from a local authority, and the local authority’s education and welfare services have primary responsibility for oversight and enforcement. Authorities effectively enforced these laws. The Departments of Health, Trade, and Industry, and Education and Skills also have regulatory responsibilities related to child labor. However, anecdotal evidence from social workers and NGOs made clear that many children work longer or later hours than the law allows and many do not have the proper work permits. In many cases, this was voluntary, and the children’s parents agreed to or encouraged the child’s working. In other cases, children were found working illegally in restaurants, farms, factories, the sex industry, and in cleaning and other low-paid service-sector jobs with long hours and low pay. Many of these children did not attend school. These problems affected migrant children disproportionately, but legally resident children were affected as well.

*e. Acceptable Conditions of Work.*—The national minimum wage, which ranged from 3.57 to 5.93 pounds (approximately \$5.65 to \$9.37) per hour, depending on the age of the employee, did not provide a decent standard of living for a worker and family; however, government benefits, including complete free universal access to the National Health Service, filled the gap. Tax authorities may issue compliance orders against employers who are not paying the minimum wage, but employment tribunals handle disputes. The Government aggressively monitored employer efforts to bring pay practices into compliance with minimum wage law. Unions and NGOs were also actively involved in ensuring employees’ awareness of their rights.

The law limits the workweek to 48 hours when averaged over a 17- to 26-week period; however, the regulations do not apply to senior managers and others who can exercise control over their own hours of work. There are also exceptions for the armed forces, emergency services, police, domestic workers, sea and air transportation workers, and fishermen. Workers can opt out of the 48-hour limit. The law provides for one day of rest per week, 11 hours of daily rest, and a 20-minute rest break when the working day exceeds six hours. The law also mandates a minimum of four weeks of paid annual leave, including eight national holidays. However, the average worker received five weeks of paid annual leave plus eight bank holidays as part of collective agreements. An individual employee may agree through a contract to work overtime for premium pay. The law does not prohibit compulsory overtime, but overtime is limited by the 48-hour workweek restriction.

1977

The law stipulates that the health and safety of employees not be placed at risk, and it was effectively enforced by the Health and Safety Executive (an arm of the Department of Work and Pensions), which could initiate criminal proceedings in appropriate cases. Workers' representatives also actively monitored enforcement of the law. Workers may legally remove themselves from dangerous work conditions without jeopardy to their continued employment.

The Independent reported in November that factory workers in Leicester making clothing for large retailers were working in "cramped and over-heated conditions with unsanitary toilets and at least one blocked fire exit." One of the retailers mentioned in the report decided to launch its own investigation into the allegations.

In April the courts ordered a fruit farmer to pay two Polish workers 26,000 pounds (approximately \$41,000 ) for wages he withheld and for stress caused by work conditions. The two fruit pickers lived with 200 other workers in metal cabins with no running water and worked 10 to 11 hours a day for 0.90 to 4.75 pounds (approximately \$1.50 to \$7.50 an hour), according to media reports.

